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LETTER
FROM
THE SECRETARY OF THE TREASURY,
TRANSMITTING
COPIES OF THE INSTRUCTIONS
GIVEN
TO THE SEVERAL BOARDS OF COMMISSIONERS
APPOINTED
UNDER THE ACT OF 2D MARCH, 1805,
FOR
ASCERTAINING AND ADJUSTING THE TITLES AND CLAIMS
TO
LAND, WITHIN THE TERRITORY OF ORLEANS
AND
DISTRICT OF LOUISIANA.

DECEMBER 28, 1818.

Read, and ordered to lie upon the table.

WASHINGTON:

PRINTED BY E. DE KRAFFT.

1818.

1812

UNITED STATES

DEPARTMENT OF THE TREASURY

OFFICE OF THE COMPTROLLER

OF THE PUBLIC DEBT

IN RESPONSE TO A RESOLUTION

OF THE HOUSE OF REPRESENTATIVES

PASSED MARCH 10, 1812

AND

IN ACCORDANCE WITH AN ACT

PASSED MARCH 3, 1812

CHAP. 24

AND NO. 10

OF THE HOUSE OF REPRESENTATIVES

PASSED

APRIL 1, 1812

1812

TREASURY DEPARTMENT,

December 24, 1818.

SIR,

In obedience to a resolution of the House of Representatives, of the 17th instant, requiring the Secretary of the Treasury "to communicate to this House, a copy of the instructions given by the Secretary of the Treasury, under the eighth section of the act of Congress, of the 21st of April, 1806, entitled 'An act supplementary to an act, entitled an act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and district of Louisiana,' to the several boards of commissioners appointed under the act of the 2d of March, 1805, for ascertaining and adjusting the titles and claims to land within the aforesaid territories," I have the honor to transmit the instructions described in the said resolution.

I remain with respect,

Your most obedient servant,

WM. H. CRAWFORD.

Hon. Henry Clay, Speaker of the House of Representatives.

Treasury Department, May 5, 1806.

John W. Gurley, Esq. Register, New Orleans.

John Thompson, Esq. Register, Opelousas.

SIR,

I have the honor to enclose a copy of an act supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana."

The two first sections are intended to give a more liberal effect to the provisions of the former law, on the two points, on which it was thought safe to legislate at this time, and the provisions of the fifth section will show, that government wishes to obtain more particular information in relation to the claims of double concessions, to grants made to minors generally, and to grants made between the 1st April, 1800, and the 20th December, 1803, before an ultimate decision is made: but the apprehensions of the inhabitants will, in the mean while, be quieted, by perceiving that it is not intended to make any disposition of lands thus claimed, until the necessary information shall have been obtained.

The obstacles which seem to have prevented a more general entry of the claims, not only suggested the propriety of extending the time, but have also induced Congress to facilitate the means of making the entries, by authorizing the registers to appoint deputies, in the manner provided by the fourth section of the act. To this part of the law, I request your immediate attention, by the appointment of a sufficient number of deputies, on whose integrity, discretion, and attachment to the American government you may rely: observing, at the same time, that men already living in the county, and enjoying the confidence of their neighbors, will be best calculated to promote the object of the law, by removing the erroneous impressions which may heretofore have prevented a compliance with its provisions.

The clause of that section which relates to the compensation of the deputy registers, is not very clearly expressed. As it was, however, intended to give in addition to the usual fees as established by the former law, either an additional fee of one dollar for each claim, to be paid by the parties, or a gross sum of five hundred dollars, to be paid by the United States. I think it proper to make the option of the payment of five hundred dollars in full; and accordingly to direct that the contemplated fee of one dollar, should not be demanded. You will be pleased to instruct the deputies accordingly, and to

state the number appointed, and the sum of money which it will be necessary to place in your hands for the purpose of paying them.

But it is expected, that you will appoint no more than will be strictly necessary, and particularly, that you will not appoint any for the county in which you reside. You may, on the 1st of January next, draw in favor of the collector of New Orleans, on the Secretary of the Treasury, for the five hundred dollars additional compensation, granted for your services as register. But for all the other compensations provided by the 6th and 7th sections of the act, that for the agent excepted, a certificate by the board, of the days of attendance, mileage, or time of service, as the case may be, will be necessary.

You will perceive by the 12th section of the act, that general La Fayette is allowed to make locations for tracts of five hundred acres. The forms alluded to in the eighth section, will be prepared and sent in due time.

I have, &c.

(In a letter to Thompson, the following paragraph was added.)

Mr. Vacher's conduct has induced the President to remove him, and I do not believe that his place will be filled. Mr. Parmelye, late clerk of the Mobile board, is appointed third commissioner, and has sailed from New York for New Orleans. I have also thought proper to discontinue Mr. M'Gruder, on account of his intemperance, and I do not know whether it will be thought necessary to appoint a successor. I will thank you to seal and deliver the enclosed letters to both those gentlemen.

&c.

Treasury Department, May 6, 1806.

John Thompson, Esq. Reg. L. Office, Opelousas.

SIR,

Your letter of the 3d of March was received this morning. The commissioners are already authorized by law, to demand and obtain

copies of all the papers which may exist in any of the public offices, and on application to James Brown, Esq. agent of the United States for land claims at New Orleans, you may obtain such copies as you want.

In the case of conflicting incomplete titles, it does not appear to me, that the date of filing the claims with the register, ought to have any effect; the date of the incomplete title ought certainly to govern. But it will be still better to have the lands surveyed, in conformity with what must have been the intention of the government who made the grant; and that may be fairly presumed to have been, that the division lines, running back from the bayous, should be perpendicular to the course of the bayous in that place.

In order to accommodate you, I have directed the collector of New Orleans to purchase your bills drawn on the Secretary of the Treasury, for a sum not exceeding three thousand dollars. You will draw for such portions of this sum, from time to time, as you may find necessary, and pay out of the same, your own compensation as it becomes due; the contingencies of the board, which you have mentioned, but not exceeding the quarterly amount which you stated; the cost of stationery, and the salaries of the clerk, and the translator. For every payment which you may make, you will take duplicate receipts, and state quarterly, on the last days of June, October, December and March, in each year, a general account, which you will transmit to this Department, together with the vouchers, consisting of one set of the receipts, in support thereof. Your bills, though drawn on the Treasury, will be immediately purchased by the collector at New Orleans. They will, therefore, serve your purpose, whether you send to New Orleans for the money, or sell the bills at Opelousas, as well as bills drawn on him, and this mode will better comport with Treasury regulations.

If a further credit, beyond the three thousand dollars shall be wanted, you will please to state it in time to come.

I have, &c.

Treasury Department, May 7, 1806.

Wm. C. Carr, Esq. agent U. S. &c. &c. St. Louis.

SIR,

I enclose a copy of the act, supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana."

The first, second, seventh, and eighth sections, are the only ones which relate to land claims in the territory of Louisiana.

The 8th section having made it the duty of the commissioners to conform to the instructions which may be transmitted to them by the Secretary of the Treasury, with the approbation of the President of the United States, you will please to state from time to time, whether any principle be adopted by them, which, from its nature and consequences, seems to call for any such instructions. In the mean while, I enclose a copy of my letter of this day to the board.

I embrace this opportunity, to call your attention to the lead mines, and to request that you will, in conformity with the 6th section of the act, of March 2, 1805, hasten to lay the subject before the commissioners, in order that they may make, as soon as possible, the special report, contemplated by the said section.

I have, &c.

Treasury Department, May 7, 1806.

John B. C. Lucas, }
Clement B. Penrose, } Esqs. Commissioners, &c. St. Louis.
James L. Donaldson, }

GENTLEMEN,

I have the honor to enclose a copy of the act, supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana."

The first, second, seventh, and eighth sections, are the only ones which relate to land claims in the territory of Louisiana.

The first section defines the cases, in which permission to settle shall be presumed, although the evidence of such permission cannot be produced.

The second section is intended to confirm, in certain instances, the claims arising from orders of survey, or other informal concessions granted to minors.

The seventh section was inserted in consequence of your communication, and of the New Madrid representation.

The forms alluded to in the 8th section, will be prepared and transmitted in due time.

I embrace this opportunity, under the authority vested by the same section, to confirm the instructions contained in my letter of the 26th March, 1806, (except so far as they become necessarily modified by the effect of the first section of the enclosed act,) and particularly to repeat, that you must adhere to the letter of the law, and not confirm any claims, not strictly embraced by its provisions.

Although the time for receiving claims has not been extended, in Louisiana, it must be understood, that all the claims which had been presented in time, but were not accepted for want of an accompanying survey, must be considered, as having been duly presented and be acted upon accordingly.

I have, &c.

Treasury Department, September 8, 1806.

J. B. C. Lucas,
C. B. Penrose, } Esqrs. Commissioners for land claims, St. Louis.
J. L. Donaldson, }

GENTLEMEN,

I have the honor to enclose instructions prepared in conformity with the eighth section of the act, entitled an act, supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana," which have been approved by the President of the United States; and to which you will therefore, be pleased to conform, in your several proceedings and decisions.

The forms of reports and transcripts will be transmitted in the course of next month. If, in your opinion, the business of the board cannot be completed before the close of this year, you will be pleased to state in time to me, in order, that Congress may make such additional provision as they will think necessary.

I am, &c.

Instructions for the commissioners appointed to ascertain the titles and claims to lands in the territory of Louisiana, prepared by the Secretary of the Treasury, in conformity with the eighth section of the act, entitled, an act, supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans, and the district of Louisiana, and approved by the President of the United States.

1. All claims derived from any grant, concession, order of survey, or other species of title, whether complete or incomplete, bearing date subsequent to the 1st day of October, 1800, must be rejected, unless they be embraced by the second section of the act of 2d March, 1805.

2. No titles shall be considered as complete, but legal French or Spanish grants, made and completed before the first day of October, 1800, regularly signed and issued prior to that date, by the governor general or intendant of the province of Louisiana, residing at New Orleans, and duly recorded at the proper office in New Orleans.

3. No claims, other than those derived from complete titles, shall be admitted, unless the lands claimed, were actually inhabited and cultivated on the 1st day of October, 1800; and by or for the use of the persons claiming the same, if such persons claimed by virtue of the 1st section of the act of 2d March, 1805; and on the 20th day of December, 1803, and by the persons claiming the same, if such persons claimed by virtue of the 2d section of the said act.

4. All claims founded on the 1st section of the said act, must be derived from a written order, whether known by the name of concession, or any other denomination, issued by an officer duly authorized by the Spanish laws for the time being, to issue the same, and directing a tract of land to be surveyed for the party.

5. In every case where the tract thus claimed, shall contain a greater quantity of land than was generally allowed to actual settlers and their family, agreeably to the laws, usages, and customs of the Spanish government, the claim shall be rejected, unless a duly authenticated copy of the ordinance, authorizing the officers to grant such greater quantity of land, shall have been produced and deposited with the commissioners.

6. All claims presented under the first section of the act above mentioned, must be rejected, unless the concession, order, or warrant of survey, shall have been duly registered in the books, records, or minutes, kept by the Spanish officer or officers for that purpose.

7. If the officer issuing such concessions, orders, or warrants of survey, shall have kept any books, records, or minutes, for the registering or noting of the concessions, orders, or warrants of survey, issued by him; any concession, order, or warrant of survey, not registered or noted in its proper order, according to its date, in such books, records, or minutes, shall be considered "prima facie," as surreptitious or antedated; and the burden of the proof of its date and validity shall fall on the claimant.

8. If no books, records, nor minutes have been kept, in which the concessions, orders, or warrants of survey have been entered at the time when the same were issued, and in their proper order according to their dates; the burden of the proof of the date and validity of any such concession, order, or warrant of survey, shall fall on the claimant, whenever the agent of the United States shall object to the same on the ground of its being antedated, or otherwise fraudulent.

9. Whenever it shall appear in evidence, that the actual survey of any such concession, order, or warrant was made subsequent to the 1st day of October, 1800, and the date assigned to such actual survey, either on the plat, or return thereof; or on the books, or records of the officer, acting as surveyor general, under the Spanish government, shall be prior to the said 1st day of October, 1800; the concession, order, or warrant shall be rejected as fraudulent; and the abovementioned officer, acting as surveyor general, and also every other former Spanish officer, as well as every other witness, shall be obliged to answer every question put to him by the agent of the United States respecting any claim, the validity of which is disputed by the said agent.

10. No tract of land shall, in any instance, be granted under the 2d section of the act of the 2d March, 1805, to a person claiming land under the 1st section of the act, or under a complete French or Spanish grant.

11. The commissioners will consider the opinion of the attorney general of the United States, of the 12th of March, 1806, transmitted by the Secretary of the Treasury, in his letter of 26th March last, as part of these instructions; and they will revise and correct, in conformity with the said instructions and opinion, every former decision of theirs, which may be inconsistent with, or contradictory to either.

John B. C. Lucas,
Clement B. Penrose, } Commissioners, &c. St. Louis.
James L. Donaldson,

Treasury Department, Nov. 14, 1806.

GENTLEMEN,

In conformity with the provisions of the 8th section of the act of 21st April last, the following rules are prescribed, in relation to the

forms of the transcript of your decisions in favor of claimants for land in the territory of Louisiana, which you are directed by law to transmit to the Secretary of the Treasury.

1. The decisions to be arranged according to the districts into which that part of the former province of Louisiana, now forming the territory of Louisiana, was divided at the time, when the United States obtained possession of the same; so that the decisions in relation to claims for land in one district, shall not be blended with those for land situated in another district; but there shall be in fact, a distinct transcript of decisions for each district.

2. The transcript of decisions for each district, to be arranged under three general heads, viz: 1st, Complete titles derived from French or Spanish grants. 2dly, Claims derived from warrants or orders of survey, and embraced by the first section of the act of 2d March, 1805. 3dly, Claims derived from actual settlement, and embraced by the second section of the abovementioned act. Each of the two first classes to be sub-divided into and arranged under two distinct heads, viz: 1st, Claims derived from the French government, and 2dly, Claims derived from the Spanish government; and the last class to be also arranged under two heads, viz: 1st, Cases in which evidence of permission to settle has been produced; 2dly, cases embraced by the first section of the act of 21st April, 1806; which will make in the whole, six distinct classes.

3. To the transcript of decisions for each district, a recapitulation or register must be prefixed, arranged also under the six abovementioned classes, and in conformity to the forms A, B, C, D, E, F, herein enclosed. Each class may, by the commissioners be sub-divided into such subordinate classes as they may think convenient, and the decisions for each class or sub-division, to be in the said recapitulation or register, arranged alphabetically by the names of the persons in whose favor the decisions shall have been made. In the last column of the said recapitulation or register, entitled general remarks, the following particulars must be noted in addition to such other references as the commissioners may think proper to insert, viz: 1st, Whether the claim was opposed by the agent of the United States, which may be expressed by the single word "*opposed*." 2dly, Whether the decision was not unanimous, which may be expressed merely by inserting the surnames of the commissioners in favor of the decision, (and it will thence follow, that whenever in that last column, the word *opposed* does not appear, the claim was not opposed by the agent, and whenever the name of neither commissioner is inserted, the decisions were unanimous.) 3dly, Reference to the ordinance, authorizing the officers to grant the quantity of land allowed, whenever it shall exceed the quantity generally allowed, agreeably to the laws, usages, and customs of the Spanish government, in which case, a copy of such ordinance must accompany the transcript of decisions. 4thly, Whether the claim be confirmed under the second section of the

act of 21st April last, which may be expressed by the words *ten years possession*.

4. No other rule can be given for the form in which the decisions themselves should be expressed, than to say generally, that they must, as concisely as practicable, include the particulars necessary to enable Congress to understand the principles on which they are founded, and the leading facts to which the principles apply in each decision. The enclosed forms of recapitulation or register, and the immediately preceding rule, show the circumstances which are believed, with the imperfect knowledge this Department has of the subject, to be most important. To these must be added, the conditions on which grants, orders, or warrants of survey, and every species of concession were made or granted, and whether the same have been fulfilled. But the commissioners will materially assist Congress in forming a correct determination, by prefixing to the transcript, a general report, stating the various secondary classes, into which the abovementioned general classes may be divided; and the general principles which have governed the board, in their decisions respecting each such sub-division. This will be more particularly important as it relates to claims which were opposed by the agent, or on which the commissioners were not unanimous.

5. It will be observed, that in the forms C and D, there is a column for inserting the situation of the land as described in the order or warrant of survey; for although it is understood, that there are some concessions which do not describe the land, these are not considered as embraced by the first section of the act of 2d March, 1805. Should any such however from any particular and unforeseen circumstance, be confirmed by the commissioners, they must be distinctly reported and arranged as subordinate classes of the classes C, D, both in the transcript of decisions, and in the register or recapitulation.

6. As far as circumstances will permit, the same arrangement in the division of classes and the same forms of recapitulation or register must be followed in the report of claims rejected, as in the transcript of decisions in favor of claims, observing briefly to note, in the column of general remarks, the cause why rejected.

Of the special report relative to the lead mines, no form can be prescribed; but in stating the claims to the same, whether confirmed or rejected, a reference should be affixed to the place where that claim is to be found, either in the transcript of favorable decisions, or in the report of claims rejected.

I am, &c.

Treasury Department, Nov. 17, 1806.

Wm. C. Carr, Esq. Agent U. S. St. Louis.

SIR,

Herewith you will receive, copies of a letter written on the 14th inst. to the land commissioners at St Louis, and of the forms accompanying the same. You will perceive that they are intended to compell, as far as practicable, a compliance with the provisions of the laws and with the instructions heretofore transmitted.

I rely on the continuance of your faithful endeavors in promoting that object, and bringing to view every attempt of an improper nature. I beg leave also to call your particular attention to the strong presumptions of fraud arising from the appearance of the records of surveys lately delivered to Mr. Bent.

I am, &c.

Treasury Department, Feb. 13, 1807.

The Commissioners on Land Claims for Louisiana, St. Louis.

GENTLEMEN,

I have duly received your letter signed by Messrs. Lucas and Penrose, in which you advise me that the instructions, sent by this Department, would occasion a revision of a great part of the decisions of the board, and suggested the propriety of suspending your operations for the present; as a bill is now before Congress, which will probably make considerable alterations in the provisions heretofore enacted. I approve your suggestion, and request that you will suspend your decisions, though you may proceed to receive evidence, until you shall receive a copy of the intended alterations, and such further instructions as those may render necessary.

This letter will be delivered to Mr. Bates, now one of your board, he having been appointed recorder, in lieu of Mr. Donaldson.

I have, &c.

You may draw on me on account of your compensation as commissioners, viz: Mr. Lucas, for six hundred dollars, and Mr. Penrose, for two hundred dollars, which will leave a balance of four hundred dollars, to be paid hereafter to each. Of the time when you may draw for that balance, you may hereafter be advised.

