

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

APPROVED, March 27, 1804.

expense of carrying this act into effect.

STATUTE I.

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)

March 27, 1804.

Act of March 3, 1803, ch. 27.

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

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.

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 pre-emption 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.*

commissioners appointed for the purpose of ascertaining the claims to lands lying west of Pearl river, shall, in every respect, extend and apply to claims which may be made by virtue of this section; and the same proceedings shall thereupon be had as are prescribed by the act aforesaid, in relation to claims which shall have been exhibited on or before the last day of March, in the year one thousand eight hundred and four.

Commissioners authorized to adjourn from time to time.
Proviso.

SEC. 2. *And be it further enacted*, That the commissioners aforesaid, appointed to adjust the claims to lands lying west of Pearl river, shall have power to adjourn from time to time, and for such time as they may think fit: *Provided however*, that they shall meet on the first day of December, in the year one thousand eight hundred and four, and shall not afterwards adjourn for a longer time than three days, nor until they shall have completed the business for which they were appointed: *And provided also*, that nothing contained in this act, nor in that to which this is a supplement, shall be construed to prevent the said commissioners, nor those appointed to adjust the claims to lands lying east of Pearl river, from acting and deciding at any time, on any claim which has been exhibited in the manner prescribed by law, although the evidence of the same may not, at that time, have been transcribed on the books of the register.

Proviso.

What evidence may be required by the boards of commissioners concerning Spanish grants.

SEC. 3. *And be it further enacted*, That when any Spanish grant, warrant, or order of survey, shall be produced to either of the said boards of commissioners, for lands which were not, at the date of such grant, warrant, or order of survey, or within one year thereafter, inhabited, cultivated, or occupied by, or for the use of the grantee: or whenever either of the said boards shall not be satisfied, that such grant, warrant, or order of survey, did issue, at the time when the same bears date, the said commissioners shall not be bound to consider such grant, warrant, or order of survey, as conclusive evidence of the title, but may require such other proof of its validity as they may deem proper: and the said boards shall make a full report to the Secretary of the Treasury, to be by him laid before Congress, for their final decision of all claims grounded on such grants, warrants, or orders of survey, as may have been disallowed by the said boards, on suspicion of their being antedated, or otherwise fraudulent.

Boards of commissioners to make reports to the Secretary of the Treasury in certain cases.

Agent to be appointed by the Secretary of the Treasury.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury shall be, and he is hereby authorized to employ an agent, whose compensation shall not exceed one thousand five hundred dollars in full for all his services, for the purpose of appearing before the said commissioners, in behalf of the United States, to investigate the claims for lands, and to oppose all such as he may deem fraudulent and unfounded. And each of the said boards of commissioners shall have the same powers to compel the attendance of witnesses, as are now vested in the courts of the United States.

Board of commissioners for adjusting claims to land, south of Pearl river, authorized to employ an assistant clerk and a translator of the Spanish language.

SEC. 5. *And be it further enacted*, That the board of commissioners, appointed to adjust the claims to lands lying west of Pearl river, shall be authorized to employ an assistant clerk, and also a translator of the Spanish language, to assist them in the despatch of the business which may be brought before them, and for the purpose of recording Spanish grants, deeds, or other evidences of claims on the register's books; the said translator shall receive for the recording done by him, the fees already provided by law, and may be allowed, not exceeding fifty dollars, for every month he shall be employed, provided that the whole compensation, other than that arising from fees, shall not exceed six hundred dollars: the assistant clerk shall be allowed a sum not exceeding five hundred dollars for his services; and each of the commissioners of the said board, in addition to the compensation now fixed by law, shall be allowed six dollars for every day he shall attend on the board, after the last day of November, in the year one thousand eight hundred and four:

Provided, that this additional compensation shall not exceed two thousand dollars, for each of the said commissioners.

SEC. 6. *And be it further enacted*, That from and after the first day of April, in the year one thousand eight hundred and four, the surveyor of the lands of the United States, south of the state of Tennessee, shall receive an annual compensation of two thousand dollars, in lieu of the annual compensation now fixed by law. And the lands claimed by virtue of Spanish grants, legally and fully executed, and the titles to which were confirmed by the articles of agreement and cession between the United States and the state of Georgia, shall be surveyed in the manner prescribed by the act to which this is a supplement, at the expense of the United States; any thing in the said act to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That the tract of country lying north of the Mississippi territory, and south of the state of Tennessee, and bounded on the east by the state of Georgia, and on the west by Louisiana, shall be, and the same is hereby annexed to, and made a part of the Mississippi territory.*

SEC. 8. *And be it further enacted*, That so much of the eighth section of an act, intituled "An act regulating grants of land, and providing for the disposal of the lands of the United States, south of the state of Tennessee," as provides, "that no certificate shall be granted for lands lying east of the Tombigby river," be, and the same hereby is repealed: *Provided*, that no certificate shall be granted for any lands to which the Indian title has not been extinguished.

SEC. 9. *And be it further enacted*, That the commissioners appointed in pursuance of the act aforesaid, be, and they are hereby authorized and required to make, on or before the first day of December next, a full report to the Secretary of the Treasury, of all claims that have been, or may be laid before them, for lands held by warrant of survey and improvement, in cases where the claimants were minors, and not heads of families, at the time such warrants were issued, with the circumstances which occasioned the issuing of such warrants, and the validity which has been considered as attached to the same.

SEC. 10. *And be it further enacted*, That for the purpose of carrying this act into effect, a sum not exceeding twenty thousand dollars, shall be, and the same is hereby appropriated, to be paid out of any money in the treasury, not otherwise appropriated.

SEC. 11. *And be it further enacted*, That the execution of so much of the twelfth section of the act to which this is a supplement, as excepts "such town lots, not exceeding two, in the town of Natchez, and such an out lot adjoining the same, not exceeding thirty acres, as may be the property of the United States, to be located by the governor of the Mississippi territory, for the use of Jefferson College," be, and the same is hereby suspended until the end of the next session of Congress.

SEC. 12. *And be it further enacted*, That transcripts of the records of the British province of West Florida, to claims for land therein, and which have been delivered to the government of the United States, may be produced as evidence, and shall be entitled to the same weight in any court of the United States, as if the same had been delivered or shall be delivered, to either of the registers of the land-offices in the Mississippi territory, before the last of March, one thousand eight hundred and four, any thing in this act, or in the fifth section of the act to which this is a supplement, to the contrary notwithstanding.

SEC. 13. *And be it further enacted*, That the sum of three thousand dollars be, and the same is hereby appropriated, for the purpose of extending the external commerce, and exploring the limits of the United States, in the new acquired territory of Louisiana, out of any monies in the treasury not otherwise appropriated.

SEC. 14. *And be it further enacted*, That Major-General La Fayette

Compensation not to exceed \$2000.

Salary of the surveyor of lands south of Tennessee.

Lands claimed under Spanish grants, the titles to which are not confirmed, to be surveyed at the expense of the United States.

Lands north of the Mississippi territory and south of the state of Tennessee, and bounded on Georgia and Louisiana, made part of the Mississippi territory.

Repeal of part of a former act. 1803, ch. 27.

Commissioners to make a report to the Secretary of the Treasury in a certain case.

*1798, ch. 28. 1803, ch. 27.

Appropriation for carrying this act into effect.

Part of the twelfth section of the act to which this is a supplement suspended.

Transcripts of the British records of West Florida to be evidence in certain cases.

Appropriation for extending the external commerce, and exploring the limits of the U. States in Louisiana.

Major-General La Fayette authorized to make his location upon public lands in the territory of Orleans.

1803, ch. 30.

be, and he is hereby authorized and empowered to locate and survey the lands allowed him by the fourth section of an act, intituled "An act to revive and continue in force an act in addition to an act, intituled An act in addition to an act, regulating the grants of land appropriated for military services, and for the society of United Brethren for propagating the gospel among the heathen, and for other purposes," on any lands the property of the United States, in the territory of Orleans; and on presenting the surveys of the said land to the Secretary of the Treasury, the President of the United States is hereby authorized to issue letters patent to the said Major-General La Fayette for the quantity of lands allowed by the said act.

APPROVED, March 27, 1804.

1804.

RESOLUTION to instruct the joint committee of inrolled Bills to wait on the President of the United States, respecting a variance between an engrossed and inrolled Bill.

A variance between an engrossed bill and an inrolled bill to be corrected.

1804. ch. 30.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint committee for inrolled bills be instructed to wait on the President of the United States, and lay before him the engrossed bill, intituled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," with the several amendments thereto, as the same was finally passed by both houses of Congress; and to state the variance between the said engrossed bill and the inrolment thereof, as approved by the President, and to request that he will cause the said inrolled bill to be returned to this house, in which it originated, for the purpose of rendering the said bill conformable with the engrossed bill and the amendments thereto, as passed by the two houses of Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both houses concurring, That, in lieu of the third paragraph of the first section of the second article of the constitution of the United States, the following be proposed as an amendment to the constitution of the United States, which, when ratified by three fourths of the legislatures of the several states, shall be valid to all intents and purposes as part of the said constitution, to wit:—

The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice President: a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.