REGULATIONS

FOR THE

GRANTING OF LAND

UNDER THE

SPANISH GOVERNMENT OF LOUISIANA,

AND

MR. GALLATIN'S INSTRUCTIONS TO THE LAND COMMISSIONERS IN LOUISIANA AND MISSOURI.

APRIL 19, 1820

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Don Alexander O'Reilly, Commander of Benfayon; of the Order of Alcantara; Inspector General of Infantry; appointed, by special commission, Governor and Captain General of this Province of Louisiana.

Divers complaints and petitions which have been addressed to us by the inhabitants of Opelousas, Attakapas, Nachitoches, and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means, of the inhabitants, by the visit which we have lately made to the Cote des Allemands, Cote des Accadians, Hyberville, and La Pointe Coupee, with the examination we have made of the reports of the inhabitants assembled, by our order, in each district, having convinced us that the tranquillity of the said inhabitants, and the progress of culture, required a new regulation, which should fix the extent of the grants of lands which shall hereafter be made, as well as the inclosures, cleared lands, roads, and bridges, which the inhabitants are bound to keep in repair, and to point out the damage by cattle, for which the proprietors shall be responsible; for these causes, and having nothing in view but the public good and the happiness of every inhabitant, after having advised with persons well informed in these matters, we have regulated all those objects in the following articles.

1. There shall be granted to each newly arrived family who may wish to establish themselves on the borders of the river, six or eight arpens in front, (according to the means of the cultivator,) by forty arpens in depth, in order that they may have the benefit of the cypress wood; which is as necessary as useful, to the inhabitants.

2. The grantees established on the borders of the river, shall be held bound to make, within the three first years of possession, mounds sufficient for the preservation of the land, and the ditches necessary to carry off the water. They shall, besides, keep the roads in good repair, of the width of at least forty feet between the inner ditch, which runs along the mound, and the barrier; with bridges of twelve feet over the ditches which may cross the roads. The said grantees shall be held bound, within the said term of three years' possession, to clear the whole front of their land to the depth of two arpens; and, in default of fulfilling these conditions, their land shall revert to the king's domain, and be granted anew; and the judge of each place shall be responsible to the Governor, for the superintendence of this object.

3. The said grants can neither be sold, nor aliened by the proprietors, until after three years of possession, and until the above mentioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect, the sales of the said lands can-

not be made without a written permission from the Governor General; who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi River, leaving, in some places, but little depth, there may be granted, in these cases, twelve arpens of front; and, on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto; in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared, and the mounds and roads should not be kept in repair, the judge of the quarter shall inquire into the cause thereof. If attributable to the guardians, he shall oblige him to conform promptly to this regulation; but if arising from want of means in the minors, the judge, after having, by a verbal process, attained proof thereof, shall report the same to the Governor General, to the end that the said land may be sold for the benefit of the minors; (a special favor, granted to minors only;) but if no purchaser shall, within six months, be found, the said land shall be conceded gratis.

6. Every inhabitant shall be held bound to inclose, within three years, the whole front of his land which shall be cleared; and, for the remainder of his inclosure, he will agree with his neighbors, in proportion to his cleared land and his means.

7. Cattle shall be permitted to go at large from the eleventh of November to the fifteenth of March, of the year following; and, at all other times, the proprietor shall be responsible for the damage that his cattle may have done to his neighbors. He who may have suffered the damage, shall complain to the judge of the district; who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same, and shall then order remuneration without delay.

8. No grant in the Opelousas, Attakapas, and Nachitoches, shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain, in the Opelousas, Attakapas, and Nachitoches, a grant of forty-two arpens in front by forty-two arpens in depth, the applicant must make appear that he is possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them; a proportion which shall always be observed for the grants to be made of greater extent than that declared in the preceding article.

10. All cattle shall be branded by the proprietors; and those who shall not have branded them at the age of eighteen months, cannot thereafter claim a property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labor under those evils of which they have often complained to us, and considering that the province is, at present, infested by strayed cattle; we allow to the proprietors,

until the first day of July of the next year, one thousand seven hundred and seventy-one, and no longer, to collect and kill, to their use, the said strayed cattle; after which time they shall be considered wild, and may be killed by any person whomsoever; and no one shall oppose himself thereto, or lay claim to a property therein.

12. All grants shall be made, in the name of the king, by the Governor General of the province; who will, at the same time, appoint a surveyor to fix the bounds thereof, both in front and depth, in presence of the judge ordinary of the district, and of two adjoining settlers, who shall be present at the survey. The above mentioned four persons shall sign the verbal process which shall be made thereof, and the surveyor shall make three copies of the same; one of which shall be deposited in the office of the scrivener of the government and cabildo, another shall be delivered to the Governor General, and the third to the proprietor, to be annexed to the titles of his grant.

In pursuance of the powers which our lord, the king, (whom God preserve,) has been pleased to confide to us, by his patent, issued at Aranjuez, the 16th of April, 1769, to establish in the military, the police, and in the administration of justice and his finances, such regulations as should be conducive to his service and the happiness of his subjects in this colony; with the reserve of his majesty's good pleasure, we order and command the governor, judges, cabildo, and all the inhabitants of this province, to perform punctually to all that is required by this regulation.

Given, at New Orleans, the 18th of February, 1770.

SPANISH REGULATIONS FOR THE ALLOTMENT OF LANDS.

Instructions of Governor Gayoso, for the administration of the posts, and distribution of lands.

Instructions to be observed by the commandants of the posts in this province, for the admission of new settlers:

1. If the new settler comes from another post in the province, where he has obtained a grant of land, no other grant shall be made to him; and if he undertakes to fix himself down, he must buy lands, or produce my special permission for the grant; and in order to determine whether he has before obtained land or not, the commandant of the posts from which he goes, shall express it in his passport.

2. If the new settler is a stranger, and is not a farmer, nor married, nor has property in negroes, merchandise, or money, he shall have no right to solicit a grant of lands, until he has remained four years, conducting himself well, in some honest and useful occupation.

3. Artisans shall be fully protected, but no land shall be granted to

them until they have acquired property, and have lived three years in the exercise of their art or profession.

4. To no unmarried emigrant, who has not a trade or profession, shall lands be granted, till after the expiration of four years, and then only on his showing that he has been, without interruption, honestly employed in the cultivation of the earth, without which necessary circumstance he shall not be entitled to a grant.

5. If any person, as described in the last article, after having lived in the country two years, shall obtain a recommendation from a farmer of honesty, who shall be willing, from his industry and application, to give him his daughter in marriage, as soon as the marriage is accomplished in due form, he shall be entitled to receive a grant of land, agreeably to the terms contained in this instruction.

6. The privilege of enjoying liberty of conseience is not to extend beyond the first generation. The children of those who enjoy it, must positively be catholics. Those who will not conform to this rule are not to be admitted; but are to be sent back out of the province immediately, even though they possess much property.

7. In the Illinois, none shall be admitted but catholics of the classes of farmers and artizans. They must also possess some property, and must not have served in any public character in the country from whence they come. The provisions of the preceding article shall be explained to the emigrants already established in the province, who are not catholics, and shall be observed by them; the not having done it until this time, being an omission, and contrary to the orders of his Majesty, which required it from the beginning.

8. The commandants will take particular care that no protestant preacher, or one of any sect other than the catholic, shall introduce himself into the province. The least neglect in this respect, will be a subject of great reprehension.

9. To every new settler, answering the foregoing description, and married, there shall be granted two hundred arpens of land; fifty arpens shall be added for every child he shall bring with him.

10. To every emigrant, possessing property, and uniting the circumstances before mentioned, who shall arrive with an intention to establish himself, there shall be granted two hundred arpens of land; and, in addition, twenty arpens for every negro that he shall bring: provided, however, that the grant shall never exceed eight hundred arpens to one proprietor. If he has such a number of negroes, as would entitle him, at the above rate, to a larger grant, he will also possess the means of purchasing more than that quantity of land if he wants it; and it is necessary, by all possible means, to prevent speculations in lands.

11. No lands shall be granted to traders; as they live in the towns they do not want them.

12. Immediately on the arrival of a new settler, the oath of fidelity shall be required of him. If he is married, he shall prove that the wife whom he brings with him is his lawful wife. If he has goods, or per-

sonal property, they shall both declare what part of them belongs to the portion of the wife, and whether any part belongs to any person who is absent; giving them to understand that if the contrary of what they assert is proved, the lands which are granted to them shall be taken back, with all the improvements they may have made upon them.

13. At the time when they take the oath, the above particulars are to be attended to; and no lands are to be granted for any negroes which are not proved to be lawfully and wholly the property of the emigrant; nor for the wife whom he brings with him, unless she is proved to be his lawful wife. In default of making such proofs, he is to be taken as coming within the description given in the second article.

14. The new settler to whom lands have been granted, shall lose them without recovery, if, in the term of one year, he shall not begin to establish himself upon them, or if in the third year he shall not have put under labor ten arpens in every hundred.

15. He shall not possess the right to sell his lands until he shall have produced three crops, on the tenth part of his lands, which shall be well cultivated; but in case of death he may leave them to his lawful heir, if he has a resident in the country. If he has no heir in the country, they shall, in no event, go to an heir who is not of the country, unless such heir shall resolve to come and reside in it, conformably to the established conditions.

16. Debts contracted out of the province cannot be paid with the produce of lands thus granted, if there are debts due in the province, until after five harvests have been gathered. If, for bad conduct, it shall become necessary to eject the settler from the country before he shall have made the three crops necessary to give him the dominion of the soil, and the right to dispose of it, the lands shall then again become united to the domain of the King; and, in the same state, shall be granted alternately to the young man and to the young woman, residing within one league of the land which shall thus become vacant, who, by their good conduct, shall best deserve such a gift. The question who is entitled to this preference, shall be decided in an assembly of the most considerable people, headed by the commandant; which decision they shall make without any expense. They shall only consult me in the case, making known the circumstances for my approbation; and shall, without delay, put the deserving person in possession.

17. The forms established by my predecessors, in which to petition for lands, shall be followed, under the conditions expressed in this order, with the difference only that when the quantity of land amounts to, or exceeds, three hundred arpens, the fees to the secretary must be paid.

18. It shall not be permitted to any new settler to form an establishment at a distance from other settlers. The grants of lands must be so made as not to have pieces of vacant ground between one and another; since this would offer a greater exposure to the attacks of

the Indians, and renders more difficult the administration of justice, and the regulation of the police, so necessary in all societies, and more particularly in new settlements.

MANUEL GAYOSO DE LEMOS.

New-Orleans, 9th September, 1797.

GENERAL REGULATIONS AND INSTRUCTIONS OF MORALES, FOR CONCEDING LANDS.

Don John Bonaventure Morales, Principal Comptroller of the Army and Finances of the provinces of Louisiana and West Florida, Intendant (par interim) and sub-delegate of the superintendence, General of the same, Judge of Admiralty, and of the lands, &c. of the King, &c.

The King, whom God preserve, having been pleased to declare and order, by his decree, given at Sta. Lorenzo, the 22d of October, of the last year, 1798, that the intendancy of these provinces, to the exclusion of all other authority, be put in possession of the privilege to divide and grant all kind of land belonging to his crown; which right, after his order of the 24th of August, 1770, belonged to the civil and military government; wishing to perform this important charge, not only according to the 81st article of the ordinance of the intendants of New Spain, of the regulations of the year 1754, cited in the said article, and the laws respecting it, but also with regard to local circumstances, and those which may, without injury to the interests of the king, contribute to the encouragement, and to the greatest good of his subjects already established, or who may establish themselves in this part of his possessions.

After having examined, with the greatest attention, the regulation made by his excellency Count O'Rielly, the 18th February, 1770, as well as that circulated by his excellency the present governor, Don Manuel Gayoso de Lemos, the first of January, 1798, and with the counsel which has been given me, on this subject, by Don Manuel Serrano, assessor of the intendancy, and other persons of skill in these matters; that all persons who wish to obtain lands may know in what manner they ought to ask for them, and on what conditions lands can be granted or sold; that those who are in possession without the necessary titles, may know the steps they ought to take to come to an adjustment; that the commandants, as sub-delegates of the intendancy, may be informed of what they ought to observe; that the surveyor general of this city, and the particular surveyors who are under him, may be instructed of the formalities of which they ought to make surveys of lands, or lots, which shall be conceded, sold, or arranged for; that the secretary of the finances may know the fees he is entitled to, and the duties he has to discharge, and that

none may be ignorant of any of the things which may tend to the greatest advantage of an object so important in itself as the security of property, under the conditions to enlarge, change, or revoke, that which time and circumstances may discover to be most useful and proper, to the attainment of the end to which the benevolent intentions of his majesty are directed, I have resolved that the following regulations shall be observed:

Art. 1. To each newly arrived family, *(à chaque famille nouvelle,)* who are possessed of the necessary qualifications to be admitted among the number of cultivators of these provinces, and who have obtained the permission of the government to establish themselves on a place which they have chosen, there shall be granted, *for once*, if it is on the bank of the Mississippi, four, six, or eight arpens in front on the river, by the ordinary depth of forty arpens; and if it is at any other place, the quantity which they shall be judged capable to cultivate, and which shall be deemed necessary for pasture for his beasts, in proportion according to the number of which the family is composed; understanding that the concession is never to exceed eight hundred arpens in superficies.

Art. 2. To obtain the said concession, if they are asked for in this city, the permission which has been obtained to establish themselves in the place from the governor, ought to accompany the petition; and if in any of the *posts*, the commandant at the same time will state that the lands asked for are vacant, and belong to the domain, and that the petitioner has obtained permission of the government to establish himself; and referring to the date of the letter or advice they have received.

Art. 3. Those who obtain concessions on the bank of the river, ought to make, in the first year of their possession, *levees* sufficient to prevent the inundation of the waters, and canals sufficient to drain off the water when the river is high; they shall be held, in addition, to make and keep in good order a public highway, which ought to be at least thirty feet wide, and have bridges of fifteen feet over the canals or ditches which the road crosses; which regulations ought to be observed, according to the usages of the respective districts, by all persons to whom lands are granted, in whatever part they are obtained.

Art. 4. The new settlers who have obtained lands shall be equally obliged to clear and put in cultivation, in the precise time of three years, all the front of their concessions, or the depth of at least two arpens, on the penalty of having the lands granted, remitted to the domain, if this condition is not complied with. The commandants and syndics will watch that what is enjoined in this and the preceding article be strictly observed; and occasionally inform the intendant of what they may have remarked, well understanding that, in case of default, they will be responsible to his majesty.

Art. 5. If a tract of land, belonging to minors, remain without being cleared, or as much of it as the regulations require, and that the bank, the road, the ditches, and the bridges, are not made,

the commandant, or syndic, of the district, will certify from whom the fault has arisen; if it is in the guardian, he will urge him to put it in order; and if he fails, he shall give an account of it; but if the fault arises from want of means of the minor to defray the expence, the commandant or syndic shall address a statement of it to the intendancy, to the end that sale of it may be ordered for the benefit of the minor, to whom alone this privilege is allowed; if in the space of six months any purchaser presents, if not it shall be granted gratis to any person asking it, or sold for the benefit of the treasury.

Art. 6. During the said term of three years, no person shall sell nor dispose of the land which has been granted to him, nor shall he ever after the term, if he has failed to comply with the conditions contained in the preceding article; and to avoid abuses and surprize in this respect, we declare that all sales made without the consent of the intendancy in writing, shall be null and of no effect; which consent shall not be granted until they have examined with a scrupulous attention if the conditions have or have not been fulfilled.

Art. 7. To avoid for the future the litigations and confusions of which we have examples every day, we have also judged it very requisite, that the notaries of this city, and the commandants of posts, shall not take any acknowledgment of conveyance of land obtained by concession; unless the seller (grantor) presents and delivers to the buyer the title which he has obtained, and in addition, being careful to insert in the deed the metes and bounds, and other descriptions, which result from the title, and the *proces-verbal* of the survey which ought to accompany it.

Art. 8. In case that the small depth which the points, upon which the land on the river is generally formed, prevent the granting of forty arpens, according to usage, there shall be given a greater quantity in front, to compensate it; or, if no other person asks the concession, or to purchase it, it shall be divided equally between the persons nearest to it, that may repair the banks, roads, and bridges, in the manner as before prescribed.

Art. 9. Although the King renounces the possession of the lands sold, distributed, or conceded in his name, those to whom they are granted or sold ought to be apprised that his majesty reserves the right of taking from the forests, known here under the name of Cypress woods, all the wood which may be necessary for his use, and more especially which he may want for the navy, in the same manner, and with the same liberty, that the undertakers have enjoyed to this time; but this, notwithstanding, they are not to suppose themselves authorized to take more than is necessary, nor to make use of splitting those which are cut down, and which are found to be unsuitable.

Art. 10. In the posts of Opelousas and Attakapas, the greatest quantity of land that can be conceded shall be one league front by the same quantity in depth; and when forty arpens cannot be obtained in depth, a half league may be granted: and, for a general

rule, it is established, that, to obtain in said posts a half league in front, by the same quantity in depth, the petitioner must be owner of one hundred head of cattle, some horses and sheep, and two slaves, and also in proportion for a larger tract, without the power, however, of exceeding the quantity beforementioned.

Art. 11. As much as it is possible, and the local situation will permit, no interval shall be left between concessions; because it is very advantageous that the establishments touch, as much for the inhabitants, who can lend each other mutual support, as for the more easy administration of justice, and the observance of rules of police, indispensable in all places, but more especially in new establishments.

Art. 12. If, notwithstanding what is before written, marshy lands, or other causes, shall make it necessary to leave some vacant lands, the commandants and syndics will take care that the inhabitants of the district alone may take wood enough for their use only, and well understanding that they shall not take more; or if any individual of any other post shall attempt to get wood, or cut fire wood, without having obtained the permission of this intendancy, besides the indemnity which he shall be held to pay the treasury for the damage sustained, he shall be condemned for the first time to the payment of a fine of twenty-five dollars; twice that sum for the second offence; and, for the third offence, shall be put in prison, according as the offence may be more or less aggravated: the said fines shall be divided between the treasury, the judge, and the informer.

Art. 13. The new settler (*comme le nouveau colon*) to whom land has been granted in one settlement, cannot obtain another concession, without having previously proven that he had possessed the first during three years, and fulfilled all the conditions prescribed.

Art. 14. The changes occasioned by the current of the river are often the cause of one part of a concession becoming useless, so that we have examples of proprietors pretending to abandon and re-unite to the domain a part of the most expensive for keeping up the banks, the roads, the ditches, &c. and willing to reserve only that which is good, and seeing that unless some remedy is provided for this abuse, the greatest mischief must result to the neighbors, we declare, that the treasury will not admit of an abandonment, or reunion, to the domain of any part of the land the owner wishes to get rid of, unless the abandonment comprehends the whole limits included in the concession or act, in virtue of which he owns the land he wishes to abandon.

Art. 15. All concessions shall be given in the name of the King, by the general intendant of this province, who shall order the surveyor general, or one particularly named by him, to make the survey, and mark the land, by fixing bounds, not only in front, but also in the rear; this [survey] ought to be done in the presence of the commandant, or syndic, of the district, and of two of the neighbors, and these four shall sign the *procès-verbal* which shall be drawn up by the surveyor.

Art. 16. The said *procès-verbal*, with a certified copy of the same, shall be sent by the surveyor to the intendant, to the end, that on the original there be delivered, by the consent of the king's attorney, the necessary title paper; to this will be annexed the certified copy forwarded by the surveyor. The original shall be deposited in the office of the secretary of the treasury, and care shall be taken to make annually a book of all which have been sent, with an alphabetical list, to be the more useful when it is necessary to have recourse to it, and for greater security, to the end that, at all times, and against all accidents, the documents which shall be wanted can be found. The surveyor shall also have another book, numbered, in which the procès-verbal of the survey he makes shall be recorded; and, as well on the original, which ought to be deposited on record, as on the copy intended to be annexed to the title, he shall note the folio of the book in which he has enregistered the figurative plat of survey.

Art. 17. In the office of the finances there shall also be a book numbered, where the titles of concessions shall be recorded; in which, beside the ordinary clauses, mention shall be made of the folio of the book in which they are transcribed. There must, also, be a note taken in the contadoria, or chamber of accounts, of the army and finances, and that under the penalty of being void. The chamber of accounts shall, also, have a like book; and, at the time of taking the note, shall cite the folio of the book where it is recorded.

Art. 18. Experience proves, that a great number of those who have asked for land think themselves the legal owners of it; those who have obtained the first decree, by which the surveyor is ordered to measure it, and to put them in possession; others after the survey has been made have neglected to ask the title for the property; and as like abuses continuing for a longer time will augment the confusion and disorder which will necessarily result; we declare, that no one of those who have obtained the said decrees, notwithstanding in virtue of them the survey has taken place, and that they have been put in possession, cannot be regarded as owners of land until their real titles are delivered, completed with all the formalities before recited.

Art. 19. All those who possess lands in virtue of formal titles, *(titres formels)* given by their excellencies the governors of this province since the epoch when it became under the power of the Spanish, and those who possessed them in the time when it belonged to France, so far from being interrupted, shall, on the contrary, be protected and maintained in their possessions.

Art. 20. Those who, without the title or possession mentioned in the preceding article, are found occupying lands, shall be driven therefrom, as from property belonging to the crown; but if they have occupied the same more than ten years, a compromise will be admitted to those who are considered as owners, that is to say, they shall not be deprived of their lands. Always, that, after information, and summary procedure, and with the intervention of the procurer of the king, at the board of the treasury, they shall be obliged to pay a just and moderate retribution, calculated according to the extent of the

lands, their situation, and other circumstances, and the price of estimation for once paid into the royal treasury. The titles to property will be delivered on referring to that which has resulted from the proceedings.

Art. 21. Those who are found in a situation expressed in the 18th article, if they have not cleared, nor done any work upon the land they consider themselves proprietors [of,] by virtue of the first decree of the government, not being of the number of those who have been admitted in the class of *new comers*, in being deprived or admitted to compromise, in the manner explained in the preceding article, if they are of that class, they shall observe what is ordered in the article following.

Art. 22. In the precise and peremptory term of six months, counting from the day when this regulation shall be published in each post, all those who occupy lands without titles from the governor, and those who, in having obtained a certain number of arpens, have seized a greater quantity, ought to make it known, either to have their titles made out, if there is any, or to be admitted to a compromise, or to declare that the said lands belong to the domain, if they have not been occupied more than ten years, understanding, if it passes the said term, if they are instructed by other ways, they will not obtain neither title nor compromise.

Art. 23. Those who give information of lands occupied, after the expiration of the term fixed in the preceding article, shall have for their reward the one-fourth part of the price for which they are sold or obtained, by way of compromise; and, if desirable, he shall have the preference, either by compromise, at the price of appraisement, and there shall be made a deduction of one-fourth as informer.

Art. 24. As it is impossible, considering all the local circumstances of these provinces, that all the vacant lands belonging to the domain should be sold at auction, as it is ordained by the law 15th, title 12th, book 4th, of thecollection of the laws of these kingdoms, the sale shall be made according as it shall be demanded, with the intervention of the king's attorney for the board of finances, for the price they shall be taxed, to those who wish to purchase; understanding, if the purchasers have not ready money to pay, it shall be lawful for them to purchase the said lands at redeemable quit rent, during which they shall pay the five per cent. yearly.

Art. 25. Besides the moderate price, which [the] land ought to be taxed, the purchasers shall be held to pay down the right of *media annata*, or half years, to be remitted to Spain, which, according to the custom of Havanna, founded on law, is reduced to two and a half per cent. on the price of estimation, and made eighteen per cent. on the sum, *by the said two and an half per cent.*; they shall also be obliged to pay down the fees of the surveyor and notary.

Art. 26. The sales of land shall be made subject to the same condition, and charges of banks, roads, ditches, and bridges, contained in the preceding article. But the purchasers are not subject to lose

their lands, if in the three first years they do not fulfil the said conditions. Commandants and syndics shall oblige them to put themselves within the rule, begin to perform the conditions in a reasonable term, and if they do not do it, the said work shall be done at the costs of the purchasers.

Art. 27. Care shall be taken to observe, in the said sales, that which is recommended in the 11th article, seeing the advantages and utility which results from consolidating the establishments always when it is practicable.

Art. 28. The titles to the property of lands which are sold or granted by way of compromise, shall be issued by the general intendant, who, after the price of estimation is fixed, and of the *media annata* [half years] or rent, or quit rent, the said price of estimation shall have been paid into the treasury, shall put it in writing, according to the result of the proceeding which has taken place with the intervention of the king's attorney.

Art. 29. The said procedure shall be deposited in the office of the finance, and the title be transcribed in another book, intended for the recording of deeds and grants of land, in the same manner as is ordered by the 17th article concerning gratuitous concessions. The principal chamber of accounts shall also have a separate book, to take a note of the titles issued for sales and grants under compromise.

Art. 30. The fees of the surveyor, in every case comprehended in the present regulation, shall be proportionate to the labor, and that which has been customary till this time to pay. Those of the secretary of finances, unless there has been extraordinary labor, and where the new settlers are not poor, (for in this case he is not to exact any thing of them,) shall be five dollars; and this shall include the recording and other formalities prescribed, and those of the appraisers, and of the interpreter, if, on any occasion, there is reason to employ him to translate papers, take declarations, or other acts, shall be regulated by the ordinance *(tarif)* of the province.

Art. 31. Indians who possess lands within the limits of the government shall not, in any manner, be disturbed; on the contrary, they shall be protected and supported; and to this the commandants, syndics, and surveyors, ought to pay the greatest attention, to conduct themselves in consequence.

Art. 32. The granting nor sale of any lands shall not be proceeded in, without formal information having been previously received that they are vacant; and to avoid injurious mistakes, we premise that, beside the signature of the commandant, or syndic, of the district, this information ought to be joined by that of the surveyor, and of two of the neighbors, well understanding. If, notwithstanding this necessary precaution, it shall be found that the land has another owner beside the claimant, and that there is sufficient reason to restore to him, the commandant, or syndic, surveyor, and the neighbors, who have signed the information, shall indemnify him for the losses he has suffered.

Art. 33. As far as it shall be practicable, the inhabitants shall endeavor that the petitions presented by them, to ask for lands, be written in the Spanish language; on which they ought, also, to write the advice or information which the commandants have given. In the posts where this is not practicable, the ancient usage shall be followed.

Art. 34. All the lots or seats belonging to the domain, which are found vacant, either in this city, or boroughs, or villages already established, or which may be established, shall be sold for ready money, with the formalities prescribed in the article 24th, and others, which concern the sale of lands.

Art. 35. The owners of lots or places, which have been divided, (*repartis*,) as well those in front, as towards the N. E. and S. W. extremities, N. E. and S. W. shall, in three months, present to the intendancy the titles which they have obtained; to the end, that, in examining the same, if any essential thing is wanting, they may be assured of their property in a legal way.

Art. 36. The same thing shall be done before the sub-delegates of Mobile and Pensacola, for those who have obtained grants for lots in these respective establishments; to the end that this *intendancy*, being instructed thereon, may order what it shall judge most convenient to indemnify the royal treasury, without doing wrong to the owner.

Art. 37. In the (contadorerie) office of the comptroller, contadoria of the army, or chambers of accounts of this province, and other boards under the jurisdiction of this intendancy, an account shall be kept of the amount of sales or grants of lands, to instruct his majesty every year what this branch of the royal revenue produces, according as it is ordered in the 13th article of the ordinance of the king, of the 15th October, 1754.

Art. 38. The commandants, or syndics, in their respective districts, are charged with the collection of the amount of the taxes or rents laid on lands; for this purpose the papers and necessary documents are to be sent to them; and they ought to forward, annually, to the general treasury, the sums they have collected, to the end that acquittances, clothed with the usual formalities, may be delivered them.

And that the present regulation may come to the knowledge of every body, and that the thirty-eight articles of which it is composed may have their full and entire effect, until it pleases his majesty to order otherwise, it shall be translated into French, by M. Pierre Derbigny, the king's interpreter; shall be printed in the two languages; forwarded to all places and posts within the jurisdiction of this intendancy, that the commandants, as sub-delegates thereof, shall make it known to the inhabitants in the usual form, and that it be published in this city. There shall, also, be sent a copy to M. the governor, and to the most illustrious cabildo, to the end that they please to lend their aid in the execution of that which has been before ordered, conformable to the laws and ordinances which have

been made on this subject, and in the persuasion that this can be done without injury to the king's interest, and tend the more to the encouragement, the welfare, and prosperity, of his subjects in this colony.

JUAN VENTURA MORALES.

New Orleans, July 17th, 1799.

TREASURY DEPARTMENT,
September 8, 1806.

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

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 first 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 first 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 second 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 govern-

ment, 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 surveyer 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 of 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. Lucus,
Clement B. Penrose, } *Commissioners, &c. St. Louis.*
James L. Donaldson,

TREASURY DEPARTMENT,

November 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. 2d. Claims derived from warrants or orders of survey, and embraced by the first section of the act of 2d March, 1805. 3d. 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, 2d. Claims derived from the Spanish government; and the last class to be arranged also under two heads, viz: 1st. Cases in which evidence of permission to settle has been produced; 2d. 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*." 2d. Whether the decision was not unanimous, which may be expressed merely by inserting the sirnames of the commissioners in favor of the decision, (and it will thence follow that whenever, in the 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.) 3d. 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. 4th. 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 impor-

tant, 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.