

tain Indians have in three several tracts of land of four hundred acres each, lying in the county of Tuscaroras, in the state of Ohio, which were granted by Congress, in seventeen hundred and ninety-six, to the society of United Brethren, on trust, for the sole benefit of said Indians, the purchase to be made with the consent of said Society, one thousand dollars.

To purchase certain tracts of land, in the state of Georgia, reserved to the Indians, in fee, by the treaties with the Creek Indians, of the ninth day of August, one thousand eight hundred and fourteen, and of the eighth day of January, one thousand eight hundred and twenty-one; and by the treaties with the Cherokee Indians, of the eighth day of July, one thousand eight hundred and seventeen, and of the twenty-seventh day of February, one thousand eight hundred and nineteen, fifty thousand dollars.

To be paid out of the treasury.

Proviso.

Proviso.

SEC. 2. *And be it further enacted*, That the several sums hereby [hereby] appropriated, shall be paid out of any money in the treasury not otherwise appropriated: *Provided, however*, That no money appropriated by this act shall be paid to any person who is in arrears to the United States, until such person shall have accounted for, and paid into the treasury, all sums for which he may be liable: *Provided, further*, That nothing in this section contained shall extend to balances arising solely from the depreciation of treasury notes, received by such person to be expended in the public service; but, in all cases where the pay or salary of any such person is withheld, in pursuance of this act, it shall be the duty of the accounting officers, if demanded by the party, his agent, or attorney, to report forthwith to the agent of the Treasury Department, the balance due; and it shall be the duty of said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties.

Unexpended appropriation for the Choctaw treaty to be employed for a modification of said treaty.

SEC. 3. *And be it further enacted*, That, so much of the appropriation of sixty-five thousand dollars, made by the act of the third of March, eighteen hundred and twenty-one, for carrying into effect the treaty of the eighteenth October, eighteen hundred and twenty, with the Choctaw [Choctaw] Indians, as remains unexpended, may, under the direction of the President of the United States, be employed in obtaining such a modification of said treaty, as to have established as the eastern boundary of the cession made by that treaty to the Choctaws, and as the western boundary of the territory of Arkansas, a line due south from the southwest corner of the state of Missouri to Red river; and for running the line thus modified, and removing all obstructions to a due execution of the stipulations of the treaty of eighteen hundred and twenty.

APPROVED, March 3, 1823.

STATUTE II.

March 3, 1823.

CHAP. XXVIII.—*An Act to amend "An act for the establishment of a territorial government in Florida," and for other purposes. (a)*

East and West Florida to constitute a territory under the name of the territory of Florida.

Governor and his duties.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all that territory, ceded by Spain to the United States, known by the name of East and West Florida, shall constitute a territory of the United States, under the name of the territory of Florida, the government whereof shall be organized and administered as follows:

SEC. 2. *And be it further enacted*, That the executive power shall be vested in a governor, who shall reside in the said territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the

(a) See notes to the act of March 30, 1822, ch. 13.

militia of the said territory, and be, ex-officio, superintendent of Indian affairs; and shall have power to grant pardons for offenses [offences] against the said territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; and to appoint and commission, by and with the consent of the legislative council, all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law. He shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That a secretary of the territory shall be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States; whose duty it shall be, under the direction of the governor, to record and preserve all the papers and proceedings of the executive, and all the acts of the governor and legislative council; and transmit authentic copies of the proceedings of the governor, in his executive department, every six months, to the President of the United States.

Secretary and his duties.

SEC. 4. *And be it further enacted*, That, in case of the death, removal, resignation, or necessary absence, of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required, to execute all the powers, and perform all the duties, of the governor, during the vacancy occasioned by the removal, resignation, or necessary absence, of the said governor; who shall, in no case, leave the said territory without permission first had of the President of the United States.

In case of death, &c., of the governor, the secretary to act in his place.

SEC. 5. *And be it further enacted*, That the legislative powers shall be vested in the governor, and in thirteen fit and discreet persons of the territory, nine of whom shall constitute a quorum to do business, to be called the legislative council; who shall be appointed, annually, by the President of the United States, by and with the advice and consent of the Senate, from among the citizens of the United States, or from among the inhabitants of the territory, resident there at the cession; but no person shall be eligible as a member of the said legislative council, who shall not have resided in the said territory at least six months previous to his appointment. The governor and legislative council shall have legislative powers over all rightful subjects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States; or which shall lay any person under restraint, burthen, or disability, on account of his religious opinions, professions, or worship. The governor shall publish, throughout the said territory, all the laws which shall be made; and shall, on or before the first of December, in each year, report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The governor and legislative council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to lands within the said territory. The legislative council shall hold a session once in each year, commencing on the first Monday in May, in each and every year, but shall not continue longer in session than four weeks after the first session, which shall not continue longer than eight weeks; to be held in the city of St. Augustine, or at such other place or places, as the governor and council may, from time to time, direct. It shall be the duty of the governor to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said territory, and communicate the same, from time to time, to the President of the United States.

Legislative powers vested in the governor and legislative council, which latter shall be appointed annually by the President.

Powers of the legislature.

SEC. 6. *And be it further enacted*, That every bill which shall have passed the legislative council, shall, before it become a law, be presented to the governor. If he approve of it, he shall sign it; and, if not, he shall return it, with his objections, in writing, to the legislative council, who shall enter the objections at large on their journal, and proceed to

Bills which have passed the legislative council, to be presented to the governor.

reconsider it. If, after such reconsideration, two thirds of the members of the legislative council agree to pass the bill, it shall become a law; and the names of the persons voting for or against the bill shall be entered on the journal: *Provided, nevertheless,* That all bills to tax the inhabitants of the said territory, or their property, shall, before they become laws, receive the sanction of Congress; except when the said bills shall authorize county, city, and town, officers to collect taxes for the use and benefit of their respective counties, cities, and towns; and for no other purposes.

Proviso.

Judiciary.

SEC. 7. *And be it further enacted,* That the judicial power shall be vested in two superior courts, and in such inferior courts, and justices of the peace, as the legislative council of the territory may, from time to time, establish. There shall be a superior court for that part of the territory known as East Florida, to consist of one judge; he shall hold his court on the first Mondays in May and November, in each year, at St. Augustine, and at such other times and places as the legislative council shall direct. There shall be a superior court for that part of the territory known as West Florida, to consist of one judge; he shall hold a court at Pensacola, on the first Mondays in May and November, in each year, and at such other times and places as the legislative council shall direct.

Jurisdiction of the courts.

Clerks of court.

Writs of error and appeal.

Within its limits herein described, each court shall have jurisdiction in all criminal cases; and exclusive jurisdiction in all capital offences; and original jurisdiction in all civil cases, of the value of one hundred dollars, arising under, and cognisable by, the laws of the territory now in force therein, or which may, at any time, be enacted by the legislative council thereof. Each judge shall appoint a clerk for his respective court, who shall reside, respectively, at St. Augustine and Pensacola, and they shall keep the records there. Each clerk shall receive for his services, in all cases arising under the territorial laws, such fees as shall be established by the legislative council. And the said judges may adjourn their respective courts to any other time or place, whenever St. Augustine or Pensacola shall be infected with a malignant fever; and writs of error and appeal from the final decisions of the said superiour [superior] courts, authorized by this section of this act, shall be made to the Supreme Court of the United States, in the same manner and under the same regulations, as from the circuit courts of the United States, where the amount in controversy [controversy,] to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars.

Courts to exercise the same jurisdiction as those in Kentucky under the acts of Sept. 24, 1789, ch. 20, and March 2, 1793, ch. 22.

Clerks to keep records.

Attorneys to be appointed for East and

SEC. 8. *And be it further enacted,* That each of the said superiour [superior] courts shall, moreover, have and exercise the same jurisdiction within its limits, in all cases arising under the laws and constitution of the United States, which by an act to establish the judicial courts of the United States, approved the twenty-fourth of September, one thousand seven hundred and eighty-nine, and "An act in addition to the act, entitled 'An act to establish the judicial courts of the United States,'" approved the second of March, one thousand seven hundred and ninety-three, was vested in the court of Kentucky district. And writs of error and appeal from the decisions in the said superiour [superior] courts, authorized by this section of this act, shall be made to the Supreme Court of the United States, in the same cases, and under the same regulations, as from the circuit courts of the United States. The clerks, respectively, shall keep the records at the places where the courts are held, and shall receive, in all cases arising under the laws and constitution of the United States, the same fees which the clerk of the Kentucky district received for similar services, whilst that court exercised the powers of the circuit and district courts.

SEC. 9. *And be it further enacted,* That there shall be appointed two persons, learned in the law, to act as attorneys of the United States, as well as for the territory, one for that part of the territory

known as East Florida, the other for that part of the territory known as West Florida: to each of whom, in addition to their stated fees, in civil cases, shall be paid, as a full compensation for all extra services, annually, the sum of two hundred dollars. There shall also be appointed two marshalls, [marshals] one for each of the said superiour [superior] courts, who shall, each, perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, to which marshalls [marshals] in other districts are entitled, for similar services; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for extra services, and shall also be subject to such regulations and penalties as the legislative council shall impose, while acting under, and in virtue of, the territorial laws.

SEC. 10. *And be it further enacted*, That the governor, secretary, judges of the superiour [superior] courts, district attorneys, marshalls, [marshals] and all general officers of the militia, shall be appointed by the President of the United States, by and with the advice and consent of the Senate. All judicial officers shall hold their offices for the term of four years and no longer. The governor, secretary, judges, members of the legislative council, justices of the peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office, before a judge of the Supreme or district court of the United States, or before a judge or justice of the peace of the territory. The governor shall receive an annual salary of two thousand five hundred dollars: the secretary, of one thousand five hundred, and the judges, of fifteen hundred each; to be paid quarterly, out of the treasury of the United States. The members of the legislative council shall receive three dollars, each, per day, during their attendance in council, and three dollars for every twenty miles in going to, and returning from, any meeting of the legislative council, once in each session, and no more. The members of the legislative council shall be privileged from arrest, except in cases of treason, felony, or breach of the peace, during their going to, attendance at, and returning from, each session of said council.

SEC. 11. *And be it further enacted*, That the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of the treaty of the twenty-second of February, one thousand eight hundred and nineteen, in favour of Spanish vessels and their cargoes, and all other public acts of the United States, not inconsistent or repugnant to the provisions of this act, now in force, or which may hereafter be in force, shall extend to, and have full force and effect in, the territory aforesaid.

SEC. 12. *And be it further enacted*, That, to the end that the inhabitants may be protected in their liberty, property, and religion, no law shall ever be valid which shall impair, or in any wise restrain, the freedom of religious opinions, professions, and worship. They shall be entitled to the benefit of the writ of habeas corpus. They shall be bailable in all cases, except for capital offences, where the proof is evident, or the presumption great; all fines shall be moderate, and proportionate to the offence, and excessive bail shall not be required, nor cruel or unusual [unusual] punishments inflicted; no ex post facto law, or law impairing the obligation of contracts, shall ever be passed; nor shall private property be taken for public uses without just compensation.

SEC. 13. *And be it further enacted*, That all free male white persons, of full age, who are house-keepers, and who have resided one year in the said territory, shall be qualified to act as grand and petit jurors in the courts of the said territory, and they shall, until the legislature thereof shall otherwise direct, be selected in such manner as the

West Florida, and to receive each 200 dollars.

A marshal for each of the courts with a salary of 200 dollars for extra services.

Governor, secretary, judges, &c., to be appointed by the President.

Judicial officers to hold their offices for four years.

Salaries.

Privileges of the legislative council.

Revenue laws of the United States to have effect in the territory.

Privileges of the inhabitants.

Jurors.

judges of the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and be least burthensome to the inhabitants of the said territory.

No slave to be imported from places out of the United States, under a penalty of 300 dollars, and the freedom of the slave.

SEC. 14. *And be it further enacted*, That it shall not be lawful for any person or persons to import, or bring into the said territory, from any port or place without the limits of the United States, or cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves; and any person so offending, and being thereof convicted, before any court within the said territory, having competent jurisdiction, shall forfeit and pay, for each and every slave, so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave, so imported or brought, shall, thereupon, become entitled to, and receive, his or her freedom.

Territory entitled to one delegate to Congress.
Proviso.

SEC. 15. *And be it further enacted*, That the citizens of the said territory shall be entitled to one delegate to Congress, for the said territory, who shall possess the same powers heretofore granted to the delegates from the other territories of the United States: *Provided*, That no person shall be eligible for that office who shall not have resided at least twelve months in the said territory. The delegate shall be elected by such description of persons, at such times, and under such regulations, as the governor and legislative council may, from time to time, ordain and direct, soldiers of the United States excepted, who shall, under no circumstances, be qualified to vote.

Former act for the government of the territory repealed, when inconsistent with the provisions of this act.

Act of March 30, 1822, ch. 13.

SEC. 16. *And be it further enacted*, That an act, entitled "An act for the establishment of a territorial government in Florida," be, and the same is hereby, repealed, so far as the same is inconsistent with the provisions of this act; and that the proceedings of the last session of the legislative council of Florida be, and the same are hereby, confirmed, to remain in full force and effect until the end of the next session of the said council, unless sooner altered, modified, or repealed, with the exception of all revenue laws imposing taxes on the inhabitants or their property, and the law authorizing the governor to borrow five thousand dollars on the credit of the said territory, and the law establishing county courts, which are hereby declared null and void; *Provided*, That no loan of money already made or obtained, under said law, shall be effected [affected] by this act, and that the act approved the second of September, one thousand eight hundred and twenty-two, by the governor, repealing all the laws and ordinances in force in the said territory, shall be, and is hereby, declared to have effect on the day of its passage by the legislative council, and not of its approval by the governor.

Proviso.

APPROVED, March 3, 1823.

STATUTE II.

March 3, 1823.

CHAP. XXIX. — *An Act amending, and supplementary to, the "Act for ascertaining claims and titles to land in the territory of Florida," and to provide for the survey and disposal of the public lands in Florida. (a)*

Powers of the present commissioners of claims to be confined to West Florida.

Three commissioners to be appointed for East Florida.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the powers of the board of commissioners heretofore appointed, for ascertaining claims and titles to lands in the territory of Florida, shall be confined, exclusively, to the examination of titles and claims in that portion of said territory, heretofore known as West Florida; and that, for ascertaining titles and claims in East Florida, the President is hereby authorized, in the recess of the Senate, to appoint three commissioners, which appointments shall be of

(a) See notes to the act of May 8, 1822, ch. 129, ante, page 709, for the decisions of the courts of the United States on titles to land in Florida, &c.