

or possession, prior to the twentieth day of December, one thousand eight hundred and three, to proceed, within eighteen months after the passage of this act, to designate their said lots, by proving, before the recorder of land titles for said state and territory, the fact of such inhabitation, cultivation, or possession, and the boundaries and extent of each claim, so as to enable the surveyor general to distinguish the private from the vacant lots, appertaining to the said towns and villages.

Duty of the  
surveyor gene-  
ral.

SEC. 2. *And be it further enacted*, That, immediately after the expiration of the said term allowed for proving such facts, it shall be the duty of the surveyor general, within whose district such lots lie, to proceed, under the instructions of the commissioner of the general land office, to survey, designate, and set apart to the said towns and villages, respectively, so many of the said vacant town or village lots, out lots, and common field lots, for the support of schools in the said towns and villages, respectively, as the President of the United States shall not, before that time, have reserved for military purposes, and not exceeding one-twentieth part of the whole lands included in the general survey of such town, or village, according to the provisions of the second section of the above-mentioned act of Congress; and also, to survey and designate, so soon after the passage of this act as may be, the commons belonging to the said towns and villages, according to their respective claims and confirmations, under the said act of Congress, where the same has not been already done: *Provided*, That lots relinquished to the United States on account of damages done them by the earthquakes, and in lieu of which lands have been located elsewhere, shall neither be so designated or set apart, nor taken into the estimate of the quantity to which any town or village is entitled.

Proviso.

The recorder  
to issue a certi-  
ficate of confir-  
mation for each  
claim confirmed  
and to receive  
one dollar  
therefor.

SEC. 3. *And be it further enacted*, That the recorder shall issue a certificate of confirmation for each claim confirmed, and shall receive for the services required of him by this act, the sum of one dollar for each lot so proved to have been inhabited, cultivated, and possessed, to be paid by the respective claimants; and, so soon as the said term shall have expired, he shall furnish the surveyor general with a list of the lots so proved to have been inhabited, cultivated, or possessed, to serve as his guide in distinguishing them from the vacant lots to be set apart as above described, and shall transmit a copy of such list to the commissioner of the general land office.

The provi-  
sions of this  
act and the act  
aforesaid, to ex-  
tend to the vil-  
lage of Mine à  
Burton.

SEC. 4. *And be it further enacted*, That the provisions of this act, and of the aforesaid act of the thirtieth [thirteenth] of June, one thousand eight hundred and twelve, be, and the same are hereby extended to the village of Mine à Burton, and the right of filing their claims with the recorder.

APPROVED, May 26, 1824.

#### STATUTE I.

May 26, 1824.

CHAP. CLXXXV.—*An Act granting certain lots of ground to the corporation of the city of Mobile, and to certain individuals of said city. (a)*

All the right  
and claim of the

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That all the right and claim

(a) The decisions of the Supreme Court in construction of this act have been:

A lot of ground was granted by the Spanish government of Florida, in 1802, to Forbes and Company in the city of Mobile, which was afterwards confirmed by the commissioners of the United States. The lot granted was eighty feet in front, and three hundred and four feet in depth, bounded on the east by Water street. This, while the Spanish government had possession of the territory, was known as "a water lot." In front of the lot was a lot, which, at the time of the grant of the lot to Forbes and Company, was covered by the water of the bay and river of Mobile, the high tide flowing over it; and it was separated from Forbes and Company's lot, by Water street. It was afterwards in part reclaimed by Lewis, who had no title to it, and who was afterwards driven off by one of the firm of Forbes and

of the United States to the lots known as the hospital and bake-house lots, containing about three-fourths of an acre of land, in the city of Mobile, in the state of Alabama; and also all the right and claim of the United States to all the lots not sold or confirmed to individuals, either by United States to the lots known as the hospital and bake-house lots in the city

Company. A blacksmith's shop was then put on the lot by him, and Lewis, again by proceedings at law, obtained possession of the blacksmith's shop, it not being his improvement. The improvement was first made in 1823. The Spanish governor in 1809, after the Louisiana treaty of 1803, and before the territory west of the Perdido was out of the possession of Spain, granted the lot in front of the lot owned by Forbes and Company, to William Pollard; but the commissioners of the United States, appointed after the territory was in the full possession of the United States, refused to confirm the same "because of the want of improvement and occupation." In 1824, Congress passed an act, the second section of which gives to those who have improved them, the lots in Mobile, known under the Spanish government as "water lots," except where the lot so improved had been alienated, and except lots of which the Spanish government had made "new grants" or orders of survey during the time the Spanish government had "power" to grant the same, in which case the lot is to belong to the alienee or the grantee. In 1836, Congress passed an act for the relief of William Pollard's heirs, by which the lot granted by the Spanish government of 1809, was given to the heirs, saving the right of third persons; and a patent for this lot was issued to the heirs of William Pollard, by the United States, on the 2d July, 1836. Held, that the lot lying east of the lot granted in 1802, by the Spanish government, to Forbes and Company, did not pass by that grant to Forbes and Company; that the act of Congress of 1824, did not vest the title in the lot east of the lot granted in 1802, in Forbes and Company; and that the heirs of Pollard, under the second section of the act of 1824, which excepted from the grant to the city of Mobile, &c., lots held under "new grants" from the Spanish government, and under the act of Congress of 1836, were entitled to the lot granted in 1809 by the Spanish government to William Pollard. *Pollard's heirs v. Kibbs*, 14 Peters, 363.

The act of Congress under which title was claimed, being a private act, and for the benefit of the city of Mobile, and certain individuals; it is fair to presume it was passed with particular reference to the claims of individuals, and the situation of the land embraced in the law at the time it was passed.

The term "new grant" in its ordinary acceptation, which applied to the same subject or object, is the opposite to "old." But such could not be its meaning in the act of Congress of 1824. The term was doubtless used in relation to the existing condition of the territory in which such grants were made. The territory had been ceded to the United States by the Louisiana treaty, but in consequence of a dispute with Spain about the boundary line, had remained in the possession of Spain. During this time Spain continued to issue evidences of titles to lands, within the territory in dispute. The term "new" was appropriately used as applicable to grants and orders of survey of this description as contradistinguished from those issued before the cession. *Ibid.*

The time when the Spanish government had the "power" to grant lands in the territory, by every reasonable intendment of the act of Congress of 1824, must have been so designated with reference to the existing state of the territory, as between the United States and Spain; the right to the territory being in the United States and the possession in Spain. The language "during the time at which Spain had the power to grant the same," was under such circumstances very appropriately applied to the case. It could with no propriety have been applied to the case, if Spain had full dominion over the territory, by the union of the right and the possession; and, in this view, it is no forced interpretation of the word "power" to consider it here used as imparting an imperfect right, and distinguished from complete lawful authority. *Ibid.*

The acts of Congress of March 25, 1812, appointing commissioners to ascertain the titles and claims to lands on the east side of the Mississippi, and west side of the Perdido, and falling within the cession of France, embraced all claims to this description. It extended to all claims, by virtue of any grant, order of survey, or other evidence of claim, whatsoever, derived from the French, British or Spanish governments; and the reports of the commissioners show, that evidence of claims, of various descriptions, issued by Spanish authority, down to 1810, come under their examination. And the legislation of Congress shows many laws passed, confirming incomplete titles, originating after date of the treaty between France and Spain, at St. Ildefonso. Such claims are certainly not beyond the reach of Congress to confirm; although it may require a special act of Congress for that purpose. Such is the act of Congress of July 2d, 1836, which confirms the title of William Pollard's heirs, to the lot which is the subject of this suit. *Ibid.*

A lot of ground, part of the ground on which fort Charlotte had been erected, in the city of Mobile, before the territory was acquired from Spain, by the United States, had been sold under an act of Congress of 1818. The lot had been laid out according to a plan by which a street, called Water street, was run along the margin of Mobile river; and the street was extended over part of the site of fort Charlotte. The lot was situated west of Water street, but when sold by the United States, its eastern line was between high-water mark of the river. The purchaser of this lot improved the lot lying in front of it, east of Water street, having filled it up, at a heavy expense, thus reclaiming it from the river, which at high-water had covered it. When the lot east of Water street was purchased, the purchaser could not pass along the street, except with the aid of logs, and other timber. Water street, was, in 1823, filled up, at the cost of the city of Mobile. Taxes and assessments for making side-walks, along Water street, were paid to the city of Mobile, by the owner of the lot. The city of Mobile had brought suit for taxes, and had advertised the lot for sale, as the property of a tenant under the purchaser of the lot. On the 26th of May, 1824, Congress passed an act, which declared in the first section, that all the right and claim of the United States to the lots known as the hospital and bake-house lots, containing about three-fourths of an acre of land in the state of Alabama; and all the right and claim of the United States to all the lots not sold or confirmed to individuals, either by this or any former act, and to which no equitable title exists, in favour of any individual under this or any other act, between high-water mark and the channels of the river, and between Church street and North Boundary street, in front of Mobile, should be vested in the corporation of the city of Mobile for the use of the city forever. The second section provides, "that all the right and claim of the United States to so many

of Mobile, &c. vested in the mayor and aldermen of said city.

this or any former act, and to which no equitable title exists, in favour of any individual, under this or any other act, between high-water mark and the channel of the river, and between Church street and North Boundary street, in front of the said city, be, and the same are hereby, vested in the mayor and aldermen of the said city of Mobile, for the time being, and their successors in office, for the sole use and benefit of the said city forever.

Right and claim of the United States to other lots in

Sec. 2. *And be it further enacted*, That all the right and claim of the United States to so many of the lots of ground, east of Water street, and between Church street and North Boundary street, now

of the lots east of Water street, and between Church street and North Boundary street, now known as water lots, as are situated between the channel of the river and the front of the lots, known under the Spanish government as water lots, in the said city of Mobile wherever improvements have been made, be, and the same are hereby, vested in the several proprietors and occupants of each of the lots heretofore fronting on the river Mobile, &c." The city of Mobile claimed from the defendant in error the lot held by him, under the purchase from the United States, and the improvements before described; asserting that the same was vested in the city by the first section of the act of 1824. Held, that under the provisions of the second section of the act, the defendant in error claiming under the purchase made under the act of 1818, and under the act of 1824, was entitled to the lot. *The city of Mobile v. Eslava*, 16 Peters, 261.

The right relinquished by the United States was to the water lots "lying east of Water street, and between Church street and North Boundary street, now known as water lots, as are situated between the channel of the river and the front of the lots, known under the Spanish government as water lots, in the said city of Mobile, wherever improvements have been made." The improvements refer to the water and not to the front lots. A reasonable construction of the act requires, the improvements to have been made or owned by the proprietor of the front lot, at the time of the passage of the act. Being proprietor of the front lot, and having improved the water lot opposite and east of Water street, constitute the conditions on which the right under the statute vests. *Ibid*.

A grant by the Spanish government confirmed by the United States, was made of a lot of ground in the city of Mobile, running from a certain boundary eastwardly to the river Mobile. The land adjacent to this lot, and extending from high-water mark to the channel of the river, in front of the lot, was held by the grantee as appurtenant to the last and above high-water mark. The city of Mobile instituted an action to recover the same, asserting a title to it under the act of Congress of May 26, 1824, granting certain lots of ground to the corporation of the city of Mobile, and to certain individuals in the said city. Held, that this lot was within the exceptions of the act of 1824; and no right to the same was vested in the city of Mobile by the act. *The city of Mobile v. Hallett*, 16 Peters, 261.

Ejectment to recover possession of a lot in the city of Mobile, Alabama. The defendants, in the circuit court, claimed title to the land under Lucy Landry, who was the devisee of one Geronio; who having been in possession of the lot at the corner of St. Francis and Royal streets, occupied it until his death. On the arrival of Lucy Landry at age, she occupied the lot as her own property; and in 1818, she sold and conveyed it by deed to certain persons; stating the eastern boundary in the deed to be the Mobile river. These persons, on the same day, conveyed the premises to Oliver Holman, who entered on it and improved it, by erecting houses and a wharf upon it; and continued to occupy it as a merchant in co-partnership with one Charles Brown, who lived in Boston, until December, 1822, when he died; leaving, as his heirs, the lessors of the plaintiff. The possession of Lucy Landry, of the lot, commenced in 1800, and extended on Royal street, and on the east followed the high-water mark on the river. The land was not subject to inundation, though in many places the water ran across it. Until the improvements made by Holman, the lot was not susceptible of occupancy. There was a ridge of high land formed of shells and artificial deposits, to the east of which, to the river, the lot was situated; and the ridge was protected by the Spanish authorities, no person being permitted by them to improve on the ground or to remove the earth. It was called "The King's Highway," or landing place. Questions as to the title of the proprietors of the adjacent lots above Water street to the lots extending to the river, prevailed until 1824; when on the 26th May, 1824, a law was passed, which granted the lots, known as the water lots under the Spanish government, to the owners of the adjacent grounds. The improvements were made by Holman in 1819 or 1820. The defendants below gave in evidence, to maintain their title, the title to them from Lucy Landry, through her grantees to Oliver Holman: a title bond from Holman to Brown, for half of the lot in controversy, by which a deed was to be executed two years after the date of the bond; and an act of the legislature of Alabama, passed in December, 1823, after the decease of Holman, authorizing the administratrix of Holman, then residing in Boston, where administration of the estate of the deceased had been granted to her, to sell the real estate of which he died seised, in the city of Mobile, for the payment of his debts, the estate being insolvent: a deed made in pursuance of a sale of the premises, under the act of assembly and in conformity to the provisions thereof; and also the record of certain proceedings in the supreme court of Massachusetts, wherein a license was given to the administratrix to make a deed, in pursuance of the title bond to Brown, and the deed, made under this authority. The questions which arose in the case, and on which the court decided, were: First, whether the act of the legislature of Alabama, authorizing the sale of the estate of Holman, was constitutional and valid. Second, whether the proceedings in the supreme court of Massachusetts were operative, and authorized the administratrix to convey the title. Third, whether a volume of state papers, published under the authority of Congress, was evidence. Fourth, whether the lessors of the plaintiff below had established a legal title. Fifth, whether the defendants in the circuit court had not established a title in themselves, independent of and adverse to the title they had derived under Oliver Holman. The act of Congress of May 26, 1824, relinquished the rights of the United States, whatever they were, in the lot in question, to the proprietor of the front lot. *Watkins v. Holman et al.*, 16 Peters, 25.

known as water lots, as are situated between the channel of the river and the front of the lots, known, under the Spanish government, as water lots, in [the] said city of Mobile, whereon improvements have been made, be, and the same are hereby, vested in the several proprietors and occupants of each of the lots heretofore fronting on the river Mobile, except in cases where such proprietor or occupant has alienated his right to any such lot, now designated as a water lot, or the Spanish government has made a new grant, or order of survey, for the same, during the time at which they had the power to grant the same; in which case, the right and claim of the United States shall be, and is hereby, vested in the person to whom such alienation, grant, or order of survey, was made, or in his legal representative; *Provided*, That nothing in this act contained shall be construed to affect the claim or claims, if any such there be, of any individual or individuals, or of any body politic or corporate. (a)

APPROVED, May 26, 1824.

said city, vested in the person to whom such alienation, grant, or order of survey was made.

Proviso.

STATUTE I.

May 26, 1824.

CHAP. CLXXXVI.—*An Act in further addition to "An act to establish an uniform rule of Naturalization, and to repeal the acts heretofore passed on that subject."* (b)

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That any alien, being a free white person and a minor, under the age of twenty-one years, who shall have resided in the United States three years next preceding his arriving at the age of twenty-one years, and who shall have continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he shall have resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of the first section of the act to which this is in addition, three years previous to his admission: *Provided*, Such alien shall make the declaration required therein at the time of his or her admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for three years next preceding, it has been the bona fide intention of such alien to become a citizen of the United States; and shall, in all other respects, comply with the laws in regard to naturalization.

Act of March 26, 1790, ch. 3. Conditions on which an alien being a free white person and a minor, may become a citizen of the United States.

Proviso.

SEC. 2. *And be it further enacted*, That no certificates of citizenship, or naturalization, heretofore obtained from any court of record within the United States, shall be deemed invalid, in consequence of an omission to comply with the requisition of the first section of the act, entitled "An act relative to evidence in cases of naturalization," passed the twenty-second day of March, one thousand eight hundred and sixteen.

No certificate of citizenship or naturalization heretofore obtained from any court to be deemed invalid. 1816, ch. 32.

SEC. 3. *And be it further enacted*, That the declaration required by the first condition specified in the first section of the act, to which this is in addition, shall, if the same has been bona fide made before the clerks of either of the courts in the said condition named, be as valid as if it had been made before the said courts, respectively.

Declaration required by the first section of the former act to be valid on certain conditions.

SEC. 4. *And be it further enacted*, That a declaration by any alien, being a free white person, of his intended application to be admitted a citizen of the United States, made in the manner and form prescribed in the first condition specified in the first section of the act to which this is in addition, two years before his admission, shall be a sufficient compliance with said condition; any thing in the said act, or in any subsequent act, to the contrary notwithstanding.

A declaration of intention made two years before his admission shall be sufficient.

APPROVED, May 26, 1824.

(a) This act has been declared by the Supreme Court to be "a private act;" but its insertion among "The Public Laws" has been considered proper, as the decisions of the court upon its construction, and in cases which have arisen under its provisions, are of general and public importance.

(b) See notes of the acts relating to naturalization, vol. i. 103.