

CHAP. LXVI.—*An Act to continue in force for a limited time, an act entitled "An act continuing for a limited time the salaries of the officers of government therein mentioned."*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act passed on the twentieth day of February, one thousand eight hundred and four, entitled "An act continuing for a limited time the salaries of the officers of government therein mentioned," shall be and continue in force for the term of three years, and to the end of the next session of Congress thereafter, and no longer.

SEC. 2. *And be it further enacted,* That for paying the salaries of the secretaries of state, treasury, war and navy, the comptroller, auditor and register of the treasury, the treasurer of the United States, the accountants of the war and navy departments, the postmaster-general and the first assistant postmaster-general, in addition to the sums already appropriated by the "Act making appropriations for the support of government for the year one thousand eight hundred and twelve," there be appropriated the further sum of seven thousand seven hundred and fifty-two dollars and fifty cents, to be paid out of any monies in the treasury not otherwise appropriated.

APPROVED, April 24, 1812.

STATUTE I.

April 24, 1812.

Act of Feb. 20, 1804, ch. 12.
Act of April 27, 1816, ch. 103.
Act of Feb. 20, 1819, ch. 15.
Act of 1804 continued for three years.

Additional appropriation of \$7,752 50.

1812, ch. 33.

CHAP. LXVII.—*An Act for ascertaining the titles and claims to Lands in that part of the Louisiana which lies east of the river Mississippi and island of New Orleans.*(a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of ascer-

STATUTE I.

April 25, 1812.

Act of April 18, 1814, ch. 85.
Act of May 8, 1822, ch. 128.

(a) On the 12th February, 1813, Congress passed an "act authorizing the President of the United States to take possession of a tract of country lying south of the Mississippi territory, and west of the river Perdido." This act was not promulgated until the publication of the "Session acts" of the first session of the fifteenth Congress, which terminated April 20, 1818. See "resolution and acts relative to the occupation of Florida by the United States," Appendix to the acts of the first session of the fifteenth Congress, 1818, Vol. 3, p. 472.

Upon the titles to lands in this country, the following decisions have been made by the Supreme Court:—

By the treaty of St. Ildefonso, made on the 1st of October, 1800, Spain ceded Louisiana to France; and France, by the treaty of Paris, signed the 30th of April, 1803, ceded it to the United States. Under this treaty, the United States claimed the countries between the Iberville and the Perdido. Spain contended that her cession to France comprehended only that territory which at the time of the cession was denominated Louisiana, consisting of the island of New Orleans, and the country which had been originally ceded to her by France, west of the Mississippi. The land claimed by the plaintiffs in error, under a grant from the crown of Spain, made after the treaty of St. Ildefonso, lies within the disputed territory; and this case presents the question, to whom did the country between the Iberville and Perdido belong after the treaty of St. Ildefonso? Had France and Spain agreed upon the boundaries of the retroceded territory before Louisiana was acquired by the United States; that agreement would undoubtedly have ascertained its limits. But the declarations of France, made after parting with the province, cannot be admitted as conclusive. In questions of this character, political considerations have too much influence over the conduct of nations, to permit their declarations to decide the course of an independent government, in a matter vitally interesting to itself. *Foster et al. v. Neilson, 2 Peters, 306.*

If a Spanish grantee had obtained possession of the land in dispute so as to be the defendant, would a court of the United States maintain his title under a Spanish grant, made subsequent to the acquisition of Louisiana, singly on the principle that the Spanish construction of the treaty of St. Ildefonso was right, and the American construction wrong? Such a decision would subvert those principles which govern the relations between the legislative and judicial departments, and mark the limits of each. *Ibid.* 309.

The sound construction of the 8th article of the treaty between the United States and Spain, of the 22d of February, 1829, will not enable the court to apply its provisions to the case of the plaintiff. *Ibid.* 314.

The article does not declare that all the grants made by his Catholic Majesty before the 24th January, 1818, shall be valid to the same extent as if the ceded territories had remained under his dominion. It does not say that those grants are hereby confirmed. Had such been its language, it would have acted directly on the subject, and it would have repealed those acts of Congress which were repugnant to it; but its language is, that those grants shall be ratified and confirmed to the persons in possession, &c. By whom shall they be ratified and confirmed? This seems to be the language of contract; and if it is, the ratification and confirmation which are promised must be the act of the legislature. Until such act shall be passed, the court is not at liberty to disregard the existing laws on the subject. *Ibid.*

Two land districts to be laid off.

Commissioners to be appointed.

Clerk.

Oath.

Commissioners and clerks to attend in the parishes.

Twenty days' notice to be given.

taining the titles and claims to lands in that tract of country which lies south of the Mississippi territory, east of the river Mississippi and island of New Orleans, and west of the river Perdido, and a line drawn with the general course thereof to the southern boundary of the said Mississippi territory, the lands within the said limits shall be laid off into two land districts, between which Pearl river shall be the boundary; and for each of which districts a commissioner for land claims shall be appointed by the President of the United States, with the advice and consent of the Senate. The said commissioners shall, respectively, have power to appoint a clerk, who shall be a person capable of translating the French and Spanish languages, and who shall, in addition to the other duties required of him by this act, perform the duties of translator, when required by the commissioner. And the said commissioners and clerk shall, before entering on the duties of their appointments, respectively take an oath or affirmation, truly and faithfully to execute the duties imposed on them by this act.

SEC. 2. *And be it further enacted*, That for the more convenient ascertainment of the titles and claims to lands as aforesaid, it shall be the duty of each of the said commissioners, respectively, and their clerks, to attend in each of the several parishes in his district, at such time and place therein as he shall appoint, for the purpose of receiving notices and evidences of titles and claims to lands within the same; and when the commissioners shall have appointed the time and place for his attendance in any parish, he shall cause public notice thereof to be given to the inhabitants of the same, for at least twenty days previous to the time of his commencing the business of his appointment therein.

SEC. 3. *And be it further enacted*, That each commissioner, after he shall have attended for a reasonable and sufficient length of time in each parish of his district, for the claimants of lands within the same to have

Congress, in order to guard against imposition, declared, by the law of 1804, that all grants of land made by the Spanish authorities in the territory west of the Perdido, after the treaty of St. Ildefonso, shall be null and void, excepting those to actual settlers, acquired before December 20, 1803. *Garcia v. Lee*, 12 Peters, 511.

The controversy relative to the country lying between the Mississippi and the Perdido rivers, and the validity of the grants made by Spain in the disputed territory after the cession of Louisiana to the United States, were carefully examined in the case of *Foster & Elam v. Neilson*. The supreme court, in that case, decided that the question of boundary between the United States and Spain was a question for the political departments of the government: that the legislative and executive branches having decided the question, the courts of the United States are bound to regard the boundary determined by them as the true one; that grants made by the Spanish authorities of lands, which, according to this boundary line, belonged to the United States, gave no title to the grantees, in opposition to those claiming under the United States; unless the Spanish grants were protected by the subsequent arrangements made between the two governments; and that no such arrangements were to be found in the treaty of 1819, by which Spain ceded the Floridas to the United States, according to the fair import of its words, and its true construction. *Ibid*.

In the case of *Foster & Elam v. Neilson*, the supreme court said that the Florida treaty of 1819, declares that all grants made before the 24th of January, 1818, by the Spanish authorities, "shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid, if the territories had remained under the dominion of his Catholic Majesty;" and in deciding the case of *Foster & Elam*, the court held, that even if this stipulation applied to lands in the territory in question, yet the words used did not import a present confirmation by virtue of the treaty itself, but that they were words of contract: "that the ratification and confirmation which were promised, must be the act of the legislature; and until such shall be passed, the court is not at liberty to disregard the existing laws on the subject." Afterwards, in the case of the *United States v. Percheman*, 7 Peters, 86, in reviewing the words of the 8th article of the treaty; the court, for the reasons there assigned, came to a different conclusion; and held, that the words were words of present confirmation, by the treaty, where the land had been rightfully granted before the cession; and that it did not need the aid of an act of Congress to ratify and confirm the grant. This language was, however, applied by the court, and was intended to apply to grants made in a territory which belonged to Spain at the time of the grant. The case then before the court was one of that description. It was in relation to a grant of land in Florida, which unquestionably belonged to Spain at the time the grant was made; and where the Spanish authorities had an undoubted right to grant, until the treaty of cession in 1819. It is of such grants that the court speak, when they declare them to be confirmed and protected by the true construction of the treaty; and that they do not need the aid of an act of Congress to ratify and confirm the title of the purchaser. The court do not apply this principle to grants made within the territory of Louisiana. The case of *Foster & Elam v. Neilson* must, in all other respects, be considered as affirmed by the case of *Percheman*; as it underwent a careful examination in that case, and as none of its principles were questioned except that referred to. *Ibid*.

delivered the notices and evidences of their claims, shall establish his office at such place in his district as he shall judge most convenient, and of which he shall give public notice; and every person claiming lands within his district, who shall have neglected, or by any circumstance have been prevented from delivering a notice and evidence of his claims, during the time the commissioner attended in the parish in which the lands he may claim are situate, shall be at liberty, at any time before the end of six months from and after such office shall have been established, to deliver a notice and the evidence of his claims; and it shall have the same effect as if delivered in the parish wherein the lands claimed are situated.

Each Commissioner to keep an office.

Six months allowed to deliver notice and evidence.

SEC. 4. *And be it further enacted,* That every person claiming lands in the tract of country aforesaid, by virtue of any grant, order of survey, or other evidence of claim whatsoever, derived from the French, British or Spanish governments, shall deliver to the commissioner for land claims, when attending for the purpose, in the parish in which the lands claimed may lie, a notice in writing, stating the nature and extent of his claims, together with a plat (in case a survey shall have been made) of the tract or tracts claimed; and shall deliver to the commissioner when attending as aforesaid, for the purpose of being recorded, every grant, order of survey, deed, conveyance, or other written evidence of his claim; and the same shall be recorded by the clerk, in books to be kept for that purpose, on his receiving from the party or parties at the rate of twelve and a half cents for every hundred words contained in such written evidence of their claim: *Provided however,* that where lands are claimed by virtue of a complete French, British or Spanish grant, it shall not be necessary for the claimant to have any other evidence of his claim entered at large on the record, except the original grant or patent, together with the order of survey, and the plat; all the other conveyances or deeds may be abbreviated in the entry; but the chain of title, and the date of every transfer shall appear on the record. And if such person shall neglect to deliver such notice in writing of his claim, together with the plat (in case the lands claimed shall have been surveyed) as aforesaid, or cause to be recorded such written evidence of the same within the time and times as aforesaid, his claim shall never after be recognized or confirmed by the United States; nor shall any grant, order of survey, deed, conveyance, or other written evidence, which shall not be recorded as above directed, ever after be considered or admitted as evidence in any court of the United States, against any grant which may hereafter be derived from the United States.

Any French, British, or Spanish grants.

To be delivered for recording.

Recording fees.

Complete French, British or Spanish grants.

Neglect to give notice invalidates the claim.

1814, ch. 85.

And prevents proof of claim being evidence against other grants.

Duty and power of commissioners.

SEC. 5. *And be it further enacted,* That the said commissioners shall have power, in their respective districts, to inquire into the justice and validity of the claims filed with them as aforesaid: it shall be their duty to ascertain in every case, whether the lands claimed have been inhabited and cultivated; at what time such inhabitation and cultivation commenced; when surveyed, and by whom and what authority; and into every other matter respecting the claims which may affect the justice and validity thereof; and for that purpose shall have power to administer oaths, and to compel the attendance of, and examine witnesses and such other testimony as may be adduced; to have access to all records of a public nature, relative to the granting, sale, transfer or titles of lands within their respective districts, and to take transcripts from such record or records or any part thereof; and the evidence thus adduced and obtained, shall, by the clerk, be entered in a book to be kept for that purpose.

Clerk to enter evidence.

SEC. 6. *And be it further enacted,* That the powers vested by law, in the surveyor of the lands of the United States south of the state of Tennessee, shall extend over all the public lands in the said tract of country.

Surveyor of lands south of the Tennessee, powers enlarged.

Abstracts to be made out and forwarded to the Secretary of the Treasury by the commissioners.

SEC. 7. *And be it further enacted*, That the said commissioners shall respectively, under such instructions as the Secretary of the Treasury may, with the approbation of the President of the United States, transmit to them in relation thereto, prepare, and cause to be prepared, abstracts from the records of the claims filed as aforesaid, in which the claims shall be arranged into classes, according to their respective merits, and other circumstances whereby they may be diversified; the abstracts shall contain the substance of the evidence adduced in support of, or obtained respecting the claims, and shall contain such other information and remarks as may be necessary to a proper decision thereon, which abstracts the commissioners shall respectively, as soon as may be, report to the Secretary of the Treasury, and shall by him be laid before Congress at the next session thereafter for their determination thereon.

A list of actual settlers to be made by commissioners and reported to Congress.

SEC. 8. *And be it further enacted*, That the said commissioners be, and they are hereby authorized and required to collect and report to Congress, at their next session, a list of all the actual settlers on land in said districts, respectively, who have no claims to land derived either from the French, British or Spanish governments, and the time at which such settlements were made.

Rates of compensation.

SEC. 9. *And be it further enacted*, That each of the said commissioners shall be allowed as compensation for his services in relation to the said claims, at the rate of fifteen hundred dollars a year; and each of the clerks, at the rate of one thousand dollars a year: *Provided*, that not more than eighteen months' compensation be thus allowed to the commissioner and clerk for the district east of Pearl river; nor more than two years' compensation be allowed to the commissioner and clerk for the district west of Pearl river; and the commissioner for the eastern district, on making his report to the Secretary of the Treasury, as aforesaid, shall be entitled to receive in addition seven hundred and fifty dollars, and his clerk five hundred dollars; and the commissioner for the western district, on making his report aforesaid, shall receive one thousand dollars, and his clerk seven hundred and fifty dollars; and the said allowances shall be in full for their services under this act.

Proviso.

APPROVED, April 25, 1812.

STATUTE I.

April 25, 1812.

CHAP. LXVIII.—*An Act for the establishment of a General Land-Office in the Department of the Treasury.*(a)

Office established.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the department of the treasury an office, to be denominated the General Land-Office; the chief officer of which shall be called the commissioner of the general land-office, whose duty it shall be, under the direction of the head of the department, to superintend, execute and perform, all such acts and things, touching or respecting the public lands of the United States, and other lands patented or granted by the United States, as have heretofore been directed by law to be done or performed in the office of the Secretary of State, of the Secretary and Register of the Treasury, and of the Secretary of War, or which shall hereafter by law be assigned to the said office.

Commissioner to be appointed.

His duties.

Chief clerk to be appointed.

SEC. 2. *And be it further enacted*, That there shall be in the said office, an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called the chief clerk of the general land-office, who, in all cases, when the said principal office shall become vacant, during such vacancy, shall have the charge and custody of the seal, and of all records, books and papers, belonging to the said office.

(a) See act of July 4, 1836, chap. 352.