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The Constitution of Cádiz in Florida

M.C. Mirow^{*}

With the grace of God, we aspire to the peaceful enjoyment of the rights of free men under the guarantees of the beneficent laws that Your Majesty has just sanctioned and which, until the last breath, Floridians shall defend.

The Governor and Constitutional City Council of

St. Augustine, Province of East Florida, Spain,

to the Secretary of State, Cádiz, Spain.

December 1, 1812.¹

With these words the Spanish governor of the province of East Florida sent thanks to the Secretary of State of Spain for the Constitution of Cádiz, a document promulgated in St.

Augustine in October, 1812. The Spanish Constitution of 1812, also known as the Constitution

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¹ “. . .debido el señor que aspiremos al tranquilo goze de los derechos de hombres libres baxo la garantia de las beneficias leyes que acaba V.M. de sancionar y que asta exsalar el ultimo aliento los floridanos defenderan.” (writing in thanks for the Constitution of Cádiz). EFP, Reel 15, Section 5, p. 216, Records of East Florida, Manuscripts Division, Library of Congress, Washington, D.C. (hereinafter “EFP”). The East Florida Papers cover almost every aspect of the Spanish colonial government of East Florida from 11783 to 1821. After the transfer of East Florida to the United States in 1821, the records were seized before they were shipped to Cuba. In 1848, the records were used by the Florida surveyor-general of the the General Land Office, Department of the Interior, until 1905 when they were moved to the Library of Congress. The records were microfilmed onto 175 reels in 1965. Manuscript Division, Library of Congress, *East Florida: A Register of Its Records in the Library of Congress* 2-4 (revised by Laura J. Kells, last revised October 2006).

of Cádiz or the Political Constitution of the Spanish Monarchy, was promulgated a few months earlier in Spain, on March 19 of the same year. It was Florida's first written constitution.

In the years following 1812, St. Augustine and the political subdivision of East Florida were subject to this important document in the history of world constitutionalism. St. Augustine was a vibrant constitutional city under this document. It held elections, cited the Constitution in its daily political functions, and took care to comply stringently with the Constitution's language and the decrees issuing from the constitutional legislative body in Spain, the Cortes of Cádiz. In 1813, the largest public works project in St. Augustine was the construction of a monument to the Constitution which stands today in the central square of the city. When, on the Iberian peninsula, the Constitution was rejected by Fernando VII on his return to the Spanish throne, St. Augustine, on the Florida peninsula, complied by dismantling its constitutional institutions and changing the plaque on the monument. When in Europe Ferdinand VII was forced to swear his allegiance to the same Constitution in 1820, St. Augustine in America celebrated the Constitution's return, promulgated the Constitution again as instructed by Spain, and re-established its constitutional institutions. These institutions governed St. Augustine and East Florida until the keys of the gates of the city were turned over to the United States on July 10, 1821, as required under the Adams-Onís Treaty of 1819, the treaty by which Spain ceded possession of Florida to the United States.² Thus, the city experienced two early and deeply rooted periods of constitutional government in the last years as a Spanish colony. The first was from 1813 until the beginning of 1815 and the second was from 1820 until 1821. This late

² EFP, Reel 174, Bundle 412, p. 301 (December 1, 1812).

Spanish experience with constitutionalism in St. Augustine and its province has been relatively unexplored by historians of Florida, Latin America, and Spain.³

I. Introduction.

In the first decades of the nineteenth century, the city of St. Augustine was a geographically peripheral colonial outpost in the expansive colonial empire. Founded in 1565, the city was well within its second century of existence by this time. It had served as a hub for exploration of the mainland and for much of the seventeenth century until the mid-eighteenth century, it had been the focal point of an extensive system of Franciscan missions stretching into present-day Georgia.⁴ The city had grown near the impressive Spanish fort, the Castillo de San Marcos, constructed in 1672. It had experienced twenty years under British rule from 1763 to 1783 as the capital of a fourteenth and loyal British colony in North America. It had a

³ Indeed, William Coker and Susan Parker suggests that perhaps because of the Anglophone bias of many historians of eighteenth-century Florida, “[t]he era is generally portrayed as an interval of decline wedged between the British and American periods . . . That view arose largely from reliance upon English –language sources, which aggrandized conditions during those two periods while minimizing developments during the Spanish period. Historian David J. Weber has observed that Englishmen and Anglo-Americans writing at the time of the Second Spanish Period “uniformly condemned Spanish rule.” They saw only Spanish misgovernment, which “seemed the inevitable result of the defective character of Spaniards themselves.” . . . More recent attention to the Spanish-language documents, including those written in East Florida, reverses that negative assessment.” William S. Coker & Susan R. Parker, *The Second Spanish Period in the Two Floridas*, in *THE NEW HISTORY OF FLORIDA 157-158* (ed. Michael Gannon 1996). Their contribution does not mention the Constitution of Cádiz during this period. Similarly there is no mention of the two constitutional governments during the second Spanish period in CHARLES W. TEBEAU & WILLIAM MARINA, *A HISTORY OF FLORIDA 79-91* (3d ed. 1999). This article is in keeping with the trend of reassessment based on the Spanish sources.

⁴ MICHAEL V. GANNON, *THE CROSS IN THE SAND: THE EARLY CATHOLIC CHURCH IN FLORIDA 1513-1870*, at 36-83 (1965); John H. Hann, *Father Juan de Paiva: Spanish Friar of Colonial Florida*, in *SPANISH PATHWAYS IN FLORIDA: 1492-1992*, at 140-166 (1991); Eugene Lyon, *Pedro Menéndez de Avilés*, in *SPANISH PATHWAYS IN FLORIDA: 1492-1992*, at 94-116 (1991).

substantial parish church, now the Cathedral-Basilica of St. Augustine, completed in 1797.⁵ The fort served as a northern outpost of Spanish rule at the time, and St. Augustine experienced the contact and overlap of the Spanish empire with the British and United States interests that touched its fluid borders on land and its harbor. Like most cities in the Spanish empire at the time, with the exception of some spectacular inland centers of wealth or administrative power such as Potosí or Mexico City, it was a maritime community.⁶

The city's place as a fort and as an important node in the empire meant that both imperial and local affairs were thrown upon its shores during the 1810s and 1820s. Alejandro Quiroga Fernández de Soto explains that most historical attention has been trained on the military and diplomatic history of the "Patriots War," the United States attempt to take Florida from Spain during the War of 1812 that included a declaration of the "Republic of East Florida."⁷ He summarizes the situation well:

These were complex and turbulent years for East Florida. In 1812, U.S. troops and Georgia militiamen invaded the province, St. Augustine was under siege, and Spain was in no position to assist its needy colony. That same year, the Governor of East Florida received orders to implement the new constitution . . .⁸

⁵ Susan R. Parker, *Spanish Colonial St. Augustine*, p. 1 at http://www.vivaflorida.org/St_+Augustine.21.lasso?TLID=7 (last visited Sept. 23, 2011).

⁶ LAUREN BENTON, *A SEARCH FOR SOVEREIGNTY: LAW AND GEOGRAPHY IN EUROPEAN EMPIRES, 1400-1900* (2010); J.H. PARRY, *THE SPANISH SEABORNE EMPIRE* (1977).

⁷ Alejandro Quiroga Fernández de Soto, *Military Liberalism on the East Florida "Frontier": Implementation of the 1812 Constitution*, 79 FLA. HIST. Q. 441, 442-443 (2001) (citing REMBERT W. PATRICK, *FLORIDA FIASCO: RAMPANT REBELS ON THE GEORGIA-FLORIDA BORDER, 1810-1815* (1954)).

⁸ Quiroga Fernández de Soto, *supra* note ____, at 442.

The siege was invasion into Spanish territory in 1812 by Georgian forces led by General George Matthews.⁹ When the expansionist moved was met with resistance, President James Madison authorized Governor Mitchell of Georgia to inform that Governor of East Florida that the United States was not behind the invasion. Mitchell ensured Kindelán that his letter was sent “. . . under the fullest confidence that it will be received as evidence of the friendly disposition of the Government of the United States to that of Spain and of their desire to maintain and preserve uninterrupted that harmony which has so long subsisted between the two Nations.”¹⁰ Kindelán responded by reminding Mitchell of the treaty obligations of the United States.¹¹ Fernandina on Amelia Island and the St. John’s and St. Mary’s region were occupied by North Americans who were ordered to withdraw by President Madison in May, 1813.¹²

Spanish insurgents and rebels might also work against the interests of the empire. For example, Cádiz granted clemency to “. . . the traitors who cooperated with the invasion of Spanish territory in East and West Florida . . . Spaniards who shamefully forgot their duty and afflicted the Mother Country at the most critical times” as long as they acted as “. . . good and faithful Spaniards giving the due obedience to the legitimate authorities” on the peninsula.¹³ Less than a year later, in July, 1814, the City Council heard concerns about the lack of cows after invasions by “rebels of this province and United States troops” and the inability to securely restock cattle because of the uncertainty of having “Anglo Americanos” in number nearby. With the supply of cattle in mind, the City Council was informed that “. . . continuing in good harmony with savage Indians [one] can obtain from them what you want a very comfortable

⁹ Coker & Parker, *supra* note ____, at 162-163.

¹⁰ EFP, Reel 174, Bundle 410 (May 4, 1812).

¹¹ EFP, Reel 174, Bundle 410 (May 9, 1812 and June 11 and 12, 1812).

¹² Quiroga Fernández de Soto, *supra* note ____, at 443.

¹³ EFP, Reel 174, Bundle 410 (February 11, 1813).

price.”¹⁴ These few words from one passage of the council’s proceedings give a window into the agricultural, military, and social complexity of the city in this period.

While Spain and the United States upheld slavery during this period, England did not, and this provided another area of permeable discord between empires. British Rear Admiral George Cockburn’s letter to the Governor of Florida in 1815 captures the uneasy tensions between England and Spain on this point and on the English presence perched on the edges of the Spanish-United States border. Cockburn wrote to Kindelán in St. Augustine on the point of fugitive slaves, reminding Kindelán that Great Britain did not recognize slavery and that only slaves willing to return with their masters would be permitted to leave Cumberland Island, British territory in 1815.¹⁵

¹⁴ EFP, Reel 89, Bundle 209A17 (July 28, 1814).

¹⁵The communication reads:

Head Quarters Cumberland Island the 13th February 1815

Sir,

In Consequence of the letter with which I have been honored from your Excellency under Date of the 31st Ultimo acquainting me that Representation had been made to you by the Commandant of Amelia Island respecting the Desertion of several Slaves, the Property of Spanish Subjects resident in Amelia, which Slaves were supposed to have taken Refuge on Cumberland Island, I have made the necessary Enquiries relative thereto and find that very few of these People have in Point of Fact appeared there, and I do not hesitate in assuring your Excellency that none shall every be brought by Boats or Vessels belonging to His Britanic Majesty or under my Controul, but to prevent their Desertion from the Spanish Territory must I think remain with your Excellency and those acting under you Excellency’s Orders.

Whilst answering your Excellency’s letter on this subject it is right I should also complain to Your Excellency that as this Island now appertains to His Britannic Majesty by Right of Conquest, and for the moment, must of Course be governed by the laws of Great Britain (which know *not* of Slavery). I do not conceive it to be within my Power forcibly to send back any Individuals of the Description mentioned by your Excellency should they after affecting their Escape from other Countries at the Risk of their Lives, arrive here and place themselves under the Dominion and Protection of His Britannic Majesty; however (as I explained to the Commandant of Amelia prior to receiving your Excellency’s Letter) in Consideration of the Amity and good Understanding so happily existing

It is difficult to capture the economic and social complexity of St. Augustine during the first decades of the 1800s. Far from a sleepy geographic outpost of a vast decaying empire, St. Augustine saw trade, warfare, invasions, poverty and strife. Its Spanish population interacted with Anglos, Anglo-Americans, others of European background, native Americans, slaves, and free blacks.¹⁶ It experienced the frictions of empires and repeated swings in political structure and government. It was upon these constantly shifting footings resting on the shore of the Atlantic Ocean that the Constitution of Cádiz attempted to erect a new unique political order of the age.

The Constitution of Cádiz was a somewhat unwieldy attempt to maintain Spain's empire on the peninsula and around the world. Spaniards around the world were given some voice in its drafting and the text itself responded to the political exigencies of the peninsula's struggle

between our respective Countries, which I beg your Excellency to believe no one is more anxious to improve than myself, whatever Spanish subject may have lost or may hereafter lose any of his slaves and suspect them to have come to this Island, shall have from me full Liberty and Assistance afforded him to land here and search for the Individuals he has lost, and if such should prove to be actually here, and can be persuaded to return voluntarily, ready permission and every facility for their so doing shall be immediately granted which will, I trust satisfy your Excellency of my Disposition to avert as much as possible the inconveniences mentioned in your Excellency's letter on this Subject.

I beg your Excellency to accept this Assurances of high consideration and Respect with which I have the Honor to be Sir, Your Excellency's very faithful And most obedient humble servant, E. Cockburn, Rear Admiral.

EFP, Reel 174, Bundle 410 (February 13, 1815).

¹⁶ Concerning slaves and free blacks, the City Council “. . . through the present secretary shall make known to the public with edicts that all owners of slaves who have to send them outside the city and its area certify this by giving them a license in writing with which to make this known for without this requirement it will not be permitted that they pass the redoubt or the stations of the garrison, with the intent that whatever Black who is found without a signed pass of his master may be apprehended and brought to arrest. Similarly it shall he made know that all free Blacks who are not employed in service out to present themselves to the Constitutional Mayor so that he may provide a paper justifying their free condition so that with this they may evade being bothered on the roads which document shall be for free. . . .” EFP, Reel 174, Bundle 412, pp. 194 (August 8, 1814).

against French rule and of the economic and political strength of the colonies in the face of an empty Spanish throne. The document has received world-wide attention and numerous scholars have explored and re-explored the historical, political, and legal significance of the document and the institutions that surround its promulgation and function. The document placed sovereignty in the nation, created various levels of representative and elective bodies, substantially curtailed the power of the King, maintained Spain as a confessional Roman Catholic state, and within this framework forwarded many aspects of liberalism. It has an important place in the history of European and Latin American constitutionalism and in the history of the Latin American independence.¹⁷

This study seeks to make a contribution to our understanding of the application and the history of the Constitution in the colonial world of St. Augustine, Florida, immediately after its promulgation in Spain. The connection of the Constitution of Cádiz and St. Augustine, Florida, is even more remarkable for the extant monument to the promulgation of the Constitution that stands in St. Augustine's *Plaza de la Constitución*. In literal terms, the Constitution of Cádiz was etched into the stone of St. Augustine where it remains today. Nonetheless, the history of the document, its monument, and its double promulgation in St. Augustine spans just about a decade, from 1812 until 1821. It was a decisive decade for Spanish Floridians as they assessed

¹⁷ See, e.g., 2 MIGUEL ARTOLA, *LA CONSTITUCIÓN DE 1812* (2008); RAFAEL ESTRADA MICHEL, *MONARQUÍA Y NACIÓN ENTRE CÁDIZ Y NUEVA ESPAÑA: EL PROBLEMA DE LA ARTICULACIÓN POLÍTICA DE LAS ESPAÑAS ANTE LA REVOLUCIÓN LIBERAL Y LA EMANCIPACIÓN AMERICANA* (2006); IVANA FRASQUET, *LAS CARAS DEL ÁGILA: DEL LIBERALISMO GADITANO A LA REPÚBLICA FEDERAL MEXICANA (1820-1824)* (2008); CARLOS GARRIGA & MARTA LORENTE, *CÁDIZ, 1812: LA CONSTITUCIÓN JURISDICCIONAL* (2007); MARTA LORENTE SARIÑENA, *LA NACIÓN Y LAS ESPAÑAS: REPRESENTACIÓN Y TERRITORIO EN EL CONSTITUCIONALISMO GADITANO* (2010); M.C. Mirow, *Visions of Cádiz: The Constitution of 1812 in Historical and Constitutional Thought*, in 53 *STUDIES IN LAW, POLITICS, AND SOCIETY* 59-88 (Austin Sarat, ed. 2010); MARIE LAURE RIEU-MILLAN, *LOS DIPUTADOS AMERICANOS EN LAS CORTES DE CÁDIZ* (1990); JAIME E. RODRÍGUEZ O., *THE INDEPENDENCE OF SPANISH AMERICA* (1998); and MARIO RODRÍGUEZ, *THE CÁDIZ EXPERIMENT IN CENTRAL AMERICA, 1808-1826* (1978).

their operation under the Constitution, their ties to Spain, their ties to the Constitution, and their future as royalists, constitutionalists, citizens of St. Augustine, Floridians, Cubans, and Spaniards. In 1821, with the transfer of the city and its province to the United States, many afforded themselves of loyalist transportation to Cuba, the administrative hub of their political, economic, and social worlds. Other citizens of St. Augustine continued in their city despite the lowering of the Spanish flag and the raising of the United States flag and despite that their political lives would be taken from the protections of the Constitution of Cádiz and placed under the protection of the Constitution of Philadelphia.

This article first addresses the first promulgation of the Constitution of Cádiz in St. Augustine in 1812. It then addresses what little we know about the promulgation of the Constitution in Fernandina, Amelia Island, Florida, in 1813. It then briefly touches on the election of a representative to the Cortes of Cádiz for Florida. From this point of constitutional development, the monument to the Constitution in St. Augustine is described. This discussion is followed by St. Augustine's response to Fernando VII's renunciation of the Constitution and his call for an unfettered royal power in 1814. The second constitutional period beginning in 1820 until the handing over of the territory to the United States is then addressed. The study concludes by noting the late Spanish colonial commitment to constitutionalism in St. Augustine during the period and raises some questions about the possible connections these Spanish constitutional experiences may have had with important government actors on the local and national level after the territory was ceded to the United States.

II. The First Promulgation of the Constitution of Cádiz in St. Augustine, 1812.

Acting in the name of the absent King Fernando VII, the Regency of Spain operating in the remaining regions of Spain not controlled by Napoleonic French forces, ordered that the Constitution be published and sworn to publicly by various officials. These orders were sent throughout the Spanish Nation, and on behalf of the representatives gathered as the Cortes in Cádiz, Spain, Ignacio de la Pezuela, the acting Secretary of State, forwarded them to the Governor of East Florida on May 10, 1812.¹⁸ East Florida and its varied population was under a military jurisdiction during this period. The Governor of St. Augustine, as the provincial capital, got his orders from the Captaincy General of Cuba and the Two Floridas in Havana, Cuba, who got his orders from the central government of the peninsula in Cádiz and later Spain.¹⁹ While the Constitution of Cádiz would not change this chain of command, it would substantially change the governing institutions by creating a Constitutional Mayor for the City, a Constitutional City Council, both in St. Augustine, and a Provincial Disputation in Havana with authority over St. Augustine, all reporting to the Cortes in the peninsula.²⁰ Spaniards in Cádiz were mostly concerned with expelling the French from the Iberian peninsula and with holding on to the prize colonies in the Americas, St. Augustine included.

The Constitution and accompanying orders for its promulgation arrived in St. Augustine on October 1, 1812.²¹ Following established practices for reporting and verifying compliance with royal orders, the public was notified by banns, a lengthy public ceremony was conducted, and sworn testimony was gathered from a number of witnesses to indicate that the required

¹⁸ EFP, Reel 15, Section 5, f. 179.

¹⁹ Quiroga Fernández de Soto, *supra* note ____, at 444. For a general discussion of the administrative structure of East Florida during this period, see Duvon Clough Corbitt, *The Administrative System in the Floridas, 1763-1821, II*, 3TEQUESTA 57-64 (1943).

²⁰ Quiroga Fernández de Soto, *supra* note ____, at 445.

²¹ EFP, Reel 15, Section 5, f. 198.

activities had been completed.²² From these records, an accurate picture of what took place in St. Augustine in October, 1812, during the promulgation of the Constitution may be assembled. These documents leave little doubt that the Constitution of Cádiz was promulgated, was sworn to, and governed in St. Augustine. The day of publication of the Constitution was accompanied with general celebrations and a sweeping amnesty and release of prisoners.²³ Soldiers, public officials, and citizens promulgated and swore allegiance to the new Constitution in the streets and in the Church of St. Augustine on October 17, 18, and 22, 1812.²⁴

The decree for the promulgation of the Constitution set out in precise terms what was expected throughout Spain's constitutional empire. First, on receiving a copy of the Constitution in the city, the leader of the city (under various titles and representing the geographic subdivision governed by the city) was to consult with the City Council, if any, and to select a particular date for the solemn publication of the Constitution in the most public and convenient areas with as much decorum and ceremony as the particular situation permits. The Constitution and the related decrees of the Regency in the name of the king were to be read aloud. Where available, there should be a pealing of bells, lights, and salvos of artillery.²⁵ The following Sunday, residents (*vecinos*) and city officials were to assemble for Mass in their parish churches. The Constitution was to be read before the offertory followed by a "brief exhortation" delivered by the parish priest. After the Mass was finished, residents and clergy were administered an oath: "Do you swear by God and these Holy Gospels to uphold the Political Constitution of the Spanish Monarchy as sanctioned by the General and Extraordinary Cortes of the Nation, and to

²² EFP, Reel 15, Section 5, f. 201 (for publication by banns on October 14, 1812).

²³ EFP, Reel 15, Section 5, f. 209.

²⁴ EFP, Reel 15, Section 5, f. 198.

²⁵ Decree of March 18, 1812 as copied in EFP, Reel 89, Bundle 209A17 (March 18, 1813).

be faithful to the King?”²⁶ The response was specified as “Yes, I swear,” and followed by the singing of the *Te Deum*. All secular and religious powers and organizations, including justices, viceroys, archbishops, universities, and religious communities were to undertake the same process of oath and *Te Deum*. The army and navy too were to swear on the day most appropriate after being read the Constitution by their commander. Officials were to visit the prisons the day following the promulgation of the Constitution and release prisoners who were not subject to corporal punishment and others held who were deemed appropriate for such grace.²⁷ All of these activities were to be observed, recorded, and certified to the government in Cádiz.²⁸

St. Augustine complied. Two events effected the promulgation of and swearing to the Constitution: a public ceremony on October 17, 1812, and a more private gathering of public officials to swear to uphold the Constitution on October 22, 1812. To provide documentary evidence of St. Augustine’s compliance with the orders to promulgate and to swear to uphold the Constitution, a scribe (*escribano*) would usually be used to administer the oath and to prepare an official account. According to the documents available, the only scribe in all of East Florida had recently died, and the Governor appointed temporary witnesses to fulfill this function. The Governor appointed Eusebio María Gómez and Antonio Álvarez to provide an official account of the promulgation of the Constitution on October 17, 1812.²⁹

On this date, at eight o’clock in the morning, all the important public, military, and ecclesiastical officials who were healthy enough to participate, assembled at the Governor’s house, the Casa Morada. This included the Governor himself, Sebastian Kindelán, the Captains of the Third Cuban Battalion, and various royal local officials. The processional march was led

²⁶ Decree of March 18, 1812 as copied in EFP, Reel 89, Bundle 209A17 (March 18, 1813).

²⁷ Decree of March 18, 1812 as copied in EFP, Reel 89, Bundle 209A17 (March 18, 1813).

²⁸ Decree of March 18, 1812 as copied in EFP, Reel 89, Bundle 209A17 (March 18, 1813).

²⁹ EFP, Reel 15, Section 5, f. 201.

by a squad of American dragoons (*piquete de dragones de America*) followed by a band of drums, the Governor, other officials, and a band of musicians.³⁰ On reaching the Plaza, the Governor and other officials moved onto a beautifully adorned platform where the Governor (and apparently others) took out the Constitution and began to read it with loud and clear voices followed by the accompanying decrees. During the reading, the urban militia of St. Augustine stood with arms presented. When the texts were finished, bells pealed and artillery was fired.³¹ From here the Governor and officials went to another platform equally adorned near the four corners of the Quarter de San Francisco where a disciplined company of black troops from Havana presented arms while the Constitution was read again with the ringing of bells and salvos of artillery.³² From here, continuing on San Carlos Street, past the Treasury and Cuna Street, at the Puerta de Tierra, the group climbed atop a third platform facing a company of black troops from St. Augustine where, for the third time, the Constitution was read, bells were rung, and artillery fired.³³ Returning to the Governor's house (*Casa de Gobierno*), everyone celebrated with splendid refreshments (*explendido refresco*) offered by the Governor where patriotic and military marches were played for a long time.³⁴ Inhabitants demonstrated their enjoyment and happiness by decorating and illuminating their houses, especially those along the main road, for the next two days. On Sunday, October 18, 1812, the Constitution was read in the church and a priest, filling in for the incumbent parish priest, gave a brief allegorical sermon on the

³⁰ EFP, Reel 15, Section 5, f. 202-202v.

³¹ EFP, Reel 15, Section 5, f. 202v.

³² “. . . *teniendo a su frente una Compañía a milicias disciplinadas de morenos de la Havana. . .*” EFP, Reel 15, Section 5, f. 203.

³³ EFP, Reel 15, Section 5, f. 203.

³⁴ EFP, Reel 15, Section 5, f. 203.

Constitution and swore to the Constitution in which everyone concurred. Afterwards, the priest celebrated a solemn *Te Deum*.³⁵

On October 22, 1812, another ceremony was conducted at the Casa Morada of Governor Sebastian Kindelán. Gathered with him were chief public officials including the treasurer and his staff, the guard of the general storage areas and his staff, the members of St. Vincent Ferrer, the tax collector and his staff, the staff of the Royal Hospital, and individuals of the Maestranza and Marine. They were aware of the decree requiring all public officials to swear to uphold the Constitution of the Spanish Monarchy. Again, because the only scribe had recently died, the Governor was forced to improvise. He appointed two trusted individuals to serve as special witnesses to the oath: Bernardo José Segui and Antonio José Alvarez who also had to recount the festivities of the prior day. They accepted the appointment and recorded their administration of the oath this way: “[D]o you swear by God and the Holy Gospels to uphold the Political Constitution of the Spanish Monarchy sanctioned by the general and extraordinary Cortes of the Nation and to be faithful to the king? And to which all, in one voice, responded, ‘Yes, I swear.’”³⁶ This account was signed by the Governor and the two appointed witnesses.³⁷ Placing the military under constitutional authority, Francisco Rivera, the Captain Major and Sergeant Major of the Cuba’s Third Battalion of Infantry, apparently stationed in the Castillo de San Marcos, certified that the Governor administered the same oath to the troops after hearing the constitution read to them on October 22, 1812.³⁸

³⁵ EFP, Reel 15, Section 5, f. 203v. A similar account is found in the statement of Francisco Rivera, Captain of the Third Batallion of Cuba. EFP, Reel 15, Section 5, f. 206.

³⁶ EFP, Reel 15, Section 5, f. 199.

³⁷ EFP, Reel 15, Section 5, f. 199. A copy of this account is found at EFP, Reel 15, Section 5, ff. 204-205.

³⁸ EFP, Reel 15, Section 5, f. 206.

Thus, St. Augustine scrupulously followed the legal requirements for promulgating and swearing to uphold the Constitution of Cádiz in the city and in the province of East Florida. Thus, the Constitution of Cádiz may be legitimately recognized as Florida's first written constitution. The event is, of course, of much greater significance; it tells us about penetration of the Constitution of Cádiz in this area of the Spanish empire. It indicates that in the early nineteenth century, inhabitants of St. Augustine had significant exposure to Spanish representative models of government, that they complied with the requirements for elections and the construction of local bodies under representative constitutional structures, and that all this was done in a rather mixed population whose economic and personal interests brought them together in the city. The Constitution also brought substantial changes in substantive law, often described as the "liberal" reforms under the new document.³⁹

On the local level, the first order of business was to create a Constitutional City Council (*el ayuntamiento constitucional*) under the Constitution.⁴⁰ All male citizens were to vote for nine electors. The electors would then elect a mayor (*alcalde constitucional*), four councilmen (*regidores*) and a city attorney-treasurer (*procurador síndico*).⁴¹ Providing some background on the winners of the process, Quiroga Fernández de Soto describes the outcome of the election this way:

Gerónimo Álvarez, a shopkeeper (*tendero*) and militia second-lieutenant, became the first mayor of St. Augustine. The councilmen were Minorcan Francisco Pons, Fernando de la Maza

³⁹ For the success of such reforms in St. Augustine and Florida see Quiroga Fernández de Soto, *supra* note ____, at 462-464.

⁴⁰ Quiroga Fernández de Soto, *supra* note ____, at 445 (citing Royal Order of May 23, 1812). "St. Augustine did not have a true municipal government until the application to East Florida of the Constitution of 1812." Corbitt, *supra* note ____, at 61.

⁴¹ Quiroga Fernández de Soto, *supra* note ____, at 452.

Arredondo el joven (the *elector de partido*'s son), the military man Eusebio María Gómez, and Vicente Llarena, a Spaniard linked by marriage to a Floridano family. Francisco Rovira, another military man was elected *síndico procurador*. In addition, Bernardo José Seguí, a member of the Minorcan elite, was chosen the *Cabildo*'s [City Council's] secretary; and Kindelán, as *jefe político*, presided at the *Cabildo*'s meetings. . . . The unanimity between military men, peninsular merchants, Floridanos, and Minorcans suggest the representatives had reached an agreement on some candidates even before the junta's formal vote.⁴²

The minutes of the Constitutional City Council reveal an engaged group of city leaders who took their constitutional duties of local government seriously and who appear to have greatly supported the constitutional structures afforded by the new Constitution.⁴³ Just a few weeks after the promulgation of the Constitution in St. Augustine, these leaders agreed to meet to select a Secretary of the Council, and Bernardo José Seguí subsequently served in the position .⁴⁴ Significant conflict developed between the Governor and the City Council, on one hand, and the

⁴² Quiroga Fernández de Soto, *supra* note ____, at 452-453, 454.

⁴³ See Quiroga Fernández de Soto, *supra* note ____, at 466-467 (coming to the same conclusion for the period of 1813-1814, although Quiroga Fernández de Soto notes that "Kindelán did not show the same zeal when the implementation of the Constitution meant a decrease in his authority.").

⁴⁴ The members of the Council were Sebastian Kinderlan, Geronimo Alvarez, Fernando de la Maza Arredondo el joven, Francisco Pons, Vicente Llaneros, Eusebio María Torres, Francisco Rovina, and Antonio J. Marron. EFP, Reel 174, Bundle 412, pp. 1-2 (November 8, 1812 and January 25, 1813).

Constitutional Mayor, on the other, during the early months of these new constitutional institutions.⁴⁵

The Constitutional City Council did not stop at merely complying with the legal requirements as set forth the decrees accompanying the transmission of the Constitution of Cádiz. The Governor and City Council sent a letter of thanks to the Spanish Secretary of State expressing its thanks for the Constitution. The remarkable text gives the reader an insight into the vocabulary of government Spanish Floridians in the early nineteenth century had developed in light of the Constitution and recent history. The letter reads:

Sirs,

The Governor and Constitutional City Council of St. Augustine of East Florida dare to disturb the attention of the congress invested by Your Majesty and Lord and in the name of the others they represent the most sincere message of their gratitude and recognition for giving us such a work as the Political Constitution of the Monarchy owing to the zealous and patriotic work of Your Majesty whose grand constitution was promulgated and sworn to in this city last October 17 and 18 with respect to this area, and with the applause, respect, and enthusiasm that is expressed by good Spaniards.

National prosperity and glory are affirmed in this holy book and it will be ineffective that the snobbery, that the inequity of the

⁴⁵ Quiroga Fernández de Soto fully addresses this political battle, *supra* note ____, at 454-459. The conflict did not let up until a new constitutional mayor, José Sánchez, was elected for 1814. Quiroga Fernández de Soto, *supra* note ____, at 459.

egoism, of some few discontents will guide to pull down the works of wisdom and the incommensurable support of the happiness and hopes of the People; because now, the heroism of Your Majesty converts the oppressors and degrading chains that bound us to the arbitrariness and capriciousness of tyrants of our civil liberty. With the grace of God, we aspire to the peaceful enjoyment of the rights of free men under the guarantees of the beneficent laws that Your Majesty has just sanctioned and which until the last breath Floridians shall defend.

Permit then, Your Majesty, to admit this short demonstration of gratitude of a People who, although poor and abandoned until now in a desert, never overtaken, have they forgot that being Spaniards they ought to have much to lose through their renown loyalty that they have earned.⁴⁶

This unusual letter of thanks most likely reflects the heartfelt affection the ruling residents of St. Augustine had for Spain and its new Constitution. The language employed is a notable mix of Spanish and post-revolutionary United States terminology. Thus, notions of patriotism in face of the Napoleonic invasion of Spain are applied to acts of the absent king, rather than as in the relatively recent North American context, against the monarch. Similarly, the king under the Constitution is held up as the protector of civil liberties and of free men. The king in this letter is the enemy of tyrants. Again, these are most interesting shifts and adaptations of what is commonly seen as an exclusively North American vocabulary of freedom and independence.

⁴⁶ EFP, Reel 15, Section 5, ff. 216-216v.

Floridians are portrayed as loyal Spaniards ready to defend the rights embodied in the new Constitution.

The central government in Cádiz responded with similar rhetoric surrounding the Constitution and its institutions. The ministry responsible for colonial government (*Ministerio de la Gobernación de Ultramar*) responded that the timely observation of the Constitution's contents would provide the inhabitants of the province with "our liberty and independence."⁴⁷

Although usually lacking the broad rhetoric of this communication, the instructions received from the province during the first constitutional period usually reiterated the importance of observing the Constitution's requirements with great exactitude.⁴⁸ The City Council apparently complied strictly with these wishes. It sought to order a reference copy of the Constitution to be kept with the book of acts so that ". . . in whatever doubt or case, it is at hand."⁴⁹

Thus, the constitution was celebrated with public display, religious reverence, military obedience, oaths and a spirit of compliance. It signaled a political transformation in the empire. Indeed, published documents that required the regnal year were also to include the "year corresponding to the constitution."⁵⁰ The anniversary of the date of the promulgation of the Constitution on the peninsular, March 19, proved to be, yet again, another opportunity for St.

⁴⁷ EFP, Reel 15, Section 5, f. 219 (February 17, 1813). The receipt of this communication was confirmed by a letter from the Secretary of State in Cádiz read to the City Council on June 9, 1813. EFP, Reel 89, Bundle 209A17 (June 9, 1813); EFP, Reel 174, Bundle 412, p. 50 (June 9, 1813).

⁴⁸ EFP, Reel 15, Section 5, f. 221 (April 2, 1813) (concerning the election of individuals to the Constitutional City Council).

⁴⁹ EFP, Reel 174, Bundle 412, p. 3 (February 21, 1813). A particularly nice copy of the Constitution was sent by Fernando de la Maza Arredondo, the father, from Havana where he was serving as a provincial deputy for Florida to his son Fernando de la Maza Arredondo, the younger, who presented it to the City Council of St. Augustine in early 1813. It appears to have been used for this purpose. EFP, Reel 174, Bundle 412, p. 25 (February 21, 1813).

⁵⁰ EFP, Reel 89, Bundle 209A17 (July 28, 1814).

Augustine to repeat constitutional celebrations just five months after the promulgation in St. Augustine. As required by order of the Regency setting out similar festivities as the promulgation of the Constitution, the Governor presided over the celebrations that included a gala, official receptions, luminaries, salvos of artillery, and a *Te Deum* in the church.⁵¹

In some situations, the Constitution might even be invoked to check higher political power, demonstrating that its provisions concerning the structure of government were taken seriously and applied even in more remote areas of the empire. For example, City Council member Eusebio María Gómez chided Governor Kindelán for the governor's lack of regular attendance at the City Council as required under Article 302 of the Constitution, and citing them the Constitutional provision asked the Governor to explain the obstacles to and reasons for his absences.⁵²

As part of customary activities of the celebration of important dates and political victories, the government in Cádiz declared a day of national clemency throughout the kingdom for prisoners whose crimes would make them appropriate for release from prison. Among the archives of St. Augustine is the printed text of a decree of nation clemency for military prisoner.⁵³ Word of these opportunities for the imprisoned reached St. Augustine in late October, 1812.⁵⁴ Administering clemency was complex, particularly in the context of an area that lacked a trained judiciary, and this difficulty was raised as one of the reasons the city sought a legally trained judge (*juez de letras*).⁵⁵

⁵¹ EFP, Reel 174, Bundle 412, p.85 (August 19, 1813) (. . . *con gala, besamanos e iluminacion general un solemne Te Deum en todos las Yglesias y salvos de artilleria . . .*). EFP, Reel 174, Bundle 412, p.85 (August 19, 1813); EFP, Reel 90, Section 50, Item 1813-69 (July 31, 1813).

⁵² EFP, Reel 174, Bundle 412, p. 70 (July 20, 1813).

⁵³ EFP, Reel 174, Bundle 385 (part 2), No. 80 (May 25, 1812).

⁵⁴ EFP, Reel 15, Section 5, f. 209.

⁵⁵ EFP, Reel 174, Bundle 410 (March 26, 1813).

St. Augustine took the representative aspects of the new constitutional structure to heart and undertook elections as required by the Constitution. For example, at the end of 1813, the City Council cited and followed the constitutional provisions for local elections:

In this City Council was address that in accordance with articles 313, 314, and 315 of our wise Constitution and the decree of the general and extraordinary Cortes of May 23, 1812, all the neighboring citizens and residents in this jurisdiction ought to convene on Sunday, the twelfth of this present month, with the end that they gather at the City Hall after the main Mass so that each one names nine electors who, on another Sunday with the speed permitted by circumstances, will elect the Constitutional Mayor, two Councilmen (*Rejidores*) and the City Attorney (*Procurador Sindico*) to replace those who ought to leave at the end of the year. In virtue of which, the gathered councilmen agree the secretary of the City Council shall post edicts of this gathering as is custom.⁵⁶

Similarly, the City Council received instructions to fill City Council vacancies that occurred out of the regular cycle of elections. The electors of the sitting members had to convene and select a replacement.⁵⁷

St. Augustine complied with the letter and the spirit of the Constitution of Cádiz and the royal orders and decrees of the Cortes issued in the name of the king or the regency. It appears that opportunities for and the requirements of public celebration were meticulously observed and, as required, reported to the peninsular authorities. The city created new institutions and

⁵⁶ EFP, Reel 174, Bundle 412, pp. 130-131 (December 13, 1813).

⁵⁷ EFP, Reel 90, Section 50, Item 1813-69 (July 31, 1813).

held elections under the Constitution. The records of the City Council indicate a group of leaders eager to enjoy their constitutional duties and responsibilities.

III. Promulgation of The Constitution of Cádiz in Fernandina, Florida, 1813.

The discussion of the promulgation of the Constitution of Cádiz in East Florida must now move approximately 100 km north along the east coast of Florida to Amelia Island where the small community of Fernandina (now Fernandina Beach) was located. A St. Augustine City Council document from mid-1813 reflects the complaint that the Governor Kindelán had not been attending the City Council meetings as required. In passing the document mentions that the Governor had recently returned from Fernandina, where he assisted in the promulgation the Constitution.⁵⁸ It appears that Kindelán, after the resumption of Spanish control of the area, had required that the inhabitants take an oath to uphold the Constitution. According to Quiroga Fernández de Soto, however, Kindelán did not permit Fernandina to set up its own constitutional municipality. Because the:

. . . Anglo-Americans in Fernandina were neither born in Spanish dominions nor shared Spanish customs, language, or religion, Kindelán argued that “this Government is obliged, for the present, not to proceed with the establishment of the constitutional Municipality without the previous and indispensable agreement of the Superior Authorities in Havana.”⁵⁹

⁵⁸ Reel 89, Bundle 209A17 (August 1, 1814) (citing Royal Decree of September 13, 1813); EFP, Reel 174, Bundle 412, p. 70 (July 20, 1813).

⁵⁹ Quiroga Fernández de Soto, *supra* note ____, at 457.

Kindelán's solution was to appoint a captain of the region who would report directly to him. Unable to find a Spaniard to serve, Kindelán appoint Philip Yonge (*Felipe Roberto Yonge*) as the captain of Fernandina.⁶⁰ Apparently never missing the opportunity to criticize someone, Constitutional Mayor Álvarez used Kindelán's appointment of a non-Spaniard to the position as ammunition in his attack against the Governor in the Provincial Disputation in Havana.⁶¹ Nonetheless, the extension of the Constitution and its institutions, modified as they were, is a noteworthy event in the life of the document in Florida. Just as in Cádiz and in Havana, St. Augustine acted to fulfill its obligations under the Constitution. Even the more remote node of Fernandina in the Spanish empire complied with its constitutional charge.⁶²

IV. Florida Representatives under the Constitution of Cádiz, 1813.

If the Constitution of Cádiz extended its reach up the coast from St. Augustine, it also pulled St. Augustine closer to Havana, Cuba, and Cádiz, Spain. Representative institutions affecting St. Augustine's status came to Florida through the Spanish Cortes even before the promulgation of the Constitution of Cádiz. On May 25, 1812, the Regency of the kingdom sent the Governor of St. Augustine a decree setting out the process for electing members to City Councils (*ayuntamientos*). The decree abolished perpetual offices on City Councils and gave

⁶⁰ Quiroga Fernández de Soto, *supra* note ___, at 458. "The son of Scot and born in the province during the British period, Yonge had sent food to St. Augustine during the American invasion." Quiroga Fernández de Soto, *supra* note ___, at 458, n.58.

⁶¹ Quiroga Fernández de Soto, *supra* note ___, at 458-459. For a discussion of Kindelán's political handling of this area see Corbitt, *supra* note ___, at 61-64. Cultural and religious differences were central to this political battles over power. Corbitt writes that "[t]he resentment of the Spanish element in St. Augustine was aroused by the Protestant Anglo-American influence in the province." Corbitt, *supra* note ___, at 62.

⁶² In January, 1814, Constitutional Mayor José Sánchez returned from a visit to Fernandina. EFP, Reel 174, Bundle 412, p. 85 (January 28, 1813).

transitional provisions for established Councils to become elective bodies.⁶³ Because the St. Augustine City Council refers to itself as a “Constitutional City Council” (*Ayuntamiento Constitucional*) in its correspondence with the Spanish Secretary of State, it seems clear that St. Augustine wanted to reflect compliance with this decree.⁶⁴ The Constitutional City Councils fit into a hierarchical system of representative institutions under the Constitution.

There was also the question of representation at the Cortes on the peninsula. The first session was scheduled for October 1, 1813.⁶⁵ Florida indirectly sent a representative to this representative body.⁶⁶ As apparently in most cases with the City Council, it received and attempted to follow the Constitutional requirements imposed. For example, the Council acknowledges receipt of instructions regarding the expenses of round trip travel for constitutional deputies.⁶⁷

On May 25, 1812, Ignacio de la Peuzela sent the call for elections to the Cortes, the general legislative body under the new Constitution, to the Governor of St. Augustine.⁶⁸ Havana, as capital of Cuba and the Two Floridas, served as the location for the junta charged representing this region and with conducting such elections.⁶⁹ On October 10, 1812, St. Augustine received

⁶³ EFP, Reel 15, ff. 179-183.

⁶⁴ EFP, Reel 15, f. 213.

⁶⁵ EFP, Reel 15, Section 5, f. 210.

⁶⁶ Rodríguez 1998, p. 103.

⁶⁷ EFP, Reel 89, Bundle 209A17 (June 11, 1813, acknowledging Royal Order of February 25, 1813).

⁶⁸ EFP, Reel 15, Section 5, f. 185-185v. “In July 1812, a junta to organize the election formed in Havana, presided of by the Captain General. It divided Cuba into eight different provincias sublaternas, appointing a deputy to every tow districts according to Article 78 of the Constitution. This, a deputy representin St. Augustine and Pensacola was assigned to the Floridas. In September, the Junta ordered the governors of the Floridas to call elections in order to send an *elector provincial* to Havana. Once in Cuba, the electors would select the four deputies who would serve in the *Cortes* in Spain.” Quiroga Fernández de Soto, *supra* note ____, at 445.

⁶⁹ EFP, Reel 15, Section 5, f. 186.

word to begin the process for electing representatives to the Cortes under the Constitution.⁷⁰ Because East Florida was composed of one district of St. Augustine under the constitutional structure, Governor Kindelán could not exactly comply with the strict letter of the Constitution which required different electoral bodies at each level. Without a lawyer to consult and with the need for an elector, Kindelán held elections for a body of eleven members, or *compromisarios*, a number greater than that specified by the Constitution, which then selected the elector to be sent to Havana.⁷¹ The composition of the body is a telling indication of St. Augustine's political and economic climate at the time. Quiroga Fernández de Soto writes that “[f]ive of the *compromisarios* were members of the military and/or the Spanish administration; another two belonged to the peninsular merchant elite; and the final four were linked to St. Augustine's Minorcan population.”⁷² There was significant overlap with other political duties and individuals who served on the Constitutional City Council in one or other capacity.⁷³ Fernando de la Maza Arredondo, the elder, won against the next closest candidate, Bernardo José Segui, the younger, a leader of the city's Minorcan community who saw the new Constitution as a possible path to greater power for his community.⁷⁴

⁷⁰ EFP, Reel 15, Section 5, f. 210.

⁷¹ Quiroga Fernández de Soto, *supra* note ____, at 446. Kinderlan's decision to create the representative body from the ‘mass of Citizens’ led “protests for the non-Spanish inhabitants of East Florida who were not allowed to vote.” Quiroga Fernández de Soto, *supra* note ____, at 446-447. Quiroga Fernández de Soto describes the fascinating details of this dispute over the statue of non-Spaniards at length at *supra* note ____, at 444-447.

⁷² Quiroga Fernández de Soto, *supra* note ____, at 448.

⁷³ Quiroga Fernández de Soto identifies Juan Entralgo, Santos Rodríguez, Eusebio maría Gómez, Ramón de Fuentes, and José Sánchez as coming from the “military and establishment.” He links Fernando de la Maza Arredondo, the elder, and Fernando de la Maza Arredondo, the younger, to the “peninsular merchant elite”; and Bernardo José Segui, the younger, Pablo sávate, Francisco Pons, and Francisco Villalonga to the Minorcan community. Quiroga Fernández de Soto, *supra* note ____, at 448, n.19.

⁷⁴ Quiroga Fernández de Soto, *supra* note ____, at 449-450.

Early in 1813, The St. Augustine elector, Fernando de la Maza Arredondo, the elder, participated in the electoral junta in Havana. This process in Havana led to Gonzalo Herrera being elected as the deputy to the Cortes to represent the Island of Cuba and the Two Floridas. De la Maza Arredondo, the elder, was elected to serve as a provincial deputy to the Provincial Disputation in Havana.⁷⁵ With the political and economic power of Havana, it can hardly have been a surprise that Herrera, a native of Havana, should be elected to the Cortes. Nonetheless, strictly speaking, “Herrera was neither a Florida native nor a resident in the Floridas, a violation of Article 91 which established that a deputy must be either from or resident in the province he represented.”⁷⁶ De la Maza Arredondo cited Florida’s present military instability and lack of funds to support a deputy from Florida as his main reasons for backing Herrera.⁷⁷ And de la Maza Arredondo, the elder, indicated that he would closely instruct Herrera on the present needs and the dire situation of St. Augustine so that these concerns would find a voice in Cádiz.⁷⁸ The City Council received word of Herrera’s concern for the region, and it appears that attempts were made on the part of St. Augustine to stay on Herrera’s agenda before the Cortes.⁷⁹ After his arrival in Cádiz in September 1813, Herrera pushed for “. . . improvements of ports, new public constructions, and new governmental offices in Florida.”⁸⁰ These were important imperial connections for St. Augustine. The representative nature and the presence of a deputy at the Cortes provided essential cords holding St. Augustine to the metropol.⁸¹ Thus, to be accurate,

⁷⁵ EFP, Reel 174, Bundle 412, p. 3 (February 1, 1813).

⁷⁶ Quiroga Fernández de Soto, *supra* note ____, at 450.

⁷⁷ Quiroga Fernández de Soto, *supra* note ____, at 450.

⁷⁸ EFP, Reel 174, Bundle 412, p. 3 (February 1, 1813).

⁷⁹ EFP, Reel 174, Bundle 412, pp. 28-29 (March 15, 1813). The communications between Herrera and St. Augustine are discussed at Quiroga Fernández de Soto, *supra* note ____, at 451.

⁸⁰ Quiroga Fernández de Soto, *supra* note ____, at 451. Herrera served from September 25, 1813 until May 10, 1814. RIEU-MILLAN, *supra* note ____, at 41.

⁸¹ Quiroga Fernández de Soto, *supra* note ____, at 451-52.

Florida's first representative to a governing body that recognized the political voice of its people was Gonzalo Herrera who traveled to Cádiz in southern Spain a year after the Constitution's promulgation.

After Hererra's election, St. Augustine continued to be well aware of the procedures to elect deputies to the Provincial Disputation and the Cortes. A year later, in March, 1814, the City Council acknowledged receipt of the royal decrees related to the naming of individuals to the Permanent Disputation of the Cortes (a kind of standing committee under the Constitution) and the royal decree concerning eligibility requirements for serving as a deputy to the Cortes.⁸² On April 8, 1814, the town council acknowledged receipt of the royal order of August 11, 1813, that provided that elections of deputies should always be conducted in accordance with the provisions of Article 88 of the Constitution.⁸³ Ten days later, on April 18 of the same year, the town council acknowledge receipt of "royal decree of August 17, 1813, concerning named deputies to the Ordinary Cortes already on their way to Cadiz and that the Political Chiefs not only give to them every possible assistance but also that each of the provinces where constitutional elections have not been verified, do so with the greatest speed."⁸⁴ Recognizing its place in the constitutional hierarchy, St. Augustine exercised its power upon and undertook its obligations to institutions above and below it.

V. The Monument to the Constitution of Cádiz, 1813-1814.

⁸² Reel 89, Bundle 209A17 (March 28, 1814) (referring to Royal Decrees of September 8, 1813, and June 14, 1813).

⁸³ EFP, Reel 89, Bundle 209A17, April 8, 1814.

⁸⁴ EFP, Reel 89, Bundle 209A17, April 18, 1814.

Tied to the Constitution and its promulgation is a monument known by Florida historians but unknown by much of the rest of world. The central historic square of St. Augustine is called the Plaza de la Constitución, but it is not named for the United States Constitution, as many have assumed. Near the center of the square, a monument records the Constitution of Cádiz's promulgation in October, 1812, in the province of Florida.

The plaza itself had been in existence for over 200 years by the time it was renamed the Plaza de la Constitución and the monument was erected. Most Spanish colonial towns followed the *Ordenanzas de Población* of 1573 in setting out their official spaces and urban structure.⁸⁵ St. Augustine was somewhat of an exception because it appears that the plaza was not constructed until 1598 under the order of Gonzalo Méndez de Canzo, the Spanish Governor of Florida at the time. The plaza first bore the name *Plaza de las Armas* and after the promulgation of the Constitution to the *Plaza de la Constitución*.⁸⁶ Under any name, such plazas formed the central focus of economic, administrative, and social life. By renaming such a central feature of the community, the Cortes of Cádiz sought to impress the importance and newness of the new political structure and its government.

Although the decree seems only to have required a stone or tile tablet as a marker commemorating the Constitution, the City Council of St. Augustine decided to comply with the requirement through a substantial monument which was arguably the largest civil public works project in the city during these years. There is some uncertainty about both the genesis of the

⁸⁵ M.C. MIROW, *LATIN AMERICAN LAW: A HISTORY OF PRIVATE LAW AND INSTITUTIONS IN SPANISH AMERICA* 62, 64 (2004).

⁸⁶ Carl D. Halburt, *Plaza de la Constitución: The Archaeology of One of St. Augustine's Oldest Landmarks*. Description prepared for Plaza Rededication Ceremony, August 15, 1996, pp. 1-4. Available at University of Florida Digital Collection <http://ufdc.ufl.edu/?b=UF00095508&v=00030>.

monument and the reasons for its survival.⁸⁷ It seems clear that the construction of the monument was to comply, perhaps somewhat grandly, with the order to set stone or tile markers for the *Plaza de la Constitución*. Its survival after Fernando VII's rejection of the Constitution in 1814 is more mysterious. Susan Parker, a St. Augustine historian, recounts that when Fernando VII returned to power and suppressed the Constitution, he "ordered all monuments to the constitution to be destroyed."⁸⁸ It appears that modifying or destroying monuments in response to Fernando VII's resuming power was done on the popular level of good sense without the need for an order, at least in the case of St. Augustine's actions.

Before delving into the surprising survival of the monument, let us first consider its rather difficult genesis. The Cortes issued a decree requiring that all plazas where the constitution was promulgated be renamed as *Plazas de la Constitución* (Plazas of the Constitution).⁸⁹ This decree

⁸⁷ One anonymous study based on Rafael Altamira's *A History of Spain* and found in the University of Florida Digital Collection states, "We have no definite authority for the statement that in 1814, when the Liberal Constitution was revoked, the monuments erected to commemorate it were "ordered dismantled", although this seems highly probable. An inspection of a more detailed Spanish history than we have available would no doubt reveal this to be a fact. Nor do we know whether this monument in our Plaza was erected voluntarily, or as a result of an express order from the Cortes or some other authority." Anonymous, Background of Constitution Monument. Available at University of Florida Digital Collection <http://ufdc.ufl.edu/?b=UF00095508&v=00006>. The monument is described in THE STANDARD GUIDE: ST. AUGUSTINE 55 (1982, 2004 reprint) (describing the pinnacle of the monuments as being adorned with a cannon ball).

⁸⁸ Peter Guinta, Spain to Help Preserve Rare Monument, *The Saint Augustine Record*, Sunday, February 13, 2011, 6A. The article continues, "St. Augustine got the word Sept. 15, 1814. According to one discussion of the monument, "[h]aving dug deeply into a shallow municipal treasury to finance the monument's construction, the Cabildo – St. Augustine's governing council at the time – refused to tear it down." Id. at 6A. Prof. Francis Sicius offers an alternative explanation that hinges on the changing demographics of the city during the early nineteenth century. He suggests that the population of English speaking North American increased and that they happily read the monument as one to the Constitution of the United States.

⁸⁹ Cecile-Marie Sastre, Updated Version of the Historical Report Constitution Monument, March 4, 2001, p. 1. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00026>.

of August 14, 1812, did more than just rename plazas around the empire; it require that a stone (*lápida*) or tile (*azulejo*) be erected to memorialize the happy moment of promulgation.⁹⁰

Planning in earnest for the monument commenced shortly after the Governor Kindelán presented the royal decree of August 14, 1813, to the City Council on January 25, 1813.⁹¹ The city appointed two individuals to lead the effort to comply with the order, Fernando de la Maza Arredondo and Francisco Rovira who were charged with presenting a plan of what was first referred to as “the work” (*la obra*) or “the stone” (*la lápida*). The City Council would cover the costs and communicate its activities to the Governor.⁹² The records of the City Council show that over the next several months there were several meetings to discuss progress and plans. By March, 1813, the City Council reminded those commissioned to move forward with the plans. Informal discussions must have taken place concerning the monument, and subsequent records begin to use the word “pyramid” (*piramide*).⁹³ Planning must have commenced. On the back of an entry dated April 21, 1813, two sketches of the monument made their way into the correspondence of the St. Augustine City Council.⁹⁴ One can only conclude that they were the topic of discussion during an informal planning session for the monument.

By May, 1813, the mayor of St. Augustine complained to the City Council that no substantial progress had been made on the pyramid. Asserting that sufficient materials existed in the city to construct the monument, he sought some explanation of the delays and obstacles to be

⁹⁰ EFP, Reel 89, Bundle 209A17 (January 19, 1813).

⁹¹ EFP, Reel 174, Bundle 412, p. 2 (January 25, 1813). Kindelán had notice of the royal decree a few days earlier. EFP, Reel 90, Section 50, Item 1813-35 (January 19, 1813); EFP, Reel 90, Section 50, Item 1813-36 (January 19, 1813).

⁹² EFP, Reel 174, Bundle 412, p. 2 (January 25, 1813).

⁹³ EFP, Reel 174, Bundle 412, p. 27 (March 8, 1813).

⁹⁴ EFP, Reel 89, Bundle 209A17 (April 21, 1813) (the text on the front is unrelated to the Constitution or the monument).

presented at the next meeting of the City Council.⁹⁵ The mayor admitted that the stone needed to be obtained from farther away.⁹⁶ About a month later, in June, 1813, the mayor brought the same complaint and the same demands concerning what was now called the pyramid before the City Council.⁹⁷ Fernando de la Maza Arredondo, one of the commissioners to build the “pyramid or stone” (*Piramide o Lapida*), responded that there were insufficient funds to commence the project and suggested that the mayor send the necessary funds or he, De la Maza Arredondo, be released from his obligation to build the monument.⁹⁸

A few days later, and the mayor again insisted in the rapid construction of what he called an “obelisk and monument” (*obelisco y monumento*) or “pyramid” to hold the stone designating the *Plaza de la Constitución*.⁹⁹ Responding to this persistent attack, Fernando de la Maza Arredondo, the younger, frustrated by the lack of funds, stepped down from the project. The City Council charged the mayor himself, Geronimo Álvarez, and another member of the Council, Eusebio María Gómez, with the construction of a temporary column or pedestal with the 150 pesos available.¹⁰⁰ It appears that the mayor got what he wanted, control of the project. The mayor’s attack on the City Council and its lack of progress on the monument was only one

⁹⁵ EFP, Reel 174, Bundle 412, p. 42 (May 18, 1813).

⁹⁶ EFP, Reel 90, Section 50, Item 1813-10 (May 7, 1813).

⁹⁷ EFP, Reel 174, Bundle 412, p. 55 (June 21, 1813); EFP, Reel 90, Section 50, Item 1813-57 (June 21, 1813).

⁹⁸ EFP, Reel 90, Section 50, Item 1813-60 (July 5, 1813).

⁹⁹ EFP, Reel 174, Bundle 412, p. 75 (July 27, 1813); EFP, Reel 90, Section 50, Item 1813-63 (July 27, 1813).

¹⁰⁰ EFP, Reel 174, Bundle 412, p.75 (July 27, 1813) (. . . *se elevase interinamente para dicho objeto una Columna y Pedestal proporcionada al expresado fondo . . .*). EFP, Reel 174, Bundle 412, p. 55 (July 27, 1813).

aspect of a much larger controversy between the mayor and the City Council over power and jurisdiction in the local.¹⁰¹

From August, 1813, to January, 1814, the present monument was planned and erected with the construction phase lasting about three months.¹⁰² The new commissioners for the construction of the monument wasted little time. A few days after being charged with the construction of the monument, they presented a plan for the “pyramid of the Constitution” (*Piramide de la Constitución*) to the City Council which approved the plan with the added requirement that the height of the pyramid be extended to thirty feet by adjusting the base of the monument.¹⁰³ The Governor approved the extraction of extra building materials from the ruins of the Episcopal Palace, evidently fallen to ruin after the end of the English period in 1783.¹⁰⁴ The City Council finally allocated funds with promises to Alvarez and Gomez that they would be reimbursed from public funds for their financial advances towards the project.¹⁰⁵

Detailed documentation exists related to the construction of the monument. Mr. Maron, a master mason, supervised the construction team of two apprentices and at least three black laborers. Another mason, Benjamin Segui, and a master carpenter, Cercopoli, assisted in the project as well.¹⁰⁶

¹⁰¹ See Alejandro Quiroga Fernández de Soto, *Military Liberalism on the East Florida “Frontier”*: Implementation of the 1812 Constitution, 79 FLA. HIST. Q. 441, 464 (2001).

¹⁰² Cecile-Marie Sastre, Updated Version of the Historical Report Constitution Monument, March 4, 2001, pp. 1-2. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00026>.

¹⁰³ EFP, Reel 174, Bundle 412, p.85 (August 19, 1813).

¹⁰⁴ EFP, Reel 174, Bundle 412, p.85 (August 19, 1813) (. . . *a que les socorra con las excumbras del Palacio antiguo Episcopal; mediante a que estas ruinas estan expuestas a ser robadas como se experimenta por el abandono en que se hallan . . .*). EFP, Reel 90, Section 50, Item 1813-79 (August 2, 1813). For the transfer from English to Spanish control in 1783 see Corbitt, *supra* note ____, at 57-61.

¹⁰⁵ EFP, Reel 174, Bundle 412, p.85 (August 19, 1813).

¹⁰⁶ Cecile-Marie Sastre, Updated Version of the Historical Report Constitution Monument, March 4, 2001, p. 2. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00026>. Sastre describes

The final monument of approximately 9 meters in height bore a marble tablet reading:

Plaza of the Constitution

Promulgated in the City of Saint Augustine of East Florida

On the seventeenth of October, 1812

During the governorship of

Brigadier Don Sebastian Kindelan

Knight of the Order of Santiago

being Governor

For eternal memory

The Constitutional City Council has raised this obelisk

Under the supervision of

Don Fernando de la Maza Arredondo, the Younger

Councilman and Dean

Don Francisco Robira

City Attorney

1813¹⁰⁷

By the beginning of 1814, Álvarez and Gómez were seeking payment for the construction of the pyramid.¹⁰⁸ Sent away because they did not have all the receipts, they returned a few days

the construction process in detail. Sastre and other secondary sources in English do not indicate the legal status of the black laborers. See also, Outline of Development of Constitution Monument. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00019> (describing construction process and use of black laborers).

¹⁰⁷ *“Promulgada en esta Ciudad de San Agustine de la Florida Oriental en 17 de Octubre de 1812 siendo Gobernador el Brigadier Don Sebastian Kindelan, Caballero de la Orden de Santiago. Para eterna memoria, el Ayuntamiento Constitucional erigio este obelisco dirigido por Don Fernando de la Maza Arredondo, el Joven, Regidor Decano y Francisco Robira Procurador Sindico. Año de 1813.”*

later to present their detailed account to the City Council which referred the materials to the city attorney (*procurador síndico*) for review before payment.¹⁰⁹

These nearly complete accounts of the construction of the monument from August to December, 1813, give the reader detailed information concerning the monument.¹¹⁰ In sum, records show that the monument was a substantial public works project for the city. Lime was purchased for mixing mortar from local inhabitants, Mr. Russell and the widow of Mr. Fish; stone was obtained from residual piles used for the construction of a bridge; timbers, nails, wood were used to construct a scaffold.¹¹¹ Notations for expenses include a Master Mason, two workers, two “large blacks” (*negros grandes*) and another black worker, and a carpenter Benjamin Seguer.¹¹² The weekly statements were signed by Martín Hernandis (Hernández), evidently charged with the daily construction of the pyramid.

The receipt for the engraved stones does not provide much information on their lettering or origin, except perhaps that they were acquired in the United States, and that there were originally four of the stones, perhaps one for each side. As best as the statement can be deciphered, it seems Mr. Francisco Marin gave Antonio Lopez thirty-two pesos in gold who exchanged them with a loss of 6 reales per once in North America (*Nortemeric*a), referring either to location or currency. It appears the four stones cost a total of 27 North American pesos and their transportation was three reales each.¹¹³ This notation indicates that the four stones were of equal expense and weight.

¹⁰⁸ EFP, Reel 174, Bundle 412, p. 144 (January 23, 1813).

¹⁰⁹ EFP, Reel 174, Bundle 412, p. 150 (February 14, 1814).

¹¹⁰ EFP, Reel 90, Section 50, Item 1814-115 (February 7, 1814).

¹¹¹ EFP, Reel 90, Section 50, Item 1813-115 (February 7, 1814).

¹¹² EFP, Reel 90, Section 50, Item 1813-115 (February 7, 1814).

¹¹³ EFP, Reel 90, Section 50, Item 1813-115 (February 7, 1814). In 1885, William Dewhurst described the monument as bearing the inscription “Plaza de la Constitucion” on three small

The accounts were subject to the audit of the city attorney who questioned the charge for the stone obtained from the earlier bridge construction, some charges associated with a daily payment to the Master Mason, charges related to the purchase of some nails, a brush, a two-person stretcher to carry goods, some boxes, fabric, and a bucket. For items that the City Council could use again, José Bernardo Reyes, as city attorney, suggested they be returned for the use of the city.¹¹⁴ There was subsequently some minor squabbling over the final amount due.¹¹⁵ Thus, at a requested payment of 149 pesos, 3 and 1/2 reales, the bill was just shy of the 150 peso allocation mentioned in July, 1813.¹¹⁶ By March, 1814, the City Council could consider the accounts with a statement of concerns raised by the city attorney.¹¹⁷

The remaining original tablet now bears a Masonic symbol, a square and compass, centered at the bottom of the text. There appears to be no documentation to explain the presence

marble tablets on three of four sides. This is noteworthy because it indicates that perhaps these were three of the four original stones which were of equal value, indicating there was not one large stone with an inscription and three smaller stones. Either Dewhurst was not careful with this transcription or the present small tablets with “Plaza de la Constitution” in Spanglish were substituted later. One may also guess that the North American origin of the original tablets helps to explain the spelling error on the tablets. There is also a minor error on the large tablet. Instead of “Don Fernando de la Maza Arredondo el Joven” the engraver “mistakenly” put “Don Fernando de la Plaza el Joven.” Perhaps it was a lasting pun worthy of being etched into stone or perhaps Dewhurst misread the “M” as a “P”. WILLIAM W. DEWHURST, THE HISTORY OF SAINT AUGUSTINE, FLORIDA 142 (1885). Perhaps also, and this is purely conjecture, the larger tablet was set on the monument as part of the second promulgation in 1820. There is no record of its costs during the 1813 period when the economic situation was bleak and a monument with four small marble tablets would have easily satisfied the requirements of the royal decree at the time. Somehow, it also seems unlikely that Constitutional Mayor Álvarez would have permitted a monuments listing only two members of the City Council. Additionally, if the larger tablet was written in 1813, the city’s memory of Fernando de la Maza, the younger’s resignation from the project in July, 1813, might have prevented him from being listed as the supervisor of the project. By 1820, Fernando de la Maza Arredondo was Constitutional Mayor of St. Augustine, see *infra* note ___ and accompanying text, and the particulars of his withdrawing from the project might have been overshadowed by his more recent accomplishments.

¹¹⁴ EFP, Reel 90, Section 50, Item 1813-115 (February 7, 1814).

¹¹⁵ EFP, Reel 90, Section 50, Item 1813-121 (March 14, 1814).

¹¹⁶ EFP, Reel 174, Bundle 412, p. 150 (February 14, 1814).

¹¹⁷ EFP, Reel 174, Bundle 412, p. 151 (March 14, 1814).

of this symbol, although most individuals commenting on it have assumed that the mark is contemporaneous with the text and not added later. This aspect may simply bear witness to the cultural and demographic eclecticism of St. Augustine in the early nineteenth century. The master mason was named Maron, and those charged with erecting the monument had Spanish surnames, but Mr. Russell and Mr. Fish are listed as suppliers of materials for the monument. Stone for part of the monument was obtained from the ruins of the “Old Episcopal Church.”¹¹⁸ Parker has noted the mix of cultures in St. Augustine during this period and speculates that “English was heard on the streets almost as often as Spanish.”¹¹⁹

Nonetheless, the presence of the symbol merits further discussion and speculation. One source states that “Masons were instrumental in the movement for constitutional government in the British colonies, Spain, and Spanish America. It is not surprising, therefore, to see a Masonic symbol on a tablet celebrating the Spanish Constitution.”¹²⁰ On one level, the appearance of a Masonic symbol is a complete surprise because the Constitution of Cádiz firmly maintains Roman Catholicism as a state religion. It would be inconsistent to mark publicly any connection between the Constitution of the Spanish Monarchy and Freemasonry. On another level, if stone masons in St. Augustine were Freemasons, then perhaps the addition of a Masonic symbol was left more to the discretion of the builders of the monument and the engraver of the tablet.

It is hard to imagine that such a significant symbol would be permitted on such a public and important monument with official sanction. Another writer comes to a similar conclusion, “[i]t is highly probable that there were Freemasons in St. Augustine, and that considerable liberal

¹¹⁸ See also, Outline of Development of Constitution Monument. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00019>.

¹¹⁹ Susan R. Parker, Spanish Colonial St. Augustine, http://www.vivaflorida.org/St_Augustine.21.lasso.

¹²⁰ Cecile-Marie Sastre, Updated Version of the Historical Report Constitution Monument, March 4, 2001, p. 3. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00026>.

sentiment existed here, so that the use of the emblem on the tablet may have received official sanction.”¹²¹ If the larger tablet was the product of the 1820 re-promulgation as conjectured above, then the emboldened constitutionalists of St. Augustine may have taken the additional public declaration of the triumph of liberalism by including the symbol.¹²²

Another account, without documentation, attributes the symbol to post-Civil War vandalism. This explanation is worth restating because it may lead to further investigation on the matter:

Immediately under the date there is cut in the marble tablet the Masonic emblem of the square and compass. The reader can readily believe that the City Council of St. Augustine in 1813 were all too good Catholics to be responsible for this symbol of Masonry. The history of that piece of vandalism is said to be as follows: Soon after the close of the war of the Rebellion, the “young bloods” amused themselves by endeavoring to create an alarm in the mind of the United States commandant, and, by executing a series of cabalistic marks at different localities throughout the town, to convey the impression that a secret society was in existence, and about to do some act contrary to the peace and dignity of the United States. Besides other marks and notices posted upon private and public buildings about the town this square and compass was one night cut upon the tablet of the

¹²¹ Anonymous, Background of Constitution Monument. Available at University of Florida Digital Collection <http://ufdc.ufl.edu/?b=UF00095508&v=00006>.

¹²² See *supra* note ____ (110).

Spanish monument, where it will remain as long as the tablet exists, an anomaly, without this explanation.¹²³

The reasons for the symbol and the date of its appearance on the large tablet remain a mystery.¹²⁴

VI. Constitutional Order Revoked, 1814-1815.

The constitutional order in Spain was revoked by royal command on May 4, 1814, when Fernando VII retook control of Spain and issued his famous decree of Valencia. Fernando VII dissolved the ordinary Cortes of 1814, and declared null and of no value the effect of the Constitution of Cádiz.¹²⁵ Word did not reach St. Augustine via Havana until almost three months later, in August, 1814. The leadership of the political chiefs of provinces was to be transferred back to the military captains and commandants, where this function had been housed before the Constitution.¹²⁶ Constitutional City Councils were ordered to suspend operation.¹²⁷ The regional Provincial Disputations created in the Americas under the Constitution of Cádiz, such as the Provincial Disputation of Habana that oversaw St. Augustine, were to close up,

¹²³ WILLIAM W. DEWHURST, *THE HISTORY OF SAINT AUGUSTINE, FLORIDA* 142 (1885).

¹²⁴ At the beginning of 1815, St. Augustine received word that the City council and constitutional government had been abolished. When the Constitution came back into force in Spain and when the City Council was established again under the Constitution of Cádiz, the tablets were replaced on the monument in 1820. Cecile-Marie Sastre, *Updated Version of the Historical Report Constitution Monument*, March 4, 2001, p. 3. Available at <http://ufdc.ufl.edu/?b=UF00095508&v=00026>. Similar ceremonies related to the promulgation in 1812 were repeated in 1820 and Don Fernando de la Maza Arredondo was elected mayor pro tempore. "El escribano", *The Municipal Council and the Constitution Monument, The Augustine*, February 27, 1971, p. 6.

¹²⁵ EFP, Reel 90, Section 50 (August 4, 1814).

¹²⁶ EFP, Reel 89, Bundle 209A17 (August 30, 1814) (citing Royal Decree of May 4, 1814).

¹²⁷ EFP, Reel 89, Bundle 209A17 (August 30, 1814) (citing Royal Order of May 24, 1814).

transfer all their records to the Governor, and transfer all their power to the institutions that had their functions before the Constitution.¹²⁸

The constitutional order came to an end in St. Augustine the same compliant, orderly way it seems to have come into being a few years earlier. In response to official receipt of the changes, Governor Kindelán called a special session of the City Council August 9, 1814.¹²⁹ The Governor read a communication from the Captain General of Cuba and the Two Floridas dated July 20, 1814, and the *Diarios del Gobierno de la Habana* dated July 21 and 22, 1813, containing various royal decrees.¹³⁰

The first decree perhaps said it all. The king had decided to retake the throne of his august predecessors with the fullness of his sovereign power.¹³¹ The second decreed null all decrees given by the Regency and the Cortes that had not received the king's approval since his return to Spain.¹³² A third decree named ministers of state, and a fourth instructed Captain Generals and Military Commandants to put everything back into the form and state that it had before the Constitution, pending the king's decisions about what should be done.¹³³ The fifth communication referenced new restrictions on the freedom of the press; the sixth extinguished the office of Political Chief (*Gefe Politico*) under the Constitution and transferred its power to the military Captains and Commandants of the provinces.¹³⁴

¹²⁸ EFP, Reel 89, Bundle 209A17 (August 30, 1814) (citing Royal Order of May 24, 1814); EFP, Reel 90, Section 50 (August 4, 1814) (this communication includes a manuscript copy of the decree of May 4, 1814).

¹²⁹ EFP, Reel 174, Bundle 412, p. 195 (August 9, 1814).

¹³⁰ EFP, Reel 174, Bundle 412, p. 195 (August 9, 1814).

¹³¹ EFP, Reel 174, Bundle 412, p. 195 (August 9, 1814) (citing royal decree of May 4, 1814).

¹³² EFP, Reel 174, Bundle 412, p. 195 (August 9, 1814) (citing royal decree of May 4, 1814).

¹³³ EFP, Reel 174, Bundle 412, pp. 195-196 (August 9, 1814) (citing royal decree of May 4, 1814 and circular of May 16, 1814).

¹³⁴ EFP, Reel 174, Bundle 412, p. 196 (August 9, 1814) (citing royal decree of May 4, 1814).

It must have been a particularly difficult moment. The Constitution of Cádiz, in Article 1 no less, had famously declared that “[t]he Spanish Nation is the reunion of all Spaniards of both hemispheres.”¹³⁵ Would the Spanish colonial world ever regain such theoretical parity with their peninsular counterparts? Apparently content with the constitutional structures under the Constitution of Cádiz, perhaps St. Augustine considered whether this was the moment to declare independence.¹³⁶ If there was the shadow of doubt in the minds of the members of the City Council, the loyalty of St. Augustine could not be taken for granted by the central peninsular government, especially now without a Constitution. Loyalty of the colonies proved to be an essential piece of the Spanish victory against the French; colonial money had kept the ultimately successful battle on the peninsula alive. Keeping the empire together during this time had been a tricky puzzle of magnetic pieces – regions and provinces in the Americas sometimes clicked perfectly into place and sometimes shot off in the opposite direction. Napoleon knew he should

¹³⁵ Spanish Constitution (1812), Art. 1.

¹³⁶ The closed example was just up the coast in Fernandina and Amelia Island where, just three years earlier, the independent Republic of Florida had been declared. Despite its suppression by the United States at the end of 1817, in the Spanish world, the Republic of Florida was part of the regional trend of the independence of the Spanish colonies. On July 23, 1817, Pedro Gual, of the Republic of Florida patriots wrote William J. Thornton, “head of the Patent Office in Washington and a supporter of independence for Spanish America” that “[t]he establishment of a republic in [the] Floridas on that of Mexico, New Granada, Venezulea, Buenos Ayres, Chile, and Peru, is of more magnitude than it is generally [*sic*] imagined, even by the best informed.” Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 274, 279 (1975) (citing Gual to Thornton, July 23, 1817, Papers of William Thornton, Manuscripts Division, Library of Congress, V, 783-84. On November 5, 1817, Pazos proclaimed to Amelia Island, “Citizens, were are Republicans from principle, our fortunes have been spent, and our lives oft exposed for this most glorious cause. We have come here to plant the tree of liberty, to foster free institutions, and to wage war against the tyrant of Spain, the oppressor of America, and the enemy of the rights of man.” Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 284 (1975). For institutions and election on the Island, see Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 287-291 (1975).

try to win the colonies over; Cádiz did it effectively enough. It was now Fernando VII's turn to keep the colonies in the empire, even after tossing away the Cortes and the Constitution.

With the Constitution repealed, Madrid and Havana tried to speak to the unspoken inklings of independence that must have floated about St. Augustine. On August 29, 1814, the Governor read a communication sent shortly after the return of Fernando VII by the Secretary of State. The communication authorized by "the royal word" sought to conserve the tranquility of the provinces and contemplated the creation of a process that did not leave the colonies out of the Cortes.¹³⁷ The Cortes called under the king would include individuals from the provinces ". . . for the Cortes, subjects worthy to sit among their European brothers."¹³⁸ Just as the peninsula could not neglect the Americas during the war against Napoleon, it could not neglect the region during its shift to absolute monarchy, and the concerns for the region extended to St. Augustine.

The Secretary of State and of the Government of Ultramar, Miguel de Lardizabal y Uribe, understood well the importance of keeping the American colonies within the empire. The rhetoric of his communication of August 4, 1814, sent to Havana and then on to St. Augustine must have helped garner the loyalty of St. Augustine's constitutionalists. Paraphrasing his discourse, divine providence has awarded the forces of the most loyal and valiant of all nations, returning to them after a long captivity the most loved of kings. His return meant that the European provinces would be spared the injuries occurring in some American provinces, and the American provinces would not be so unsettled if they had witnessed the enthusiasm and happiness of their "European brothers" on receiving the king. If they knew the king's intentions in these provinces, now that the disturbances causing their desolation are over, they would be

¹³⁷ EFP, Reel 174, Bundle 412, p. 198 (August 29, 1814) (citing decree of May 4, 1814).

¹³⁸ EFP, Reel 174, Bundle 412, p. 198 (August 29, 1814) (citing decree of May 4, 1814).

completely happy.¹³⁹ There was an important place for the Americas in the Spanish empire, and the absolute monarch had to adopt constitutional constructions of Spain to maintain allegiance.

The communication continued:

His Majesty finds himself ultimately persuaded that the provinces that make up the monarchy *in both parts of the world* cannot prosper the one without the other, and he does not have less love for his most remote vassals than the love he has for those most close to his residence. Therefore, His Majesty is resolved to mend the grievances that have been able to give reason to or served as a pretext for outbreaks, and to proceed with a true understanding has asked for reports for persons born in these provinces and esteemed in them.¹⁴⁰

The communication continues with an explanation of the use of these reports and their reading by his “sons of Europe and America” (*sus hijos de Europa y America*) to the end of removing discord between European and American Spaniards.¹⁴¹ The next step was to undermine the representational legitimacy of the Cortes of Cádiz, an interesting twist on what were known to be American grievances with the constitutional structure.¹⁴² Again, paraphrasing his comments, the Cortes in Cádiz flowed from no one in the monarchy who had power to call them and those who were supposed to be American deputies in those illegitimate Cortes had been selected mostly in Cádiz, without the participation of the provinces who gave them their titles without elections or even notice of their selection. With this vice of illegitimacy, there was a

¹³⁹ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴⁰ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴¹ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴² Mirow, Visions, *supra* note ____, at 71-77.

. . . complete lack of liberty in the deliberations held among shouts and threats of lost men, of which a turbulent faction filled the galleries of the Cortes following the same system employed in the revolutionary assemblies of France, and with the same success, which was that of publishing a Constitution, in which, under false experiences of liberty the cement of monarchy was mined, the door to irreligion was opened. . . .¹⁴³

The discourse continues that on his return to the capital, the king was able to see many of his subjects. Lardizabal y Uribe ties this to the American experience:

If only as His Majesty has seen a large part of his vassals of Europe, he might be able to see those of America! His Majesty no doubt would find in them, as he found in Spain, the same Spaniards of every century, prodigals returning to their lives at the given moment, putting honor in the conservation of their religion, in inalterable fidelity to their legitimate sovereigns and in the attraction of the uses and customs of their elders. His Majesty at the same time of showing his royal will has offered to his loving vassals fundamental laws made from agreement with the procurators of his provinces of Europe and America, and in the next convocation of the Cortes composed of one and the other a commission named for this purpose. . . .¹⁴⁴

¹⁴³ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴⁴ EFP, Reel 90, Section 50 (August 4, 1814).

Lardizabal y Uribe assured that the next convocation of the Cortes would include “. . . subjects worthy to sit among their European brothers.”¹⁴⁵ With this special introduction for an American audience, the communication continued by providing the king’s decree of May 4, 1814.¹⁴⁶

It appears that the Lardizabal y Uribe’s argument won the day. The City Council’s recorded response at this moment of constitutional crisis are remarkable:

And the attending officials, after having conferred and discussed at length agree that the intimate votes of their hearts are and have always been that of keeping themselves United to the Mother Country and its government as this City has done in all the variations that circumstances have caused in these past years, of course, they are equally in support the government announced by the King our Lord.¹⁴⁷

This was the City Council’s official response to the news of the Governor’s communications. By 1814, there was certainly no lack of independence thought throughout Latin America, and it is telling that the outcome of the City Council’s discussions indicates that going in the other direction, the split from the Mother Country and its government, was a possibility the Council considered. The region had experienced insurgents, buffeting political pressures from incursions by the United States and non-sanctioned invasions by Anglo-Americans, and economic difficulties within the empire. Furthermore, it appears that St. Augustine had really taken to the structures under Constitution of Cádiz. Perhaps the city enjoyed being guided by a Constitution,

¹⁴⁵ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴⁶ EFP, Reel 90, Section 50 (August 4, 1814).

¹⁴⁷ EFP, Reel 174, Bundle 412, p. 196 (August 9, 1814). The act of the City Council was signed by Sebastian Kinderlan, Fernando de la maza Arredondo the younger, J. María Hernández, Pedro Rodríguez de Cala, José Bernardo Reyes, and Juan de Entralgo, as secretary. EFP, Reel 174, Bundle 412, p. 195 (August 9, 1814); EFP, Reel 90, Section 50 (August 10, 1814).

the same way their neighbors in the United States just about 100 kilometers to the north in Georgia were governed by a Constitution. Nonetheless, the benefits of empire, monarchy, and Lardizabal y Uribe's assurances seemed to have won the day; the City Council's constitutional experience was not enough to pry its allegiance from Spain, the mother country, and king, even when siding with the king's full absolute sovereignty might have brought as much uncertainty for this distant fort, city, and province as a declaration of independence from Spain.

Nonetheless, in accepting the new monarchy, the leaders of St. Augustine knew that compliance would require them to dismantle the institutions they were a part of and they had helped to create. By the end of August, 1814, they knew that the leader of St. Augustine would no longer hold the title of Political Chief (*gefe político*) and that the Constitutional City Councils, such as St. Augustine's City Council, and provincial disputations, such as Havana's disputation, were ordered to cease their functions. Municipal authority was generally to be turned over to military command.¹⁴⁸ With the end of the constitutional regime, Fernando de la Maza Arredondo, the elder, gave notice to the Governor that he had ceased his functions on the provincial disputation.¹⁴⁹ On September 5, 1814, the City Council took official notice that the provincial disputation in Havana had been dissolved.¹⁵⁰

There was still the question of the new shiny monument to a Constitution that had now just been repealed. After so much trouble, political infighting, and expense, it should not be dismantled. By daily newspaper from Havana, on September 5, 1814, the City Council of St. Augustine learned that similar tablets were being replaced in other Spanish towns with new

¹⁴⁸ EFP, Reel 174, Bundle 412, p. 199-200 (August 29, 1814) (citing decree of May 24, 1814).

¹⁴⁹ EFP, Reel 90, Section 50, No. 163 (August 4, 1814).

¹⁵⁰ EFP, Reel 174, Bundle 412, p. 202 (September 5, 1814).

tablets inscribed “Plaza de Fernando VII.”¹⁵¹ Following the practice of other towns as reported in newspapers, the City Council decided to remove the tablet from the pyramid. Although there appeared to be no royal order requiring this, the Council thought it was a good idea.¹⁵² The last meeting of the City Council appears to have been on January 18, 1815, when the Governor called a special meeting at which the secretary of the Council noted that by letter of the same date:

he included the Spanish Royal Cedula from Madrid of July 30, 1814, concerning the dissolution of City Councils that are called “Constitutional,” and having been read by me the undersigned Scribe after which the attending Councilmen understood perfectly its content, they complied with and obeyed it with the due formalities, agreeing that in all and by all they would give it its most punctual and exact execution: In which consequences this City Council remained dissolved as it was instituted “Constitutional” so that the Captains of the Third Battalion of Cuba may enter into the exercise of their functions as obtained in the year 1808, leaving by this act the acts of constitutional elections erased and lined-out by me the said Scribe in the presence of the said Councilmen, who yield to your lord that in submission to the general good of this Province and the circumstances that experience its population and **principally in its service** it is worth sending this recommendation to the notice of the King our Lord (may God protect him) so that it is worthy to

¹⁵¹ EFP, Reel 174, Bundle 412, p. 202 (August 29, 1814).

¹⁵² EFP, Reel 174, Bundle 412, pp. 202-203 (September 5, 1814).

give to it the efforts of the City Council. With that the session was concluded and signed by his lord and the other Councilmen of which I give faith.¹⁵³

In this way, the City Council loyally closed its session book at the beginning of 1815. Its jurisdiction was transferred to the Captains of the Third Battalion of Cuba stationed at the San Marcos fort.

VII. The Second Promulgation of the Constitution of Cádiz in St. Augustine, 1820.

Sometimes things appear to pick up right up from where they left off, even after a number of years. Five years since closing the session book of the Constitutional City Council, Juan de Entralgo opened the book, turned to the last entry that stopped half way down the page and began to write, “[i]n the City of St. Augustine of Florida on May 4, 1820”¹⁵⁴ Fernando VII had recently been forced to submit to the Constitution a few months earlier, on March 9, 1820, in Madrid and temporarily swore allegiance to the Constitution pending his ability to do so again before the Cortes.¹⁵⁵ News of the drastic change filtered into St. Augustine over the following months. Some news came by official channels, but much information regarding important political changes now arrived to St. Augustine by way of the newspapers published in

¹⁵³ EFP, Reel 174, Bundle 412, p. 207-208 (January 18, 1815). The dissolution was signed by Sebastian Kindelán, José Sanchez, Fernando de la Maza Arredondo el joven, Pedro Rodríguez de Cala, José Bernardo Reyes, and Juan de Entralgo, as secretary. EFP, Reel 174, Bundle 412, p. 208 (January 18, 1815).

¹⁵⁴ EFP, Reel 174, Bundle 412, p. 208 (May 4, 1820).

¹⁵⁵ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820).

Havana and brought by ship to St. Augustine.¹⁵⁶ As might be expected, official news of such events may take months, unofficial news via newspaper was often quicker.¹⁵⁷

One account reported through official channels to the St. Augustine City Council declares that the king decided that the Constitution should be sworn to because “his royal spirit was penetrated by the advantages that the peoples of this vast Monarchy would gain from the punctual observation” of the document.¹⁵⁸ The same royal, secular, local, ecclesiastical and military officials were to swear to uphold the Constitution in the same way they had in 1812.¹⁵⁹ Similarly, regular citizens were to swear to the Constitution in their parishes in the same manner as they had done eight years prior.¹⁶⁰ Just a few days after the king swore to the Constitution, a decree was issued that all the municipalities of the realm conduct elections for Constitutional Mayors (*alcaldes constitucionales*) and Constitutional City Councils (*ayuntamientos constitucionales*) so that the Constitution would take effect as rapidly and as uniformly as possible.¹⁶¹

The Constitutional City Council was back in operation. The first session even records the continuity of personnel from just five years prior. The Book of Acts of the Council records:

In the City of St. Augustine of Florida on May 4, 1820, Mr. José
Coppinger Colonel of the National Army Military Governor and
Political Chief (*Gefe Político*) of this City and Province President

¹⁵⁶ For example, EFP, Reel 89, Bundle 209A17 (September 18, 1820) (mentioning the “*diario de esta Capital*” and its news of the king’s swearing to the Constitution).

¹⁵⁷ For example, many of the changes from early March, 1820, do not make their way into some official records until September, 1820. See notes below for examples.

¹⁵⁸ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820).

¹⁵⁹ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820); EFP, Reel 89, Bundle 209A17 (September 18, 1820), No. 186.

¹⁶⁰ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820).

¹⁶¹ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing communication from the Secretary of State dated March 20, 1820).

of the Illustrious Body, convokes a special Council meeting at which attended the Councilmen Mr. Fernando de la Maza Arredondo, Mr. Pedro Rodríguez de Cala and Mr. José Mariano Hernández with the City Attorney Mr. José Bernardo Reyes, *who are the same who made up this corporation when it was dissolved in the year 1815*, missing only Constitutional Mayor Mr. José Sánchez for having died and Councilman Mr. Francisco Pons, absent.¹⁶²

Many of the same actors from five years prior were now undertaking their constitutional function once again. The first order of business was to take an oath to the Constitution, something not possible until this meeting of May 4. They swore to the Constitution and were “. . . reinstated to the exercise of their functions which had been suspended by the Royal Cedula expedited in Madrid on July 30, 1814.”¹⁶³ The Council decided that it would signal this installation of their offices to the public and, for the time being, it would not undertake any elections of Commissioners of neighborhoods (*comisarios de barrios*) until other aspects of reinstating the constitutional order could be determined.¹⁶⁴ As was usual, news of the changes in Spain came flooding in through newspapers. The Council learned of the Cortes requirement of swearing to the Constitution, the swearing to the Constitution in Madrid on April 16, 1820, the decree of the same date reinstating of the Constitutional City Council of Madrid to the status and place it had

¹⁶² EFP, Reel 174, Bundle 412, p. 208-209 (May 4, 1820) (Mirow’s emphasis).

¹⁶³ EFP, Reel 174, Bundle 412, p. 209 (May 4, 1820).

¹⁶⁴ EFP, Reel 174, Bundle 412, p. 210 (May 4, 1820).

in 1814, and other measures being taking to re-establish the Constitution on the peninsula and throughout the empire.¹⁶⁵

Four days later, the City Council decided it was it was time to put the “. . . the Stones on the Pyramid of the Constitution” (*colocar las Lapidas en el Piramide de la Constitución*) and the Council set the date of Thursday, May 11, 1820, as the appropriate day for the celebration of this event.¹⁶⁶ The City Council asked the Governor to provide necessary troops for the event, and an edict was published so that the public would have sufficient time to prepare the appropriate banners and luminaries (*cortinas y luminarias*).¹⁶⁷ The ready availability of the stones for the monument and the apparently easy recovery of the Book of Acts of the Constitutional City Council were indications that St. Augustine welcomed the return of the Constitution and its institutions.

The City Council continued to address similar local concerns it had taken on five years earlier. In July, 1820, for example, the City Attorney, Mr. José Bernardo Reyes, briefly reported on the difficulties the Province was having in commerce and agriculture. He stated that North Americans were challenging the security and tranquility of the area, noting that he would prefer Spanish families, or at least Germans and other Europeans, in the place of the Americans. The American presence in Amelia Island and Fernandina was a constant disruption to Spanish claims, but Reyes observed that to have families that voluntarily moved to a region helped maintain things in relative quiet, even when they were not true friends (*quando no fueran verdaderos*

¹⁶⁵ EFP, Reel 174, Bundle 412, p. 210-211 (May 4, 1820).

¹⁶⁶ EFP, Reel 174, Bundle 412, p. 211 (May 8, 1820). Dewhurst reports without documentation that the tablets remained in concealment “. . . until 1818, when they were restored without opposition.” DEWHURST, *supra* note ____, at 140.

¹⁶⁷ EFP, Reel 174, Bundle 412, p. 212-213 (May 8, 1820).

amigos), they should not be considered enemies.¹⁶⁸ Concern was expressed over the arrival of “persons of unknown character, perverted Indians . . . and vagabonds” (*muchas personas de desconocido carater, y otras de pervertos indios . . . y bagabundos*) into the area.¹⁶⁹ These concerns were forwarded to the Provincial Disputation.¹⁷⁰

Slavery continued as part of daily life in St. Augustine, and in 1820 the City Council repeated the royal decrees prohibiting slaves from selling property without a license from their masters and required an edict published to this effect not only in St. Augustine but also in Fernandina, St. Nicholas, and Mosquitos. The prohibition sought to address the problems of black slaves selling items in the streets and their transporting “alcoholic spirits that contaminate good customs and cause prejudicial bad acts against the tranquility of the inhabitants (*llavando*

¹⁶⁸ EFP, Reel 174, Bundle 412, p. 222 (July 3, 1820). Since 1817, Fernandina and Amelia Island were held by the United States in a form of “protective custody” for the Spanish, after United States forces wrested the town from a group of patriots claiming an independent “Republic of Florida”. The patriots under Vicente Pazos, who was born in Upper Peru and had arrived to Philadelphia from Buenos Aires, had organized their expedition in Philadelphia and had enlisted the naval power of “Scottish adventurer Gregor MacGregor.” MacGregor, “who had served with the patriots in Venezuela, received a commission in Philadelphia from “The deputies of free America, resident in the United States of the North.” Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 273, 279, 286 (1975). At the end of June, 1817, MacGregor had taken control of Amelia and reportedly flew the “Green Cross of Florida” as his flag, “a white flag, with one vertical and one horizontal green stripe across the field, intersecting in the center and forming a St. George cross.” T. Frederick Davis, *MacGregor’s Invasion of Florida, 1817*, 7 FLA. HIST. Q. 1, 14 (1928). Later in 1817, the patriots’ claim was that the republic was a satellite of Mexico, and so the Mexican flag was flying in Fernandina and Amelia Island during 1817, to be replaced by the United States flag. Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 297 (1975). The complex and fascinating actions of MacGregor are recounted in T. Frederick Davis, *MacGregor’s Invasion of Florida, 1817*, 7 FLA. HIST. Q. 1, 14 (1928).

¹⁶⁹ EFP, Reel 174, Bundle 412, p. 221 (July 3, 1820). In 1817, “[t]he population of Fernandina was always motley, a situation not conducive to the maintenance of law and order. . . . [A] North American observer characterized the patriots on Amelia Island as ‘a most heterogeneous set, consisting of all countries and languages, except Spanish Americans.’ Among the group were North Americans, French, Irish, Scots, English, Dutch, Germans, Haitians, and of course, Pazos, an Indian from Upper Peru.” Charles H. Bowman, Jr., *Vicente Pazos and the Amelia Island Affair, 1817*, 53 FLA. HIST. Q. 283 (1975).

¹⁷⁰ EFP, Reel 174, Bundle 412, p. 223 (July 3, 1820).

licores espirituosos que contaminen las buenas costumbres y causan vicios perjudicales a la tranquilidad de los habitantes).¹⁷¹ Slaves were similarly prohibited from moving out of the jurisdiction unless they had a written license from their masters, without which they were subject to being apprehended as runaways and their masters charged for their capture.¹⁷²

After getting official word of these changes on September 18, 1820, the City Council wasted no time in setting the date for the re-promulgation and oath-taking ceremonies. September 25, 1820, a Monday, was selected for the ceremonies, only because Sunday, the day before had been reserved to hold elections to the City Council.¹⁷³ Once again, the city prepared to celebrate:

. . . such a magnificent day, as when His Majesty the King swore to the Sacred Charter and as that of the reunion of the Congress of the famous Fathers of the Country who sanctioned it, with all the solemnity of demonstrations of great happiness and joyousness that reign in the hearts of true Spaniards who have restored their liberty and rights, [and] to build a platform in the *Plaza de la Constitución* adorned as is appropriate for such a grand Act and charming memories, celebrating all at once with triple salvos of artillery, pealing of bells and luminaries and banners for three consecutive days that begin on the 25th with all the diversions and delights that are licit and do not upset the public tranquility. And the gathered gentlemen well persuaded of the ardent zeal and accredited

¹⁷¹ EFP, Reel 174, Bundle 412, p. 259-260 (November 13, 1820).

¹⁷² EFP, Reel 174, Bundle 412, p. 260-261 (November 13, 1820).

¹⁷³ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820).

patriotism of the President and his love towards the wise institutions that are reborn for the happiness of the Spanish peoples, send him their most expressive thanks for his decided resolve and praiseworthy disposition amongst the miseries and sorrows that work in this miserable land through lack of funds, whose evils are forgotten in these prophetic moments and in consequence agree to verify all as proposed by the President with whose approval it is equally designated Friday, the 29th of the present month for the oath as prescribed by the second article of the Royal Decree already mentioned of March 18, 1812. . . .¹⁷⁴

As in the first constitutional period, St. Augustine and its City Council once again responded quickly and with apparent willingness to celebrate the Constitution of Cádiz and to reinstate constitutional institutions. As with the first promulgation, a general pardon was issued for July 9, 1820, the day the king swore observance to the Constitution.¹⁷⁵ Also as with the first promulgation, sworn testimony of the proceedings was gathered and transmitted to the peninsula. The city scribe and secretary of the City Council reported:

I certify and give faith: That at four in the afternoon of the 26th day of the current month as consequence of the edicts fixed in the most public places as customary announcing the promulgation of the Political Constitution of the Spanish Monarchy sanctioned in Cádiz by the general and extraordinary Cortes of the Nation on

¹⁷⁴ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decree of March 9, 1820); see also EFP, Reel 174, Bundle 412, p. 238-239 (September 18, 1820).

¹⁷⁵ EFP, Reel 89, Bundle 209A17 (January 13, 1821); EFP, Reel 90, Section 50 (December 22, 1820).

March 19, 1812, gathered at the Casa Morada of Mr. José Coppinger Colonel of the National Armies Military Governor and Political Chief of this City and its Province the men who make up its Illustrious City Council, the Chiefs and Officials of the squads of the garrison, those of the ecclesiastical estate, the employees of the public service and the rest of the persons of character of the population that were brought together for the act and having then gone out His Lord and his accompaniment, the march began opening the way a squad of dragoons which followed two squads of the Battalions of Cataluña and Malaga with battle instruments, and with them the Illustrious City Council, with the king's coat of arms (*Reyes de armas?*) and guests, in the direction of the *Plaza de la Constitución* where there had been prepared a highly decorated platform, onto which Your Lord went up with the mentioned corporation and having in hand with all obedience the sacred code, it was read in loud and intelligible voices, during which time all the troops remained with arms presented and when the said reading was finished, the bells were put into motion with a general peal while the Castle of San Marcos answered with a salute of artillery, and the troops gave a closed salute (*descarga cerrada*). Having finished this solemn act, Your Lord and the others attending walked to the same Morada where the Governor repeated the banquet where it had already been prepared so that by 8 at night,

they accompanied the men for the dance that he had ready in his house, the which with splendid refreshments and dinner lasted until the dawn of the next day, reigning always the most jubilation, happiness, and harmony, without the slightest distaste of disturbing the celebration which finally was attended by all the participants and the City, which was illuminated and adorned by the efforts of its residents. The day of the 28th of the same gather in the hall of His Lordship all the authorities, City Council, and employees of the public service and in virtue of that stated before in Royal Order of March 13, 1820, renewed their oath of the Political Constitution of the Spanish Monarchy, which had been verified with all solemnity on April 29 immediately on the arrival, although not officially, the notice of the new regime. And yesterday, the 29th, the citizens of the City gathered with due anticipation to attend the Parish in which Mass was celebrated, signing a solemn Te Deum and giving an oath to the Constitution, which act was presided by the Illustrious City Council ending with a peal of bells and salvos of artillery. And to confirm the verbal order of the Governor of this said City and Province follows and signs the present statement in St. Augustine, Florida, September 30, 1820.¹⁷⁶

Taking an oath to uphold the Constitution was not merely about a day of public celebration away from ordinary daily life. To maintain one's civil status in the Spanish empire,

¹⁷⁶ EFP, Reel 90, Section 50 (September 30, 1814).

it was necessary to swear to uphold the Constitution. Without doing so, one will be stripped of “all honors and prerogatives flowing from civil authority” (*queda destituido de todos los honores y prerrogativas procedentes de la potestad civil*).¹⁷⁷ People who held positions of authority or honor under the Constitution during the first constitutional period had a strong incentive to swear to uphold the Constitution once again. Individuals stripped of honors because of their adherence to the Constitution in 1814 were reinstated to their former status.¹⁷⁸ All public officials removed in 1814 because of their adherence to the Constitution were reinstated into the position, with the proviso that no person could have two salaries for two different positions.¹⁷⁹

Numerous transitional provisions and decrees were issued in the name of the king now subject to the Constitution. Re-establishing constitutional institutions, one decree required that “. . . all the peoples of the Monocracy immediately hold elections for Constitutional Mayors and Constitutional City Councils in accordance with everything provided in the Constitution and the decrees that emanated from it.”¹⁸⁰ A decree clarified the question of whether former constitutional officials from the 1812-1814 period were now eligible to serve in the new Constitutional City Councils affirmatively.¹⁸¹ To replace vacancies on the Constitutional City Council, the electors in the first constitutional period were called upon to select new members of the Council, but three of these electors had died and another was absent and unable to participate.

¹⁷⁷ EFP, Reel 174, Bundle 412, p. 282 (January 15, 1821) (citing royal order of April 2, 1820). Another document speaks of “honors, employment, emoluments, and prerogatives”) EFP, Reel 90, Section 50, No. 212 (January 14, 1821) (citing royal order of April 2, 1820).

¹⁷⁸ EFP, Reel 174, Bundle 412, p. 282-283 (January 15, 1821) (citing royal order of April 15, 1820).

¹⁷⁹ EFP, Reel 174, Bundle 412, p. 283 (January 15, 1821) (citing royal orders of April 24 and 28, 1820).

¹⁸⁰ EFP, Reel 174, Bundle 412, p. 235 (September 18, 1820) (citing royal decree of March 10, 1820).

¹⁸¹ EFP, Reel 89, Bundle 209A17 (September 18, 1820), No. 185 (citing decree of March 9, 1820).

Instead of proceeding with the remaining electors, the Council referred the matter to the Provincial Disputation through the Governor.¹⁸² At the reinstated Provincial Disputation in Havana, Fernando de la Maza Arredondo resumed his functions of representing the province.¹⁸³

By May, 1820, on the local level, the Constitutional Mayor was expressing his concerns over the re-establishment of the Constitution and its institutions, particularly as they related to his power. He wanted to ensure that re-established heads of *partidos*, geographic subdivisions of provinces under the Constitution, appropriately recognize the jurisdiction of the Constitutional Mayor.¹⁸⁴ St. Augustine received new copies of the Constitution to conduct the new oath, copies of recent newspapers from Havana detailing the re-establishment of the Constitution throughout the empire, and decrees rebuilding constitutional institutions and reasserting the ideology of the Constitution. One decree released prisoners “who have been imprisoned for their political opinions” (*presos por opiniones politicas*) and another abolished, yet again, the Inquisition.¹⁸⁵ Another decree sought to ensure that Indians throughout the colonies were being properly protected in Spain.¹⁸⁶

Newspapers received in St. Augustine provided further details and events related to the re-establishment of the Constitution. Bishops, schools, universities (through one of the chairs of law) and other public institutions were to provide lectures on the benefits of the Constitution and rebut any assertions against the document. New provisions were decreed for the publication of the Constitution, including what must have been cutting-edge technology, an “*edición*

¹⁸² EFP, Reel 174, Bundle 412, p. 215-16 (May 16, 1820).

¹⁸³ EFP, Reel 174, Bundle 412, p. 219 (June 19, 1820 citing de la Maza Arredondo’s letter of June 8, 1820); EFP, Reel 90, Section 50 (June 8, 1814).

¹⁸⁴ EFP, Reel 89, Bundle 209A17 (May 10, 1820).

¹⁸⁵ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing decrees of March 9, 1820); EFP, Reel 174, Bundle 412, p. 234-239 (September 18, 1820).

¹⁸⁶ EFP, Reel 89, Bundle 209A17 (October 16, 1820); EFP, Reel 174, Bundle 412, p. 249 (October 16, 1820) (citing communication from the Secretary of State dated June 29, 1820).

esterotipa” on the peninsula. Newspapers provided accounts of finding hidden constitutional tablets and their re-installation in the plazas of cities such as Tudela and Córdoba.¹⁸⁷

By July, 1820, the provisional junta in the name of the king appeared anxious to move the constitutional transition along at a faster rate. Looking to decrees from the period from 1810 to 1812, it immediately reinstated numerous provisions and added new decrees.¹⁸⁸ Some decrees directly related to the Constitution and its distribution. For example, such decrees prohibited republishing the Constitution without license and granted the Library of the Cortes the power to print the Constitution with an analytical table.¹⁸⁹ Other decrees addressed the operation and nature of the city councils and provincial disputations. These defined the functions of these institutions, the status of deputies under the constitutional system, established the salary and privileges of the secretary of the Cortes, prohibited the use of substitutes for government positions, established the right of deputies who had employment in extinguished corporations to obtain equivalent positions, clarified the right of secular clergy to vote in elections of city councils, and noted that political leaders (*gefes politicos*) were not to vote on city councils or provincial disputations.¹⁹⁰ On the national level, decrees related to the election of deputies to the Cortes were affirmed in order to re-establish the Constitutional Cortes.¹⁹¹

Other quickly affirmed decrees ensured the proper commemoration and recognition of the Constitution and political structures. Thus, almanacs were required to note the anniversary of

¹⁸⁷ Diario del Gobierno Constitucional de la Habana, no. 191, pp. 1-3, July 10, 1820 as found following EFP, Reel 89, Bundle 209A17 (October 16, 1820).

¹⁸⁸ EFP, Reel 89, Bundle 209A17 (October 16, 1820) (citing a communication of July 1, 1820).

¹⁸⁹ EFP, Reel 89, Bundle 209A17 (October 16, 1820) (citing decrees of April 29, 1812 and August 13, 1813).

¹⁹⁰ EFP, Reel 89, Bundle 209A17 (October 16, 1820) (citing decrees of December 17, 1811; April 6, 1812; April 14, 1812; May 23, 1812; September 21, 1812; November 10, 1812; March 10, 1813; and August 11, 1813).

¹⁹¹ EFP, Reel 174, Bundle 412, p. 270 (January 8, 1821) (citing royal decree of July 6, 1820).

the promulgation of the Constitution; monuments were to be constructed to commemorate important battles; the principal plazas of cities should be named for the Constitution; calendars were to include the name of king on San Fernando day; and the Academy of History was designated as the depository for all documents related to the Spanish “revolution.”¹⁹² The day of the anniversary of the publication of the Constitution, March 19, was to be observed the same way the Cortes had ordered its publication be observed in 1813.¹⁹³

Still other decrees advanced the more liberal aspects of constitution reform. These decrees, for example, supported Jovellanos’s agrarian plan, required that censors (*juntas de censura*) provide notes on what they have confiscated, created judicial tribunals, required a copy of all books published in the monarchy to be deposited with the Library of the Cortes, created university chairs in agriculture and economics, addressed land ownership, recognized the rights of naturalized citizens under the Constitution to practice professions, and maintained liberty of the press, continued the use of censors, and protected the rights of authors.¹⁹⁴

This long list of decrees from the first constitutional period provided the basis for the new constitutional structure in 1820. As part of the Spanish constitutional empire, St. Augustine received both the relevant and the irrelevant decrees, the broad-sweeping institution changing decrees and the decrees that touched only minutia in, perhaps, one city on the Iberian peninsula. This was what it meant to be part of an empire, and the Cortes in Madrid made sure that St. Augustine was not pulled away during the political uncertainties of re-establishing the

¹⁹² EFP, Reel 89, Bundle 209A17 (October 16, 1820) (citing decrees of January 7, 1812; January 29, 1812; April 26, 1812; May 9, 1812; August 4, 1812; August 14, 1812; May 29, 1813; July 3, 1813; August 22, 1813; and March 15, 1814).

¹⁹³ EFP, Reel 174, Bundle 412, p. 282-283 (January 15, 1821) (citing royal order of March 17, 1820).

¹⁹⁴ EFP, Reel 89, Bundle 209A17 (October 16, 1820) (citing decrees of January 24, 1812; May 13, 1812; June 25, 1812; January 4, 1813; April 23, 1813; June 8, 1813; June 10, 1813; May 7, 1814).

Constitution. This was, perhaps, not as difficult as we might think. St. Augustine appears to have been a relatively loyal area under the first constitutional period.

The importance of maintaining the entire empire through political turmoil was not lost on the Secretary of State when he wrote the Captain General of Cuba and the Two Floridas concerning the requirement that the army and troops swear their allegiance to the Constitution.¹⁹⁵ We must remember that the loss of the Constitution in 1814 must have stung Floridians, and many other Spanish Americans, harshly because of the Constitution's famous inclusion of the Americas into the Spanish Nation in the very first article of the Constitution of Cádiz: "[t]he Spanish Nation is the reunion of all Spaniards of both hemispheres."¹⁹⁶ The Secretary of State framed the events in Madrid to ensure American provincial commitment and local compliance. He began by explaining that the king was moved by the general will of the Nation and the vote of the army to have a burning desire to reestablish the Constitution as the only guarantee of his subjects' happiness. The Constitution would bring about the general utility, national well-being, the destruction of factions, and would establish from the "Monarch and his subjects *of both worlds* a single close family."¹⁹⁷ The Constitution set out the sacred rights of the king and the people and assured a just system of Spanish liberty and independence.

The Secretary of State closed his directions with words chosen to pull the Americas, to pull St. Augustine, back into the fold by repeating the ideas and very words of the Constitution (*ambos hemisferios*, both hemispheres) to his commander abroad. He concluded:

¹⁹⁵ EFP, Reel 89, Bundle 209A17 (September 18, 1820) (citing April 15, 1820 communication from Secretary of State to Captain General of Cuba and the Two Floridas).

¹⁹⁶ Spanish Constitution (1812), Art. 1.

¹⁹⁷ ". . . *formando del Monarca y sus subditos de amobs mundos una sola y estrecha familia.*" EFP, Reel 89, Bundle 209A17 (September 18, 1820), No. 180 (Mirow's emphasis).

. . . His Majesty exhorts the zeal, patriotism and love of order that distinguish you with the end that by all possible methods you make known and understood in the military Province that in you is entrusted the magnificent successful event in the Peninsula, together with all the benefits of the new constitutional system, carrying them to union with the mother country, living with peace and order, and announcing to them the majestic and happy future that this sacred Code offers, make them demonstrably see the respectable ties that unite them with other Spaniards through their intimate relations of blood, friendship and the sense, then, of being common, *in both hemispheres*, in religion, language and laws, there ought not exist going forward any divergence in opinions or in goals than those they hold in the same common trust through their love of the Nation, the same laws, and the King.¹⁹⁸

St. Augustine was convinced. Constitutional institutions began to function again, quite conscious of the lapse that occurred between 1815 and 1820. For example, in November, 1820, in criminal action against Don Carlos Seton, accused of being one of the insurgents who invaded Fernandina in September, 1819, Governor Perpall admitted to the peninsular government that “. . . the constitutional judges (*alcaldes constitucionales*) of this city have not exercised ordinary jurisdiction because the City Council was closed after the publication of the Constitution. . . .”¹⁹⁹

The Governor ensured that proper days were set for elections. On December 2, 1820, the

¹⁹⁸ EFP, Reel 89, Bundle 209A17 (September 18, 1820), No. 180 (Mirow’s emphasis).

¹⁹⁹ EFP, Reel 89, Bundle 209A17, No. 202 (November 29, 1820). There are several entries related to Seton’s case.

Governor noted, “. . . in this city tomorrow the electoral junta of the parish should hold elections for the deputies to the Cortes in the years 1822 and 1823” in conformity with the Constitution.²⁰⁰ As required by the Constitution, the prisons are visited.²⁰¹ The convening of the Cortes in Madrid on July 6, 1820, was noted in a special meeting of the City Council when it received official word of the events on December 22, 1820.²⁰²

The reach of the Constitution into the very local affairs of the region indicate the penetration of constitutional ideas and institutions into the region. The most notable example was the dispute over the leadership of the areas of the St. Johns River and the St. Marys River towards the end of 1820. In November, 1820, the City Council heard a Spanish translation of a petition in English from the inhabitants of the district of the St. Johns River. The crux of the complaint was that David Solomon Miller held the position of Captain of the district. Some in the area wanted Miller removed and replaced with Francisco Román Sánchez, “. . . who is a natural of this Province, who has respect among the inhabitants, and who, as a Spaniard, and in exercise of the rights of citizenship, deserves all the recommendations that some may give him above another who does not have these qualities so necessary to the duties that one ought to exercise.”²⁰³ While one might expect that this was group of Spaniards exerting Spanish rights, oddly the petition is in English and signed by men with Anglo surnames. It was an English petition signed by apparent North Americans asserting their rights under the Spanish Constitution of Cádiz. The letter read:

To the Honorable Supreme Council in San Augustine.

²⁰⁰ EFP, Reel 89, Bundle 209A17, No. 203 (December 2, 1820).

²⁰¹ EFP, Reel 89, Bundle 209A17, No. 205 (December 20, 1820 and December 29, 1820) (citing the decree of October 9, 1812).

²⁰² EFP, Reel 89, Bundle 209A17 (December 22, 1820).

²⁰³ EFP, Reel 89, Bundle 209A17 (December 29, 1820); see also EFP, Reel 174, Bundle 412, p. 259 (November 13, 1820). Corbitt mentions this episode at Corbitt, *supra* note ____, at 63.

The inhabitants of the district of St. Johns Rivier Humbly represent and prays that they may be endowed the and purtake of the rights and privelidges which they are entitled to under the present Laws and Constitutional Government and be permitted to Elect their District Officers under the late regulations, which may be made known to them hereafter, and they as in duty bound will every stay in conformity of which we hereunto subscribe our names.

Francis R. Sanches

St. Nicolas 24th October – 1820²⁰⁴

The City Council stated that it was without jurisdiction and the Governor had the discretion to decide who was to lead the district (*partido*). The City Council noted that everything should be done to keep the district tranquil and that under Miller the unhappiness in the region was well known.²⁰⁵ In accordance with the requirement that any magistrate or judge had to be born in Spanish territory, the Governor removed Miller and substituted Francisco Róman Sánchez in his place.²⁰⁶

VIII. From the Constitution of Cádiz to the Constitution of Philadelphia, 1821.

²⁰⁴ EFP, Reel 90, Section 50 (October 24, 1820). The petition is signed by David Leurry, Thomas Owens, Joseph Long, William Loftin, John Loftin, Joseph Summers, Luedrie Hartley, Henry Hartley, George Hartley, Daniel Hogans, Joseph Hogans, E.M. Hudnall, Charles Hogans, Elias stallings, John Bardin, Absalom Bardin, William Bardin, and William Stafford.

²⁰⁵ EFP, Reel 89, Bundle 209A17 (December 29, 1820).

²⁰⁶ EFP, Reel 89, Bundle 209A17, No. 213 (January 5, 1821); see also EFP, Reel 174, Bundle 412, pp. 273-274 (January 8, 1821) (noting the City Council's thanks to the Governor for making this substitution in the region); EFP, Reel 90, Section 50 (January 5, 1821).

A reader of the sessions of the Constitutional City Council of St. Augustine will know when something important is on the table. The clue is often a special, rather than a regular, session of the Council. The special session of the Council on June 8, 1821, was perhaps the most important in the history of St. Augustine's constitutional institutions. The record reads:

In the City of St. Augustine, Florida, on June 8, 1821, in virtue of the citation issued, a special session of the Council gathered in the hall as customary Messrs. José Coppinger Coronel of the National Army Military Governor Political Chief President, Mr. Gabriel Guillermo Perpall Constitutional Mayor, Mr. José Mariano Hernández, Mr. Guillermo Travers, Mr. Francisco José Facio and Mr. Juan Huertas Coucilmen: Mr. Bernardo Segui City Attorney with my attendance the Secretary, the following was addressed and agreed:

In this Council, Mr. Governor President showed three communications sent to the Excellent Mr. Governor and Capitan General of the Island of Cuba and the Two Floridas with dates of April 26, 5, and 17 of last May, with an insertion of the treaty of friendship, settling difference and limits between His Majesty and the United States of America: The Royal Cedula in virtue of which the handing over of the Two Floridas to the United States ought to be effected, and various other documents and instructions related to this end, communicated directly to Your Lord as commissioned by His Excellency to give it his personal completion, which

documents were read by me the Secretary, and understood by the men of this corporation, as equally as Mr. Governor President shall take the actions most opportune and efficient to transport the families that wish to move to Havana after having announced by public posters with the greatest speed the dispositions that have been adopted according to the said treaty.

With that the session was concluded which signed the said Messrs. President and member, which I certify: José Coppinger, Joseph M. Hernández, Guillermo Travers, Francisco J. Facio, Juan Huertas, Bernardo Segui.²⁰⁷

For the rest of June and the first weeks of July, 1821, the Constitutional City Council set to work to provide for the orderly transfer of their home to the United States. Its functions would cease at the moment the province was turned over to the United States in accordance with the Adams-Onis Treaty.²⁰⁸ The Council first recorded its thanks to Governor José Coppinger who had served since January 6, 1816.²⁰⁹ The Council commended the Governor for his liberal, moderate and indulgent spirit (*su carater liberal, moderado y indulgente*) and for having exactly fulfilled his duties even when the fates presented the Province with violent agitation, “principally in 1817 to save the Province from the danger it found itself in by the invasion of Pirates gathered by Mr. Gregor McGregor.”²¹⁰ The Governor was praised for his military, administrative, and

²⁰⁷ EFP, Reel 174, Bundle 412, pp. 291-292 (June 8, 1821).

²⁰⁸ Adams-Onis Treaty, Washington, February 22, 1819. EFP, Reel 174, Bundle 412, p. 293 (June 14, 1821) (citing treaty of February 22, 1819).

²⁰⁹ EFP, Reel 174, Bundle 412, p. 293 (June 14, 1821).

²¹⁰ EFP, Reel 174, Bundle 412, p. 293-294 (June 14, 1821). For MacGregor see *supra* note ____.

local political acumen and for his skills at running the province with little funds.²¹¹ He maintained national decorum through difficult times with representatives of the United States and Britain, and his contribution to the celebrations of the second promulgation of the Constitution of Cádiz was specifically noted.²¹² The record states that he:

. . . made significant contributions to the celebration and jubilation that were done for the restoration of the Political Constitution of the Spanish Monarchy, though which acts he gave unequivocal proof of his adhesion to and feelings for such sacred and wise institutions.²¹³

He was lauded as an impartial judge and someone who promoted the general welfare above his personal ambitions. A copy of the encomium was given to the Governor by Juan de Entralgo in the name of the Council which bade farewell to the Governor.²¹⁴

Then there were last minute financial matters, accounting for and collecting final taxes before the handing over of the province.²¹⁵ The Secretary of the Council, Juan de Entralgo, had also served the city from the promulgation of the Constitution in 1812 until January 15, 1815, when the Constitutional City Council was dissolved and then again from May 4, 1820, to the present in a number of appointed official positions. He had maintained the Council's Book of Acts and its secretary. He too was thanked and authorized for payment.²¹⁶

²¹¹ EFP, Reel 174, Bundle 412, p. 294 (June 14, 1821).

²¹² EFP, Reel 174, Bundle 412, p. 295 (June 14, 1821)

²¹³ EFP, Reel 174, Bundle 412, p. 295 (June 14, 1821).

²¹⁴ EFP, Reel 174, Bundle 412, p. 295-296 (June 14, 1821).

²¹⁵ EFP, Reel 174, Bundle 412, p. 296 (June 14, 1821).

²¹⁶ EFP, Reel 174, Bundle 412, p. 296-297 (June 14, 1821). The session of June 14, 1821, was signed by Gabriel G. Perpall, Joseph M. Hernandez, Guillermo Travers, Francisco J. Facio, Juan Huertas, Bernardo Segui, and Juan de Entralgo as secretary. For a list of edicts prepared by Entralgo and his payment on June 14, 1821, see EFP, Reel 90, Section 50 (June 14, 1821).

A few weeks later, it was the Governor's turn to reciprocate and to say goodbye. Another special meeting of the Council was held on July 6, 1821, The Governor addressed the Constitutional City Council:

I come personally to announce the day in which it is agreed to turn this Province over to the Government of the United States under the Supreme Orders that I have received and I must communicate to this corporation. The 10th of this month, Coronel Mr. Robert Buthler Commissioned by the said States and the Officials and Troops of the same shall take possessions of the fortifications and territory, and our officials and troops will withdraw from them at the same time. The Spanish authorities will then cease in the exercise of their functions, turning them over to the Americans. In a word, we shall complete on our part what affects us in the treaty of Washington of February 22, 1819. I have waited for this moment to reveal to you the sentiments of my heart, but you already seem to know and have wanted to carry me chained in a way so jeweled that so well binds my gratitude it makes me feel all the more the separation of such distinguished representatives of the Homeland (*Patria Suelo*). Yes, Sirs, the act of June 14 that I have received from the Commissioners, will be in perpetual testimony of the distinguished idea that this corporation has showered my few merits and services with praise. My recognition of this, then, will last as long as my existence continues.

You have always honored the memory of my name, but each one of the Individuals of this municipality is worthy of the same praises. I am a witness to the suffering, sacrifices, patriotic zeal, and all kinds of services that you have done for this miserable Country. What would my decided determination to preserve it in the terrible crises I have seen, unless I had counted on your help? Fortune, people, all the most dear to man I have found soon to lose them to defend the National honor, and the territory in whose control was entrusted to me. Your lights have always served me in my doubts, so that, friend (*compañero*) equally in my conflicts and pleasures you have enjoyed much bitterness and little sweetness that diverse circumstance have obliged us to taste.

You are, sirs, the organs and representatives of this worthy public. Know this through the satisfaction that your Political Chief has for your actions. Know virtuous People, so honored and frugal as miserable and Poor, I know your virtues, your services are on the record, I wish you well because you have earned happiness and luck, and always remember how much I owe you, and deserve from the Mother Country.

Council members, my dear fellow citizen (*conciudadanos*), my beloved friends, soon we shall dissolve ourselves. I bid farewell to you with the most kind effusions of a thankful heart. I only have to recommend to you that you fill the ideas of our

government inviting this its influence the habitants of this Province to enjoy the free passage and thanks that have been offered to them, moving themselves to other parts of the Spanish Monarchy, and in particular to the Island of Cuba. My commission will delay me here until the declaration of various difficulties that have come up because the American Commissioner believes that the artillery is included in the turning over of the fortifications, and the particular properties are recorded in the archives. While I remain here, I shall do all in my power to provide the necessary aid to those who wish to emigrate, and in all and singular considerations I appreciated that all and each one of the members of the Illustrious City Council and President deserve.

This corporation concluded with the most tender demonstrations of gratitude and feeling, Offering to do their part as recommended by the Political Chief President and this session was concluded signing Your Lord and the other Council members of which I the secretary certify.

José Coppinger.²¹⁷

In strict compliance with orders from Madrid, the constitutional government of the city and province prepared themselves to turn over the territory. It is noteworthy that in portions of their farewell speeches both the City Council and the Governor mention their adherence to the Constitution and their belief in the constitutional institutions they served. The addresses to and

²¹⁷ EFP, Reel 174, Bundle 412, p. 298-300 (July 6, 1821). Coppinger is the only signature.

from the Governor stress his constitutional title of Political Chief. It is unlikely that at such a time of crisis and transition these expressions of constitutional compliance would have been feigned.

On July 10, 1821, St. Augustine and the Province of East Florida stepped from one constitutional regime to another, from the Constitution of Cádiz of 1812 to the Constitution of Philadelphia of 1787. The transfer is dryly recorded in the final entry for the Constitutional City Council of St. Augustine:

In the City of St. Augustine, Florida, on July 10, 1821, gathered in special session Messrs. José Coppinger Colonel of the National Army, Military Governor and Political Chief of this City, President, Mr. Gabriel Guillermo Perpall Constitutional Mayor, Mr. Francisco José Facio, and Mr. Juan Huertas Councilmen, Mr. Bernardo Segui City Attorney, and I the undersigned Secretary, appeared Mr. Colonel Roberto Butler Commissioned by the Government of the United States of America to take possession of this Province given by Spain in virtue of the treaty of Washington of February 22, 1819, and according to previous orders and instructions with which it was authorized by the Governor President, the ceremonies proceeded as the case required, the mentioned Mr. Butler received from the hands of Mr. Coppinger the Keys to the Gates of the City, and they signed the act which were gathered in a Folder with other documents related to the said handing over and prepared for this moment, in virtue of which the

corporation remains dissolved, ceasing in its functions, and to confirm as understood, Your Lord and the other Councilmen signed and I the Secretary sign this writing.²¹⁸

This final entry for the Constitutional City Council bears no signatures. There was no need; the constitutional institutions under the Constitution of Cádiz no longer reigned in St. Augustine and the province of East Florida.

IX. Conclusion.

A vibrant constitutional community existed in St. Augustine and the province of East Florida on the eve of their transfer to the United States in 1821. Public celebrations of the promulgation of the Constitution in 1812 and again in 1820, the church's participation in recognizing the Constitution, a substantial public monument, and the creation of representative governing institutions all led to brief, but important, moments of constitutional "entrenchment" in the area.²¹⁹ Lower officials might use the Constitution to question the actions of higher officials and even non-citizens sought remedies under constitutional provisions. The Constitutional City Council met regularly and the Governor called elections under the Constitution. The importance of the Constitution of Cádiz in the daily life and political function of St. Augustine and its province during the late Spanish colonial period cannot be overstated.

At first blush, one might assume that all good Spaniards and good constitutionalist took flight as Spanish ships offered free passage from St. Augustine to Cuba in 1821. This, however,

²¹⁸ EFP, Reel 174, Bundle 412, p. 301 (July 10, 1821).

²¹⁹ Miguel Schor, *Constitutionalism Through the Looking Glass of Latin America*, 41 TEX. INT'L L.J. 1, 27 (2006).

was not the case. The early rolls of the mayors of St. Augustine reveal several familiar names from this Spanish period. Gabriel Perpall is listed as mayor in 1821, perhaps still while the city was under Spanish rule. But Bernardo Segui was mayor in 1824-1825 and again in 1838, and Antonio Álvarez, perhaps the trusted witness to the promulgation of the Constitution in 1812, served from 1833 to 1835 and again in 1840.²²⁰ Thus, in the territorial period of Florida under the United States Constitution, it is likely that St. Augustine had mayors who well remembered representative institutions, elections, constitutional protections, and similar practices from the Spanish constitutional period. Similarly, Joseph M. Hernández, was appointed by the first territorial legislative council in 1823 to serve as the territorial delegate to the United States Congress. Of Spanish and Minorcan descent, Hernández lost the position in 1824 to Richard Call when the position was filled by vote of white males over twenty-one years of age.²²¹ No doubt, Hernández brought his experience of service as Constitutional City Councilman of St. Augustine and his understanding of constitutional government with him to Washington in 1823.

It appears that the constitutional experiences of St. Augustine had greater possibility of influence in Cuba and the continued Spanish empire on that Island and elsewhere. It is likely that only one member of Florida's constitutional convention in 1838 in St. Joseph may have been a descendant of St. Augustine's Spanish constitutional families. A man named Joseph S. Sánchez represented the County of St. John at the convention.²²² It appears that the Constitution

²²⁰ List of Mayors, St. Augustine, Florida, available at http://www.ci.st-augustine.fl.us/your_government/documents/MayorsPast.pdf

²²¹ Daniel L. Schafer, *U.S. Territory and State*, in *THE NEW HISTORY OF FLORIDA* 210-211 (ed. Michael Gannon 1996).

²²² F.W. Hoskins, *The St. Joseph Convention: The Making of Florida's First Constitution*, 16 *FLA. HIST. Q.* 33, 41 (1937). Perhaps the same Joseph S. Sanchez who served as a federal marshall of the Territory of Florida, Eastern District, from 1837 to 1841. http://www.usmarshalls.gov/readingroom/us_marshall/florida.pdf (last visited Sept. 20, 2011); WILLIAM WARREN ROGERS & JAMES M. DENHAM, *FLORIDA SHERRIFFS: A HISTORY 1821-1945*

of Cádiz did not serve as an important source, if at all, in the drafting of the Florida Constitution of 1838.²²³ The legacy of constitutional thought in Floridian territorial and state constitutionalism is beyond the scope of this study, as is the possibility of migration between late Spanish colonial constitutional thought and United States constitutionalism. These topics are admittedly as most interesting tangents in constitutional developments during the period, but they may warrant some investigation.

St. Augustine's second constitutional period, from 1820 to 1821, has gone, for the most part unnoticed. In 1943, Duvon Clough Corbitt made a passing reference to the region's "two constitutional periods", but this three-word phrase would hardly lead one to appreciate the zeal with which the constitutional institutions were celebrated, brought back to life, used, and entrenched in St. Augustine's daily life and political thought until the very moment the territory was turned over to the United States.²²⁴ There was much more to the second Spanish period in Florida than a brief interruption from British rule to territorial status under the United States. In 1821, Florida shifted from one established constitutional regime to another, from the Constitution of Cádiz to the Constitution of Philadelphia.

____ (Florida Sherriffs Association, ____). For a mention of the Sanchez family's perseverance in Florida through political change see Daniel L. Schafer, *U.S. Territory and State*, in *THE NEW HISTORY OF FLORIDA* 210-211 (ed. Michael Gannon 1996).

²²³ Stephanie D. Moussalli, *Florida's Frontier Constitution: The Statehood, Banking & Slavery Controversies*, 76 *FLA. HIST. Q.* 423-439 (1996). The Florida territorial Constitution of 1838 references the recent acquisition of the region from Spain. Like the Constitution of Cádiz, the Florida Constitution has no property requirement for voting. "That all elections shall be free and equal; and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State." Florida Constitution (1838), Section 4.

<http://www.law.fsu.edu/crc/conhist/1838con.html>

²²⁴ Corbitt, *supra* note ____, at 61.