

SEC. 3. *And be it further enacted*, That in addition to the allowance made to the quartermaster general and commissary general respectively, in and by the act hereby amended, it shall and may be lawful for the Secretary for the department of War, for the time being, to allow to them respectively, such sums as in his opinion shall have been actually and necessarily expended in their several departments for office rent, fuel, candles and extra clerk hire.

Contingent expenses to be allowed by Secretary of War.

SEC. 4. *And be it further enacted*, That the quartermaster general, the deputy quartermasters, and the assistant deputy quartermasters, shall, before they or either of them enter upon the duties of their appointment respectively, enter into bond with sufficient security, to be approved of by the Secretary at War, conditioned for the faithful expenditure of all public monies, and accounting for all public property, which may come to their hands, respectively; and the quartermaster general shall not be liable for any money or property that may come into the hands of the subordinate officers of his department.

Bond and security, &c.

SEC. 5. *And be it further enacted*, That the sixth section of the act hereby amended be, and the same is hereby repealed.

Act of March 28, 1812, ch. 46.

APPROVED, May 22, 1812.

STATUTE I.

CHAP. XCIII.—*An Act supplementary to an act entitled "An act for the admission of the state of Louisiana into the Union, and to extend the laws of the United States to the said state."*

May 22, 1812.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all causes, actions, indictments, libels, pleas, processes and proceedings whatsoever, returnable, commenced, depending or in any manner existing in the district court established in the territory of Orleans, in and by the act, entitled "An act erecting Louisiana into two territories and providing for the temporary government thereof," be, and the same are hereby transferred to the district court established by the act to which this is a supplement, and may be proceeded in, shall exist and have like incidents and effects as if they had been originated and been proceeded in in the court established by the act to which this is a supplement.

Act of April 8, 1812, ch. 50. Judicial proceedings transferred, &c.

Act of March 26, 1804, ch. 38.

SEC. 2. *And be it further enacted*, That the dockets, books, records, papers and seal, belonging to the said district court of the Orleans territory, shall be transferred to, and become the dockets, books, records, and papers of the district court of the Louisiana district.

Dockets, records, &c. transferred.

SEC. 3. *And be it further enacted*, That the eighth section of the act aforesaid, entitled "An act erecting Louisiana into two territories, and providing for the temporary government thereof," and also, all acts within the purview of this act, and the one to which this is a supplement, be and the same are hereby repealed.

Eighth section, &c. of act of March 26, 1804, ch. 38, repealed.

APPROVED, May 22, 1812.

STATUTE I.

CHAP. XCV.—*An Act providing for the government of the territory of Missouri.*(a)

June 4, 1812.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory heretofore called Louisiana shall hereafter be called Missouri, and that the temporary government of the territory of Missouri shall be organized and administered in the manner herein after prescribed.

[Obsolete.] Louisiana to be called Missouri.

(a) An act to alter certain parts of the act providing for the government of the territory of Missouri, April 29, 1816, chap. 155.

An act further to regulate the territories of the United States, and their electing delegates to Congress, March 3, 1817, chap. 42.

Governor,—
tenure of office,
general powers,
&c.

Sec. 2. *And be it further enacted*, That the executive power shall be vested in a governor, who shall reside in the said territory; he shall hold his office during the term of three years, unless sooner removed by the President of the United States; shall be commander in chief of the militia of the said territory; shall have power to appoint and commission all officers civil and of the militia, whose appointments are not herein otherwise provided for, which shall be established by law; shall take care that the laws be faithfully executed; shall have power to grant pardons for 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; shall have power on extraordinary occasions to convene the general assembly, and he shall ex officio be superintendent of Indian affairs.

Secretary.

Sec. 3. *And be it further enacted*, That there shall be a secretary, whose commission shall continue in force for four years, unless sooner revoked by the President of the United States; he shall reside in the said territory; it shall be his duty, under the direction of the governor, to record and preserve all the proceedings and papers of the executive, and all the acts of the general assembly, and to transmit authentic copies of the same every six months to the President of the United States. In case of a vacancy of the office of governor, the government of the said territory shall be executed by the secretary.

His duty.

Legislative
power, &c.

Sec. 4. *And be it further enacted*, That the legislative power shall be vested in a general assembly, which shall consist of the governor, a legislative council and a house of representatives. The general assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said territory, not repugnant to or inconsistent with the constitution and laws of the United States; and shall have power to establish inferior courts, and to prescribe their jurisdiction and duties; to define the powers and duties of justices of the peace and other civil officers in the said territory, and to regulate and fix the fees of office, and to ascertain and provide for payment of the same, and for all other services rendered to the said territory, under the authority thereof. All bills having passed by a majority in the house of representatives, and by a majority in the legislative council, shall be referred to the governor for his assent, but no bill or legislative act whatever shall be of any force without his approbation.

Governor's as-
sent to bills in-
dispensable.

Number of the
legislative coun-
cil, &c.

Mode of choos-
ing members of
the legislative
council, &c.

Sec. 5. *And be it further enacted*, That the legislative council shall consist of nine members to continue in office five years, unless sooner removed by the President of the United States, any five of them shall be a quorum. The members of the legislative council shall be nominated and appointed in the manner following: as soon as representatives shall be elected, they shall be convened by the governor as hereafter prescribed, and when met, shall nominate eighteen persons, residents in the said territory one year preceding their nomination, holding no office of profit under the territory or the United States, the office of justice of the peace excepted, and each possessing in his own right two hundred acres of land therein, and return the names to the President of the United States, nine of whom the President, by and with the advice and consent of the Senate, shall appoint and commission to serve as aforesaid; and when a vacancy shall happen in the legislative council, by death or removal from office, the house of representatives shall nominate two persons qualified as aforesaid for each vacancy, and return their names to the President of the United States, one of whom he, by and with the advice and consent of the Senate, shall appoint and commission for the residue of the term: and every five years, four months at least before the expiration of the time of service of the members of the legislative council, the house of representatives shall nominate eighteen persons, qualified as aforesaid, and return their names to the President

of the United States, nine of whom shall be appointed and commissioned as aforesaid, to serve as members of the legislative council five years, if not sooner removed. No person shall be a member of the legislative council who hath not attained to the age of twenty-five years.

SEC. 6. *And be it further enacted,* That the house of representatives shall be composed of members elected every second year by the people of the said territory, to serve for two years. For every five hundred free white male inhabitants there shall be one representative, and so on progressively with the number of free white male inhabitants shall the right of representation increase until the number of the representatives shall amount to twenty-five, after which the number and proportion of representatives shall be regulated by the general assembly. No person shall be eligible or qualified to be a representative, who shall not have attained to the age of twenty-one years, and who shall not have resided in the territory one year next preceding the day of election, and who shall not be a freeholder within the county in which he may be elected; and no person holding an office under the United States or an office of profit under the territory shall be a representative. In case of vacancy by death, resignation, removal or otherwise of a representative, the governor shall issue a writ to the county, whenever a vacancy may be as aforesaid, to elect another person to serve the residue of the term. That all free white male citizens of the United States, above the age of twenty-one years, who have resided in said territory twelve months next preceding an election, and who shall have paid a territorial or county tax, assessed at least six months previous thereto, shall be entitled to vote for representatives to the general assembly of said territory.

SEC. 7. *And be it further enacted,* That in order to carry the same into operation, the governor of the said territory shall cause to be elected thirteen representatives, and for that purpose shall proceed, as circumstances may require, to lay off the parts of the said territory to which the Indian title hath been extinguished, into convenient counties, on or before the first Monday in October next, and give notice thereof throughout the same, and shall appoint the most convenient time and place within each of the said counties for holding the elections, and shall nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who shall have been elected. All subsequent elections shall be regulated by the general assembly, and the number of representatives shall be determined and the apportionment made in the manner herein before prescribed.

SEC. 8. *And be it further enacted,* That the representatives elected as aforesaid, shall be convened by the governor in the town of St. Louis on the first Monday in December next; and the first general assembly shall be convened by the governor, as soon as may be convenient, at St. Louis, after the members of the legislative council shall be appointed and commissioned. The general assembly shall meet once in each year, at St. Louis, and such meeting shall be on the first Monday in December annually, unless they shall by law appoint a different day. The legislative council and house of representatives, when assembled, shall each choose a speaker and its other officers, and determine the rules of its proceedings. Each house shall sit on its own adjournments from day to day. Neither house shall during the session, without consent of the other, adjourn for more than two days, nor to any other place than that where the two houses shall be sitting. The members of the general assembly shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 9. *And be it further enacted,* That all and every free white

House of representatives.

Ratio of representation, &c.

Qualification of representatives.

Supply of vacancies.

Qualification of electors.

Governor in the first instance to cause elections and to lay out counties.

Subsequent elections, &c.

Meeting of general assembly, &c.

Mode of proceeding of each branch.

Privilege from arrest, &c.

Persons entitled to vote for delegate to Congress, and for members of the general assembly, &c.

male person who, on the twentieth day of December, in the year one thousand eight hundred and three, was an inhabitant of the territory of Louisiana, and all free white male citizens of the United States, who, since the said twentieth day of December, in the year one thousand eight hundred and three emigrated, or who hereafter may emigrate to the said territory, being otherwise qualified according to the provisions of this act, shall be capable to hold any office of honour, trust or profit, in the said territory, under the United States, or under the said territory, and to vote for members of the general assembly and a delegate to Congress during the temporary government provided for by this act.

Judicial power.

SEC. 10. *And be it further enacted,* That the judicial power shall be vested in a superior court, and in inferior courts and justices of the peace. The judges of the superior court and justices of the peace shall hold their offices for the term of four years, unless sooner removed; the superior court shall consist of three judges, who shall reside in the said territory, any two of whom shall constitute a court; the superior courts shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those that are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars; the said judges shall hold their courts at such times and places as shall be prescribed by the general assembly. The sessions of the superior and inferior courts shall continue until all the business depending shall be disposed of, or for such time as shall be prescribed by the general assembly. The superior and inferior courts shall respectively appoint their clerks, who shall be commissioned by the governor, and shall hold their offices during the temporary government of the said territory, unless sooner removed by the court.

Superior court.
Act of Jan. 27,
1814, ch. 8.

Sessions.

Clerks.

Grand and petit jurors.

SEC. 11. *And be it further enacted,* That all free male white persons of the age of twenty-one years, who shall have resided one year in the said territory, and are not disqualified by any legal proceeding, shall be qualified to serve as grand or petit jurors in the courts of the said territory; and they shall, until the general assembly thereof shall otherwise direct, be selected in such manner as the said courts shall respectively prescribe, so as to be most conducive to an impartial trial, and least burthensome to the inhabitants of the said territory.

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

SEC. 12. *And be it further enacted,* That the governor, secretary and judges for the territory of Missouri, authorized by this act, and all general officers of the militia, during the temporary government thereof, shall be appointed and commissioned by the President of the United States, by and with the advice and consent of the Senate; and the governor, secretary and judges shall respectively receive for their services the compensations established by law, to be paid quarter yearly out of the treasury of the United States; the governor, secretary, judges, members of the legislative council, members of the house of representatives, justices of the peace, and all other officers civil and military, before they enter on 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; the governor before a judge of the supreme or a district court of the United States, or a judge of the said territory; the secretary and judges before the governor; the members of the legislative council and house of representatives before a judge of the said territory; and the justices of the peace and all other officers before such person as the governor shall appoint and direct.

How paid.

To take an oath.

Before whom.

Time of electing a delegate to Congress.

SEC. 13. *And be it further enacted,* That the citizens of the said territory entitled to vote for representatives to the general assembly thereof, shall, at the time of electing their representatives to the said general assembly, also elect one delegate from the said territory to the Congress of the United States; and the delegate so elected, shall possess the same powers, shall have the same privileges and compensation for his attend-

ance in Congress, and for going to and returning from the same, as heretofore have been granted to and provided for a delegate from any territory of the United States.

His privileges and pay.

Sec. 14. *And be it further enacted*, That the people of the said territory shall always be entitled to a proportionate representation in the general assembly; to judicial proceedings according to the common law and the laws and usages in force in the said territory; to the benefit of the writ of habeas corpus. In all criminal cases the trial shall be by jury of good and lawful men of the vicinage. All persons shall be bailable unless for capital offences where the proof shall be evident or the presumption great. All fines shall be moderate, and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his life, liberty or property, but by the judgment of his peers and the law of the land. If the public exigencies make it necessary for the common preservation to take the property of any person, or to demand his particular services, full compensation shall be made for the same. No ex post facto law or law impairing the obligation of contracts shall be made. No law shall be made which shall lay any person under restraint, burthen or disability, on account of his religious opinions, professions or mode of worship, in all which he shall be free to maintain his own, and not burthened for those of another. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged and provided for from the public lands of the United States in the said territory, in such manner as Congress may deem expedient.

Rights secured to the people.

Education.

Sec. 15. *And be it further enacted*, That the general assembly shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulation Congress may find necessary to make for securing the title in the bona fide purchasers: no tax shall ever be imposed on lands the property of the United States. The lands of non-resident proprietors shall never be taxed higher than those of residents. The Mississippi and Missouri rivers, and the navigable waters flowing into them, and the carrying places between the same, shall be common highways and forever free to the people of the said territory and to the citizens of the United States, without any tax, duty or impost therefor.

Limitation of the powers of the general assembly.

Mississippi and Missouri rivers, &c. to be free.

Sec. 16. *And be it further enacted*, That the laws and regulations in force in the territory of Louisiana, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified or repealed by the general assembly. And it is hereby declared that this act shall not be construed to vacate the commission of any officer in the said territory, acting under the authority of the United States, but that every such commission shall be and continue in full force as if this act had not been made. And so much of an act, entitled "An act further providing for the government of the territory of Louisiana," approved on the third day of March, one thousand eight hundred and five, and so much of an act, entitled "An act for erecting Louisiana into two territories and providing for the temporary government thereof," approved the twenty-sixth of March, one thousand eight hundred and four, as is repugnant to this act, shall from and after the first Monday in December next be repealed. On which first Monday in December next this act shall commence and have full force: *Provided*, so much of it as requires the governor of said territory to perform certain duties previous to the said first Monday of December next shall be in force from the passage thereof.

Laws to continue in force, &c.

This act not to vacate commissions.

Repugnant provisions of act of March 3, 1805, ch. 31, and of act of March 26, 1804, ch. 38, repealed.

This act to commence first Monday of December, 1812.

APPROVED, June 4, 1812.

STATUTE I.

June 10, 1812.

[Obsolete.]

Time of embargo not to be computed as part of the time during which goods may be exported.

Act of April 4, 1812, ch. 49.

CHAP. XCVII.—*An Act to extend the time for exporting, with privilege of drawback, goods, wares and merchandise entitled thereto by law.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time during which the act entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States for a limited time," shall continue in force, shall not be computed as making part of the term of twelve calendar months, during which goods, wares or merchandise imported into the United States, must be re-exported in order to be entitled to a drawback of the duties paid on the importation thereof.

APPROVED, June 10, 1812.

STATUTE I.

June 10, 1812.

Act of Feb. 3, 1809, ch. 13.

CHAP. XCVIII.—*An Act supplemental to an act entitled "An act for dividing the Indiana territory into two separate governments."*

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 in whose favour there now are or hereafter may be rendered, any final judgment or judgments, decree or decrees, in the general court or court of chancery of the territory aforesaid upon any suit or suits, pleas, process or proceedings which were pending in the said courts on the first day of March one thousand eight hundred and nine, to sue out of the office of the clerk of the general court or court of chancery aforesaid, without delay, any writ or writs of execution, upon the judgments or decrees aforesaid, and to cause the said judgments or decrees to be fully executed by the same officers, and in the same manner as if the Indiana territory had remained undivided.

APPROVED, June 10, 1812.

Execution to issue as usual.

STATUTE I.

June 13, 1812.

CHAP. XCIX.—*An Act making further provision for settling the claims to land in the territory of Missouri.*(a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the rights, titles and

(a) Land titles in Missouri:—

The state of Missouri was formerly part of the territory, first of France, next of Spain, then of France, who ceded it to the United States by the treaty of 1803, in full propriety, sovereignty and dominion, as she had acquired and held it; by which this government put itself in place of the former sovereigns, and became invested with all their rights, subject to their concomitant obligations to the inhabitants. Both were regulated by the law of nations, according to which the rights of property are protected, even in the case of a conquered country, and held sacred and inviolable when it is ceded by treaty, with or without any stipulation to such effect; and the laws, whether in writing, or evidenced by the usage and customs of the conquered or ceded country, continue in force, until altered by the new sovereign. *Strother v. Lucas*, 12 Peters, 410.

No principle can be better established by the authority of the supreme court, than "that the acts of an officer, to whom a public duty is assigned by his king, within the sphere of that duty, are prima facie taken to be within his power." The principles on which it rests, are believed to be too deeply founded in law and reason, ever to be successfully assailed. He who would controvert a grant executed by the lawful authority, with all the solemnities required by law, takes on himself the burthen of showing that the officer has transcended the powers conferred upon him; or that the transaction is tainted with fraud. *Ibid.*

Where the act of an officer to pass the title to land according to the Spanish law, is done contrary to the written order of the king, produced at the trial, without any explanation, it shall be presumed that the power has not been exceeded; that the act was done on the motive set out therein; and according to some order known to the king and his officers, though not to his subjects; and courts ought to require very full proof, that he had transcended his powers, before they so determine it. *Ibid.*

In favour of long possession and ancient appropriation, every thing which was done shall be presumed to have been rightfully done; and though it does not appear to have been done, the law will presume that whatever was necessary has been done. *Ibid.*

The stipulations of the treaty ceding Louisiana to the United States, affording that protection or security to claims under the French or Spanish government to which the act of Congress refers, are in the first, second and third articles. They extended to all property until Louisiana became a member of the Union; into which the inhabitants were to be incorporated as soon as possible, "and admitted to all the