cases, when the cause shall be remanded to the court below.

Plaintiffs in error, other than executors or administrators, to give security.

Sec. 3. *Be it further enacted*, That when any person, not being an executor or administrator, applies for a writ of error, such writ of error shall be no stay of proceedings in the court to which it issues, unless the plaintiff in error shall give security, to be approved of by a judge of the said superior court, that the plaintiff in error shall prosecute his writ to effect, and pay the condemnation money and all costs, or otherwise abide the judgment in error, if he fail to make his plea good.

Proceedings commenced in the superior court of Washington district transferred to that established by this act.

Officers to issue and execute process and to record the proceedings authorized to act for both courts.

Sec. 4. *Be it further enacted*, That all pleas, process, and proceedings whatever, which may have been commenced in the said superior court within the aforesaid district of Washington, shall be, and the same are hereby transferred to the court established by this act, and the officers appointed to issue or execute the process of the said superior court within the district of Washington, and to record the proceedings of the same, are hereby authorized and required to issue and execute the process of the court established by this act, and to record the proceedings thereof.

Sessions of the court.

Places and times of holding them.

Sec. 5. *Be it further enacted*, That the court established by this act, shall hold two terms in each and every year, at the place where the courts for Washington county, within the said territory, shall be held, to commence on the days following, to wit: on the first Monday in May and September, annually; and shall then and there proceed to hear and determine the pleas, process and proceedings depending before them, in the same manner as the said superior court within the district of Washington aforesaid, might or could have done, in case this act had not been passed.

Salary, &c. &c. of the judge.

Sec. 6. *And be it further enacted*, That the judge to be appointed by virtue of this act, shall receive the same salary, and payable in the same manner, which is established by law for judges of the said superior court of the Mississippi territory.

Approved, March 27, 1804.

Statute I.

March 27, 1804.

Chap. LX.—*An Act to provide for a more extensive distribution of the Laws of the United States.*

Four hundred copies of the laws of the U. States, to be procured by the Secretary of State, and one hundred of them to be distributed, in proportions, in the territory of Orleans and district of Louisiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the department of State, be, and he hereby is authorized and empowered to procure four hundred copies of the laws of the United States: one hundred copies of which shall be distributed in just proportions in the territory of Orleans and district of Louisiana, the other three hundred copies to be reserved for the disposal of Congress.

One thousand copies printed at the close of each session of Congress to be reserved for future disposition.

Sec. 2. *And be it further enacted*, That one thousand copies of the laws of the United States which shall be printed at the close of each session shall be reserved for the disposal of Congress: and that the distribution of the remainder shall be extended to the territory of Orleans, and district of Louisiana, and to such other territories as are or may hereafter be established, in the same manner and proportion as is already provided by law for distributing them among the several states and territories: and the Secretary of State shall cause to be published in one newspaper in each of the territories of the United States, where newspapers are printed, the laws which have passed during the present session, and which may hereafter be passed by Congress.

Distribution of the remainder to be extended to the different territories.

Laws of the present and future sessions to be published in the territories.

Sec. 3. *And be it further enacted*, That there shall be transmitted, by the Secretary of State, to each member of the Senate and House of Representatives, and to each territorial delegate, as soon as may be, after the expiration of each session of Congress, a copy of all the laws which shall have been passed at such session.

Appropriation to defray the

Sec. 4. *And be it further enacted*, That the sum of two thousand dollars be, and the same hereby is appropriated for defraying the expense

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authorized by this act, payable out of any money in the treasury, not otherwise appropriated.

expense of carrying this act into effect.

Approved, March 27, 1804.

Statute I.

March 27, 1804.

Chap. LXI.—*An Act supplementary to the act intituled "An act regulating the grants of land, and providing for the disposal of the lands of the United States, south of the state of Tennessee."*(a)

Act of March 3, 1803, ch. 27.

Notice to be given to the register of the land-office by persons claiming lands in the Mississippi territory west of Pearl river, and their claims to be recorded.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That persons claiming lands in the Mississippi territory, by virtue of any British or Spanish grant, or by virtue of the three first sections of the act to which this is a supplement, or of the articles of agreement and cession with the state of Georgia, may, after the last day of March, in the year one thousand eight hundred and four, and until the last day of November, then next following, give notice in writing, of their claims, to the register of the land-office, for the lands lying west of Pearl river, and have the same recorded in the manner prescribed by the fifth section of the act to which this is a supplement: *Provided however*, that where lands are claimed by virtue of a complete Spanish or British grant, in conformity with the articles of agreement and cession between the United States and the state of Georgia, it shall not be necessary for the claimant to have any other evidence of his claim recorded, except the original grant or patent, together with the warrant or order of survey and the plot; but all the subsequent conveyances or deeds shall be deposited with the register, to be by him laid before the commissioners when they shall take the claim into consideration: and the powers vested by law in the

Proviso in favor of Spanish and British grants.

(a) Under the act of Congress of March 3, 1803, chap. 27, entitled, "An act regulating grants of lands, and providing for the disposal of the lands of the United States south of the state of Tennessee," such lands only were authorized to be offered for sale as had not been appropriated by the previous sections of the law, and certificates granted in pursuance thereof. A right therefore to a particular grant of land, derived from a donation certificate given under the law, is superior to the title of any one who purchased the same land at the public sales, unless there is some fatal infirmity in the certificate which renders it void. Ross *v.* Barland et al., 1 Peters, 666.

The act of Congress requires no precise form for the donation certificate. It is sufficient if the proofs be exhibited to the court of the commissioners to satisfy them of the facts entitling the party to the certificate. It is sufficient if the consideration, the occupancy, and the quantity granted appears: nothing more is necessary to certify to the government the party's right, or to enable him, after it is surveyed by the proper officer, to obtain a patent. *Ibid.*

The 2d section of the act of March 3, 1803, was intended to confer a bounty on a numerous class of individuals; and in construing the ambiguous words of the section, it is the duty of the court to adopt that construction which will best effect the liberal intentions of the legislature. *Ibid.*

The time when the territory over which the law operated was evacuated by the Spanish troops, was very important, as the law was intended to provide for those who were actually, at that time, inhabitants of, and cultivated the soil within it; but whether it was in 1797 or 1798, was comparatively unimportant. The decision of the commissioners upon the period when the evacuation took place is sufficient; and the court are disposed to adopt the construction of the act given by the commissioners, west of Pearl river, that the evacuation took place on the 30th March, 1798, by which persons claiming within the objects of the section were entitled to certificates. *Ibid.*

Congress have treated as erroneous the construction given to the law by the commissioners to settle claims to lands east of Pearl river; who have decided that only those who have settled on the lands within the territory in the year 1797, were entitled to donation certificates, and who had granted to others preemption certificates. *Ibid.*

The commissioners appointed under the act of Congress relative to claims to lands south of the state of Tennessee, were authorized to hear evidence as to the time of the actual evacuation of the territory by the Spanish troops, and to decide upon the fact. The law gave them power to hear and decide all matters respecting such claims, and to determine thereon according to justice and equity, and declared their deliberations shall be final. The court are bound to presume that every fact necessary to warrant the certificate in the terms of it, was proved before the commissioners; and that subsequently it was shown to them that the final evacuation of the territory took place on the 30th March, 1798. *Ibid.*

It is the settled doctrine of the judicial department of the government of the United States, that the treaty of 1819 with Spain, ceded to the United States, no territory west of the Perdido river. It had already been acquired under the Louisiana treaty. Pollard's Lessee *v.* Files, 2 Howard's Sup. Court Rep. 591.

In the interval between the Louisiana treaty, and the time when the United States took possession of the territory west of the Perdido, the Spanish government had a right to grant permits to settle and improve by cultivation, and to authorize the erection of establishments for mechanical purposes. *Ibid.*

These incipient concessions were not regarded by Congress, but are recognized in the acts of 1804, 1812, 1819, and as claims are within the acts of 1824. *Ibid.*