

Act to be construed so as not to impair any other remedy than the one intended.

SEC. 3. *And be it further enacted*, That nothing herein contained, shall be deemed or construed to take away or impair any other remedy which the United States may be now entitled to have against the person or property of debtors, to enforce the satisfaction of judgments obtained, or which may hereafter be obtained.

APPROVED, May 26, 1824.

STATUTE I.

May 26, 1824.

CHAP. CLXXIII.—*An Act enabling the claimants to lands within the limits of the state of Missouri and territory of Arkansas to institute proceedings to try the validity of their claims. (a)*

Persons claiming lands &c. in that part of the late province of Louisiana, now included within the state of Missouri, by virtue of any French or Spanish grant, &c. legally made, and before the 10th March, 1804, to present petitions to the district court of the state of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall and may be lawful for any person or persons, or their legal representatives, claiming lands, tenements, or hereditaments, in that part of the late province of Louisiana which is now included within the state of Missouri, by virtue of any French or Spanish grant, concession, warrant, or order of survey, legally made, granted, or issued, before the tenth day of March, one thousand eight hundred and four, by the proper authorities, to any person or persons resident in the province of Louisiana, at the date thereof, or on or before the tenth day of March, one thousand eight hundred and four, and which was protected or secured by the treaty between the United States of America and the French republic, of the thirtieth day of April, one thousand eight hundred and three, and which might have been perfected into a complete title, under and in conformity to the laws, usages, and customs, of the government under which the same originated, had not the sovereignty of the country been transferred to the United States, in each and every such case, it shall and may be lawful for such person or persons, or their legal representatives, to present a petition to the district court of the state of Missouri, setting forth, fully, plainly, and substantially, the nature of his, her, or their claim to the lands, tenements, or hereditaments, and particularly stating the date of the grant, concession, warrant, or order of survey, under which they claim, the name or names of any person or persons claiming the same, or any part thereof, by a different title from that of the petitioner; or holding possession of any part thereof, otherwise than by the lease or permission of the petitioner; and, also, if the United States be interested on account of the lands within the limits of such claim, not claimed by any other person than the petitioner; also, the quantity claimed, and the boundaries thereof, when the same may have been designated by boundaries; by whom issued, and whether the said claim has been submitted to the examination of either of the tribunals which have been constituted by law for the adjustment of land titles in the present limits of the state of Missouri, and by them reported on unfavourably, or recommended for confirmation; praying, in said petition, that the validity of such title, or claim, may be inquired into and decided by the said court; and the said court is hereby authorized and required to hold and exercise jurisdiction of every petition, presented in conformity with the provisions of this act, and to hear and determine the same, on the petition, in case no answer or answers be filed after due notice: or on the petition, and the answer or answers of any person or persons interested in preventing any claim from being established: and the answer of the district attorney of the United States, where he may have filed an answer, according to the evidence which shall be adduced by the petitioner, by any person interested in preventing the decree of the court in favour of the title of

(a) See notes to act of May 26, 1824, ch. 154.

Act of June 13, 1812, ch. 99, and notes on page 748, vol. ii.

the petitioner or petitioners, and by the United States, and in conformity with the principles of justice, and according to the laws and ordinances of the government under which the claim originated, and the copy of such petition, with a citation to any adverse possessor, or claimant, shall be served on such possessor or claimant in the ordinary legal manner of serving such process in the state of Missouri, at least fifteen days before the term of the district court of the United States, to which the same is made returnable, and, in like manner, on the district attorney of the United States, where the government is interested in the defence; and it shall be the duty of the United States' attorney for the district in which the suit shall be instituted, in all cases where the United States are interested on account of the public domain, to take notice of each petition filed under the provisions of this act, in the said district, and to make defence, on all just and proper occasions, in behalf of the public interest.

SEC. 2. *And be it further enacted,* That every petition which shall be presented under the provisions of this act, shall be conducted according to the rules of a court of equity, except that the answer of the district attorney of the United States shall not be required to be verified by his oath, and tried, without any continuance, unless for cause shown; and the said court shall have full power and authority to hear and determine all questions arising in said cause, relative to the title of the claimants, the extent, locality, and boundaries of the said claim, or other matters connected therewith, fit and proper to be heard and determined, and, by a final decree, to settle and determine the question of the validity of the title, according to the law of nations, the stipulations of any treaty, and proceedings under the same; the several acts of Congress in relation thereto; and the laws and ordinances of the government from which it is alleged to have been derived; and all other questions properly arising between the claimants and the United States; which decree shall, in all cases, refer to the treaty, law, [or] ordinance, under which it is confirmed or decreed against; and the court may, at its discretion, order disputed facts to be found by a jury, according to the regulations and practice of the said court, when directing issues in chancery before the same court: and, in all cases, the party against whom the judgment or decree of the said district court may be finally given, shall be entitled to an appeal, within one year from the time of its rendition, to the Supreme Court of the United States, the decision of which court shall be final and conclusive between the parties; and, should no appeal be taken, the judgment or decree of the said district court shall, in like manner, be final and conclusive.

Every petition presented under this act, to be conducted according to the rules of a court of equity.

Appeal.

SEC. 3. *And be it further enacted,* That the evidence which has been received by the different tribunals which have been constituted and appointed by law to receive such evidence, and to report the same to the Secretary of [the] Treasury, or to the commissioner of the general land office, upon all claims presented to them respectively, shall be received and admitted in evidence for or against the United States, in all trials under this act, when the person testifying is dead, or beyond the reach of the court's process; together with such other testimony as it may be in the power of the petitioner, the person or persons interested in the defence made against establishing any claim, or the United States' attorney, to produce, and which shall be admissible, according to the rules of evidence, and the principles of law.

The evidence received by the different tribunals, shall be admitted as such for or against the United States in all trials under this act, when the person testifying is dead.

SEC. 4. *And be it further enacted,* That, in all cases in which evidence shall be offered by the petitioner, which has not been received by either of the tribunals constituted by law for that purpose, it shall be the duty of the attorney of the United States for the district in which the suit shall be instituted, or any person interested in the defence may examine, or cause to be examined, the witnesses, whether

Duty of the attorney in all cases in which evidence shall be offered, not received by either of the tribunals con-

stituted for that purpose.

examined in court, or by commission under the authority thereof; and it shall be the duty of the commissioner of the general land office of the United States, or the keeper of any public records, who may have possession of the records and evidence of the different tribunals, which have been constituted by law for the adjustment of land titles in Missouri, as held by France, upon the application of any person or persons, whose claim to lands has been rejected by such tribunals, or either of them, or on the application of any person interested, or by the attorney of the United States for the district of Missouri, to furnish copies of such evidence, certified under his official signature, with the seal of office thereto annexed, if there be a seal of office.

Any claim to lands, &c. under this act, which shall not be brought by petition before the said courts, within two years, forever barred.

SEC. 5. *And be it further enacted*, That any claim to lands, tenements, or hereditaments, within the purview of this act, which shall not be brought by petition before the said courts, within two years from the passing of this act, or which, after being brought before the said courts, shall, on account of the neglect or delay of the claimant, not be prosecuted to a final decision within three years, shall be forever barred, both at law and [in] equity, and no other action, at common law, or proceeding in equity, shall ever thereafter be sustained in any court whatever, in relation to said claims.

Upon the final decision of any claim prosecuted under this act, in favour of the claimant, such claimant is authorized to demand and receive of the clerk of the court a copy of the decree in his favour.

SEC. 6. *And be it further enacted*, That, upon the final decision of any claim prosecuted under this act, in favour of the claimant or claimants, it shall and may be lawful for such claimant to demand and receive from the clerk of the court in which such final decision is had, a copy of the decree, in his, her, or their favour, under the official signature of the clerk, and the seal of the court, if any seal belong to it, and deliver the same to the surveyor of public lands, for the state of Missouri, who shall, thereupon, cause the land specified in said decree to be surveyed, at the expense of the party; and duplicate plats, and certificates of the survey, so made, to be returned into his office, one of which shall remain in said office, and the other, authenticated by the attestation and official signature of the surveyor of public lands, shall be delivered, on demand, to the party interested therein, and the same being presented to the commissioner of the general land office, in Washington city, shall entitle the party interested to a patent from the President of the United States.

And a patent.

When any claim has been decided against the claimant, or barred, the land shall belong to the United States.

SEC. 7. *And be it further enacted*, That in each and every case in which any claim, tried under the provisions of this act, shall be finally decided against the claimant, and in each and every case in which any claim cognisable, under the terms of this act, shall be barred by virtue of any of the provisions contained therein, the land specified in such claim shall, forthwith, be held and taken as a part of the public lands of the United States, subject to the same disposition as any other public land in the same district.

The clerk of the court shall, when any petition of claim is filed under this act, require good and sufficient security to answer certain purposes.

SEC. 8. *And be it further enacted*, That the clerk of said court shall, and he is hereby directed, when any petition of claim is filed, under the provisions of this act, before any proceedings thereon, to require good and sufficient security for all cost and charges which may accrue thereon in prosecuting the same to a final decree; and the district attorney, clerk, marshal, attending witnesses, and jurors, shall severally be allowed such fees for their services and attendance as may be allowed by law for the like services and attendance in the district court of the state of Missouri, to be paid by the party calling for such service or attendance, except where the petitioner or petitioners fail to prosecute his, her, or their suit, or claim to a final decree, or to obtain a final decree in his, her, or their favour, or where any such title or claim may have been presented to the commissioner or the register and receiver, acting as commissioners for the examination of titles and claims to land in said district, and by them has been reported unfavourably on, in all of which cases, all

cost, charges, and expenses of such prosecutions, shall be paid by the petitioner or petitioners; that the clerk of the court, in which the final decree shall be had, shall be allowed one dollar and fifty cents for the official copy of such final decree; that the surveyor of public lands shall be allowed one dollar for each of the official certificates required of him, and the keeper of the records and evidence, taken under former acts of Congress, for the adjustment of land titles, shall be allowed at the rate of ten cents for every hundred words contained in any such written evidence of their claim, to be paid by the party applying therefor.

Fees.

SEC. 9. *And be it further enacted*, That it shall be the duty of the attorney of the United States for the district in which the suits authorized by this act shall be instituted, in every case where the decision is against the United States, and the claim exceeds one thousand acres, to make out and transmit, to the attorney general of the United States, a statement containing the facts of the case, and the points of law on which the same was decided; and if the attorney general shall be of opinion that the decision of the district court was erroneous, it shall be his duty to direct an appeal to be made to the Supreme Court of the United States, and to appear for, and prosecute, the said appeal in that court; and it shall be the further duty of the district attorney to observe the instruction given to him by the attorney general in that respect.

Duty of the attorney where the decision is against the United States.

SEC. 10. *And be it further enacted*, That it shall be the duty of the marshal of the state of Missouri, by himself or deputy, to attend the said court while in session, and to execute all process to him directed by the court, under this act.

The marshal to attend the said court while in session.

SEC. 11. *And be it further enacted*, That if, in any case, it should so happen that the lands, tenements, or hereditaments, decreed to any claimant, under the provisions of this act, shall have been sold by the United States, or otherwise disposed of, or if the same shall not have been heretofore located, in each and every such case, it shall and may be lawful for the party interested to enter, after the same shall have been offered at public sale, the like quantity of land, in parcels, conformable to sectional divisions and subdivisions, in any land office in the state of Missouri; and, if it should so happen, that, in making such entries, there should remain in the hands of the enterer a fractional excess of acres, of less number than the smallest sectional divisions authorized by law to be sold, it shall and may be lawful for the party interested to enter, in virtue of such fractional excess, the quantity of one half quarter section, upon paying one dollar and twenty-five cents for each acre contained in such half quarter section, over and above the fractional excess to which he may be entitled by such confirmation.

The party interested, where the lands, &c. decreed to any claimant under this act, shall have been sold by the United States or have been heretofore located, to enter a like quantity in any land office in Missouri.

SEC. 12. *And be it further enacted*, That, for the purpose of carrying into effect the provisions of this act, the judge of the district court for the state of Missouri, shall hold his sessions at the following places, viz: at the town of St. Louis, in the county of St. Louis, on the third Monday of September next; at the town of St. Genevieve, in the county of St. Genevieve, on the third Monday of December next, and at the town of Jackson, in the county of Cape Girardeau, on the third Monday of April next; he shall appoint his own clerks; and after the first and each of the said sessions, he shall thereafter sit, upon his own adjournments, at the places aforesaid, until all the business before him shall be completed, or the time limited by this act shall have expired, of which said adjournments, and the time of holding the special sessions, aforesaid, public notice shall be given at each of the places aforesaid, and at such other places, in the state of Missouri, as he shall direct: *Provided*, That at either of the places aforesaid, the court may take cognisance and jurisdiction of any claim within the limits of the state: *Provided, moreover*, That, if there should be any person defending against the confirmation of such claim, in such case the trial, in case he shall request the same, shall be

To carry this act into effect, the judge of the Missouri district shall hold his sessions at the town of St. Louis, &c.

The court may take cognisance of any claim within the state.

This act shall not apply to the claims of Jacques Clamorgan.

The district judge to be allowed 800 dollars per annum, in addition to his salary.

All the provisions of this act to extend to, &c. the territory of Arkansas.

The judges of the superior court, clerk, marshal, and district attorney, to perform the same duties, and have the same powers, as in other cases.

Proviso.

Former section not to extend to claims above one league square.

had at that place nearest the residence of such person defending against such confirmation: *Provided*, That none of the provisions of this act shall be applied to a claim of the representatives or assignees of Jacques Clamorgan, deceased, lying between the Missouri and Mississippi rivers and covering parts of the counties of St. Charles and Lincoln, in the state of Missouri.

SEC. 13. *And be it further enacted*, That the district judge for the state of Missouri shall, while in the discharge of the duties imposed by this act, be allowed at the rate of eight hundred dollars per annum, in addition to his salary as district judge for the state of Missouri, which shall be in full for his services.

SEC. 14. *And be it further enacted*, That all the provisions of this act shall extend to, and be applicable to, the territory of Arkansas; and, for the purpose of finally settling and adjusting the titles and claims to lands derived from the French and Spanish governments, respectively, the superior court for the territory of Arkansas, shall have, hold, and exercise jurisdiction in all cases, in the same manner, and under the same restrictions and regulations, in all respects, as by this act is given to the district court for the state of Missouri; and the judges of the superior court, clerk of said court, marshal, and district attorney of the United States, for the said territory, shall, severally, perform the same duties, and have the same powers in relation to the claims to land presented and prosecuted in said court, in the territory of Arkansas, as is herein provided with regard to the titles and claims to land presented and prosecuted in the district court for the state of Missouri, and the judges of said superior court, the clerk, marshal, and district attorney, shall, each, severally, receive the same fees, emoluments, and compensation for their services, as is in this act provided, in regard to the district judge, clerk, marshal, and district attorney in the state of Missouri; and the said court shall commence its first session on the first Monday in October next, at Little Rock, in the territory of Arkansas; and, afterwards, shall sit upon its own adjournments at the place aforesaid, until all the business before it shall be completed, or the time limited by this act shall have expired; of which public notice shall be given, as is provided in this act, in relation to the district court of the state of Missouri: *Provided*, That in all cases of a decree against the United States, for a greater quantity of land than five hundred acres, in the superior court of Arkansas, it shall be the duty of the attorney of the United States, to transmit to the attorney general of the United States, so soon as may be, a like statement of the facts and points of law in the case, as is required of the district attorney of Missouri, and the same right of appeal, from the decisions of the court in Arkansas, shall be allowed to each party, that are prescribed in relation to decisions in the district court of Missouri.

SEC. 15. *And be it further enacted*, That none of the provisions of the fourteenth section shall extend to claims of a larger amount than one league square.

APPROVED, May 26, 1824.

STATUTE I.

May 26, 1824.

Three tracts of land in the county of Tuscarawas, Ohio, to be surveyed and laid off into lots.

CHAP. CLXXIV.—*An Act providing for the disposition of three several tracts of land in Tuscarawas county, in the state of Ohio, and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the three several tracts of land, lying in the county of Tuscarawas, in the state of Ohio, lately retroceded to the United States by the Society of United Brethren for propagating the Gospel among the heathen, shall be surveyed and laid off into such lots, having regard to the existing surveys and improvements