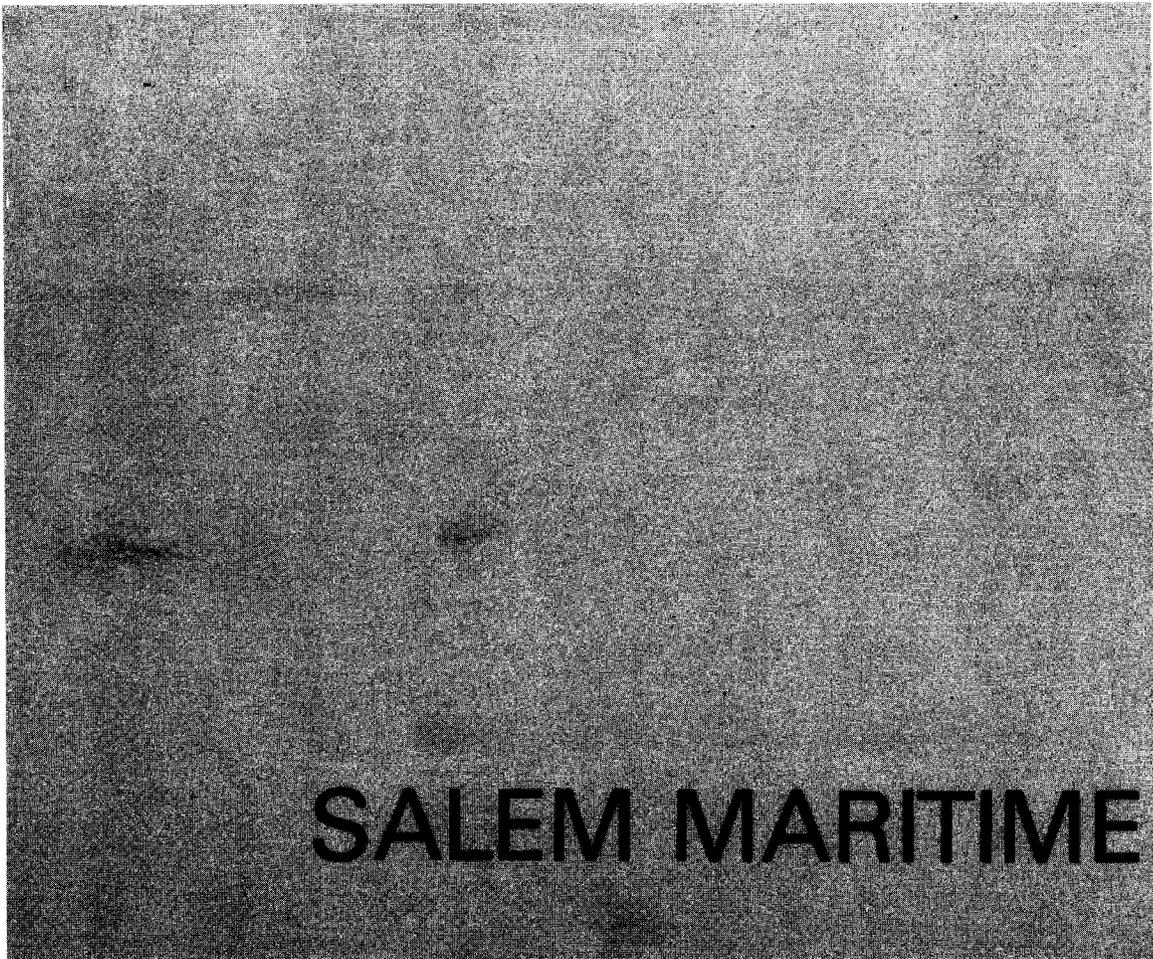


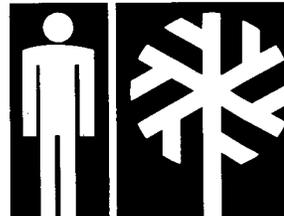
historic structure report

DERBY WHARF
PART I

D-14
IN
STORAGE



SALEM MARITIME



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Historic Structure Report

DERBY WHARF

Part I

Salem Maritime National Historical Park

Massachusetts

Administrative Data Section

by

H. John Dobrovolny

and

Historical Data Section

by

John Luzader

DENVER SERVICE CENTER
HISTORIC PRESERVATION TEAM
NATIONAL PARK SERVICE
UNITED STATES DEPARTMENT OF THE INTERIOR
DENVER, COLORADO

SEPTEMBER 1973

TABLE OF CONTENTS

	Page
Table of Contents.	i
Administrative Data Section.	1
Abstract	3
Historical Data Section.	4
Summary of Construction of Derby Wharf	22
Illustrations.	26
Appendix I	36
Appendix II.	38
Appendix III	40
Appendix IV.	44
Appendix V	46

Administrative Data Section

by

H. John Dobrovolny

Administrative Data

Derby Wharf is the central feature of the park and the initial reason for the area's establishment. It was the center of Elias Hasket Derby's extensive maritime activities during periods of both war and peace. The 1971 Master Plan and Interpretive Prospectus both identify a need to rehabilitate the wharf and reconstruct the period warehouses that were located on it; thus providing the physical setting that is necessary to interpret the basic historic values of the park.

One cooperative agreement exists affecting the wharf. An agreement signed August 2, 1966, allows the City of Salem to build and operate three floating docks as public boat landings on the east side. Two of these have been constructed. The agreement "shall continue in effect until or unless terminated by mutual consent" of both parties.

The southernmost tip of Derby Wharf and the lighthouse belong to the Coast Guard. No written agreement seems to exist, but the National Park Service has apparently traditionally maintained that part of the wharf along with the rest of the structure.

Abstract

This report presents a brief account of the physical history of the Derby Wharf as that story is revealed in the most obvious sources. It does not undertake to record the wharf's economic and social history. Neither does it provide a detailed study of the architectural features. The wharf was extensively studied and reconstructed during the 1930s, and the engineering report upon which that work was based is on deposit in the National Archives and is cited in the body of this study. The existing wharf is the product of that reconstruction, embodying portions of the original structure in the modern fabric.

Limitations of time and funds precluded including the study of the structures that occupied the wharf during the historic period. Therefore, a Historic Structure Report on the Derby Warehouses should be programmed at an early date.

Historical Data Section

by

John Luzader

Historical Data

Although Salem was settled in 1626 and was always a maritime town, its waterfront did not spread eastward past "Giggle's Isle" until after 1760.¹ Only a small pier at the foot of Turner's Lane interrupted the contour of Salem Harbor. The first century and a third of the town's history was a period of rather slow, gradual expansion of its maritime economic frontier. Even the gradualism was not constant. Economic life waxed and waned with demands and opportunities that depended upon factors quite outside the town's control. New England's commercial supremacy in British North America did not develop overnight, and that development was not constant. Salem also had rivals, some of which like Boston, enjoyed advantages of location and politics that she did not have. Nevertheless, its fine harbor and industrious inhabitants gave the town a potential that only awaited opportunities to grow. England's mercantilism and imperial wars finally operated to favor the launching of

1. Joseph B. Felt, Annals of Salem (Salem 1827), I, 283,
"A Plan of the Settled Part of Salem as it was in 1760"

significant commercial enterprises that made Salem for a few decades one of the major ports of call in North America. Derby Wharf had an important role to play in the drama of American maritime history.

The Seven Years (French and Indian) War stimulated maritime and commercial activity along the New England coast, and Salem shared in the resultant economic expansion. In 1760, while the war was still in progress, Capt. Richard Derby, a wealthy local merchant, purchased property from Timothy Mansfield that was described as:

A piece of land in ye East Parish so called, in said Salem, bounded Easterly on Land of Warwick Palfray 226 feet and a half, Southerly on a way [modern Derby Street] 79 feet and a half, Westerly on land of Josiah Adee in part and partly on land of Sarah Bean & partly on my other land formerly of Estate of my late father Paul Mansfield deceased & there measures in ye whole 218 feet & Northerly of lands of William Wibster & Nath. Silsbee 79 feet and a half. . . .²

During the next year, Captain Derby began building the brick home that came to be called the "Derby House," which he gave

2. Essex County, Southern District, Registry of Deeds, Book 109, 78.

as a wedding present to his son, Elias Hasket Derby, although the father retained title to the house and lot until his death in 1763.³

Approximately two years after he acquired the property on which he built the "Derby House," Richard Derby bought land on the southern side of modern Derby Street, between the "way" and the shore of the harbor from two widows, Margaret Selsbee and Mary Renew. This is described as:

. . . a piece of Beach Land and Flatts in said Salem in the South side of ye Way leading from the Long [later Union] Wharfe to Palfrays Land so called, Butting Northerly on ye same way eighty Feet & extends Southerly keeping that Width [sic] to ye Channel of the South River so called & butts Westerly on land of John Masury & Easterly on Land late of Sarah Mansfield, & and is opposite to ye Land on the other side of said Way, contained in a Deed from David Haswood to Robert Abbot dated the twelfth Day of March Anno Domini 1741. Recorded in the Registry of Deeds & in the said County Libro 82 folio 80 with the Privileges and Appurtenances there. . . .⁴

It was on this land that Richard Derby constructed his wharf.

-
3. Essex County Probate Records, Probate No. 7589, Richard Derby. Hereafter referred to as Richard Derby Probate.
 4. Essex County, Southern District, Registry of Deeds, Book 112, 139.

The precise date on which Derby began building his wharf is not recorded, but Salem's assessment record for 1767 notes that Elias Hasket Derby was taxed for a "new warehouse."⁵ The valuation for 1782 assessed him £600 for a "warehouse on Father's Long Wharf."⁶ Richard Derby's will refers to the building in the following sentence: "I give and bequeath to my son Elias Hasket Derby and his heirs forever the Land belonging to his Warehouse and on which it stands extending from the Street [Derby St.] by my wharf about sixty feet southward be it more or less to the notch in the wharf with the Passageway and Dockage westward of it."⁷ Tax assessments for 1778 and successive years included references to Richard Derby's "Long Wharf," and in 1782 the wharf was valued at £1,000.⁸ Thus while the evidence is less than conclusive, it indicates that a wharf existed on the historic site as early as 1778 and that

5. Town of Salem, Records, Miscellaneous, 1767.

6. Ibid., Valuation Book, 1782.

7. Richard Derby Probate.

8. Salem Records, Taxes, 1778-1781; Valuation Books, 1781-2.

there were at least two warehouses on it by 1779: Elias Hasket's at the landward end and Richard's on the southeastern corner which was valued, along with the wharf, at £12,000, a high assessment that in part reflected the war-time inflation.⁹

Richard Derby, Senior, died in 1783, and the wharf and its two warehouses were part of his estate. His will provided that his "Mansion house, Wharf and Buildings thereon" be inherited equally by his sons Elias Hasket and John and seven children of his deceased son, Richard, Junior.¹⁰ By an indenture dated January 11, 1785, Elias Hasket Derby acquired the right, title, and interest to this portion of the estate from Richard's heirs and John.¹¹ The assessment at this time was £800, Massachusetts money.

The period of Elias Hasket Derby's ownership, i. e. 1784-1799, was the most important time in the history of the

9. Salem, Records, Valuation Book, 1779.

10. Richard Derby Probate.

11. Essex County, Southern District, Registry of Deeds, Book 140, 30; Salem, Valuation Books, 1784, 1785.

wharf. Within a few months after his father's death, Elias Hasket hired Joshua Phippen to face the eastern side of the wharf from the southern end for a distance of 667 feet to where a twenty-eight foot "jog" in the wharf stood ninety-four feet from Derby Street.¹² Because the mud flats have filled up east of the wharf to a distance of more than 400 feet, only about 200 feet of the store facing is extant. The "jog", which has disappeared, was the western terminus of a stone 173 foot long breastwork that Derby hired Phippen to build between his wharf and Palfrey's in 1789.¹³ The area behind the new breastwork was filled with mud hauled in by Phippen at a cost of £150.¹⁴

Elias Hasket Derby's expansion of his business activities required the purchase of additional waterfront land immediately west of the wharf. In September 1794, he purchased from the

12. William Bentley, The Diary of William Bentley, D. O., 1784-1819 (4 vols.) 1, 128.

13. Ibid.

14. Ibid., 135; Derby Family Papers, Essex Insittute, VII, 50.

heirs of John White a lot on which he built a wharf during the next year.¹⁵ Acquiring this property permitted him to construct three angular berths for vessels.¹⁶

As the years passed and Elias Hasket Derby's commercial interests expanded, he made other important changes on his wharf. He had retained the two warehouses that had existed during his father's life-time; the one he built at the northern or land end and the one his father had erected on the other end. According to Dr. Bentley's September 28, 1789 entry: "Mr. Derby has repaired the store at the head of his wharf & glazed the front, so as to give it a very improved appearance compared with its former condition."¹⁷ This was probably the one nearest Derby Street, which later became the "Compting [counting] House." In 1794, Elias Hasket Derby built two new warehouses giving him a total of four buildings on the wharf.¹⁸

15. Ibid.

16. See Plan of the Estate, Late Elias H. Derby. . . .

17. Bentley, op. cit., I, 126.

18. Ibid., II, 463; Derby Family Papers, III, 96.

An important adjunct to his business activities was his venture into ship-building, in which he became involved early in 1790, when Dr. Bentley noted work had begun on a large shed with a work yard and saw-pit on the land opposite the wharf.¹⁹

Elias Hasket Derby died on September 8, 1799; and by the terms of his will, ownership of the wharf and its structures passed to his seven children. From the will and Gidion Foster's "Plan of the Estate, Late Elias H. Derby, Esq . . .," dated February 25, 1805, useful information concerning the wharf can be extracted. The main part of the wharf measured 760 feet long by 52 feet wide and was valued at \$13,000.²⁰ The will also established the number of buildings standing on the wharf at the end of the 18th century. These were four in number: (1) Richard, Senior's old warehouse at the southern end of the dock, which the will referred to as "the old store." Elias Hasket, Junior inherited this structure on the condition that, within twelve months, he would move it to a lot on the "Flatts" east of the

19. Bentley, op. cit., II, 48.

20. Salem Records, Valuation Book, 1799.

wharf. (2) The second building was the one that Elias Hasket, Senior had erected on the northern end, which the will described as "the store in which I now keep my Compting house," which Richard II inherited. (3) The third was a "new Store on the Eastward side of the said main or long wharf with the Land under and adjoining the same." John Derby inherited this building. (4) The fourth was a storehouse erected by Derby's son-in-law, Nathaniel West.²¹

Each of Derby's children inherited one-seventh part of the wharf, and his will provided that each would receive as part of the one-seventh part a store-lot measuring ninety-three feet in length. The stores were to be located in the middle of these lots. The will also stipulated that each lot could have a small wharf or platform on the north, east, and west sides, and that these could not extend more than ten feet beyond the eastern face of the main wharf. The will further stipulated that "in Locating the Lots for said Stores not already erected on the Eastward side of said wharf, my said children several Children, excepting my son John and my daughter Elizabeth [wife of

21. Essex County Probate Records, Book 367, 93-8, Will of Elias Hasket Derby, Sept. 3, 1799.

Nathaniel West] who have Stores, shall elect their Lots according to their Seniority; and in case any one, whose Right is shall be first to elect shall neglect to make his or her Election of a Lot in writing under his or her Hand for the space of twenty days after a demand, so to do made by either of the others, he or she shall lose and forfeit his or her priority of Election and the next in age may elect in the same manner." The will also provided that the wharf would not be enlarged west of a "Line with the Jog or Zig zag, lately built there, and I do order and it is my Will that the flatts owned by me between the Line last mentioned and the west Line of flatts purchased by me of the heirs of Capt. John White are to be kept open forever and used in common for the convenience and Accommodation of the owners of said main wharf and of the owners of the wharves and Stores herein given to my sons Ezekial Hersey and Richard." This meant that a forty foot right of way extended from Derby Street for the length of the wharf.

By early 1805, five storehouses, exclusive of the "Compting house," inherited by Richard Derby, Junior, stood on the wharf. These included John Derby's and Nathaniel West's, both of which

were built during the 1790s, plus Elias Hasket, Junior's one built by Anstiss's husband, Benjamin Pickman, Junior, which were erected between 1800 and 1805, John's store opposite the "Compting house." Richard's storehouse, or the "Compting house," still stood at the head of the wharf on the western side, but he never built on the lot he inherited.²² Ezekial Hersey Derby, who inherited the land and wharf immediately west of Derby Wharf, confined his activities to that operation.

One additional feature of the wharf that was not mentioned in Elias Hasket, Senior's will was a pier at the southern end that extended to the harbor's main channel. The pier's existence is documented by two sources. Gidion Foster's "Plan" contains the notation: "Line to the Lower Pier End is 1124 Ft," which supported by an indenture by which Ezekial Hersey assented to the wharf's extensive, established the pier's existence. The pertinent part of that indenture reads: ". . . from the

22. A Plan of the Estate, Late Elias H. Derby - Esquire on the South Side of Derby Street - Surveyed by Gidion Foster - February 25, 1805, Bentley, ip. cit., II, 376.

Southeastern corner of said Elias Hasket's [Junior] platform at the Southern end of said wharf in a straight line to the lower pier so-called, thence to the channel of the [South] River."²³

As the wharf's proprietors, the Derby heirs operated it for ten years. The relationship was informal, and changes took place within the group. Richard Derby sold his lot and his seventh interest in the wharf to Ezekial in 1804. In 1806, John Derby bought that share from Ezekial, as well as the "Compting house" and the western portion of the wharf to the first berth, from Richard. Richard, thus, no longer had an interest in the wharf.²⁴

Besides routine repairs, such as adding to the "filling" of the wharf's fabric with sand, gravel, and rock, an important structural change occurred in the autumn of 1800, when the western

23. Ibid., Essex County, Southern District, Registry of Deeds, Book 181, 87-8.

24. Essex County, Southern District, Registry of Deeds, Book 177, 196; Book 178, 222.

side was repaired and faced with stone for a distance of 569 feet at a cost of \$2,842, or \$5.00 per foot.²⁵

Expanding trade, larger vessels that required a deeper draught, and problems of sitting along the harbor's shoreline convinced the proprietors that they needed a larger facility to accommodate their commercial activities. Therefore, in February 1806, they petitioned the Massachusetts General Court, the state's legislature, for permission to lengthen their wharf until it would extend into the channel of South River, which formed the harbor's main channel. Several prominent citizens supported their positions on the grounds that the wharf's extension would benefit not only the proprietors, but the public as well.²⁶ The General Court's reaction was favorable, it passed a "Resolve" that granted the petitioners prayer, and Governor Caleb Strong gave his assent on March 3.²⁷

25. Bentley, op. cit., II, 469, Derby Family Papers, XXXII, "Bills - 1796-1815," V, 8.

26. Massachusetts Archives, Resolves, 1805, Chapter 118.

27. Ibid.

The construction of the 2,000-foot extension covered three years of work and cost the proprietors \$45,000.²⁸ Details of the construction, including plans, unit costs, and contractual matters have not been located, although a more exhaustive study of the Derby Papers may locate isolated data that would be useful. Deeds to lots on the new portion refer to a type of construction that was sufficiently different from that of the original wharf to merit reference. The first lot of this section, seven inches southerly of Store No. 7 belonging to the aforesaid Elias Hasket Derby being that part of the Wharf where the cob work commences."²⁹ The lease for the last lot on the wharf also referred to the "Cob Wharf."³⁰ An effort to solve the problems raised by the designation "cob" will be made in the next chapter of this study.

The new section was divided into lots which were leased to a number of traders and merchants, who built store houses on their portions. These changed hands with considerable frequency,

28. Massachusetts Archives, Acts, 1809.

29. Essex County, Southern District, Registry of Deeds, Book 186,99.

30. Ibid., Book 191, 213.

sometimes being divided so that buildings that originally had one owner came to be shared by two or more.

In an effort to improve the wharf's operations, the proprietors decided to petition the General Court of Massachusetts for a charter of incorporation that would formalize their business relations. Their request was granted by "An Act to Establish the Derby Wharf Corporation," dated March 1, 1810.³¹ On October 15, the proprietors deeded their rights, title, and interest to the new section of the wharf to the Corporation, and each received twelve shares in return.³²

Although the act of incorporation empowered the company to sell portions of its property and sales and conveyances were made throughout the corporation's history, no effort has been made to trace them, since this would add nothing to our knowledge of the wharf's structural history. However, one transaction that is pertinent to that story took place in 1870, when the U. S.

31. See Appendix No. III.

32. Essex County, Southern District, Registry of Deeds, Book 181, 87; Book 192, 111-3. The lots on the old portion of the wharf were not included in the Corporation's Properties.

Government purchased the parcel on which a lighthouse was built in 1871.³³

The transportation revolution that attended the construction of canals and railroads dealt a fatal blow to Salem's role in American commerce. The decline that overtook the town during the 19th century made it increasingly difficult to realize profits from maritime and coastal transport. The career of the Derby Wharf Corporation was no exception. By the end of 1870, the corporation's financial condition was unhealthy. On February 3, 1871, the officers mortgaged the wharf to the Salem Five Cents Savings Bank for the sum of \$10,000 at seven percent interest compounded quarterly.³⁴ Although nothing was paid on the principal, interest payments were made until final quarter of 1878. On March 28, 1881, the bank foreclosed, and two days later transferred the wharf to A. Fitz for \$3,000.³⁵ After

33. Ibid., Book 813, 77; National Archives, Records of the Lighthouse Service, Appendix III.

34. Essex County, Southern District, Registry of Deeds, Book 816, 237.

35. Ibid., Book 1054, 200.

several transactions, ownership passed to Charles H. Price and then to the Boston Northern Street Railway Company and its successor, the Eastern Massachusetts Street Railway Company.³⁶

The final years of Derby Wharf's history reflect the decline of the maritime history of Salem. The old wharf was occupied by several shops, stores, fish-drying racks, and piles of coal, over all of which there was general air of disrepair. The owners neglected the wharf, and its only apparent improvement in the wharf was the construction of a wooden pile platform on the western side during 1906.³⁷

36. Ibid., Book 1030, 80; Book 1808, 574.

37. Ibid., Book 1851, 64.

SUMMARY OF
CONSTRUCTION OF DERBY WHARF

A comprehensive physical history of Derby Wharf cannot be derived from the documents that have survived. The details of construction, alterations, and repairs are unknown. An exhaustive study of the 34 bound volumes and four boxes of the Derby Papers, 1742-1845; the collections of the Essex Institute, and Salem's newspapers may provide isolated data that would be helpful, but such a study would require more time than that programmed for this project. What follows is a general and superficial discussion of the subject.

The wharf was built along the western edge of an extensive mud flat that lies along part of the north shore of Salem Harbor. A stream called the "South River" flows from the west and turns sharply at almost a right angle along the edge of the flat to flow directly along the west side of the bay. The wharf's builders carefully followed the edge of the mud flat and built neither into the stream's channel to the west nor further into

the flat on the east. The flat is a stable feature laid down in geologic times by the action of the South River.¹

The original portion of the wharf, which dated from the time of Richard Derby, Senior, i. e., the 1770s, was 760 feet long by 52 wide. It was constructed by enclosing the area to be used with stone filled timber cribs, then filling the enclosure with earth and mud.² Fender piling was installed along at least the western face. This type of construction is consistent with the described by the Reverend William Bentley: "The wharves, in the rivers, are without water at a common ebb of the tide, and are built of wood, and sunken with rocks. There are no stone piers."³ The bottom of the eastern face of the wharf was "finished with stone" for distance of 667 feet from the southern (harbor) end.⁴ During the next year, three angular berths

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1. Ross F. Sweeny, Derby Wharf National Historic Site Project Preliminary Engineering Report, January 1937, Exhibit "B", Appendix.
 2. See above, pp. 8-9.
 3. William Bentley, "Description of Salem," Collections of the Massachusetts Historical Society, 1st series, I (1799), 288.
 4. Bentley, *op. cit.*, I, 128.

for vessels were installed at the northwestern end of the wharf.⁵ The appearance of the wharf from the west during the final years of the 18th century is depicted in the upper illustration of the Salem Marine Society's membership certificate, issued in 1797.

In 1800, the year after Elias Hasket Derby's death, the proprietors of Derby Wharf had 569 feet of the western side of the wharf repaired and faced with stone. The wharf thus ceased to be a crib or "cob" structure and became a "solid" one.⁶

In 1806 the proprietors began a 2,000 foot extension of the wharf that required three years and \$45,000 to complete. Some confusion exists concerning the type of construction employed. Leases to Samuel Archer and Joseph Fogg for lots on the extension refer to "cob work," but William Bentley's entry for October 16, 1807 includes the statement: "The Derby Wharf after the great expenses not proving it secure it was concluded

5. Ibid., II, 464; "A Plan of the Estate, Late Elias H. Derby - Esquire. . . ."

6. Ibid., II, 469; Derby Papers, IX, 51.

to settle piles on the outer part of the stone work but by driving they have not at a great distance found a solid bottom."⁷ This evidence indicates that the extension consisted of both "cob" work and stone construction. The 1937 study preparatory to the "restoration" of the wharf appears to support this interpretation.⁸ Various times during the next half century, most of the wharf was faced with stone. On the western side of the wharf, the stone work was capped with timber cribs to protect the ships moored there from damage from the stone wall.⁹

When the NPS took over the area, the wharf was in a ruinous condition. An engineering study was undertaken in 1936; and during the next two years, the wharf was stabilized. The reports of Engineers Sweeny and Bray chronicle the study and subsequent reconstruction and are basic documents for wharf's physical history. Because this work was so comprehensive, incorporating the remaining fabric into the reconstructed wharf, the current structure is the product of the Service's undertaking.

7. Bentley, op, cit., III, 323.

8. Sweeny, op. cit.

9. Ibid.; Oscar S. Bray, Completion Report, Derby Wharf, F. P. No. 706, December 1938.

Illustration No. 1

DERBY WHARF IN THE LATE 1790s

Taken from a certificate of membership in the Salem Marine Society, dated October 26, 1797. Note the warehouses and the planking and fenders along the western wall of the wharf. Courtesy Essex Institute.





Illustration No. 2
DERBY WHARF IN 1879
by
Charles Porter Brown

Courtesy Peabody Museum

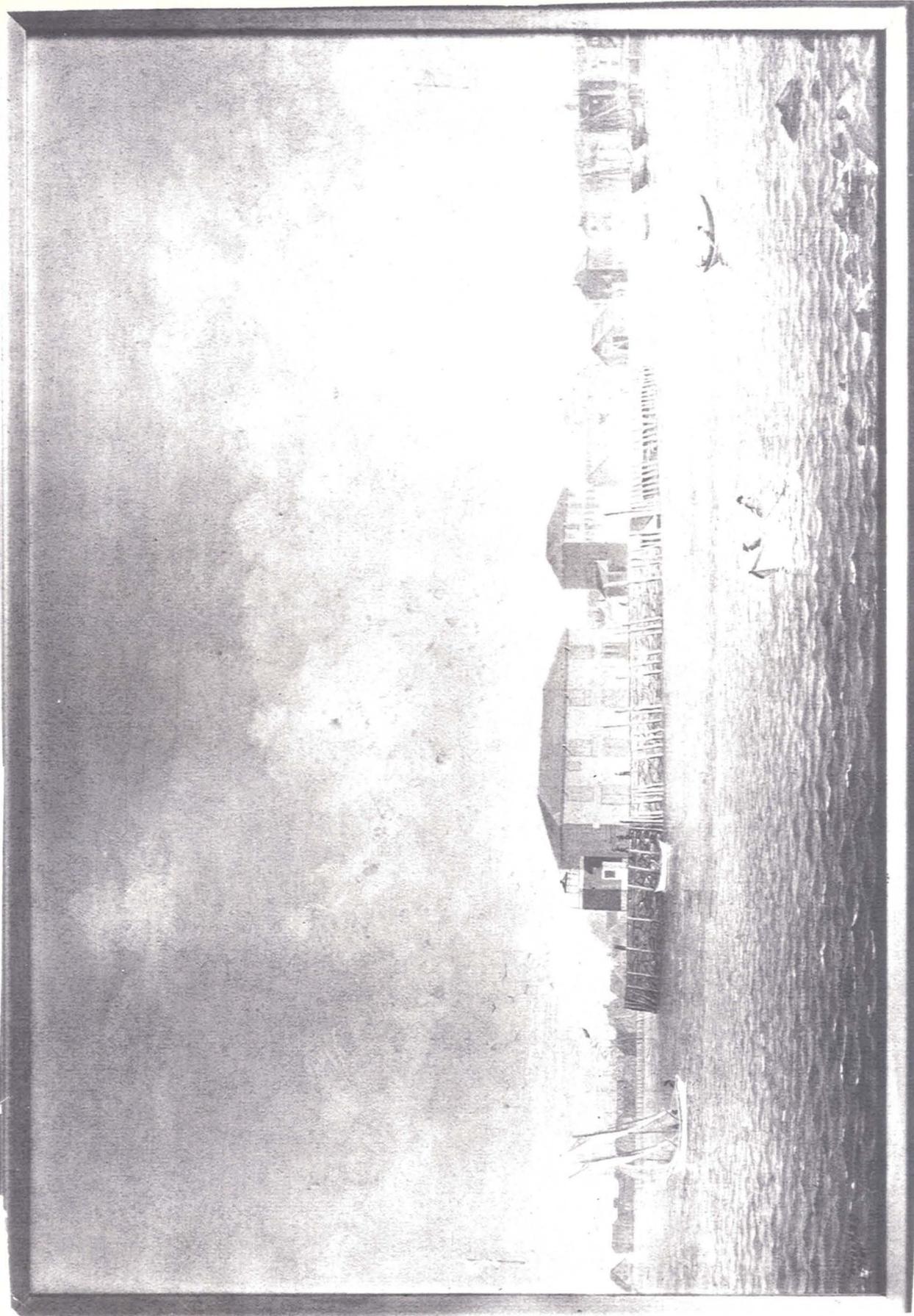
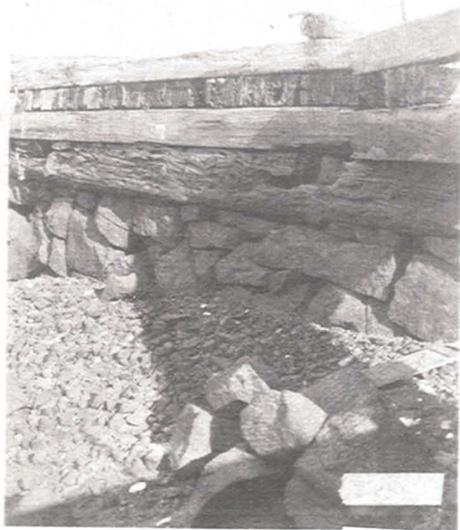


Illustration No. 3

"Cob work" later faced with stone
with timber cribbing along top.

Illustration No. 4

"Cob work" later faced with stone
with timber cribbing along top.



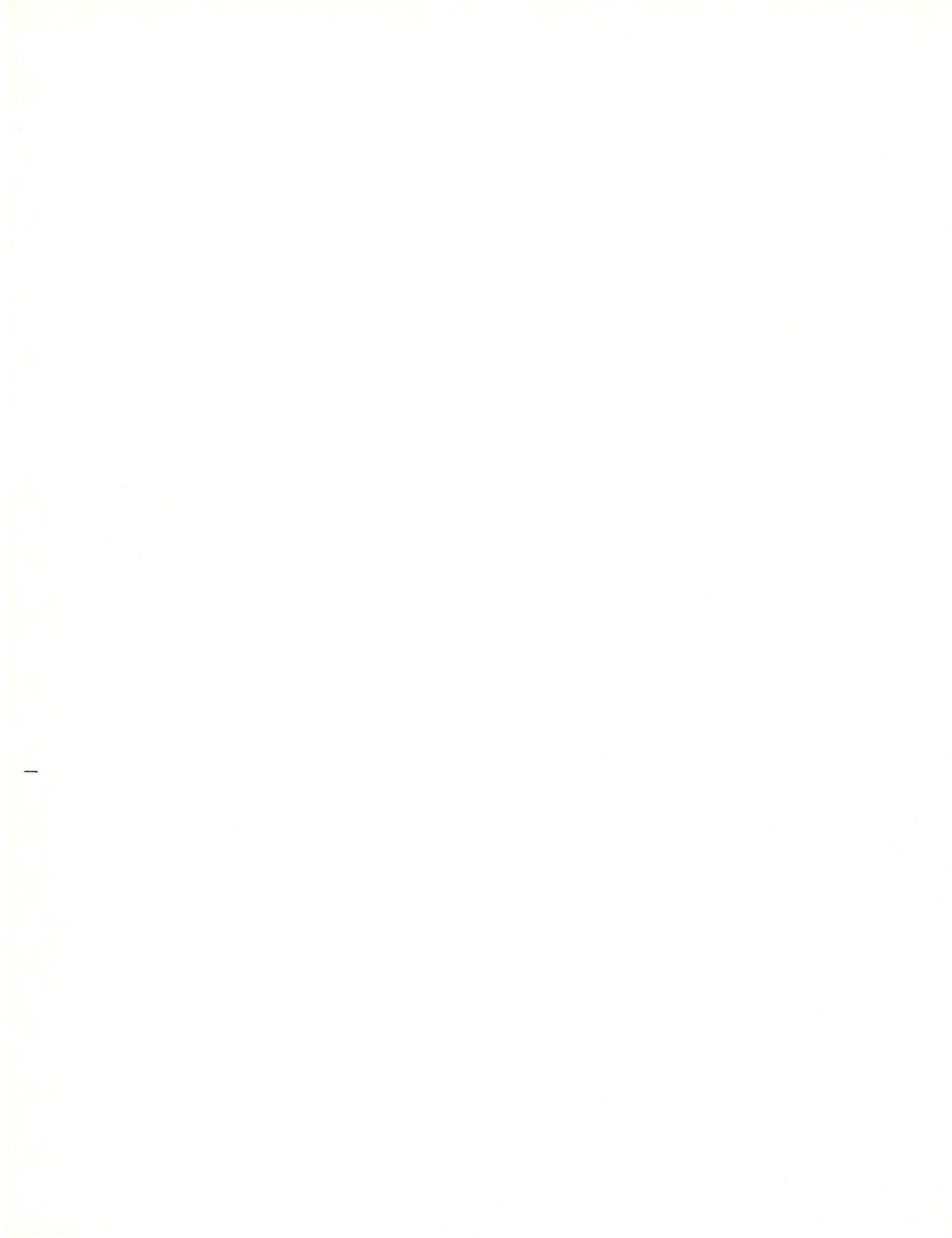
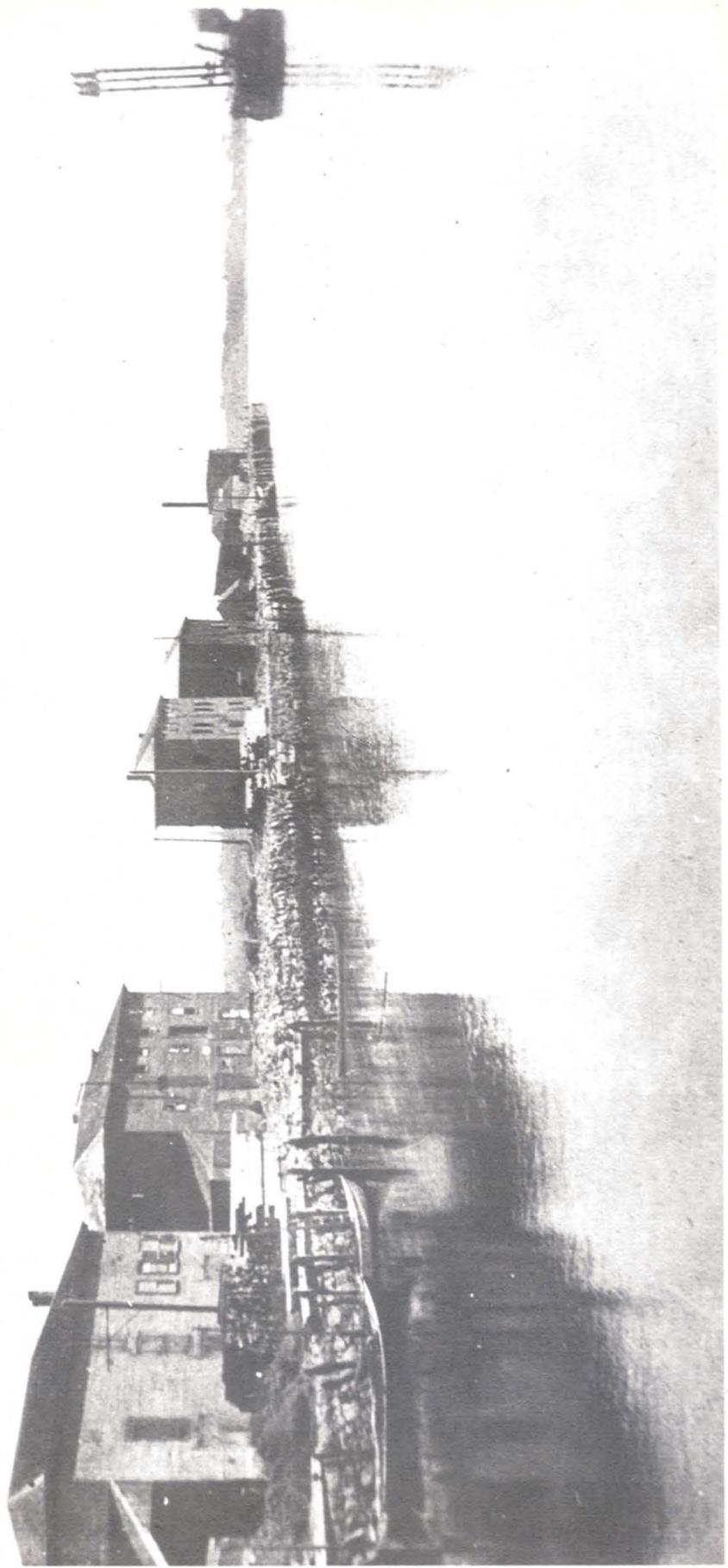


Illustration No. 5

West Face of Derby Wharf, ca. 1890



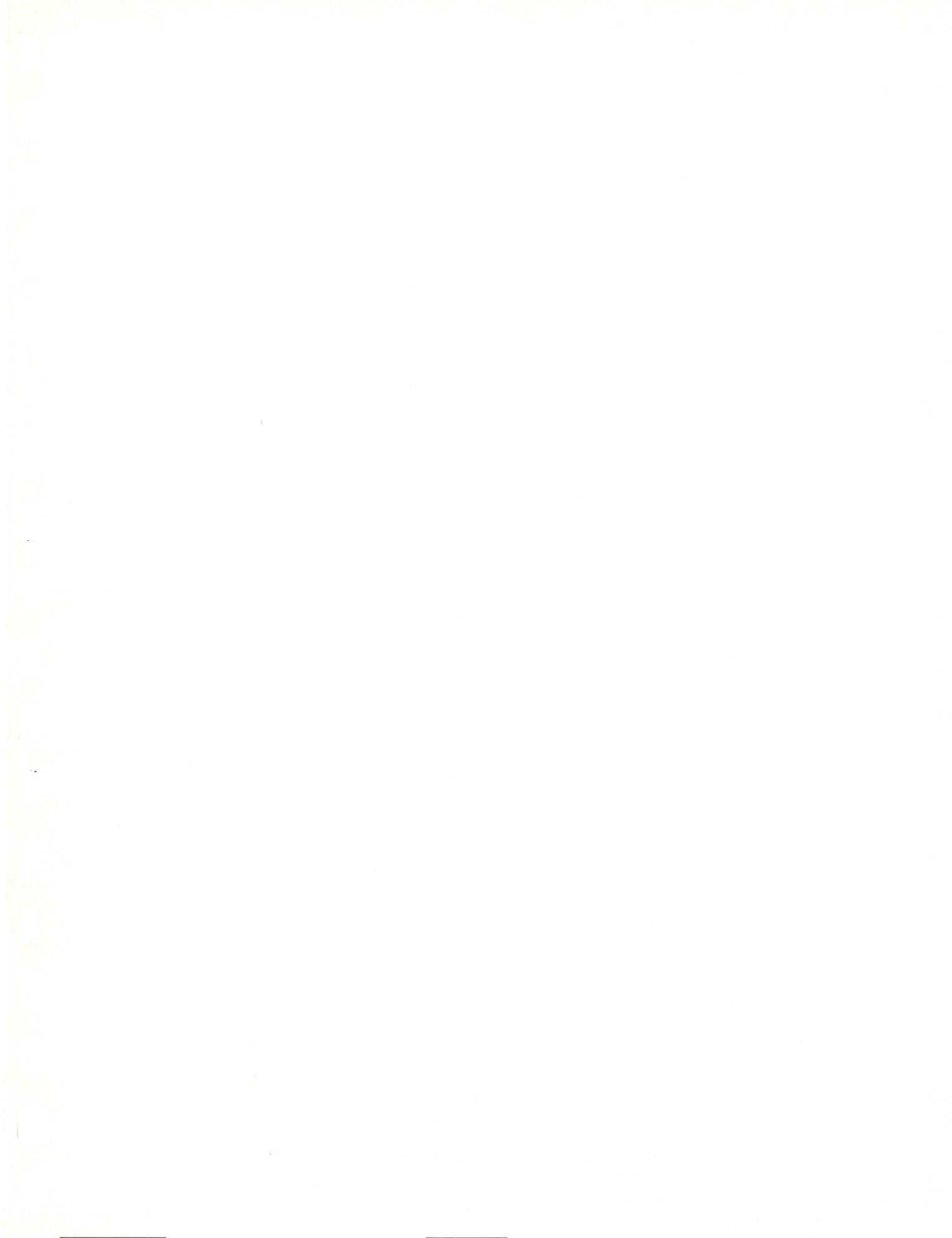
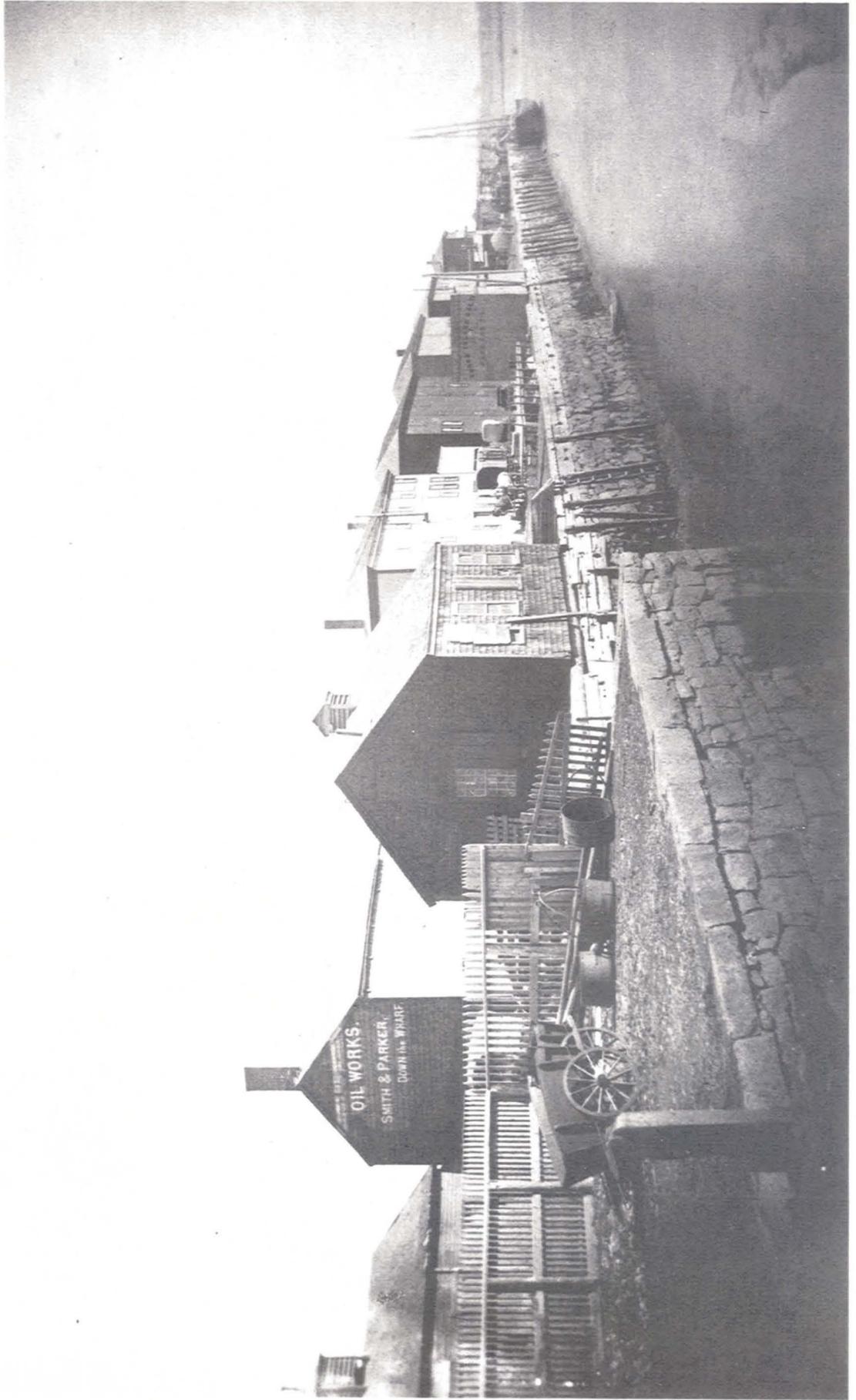


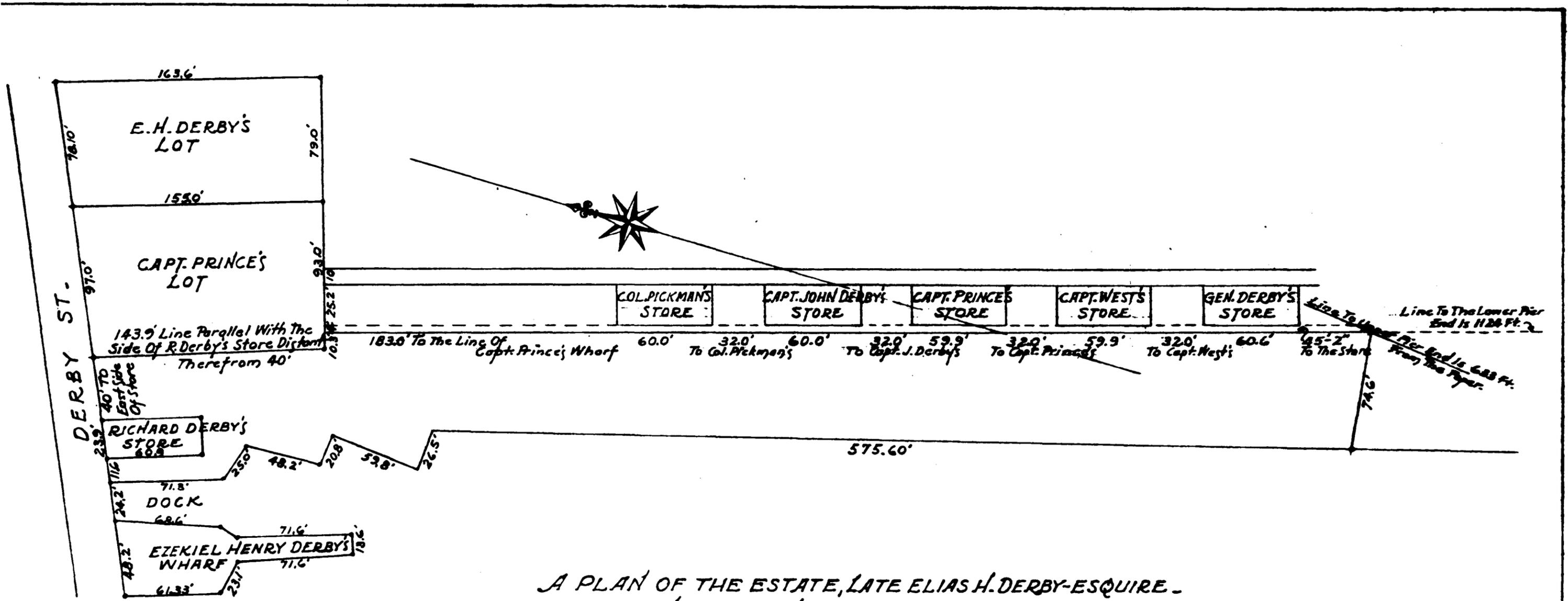
Illustration No. 6

West Face of Derby Wharf, 1884.



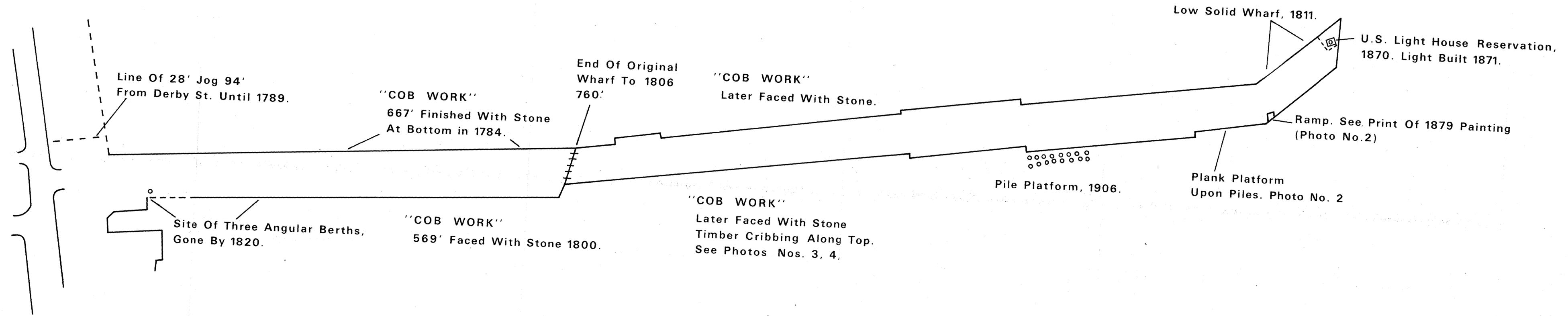
APPENDIX I





A PLAN OF THE ESTATE, LATE ELIAS H. DERBY-ESQUIRE -
 ON THE SOUTH SIDE OF DERBY STREET -
 SURVEYED BY GIDEON FOSTER -
 FEBRUARY 25-1805
 Scale 60=1"

APPENDIX II



DERBY WHARF MAP

HISTORICAL DATA

SCALE: 1" = 80'

APPENDIX III

AN ACT TO ESTABLISH THE DERBY WHARF CORPORATION

Whereas Elias Hasket Derby, John Derby, Ezekiel Hersey Derby, Benjamin Pickman, jun. and Anstiss his wife, in her right, John Prince, jun. and Martha his wife, in her right, and Elizabeth Derby, own and hold in common and undivided a piece of land, flats and wharf, in Salem in the county of Essex, which was devised to them by their father Elias Hasket Derby, deceased, and is known by the name of "Derby Wharf"; and have expended and are continuing to expend large sums of money, in extending and enlarging said wharf, for the accommodation of the navigation of said town, and they have petitioned this Court to incorporate them, to enable them more conveniently to manage and improve the same estate;

Sec. 1. Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the said Elias Hasket Derby, John Derby, Ezekiel Hersey Derby, Benjamin Pickman, jun. John Prince, Jun. and Elizabeth Derby, and all such persons as have, or hereafter may associate with them, their successors and assigns, being citizens of the United States, shall be and hereby are constituted a body politick and corporate, by the name of the Derby Wharf Corporation; and by that name may sue and be sued, plead and be impleaded, defend and be defended in any court of record, or in any other place of whatsoever; and shall and may do and suffer all acts, matters and things, which bodies politick ought to do and suffer; and shall have power to make and use a common seal, and the same again at pleasure to break, alter, and renew; and also to agree on the mode of calling future meetings, to ordain and establish and put in execution such bye laws, ordinances and regulations as to them shall appear necessary and convenient, for the government of said corporation, and for the prudent management of their property and affairs; and for the breach of such bye laws, ordinances and regulations may order fines and penalties not exceeding ten dollars for every breach: Provided, That such bye laws, ordinances and regulations shall not be repugnant to the laws of this commonwealth.

Sec. 2. Be it further enacted, That the said corporation shall be, and hereby is made and declared capable to have, hold, and possess the said land, wharf and flats called Derby Wharf, (excepting the stores thereon and the flats under and adjoining, which are now held in severatly by the persons before named, under the will of the said Elias Hasket Derby, Esquire, deceased, and the privileges and appurtenances thereof; and also to purchase and hold any other lands and tenements, not exceeding the additional value of thirty thousand dollars, exclusive of the building thereon; and shall have power to erect any wharves or buildings on any real estates owned by said corporation; and any sea wall or other walls to protect and secure the same; and shall also have power to grant, sell, and alien, in fee simple, or otherwise, by deed under the seal of the corporation and signed by the President thereof, the corporate property or any part thereof; and to lease, exchange, manage, and improve the same, according to the will and pleasure of the proprietors, or the major part of them present at any legal meeting, to be expressed by their votes; and the rents, profits, and receipts which may accrue from the improvements, leasing, or other management of the corporate property aforesaid, may and shall, once at least in every year, be divided among the proprietors, according to their respective shares.

Sec. 3. Be it further enacted, That the said proprietors may, at any legal meeting, agree upon the number of shares into which their corporate property shall be divided, not exceeding eighty-four, and upon the form of certificates to be given to individuals, of the shares by them respectively held, and upon the mode and conditions of transferring the same; which shares shall be held and considered as personal estate to all intents and purposes whatsoever. The said proprietors shall also have power to assess upon each share, such sums of money, as may be deemed necessary for erecting and repairing wharves, walls and buildings, and generally for the improvement and good management of their said estate, agreeably to the true intent of this act; and to sell and dispose of the shares of any delinquent proprietor, for the payment of such assessments, and to issue new certificates thereof, to the purchaser, in such way and manner, as said corporation may, by their rules and regulations, determine and agree upon.

Sec. 4. Be it further enacted, That the property of every individual member of said corporation, vested in said corporate fund or estate, shall be liable to attachment, and to the payment of his just debts, in manner prescribed by an act entitled, "An Act directing the mode of attachment on mesne process, and selling by execution, shares of debtors in incorporated companies" passed the eight day of March, in the year of our Lord, one thousand eight hundred and five.

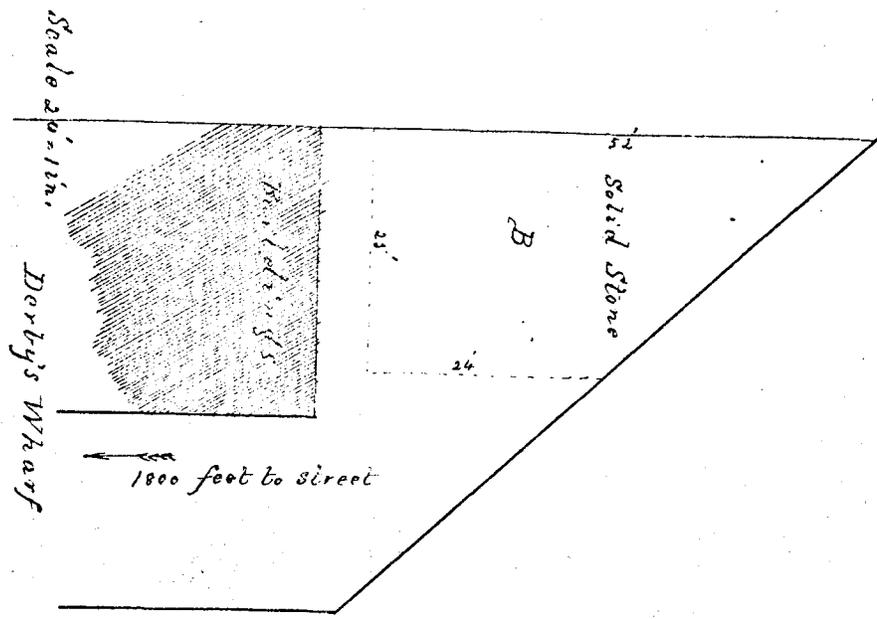
Sec. 5. Be it further enacted, That John Derby, Ezekiel Hersey Derby, and John Prince, jun. or any two of them, may call the first meeting, by advertising the same in any one of the publick newspapers, printed in Salem, at least three days before the time of meeting; and at that, or any other meeting, may elect a president, treasurer, clerk, secretary or other officers, and for such term of time, not exceeding one year, as they may judge fit, and the same at pleasure change or remove; and in the choice of officers, as well as on all other occasions, the votes shall be given by shares, allowing one vote to each share: Provided only, that no member shall have more than ten votes.

Sec. 6. Be it further enacted, That nothing herein contained shall be deemed and construed to give to said proprietors any right or authority, to take, or appropriate to their use, the land, right or privilege of any person or persons, without a legal conveyance thereof from such person or persons, to the said corporation.

Sec. 7. Be it further enacted, That in any action to be brought, or in any judgment to be rendered against said corporation, if the said corporation, after seven days notice, and request to the president, secretary, or any two of the proprietors, shall neglect or refuse to expose any estate or property which may be attached on mesne process; or whereon any such execution may be lived, the plaintiff in such action shall have a right to levy his execution upon, or to attach any of the property of the individual members of the said corporation, in the same manner as if the action had been brought, or judgment entered against them, in their individual capacities.

APPENDIX IV

No 57 1st Dist Engineer Est. 267 pag 84
Sep 15. 1870

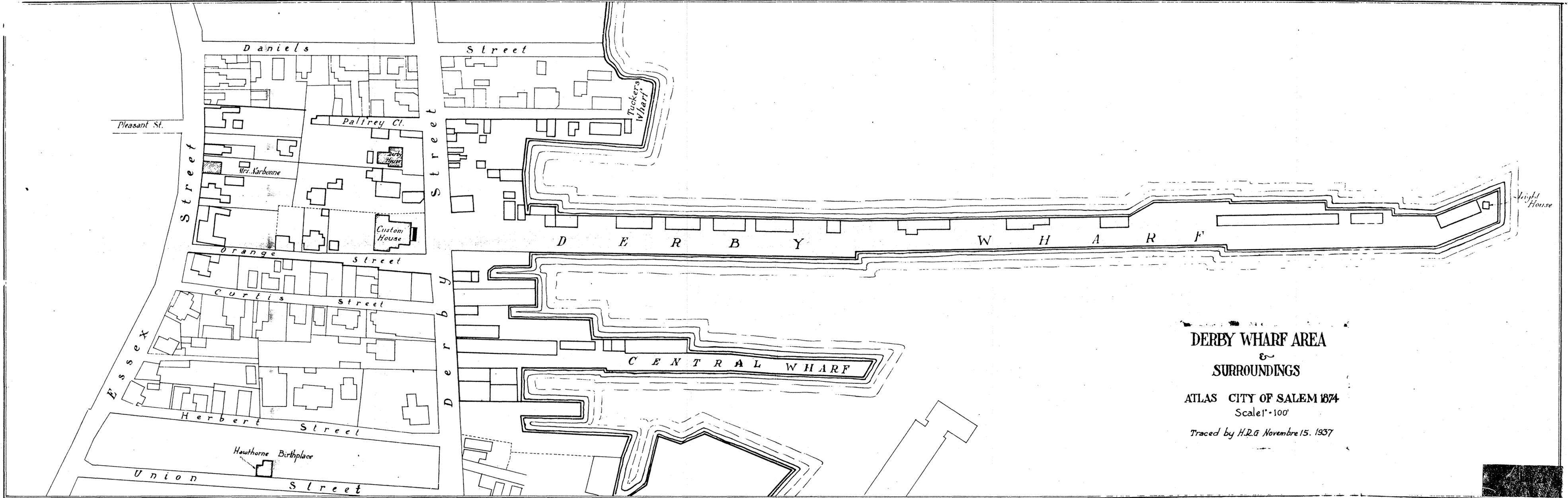


Miss Derby Wharf

Received with
letter from d h led.
J. C. Duane. Sep. 15. 1870.

Plat of Portion of Derby Wharf
acquired by the Light House Service.

APPENDIX V



**DERBY WHARF AREA
&
SURROUNDINGS**

ATLAS CITY OF SALEM 1874
Scale 1" = 100'

Traced by H.R.G. November 15, 1937