



It Was Not

QUICK

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SIMPLE

The Saga of

Private Land Claims in Missouri

Steven E. Weible

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Steven E. Weible
Missouri Professional Land Surveyor

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Cover image: part of General Land Office township plat for Township 37 North, Range 5 East of the Fifth Principal Meridian, dated 1853; Missouri State Land Survey, Rolla, Missouri.

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Introduction

I was raised on a tract of land that was part of a larger farm that was a division of a larger estate, which was but a small part of a much larger tract of 6000 arpents that was claimed by virtue of a concession from the Spanish Lieutenant Governor of Upper Louisiana in 1802. As a kid, romping through the woods and hills, I was oblivious to these interesting details about the land. It was not until I was introduced to land surveying, documents of conveyance and the United States Public Land Survey System in the 1990s that I began to take an interest in these peculiar tracts of land, commonly known as "U. S. Surveys." I learned what I could by experience, reading deeds and descriptions and whatnot, but I hardly gained a grasp of the whole story.

Around 2008, I discovered the town and village lot surveys tucked away in a filing cabinet in the archival vault of the Missouri State Land Survey. I had never heard that there were such things, so I was intrigued. These surveys made reference to some other documents, so I began searching for whatever information that I could find. In my search I was led to the *American State Papers* and the *United States Statutes at Large* and began trolling for relevant or interesting information. Eventually, I felt I had enough information to be able to write an article, giving a general overview, about these town and village lot surveys. That article was published in the December 2012 issue of *Missouri Surveyor*, the quarterly publication of the Missouri Society of Professional Surveyors. From the information that I had found in my research, I was also able to put together an article on New Madrid Claims. That article was published in the June 2015 issue of *Missouri Surveyor*.

I continued to search the internet for information and in 2018 I found the *Territorial Papers of the United States*, which led to the *Frederick Bates Papers* and other resources. These additional sources of information brought a tremendous amount of detail to the story.

The information was so fascinating, but it was scattered throughout various documents and sources. Wouldn't it be awesome to gather the little bits and pieces and put those together into an understandable narrative that clearly communicated the history of private land claims in Missouri? I thought it would, so I set out to do just that.

My plan was to write one article at a time for submission to *Missouri Surveyor*. The first article of the series came in the September 2018 issue. This was followed by thirteen more articles, the last being published in March 2022. I have taken these sixteen previously published articles, rewriting some and supplementing others, to make the chapters of this book. I have also added chapter eighteen and appendices to round out the story. Sources of information have been referenced throughout the book so that the original documents may be consulted for more detail.

This book has been written particularly for Missouri land surveyors as an educational resource, so that they can be fully informed about these oddities within the fabric of the orderly system of public land surveys. Other land professionals, genealogists and local history enthusiasts may also find the information useful.

This endeavor of researching and writing, has been a personally rewarding experience and I have learned a lot about these peculiar tracts and their interesting history. I hope that you find this topic to be as interesting as I have.

Steven E. Weible
Professional Land Surveyor
Jefferson City, Missouri

P. S. Be sure to visit my blog:

<https://atnhayseed.blogspot.com>

Chapter 1

Grants of Land in Upper Louisiana¹

The Mississippi River and all of its tributaries along with all of the lands in between them were claimed by France as a result of the travels of French Canadians Louis Joliet and Father Marquette in 1673.^{2 3}

According to Amos Stoddard in his *Sketches of Louisiana*, this expanse of territory was first called LOUISIANA, in honor of King Louis XIV, by Father Louis Hennepin, a Franciscan Friar, in his published account of his voyage on the River in 1680.⁴ The French began establishing settlements in 1683⁵ and continued in possession of Louisiana until the conclusion of the French and Indian War in North America in 1763. At the conclusion of that conflict France found herself "humbled in her pride and glory."⁶ By a secret treaty with Spain in November 1762 France agreed to relinquish to Spain all of Louisiana west of the Mississippi River, including the island and city of New Orleans. Canada and that part of Louisiana east of the Mississippi River were relinquished to Great Britain by a treaty of peace in February 1763.⁷

The area that now forms the state of Missouri was included in that part of the province known as Upper Louisiana. The French inhabitants of Upper Louisiana tended to focus their efforts on hunting, trapping, trading with the Indians and searching for minerals, lead in particular, not giving much attention to agriculture.⁸ In contrast, the Spanish found it necessary to promote agriculture as a way to increase the population, thereby forming a barrier to the British in Canada.⁹ The government of Spain, therefore, adopted a policy of granting lands that would encourage the settlement of the territory by those willing to make improvements and cultivate the land. Inhabitants from the United States with families and great means were particularly encouraged, because of their sentiment against the English.¹⁰

Regulations for granting land, dated February 18, 1770, were issued by Alexander O'Reilly, the first Spanish governor over Louisiana. These regulations were more applicable to Lower Louisiana, however, and were, generally, not applied in Upper Louisiana.

The instructions for granting lands that were most applicable to Upper Louisiana were issued September 9, 1797 by Governor Manuel Gayoso de Lemos. Those instructions stipulated that a new settler must be married in order to qualify for a grant of land. He was allowed a grant of 200 arpents (equivalent to about 170 acres) with an additional 50 arpents (about 42.5 acres) for each child and 20 arpents (about 17 acres) for each Negro that he brought with him. The total amount of the grant was not to exceed 800 arpents (about 680 acres). It was reasoned that if the settler had such a number of Negroes as to amount to a greater quantity of land than 800 arpents by the above formula, then he had the means to purchase more land, if he wanted it.¹¹

Unmarried settlers were required to be productively employed for four years and artisans were required to practice their profession for three years, before being allowed a grant of land. Traders were not allowed a grant of land, since they lived in the towns and, generally, did not pursue agricultural activities.

The new settler was required to establish himself within one year of receiving his grant and to have under cultivation 10 arpents for every 100 arpents by the third year. He was not allowed to sell his lands until he had produced three crops on one tenth of the grant.

Although Governor Gayoso's instructions limited a grant of land to 800 arpents, those who were given the authority to concede grants of land had the discretion to exceed that amount. Since the objective was to increase the population, grants of land were made to advance that objective. Those petitioners who had the means and ability to put more land into production were granted accordingly larger tracts.¹²

Larger tracts were also granted to accommodate the particular purpose for which the land was petitioned.¹³ In addition, the Spanish government did not provide salaries to its provincial officers or other persons providing service to the government, so that when compensation was requested, it was delivered in the form of a grant of land rather than in money.¹⁴

To obtain a grant of land in Upper Louisiana the settler submitted a petition to the lieutenant governor or local commandant, asking for a definite quantity of land.¹⁵ The petition may be for a **general** concession or a **special** concession. A general concession (also referred to as a floating concession) allowed the petitioner to select the desired quantity of land anywhere within the King's domain, so long as it did not interfere with any existing legitimate claim. Such a concession was common when a petitioner wanted the tract for a particular purpose and needed to search for a location that was suited to that purpose. A special concession granted a specific tract of land, usually described by calling out the landowners bounding on each side, as well as, any prominent features that would aid in identifying the location.¹⁶

If the petition was not submitted directly to the lieutenant governor, it may be forwarded by the local commandant with a recommendation confirming the truth of the facts contained within the petition and the merit of the petitioner. The granting authority, whether lieutenant governor or local commandant, would examine the petition and, if he deemed the petitioner worthy of a grant of land, would concede the land requested, writing his statement at the bottom or on the back of the same petition.¹⁷ He would then direct the surveyor to perform a boundary survey of the land selected by the petitioner, to prepare a plat and to put the petitioner in possession of the lands solicited.

The following is a representative example of the sequence of correspondence related to a grant of land: ¹⁸

Petition:

To Don Charles Dehault Delassus, lieutenant governor and commander-in-chief of Upper Louisiana, &c.:

Purnel Howard, C. R. [Roman Catholic], has the honor to represent to you that, with the permission of the government, he has settled himself on a tract of land in his Majesty's domain, on the north side of the Missouri; therefore he supplicates you to have the goodness to grant to him, at the same place, the quantity of land corresponding to the number of his family, composed of himself, his wife, and four children; the petitioner having sufficient means to improve a plantation, and having no other views but to live as a peaceable and submissive cultivator of the soil, hopes to obtain the favor which he solicits of your justice.

PURNEL HOWARD, + mark.

St. André, November 11, 1799.

Recommendation of the local commandant:

Be it forwarded to the lieutenant governor, with information that the statement above is true, and that the petitioner deserves the favor which he solicits.

SANTIAGO [JAMES] MACKAY.

St. André, November 11, 1799.

Concession by Lieutenant Governor:

St. Louis of Illinois, November 25, 1799.

By virtue of the information given by Don Santiago Mackay, commandant of the settlement of St. André, in which he testifies as to the truth of the number of individuals stated to compose the family of the petitioner, the surveyor, Don Antonio Soulard, shall put him in possession of 400 arpents of land in superficie, in the place where asked by him, this quantity corresponding to the number of his family,

conformably to the regulation of the governor general of the province; and this being executed, the interested party shall have to solicit the title of concession in form from the intendant general of the same province, to whom, by royal order, corresponds the distributing and granting all classes of lands of the royal domain.

CARLOS DEHAULT DELASSUS

Surveyor's certificate:

Don Antonio Soulard, surveyor general of the settlements of Upper Louisiana.

I do certify that a tract of land, of [400] arpents in superficie, has been measured, the lines run and bounded, in favor and in presence of Purnel Howard. Said measurement has been taken with the perch of Paris, of 18 French feet, lineal measure of the same city, according to the agrarian measure of this province. Said land is situated on the north side of the Missouri, at the distance of two miles from said river, and at about sixty miles west of this town of St. Louis, and is bounded on its four sides – north, south, east, and west – by vacant lands of the royal domain. The said survey and measurement was taken without having regard to the variation of the needle, which is 7°30' east, as is evinced by the foregoing figurative plat, on which are noted the dimensions, courses of the lines, other boundaries, &c. This survey was taken by virtue of the decree of the lieutenant governor and sub-delegate of the royal fisc, Don Carlos Dehault Delassus, bearing date November 25, 1799, here annexed.

In testimony whereof, I do give the present, with the foregoing figurative plat drawn conformably to the survey executed by the deputy surveyor, Don Santiago Mackay, on the 28th of March, 1804.

ANTONIO SOULARD, Surveyor General

Once a petition had been submitted and a concession from the lieutenant governor or local commandant had been received, the next

steps were to locate a suitable tract of land, obtain a boundary survey and register the grant with the appropriate authority in New Orleans.

In the case of a general concession a petitioner was granted the privilege of selecting a tract of land anywhere within the king's domain. If a tract of land was needed for the development of mineral lands, the establishment of a mill, the production of salt, the establishment of a dairy or grazing farm or some other particular purpose, a site suitable for the purpose needed to be found. The king's domain was extensive and it took time to travel about and search for a suitable tract of land that was not already claimed by someone else. Roads and modes of transportation were not well developed or convenient, so travel was expensive and time-consuming, not to mention dangerous. A well-traveled agent familiar with the character of the land may be necessary to aid in the location of an appropriate tract.

Once a suitable tract had been identified, a qualified surveyor was needed to perform a boundary survey. Surveyors in Upper Louisiana were in short supply, however, and a settler may have to wait a few years before a survey could be performed, if at all. It was not until 1795 that Antoine Soulard was appointed to the newly created office of principal surveyor, or Surveyor General, for Upper Louisiana.^{19 20} Soulard organized the office and in the following years appointed deputy surveyors for the districts: Joseph Story for the District of New Madrid, Thomas Madden for the District of Sainte Genevieve, Bartholomew Cousin for the District of Cape Girardeau and James Mackay for the District of Saint Charles. Additional deputy surveyors were appointed at intervals, including James Rankin, John Ferry (or Terrey) and Charles Frémon Delauriere.

When a surveyor became available to perform the boundary survey, the next obstacle for the settler was the expense of the survey. The fees included payment to the surveyor to do the work,

wages and supplies for the axemen and chain-carriers, travel expense and the fee to the principal surveyor for the plat of survey. In addition to these were the extra expense and stress of defending against hostile Indians, who appeared determined to oppose all white settlements. Often the value of the land at that time was less than the cost of the boundary survey. Hard money was scarce in Upper Louisiana with shaved deer skins being the circulating medium of exchange.²¹ To make surveys more cost effective settlers were encouraged to work together in locating their tracts so that the surveys for several tracts could be accomplished at the same time.

A settler who had successfully located a suitable tract of land, obtained a boundary survey and satisfied the stipulations of his grant had yet one more requirement to secure complete title to the land. He had to present (1) the petition, (2) the concession from the lieutenant governor or local commandant with the order for a boundary survey and (3) the results of the survey to the intendant general, the highest representative of the crown, at the capital of the province in New Orleans.

Few concessions, however, were actually perfected into complete grants. The expense and the distance to New Orleans was a hardship for most and impractical for the average settler. Most settlers were content with their concession from the lieutenant governor and felt no need to obtain a complete title from New Orleans. Who knew they had any need for concern?

In July 1799 the authority to confirm grants of land was transferred to the tribunal of finance. Not long after the transfer, the assessor of the tribunal died. No concessions could be confirmed until a new assessor was appointed, but no appointment was made by the king.²² It was, therefore, not possible to obtain a complete title at that time.

On October 1, 1800, by the Treaty of San Ildefonso, Spanish Louisiana was returned to France. Just a few years later on April 30, 1803, France unloaded the entire territory for cash to a most eager buyer, the United States of America. The United States took possession of Lower Louisiana at New Orleans on December 20, 1803. Possession of Upper Louisiana became official on March 10, 1804. The inhabitants of the Province of Louisiana were no longer subjects of the King of Spain, but citizens of the United States of America. Were they still secure in their concessions with incomplete title?

Chapter 2

Upper Louisiana in Transition ²³

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." (Article III of the Treaty Between the United States of America and the French Republic, dated April 30, 1803.)²⁴

Spain had agreed with France on October 1, 1800 to transfer the Province of Louisiana back to the French Republic and had formalized the arrangement by treaty on March 21, 1801. France attempted at that time to send an army to take possession of the province, but an English blockade kept its ships in port and unable to depart. France was, therefore, unable to take actual possession of the province until November 30, 1803, seven months after selling it to the United States of America.^{25 26}

The French representative at New Orleans transferred possession of Lower Louisiana to representatives of the United States, William C. Claiborne, Governor of the Mississippi Territory, and General James Wilkinson, on December 20, 1803.²⁷ To save himself the time and expense of travel to Saint Louis for the transfer of Upper Louisiana from Spain to the French Republic and from the French Republic to the United States, the French representative commissioned Captain Amos Stoddard of the United States Army Corps of Artillerists to serve as agent for the French Republic. Captain Stoddard received possession of Upper Louisiana on behalf of the French Republic on March 9, 1804.

He then transferred possession from the French Republic to the United States on March 10, 1804.^{28 29}

In order to provide a temporary form of government in accordance with the act of October 31, 1803, chapter 1, *An Act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris, on the thirtieth of April last; and for the temporary government thereof*,³⁰ Captain Stoddard was directed by the Secretary of War to exercise the functions of civil commandant for Upper Louisiana.^{31 32} Congress followed up by passing the act of March 26, 1804, chapter 38, *An Act erecting Louisiana into two territories, and providing for the temporary government thereof*³³ to take effect on October 1, 1804. This act separated the former Spanish Province of Louisiana into a territory and a district divided by the thirty-third degree of north latitude. The area south of the dividing line was designated the territory of Orleans and was set up with a territorial government. The area to the north of the dividing line was designated the district of Louisiana and was placed under the administration of the Indiana Territory.

In a proclamation, dated October 1, 1804, William Henry Harrison, Governor of the Indiana Territory, announced the division of the district of Louisiana into five districts for administrative purposes. Those districts were designated the district of Saint Charles with its seat of justice at the village of Saint Charles, the district of Saint Louis with its seat of justice at the town of Saint Louis, the district of Sainte Genevieve with its seat of justice at the town of Sainte Genevieve, the district of Cape Girardeau with its seat of justice to be determined and the district of New Madrid with its seat of justice at the town of New Madrid.³⁴

The district of Louisiana was upgraded to the Territory of Louisiana and a territorial government was authorized by the act of March 3,

1805, chapter 31, *An Act further providing for the government of the district of Louisiana*.³⁵ General James Wilkinson of Maryland was appointed Governor of the Territory of Louisiana on March 11, 1805 and commenced his duties on July 4, 1805.³⁶

When the inhabitants of the Province of Louisiana had first become aware that there would be a change in the government, they began to anticipate a rise in the value of real property. Those who were eligible for grants of land had hastened to petition for them. Those who held a general concession and had not yet selected a location had made an earnest effort to make a selection. Those in need of boundary surveys had tried to procure them. And those who saw opportunities for gain had tried to develop speculative schemes. This high volume of activity leading up to the actual transfer of possession caused the United States government to become very suspicious of attempts to fraudulently acquire lands.³⁷

The primary suspicion of fraud was the dating of concessions and surveys prior to their actual date, referred to as "ante-dating." Since the recognized date for the transfer of the Province of Louisiana from Spain to France was October 1, 1800, the United States did not want to recognize any grant or concession from Spain that had originated after that date. Section 14 of the act of March 26, 1804, therefore, declared any such grant or concession null and void. It was desirable, however, to protect the bona fide rights of actual settlers, if the settlement had been made prior to December 20, 1803, the date on which the United States took possession of Lower Louisiana. A bona fide grant of land was limited to "*one mile square of land, together with such other and further quantity as heretofore hath been allowed for the wife and family of such actual settler, agreeably to the laws, usages and customs of the Spanish government.*" This section also made it unlawful for any person to attempt a new settlement on or to

make a boundary survey of the lands of the United States within the limits of the former Province of Louisiana.

The confirmation of land claims was a matter of great concern and anticipation for the inhabitants of Upper Louisiana, but, unfortunately, the process would not be quick and it would not be simple. Congress eventually took the first steps in that direction by passing the act of March 2, 1805, chapter 26, *An act for ascertaining and adjusting the titles and claims to land, within the territory of Orleans, and the district of Louisiana.*³⁸

Section 1: Claims to land were to be confirmed for persons actually inhabiting and cultivating the land before October 1, 1800, if they had obtained a "duly registered warrant, or order of survey for lands" from the French or Spanish government as appropriate. In other words, the appropriate authority had conceded a tract of land to the claimant and had directed a survey to be made. The claimant must be the head of a family or over the age of 21 and must have fulfilled the terms and conditions of the grant.

Section 2: A tract of land not exceeding "*one mile square, together with such other and further quantity, as heretofore has been allowed for the wife and family of such actual settler, agreeably to the laws, usages and customs of the Spanish government*" was to be granted to every person who was either the head of a household or over the age of 21 and who had made an actual settlement before December 20, 1803 with the permission of the proper Spanish officer. Also included were Spanish or French grants that had been completed before October 1, 1800 and on which there had been actual inhabitation and cultivation prior to December 20, 1803. This section did not apply to those who claimed any other tract of land by virtue of a French or Spanish grant.

Sections 3 and 4: A recorder of land titles for the district of Louisiana was to be appointed by the President of the United States

and was to begin his duties by September 1, 1805. Every person claiming lands by virtue of a complete or incomplete French or Spanish grant or by bona fide settlement was to file a notice in writing and a plat of survey with the recorder of land titles before March 1, 1806 along with all available written evidence of his claim.

Section 5: The President was to appoint two people to serve as commissioners along with the recorder of land titles for the district of Louisiana to examine those claims to land that would be filed with the recorder of land titles. This Board of Commissioners was to commence its work on or before December 1, 1805 and was to have the power to conduct a hearing on each claim and render a decision in a summary manner, according to justice and equity. The commissioners were not authorized to recognize or decide upon any grant or incomplete title, bearing a date subsequent to October 1, 1800. They were not to adjourn before March 1, 1806, the deadline for filing claims and written evidence, and they were to continue until the work was completed. Upon completion of the work, they were to submit transcripts of the claims that were approved and a report of those claims that were rejected. The transcripts and reports were ultimately to be presented to Congress for review and confirmation.

Section 6: In addition, the Secretary of the Treasury was authorized to employ an agent for the purpose of appearing before the Board of Commissioners on behalf of the United States. The agent was to investigate the claims to land and oppose all claims that appeared fraudulent or unfounded. He was also to investigate claims to lead mines and present the evidence to the Board of Commissioners, who were to prepare a report to be submitted to the Secretary of the Treasury and ultimately to Congress. The Board of Commissioners was also authorized to employ a translator of the Spanish and French languages to assist them.

James Lowry Donaldson, a young lawyer from Maryland, was appointed recorder of land titles in May 1805. He was to commence his duties at Saint Louis on September 1, 1805, but his arrival was delayed until mid-September due to travel difficulties and illness on the way.³⁹

John Baptiste Charles Lucas, originally from France,⁴⁰ but at that time living in Pennsylvania, was appointed a Judge of the Territory of Louisiana on March 12, 1805.⁴¹ He was reluctant, however, to accept the appointment, because he considered the salary inadequate and the expense of moving to the Territory considerable. He, therefore, delayed in accepting the appointment of Judge with the hope that he might also be appointed as one of the commissioners for ascertaining and adjusting the titles and claims to land. Subsequently, he was appointed a commissioner on May 1, 1805 and he accepted both appointments.⁴² He arrived in Saint Louis in mid-August 1805.⁴³

Clement Biddle Penrose of Pennsylvania,⁴⁴ nephew to Governor James Wilkinson, was appointed to the remaining position of commissioner for ascertaining and adjusting the titles and claims to land in the Territory of Louisiana on May 1, 1805.⁴⁵

William C. Carr, a young lawyer who had moved to Sainte Genevieve a few years before, was appointed by the Secretary of the Treasury to represent the United States as agent before the Board of Commissioners.⁴⁶

Since William C. Carr was resident in the territory at the time of his appointment, he had a good feel for the current sentiment of the inhabitants. His comments to the United States Attorney General, John Breckinridge, in a letter, dated October 14, 1805, foreshadowed the challenges that lay ahead for the Board of Commissioners. Carr noted that the act passed for ascertaining and adjusting the titles and claims to land was regarded by the French inhabitants as extremely rigorous, if not incompatible with the Treaty between the United States and

France. The act limited the classes of claims that could be confirmed and left many classes of claims unaddressed. He also noted that Saint Louis as the meeting place for the Board of Commissioners was not a central location and that it presented a hardship for the claimants in the southern settlements, such as New Madrid. The distance and the expense would make it difficult for claimants to comply with the requirements of the act.⁴⁷

Chapter 3

Claims to Land and the First Board of Commissioners ⁴⁸

On December 23, 1805 the Board of Commissioners notified the Secretary of the Treasury that they had begun the process of procuring a meeting place and the supplies they would need to conduct business. They selected Charles Gratiot to serve as clerk for the Board and Marie Phillipe Leduc to serve as translator.⁴⁹

The Board of Commissioners set about the task with no more instructions than what was covered by the previously passed acts of Congress. By January 1806 they and William C. Carr, the agent for the United States, were confronted with issues that had to be resolved before they could successfully evaluate the claims before them. First of all, the first section of the Act of March 2, 1805, chapter 26, specified that the Indian title must have been extinguished in order for a claim to be confirmed. The Board had no documentary evidence to address this requirement and were at a loss as to how to deal with it. Next, the second section of the same act required "the permission of the proper Spanish officer" for those making a claim under actual settlement. Permission to settle had often been given verbally without any written evidence, so many claimants were unable to prove permission, though they had long occupied the land. Next, the Board became perplexed over the distinction between the Spanish requirement of establishment or improvement and the Act of Congress requiring inhabitation and cultivation by a certain date. And more substantially, the Board had some difficulty in determining the intended meaning of the phrase, *"one mile square, together with such other and further quantity, as heretofore has been allowed for the wife and family of such actual settler, agreeably to the laws, usages and customs of the Spanish government."* ^{50 51}

Following a correspondence from William Carr, and subsequent consultations with the President of the United States, the Attorney General and others, Albert Gallatin, the Secretary of the Treasury, sent further instructions to the Board of Commissioners in a letter dated March 26, 1806, addressing the interpretation of the second section of the Act of March 2, 1805, chapter 26, and whether permission to settle must be proven or merely presumed. The second section of the act was to be construed to grant the quantity specified by the Spanish regulations according to the size of the family with a maximum of one mile square. In regard to permission to settle, Mr. Gallatin advised the Board that if Congress had not provided for a particular circumstance, then the Board was to reject the claim and make note of its merits in the report that they were to provide upon completion of their work. Mr. Gallatin further admonished the Board to strictly adhere to the letter of the law and leave it to Congress to fix any problems with the legislation.^{52 53}

Congress responded to the deficiencies found in its previous legislation by passing the Act of April 21, 1806, chapter 39, *An Act supplementary to an act intituled "An act for ascertaining and adjusting the titles and claims to land, within the territory of Orleans, and the district of Louisiana."*⁵⁴

The first section of the Act addressed the situation where evidence was not available to prove that the "permission of the proper Spanish officer" had been obtained, as required by the second section of the Act of March 2, 1805, chapter 26. Permission was to be presumed, if an actual settlement had been commenced prior to October 1, 1800 and the land had been continuously inhabited and cultivated for three years prior to December 20, 1803.

The second section of the Act addressed the situation in which a claim could be made under the first section of the previous Act, but the claimant was under the age of 21. This may be the case when a

tract of land was conceded for the benefit or support of a minor. In addition to the requirements of the previous Act, the tract had to have been inhabited and cultivated for ten consecutive years prior to December 20, 1803.

The seventh section of the Act authorized the Board of Commissioners to travel to locations more convenient to the claimants in order to receive oral evidence in support of or in opposition to claims.

The eighth section of the Act directed the Board of Commissioners in their proceedings and decisions to conform to the instructions that the Secretary of the Treasury may submit to them. The Secretary of the Treasury was also to prescribe the forms for the reports and transcripts the Board was to prepare.

In a letter, dated May 7, 1806, Secretary Gallatin notified the Board of Commissioners of the recently passed Act and provided them a copy. He stated that the required forms would be sent in due time. As far as instructions, he reiterated his instructions from March 26, 1806 and emphasized that they were to adhere to the letter of the law. They were not to confirm any claim that was not provided for by existing legislation.^{55 56}

By August 1806 Secretary Gallatin had decided that maybe he should prepare a formal set of instructions for the proceedings and decisions of the Board of Commissioners and sought the advice and approval of the President of the United States.⁵⁷ The final form of the instructions was sent to the Board of Commissioners with a letter, dated September 8, 1806.⁵⁸

Instructions from Secretary of the Treasury Albert Gallatin prepared in accordance with the eighth section of the act of April 21, 1806, chapter 39

1. All claims derived from any grant, concession, order of survey, or other species of title, whether complete or incomplete, bearing date subsequent to the first day of

October, 1800, must be rejected, unless they be embraced by the second section of the act of 2d March 1805.

2. No titles shall be considered as complete but legal French or Spanish grants, made and completed before the first day of October, 1800, regularly signed and issued prior to that date, by the governor general or intendant of the province of Louisiana, residing at New Orleans, and duly recorded at the proper office in New Orleans.

3. No claims other than those derived from complete titles, shall be admitted, unless the lands claimed were actually inhabited and cultivated on the 1st day of October, 1800; and by or for the use of the persons claiming the same, if such persons claimed by virtue of the 1st section of the act of 2d March, 1805; and, on the 20th day of December, 1803, and by the persons claiming the same, if such persons claimed by virtue of the second section of the said act.

4. All claims founded on the first section of the said act, must be derived from a written order, whether known by the name of concession, or any other denomination, issued by an officer duly authorized by the Spanish laws for the time being, to issue the same, and directing a tract of land to be surveyed for the party.

5. In every case where the tract thus claimed, shall contain a greater quantity of land than was generally allowed to actual settlers and their family, agreeably to the laws, usages, and customs of the Spanish Government, the claim shall be rejected, unless a duly authenticated copy of the ordinance, authorizing the officers to grant such greater quantity of land, shall have been produced and deposited with the Commissioners.

6. All claims presented under the first section of the act above mentioned, must be rejected, unless the concession, order, or warrant of survey, shall have been duly registered in the books, records, or minutes kept by the Spanish officer or officers for the purpose.

7. If the officer issuing such concessions, orders, or warrants of survey, shall have kept any books, records, or minutes, for the registering or noting of the concessions, orders, or warrants of survey, issued by him; any concession, order, or warrant of survey not registered or noted in its proper order, according to its date, in such books, records, or minutes, shall be considered "prima facie," as surreptitious or

antedated, and the burden of the proof of its date and validity shall fall on the claimant.

8. If no books, records, nor minutes have been kept, in which the concessions, orders, or warrants of survey have been entered at the time when the same were issued, and in their proper order according to their dates, the burden of the proof of the date and validity of any such concession, order, or warrant of survey, shall fall on the claimant, whenever the agent of the United States shall object to the same on the ground of its being antedated or otherwise fraudulent.

9. Whenever it shall appear in evidence that the actual survey of any such concession, order, or warrant was made subsequent to the 1st day of October, 1800, and the date assigned to such actual survey, either on the plat or return thereof, or on the books or records of the officer acting as surveyor general, under the Spanish Government, shall be prior to the said 1st day of October, 1800, the concession, order, or warrant shall be rejected as fraudulent; and the abovementioned officer, acting as surveyor general, and also every other former Spanish officer, as well as every other witness, shall be obliged to answer every question put to him by the agent of the United States respecting any claim, the validity of which is disputed by the said agent.

10. No tract of land shall, in any instance, be granted under the second section of the act of the 2d March, 1805, to a person claiming land under the first section of the act, or under a complete French or Spanish grant.

11. The Commissioners will consider the opinion of the Attorney General of the United States, of the 12th of March, 1806, transmitted by the Secretary of the Treasury, in his letter of 26th March last, as part of these instructions; and they will revise and correct, in conformity with the said instructions and opinion, every former decision of theirs which may be inconsistent with, or contradictory to either.

By the time the Board of Commissioners received the instructions sent by Secretary Gallatin, they had supposed they were nearly finished with their work. In a letter to Secretary Gallatin, dated October 22, 1806, Commissioners Lucas and Penrose informed him that at such a late stage in the process these new instructions would require a considerable revision of the claims upon which decisions had

already been made. They proposed to finish examining the remaining claims according to the new instructions and to then prepare appropriate transcripts and reports for his consideration as to how to proceed from there.⁵⁹

James Donaldson, the recorder of land titles, had in October 1806 taken his family and gone back to Baltimore, Maryland.⁶⁰ Judge John B. C. Lucas and Clement Penrose remained as commissioners with Penrose claiming to have been deputized by Donaldson as Recorder before he departed. This being the situation, Judge Lucas informed the Secretary of the Treasury in a letter, dated November 4, 1806, that he would not continue until either a replacement for Mr. Donaldson was appointed or further instructions from the Secretary were received.⁶¹

The proceedings of the Board of Commissioners had not been without its drama. James Donaldson and Clement Penrose, having similar sympathies and opinions, formed a majority of the Board and proceeded to advance their decisions without regard to the dissent of Judge Lucas. Donaldson and Penrose were more liberal in their judgements and more sympathetic to the claimants, whereas Judge Lucas was more strict in his interpretation of the law. This element of contention led Donaldson and Penrose to make every effort to exclude Judge Lucas from the proceedings of the Board. Around August 1806 both Donaldson and Penrose moved their residence to the Army encampment, which was about 14-15 miles away from the established meeting place of the Board in Saint Louis. As a result, their attendance was irregular and often at odd hours when neither Judge Lucas nor William Carr, the agent for the United States, was present. Since they formed a majority of the Board, they conducted business wherever and whenever they chose. They even concocted a scheme to go to the southern settlements to conduct business and after they were informed that Judge Lucas had departed for the location, they rescinded the decision and continued in Saint Louis without him.⁶²

Apparently, Donaldson had been planning his departure for some time. In a letter to his father-in-law in Baltimore, dated July 6, 1806, he expressed his desire to finish the business of the Board as soon as possible. He intended to depart in October and was making every effort to complete the work so that his departure would not be delayed.⁶³ Judge Lucas reported to the Secretary of the Treasury in a letter, dated January 4, 1807, that Donaldson had left Saint Louis on his way to New Orleans on October 8, 1806 before the last instructions had been received from the Secretary.⁶⁴

So, with the recorder of land titles gone and the two remaining commissioners at odds and unable to agree on anything, the progress of the Board was at a standstill.⁶⁵ Judge Lucas continued to report to the Secretary of the Treasury ⁶⁶ and Penrose took it upon himself to prepare an opinion of the "majority" of the Board (meaning himself and Donaldson) on a classification of the claims along with a report from the recorder's books and his own opinions as to provisions to be addressed by future legislation.⁶⁷

Secretary Albert Gallatin finally responded in a letter, dated February 13, 1807, stating that new legislation was pending in Congress that would make yet more changes. He requested that they discontinue rendering decisions, but advised them that they may continue to receive evidence until they received further instructions.⁶⁸

Chapter 4

Antoine Soulard - Surveyor General for Upper Louisiana ⁶⁹

Boundary surveys of grants of land in the French Province of Upper Louisiana prior to 1770 were few, often without a plot and without the sanction of public authority. After the Spanish took control of the province, they were not much better in this regard for the first twenty years or so. It was not until 1795 that an official position of surveyor was established. On February 3, 1795, Antoine Soulard was commissioned by Governor General the Baron de Carondelet to the newly created office of Surveyor General for Upper Louisiana.^{70 71 72}

Soulard organized the office and in the following years appointed deputy surveyors for the districts. As surveys were performed, he collected the field notes, plots and remarks into books, one for each district, marking them with letters of the alphabet, A, B, C, etc. These books were referred to as a "Registre d'Arpentage," meaning Record, or Archive, of Surveys, a Survey Record Book, if you will. This Archive of Surveys was not regarded as an official register of titles, but rather an organized collection of survey information used by Soulard in the execution of his duties.⁷³

After the United States took possession of Upper Louisiana on March 10, 1804, it is presumed that Soulard's role as Surveyor General of the Province was no longer operative. Captain Amos Stoddard, exercising the functions of civil commandant, chose to retain Soulard, however, as the temporary depository of the Survey Archives.⁷⁴

Upper Louisiana became the district of Louisiana by the act of March 26, 1804, chapter 38, *An Act erecting Louisiana into two territories, and providing for the temporary government thereof*⁷⁵ and was placed under the administration of the Indiana Territory, where

William Henry Harrison was Territorial Governor. Section 14 of this act made it unlawful for any person to attempt a new settlement on or to make a boundary survey of the lands of the United States within the limits of the former Province of Louisiana.

The act took effect on October 1, 1804 and on that date Governor Harrison commissioned Antoine Soulard to continue in the capacity of Surveyor General for the district of Louisiana. For those that requested it, Soulard was to continue to survey claims of land that had been conceded by the Spanish government prior to the Treaty of San Ildefonso of October 1, 1800. The fees that the Surveyor General received under the Spanish government were represented as being exorbitant, so Governor Harrison chose to reduce them by one half.⁷⁶ The new fees were as follows:

- two dollars (\$2) for every 100 arpents of surface area
- two dollars (\$2) for each day's travel, when the distance exceeded 12 miles from the seat of justice of the district
- when several tracts were surveyed at one time, the travel expense was to be equally divided among the proprietors
- one dollar (\$1) for each plat and certificate
- one dollar (\$1) for registering the plat and certificate in the Surveyor's Office

The process of examining claims to land was initiated with the act of March 2, 1805, chapter 26, *An act for ascertaining and adjusting the titles and claims to land, within the territory of Orleans, and the district of Louisiana.*⁷⁷ Section four of this act directed every person claiming lands by virtue of a complete or incomplete French or Spanish grant or by bona fide settlement to file a notice in writing and a plat of survey with the recorder of land titles before March 1, 1806 along with all available written evidence of his claim.

The district of Louisiana was upgraded to the Territory of Louisiana and a territorial government was authorized by the act of March 3,

1805, chapter 31, *An Act further providing for the government of the district of Louisiana*.⁷⁸ General James Wilkinson of Maryland was appointed Governor of the Territory on March 11, 1805 and commenced his duties on July 4, 1805.⁷⁹

In a letter, dated July 28, 1805, Governor Wilkinson continued Antoine Soulard in the office to which he had been appointed by Governor Harrison and instructed him to have his deputies survey the claims of all persons claiming land under the first and second sections of the Act of March 2, 1805, chapter 26, so that they could file a plat with the recorder of land titles as required by the fourth section of that act.⁸⁰ In November 1805 Governor Wilkinson gave Soulard a list of rules and regulations to govern the conduct of the surveys to be performed.⁸¹

*Governor Wilkinson's Regulations for Surveying,
November 2, 1805:*

1st - The Surveyor General shall appoint as many Deputies, as may be found necessary, to perform all the surveying, which may be required, within the territory, anterior to the 1st day of March ensuing. --

2nd - The Deputies so appointed, before entering on their duties, shall take the following oath, or affirmation, before a justice of the peace, and shall transmit the same, to the Office of the Secretary of the Territory, viz

"I, A. B., do swear or affirm, that I will diligently & faithfully, to the best of my skill & judgement, perform the duties appertaining to the office of a deputy surveyor; that I will strictly observe all rules, regulations, & instructions, which may be established (or given me) for my government, & that I will not survey, any land, in which I have or hold or expect to have or hold any interest, directly or indirectly."

3rd - All Persons employed as chain carriers, shall be of the age of sixteen or upwards, & anterior to the commencement of their duties, shall take the following oath or affirmation, before the Surveyor General or a Deputy, who are hereby authorized to administer the same viz. - "I, A. B., do swear or affirm, that I will true measurement make, of the

tract of Land now to be surveyed, & will faithfully report the same to C. D., my employer." --

4th - The Surveyor General or his Deputies are authorized to survey all such titles & claims to Land, as are recognised by the law of Congress, "for ascertaining & adjusting the same, within this Territory," & they are in all their works carefully to avoid, the interfering of claims & the clashing of Titles.--

5th - In surveying the settlement rights, recognised in the 2nd section of the Act of Congress of the 2nd of March, the improvements are to be left, as near the centre of each survey as possible, & the form of the plot, shall be as nearly square, as the adjacent claims, & the nature of the ground may permit; except when such rights front on Rivers, Lakes, or Bayous, in which cases the ancient regulations of the Country are to be strictly regarded.

6th - Whenever it may happen, that settlements on which Head rights depend, are too much crowded to satisfy the claims of the settlers, by adhering strictly to the forms herein prescribed, The Deputies are to adopt such plan as may be most agreeable, to the parties interested, and most equitable in relation to the Public, & in all cases of conflict, the senior claim is to have the preference of Survey, for which the Surveyor, will be held strictly responsible. --

7th - When a Deputy shall have made a survey he shall, without delay, transmit a certified duplicate of his field notes and plat, to the Surveyor General for record.

8th - The following shall be the prices to be charged, for the services of the Surveyor & his Deputies. - vizt.

For the first thousand acres surveyed or any quantity under..... 2 cents per Acre

For the next five hundred acres..... 1 1/2 cents per Acre

For all above to 3000 acres..... 1 cent per Acre

For all above 3000 acres..... 1/2 cent per Acre

To include all expenses

Soulard's appointment by Governor Harrison and his continuance by Governor Wilkinson were eventually questioned as having been done without any authority provided by law, since the acts of Congress

did not provide for such a position and there was no territorial law that addressed it. In addition, the Secretary of the Treasury, Albert Gallatin, was concerned about the Archive of Surveys that was still in Soulard's custody. Because other Spanish officers had absconded with valuable records, Secretary Gallatin urgently wanted to replace Soulard and to recover the records in his possession.⁸²

Congress responded to these and other surveying concerns by passing the act of February 28, 1806, chapter 11, *An Act extending the powers of the Surveyor-general to the territory of Louisiana; and for other purposes*.⁸³ This act provided for a principal deputy surveyor to reside in the territory of Louisiana and to operate under the superintendence of the surveyor-general of the United States. The principal deputy surveyor was to execute, or cause to be executed by deputies, surveys as may be authorized by law or as requested by the Board of Commissioners. He was also to take possession of all of the records of the Surveyor General of the Spanish Province of Upper Louisiana.

In a letter, dated March 25, 1806, Secretary Gallatin urged Jared Mansfield, Surveyor General of the United States, to immediately appoint a principal deputy surveyor for the Territory of Louisiana. Mr. Gallatin wanted the new appointee to proceed to Saint Louis without delay so as to recover the records from Antoine Soulard as soon as possible.⁸⁴ The appointment was not immediate, however, and some time passed before the new principal deputy surveyor was able to assume his duties in Saint Louis.

Meanwhile, the work of the Board of Commissioners progressed and it wasn't long before they found evidence of "ante-dating," not only in the concessions, but also in the surveys that had been certified by Antoine Soulard as Surveyor General of the Spanish Province of Upper Louisiana.⁸⁵ By May 2, 1806, Antoine Soulard was in the hot seat, refusing to answer questions pertaining to "ante-dating" or the

conduct of the Spanish government.^{86 87} On May 3, 1806, Governor Wilkinson ordered Soulard to cease operation as Surveyor General of the Territory of Louisiana.⁸⁸ The records in his possession were surrendered to the Board of Commissioners.⁸⁹

In an effort to redeem himself, Soulard addressed a letter to the Board of Commissioners, dated July 24, 1806, in which he explained why some of the surveys that he certified may not be dated at the time that they were performed. Because of the demand for surveys and the small number of competent surveyors in Upper Louisiana, months or years may pass before a survey could be completed. Once completed, Soulard often dated the surveys as if they had been performed at the time of the petition, concession and order for a boundary survey. This practice was of no concern to the Spanish Government and caused no problems with the final confirmation of title by the appropriate authority in New Orleans.⁹⁰

Secretary Gallatin, however, wanted to apply a higher standard than existed at the time of execution of the surveys, because he considered the surveys the only available means to be able to detect fraudulently antedated concessions. Without the surveys as a check on the concessions, efforts to detect fraudulent concessions were stymied.⁹¹ Secretary Gallatin took a hard-line view that was exemplified in his statement to the President of the United States in a January 1806 correspondence in which he stated that "The Spanish Govt was both despotic & lax, neither respecting individual rights, nor protecting its own. The sooner the inhabitants are taught that our principles are the reverse, the better."⁹²

So, although Antoine Soulard may have been highly regarded by his peers, his countrymen and successive local leaders for the United States, he was cast out as Surveyor General for the Territory of Louisiana under a cloud of suspicion and the implication of impropriety.

Chapter 5

Silas Bent - Principal Deputy Surveyor - Part One ⁹³

Article II of the Treaty Between the United States of America and the French Republic, dated April 30, 1803, provided that, "*the archives, papers, and documents, relative to the domain and sovereignty of Louisiana, and its dependences, will be left in the possession of the commissaries of the United States.*" ⁹⁴ Spain, however, not being a party to the agreement between the United States and the French Republic, apparently, did not feel compelled to relinquish the records in its possession. As a result, some officers of the Spanish government caused records to be removed from the Province of Louisiana, depriving the United States of the information contained within them. ⁹⁵

Because of this infidelity on the part of some of the Spanish officials, the United States Secretary of the Treasury, Albert Gallatin, was very concerned about the Archive of Surveys that was still in the custody of Antoine Soulard, the former Surveyor General of the Spanish Province of Upper Louisiana. No matter how respectable Soulard may be, Secretary Gallatin wanted those records and that meant that Soulard had to be replaced. ⁹⁶

After the United States had taken possession of Upper Louisiana on March 10, 1804, Captain Amos Stoddard, exercising the functions of civil commandant, chose to retain Soulard as the temporary depository of the Survey Archives. ⁹⁷ William Henry Harrison, governor of the Indiana Territory, had subsequently commissioned Soulard in October 1804 to continue in the capacity of Surveyor General for the district of Louisiana. ⁹⁸ General James Wilkinson, who had become governor of the Territory of Louisiana in July 1805, ⁹⁹ chose to continue Soulard in the office to which he had been appointed by Governor Harrison, ¹⁰⁰ so that Soulard continued in possession of the Survey Archives.

Meanwhile, the Board of Commissioners for ascertaining and adjusting land titles that was assembled in accordance with the act of March 2, 1805, chapter 26, had commenced their work in December 1805. Within months several issues pertaining to surveys were identified that needed legislative attention. First, the act of March 26, 1804, chapter 38, prohibited surveys from being performed, while the act of March 2, 1805, chapter 26, required a plat to be filed with the recorder of land titles. What if a survey had not yet been performed, so that none could be filed with the recorder of land titles? Next, the recorder of land titles, James L. Donaldson, had refused to accept surveys performed by private surveyors, believing that the fourth section of the act of March 2, 1805, chapter 26, required a plat prepared by a duly appointed officer.¹⁰¹ Governor Wilkinson had in fact issued a proclamation on November 4, 1805, prohibiting surveys by anyone but those authorized by the Surveyor General of the Territory.¹⁰² Were private surveys to be accepted or not? It was anticipated that surveys would be needed, but who was the proper person to perform them?¹⁰³

In response to these concerns Congress passed the act of February 28, 1806, chapter 11, *An Act extending the powers of the Surveyor-general to the territory of Louisiana; and for other purposes*.¹⁰⁴ This act provided for a principal deputy surveyor to reside in the territory of Louisiana and to operate under the superintendence of the surveyor-general of the United States, who was then in Ohio. The principal deputy surveyor was to execute, or cause to be executed by deputies, surveys as may be authorized by law or as requested by the Board of Commissioners. He was also to take possession of all of the records of the Surveyor General of the Spanish Province of Upper Louisiana. The Board of Commissioners was authorized to request surveys as they deemed necessary for the purpose of deciding upon claims before them. Any such survey was considered a private survey

only and a re-survey under the authority of the surveyor-general would be required, if the claim was confirmed. The Act also repealed the requirement of a plat of survey as evidence, if a survey had not been performed before December 20, 1803.

Compensation for the principal deputy surveyor was to be paid for surveys actually run, an amount not to exceed 3 dollars per mile. He was also entitled to receive a fee for examining and recording surveys performed by deputies and for providing a certified copy of any plot of survey in his office. Those fees were 25 cents for every mile of boundary for examination and recording and 25 cents for each certified copy. While the bill for this act was being considered by the United States Senate, an amendment was added to provide a salary for the principal deputy surveyor. The amendment, however, was rejected and the act was passed without it.^{105 106}

In a letter, dated March 25, 1806, Secretary Gallatin urged Jared Mansfield, Surveyor General of the United States, to immediately appoint a principal deputy surveyor for the Territory of Louisiana. Secretary Gallatin wanted the new appointee to proceed to Saint Louis without delay so as to recover the records from Antoine Soulard as soon as possible.¹⁰⁷

In a letter to the Board of Commissioners of the same date, Secretary Gallatin informed them that as a result of the recent act a plat of survey was no longer required, if a tract had not been surveyed under the authority of the proper Spanish Officer before December 20, 1803. He also advised them that they were authorized to direct the principal deputy surveyor to perform any surveys that they deemed necessary in order to complete their business. He cautioned them, however, to request surveys only when necessary, so as not to harass the claimants with repeated surveys. Also, since any surveys that had already been done and any surveys to be done by the principal deputy surveyor were to be considered private surveys subject to resurvey, it

did not matter whether a previous survey was performed under the authority of the proper Spanish Officer or by a private surveyor.¹⁰⁸

Jared Mansfield responded to Secretary Gallatin on June 14, 1806, expressing his intent to appoint Silas Bent of Belprie, Washington County, Ohio as principal deputy surveyor for the Territory of Louisiana. Mr. Bent had previously been employed by Mansfield in surveying the public lands and was serving as a judge of the Court of Common Pleas in the county of his residence.¹⁰⁹ Secretary Gallatin responded on July 3, 1806, approving the appointment and expressing dissatisfaction that his directive had not been carried out immediately upon receipt.¹¹⁰

Silas Bent reported to Jared Mansfield in a letter, dated September 22, 1806, that he had arrived in Saint Louis on September 17 and had visited Antoine Soulard to recover the records that had been in his possession. Soulard had been ordered on May 3, 1806 by Governor Wilkinson to cease operation as Surveyor General of the Territory of Louisiana¹¹¹ and had already surrendered the records to the Board of Commissioners. Bent next visited the Board of Commissioners, advised them of his office and requested that the appropriate records be delivered to him. At the leisure of the Board and their clerk the records were eventually released to him, but no requests for surveys were forthcoming. This put Mr. Bent in a difficult position, since his compensation relied upon requests for surveys from the Board of Commissioners. The Board of Commissioners, however, had been cautioned by Secretary Gallatin to request them only when necessary. Mr. Bent concluded his letter of September 22, 1806 to Jared Mansfield with the statement that "*This affords but a dark prospect for the present support of my young family in this most expensive Country.*"¹¹²

Silas Bent wrote to Jared Mansfield again on September 28, 1806, reporting that "*Nothing relative to my Official duties has taken place*

since I wrote You – Judge Lucas wishes resurveys made and a general investigation, but the other Commissioners pass the Business over.”

¹¹³ In a letter, dated October 13, 1806, he further stated to Jared Mansfield that *“I have had no Business for which the Law entitles me to a single Cent and have no prospect of any – I do not know what to do in this unfortunate situation – my children remain unwell.”* ¹¹⁴

By late October 1806 James L. Donaldson, the recorder of land titles, had left the Territory.¹¹⁵ Following his departure, the remaining commissioners, Judge John B. C. Lucas and Clement B. Penrose, received new instructions from the Secretary of the Treasury that would necessitate a revision of nearly all of the decisions that had already been made.¹¹⁶ As a result of these circumstances, the Board of Commissioners essentially ceased operation until they received further direction from the Secretary as to how to proceed.¹¹⁷

Jared Mansfield attempted to intercede on Mr. Bent’s behalf by informing Secretary Gallatin of the circumstances in letters, dated October 16, 1806, October 30, 1806 and November 1, 1806.¹¹⁸ He even advocated for Mr. Bent to the President of the United States in a letter, dated October 31, 1806.¹¹⁹

William Carr, the agent for the United States in the Territory of Louisiana, also chipped in his comments to Secretary Gallatin in a letter, dated November 20, 1806, in which he observed that *“If the power of the surveyor general is by law to be extended to this territory; a principal deputy surveyor appointed, who by his instructions is urged in the most pressing manner to repair immediately to St. Louis, to open and keep, an office there; & the Commissioners are not to continue their sessions, this act of Congress will remain inefficient and without execution – This principal deputy Surveyor, as an officer of the government certainly could not be expected to remove his family to this place; open an office and Continue it here entirely at his own expence; & that too for the*

expectation of obtaining the compensation allowed by law, whenever it should please the board of commissioners, to afford him any employment – which compensation will be found upon reflection and examination not to be half equivalent to the expences attendant on the discharge of the duties assigned him by Law. More especially in this country where the Tracts of land to be surveyed are scattered over the whole face of the territory and many of them situated at a great distance from the surveyor’s place of residence; where no travelling expences to and from the land to be surveyed are allowed and where labour and expences of every kind are excessively high.” ¹²⁰

In a letter to Jared Mansfield, dated December 9, 1806, Silas Bent remained hopeful that appropriate intervention would “*perhaps turn what has been unfavorable hitherto, very much to my advantage in the end.*” ¹²¹

Chapter 6

Claims to Land and the Board of Revision ¹²²

The work of the first Board of Commissioners for the adjustment of land titles in the Territory of Louisiana may as well have been a trial run, given the numerous changes throughout the process and the ultimate failure to complete the task. From the outset the United States government was suspicious of attempts to fraudulently acquire land. As a result, Congress passed legislation consistent with what they believed the Spanish regulations to have been, honoring the claims of bona fide settlers, while trying to exclude the fraudulent claims. The plan seemed to be one of strict application in the beginning with the option to revise the legislation as more information became available about the merit of the claims.¹²³ Thus, the Board of Commissioners began with insufficient instructions, attempted to identify and work through the deficiencies, were challenged by legislative changes throughout the process and when they believed they were nearly done, were presented with new rules that would require a revision of nearly all of the claims examined to that point.

In an effort to incorporate all of the lessons learned and to address all of the concerns identified up to that time, Congress passed the Act of March 3, 1807, chapter 36, *An Act respecting claims to land in the territories of Orleans and Louisiana*.¹²⁴

The first section of the act repealed that part of the first section of the Act of March 2, 1805, chapter 26,¹²⁵ that required the claimant to be the head of a family or over the age of twenty-one years.

The second section of the act provided for the confirmation of tracts of land not exceeding two thousand (2000) acres (equal to 2351 arpents), that had been possessed for ten consecutive years prior to December 20, 1803 by a person or persons actually resident in the territory of Louisiana and still in possession of the tract of land. Lead

mines and salt springs could not be confirmed under this section of the act.

The fourth section of the act gave the Board of Commissioners full powers to decide upon claims to land not exceeding one league square (equal to 7056 arpents or 6002.5 acres) according to the laws and established usages and customs of the French and Spanish governments. The claimant had to have been an inhabitant of Louisiana on December 20, 1803 and the tract could not contain a lead mine or a salt spring. A decision in favor of the claimant was to be final and not subject to revision by Congress.

The fifth section of the act extended to July 1, 1808 the time for filing written notice and evidence of a claim to land with the recorder of land titles.

The sixth section of the act provided that a transcript of confirmations was to be transmitted to the Secretary of the Treasury and the surveyor-general. The Board of Commissioners was to deliver to each claimant a certificate stating the circumstances of the case with notice that the claimant is entitled to a patent for the tract of land designated in the certificate. The claimant was then to file the certificate with the recorder of land titles within twelve months. Once the recorder of land titles received a plat of survey of the tract, he would then issue another certificate, which was to be submitted to the Secretary of the Treasury. A patent would then be issued in the same manner as for the public lands.

The eighth section of the act required the commissioners to prepare a report of the claims that were not confirmed by the fourth section of the act. The report would be submitted to Congress for their final determination.

James L. Donaldson, who had abandoned the office of recorder of land titles for the Territory of Louisiana, was replaced by Frederick Bates, who was commissioned by President Thomas Jefferson on

February 4, 1807.¹²⁶ Mr. Bates was also commissioned as the Secretary of the Territory of Louisiana on the same date.¹²⁷ He had previously served as receiver of public monies, a land commissioner and a judge in various courts in the Territory of Michigan.¹²⁸ Meriwether Lewis was commissioned by President Thomas Jefferson as Governor of the Territory of Louisiana on March 3, 1807, but he did not begin to function in that capacity until March 8, 1808.¹²⁹ Consequently, Frederick Bates, as Secretary of the Territory, also performed the functions of the governor until the arrival of Lewis.

Frederick Bates arrived at Saint Louis on April 1, 1807 and soon thereafter joined with Judge John B. C. Lucas and Clement B. Penrose to resume the work of the Board of Commissioners as a Board of Revision.¹³⁰ The Secretary of the Treasury, Albert Gallatin, sent a letter, dated April 2, 1807, providing updated instructions for their proceedings as a result of changes enacted by the latest Act of Congress.¹³¹

All of the decisions of the former Board of Commissioners had to be reexamined under the new provisions of the legislation. The instructions that Secretary Gallatin had previously sent under date of September 8, 1806 were still applicable, unless they conflicted with the new legislation, in which case the new legislation would take precedence. Restrictions were still in force as to claims on which the commissioners were not authorized to decide.

Certificates issued for approved claims were to be numbered progressively in the order in which they were issued, beginning with No. 1. Each certificate was to specify the name(s) of the original claimant(s), the present owner(s), the nature of the claim (i.e., concession, order of survey, settlement right, etc.) and the location of the tract of land. If a survey had already been executed, it was to be appropriately referenced. If a survey had not yet been performed, precise directions were to be given as to where and how the tract was

to be surveyed. The area was to be stated in either acres or arpents. The clerk of the Board was to keep a register of the certificates that were issued and he was to send to the Secretary of the Treasury a list of certificates issued each month. The recorder of land titles was also to keep a separate register for the patent certificates to be issued by him and he was to send a monthly report to the Secretary of the Treasury. The patent certificate was to include the description from the survey and it had to specify by whom the survey was performed.

In a letter, dated May 30, 1807, Frederick Bates informed Secretary Gallatin, that he had received the instructions and that the Board of Revision was then meeting every third day to receive testimony in support of land claims.¹³²

The commissioners of the Board of Revision passed a resolution on June 13, 1807, stating their plan to make a circuit of the Territory in order to receive testimony from the land claimants in the distant settlements.¹³³ ¹³⁴ They planned to visit Saint Charles in August 1807, Sainte Genevieve in November 1807, Cape Girardeau and New Madrid in March 1808 and Camp Esperance in April 1808. During the intervening periods of time, they planned to continue their sessions in Saint Louis.

Frederick Bates reported to Secretary Gallatin on February 9, 1808 that the Board of Revision had only received testimony and had not yet made any decisions. They first wanted to settle all the principles upon which their decisions were to be made to avoid the problems encountered by the first Board of Commissioners.¹³⁵ In addition, the specifications for confirmation in the various acts of Congress were such that some claims were considered as having higher merit than others. It was, therefore, imperative to ensure that those of higher merit were given the senior right where a conflict may exist. This could only be accomplished by delaying their decisions until after all testimony had been received.¹³⁶

The trips to Saint Charles and Sainte Genevieve were completed as planned in 1807.¹³⁷ The travel plans for 1808, however, were modified due to the inconvenience of traveling at such an early time of the year. The commissioners of the Board of Revision decided to delay until May 1808 and to send only one member of the Board to receive testimony instead of all three. Frederick Bates, the recorder of land titles, was selected to make the trip. Since he could not read or understand French or Spanish, Marie Philippe LeDuc, the translator, was to accompany him. Judge Lucas and Clement Penrose were to remain in Saint Louis and continue the sessions of the Board there.¹³⁸

Frederick Bates, accompanied by Marie Philippe LeDuc, began his circuit of the southern settlements in late May 1808.¹³⁹ He reported to Secretary Gallatin on July 22, 1808 from the Village of Arkansas that he had visited all of the settlements between there and Cape Girardeau, collecting evidence and testimony.¹⁴⁰ On August 15, 1808 he made report to the Board of Revision and submitted the records for their consideration.¹⁴¹ It was later reported that he had collected testimony on 1121 claims.¹⁴²

The Board of Revision posted notice on August 24, 1808 that they intended to meet every day, except Sunday, until the first of November 1808 to receive testimony and continue the business of the Board.¹⁴³ Finding, however, that the business could not be completed by that time, they extended the date to December 1, 1808 and subsequently pushed the date back to January and then March 1809 to give claimants every opportunity to present testimony in support of their claims.¹⁴⁴ In a letter, dated November 26, 1808, the Board notified Secretary Gallatin that with the amount of work yet to be done they would not be able to complete a report for the current Session of Congress. They also reminded him that provision for their compensation would end on January 1, 1809.¹⁴⁵

On February 1, 1810 the commissioners of the Board of Revision reported to Secretary Gallatin that they had received 3056 claims for land and that they had begun rendering decisions on December 8, 1808. Of the 3056 claims, 2699 claims had supporting testimony, while the remaining 357 claims had none. Only 8 claims were determined to have complete titles. Claims that were confirmed by the Board, but which had not yet been surveyed, were not issued a certificate until a survey could be completed. They reported that they had so far finally decided on 638 claims. Certificates had been issued on 323 claims, surveys were ordered for 167 claims and 139 claims had been rejected. The Board noted that there was still much work to be done and they again reminded the Secretary that compensation was still an issue.¹⁴⁶

Secretary Gallatin reported in a letter, dated May 5, 1810, that Congress had failed to pass legislation providing for continued compensation for the commissioners, the clerk of the board and the translator. He urged them, however, not to be discouraged by a lack of compensation, but to continue with all haste so that their final report could be submitted to the next session of Congress.¹⁴⁷

In a letter, dated November 7, 1810, Thomas Riddick, the clerk of the Board of Revision, reported to Secretary Gallatin that the Board had so far finally decided on 1692 claims. Certificates had been issued on 524 claims, surveys were ordered for 423 claims and 745 claims had been rejected. He also reminded the Secretary that he continued to labor without compensation.¹⁴⁸

Congress finally made provision for compensation in passing the Act of March 3, 1811, chapter 46, *An Act providing for the final adjustment of claims to lands, and for the sale of the public lands in the territories of Orleans and Louisiana*.¹⁴⁹ Each commissioner and the clerk of the Board were allowed 50 cents for each duly filed claim that remained undecided on July 1, 1809 and on which a decision was

finally made, whether confirmed or rejected. A further compensation of 500 dollars was to be paid after all of the work was completed and the transcripts and reports had been submitted to the Secretary of the Treasury. The translator was allowed 600 dollars per year, not to exceed a term of 18 months.

Secretary Gallatin informed the commissioners of the Board of Revision in a letter, dated April 24, 1811, that compensation for the claims that were ultimately rejected could not be paid until their final report was submitted. Compensation for the claims that were confirmed and on which certificates had been issued, however, could be paid when the report of certificates issued each month was submitted as previously directed.¹⁵⁰

The plan for compensation was not well received by the commissioners, the clerk or the translator and there were rumblings of resignation that threatened to bring a halt to the proceedings.¹⁵¹ Nevertheless, they labored on and the clerk of the Board reported to Secretary Gallatin on January 20, 1812 that the business of the Board of Revision had been completed.¹⁵² Frederick Bates reported on January 27, 1812 that the final report of the Board of Revision had been entrusted to Clement Penrose for delivery to the Secretary of the Treasury.¹⁵³

The Board of Revision issued 1342 confirmation certificates, one of which was determined to be a duplicate and was declared void. The final report identified about 2055 claims that were not approved according to the provisions of the existing legislation.¹⁵⁴

Chapter 7

Silas Bent - Principal Deputy Surveyor - Part Two

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Relief for Silas Bent finally came by way of a provision in the Act of March 3, 1807, chapter 36, *An Act respecting claims to land in the territories of Orleans and Louisiana*.¹⁵⁶ Section nine of the act provided for an annual compensation of five hundred dollars in addition to the fees previously established. The annual compensation was effective from the time the principal deputy entered into the duties of the office.

Section seven of the act also provided that any claim to land that was approved by the board of commissioners that had not previously been surveyed was to be surveyed under the direction of the principal deputy surveyor at the expense of the claimants. The board of commissioners was also authorized to direct the principal deputy surveyor to re-survey any tract at the expense of the United States. General and particular plats were to be prepared and sent to the proper register or recorder and the Secretary of the Treasury.

A relieved Silas Bent wrote to Jared Mansfield on June 1, 1807, thanking him for his intervention and requesting more particular information and instructions as to how the surveys were to be conducted.¹⁵⁷ Mansfield responded on July 20, 1807 with the following specifications:¹⁵⁸

1st I think that it would be well that Our General Instructions for marking of lines Be Observed by the Surveyors of private, tracts, particularly that they be blazed well, & a sufficient Number of Sight trees be taken; also that bearing trees be taken for the Corners, & that the Course & distance from the last Corner, in the Order of the surveying, be marked on one or more of the bearing trees, or some other tree near the Corner, instead of the Number of section Lot &c. as in the public Surveys.

2d The Field notes, & two plats of each survey, together with the Description of bearing trees quality of Land; &c.

should be returned to Your office. The Contents of the tract ought to be calculated by the tables of Latitude & Defraction.

3- By General Plats, I understand a map of the Country embracing the Claims. The Use of this is to know how they lie in respect to One Another, & thereby to form a judgment of the intermediate Vacant Lands; I know no way while the Country Generally is not surveyed, whereby this can be done correctly. The Water Courses however & the Natural Marks must be your guide, as well as the estimated distances of One place from Another. The Common map of the Country will Also assist you.

4th Ritenhouse's Compass, or one which will enable the Surveyor to give the Courses According to the true Meridian should be used in private as well as the public surveys. All Courses should be put down according to the true Meridian, & the variation of the Compass, ought to be noted on the plat of each survey, as well as the average Variation in the General Plat.

Meanwhile, Frederick Bates was appointed recorder of land titles in place of James L. Donaldson and the Board of Commissioners reconvened as a Board of Revision. By May 1807 they had begun receiving testimony in support of land claims.¹⁵⁹ They would continue to receive testimony without rendering any decisions until the time for receiving evidence had expired. On December 8, 1808 they began examining the evidence and making decisions. Claims that were confirmed by the Board, but which had not yet been surveyed, were not issued a certificate until a survey could be completed.¹⁶⁰

Silas Bent reported to Jared Mansfield in letters, dated May 24, 1810 and July 30, 1810, that when the orders for survey began to come, the commissioners of the Board of Revision expected the surveys to be executed immediately, giving a due date that did not allow enough time to perform the work or to make arrangements with a deputy. In addition, the tracts ordered to be surveyed were not grouped by locality, but were scattered across the territory. In cases where the claimants were responsible for payment, the claimants often refused to pay and some prevented the execution of the surveys by

force. The commissioners, nonetheless, insisted that the work be done as ordered and expressed the belief that payment should be pursued through the courts. Mr. Bent was also perplexed by orders for surveys in which the quantity of land to be confirmed was less than the quantity claimed. He was, apparently, expected to use his discretion in defining the tract to satisfy the quantity to be confirmed. Older claims were not to be disturbed, but many of the old lines had never actually been run and marked in the field. There existed no map or drawing indicating the position of any one claim relative to another, so that it often took more time to figure out where and how the tract was to be surveyed than the time it took to do the actual survey.¹⁶¹

Mr. Bent had previously observed in a letter to Jared Mansfield, dated December 21, 1806, that the surveys in the former province of Upper Louisiana had "*been executed in the most careless manner, seldom more than half the lines run at all and where they are no corner established or bound defined – no field Notes taken and the courses all laid down 7° variant from what they were run ... and from the extraordinary forms & situations of the private Claims it will be very difficult ever to bring the surveys into any regularity.*"¹⁶²

Mr. Bent reported to Jared Mansfield in a letter, dated November 12, 1810, that he had tried to recruit deputies to assist with the surveys, but few were interested when prompt payment and a profit could not be assured. He also observed that it appeared the commissioners of the Board of Revision had changed their approach and were now issuing certificates of confirmation without a survey. The confirmation certificates, however, noted that a survey was required before a patent could issue. It was almost certain then that there would be pressure from the claimants to have their claims surveyed so that they could get their patents.¹⁶³

Frederick Bates noted in an update to Secretary of the Treasury Albert Gallatin, dated June 20, 1811, that the Board of Revision had

examined and approved "*many hundred confirmations and grants which include Orders of survey.*" The Board had been holding the orders so that they could deliver them all together to the principal deputy surveyor.¹⁶⁴ In a letter dated, September 5, 1811, Silas Bent reported to Jared Mansfield that the commissioners of the Board of Revision had suspended requests for surveys as a result of the failure of Congress to provide compensation for the continuing work of the Board.¹⁶⁵ Mr. Bent later noted in a letter to Mansfield, dated January 30, 1812, that he had made repeated requests to the Board of Revision for the orders of survey that had been made, but not yet delivered, so that he could execute the surveys in a more efficient manner and not have to repeatedly travel to the same area to survey individual tracts. His requests were denied, however, until October 1811, when the clerk of the Board of Revision delivered "*6 or 8 hundred*" of the confirmation certificates with orders for a survey.¹⁶⁶

As if Mr. Bent was not hindered enough in the prosecution of his duties, he and his deputies were subjected to unnecessary difficulties in trying to execute the orders given them. Some orders for survey specified that the survey was to be made "*conformable to the concession,*" which was written in the French or Spanish language. Neither a copy of the concession nor a translation of the text was provided, however. Other orders for survey called for a bound, such as a road or an older claim, but no information regarding the location of that specified bound was provided. Other orders of survey were limited by a condition that couldn't be determined until after the survey was performed and some tracts could not even be located for lack of sufficient information from the Board of Revision. When Mr. Bent or his deputies requested more specific direction from the Board as to how a tract was to be surveyed, the commissioners refused to provide further direction, stating that their orders were as complete as they were required to be. Requests made to the Board, the recorder of land

titles, the clerk of the Board or the translator for translated copies of needed information from records within their possession were all denied. They did not consider themselves obligated to provide copies or translations, since no provision existed for their compensation. In some instances, the claimants, at their own expense, were able to provide the needed copies or translations so that the survey could be completed.¹⁶⁷

Once the Board of Revision had completed its work in January 1812 and submitted the transcripts and reports, it appears that no more surveys were attempted as a result of the lack of access to the appropriate information. Secretary Gallatin notified Frederick Bates, the recorder of land titles, on April 18, 1812 that he would not issue any more patents for approved land claims until the surveys were completed. Without the surveys, the tracts could not be definitively located, so Mr. Gallatin wanted the principal deputy surveyor to survey all of the tracts, connecting them relative to one another.¹⁶⁸

Congress addressed the quandary of the principal deputy surveyor in his need for access to information by inserting an appropriate provision in the Act of June 13, 1812, chapter 99, *An Act making further provision for settling the claims to land in the territory of Missouri*¹⁶⁹ (the Territory of Louisiana had been renamed the Territory of Missouri by the Act of June 4, 1812, chapter 95¹⁷⁰). Section six of the act directed the recorder of land titles to provide the principal deputy surveyor free access to the records in his office and copies or extracts of anything relating to land claims that the surveyor may need to complete the work required of him. The recorder of land titles was allowed twenty-five cents for the description of each tract provided to the principal deputy surveyor.

Section three of this act approved several classes of claims that were determined by the Board of Revision to have merit, but which had not satisfied the strict requirements of the previous legislation.

Section five of the act specified that these new confirmations were to be surveyed along with those claims already approved by the Board of Revision that had not yet been surveyed. Also authorized to be surveyed were a sufficient number of townships so as to encompass all of the private claims. Upon completion of the surveys, a "*general and connected plat*" was to be prepared, showing the relative position of all of the tracts directed to be surveyed.

The amount of survey work for which the principal deputy surveyor was now responsible continued to grow with the passage of the Act of March 3, 1813, chapter 44, *An Act allowing further time for delivering the evidence in support of claims to land in the territory of Missouri, and for regulating the donation grants therein.*¹⁷¹ Section five of the act directed the principal deputy surveyor to survey or cause to be surveyed a tract of 640 acres for each claim that had been confirmed on the basis of settlement right for a quantity less than 640 acres. In cases where competing claims did not permit a full 640 acres to each claimant, the principal deputy surveyor was to determine an equitable division of the land.

If the task had been daunting before, it had now become quite monumental for Silas Bent. The problem remained that there was, as yet, no framework in the Territory of Missouri to which the surveys could be referenced. The Spanish had conceded lands without a plan, allowing the petitioner to choose where his tract was to be located and how it was oriented. The result was a hodgepodge of disconnected clusters of tracts of land scattered over an extensive area. The only sensible solution would be to survey the public lands at the same time as the confirmed private claims. The Act of June 13, 1812, chapter 99, authorized townships to be surveyed, but how and where should these commence? There were many details that needed to be decided and it would take a considerable amount of time to accomplish all that had been ordered.¹⁷²

In addition to his duties as principal deputy surveyor, Silas Bent had taken on other responsibilities that would now make it difficult for him to participate directly in the surveys to be performed. He had been appointed 1st Justice of the Courts of Quarter Sessions and Common Pleas for the district of Saint Louis on June 14, 1807¹⁷³ and was reappointed on September 2, 1811.¹⁷⁴ On January 5, 1811 he was appointed Auditor of territorial accounts for the Territory of Louisiana¹⁷⁵ and, apparently, also served as a District Auditor. On February 18, 1813 he was appointed a Judge of the Superior Court of the Territory of Missouri by the President of the United States, James Madison.¹⁷⁶

In November 1813 Silas Bent gladly relinquished the burden of Principal Deputy Surveyor to his successor, William Rector.¹⁷⁷

Chapter 8

Daniel Boone's Claim to Land in Upper Louisiana

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By 1798 Daniel Boone was in the latter years of his life. He had pursued some wild adventures, suffered some devastating losses and was perhaps looking for a new start in a new place. At about that same time the Spanish began encouraging Americans with families to come settle in Upper Louisiana. They were offering generous grants of land to those willing to make improvements and cultivate the land.¹⁷⁹

¹⁸⁰ In fact, Spanish Lieutenant Governor Don Zenon Trudeau had in September 1797 conceded a tract of land of 600 arpents (about 510 acres) to one of Daniel Boone's sons, Daniel Morgan Boone. Trudeau extended an invitation to Boone as well to bring his family to Upper Louisiana, promising a grant of land.

On January 24, 1798, Trudeau conceded to Daniel Boone a tract of land of 1000 arpents (about 850 acres) adjoining the tract previously conceded to his son in the district of the Femme Osage on the Missouri River near present day Matson and Defiance in Saint Charles County.¹⁸¹ Daniel Morgan Boone's tract was surveyed on December 25, 1799 and Daniel Boone's tract was surveyed on December 26, 1799. Both were recorded in the Registre d'Arpentage by Antoine Soulard on January 9, 1800. Adjoining tracts had been previously conceded to David Darst Senior for 600 arpents, David Darst Junior for 264 arpents and John Linsay for 500 arpents.

When Daniel Boone arrived in Upper Louisiana, he and his lady took up residence with Daniel Morgan Boone on the adjoining tract of land. On July 11, 1800, Daniel Boone was commissioned as commandant of the district of Femme Osage by Spanish Lieutenant Governor Don Charles Dehault Delassus, who had succeeded Trudeau in 1799. Since the Spanish regulations required that a settler establish

himself within one year, Daniel Boone inquired of Delassus about this necessity. Delassus advised him that, since he was serving as commandant of the district, the requirements did not apply to him. Daniel Boone continued to live with Daniel Morgan Boone until he later moved to the home of a younger son, Nathan Boone.¹⁸²

After the United States had acquired Upper Louisiana in 1803 and taken possession of it in 1804, Daniel Boone filed notice of his claim with the recorder of land titles for the district of Louisiana as directed by the Act of March 2, 1805, chapter 26, *An act for ascertaining and adjusting the titles and claims to land, within the territory of Orleans, and the district of Louisiana*.¹⁸³ Evidence and testimony for his claim were presented to the first Board of Commissioners on February 13, 1806. At that time Boone was said to be about seventy (70) years old and his wife about sixty-eight (68).¹⁸⁴

The first Board of Commissioners ultimately failed to finish its business, so Boone's claim was not decided upon until it was examined by the Board of Revision. On December 1, 1809, John B. C. Lucas, Clement B. Penrose and recorder of land titles, Frederick Bates, rendered the following decision: "*It is the opinion of the Board that this claim ought not to be confirmed.*"¹⁸⁵

Daniel Morgan Boone's claim for the 600 arpents conceded to him was approved under commissioners' certificate number 20 on December 13, 1808. David Darst Senior's claim for the 600 arpents conceded to him was approved under commissioners' certificate number 18 on the same date. John Linsay's claim for the 500 arpents conceded to him was approved under commissioners' certificate number 59 on December 22, 1808.¹⁸⁶ David Darst Junior's claim for the 264 arpents conceded to him, however, was not approved by the Board of Revision. In testimony it was noted that he was crippled, a minor and did not reside on the tract, but with his father, David Darst Senior.¹⁸⁷

Daniel Boone was not satisfied with the decision of the Board of Revision, so he appealed directly to the United States Congress with the following petition:¹⁸⁸

To the Senate and Representatives of the citizens of the United States in Congress assembled. The petition of Daniel Boone, at present an inhabitant of the territory of Louisiana, respectfully showeth:

That your petitioner has spent a long life in exploring the wilds of North America; and has, by his own personal exertions, been greatly instrumental in opening the road to civilization in the immense territories now attached to the United States, and, in some instances, matured into independent States.

An ardent thirst for discovery, united with a desire to benefit a rising family, has impelled him to encounter the numerous hardships, privations, difficulties, and dangers to which he has unavoidably been exposed. How far his desire for discovery has been extended, and what consequences have resulted from his labors, are, at this time, unnecessary to detail.

But, while your petitioner has thus opened the way to thousands, to countries possessed of every natural advantage, and although he may have gratified to excess his thirst for discovery, he has to lament that he has not derived those personal advantages which his exertions would seem to have merited. He has secured but a scanty portion of that immeasurable territory over which his discoveries have extended, and his family have reason to regret that their interest had not been more the great object of his discoveries.

Your petitioner has nothing to demand from the justice of his country, but he respectfully suggests, that it might be deemed an act of grateful benevolence, if his country, amidst their bounties, would so far gratify his last wish, as to grant him some reasonable portion of land within the territory of Louisiana.

He is the more induced to this request, as the favorite pittance of soil to which he conceived he had acquired a title, under the Spanish Government, has been wrested from him by a construction of the existing laws not in his contemplation,

and beyond his foresight. Your petitioner is not disposed to murmur or complain; but conscious of the value and extent of his services, he solicits some evidence of their liberality.

He approaches the august assemblage of his fellow-citizens with a confidence inspired by that spirit which has led him so often to the deep recesses of the wilds of America; and he flatters himself that he with his family will be induced to acknowledge that the United States knows how to appreciate and encourage the efforts of her citizens, in enterprises of magnitude, from which proportionate public good may be derived.

DANIEL BOONE

Boone's petition was referred to committee in the United States Senate and, subsequently, presented to the full Senate on January 12, 1810.¹⁸⁹ The committee recognized Daniel Boone's meritorious contributions and the benefit to the United States, thus recommending a bill for his relief. The Senate, however, delayed addressing the petition, since the Board of Revision had not yet submitted its final report and would not do so until January 1812.

On December 10, 1813 the chairman of the committee on public lands in the United States House of Representatives requested information about the claim of Daniel Boone from the Commissioner of the General Land Office, Edward Tiffin, who forwarded the information on December 13, 1813.¹⁹⁰ A report from the committee was subsequently submitted to the House of Representatives on December 24, 1813. The committee surmised that since the Act of March 2, 1805, chapter 26, required actual settlement and cultivation for confirmation and that Daniel Boone made no claim to have actually settled and cultivated the land, the Board of Revision must have rejected the claim on that deficiency alone. The claim appeared to be good in all other respects. The committee observed that "*the petitioner is in his old age, and has, in early life, rendered to his country arduous*

and useful services; and ought not, therefore, to be deprived of this remaining resource by a rigorous execution of a provision of our statute, designed to prevent frauds on the Government." The committee recommended that Daniel Boone be confirmed in his title to one thousand arpents of land in the Femme Osage district granted to him by the Spanish Government.¹⁹¹

Daniel Boone was ultimately granted relief by the special Act of Congress of February 10, 1814, chapter 10,¹⁹² which reads as follows:

Be it enacted, &c. That Daniel Boone be, and he is hereby confirmed in his title to one thousand arpens of land, claimed by him by virtue of a concession made to him under the Spanish government, bearing date the twenty-eighth day of January, 1798, and it shall be the duty of the recorder of land titles for the territory of Missouri, to issue to the said Daniel Boone, or to his heirs, a certificate in the same manner, and of the same description, as the said Daniel Boone would have been entitled to receive, if his claim to the said land had been confirmed by the commissioners appointed for the purpose of ascertaining the rights of persons claiming land in the territory of Louisiana, or by the recorder of lands titles for the said territory of Missouri.

Chapter 9

Claims to Land and the Opinions of the Recorder of Land Titles ¹⁹³

The Board of Revision finished its work in January 1812 and sent its final report to the Secretary of the Treasury in the hands of Clement Penrose, one of the commissioners.^{194 195} In addition to delivering the report, Penrose offered a classification of the claims that were not approved and included his personal recommendations. He acknowledged that there were claims that lacked merit and should never be confirmed, but that many claims, although not meeting the requirements of the existing legislation, did have merit and in all justice should be approved by some future legislation. His classification of claims and recommendations along with the classification of claims prepared by the clerk of the Board of Revision were presented to Congress in April 1812.¹⁹⁶

Congress considered the recommendations and consequently passed the Act of June 13, 1812, chapter 99, *An Act making further provision for settling the claims to land in the territory of Missouri*.¹⁹⁷

Section one of the act confirmed to the inhabitants of the respective towns or villages the rights, titles and claims to town or village lots, out lots, common field lots and commons that had been inhabited, cultivated or possessed before December 20, 1803. The towns and villages recognized as existing in the Territory of Missouri prior to that date and to which the act applied were Portage des Sioux, Saint Charles, Saint Louis, Saint Ferdinand, Village á Robert, Carondelet, Sainte Genevieve, New Madrid, New Bourbon, Little Prairie and Arkansas.¹⁹⁸ The out boundary of each town or village, including the out lots, common field lots and commons, were to be surveyed by the principal deputy surveyor.

Section three of the act confirmed certain claims based on settlement and cultivation that had not been approved by the Board of Revision. Included were those claims in which permission to settle from the proper Spanish officer had not been proven and those claims that had been inhabited on December 20, 1803, but had not yet been cultivated. These claims were confirmed where it could be shown that they were inhabited by the claimant or someone on behalf of the claimant before December 20, 1803 and the land had been cultivated in 8 months after that date. In addition, those claims that had not been confirmed merely because they exceeded 800 arpents were confirmed to the extent of 800 arpents.

Section four of the act directed the recorder of land titles to examine the records of the Board of Revision and make a list of all of the claims that qualified for confirmation by the preceding section three. The completed list was to be sent to the Commissioner of the General Land Office (which had been created by the Act of April 25, 1812, chapter 68 ¹⁹⁹) and sufficient information was to be provided to the principal deputy surveyor so that a boundary survey could be performed. Upon completion and return of the survey to the recorder of land titles, a certificate was to be issued with which a patent could be obtained.

Section seven of the act allowed an additional opportunity to provide written notice and evidence for claims that had not yet been filed with the recorder of land titles. Claimants had to be actual settlers on the land that they claimed. The deadline for filing was set for December 1, 1812.

Section eight of the act gave the recorder of land titles the authority to perform the same functions as the Board of Commissioners in examining evidence and rendering a decision on all those claims that were authorized to be filed by the preceding section seven along with any claims that had previously been filed, but not

decided upon by the Board of Revision. All of the decisions of the recorder of land titles were subject to revision by Congress. Upon completion of the work, the recorder of land titles was to submit a report to the Commissioner of the General Land Office, detailing the evidence presented for each claim and his recommendations as to which should be confirmed. The report would then be presented to Congress for their final determination. The recorder of land titles would be paid fifty (50) cents for each claim examined and decided upon and an additional five hundred (500) dollars to be paid after the submission of his report.

Frederick Bates completed his list of claims that satisfied the requirements for confirmation as set out in section three of the Act of June 13, 1812, chapter 99, and sent it to the Commissioner of the General Land Office, Edward Tiffin, on November 20, 1812.²⁰⁰

For those that had filed notice of a claim with the recorder of land titles, but had not yet presented any testimony or written evidence to support their claim, more time was allowed by the Act of March 3, 1813, chapter 44, *An Act allowing further time for delivering the evidence in support of claims to land in the territory of Missouri, and for regulating the donation grants therein.*²⁰¹ The new deadline was set for January 1, 1814 and the recorder of land titles was to handle these claims in the same manner as directed by the previous Act of Congress.

In addition, section four of this act granted 640 acres to all settlement right claims that had previously been confirmed for a quantity less than 640 acres. However, this provision did not apply to those claims in which the acknowledged and ascertained boundaries of the tract claimed were less than 640 acres. These "donation grants" were to be surveyed by the principal deputy surveyor.

Communication regarding these new developments in Congress was slow to reach the District of Arkansas in the southern part of the

Territory of Missouri. According to Henry Cassidy, notice of the Act of June 13, 1812, chapter 99, was not received in the District of Arkansas until about October 20, 1812. He promptly left Arkansas on October 29, 1812 with about fifty (50) claims that he was authorized to have filed with the recorder of land titles. He was accompanied by five others until they reached a crossing of the St. Francis River, which was flooded and impassable as a result of damage done by the recent earthquakes. His companions turned back, but Mr. Cassidy continued on alone. Sickness and bad weather delayed his arrival at the mouth of the St. Francis River until December 7, 1812, already too late to make the December 1, 1812 deadline. He managed to reach the District of New Madrid by water and then proceeded to Saint Louis by land. He gave a deposition of his difficulties at Saint Louis on January 23, 1813 with a plea for some provision to accept the claims that he had delivered from the District of Arkansas.²⁰²

Congress recognized the difficulties of the claimants living in the District of Arkansas and passed the Act of August 2, 1813, chapter 59, *An Act giving further time for registering claims to lands in the late district of Arkansas, in the territory of Missouri, and for other purposes.*²⁰³ The time for filing notice and written evidence of claims was extended to January 1, 1814 and the recorder of land titles was to handle these claims in the same manner as directed by previous acts of Congress. This act also allowed claimants until July 1, 1814 to provide testimony for any claims that had already been filed under former acts of Congress.

Upon further examination of claims that had been previously rejected by the Board of Revision, Congress made provision for the confirmation of additional classes of claims by passing the Act of April 12, 1814, chapter 52, *An Act for the final adjustment of land titles in the State of Louisiana and territory of Missouri.*²⁰⁴

Section one of the act confirmed those claims that were based on an incomplete French or Spanish grant or concession, warrant or order of survey that were granted before March 10, 1804, where the claimant was actually resident in the territory at the time of the grant. The concession, warrant or order of survey had to be for a specific location or the tract had to have actually been located or surveyed before March 10, 1804 by a surveyor duly authorized by the government making the grant. No claim that had been previously determined to be antedated or otherwise fraudulent would be confirmed under this section. The claim was limited in size to one league square and those who had already received a "donation grant" under a claim of settlement right were not eligible. Confirmations under this section could not interfere with claims that had already been confirmed by the Board of Revision.

Section two of the act confirmed those claims based on settlement right that had previously been rejected for not having been inhabited on December 20, 1803.

Section three of the act directed the recorder of land titles to make out an order of survey to the principal deputy surveyor for each tract confirmed by this act that had not been previously surveyed. The recorder of land titles was to provide the principal deputy surveyor a proper description of the tract with the quantity, locality, boundaries and connection to other tracts. When the survey was completed, the recorder of land titles was to issue a confirmation certificate with which a patent could be obtained from the General Land Office. The recorder of land titles was entitled to charge the claimant one dollar and fifty cents for an order of survey and certificate and one dollar for a certificate without an order of survey.

Section four of the act required the principal deputy surveyor to perform the ordered surveys at the expense of the claimants. Completed plats were to be sent to the recorder of land titles and the

Surveyor General of the United States, who would then forward a copy to the Commissioner of the General Land Office.

For those who had occupied a tract of land not claimed by anyone else and who had continued to actually inhabit and cultivate it, section five of the act allowed the right of pre-emption in the purchase of the tract.

Frederick Bates notified the Commissioner of the General Land Office, Josiah Meigs, in a letter, dated March 30, 1815, that he was hard at work on a comprehensive report addressing all of the requirements of the several successive acts of Congress. Each act required additional work to be done and the records that had to be reviewed were quite voluminous and tedious. He hoped to submit the final report in the summer or fall of that year.²⁰⁵

Frederick Bates further corresponded with Josiah Meigs in July and August 1815, expressing some uncertainty about the claims intended to be confirmed by the Act of April 12, 1814, chapter 52, and the principles of selection that should be applied. He had enlisted the help of Bartholomew Cousin from Cape Girardeau as a clerk and translator of foreign languages and expected to complete the final report by November 1, 1815.²⁰⁶

Frederick Bates had not yet completed his comprehensive report, but he made a submission to the Commissioner of the General Land Office, dated November 1, 1815, concerning a general notice to the recorder of land titles for 312 claims submitted by William Russell on November 30, 1812. Russell had managed to obtain a conveyance from each of the original claimants, whose claims appeared to be based on possession, inhabitation and cultivation. The report identified only thirty (30) claims with appropriate evidence of ownership. Of those thirty claims, twenty-one (21) claims were approved for 640 acres, one claim was approved for 600 arpents and one claim was approved for 700 arpents. The remaining seven claims were rejected.

Ownership was not proven for two hundred seventy-two (272) of the claims and 10 claims were abandoned by Russell.²⁰⁷

Frederick Bates personally delivered to the Commissioner of the General Land Office his comprehensive final report, dating it February 2, 1816 at Washington City.^{208 209}

The first section of the report listed 586 claims to town or village lots, out lots, common field lots and commons that had been rejected by the Board of Revision, but were recommended for confirmation under the first section of the Act of June 13, 1812, chapter 99.

The second section of the report listed 236 claims based on settlement right that had been approved by the Board of Revision for a quantity less than was claimed and less than 640 acres. For example, William T. Lamme claimed 950 arpents (about 808 acres) of land under Jean Marie Cardinal and was approved for only 300 arpents by the Board of Revision under certificate number 758. These claims were recommended for confirmation to the extent of 640 acres under the fourth section of the Act of March 3, 1813, chapter 44.

The third section of the report listed 384 claims based on concessions and orders or warrants of survey that were recommended for confirmation under the first section of the Act of April 12, 1814, chapter 52.

The fourth section of the report listed 517 claims based on settlement right that were recommended for confirmation under the various provisions of the Act of June 13, 1812, chapter 99, the Act of March 3, 1813, chapter 44, the Act of August 2, 1813, chapter 59, and the Act of April 12, 1814, chapter 52.

The fifth section of the report listed 476 claims based on settlement right that were rejected by the Recorder of Land Titles and not recommended for approval.

The sixth section of the report listed 27 claims based on concessions and orders or warrants of survey that were rejected by the Recorder of Land Titles and not recommended for approval.

All of the claims in the two reports of Frederick Bates that were recommended for approval were confirmed by the second section of the Act of April 29, 1816, chapter 159, *An Act for the confirmation of certain claims to land in the western district of the state of Louisiana and in the territory of Missouri.*²¹⁰ The third section of the act further provided that any confirmed claim that had not yet been issued a patent was to receive a certificate after the claim had been located and surveyed from which a patent could be obtained.

Chapter 10

Claims to Land and the Fifth Principal Meridian ²¹¹

The final report of the Board of Revision was expected to reach Secretary of the Treasury Albert Gallatin around the first of March 1812.²¹² Soon after the report arrived at its destination, those having certificates for confirmed claims began requesting patents. The land descriptions in the certificates were vague, however, having no reference to adjoining tracts or any common point. By April 1812 Secretary Gallatin had refused to issue any more patents based on these vague descriptions. It was clear that the boundary surveys would have to be completed before the tracts of land could be given a definite location. Thus, Secretary Gallatin wanted the principal deputy surveyor to survey all of the confirmed claims, connecting them relative to one another.²¹³

Section five of the Act of June 13, 1812, chapter 99,²¹⁴ directed the principal deputy surveyor to survey into townships as much land as may be directed by the President of the United States along with all of the confirmed private claims that had not already been surveyed under the authority of the United States. The principal deputy surveyor was further directed to make out a "general and connected plat" of all of the surveys to be made by him along with all those that had already been made.

Meanwhile, the General Land Office was created by the Act of April 25, 1812, chapter 68, *An Act for the establishment of a General Land Office in the Department of the Treasury*.²¹⁵ Edward Tiffin from Ohio was nominated by President James Madison to be Commissioner of the General Land Office and was confirmed by the United States Senate on May 6, 1812.²¹⁶ His duties were to manage all activities relating to the public lands of the United States and other lands patented or granted by the United States, as had previously been handled by the offices of

the Secretary of State, Secretary and Register of the Treasury and Secretary of War.

Later in 1812 Jared Mansfield resigned as Surveyor General of the United States and returned to the United States Military Academy at West Point to take the position of professor of natural and experimental philosophy, a position that had been newly created by the Act of April 29, 1812, chapter 72.²¹⁷ Josiah Meigs from Georgia was nominated by President James Madison to replace Mansfield and was confirmed by the United States Senate on November 16, 1812.²¹⁸ On November 24, 1812, Edward Tiffin sent Meigs his commission and directed him to go to Cincinnati, Ohio, to assume his duties. Tiffin expected that there should be general instructions in the office as had been given to Mansfield by the Secretary of the Treasury to provide Meigs sufficient guidance and direction. Meigs arrived in Cincinnati on March 22, 1813 to find that the first clerk of the office had died.²¹⁹

Understandably, Josiah Meigs was uncertain as to how he should proceed. He would later write to Edward Tiffin, "*I hope you will not think me timid if I ask you direction for my Conduct.*"²²⁰ He desperately wanted Mansfield to come back and explain it all to him.²²¹

In a letter to Meigs, dated June 22, 1813, Principal Deputy Surveyor Silas Bent expressed his concerns about the surveys to be done in the Territory of Missouri. He emphasized his belief that the public lands and the confirmed private claims should be surveyed at the same time. The township and section lines would serve as a framework on which to connect the private claims and a means to check for and detect errors in the measurements. He advocated for a system of meridian and standard lines such as had been implemented by Jared Mansfield for the public lands in the Territories of Indiana and Illinois. He was concerned, though, that the area over which the private claims were scattered was too extensive to have authorized,

since the President of the United States would have to direct that it be done.²²²

Bent noted that it might be difficult to run a meridian north from the south boundary of the territory because of the damage done by the New Madrid earthquakes, which had continued over the past eighteen months. It might, therefore, be better to establish the meridian north of that area and then push it to the south. He concluded his letter by stating that it was not an easy matter to find an exceptional solution that would satisfy all the concerns related to the survey of the private claims.²²³

Meigs further solicited the opinions of William Rector, a deputy surveyor working in the Kaskaskia District of the Territory of Illinois, as to the best plan for surveying the confirmed private claims in the Territory of Missouri. Rector responded in a letter, dated July 24, 1813, advocating for reckoning the ranges from the Third Principal Meridian in the Territory of Illinois and extending its Base Line across the Mississippi River into the Territory of Missouri. His reasoning rested on the belief that the extension of an existing system would cause less confusion than the introduction of a new one. Rector stressed the necessity of surveying enough township exteriors so as to enclose the confirmed private claims before any of those claims were surveyed. Once the township exteriors were in place, the private claims could then be surveyed and referenced to them. It would not be necessary to further divide the townships into sections at that time unless there were only a few private claims in the township.²²⁴ This plan would be sufficient to prepare a connected plat of the private claims to meet the immediate need for issuing patents. The townships could then be subdivided into sections at a later time to facilitate the sales of the intervening public lands.

Meigs forwarded the comments from Bent and Rector to Edward Tiffin in a letter, dated July 26, 1813, noting that he approved of

Rector's idea to use the Third Principal Meridian and its Base Line, which, he stated, was located about 24 miles south of the mouth of the Missouri River. He further noted that, if the entire area between the Arkansas River and the Missouri River was to be surveyed into townships, it would probably be advantageous to run a second Base Line about 150 to 160 miles south of the mouth of the Missouri River.²²⁵

Edward Tiffin responded by letter, dated August 12, 1813, inquiring of Meigs whether he had found any instructions in his office pertaining to the surveying of the public lands, confirmed private claims and donation claims in the Territory of Missouri. Neither the Secretary of the Treasury nor the President of the United States was available at that time to give direction, so no surveying could be authorized to proceed. Tiffin, however, offered his own observations, noting that he agreed with Silas Bent that the public lands and the confirmed private claims should be surveyed at the same time. He thought that the Base Line of the Third Principal Meridian was too far north and wondered if it would be better instead to run a new Base Line west from the mouth of the Ohio River. He also suggested that it might be better to run a meridian north from about the mouth of the Arkansas River instead of pushing it south from a point on the Missouri River.²²⁶

Meigs replied on August 24, 1813, reporting that he had found no particular instructions in his office relative to surveys in the Territory of Missouri, but that Secretary Gallatin had wholly approved of the system devised by Jared Mansfield. He conceded that Tiffin's ideas appeared correct, being consistent with the plan that Mansfield had implemented. He also noted that he had designated William Rector to replace Silas Bent as Principal Deputy Surveyor in the Territory of Missouri. Bent had been commissioned in February 1813 as a Judge of the Superior Court of the Territory of Missouri²²⁷ and could no longer

give his full attention to the duties of Principal Deputy Surveyor. Consequently, the acting Secretary of the Treasury had ordered a replacement.²²⁸

William Rector was commissioned on September 14, 1813²²⁹ and assumed his new duties in Saint Louis in November 1813. On November 18, 1813, he reported to Josiah Meigs that he had received from Silas Bent all of the papers belonging to the Principal Deputy Surveyor. Having reviewed the information and become more acquainted with the work for which he was now responsible, he affirmed his belief that townships should be laid out before any of the confirmed private claims were surveyed. He had consulted with men familiar with the territory and had developed an idea of the limits of the area that would include the majority of the confirmed private claims. The area was bounded on the north by an east-west line about 50 miles north of Saint Louis, on the west by a north-south line about 60 miles west of Saint Louis, on the south by the Arkansas River and on the east by the Mississippi River.²³⁰

During this time, the United States was fighting the War of 1812. Congress had declared war with the United Kingdom of Great Britain and Ireland by the Act of June 18, 1812, chapter 102.²³¹ Most of the battles between the United States and British militaries were fought around the Great Lakes and along the Atlantic coast. The frontiers of the northwest and the Mississippi Valley, however, were kept in a constant state of alarm by hostile Indians, who were being supplied and encouraged by the British. As a result, the prospects for surveying in the Territory of Missouri were doubtful and no appropriations were made by Congress.²³²

In preparation for the expected war, Congress had passed the Act of December 24, 1811, chapter 10, *An Act for completing the existing Military Establishment*²³³ and the Act of January 11, 1812, chapter 14, *An Act to raise an additional Military Force*.²³⁴ Each effective, able-

bodied man, who enlisted in the military as a non-commissioned officer or soldier and faithfully discharged his duty during his term of service, was promised 160 acres of land. The Act of May 6, 1812, chapter 77, *An Act to provide for designating, surveying and granting the Military Bounty Lands*,²³⁵ reserved a total of six million acres of land, fit for cultivation, to satisfy the bounties promised to soldiers. Of that total, two million acres were to be located in the Territory of Missouri between the St. Francis River and the Arkansas River. The lands so designated were to be laid off into townships and subdivided into sections and then quarter sections of 160 acres.

While the war stymied surveying activities in the Territory of Missouri, there were some changes ahead that would affect its administration in the future. On March 28, 1814 Edward Tiffin wrote to President James Madison, lobbying for an exchange of positions with Josiah Meigs. He stated, "*I am sure I fully comprehend the principles upon which Mr. Gallatin and Mr. Mansfield the former Surveyor General acted relative to the surveys in the western country and ... that I could have the work done, and the returns made, at least equally as well, if not in a superior manner to what it has ever yet been, north west of the Ohio.*"²³⁶ Josiah Meigs followed up with a letter to the President, dated April 3, 1814, indicating that "*If, in the opinion of the President and Senate, this would advance the public interest, it would be acceptable to the Subscriber.*"²³⁷

On Monday, October 10, 1814, Meigs resigned as Surveyor General of the United States and Tiffin resigned as Commissioner of the General Land Office.²³⁸ On that same day President Madison presented nominations to the United States Senate for their new positions. The Senate confirmed the appointments the next day on October 11, 1814.^{239 240}

After the war had ended, Josiah Meigs, as Commissioner of the General Land Office, wrote to the President on March 6, 1815,

concerning the surveys of the military bounty lands. For the surveys in the Territory of Missouri, he suggested establishing a meridian line run north from the mouth of White River.²⁴¹ On March 9, 1815, Edward Tiffin, as Surveyor General of the United States, wrote to Meigs, proposing to run a base line west from the mouth of the St. Francis River to the Arkansas River. This base line would be the base from which to begin the surveys of the military bounty lands.²⁴²

Meigs wrote to Tiffin on March 23, 1815, stating that the surveys of the military bounty lands were a high priority, but that he would need to consult with the President on how to proceed in the Territory of Missouri. He also directed that the Principal Deputy Surveyor should survey into townships and sections as much as was needed to include the majority of the confirmed private claims. This was also a high priority, because of the outcry from the claimants who couldn't get their patents until the surveys were completed.²⁴³ Meigs wrote to Tiffin again on March 24, 1815, advising that upon further consideration, he thought it would be proper to have a Standard Meridian run from the confluence of the Arkansas River and the Mississippi River with a parallel run west from the mouth of the St. Francis River for the surveys of the military bounty lands.²⁴⁴

Meigs further inquired of William Rector about a plan for surveying the townships needed to connect the confirmed private claims. Rector responded on April 17, 1815 still committed to extending the surveys from the Third Principal Meridian. He proposed to start in the Illinois Territory where the south boundary of Township 2 South intersected the Mississippi River. He proposed to extend that line west across the river (somehow), set a township corner and then mark off eight ranges (48 miles) west. From that endpoint he proposed to mark the range line (or meridian line) south until it intersected either the Mississippi River or the Arkansas River and north until it intersected the River Jeffreon (the identity of which is uncertain). Next, he proposed that

township lines (or correction lines) be marked off east of his meridian line to intersect the Mississippi River. The first correction line would be seven townships (42 miles) north of his base line and the rest would be every sixth township (36 miles) south of his base line. The correction line at 36 townships (216 miles) south of his base line would be extended west until it intersected the Arkansas River. His base line would also be extended west for an additional 12 ranges (72 miles). The correction line seven townships (42 miles) north of his base line would be extended west until it intersected the Indian boundary, which would have to be marked north from the bank of the Missouri River across from the mouth of the Gasconade River. Setting up a framework such as this would allow several deputies to simultaneously begin laying off the townships so that the confirmed private claims could be surveyed.²⁴⁵

On July 26, 1815 Edward Tiffin wrote to Josiah Meigs informing him that instructions had been prepared for William Rector to survey the two million acres for military bounty lands. A meridian line was to be accurately run due North from the confluence of the Arkansas and Mississippi Rivers far enough to intersect a base line run due West from the confluence of the St. Francis and Mississippi Rivers. The bounty lands were then to be laid off from these base and meridian lines. Tiffin also noted, "*I have been assured by every one acquainted with the lower country that on account of the Inundations, the undergrowth, weeds & Flies of various descriptions, no mortal man could take the woods before October either North of the Illinois or in Missouri.*"²⁴⁶

Tiffin wrote to Meigs again on August 29, 1815 informing him that William Rector had been further directed to lay off a number of Ranges and to run the exterior boundaries of about 200 townships so that the confirmed private claims could be surveyed.²⁴⁷

On October 9, 1815 William Rector entered into contracts for the surveys of the Fifth Principal Meridian, its Base Line and the military bounty lands. Prospect K. Robbins was contracted to survey "*a line due North agreeably to the true meridian, from the confluence of the Arkansas and Mississippi rivers to the Southerly bank of the Missouri river, which said line is known and termed on the annexed plat - The fifth principal meridian.*"²⁴⁸ Joseph C. Brown was contracted to "*survey a Base Line due west, from the mouth of the St. Francis river to the Arkansas River...*" He was further instructed to lay off a number of township exteriors south of the Base Line and east of the Fifth Principal Meridian and then to subdivide into sections other townships south of the Base Line and west of the Fifth Principal Meridian. He was also instructed to "*lay out and Survey all the confirmed claims of individuals for land that may fall or lye within the Townships above mentioned that are to be subdivided (if any there be) and lay said surveys of claims down connectedly on the plats of the Townships ...*"

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Additional contracts were made with other deputy surveyors to lay out the township exteriors and to subdivide the townships for the military bounty lands. These deputy surveyors included: Byrd and Charles Lockhart, October 12, 1815; Daniel and John C. Sullivan, October 17, 1815; William L. May and Nelson Rector, October 25, 1815; Angus L. Langham, October 25, 1815; Stephen Rector, October 27, 1815; Thomas Cox, November 1, 1815; Elias Rector and Gabriel Field, November 4, 1815; Stephen Hempstead, November 7, 1815; and Henry Elliott, November 17, 1815. William Russell was contracted on December 2, 1815 to survey all of the private claims that had been confirmed by the Board of Revision that were located within the area being laid off for military bounties between the Arkansas River and the St. Francis River.²⁵⁰

On January 15, 1816, William Rector reported to Edward Tiffin that the Fifth Principal Meridian had been surveyed from the confluence of the Mississippi and Arkansas Rivers to the south bank of the Missouri River, a total of three hundred and seventeen miles 32 chains and 76 links. The intersection with the south bank of the Missouri River was located about thirty-six miles west of Saint Louis. He further reported that the Base Line had been surveyed from the mouth of the St. Francis River to the Arkansas River, a length of 84.5 miles.²⁵¹ With a reference system now established, the surveys of the confirmed private claims could proceed with earnest.

Chapter 11

New Madrid Claims ²⁵²

Robert McCay [or McCoy], being duly sworn, says ... that AD seventeen hundred eighty six, he this deponent was on his way to New Orleans from Post St. Vincennes, and in the month of December of that year he stopped at the place where the village of New Madrid now stands, at which time, there was not any persons living there, it being a perfect wilderness. This deponent further says, that in the spring of the following year, being AD one thousand seven hundred and eighty seven, when He returned there was about twelve persons living on the spot where the village now stands, being employed in trading with the Indians ... this deponent further says that in seventeen hundred and eighty nine, he was again at New Orleans, when the then Governor sent for Him and made enquiries as to the situation of the place etc, and in the year of AD seventeen hundred and ninety, Pierre Fouché arrived at this place and took command of the same, and named the village New Madrid ... This deponent further says ... that AD seventeen hundred and ninety four or five, the village of Little Prairie was settled by Francis Lessieur ... This deponent further says that on the morning of the seventeenth of December AD one thousand eight hundred and eleven the first Earthquake was felt, which was the one that destroyed the Little Prairie, but the one that did the material injury to the Village of New Madrid was not until the seventh of February following. This Deponent says that Earthquakes have continued from that time to this time, during the fall & winter. (Excerpt from deposition of Robert McCay (or McCoy), August 15, 1825, Hunt's Minute Book #2, pages 154-155.) ²⁵³

The New Madrid earthquakes that began in mid-December 1811 and continued into 1812 are considered by the United States Geological Survey to be "some of the largest in the United States since its settlement by Europeans." ²⁵⁴ Reports indicate widespread occurrences of ground fissures, subsidence, liquefaction, landslides and damages caused by ground motion, followed by the flooding of lowlands by rivers choked with debris. Homes and livelihoods were destroyed, leaving inhabitants in a state of shock and despair. And

that wasn't the end of it either, because lesser quakes and aftershocks continued to occur for another eighteen months.

At the time the series of earthquakes began, the Board of Revision was nearing the end of its task of examining the claims to land granted by the Spanish and French and deciding the validity of those claims. Since the New Madrid area was an established area of settlement prior to the purchase of the Province of Louisiana by the United States, there were many land claims in this area that had been approved by the commissioners.

In January 1814 the General Assembly for the Territory of Missouri petitioned Congress, seeking relief for those who had suffered loss from the devastating earthquakes.²⁵⁵ Congress responded by passing the Act of February 17, 1815, chapter 45, *An Act for the relief of the inhabitants of the late county of New Madrid, in the Missouri territory, who suffered by earthquakes.*²⁵⁶ The Act applied to those owning confirmed claims of land in the county of New Madrid in the Territory of Missouri to the extent that the county existed on November 10, 1812, whose land had been materially injured by the preceding earthquakes. They were authorized to locate the same quantity of land on any of the public lands of the territory that were authorized for sale. No one was permitted to locate a quantity of land greater than was confirmed to him unless he owned less than 160 acres, in which case he was authorized to locate and obtain any quantity of land not exceeding 160 acres, this being the smallest subdivision of the public lands at that time. The maximum quantity of land that could be located under this Act was 640 acres. Lands containing lead mines or salt springs were not authorized for selection. In exchange, the title to the lands previously held was relinquished to the United States.

In order to make a claim for new location under this Act, the landowner was required to appear before the recorder of land titles for the Territory of Missouri and produce competent witnesses to affirm

that the land owned had been materially damaged by earthquakes. Having received sufficient proof, the recorder of land titles would then issue a location certificate, stating the quantity of land authorized to be located. The claimant would select a tract of land and then make application to the principal deputy surveyor for the territory, later the Surveyor of the Public Lands, specifying the land located and requesting that it be surveyed. The results of the survey were forwarded to the recorder of land titles for recording and issuance of a patent certificate. The patent certificate was then submitted to the Commissioner of the General Land Office. If approved by the Commissioner, a patent was issued for the new location.

To prevent the process from dragging out indefinitely Congress passed the Act of April 9, 1818, chapter 42, *An Act limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid*.²⁵⁷ This Act compelled those making a claim under the previous Act of February 17, 1815 to file their application and produce their evidence to the recorder of land titles on or before January 1, 1819. The recorder of land titles was not to issue a location certificate for any claim that did not meet the deadline.

As claimants began to file claims under the 1815 Act, location certificates were issued, surveys were requested and issues began to arise. The 1815 Act was intended to provide relief to those who owned the land at the time of the earthquakes. Many of these original owners, however, had already sold out or abandoned their claim and moved away. In their place were opportunists ready and more than willing to take advantage of the situation. The opportunity to locate prime real estate before it was available for sale was very attractive to the settler and potentially very lucrative for the speculator. Thus, location certificates were readily sold and transferred from person to person for valuable consideration.²⁵⁸

At the time the 1815 Act was passed, the surveys of the public lands in the Missouri territory had not yet begun. The Fifth Principal Meridian would not be established until later that year, beginning in October. Nevertheless, the Act appeared to allow the holders of location certificates a right to locate at their option without being limited by sectional lines, since waiting for the public lands to be surveyed would not provide the relief desired. Tracts located in this manner did not conform to the sectional lines, resulting in fractional adjoining sections. The United States Attorney General took issue with this and opined in 1820 that such locations were illegal and any sales of the fractional sections that had already occurred should be declared void.²⁵⁹

In response to this issue, Congress passed the Act of April 26, 1822, chapter 40, *An Act to perfect certain locations and sales of public lands in Missouri*.²⁶⁰ This Act allowed those claims that had already been located that did not conform to the sectional and quarter sectional lines of the public land surveys to be perfected into grants. It also approved the sales of the fractional sections created by these nonconforming New Madrid locations. This Act further stipulated that any claims located after the passage of the Act were required to conform to the sectional and quarter sectional lines as nearly as possible to make the quantity of land permitted to be located. The time allowed to locate a claim was limited to one year after the passage of the Act.

Another issue that arose concerned the manner in which location certificates were issued by the recorder of land titles. The original Act provided that those owning less than 160 acres could claim a quantity of land equal to or less than 160 acres. The recorder of land titles apparently interpreted this as meaning one location certificate for 160 acres for each confirmed original claim so long as the total quantity permitted to be located did not exceed 640 acres, the maximum

authorized by the 1815 Act. Thus, owners of small town lots of 1 or 2 arpents (i.e., 0.85 or 1.7 acres, respectively) were issued a location certificate for 160 acres for each lot owned up to four location certificates.²⁶¹ When patent certificates were issued and presented to the Commissioner of the General Land Office, the Commissioner acted on the advice of the United States Attorney General and refused to issue more than one patent, when the total amount of land relinquished was less than 160 acres.²⁶² If four location certificates were obtained by one person who subsequently sold to four different purchasers, only one of the purchasers would be able to obtain a patent.²⁶³

This issue was addressed by the passage of the Act of March 2, 1827, chapter 34, *An Act supplementary to "An act to perfect certain locations and sales of the public lands in Missouri," passed April the twenty-sixth, one thousand eight hundred and twenty-two.*²⁶⁴ Those locations that were based on location certificates issued for lots and out lots in and adjoining the villages of New Madrid and Little Prairie were allowed to be perfected into grants, so long as the total did not exceed 640 acres.

Yet another issue that arose involved the right of pre-emption that had been previously granted by the Act of April 12, 1814, chapter 52, *An Act for the final adjustment of land titles in the State of Louisiana and territory of Missouri.*²⁶⁵ The fifth section of that Act permitted a person who had actually inhabited and cultivated and continued to inhabit and cultivate a tract of land in the territory of Missouri, not rightfully claimed by anyone else, to purchase the land under a right of pre-emption. Further, the Act of April 29, 1816, chapter 162, *An Act concerning pre-emption rights given in the purchase of lands to certain settlers in the state of Louisiana, and in the territory of Missouri and Illinois,*²⁶⁶ extended the right of pre-emption to adjoining fractional sections. The problem developed when a New Madrid claim was

located adjoining a tract subject to pre-emption rights. The New Madrid location might then be taken by the pre-emption rights that extended to adjoining fractional sections, leaving the New Madrid claimant without relief.

To provide the necessary relief in such a case, Congress passed the Act of March 2, 1831, chapter 92, *An Act for the relief of certain holders of certificates issued in lieu of lands injured by earthquakes in Missouri*.²⁶⁷ New Madrid claimants that had located on lands subject to the right of pre-emption were authorized to make a new location on those lands available for entry at private sale, provided that they relinquish all claim to the previous location. The Act set a time limit of eighteen months from the time of its passage to make the new location.

New Madrid claims that were located after the deadline set by law were declared valid by the Act of March 21, 1866, chapter 22, *An Act quieting Doubts in Relation to the Validity of certain Locations of Lands in the State of Missouri, made by Virtue of Certificates issued under the Act of Congress of February the seventeenth eighteen hundred and fifteen*.²⁶⁸ This act, however, did not apply to any land in Township 45 North, Range 7 East of the Fifth Principal Meridian and it did not affect any land already sold by the United States or any adverse claims to the same land.

A total of 516 location certificates were issued by the recorder of land titles. One certificate was determined to have been issued erroneously and was nullified. Twenty-two (22) certificates failed to result in a patent of new location. These were either withdrawn and not relocated, were located, but rejected due to interference with an existing claim, or, simply, were not located at all. That left 493 certificates that resulted in a patent of new location. Twenty-two (22) of these locations were made in Arkansas, leaving 471 locations in Missouri. These are distributed by county as follows:

Howard County - 120
Saint Louis County or City - 61
Cooper County - 60
Boone County - 41
Callaway County - 31
Saline County - 27
Chariton County - 21
Marion County - 16
Cole County - 11
New Madrid County - 10
Pike County - 10
Saint Charles County - 10
Clay County - 7
Lafayette County - 7
Montgomery County - 5
Cape Girardeau County - 4
Scott County - 4
Franklin County - 3
Lincoln County - 3
Ray County - 3
Warren County - 3
Jackson County - 2
Mississippi County - 2
Moniteau County - 2
Osage County - 2
Ralls County - 2
Carroll County - 1
Lewis County - 1
Macon County - 1
Perry County - 1

It can easily be seen that the majority of these claims were located in counties adjoining the Missouri River, some as far west as present-day Kansas City. By far the most popular destination was the Boon's Lick Settlement in Howard County. In many of these counties, New Madrid claims are the only U. S. Surveys that occur there. Those claims that conform to the sectional and quarter sectional lines are often easy to overlook on the General Land Office Township plat and are sometimes ignored altogether, preference being given to the designation by aliquot part of the section. New Madrid claims are easy to distinguish from other private claims on the GLO plat, however, because they include the wording, "Certificate No.," followed by the number of the location certificate issued by the recorder of land titles. No other variety of private claims includes this particular wording. It should be noted that the New Madrid claims are numbered in the General Series of U. S. Surveys.

Chapter 12

Preemption in Missouri: Squatter Claims to Land

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In the late 1790s families from the United States were encouraged by the Spanish to come settle in Upper Louisiana. Generous grants for fertile land and the prospect of mineral riches were hard to resist.²⁷⁰ So, the settlers came. By the time the United States acquired the province of Louisiana from the French in 1803, the number of Americans in the province had increased considerably. In a letter to the President, dated October 5, 1803, Thomas T. Davis, a judge in the Indiana Territory, remarked that the Americans were settling fast in Upper Louisiana.²⁷¹ In a report sent by President Thomas Jefferson to the United States Congress on November 14, 1803, it was estimated that at least two-fifths of all the settlers in Upper Louisiana were Americans.²⁷²

Unlike the Spanish, however, the United States government was jealous for its newly acquired land and wanted to restrain new settlement until the land was ready to sell. Section fourteen of the Act of March 26, 1804, chapter 38, *An Act erecting Louisiana into two territories, and providing for the temporary government thereof*,²⁷³ made it unlawful for any person to attempt a new settlement, to designate boundaries or to make a boundary survey of the lands of the United States within the limits of the former Province of Louisiana. Violators could be removed from the public lands by military force, fined up to one thousand dollars and imprisoned for up to twelve months.

President Thomas Jefferson emphasized to the Secretary of War the necessity of preventing squatters from settling on the public lands. The Secretary of War then gave instructions to the District Commandants to prohibit unauthorized settlements. When

unauthorized settlements were discovered, any fixed improvements on the land were to be destroyed.²⁷⁴

New settlers continued to come, however, and where else could they settle but on the public lands? It became difficult for the Commandants to distinguish unauthorized settlers from those having some kind of claim under the Spanish government.²⁷⁵ Some of these new settlers filed notice with the recorder of land titles, claiming a settlement right, even though their settlement had been made after the United States took possession of Upper Louisiana in March 1804. For example, Francis Clark claimed 250 arpents of land on a branch of the St. Francis River based on a settlement and cultivation made in 1804.²⁷⁶ George Horn claimed 300 arpents based upon permission to settle given by Captain Amos Stoddard in 1804.²⁷⁷ Jonathan Vineyard came from Georgia and claimed 500 arpents of land that he had settled in September 1804.²⁷⁸

The Act of March 3, 1807, chapter 46, *An Act to prevent settlements being made on lands ceded to the United States, until authorized by law*,²⁷⁹ stated that anyone attempting to make a settlement, designate boundaries or conduct a boundary survey on the public lands after the passage of the act, forfeited any right, title or claim to the land. Anyone who had settled without authorization on the public lands before the passage of this act was to be given three months notice before removal was to be enforced. To avoid removal the settler could apply for permission at any time before January 1, 1808 to continue to occupy up to 320 acres of public land as a tenant at will. Applying for permission, however, required a relinquishment of any claim to the land.

In 1809 President Jefferson reiterated his view that unauthorized settlements should be rigorously prohibited.²⁸⁰ Enforcement, however, remained problematic.

The Act of February 5, 1813, chapter 20, *An Act giving the right of pre-emption in the purchase of lands to certain settlers in the Illinois territory*,²⁸¹ allowed settlers in the Territory of Illinois a preference in the purchase of the land that they had actually and continuously inhabited and cultivated as long as the land was not claimed by anyone else. The purchase preference would be at private sale as opposed to public sale and the tract would be limited to one quarter section per individual purchaser. The person claiming the preference had to deliver a written notice to the register of the land office at least two weeks before the public sales.

Section five of the Act of April 12, 1814, chapter 52, *An Act for the final adjustment of land titles in the State of Louisiana and territory of Missouri*,²⁸² extended the purchase preference to the Territory of Missouri under the same restrictions, conditions, provisions and regulations as approved for the Territory of Illinois.

Settlements on the public lands continued, now with the hope of a preference in the purchase of the land.²⁸³ The United States government continued to oppose these settlements, however, and President James Madison issued a proclamation on December 12, 1815, ordering that all unlawful occupants should be removed.²⁸⁴ The Secretary of War declared to Governor William Clark that "*the premature occupancy of the public lands can be viewed only as an invasion of the sovereign rights of the United States, and must be repressed by the most prompt and energetic measures.*"²⁸⁵

The General Assembly of the Territory of Missouri responded in January 1816, protesting the President's order and requesting a suspension until the public lands could be surveyed and offered for sale. They felt that such a drastic order deeply affected "*the Interest and Welfare of a considerable portion of the Inhabitants of this Territory by taking from them their dwellings which atho' they do not hold under the sanction of Law they had reason to believe from the*

indulgence which has been almost uniformly given by Congress not only by their [acquiescence] in such settlements but by extending to them the right of pre'emption they would be permitted quietly to occupy until the public Lands should be surveyed and offered for sale."

²⁸⁶ And, of course, enforcement was still problematic. Alexander McNair, Marshall of the Missouri Territory, in writing to Josiah Meigs, Commissioner of the General Land Office, on January 27, 1816, commented that "*five Militia men of this Territory would not march against the intruders on public lands.*" ²⁸⁷

The United States government relented somewhat with the Act of March 25, 1816, chapter 35, *An Act relating to settlers on the lands of the United States.*²⁸⁸ This act allowed those who had settled on the public lands before February 1, 1816 to apply for permission before September 1, 1816 to continue to occupy up to 320 acres of public land as a tenant at will. The act would remain in force for one year.

The Act of February 17, 1815, chapter 45, *An Act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes,*²⁸⁹ brought a new threat to those hoping for a preference in the purchase of the land that they occupied. This act allowed the New Madrid claimants to locate a tract of land "on any of the public lands of the said territory, the sale of which is authorized by law" to replace their previously confirmed claims. Since those eligible for a preference of purchase could not designate their preemption claim until the public lands were surveyed, a land office was opened and the land made available for sale, it was possible for the New Madrid claimants to locate a claim on public land that was already occupied and improved.²⁹⁰ A New Madrid claim was not certain to prevail, however, since the right of preemption was authorized before the relief to those who suffered from the earthquakes.^{291 292}

By 1817 those eligible for a purchase preference were becoming very anxious. The register of the land office at Saint Louis was daily receiving requests to enter preemption claims. No preemption claims could yet be accepted, though, because the register did not yet have the township plats on which to identify the preemption claims. The surveys had not yet been completed and land sales had not yet been authorized.²⁹³

The first public land sales in the Territory of Missouri were authorized by the President in 1818.²⁹⁴ The Act of February 17, 1818, chapter 12, *An Act making provision for the establishment of additional land offices in the territory of Missouri*,²⁹⁵ established additional land offices and defined the land district that each office would cover. New land offices were to be established at Franklin in the county of Howard, at a convenient location in the county of Arkansas (for lands located between the Base Line and the north boundary of the State of Louisiana), at the seat of justice in the county of Lawrence (for lands located between the Base Line and the north line of Township 15 North) and at Jackson in the county of Cape Girardeau. The first land office had already been established at Saint Louis (Act of March 3, 1811, chapter 46, section nine²⁹⁶).

In July 1818, Samuel Hammond, the receiver of public moneys at the land office in Saint Louis, reported to Josiah Meigs that he and the register, Alexander McNair, had received the preemption claims for the first thirty townships authorized for sale. Most of the claims were clearly within the provisions of the law and there were only a few conflicting claims. There were some issues, however, as some claims turned out to be located in Section 16, which was reserved for the support of schools, and some were located in private claims that had not been confirmed.²⁹⁷

As the land sales approached and the preemption claims were being considered, questions arose as to what constituted "inhabitation"

and "cultivation" so as to qualify for the preference of purchase.²⁹⁸ How much inhabitation and cultivation were required to qualify for the preference? Was a cabin and a garden patch enough? At what point should the inhabitation and cultivation have been established before a preference could be granted? Did it have to commence before April 12, 1814, when the right of preemption was extended to the Territory of Missouri? If a settler was industrious and extended his improvements into what turned out to be more than one quarter section, could he claim a preference for the full extent of his improvements?

To add to the confusion, the Act of April 29, 1816, chapter 162, *An Act concerning pre-emption rights given in the purchase of lands to certain settlers in the state of Louisiana, and in the territory of Missouri and Illinois*,²⁹⁹ allowed anyone who qualified for a preference of purchase that had settled on a fractional section or fractional quarter section of less than 160 acres to "have the privilege of purchasing one or more adjoining fractional quarter sections, or the adjoining quarter section, including their improvements, or the fraction improved by them, at their option." The Act also provided for an adjustment when two qualifying settlers had settled on the same quarter section or fractional quarter section of land, so that each settler would secure his improvements. The Act concluded by stating that "where the improvement of such person shall be upon two or more quarter sections, such person shall be entitled to purchase the quarter sections upon which his improvement shall be."

There was considerable correspondence between the registers and receivers in the land offices, the Commissioner of the General Land Office and the Secretary of the Treasury, trying to work through the confusion, which was compounded by delays in delivery of the mail.³⁰⁰ Added to that confusion were protests and demands sent to Congress by the General Assembly of the Territory of Missouri.³⁰¹

The Act of March 3, 1819, chapter 86, *An Act explanatory of the act entitled "An act for the final adjustment of land titles in the state of Louisiana and territory of Missouri,"*³⁰² cleared up some points of confusion. There had been some uncertainty as to whether or not the right of preemption applied to the county of Howard, since it was unclear when it had officially ceased to be Indian territory and had become an organized part of the territory of Missouri.³⁰³ Section one of this act explicitly extended the right of preemption to the county of Howard as it had been established by the territorial legislature on January 23, 1816. Section three of the act allowed the right of preemption to those that had settled and improved land that ended up being in Section 16 after the surveys were completed. Replacement lands for the support of schools would be selected in the same township.

As in other instances where relief was provided by Congress to those that qualified, there were those who tried to take advantage of the situation to gain a preference, while doing as little as possible to justify it. Ultimately, it was up to the register and receiver of each land office to evaluate the preemption claims presented to them and to extend the relief intended by Congress.³⁰⁴ Charles Carroll, register, and T. A. Smith, receiver for the land office at Franklin in Howard County, explained their proceedings in a letter, dated November 6, 1820, by saying, "*We considered the sectional line a Barrier in all cases but one embraced in the first section of the Law of 29th April 1816 & then only permitted them to cross the sectional line to give them the quantity contemplated by Law. A different construction would have allowed an artful & cunning man to have spread over a Township & once pass the barrier & there is no limit. Where two Persons were Settled on one quarter or fractional quarter we gave to each an adjoining qr & half of the quarter they were settled on & where more were settled we divided the section between them. We certainly*

required Cultivation for the support of a family & did not consider shelots which are indigenou to the country, or the marking of Trees, or planting a few peach Stones or sowing a few appleseeds or putting out a few Scions evidences of cultivation or the Encampment on the ground for a night "actual Inhabitation", where proof was offered of growing any Crop for the Sustenance of man, even "Turnips", it mattered not how they were put in whether with the plough, a cane or the hand it was deemed sufficient & the Preemption was granted." 305

Chapter 13

Town and Village Lots, Out Lots, Common Field Lots and Commons ³⁰⁶

The French Canadians that initially populated the French province of Upper Louisiana tended to be adventurers whose primary pursuits were hunting, trapping, trading with the Indians and searching for minerals. The villages of Sainte Genevieve and Saint Louis developed as centers of trade with agricultural activities being pursued only to satisfy a minimal necessity. When the population of Saint Louis began to increase beyond its capacity to support itself, the villages of Saint Charles, Carondelet, Portage des Sioux and Saint Ferdinand were established to supply the needed grain and provisions.³⁰⁷

Since the population was sparse and the threat from hostile Indians was real, the village plan that developed was based on the need for mutual assistance for both labor and protection. An inhabitant of a town or village generally had (1) a town or village lot for a residence and out buildings; (2) an additional lot at the edge of town for a barn so as not to endanger the residence in the event of an accidental fire; (3) an allotted strip of land in the common agricultural field near the town or village in proportion to his ability to work it; and (4) the right to take wood for fuel or timber and to graze cattle on a common tract designated for that purpose. The common fields, wood lots and pasture lands were reserved for the use of all of the inhabitants and were not granted to any individual.³⁰⁸

An ordinary inhabitant of a town or village was often of a poorer class, illiterate, and described by Judge John B. C. Lucas as "*poor but remarkably honest harmless and unsuspecting.*" They were said to dislike Americans in general, because the Americans had not dealt honestly with them in the past. The wealthier and more influential inhabitants possessed the larger and more numerous tracts of land.³⁰⁹

These town or village lots, out lots and common field lots were allocated by the local commandant upon request from the petitioner. The procedure was very informal and since some of the commandants could not read or write, there was often no written documentation to authenticate the transaction. The commandants considered possession to be the best evidence of a settler's right to the land. The lots and tracts of land may then have been sold or bartered or passed on to heirs by the inhabitants without any written evidence whatsoever.³¹⁰

By March 1804, when the United States took possession of Upper Louisiana, many of the village inhabitants had inhabited their town lots, cultivated their common field lots and relied upon the common wood lots and pasture lands for over thirty years. They had done so under the full approval of the Spanish government, but without a shred of documentation to validate their claim before the Board of Commissioners.³¹¹ In addition, some native French inhabitants could not read, write, speak or even understand the English language and did not know that they needed to file a claim with the United States government for the land that they had possessed for so many years.³¹²

For those that did file claims with the recorder of land titles, the laws for ascertaining and adjusting the titles and claims to land did not favor the particular circumstances of the town and village lots, out lots, common field lots and commons. As a result, very few of these claims were confirmed by the commissioners of the Board of Revision. The commissioners recognized, however, that, although these claims did not meet the strict requirements of the law, in all justice they were equitable claims and should be confirmed. The suggestion was made to confirm each town or village to the inhabitants in general without quibbling with the individual claims.³¹³

Congress acknowledged the merits of this class of claims and the suggestions of the Board of Revision and provided relief in the first

section of the Act of June 13, 1812, chapter 99, *An Act making further provision for settling the claims to land in the territory of Missouri*.³¹⁴

Tracts that had been inhabited, cultivated or possessed before December 20, 1803 were confirmed to the inhabitants of the respective towns or villages. Claims that had already been confirmed by the Board of Revision were not to be disturbed by claims to the same land under this Act. The towns and villages recognized as existing prior to December 20, 1803 and to which the act pertained were: Portage des Sioux, Saint Charles, Saint Louis, Saint Ferdinand (present City of Florissant), Village à Robert (present location of Bridgeton), Carondelet, Sainte Genevieve, New Bourbon, New Madrid, Little Prairie and Arkansas. In each of these towns or villages the principal deputy surveyor was directed to survey and mark the exterior boundary lines and to prepare plats of the surveys.

The second section of the Act provided that those tracts lying within the limits of the towns surveyed, which were not claimed by any individual or the inhabitants in general or which were not reserved by the President of the United States for use by the military, were reserved for the support of schools in the town or village in which they were located. The total amount of lands reserved for the support of schools could not exceed one-twentieth (1/20) of the total area enclosed by the exterior boundary of the town or village.

Prior to the passage of this Act, it was believed that it would be unnecessary to confirm the individual town and village lots, out lots, commons and common field lots. Each town or village would be confirmed and surveyed as a whole.³¹⁵ With the addition of military and school reservations, however, it soon became apparent that the individual tracts would have to be delineated.³¹⁶ Otherwise, there was no way to determine what land was available for military purposes or disposable for the support of schools.³¹⁷

The subsequent passage of the Act of February 17, 1815, chapter 45, *An Act for the relief of the inhabitants of the late county of New Madrid, in the Missouri territory, who suffered by earthquakes*,³¹⁸ produced an interesting twist in regard to the town and village lots. This act provided for the selection of lands to replace lands damaged by the earthquakes of 1811 and 1812. Since the minimum size for replacement lands was 160 acres, the smallest division of the public lands at that time, the inhabitants of New Madrid and Little Prairie recognized an opportunity to translate their town lot holdings of 1 to 2 arpents into tracts of 160 acres. The recorder of land titles, however, refused to acknowledge their claims and would not issue a certificate of relocation, because the lots had not been delineated and confirmed individually. The inhabitants, therefore, petitioned Congress in December 1818 for the opportunity to perfect the title to their village lots so that they could avail themselves of the relief granted to those that suffered from the earthquakes.³¹⁹

On January 30, 1817, the General Assembly of the Territory of Missouri passed an act to incorporate a board of trustees to manage the schools in the town of Saint Louis.³²⁰ This board of trustees was authorized to take possession of the lands designated by Congress in the Act of June 13, 1812, chapter 99, for the support of schools. The board met on June 11, 1817 and resolved to request that the President of the United States designate the lands he intended to reserve for military purposes, so that the board could take possession of the land that remained. Governor William Clark as chairman of the board wrote the letter on June 20, 1817, making the request.³²¹ A military officer was sent in 1819 to determine suitable lands for military purposes, but was unable to do so. The unclaimed lands available for reservation were not known, because the claimed lands had not been designated.³²²

Congress responded to these concerns by passing the supplementary Act of May 26, 1824, chapter 184.³²³ Those claiming town or village lots, out lots and common field lots under the Act of June 13, 1812, chapter 99, were directed to present their claim(s) to the recorder of land titles within eighteen months after the passage of the Act to enable the surveyor general to distinguish the claimed lots from the unclaimed lots. Each claimant was to designate the boundaries and extent of his claim and prove inhabitation, cultivation or possession prior to December 20, 1803. The recorder of land titles would then issue a confirmation certificate with which a patent could be obtained. The provisions of this Act and the Act of June 13, 1812, chapter 99, were also extended to the town of Mine à Burton (also known as Mine à Breton and being the present City of Potosi).

As news reached the towns and villages about the requirements of the Act, claimants began to make their way to Saint Louis to designate their claims with Theodore Hunt, the recorder of land titles. The first claim was filed on February 13, 1825 by Louis Lemonde for a lot in the City of Saint Louis.

A conceptual map depicting the general layout of each town or village was prepared with numbered blocks and identified streets so that each claimant could identify the location of his claim. The claimant then had to identify the bounds of the tract claimed and provide a witness to testify that the requirements of the confirming Act had been met. This information was recorded by Theodore Hunt in a minute book and the name of each claimant was successively added to a numbered list, which came to be known as "Hunt's List of Proofs" or, simply, "Hunt's List."

The following is the "proof" of a claim made by William Clark for a tract located in the Town of Saint Louis and recorded in Minute Book 2 at page 32:

William Clark deriving title from Auguste Chouteau claims a lot in the Town of Saint Louis being part of square No. 12 containing one hundred and twenty feet in front by one hundred and fifty in depth; bounded East by Front Street, which separates it from the Mississippi; North by North E Street; West by Main Street and South by balance of same square.

Copy of deed from Chouteau to Clark left in this office.

Alexander Bellesime being duly sworn says he knows the lot claimed and that upwards of twenty three years ago this Lot was owned and occupied by Auguste Chouteau who owned and occupied the same until he sold this lot to William Clark who has occupied it ever since.

Alexander (his X mark) Bellesime

sworn to before me

June 15, 1825

Theodore Hunt, Recorder of Land Titles

In 1830 the trustees of the City of Saint Louis again petitioned Congress, concerning the unclaimed lots designated for the support of schools. They did not think that the authority to sell these lands had yet been granted to them and were requesting an act of Congress for that authority. Congress was agreeable with the request, but thought that the authority should be vested in the State of Missouri rather than the trustees.³²⁴

The Act of January 27, 1831, chapter 12,³²⁵ relinquished to the inhabitants of the several towns and villages all right, title and interest of the United States to the town or village lots, out lots, common field lots and commons of the respective towns or villages that were confirmed by the Act of June 13, 1812, chapter 99. These were to be regulated or disposed of for the use of the inhabitants according to the laws of the State of Missouri. Section two of the act relinquished all

right, title and interest of the United States to those unclaimed tracts within the respective towns or villages that were reserved for the support of schools. The sale, disposal or regulation of these unclaimed tracts was to be directed by the state legislature.

As it turned out, not all claimants of town or village lots, out lots and common field lots took notice of the Act of May 26, 1824, chapter 184, directing them to identify their claims. They continued in possession without ever declaring their claim of right before any official of the United States government or identifying their bounds. Although the act set a time limit of eighteen months to identify and prove a claim, there was no penalty for failing to comply with the directions of the act. Failure to comply, however, resulted in a lack of notice of the claim and no documentary proof of title for the claimant. Thus, they had nothing more than the Act of June 13, 1812, chapter 99, as proof of their right to the land. Many of these claims, being unidentified, were consequently designated as set apart for the support of the schools.

The General Assembly of the State of Missouri passed laws for the benefit of the towns, authorizing trustees to sell the lands set apart for the support of schools. In cases where the title to the land was contested by an adverse claimant, the trustees were authorized to negotiate a compromise with the adverse claimant and execute a conveyance of title in fee simple.

Although the town trustees were provided a mechanism for dealing with these unidentified and adverse claims, private parties in conflict had to take their disputes to court. Many cases involving these confirmed but unidentified town or village lots, out lots and common field lots were tried in the Missouri courts, as well as, the Federal courts.

In the case of *Guitard et al. v. Stoddard*,³²⁶ the United States Supreme Court examined its prior decisions in *Chouteau v. Eckart*,³²⁷

Mackay v. Dillon ³²⁸ and Les Bois v. Bramell ³²⁹ to summarize that *"the questions settled by this court are that the act of 1812 is a present operative grant of all the interest of the United States, in the property comprised in the act, and that the right of the grantee was not dependent upon the factum of a survey under the Spanish government."* The Court went on to state that *"the laxity of the legislation in the act of 1812 is painfully evident ... The act of 1812 makes no requisition for a concession, survey, permission to settle, cultivate, or possess, or of any location by a public authority as the basis of the right, title, and claim, upon which its confirmatory provisions operate ... All the facts requisite to sustain the confirmation ... were referred to the judicial tribunals ... Under the act of 1812 each confirmee was compelled, whenever his title was disputed, to adduce proof of the conditions upon which the confirmation depended."*

In the case of Savignac v. Garrison,³³⁰ the United States Supreme Court reiterated *"that whether or not the lot, and the inhabitation, cultivation, or possession thereof came within the purview of the act of 1812, were questions of fact for the jury; and that the neglect to procure the survey and location, under the act of 1824, did not operate to impair or forfeit the title acquired under that of 1812."*

The lack of documentary evidence in these unidentified claims became more problematic as time passed, particularly in Saint Louis, where commercial development was progressing rapidly. This issue was brought before the United States House of Representatives in February 1866 and appropriate legislation was recommended.³³¹

The resulting legislation was passed as the Act of June 12, 1866, chapter 116, *An Act authorizing documentary Evidence of Titles to be furnished to the Owners of certain Lands in the City of St. Louis.*³³² Section one of this act authorized the district court of the United States for the eastern district of Missouri to issue a decree in favor of the person or persons having the best claim to any lot, tract, piece or

parcel of land within the City of Saint Louis. The decree would declare all interest of the United States to the land fully released in fee simple.

Any person desiring a decree from the district court was to file a petition, requesting a decree and describing the land. The United States and all adverse claimants were to be named as defendants (section two). The district attorney of the United States for the eastern district of Missouri was to be delivered a copy of each petition and would defend the public interest (section three). The district court was granted the power to require an accurate survey, plat and description be made by a competent person at the expense of the petitioner (section four).

Any party to the final decree of the district court could appeal the decision to the circuit court of the United States for the district of Missouri within one year after the final decree was issued (section seven). In the circuit court the pleadings could be amended, new parties admitted and a new trial conducted. If the judges in the circuit court could not agree upon any issue, they could send it on to the Supreme Court of the United States (section eight).

This act did not apply to any land within any wharf, street, lane, avenue, alley or other public thoroughfare. All of these lying within the corporate limits of the City of Saint Louis were released by the United States in fee simple to the City of Saint Louis; however, no individual rights or titles acquired prior to this act were to be impaired or prejudiced (section nine).

This act also did not apply to any tract of land lying within the boundaries of land previously granted or assigned by the United States for the use or support of schools, or to any land lying within the boundaries of land already lawfully confirmed or granted by the United States, where full, sufficient and complete documentary evidence existed on record (section one).

Chapter 14

General Land Office Surveys of Town and Village Lots ³³³

The Act of May 26, 1824, chapter 184, directed the surveyor general to survey the confirmed town or village lots, out lots, common field lots and commons and to designate the unclaimed tracts for the support of schools, subject to any reservation that may be made for military purposes. Lots that had been relinquished to the United States by reason of damage done by the earthquakes were not to be considered as vacant for the support of schools and were not to be included in the computation for the limit of lands reserved for the schools. The recorder of land titles was to furnish the surveyor general with a list of the confirmed lots to serve as a guide in distinguishing them from the vacant lots.

In September of 1835, Elias T. Langham, Surveyor of the public lands in Missouri and Illinois, entered into a contract with Joseph C. Brown to survey the town lots, out lots and common fields of Saint Louis.³³⁴ Brown was to deliver his field notes and a separate plat of each lot and block, showing the proper connection with the adjoining and adjacent lots and blocks. In return Brown was to be compensated at the rate of six dollars per day, from the time he commenced work until the surveys and returns were completed.

In the record book that Joseph C. Brown prepared for the surveys in Saint Louis, he describes the field procedures used for surveying town and village lots:³³⁵

"At the commencement of the work I gave notice thereof in all the papers there published in the City requesting information from the owners of lots that might enable me to survey them correctly, but the call was but little attended to. I have lost much time in endeavoring to obtain information as to the location of lots, but after all there are many lots of

which I cannot learn the situation and that are not embraced in the foregoing work, and some that are so far located as to name the block are yet indefinite as to what part of the block. Many lots have been long occupied on the ground of which I cannot learn anything from the documents in my possession ... in certain cases the plat and descriptions of the survey of the lot does not agree in form and size to the grant of said lot, or to the claim and proof thereof before the recorder of land titles. These irregularities were imposed on me by the possessions on the ground, which possessions I considered as guaranteed by the law of Confirmation of town and village lots."

"I have surveyed the lines of the streets with the theodolite and have measured the streets in all cases with 2 poles, each 20 english feet long, moving them alternately & putting their ends just in contact. Where obstructions have existed I have determined the lines by calculation and that has been very often except on the streets, where I have always measured. In surveying the blocks, local references as witnesses are given and such I have deemed entirely sufficient for the lots in the respective blocks and more truly to be depended upon than any that could be given for individual lots. The course of the lines are not so correctly given as are the measures. I have used a compass in taking the courses, and on intermediate lines which the measures on the different sides show to be not parallel I have calculated the courses."

In the record of surveys in Sainte Genevieve and New Bourbon,³³⁶ Mr. Brown goes on to describe the relationship of the conceptual maps with the actual facts on the ground:

"The other parts of the town of Ste. Genevieve which are not embraced by the blocks of the town already described by the foregoing numbers thereof from No. 1 to No. 30 are so different on the ground from the sketches (designed therefor) furnished me from the Surveyor General's office, as will appear by my connected map of the surveys thereof, that I shall no further attempt a description of blocks or streets according to those sketches but will describe the several individual lots as I have surveyed them aided by those sketches and by satisfactory information given me on the ground of the metes and bounds of the several lots by persons knowing the same."

In the record book of Brown's Surveys in and near Saint Charles,³³⁷ Mr. Brown describes how town and village lot corners were monumented:

"In all cases in setting stones for corners to town lots or blocks where precision is required I have had the stone set on the lot (not in the street) and so that a corner of the stone shall mark the exact corner of the lot or block, to wit at the NE corner of a lot or block the NE corner of the stone as set is the corner, at the SE the SE corner of the stone and in like manner at the other corners. Where a stone is set as common corner to two lots it is set so as to be on the line between the lots with the middle point of the outer edge of the stone at the corner and when common corner to more than two lots, the middle point on the stone is intended to be the place of corner."

Once the surveys for a town or village were completed, a drawing and description of each lot were set down in a record book for that particular town or village. At some later date, the Surveyor General, or a clerk in his office, assigned a number to each lot according to the order in which it appeared in the record book. Each town or village was numbered separately so that each constitutes its own series, except that Sainte Genevieve and New Bourbon were surveyed as one series. It is necessary, therefore, to make a distinction as to which series the survey belongs. As an example, Survey #1 in the City of Saint Louis would be referred to as "Survey #1 of the Saint Louis Series". Survey #1 in the City of Sainte Genevieve would be referred to as "Survey #1 of the Sainte Genevieve and New Bourbon Series."

It is important to note that those private claims that are typically referred to as "U. S. Surveys" actually constitute a series separate from the surveys of town and village lots. These include the claims approved by the Board of Revision and the second board of commissioners, New Madrid claims and claims approved by other acts of Congress. The General Land Office referred to these surveys as belonging to the "General Series." Since a survey in any series may be

referred to as a "U. S. Survey," it is entirely possible that more than one "U. S. Survey" of the same number, but of a different series, could occur within the same township or general locality. For instance, in Township 38 North, Range 9 East of the fifth principal meridian at Sainte Genevieve, both the General Series and the Sainte Genevieve and New Bourbon Series have Surveys numbered 96, 146 and 253. Town and village lot surveys are often intermingled with and adjoining surveys of the General Series, so it is important to recognize the different series and identify them appropriately.

When U. S. Surveys from the General Series and a series of a town or village are shown together on the township plat, they are usually distinguishable by the color of the ink. General Series surveys will be numbered in black ink, whereas the town and village series surveys will be numbered in red ink.

Chapter 15

Claims to Land and the District Court ³³⁸

Congress had passed its "*Act for the final adjustment of land titles ... in the territory of Missouri*" on April 12, 1814, chapter 52,³³⁹ and the opinions of the recorder of land titles had been confirmed by the Act of April 29, 1816, chapter 159.³⁴⁰ The business was *finally* finished ... except that it wasn't.

John Scott, the former, and at that time disputed, delegate of the Territory of Missouri to the United States House of Representatives, wrote to Josiah Meigs, the Commissioner of the General Land Office, on January 27, 1817, expressing the hope "*that Government will again at a proper time give to those people whose claims are thus rejected another opportunity to perfect their titles, and I even indulge the hope that provisions will be made to embrace claims that have never been notified, or filed with the Commissioners or recorder.*"³⁴¹ Meigs responded on January 30, 1817 that "*I cannot agree with you in the Idea that a door should be opened for more claims, I think the Govt have been liberal, very liberal, both in time & conditions.*"³⁴²

Meanwhile, the United States House of Representatives had been inundated with memorials and petitions regarding the unconfirmed land claims in the Territory of Missouri. On April 16, 1818 the House passed a resolution instructing the Secretary of the Treasury, William H. Crawford, to draft a plan for their final adjustment and settlement.³⁴³

On April 30, 1818 the President announced by proclamation the first sales of the public lands in the Territory of Missouri.³⁴⁴ John Scott promptly wrote to Secretary Crawford on May 5, 1818, requesting that directions be given to the register and receiver of each land office to withhold from sale those private claims that had previously been examined, but not confirmed.³⁴⁵ Secretary Crawford referred the

request to Josiah Meigs, who responded on May 11, 1818, stating that he considered the unconfirmed claims as invalid and subject to sale. Meigs warned that reserving the unconfirmed claims from sale would only give a false hope that would probably lead to further requests for another board of commissioners.³⁴⁶

Secretary Crawford was still working on the plan requested by the House of Representatives, so he wrote to Josiah Meigs on June 10, 1818, directing him to have the recorder of land titles in the Territory of Missouri furnish descriptive lists of the unconfirmed claims to the register and receiver of the land offices at Saint Louis and Franklin, where sales of the public lands had been authorized. These unconfirmed claims were to be withheld from sale for the time being.³⁴⁷

Samuel Hammond, the receiver at the land office in Saint Louis, reported to Josiah Meigs on July 20, 1818 that the recorder of land titles, Frederick Bates, had furnished a list of the unconfirmed claims, but the information was not sufficient to determine actual locations on the township plat.³⁴⁸ In June 1818 Frederick Bates had complained to Meigs that it would be impossible for him to give specific descriptions, since he had no connected plat.³⁴⁹ William Rector, by then the Surveyor of Public Lands in the territories of Missouri and Illinois,³⁵⁰ suggested having the Deputy Surveyors make some connection to the unconfirmed claims while in the field, so that they could be represented on the township plat.³⁵¹ In August 1818 Josiah Meigs informed Rector that there was no provision for surveying the unconfirmed claims. He had supposed that a reservation of a right angled tract of the appropriate quantity in the correct vicinity would be sufficient.³⁵² This uncertainty of location, however, cast some doubt on what lands could actually be sold.³⁵³

In December 1818 Secretary Crawford submitted his plan to the House of Representatives for the final adjustment and settlement of

the unconfirmed claims. He noted that "*it is conceived to be extremely improbable that there should be, at this time, any considerable number of claims entitled to the liberality of the Government, which have not yet been submitted to either of the different tribunals that have, from time to time, been constituted for that purpose ... Considering, then, that the titles to lands ... in the Missouri Territory, so far as they are derived from, or dependant upon, any act of Congress, are correctly and finally settled, nothing more is necessary than to prescribe a rule by which the validity of titles, not dependant upon the acts of Congress, may be promptly and legally determined.*" He then presented a draft bill that would allow anyone with an unconfirmed private claim to present their case to the district court.³⁵⁴

In January 1819 Congress was presented with a memorial from the General Assembly of the Territory of Missouri, urging the enactment of comprehensive legislation that would ensure final justice once and for all to those unconfirmed claims that had originated under the French and Spanish governments.³⁵⁵

The United States House of Representatives took further time to examine the matter, including the instructions given by the Secretary of the Treasury to the Board of Commissioners in 1806³⁵⁶ and the Spanish regulations for granting lands issued by Alexander O'Reilly in 1770, Manuel Gayoso de Lemos in 1797 and Juan Ventura Morales in 1799.³⁵⁷ At the conclusion of its examination Congress passed the Act of May 26, 1824, chapter 173, *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.*³⁵⁸

(The Territory of Arkansas was created as an entity separate from the Territory of Missouri by the Act of March 2, 1819, chapter 49.³⁵⁹ The admission of the State of Missouri into the Union of the United States of America was declared complete by proclamation of President James Monroe on August 10, 1821.³⁶⁰)

Section one of the act permitted any person or persons, or their legal representatives, to petition the district court of the State of Missouri to examine the facts and to decide the validity of their claim to land. The act was intended to apply to those claims that were protected by the treaty between the United States of America and the French Republic, dated April 30, 1803, and to which complete titles would have been perfected had the Province of Louisiana not been transferred to the United States. That is, "*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.*"

The petition for a determination by the court was to fully describe the nature of the claim to land, particularly noting the date of the grant, concession, warrant, or order of survey. The quantity of land was to be stated and the boundaries described, if the boundaries had been designated. Any person or persons claiming the same land by a different title or adversely possessing any part of it, was to be identified and legally served a copy of the petition.

Section two of the act directed that the proceedings for each petition were to be conducted according to the rules of a court of equity. The district court was to have the full power and authority to settle the question of validity of title for each claim. The judgment or decree of the district court was to be final and conclusive, unless appealed to the Supreme Court of the United States within one year. The decision of the Supreme Court would then be final and conclusive.

Section five of the act allowed claimants two years from the passage of the act to bring their petitions before the district court. If by reason of neglect or delay by the claimant the case was not prosecuted to a final decision within three years, the claim was to be barred from further action in any court.

Section seven of the act declared that any claim finally denied by the court or barred from further action in any court was to become a part of the public lands of the United States.

If the court decided in favor of the claimant and against the United States and the claim exceeded one thousand acres, section nine of the act required the attorney of the United States for the district to notify the attorney general of the United States. If the attorney general considered the decision of the district court to be in error, he was to direct that an appeal be made to the Supreme Court of the United States. He was then responsible for prosecuting the appeal.

If a claimant was successful in validating his claim in the district court or Supreme Court and all or part of the claim had already been sold by the United States or the claim had not been located, section eleven of the act permitted the claimant to select from the public lands a like quantity in parcels conformable to sectional divisions and subdivisions in any land office of the state of Missouri. If the total quantity of land to be selected was not conformable to the smallest sectional subdivisions authorized for sale, the claimant was permitted to purchase at the rate of one dollar and twenty-five cents per acre the additional quantity of land to make one half quarter section.

For the convenience of petitioners section twelve of the act required the judge of the district court to hold sessions at Saint Louis, Sainte Genevieve and Jackson. Section twelve also specifically excluded from the provisions of this act a claim of the representatives or assignees of Jacques Clamorgan, deceased, to a tract of land lying between the Missouri River and Mississippi River and covering parts of Saint Charles County and Lincoln County.

Section fourteen of the act extended the provisions of the act to the territory of Arkansas in which the superior court of the territory would have jurisdiction.

The Act of May 22, 1826, chapter 157, *An Act for the relief of Phinehas Underwood, and for other purposes*,³⁶¹ extended the time for filing petitions until May 26, 1828.

Claimants who had been anxiously awaiting this opportunity rushed to file their petitions. The first case was taken up in November 1824, but by February 1828 only three cases had been prosecuted to a final decision. All three had failed. Two of the cases had been appealed to the United States Supreme Court, but were still waiting to be heard. These disappointing results, accompanied by the expense and delay of the court proceedings, dampened the initial enthusiasm. Rather than fail in court and be barred from further consideration, some chose to withdraw their petitions, while others were discouraged from filing at all. Thus, the remedy was not as satisfactory as the claimants had hoped.³⁶²

A petition was sent to Congress from citizens of the State of Missouri, expressing their complaints against the 1824 act. They felt that the costs of litigation were burdensome in that the petitioner may be required to pay all costs, not only for himself, but also for the United States and every other defendant. They also felt that the law as passed was unreasonable in that all adverse claimants had to be made a party to the suit, so that a decision was not only for confirmation of the claim against the United States, but also a determination of title between individual parties. They expressed the opinion that the determination of title between individuals was a matter that should be decided later by an appropriate tribunal. They requested that the 1824 act be amended so as to secure to them the final confirmation of their claims. If that could not be done, they at least needed another two year extension of the deadline for filing a petition with the district court. The outcome of the first appeal to the Supreme Court, which had yet to be heard, would influence any decision to press on in the courts.³⁶³

The General Assembly of the State of Missouri sent a memorial to Congress in January 1827, urging the passage of an amendment to the law that would result in a speedy and final determination of the claims not yet confirmed. They suggested the formation of a new board of commissioners to further investigate the unconfirmed claims and to examine claims that had not yet been considered. At the very least, they urged that the right of preference to purchase be given to those whose claims were ultimately denied, so that they could purchase the land encompassing their improvements.³⁶⁴

The State of Missouri and Territory of Arkansas were not alone in grappling with this issue of unconfirmed claims that had originated from some other entity than the United States. The States of Louisiana, Illinois, Mississippi and Alabama and the Territories of Florida and Michigan were dealing with similar issues with unconfirmed private claims that had originated from Great Britain, France and Spain. To address these unresolved issues the Committee on Private Land Claims in the United States Senate was tasked with examining the facts and recommending a solution for the trial and decision of these claims to land. The Committee reported to the Senate on January 9, 1828, suggesting two possible alternatives.³⁶⁵

The first alternative was for the United States to sell the land covered by the unconfirmed claims subject to the claims of individuals. The claimants would then be left to litigate their claim with the purchaser. Although this was an alternative, the Committee recognized that it was not a good one, since it may only serve as a relinquishment of interest without any certainty of title. This would not be a favorable outcome for the claimant, the purchaser or the government.

The second alternative was to establish a special tribunal for the trial and decision of the yet unconfirmed private claims. The Committee suggested that the tribunal's sessions should be conducted in the City of Washington, where the public records were kept and

where competent agents were available to represent the rights of the claimants. The Committee felt that this alternative would “*best promote the interests of the public, while it will effectually protect the just rights of the claimants.*”

Congress considered these concerns and responded by passing the Act of May 24, 1828, chapter 90, *An Act to continue in force for a limited time, and to amend an act entitled "An act to enable 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."*

³⁶⁶ The time allowed for claimants to file a petition in the district court was extended to May 26, 1829 and the time allowed to obtain a final decision was extended to May 26, 1830.

Section two of the act modified the allocation of court costs and repealed the requirement that adverse claimants be identified or made a party to the suit. It further stated that a confirmation by the court served only as a relinquishment of title by the United States and did not impair any adverse claim.

Section three of the act permitted those whose claim was ultimately rejected by the court and who were actual inhabitants and cultivators of the soil to claim the right of pre-emption at the minimum price for public lands for the quarter sections containing any part of their improvements within the limits of the rejected claim.

It appears that there were only three claims confirmed by the court of the United States for the district of Missouri. These included an island in the Missouri River claimed by John Mullanphy under Joseph Lapierre and Joseph Aubuchon (General Series Survey # 3085), a tract of 500 arpents claimed by Daniel Dunklin and John Jones under Amable Partenay (General Series Survey # 3310) and a tract of 406 arpents claimed by John Baptiste Placet (General Series Survey # 3311).

The first appeals to come to the United States Supreme Court were heard at the January term in 1830. The whole subject of Spanish titles was a new one for that court, one that had never undergone a judicial investigation upon which the court could base a conclusion. As a result, decisions on these cases were postponed to allow time for further consideration. Similar cases from Florida were brought before the court in succeeding terms and the court became more informed about the Spanish laws, usages and customs of granting land, but further postponed final decisions until the subject could be thoroughly examined. The primary difficulty for the court was determining what powers to grant lands were actually vested in the governor general, the intendant, the sub-delegates of the intendant and the local commandants.³⁶⁷

Three cases are reported as having been decided by the United States Supreme Court at the January term of 1835. A claim of one league square, or 7056 arpents, was confirmed to Charles Dehault Delassus, claiming under his father Pierre Dehault Delassus Deluzieres (General Series Survey # 2969).³⁶⁸ A claim of 1281 arpents was confirmed to the heirs of Auguste Chouteau (General Series Survey # 2976).³⁶⁹ And a claim of one league square, or 7056 arpents, was confirmed to the devisees of Auguste Chouteau (General Series Survey # 2971).³⁷⁰

Three more cases are reported as having been decided by the United States Supreme Court at the January term of 1836. A claim of 10,000 arpents was denied John Smith, T. (the T. stands for Tennessee to distinguish him from all of the other John Smiths) under the concession of James St. Vrain.³⁷¹ A claim of 800 arpents was confirmed to the widow and heirs of James Mackay (General Series Survey # 3033).³⁷² And a claim of 10,000 arpents was confirmed to the widow and heirs of Antoine Soulard (General Series Survey # 3016) subject to the lands already sold by the United States prior to

August 22, 1824, the day on which the petition was filed with the district court.³⁷³ For the lands that had already been sold, the claimants had the right to select the same quantity from the public lands.³⁷⁴

In January 1831 the General Assembly of Missouri again sent a memorial to Congress, asking for a speedy and final adjudication of the private land claims. The memorial stated that "*It is now near twenty-eight years since the adoption of the treaty with France, by which these claimants conceive they were guaranteed in their rights to these lands ... If the individual claimants have any just rights, they ought to be confirmed in them; if they have none, the pretence of claim ought to be silenced, and the land brought into market for the benefit of the United States, the State of Missouri, and the neighborhoods in which they lie.*" They objected to the ordinary courts of law as a tribunal for adjudication, "*because their expensive, tedious and technical modes of proceeding are unsuited to the nature of these claims and to the rights of the claimants.*" They again recommended the creation of a board of land commissioners endowed with sufficient powers to achieve full and final justice between the government and the claimants. They believed that this tribunal should "*adopt as its rule of action, to confirm every claim which the government of either Spain or France would have confirmed had no transfer of the territory been made.*"³⁷⁵

Chapter 16

Claims to Land and the Second Board of Commissioners ³⁷⁶

Since the General Assembly of Missouri kept demanding the formation of a new board of land commissioners and the Committee on Private Land Claims in the United States Senate had actually recommended it in 1828, Congress passed the Act of July 9, 1832, chapter 180, *An Act for the final adjustment of private land claims in Missouri*.³⁷⁷ The President of the United States was to appoint two commissioners to join the recorder of land titles in Missouri in examining the unconfirmed private claims that had already been filed in the recorder's office. The examination was limited to those unconfirmed claims founded upon any incomplete grant, concession, warrant or order of survey that had been issued by the authority of France or Spain prior to March 10, 1804. They were permitted to receive additional testimony, but it had to be taken within twelve months of the passage of the act.

The recorder and commissioners were to segregate the claims examined into two classes. The first class was to include those claims that they believed would have been confirmed according to the laws, usages and customs of the Spanish government and the practice of the Spanish authorities at New Orleans, if the government under which those claims originated had continued in Missouri. The second class was to include those claims that they believed were destitute of merit, in law or equity, under the same laws, usages, customs and practice of the Spanish authorities. They were also to provide an explanation of their reasoning in each case.

Once this second board of commissioners had organized, the office of the recorder was to be open for the purposes of the examination for two years and no longer. They were to proceed in a summary manner,

with or without any new application from the claimants. During the term of their examination and at the commencement of each session of Congress, they were to send a report to the Commissioner of the General Land Office, detailing their opinions on the claims so far examined. The report would be forwarded to Congress for the final decision upon the claims of the first class.

After the final report was submitted by the recorder and commissioners, those claims falling into the second class, being destitute of merit, were to be subject to sale along with the other public lands. Those claims falling into the first class were to be further reserved from sale until Congress rendered a final decision. Any claim that was ultimately rejected by Congress was subject to sale along with the other public lands. An actual settler whose claim was ultimately rejected or any claimant who chose to waive his claim was granted the right of pre-emption to the land encompassing the improvements up to the quantity of their claim, but not exceeding 640 acres.

Andrew Jackson, President of the United States, nominated Doctor Lewis F. Linn of Sainte Genevieve, Missouri and Wilkins Updyke of Rhode Island to serve as commissioners with recorder of land titles Frederick R. Conway. The United States Senate confirmed the appointments of Linn and Updyke on July 14, 1832.³⁷⁸ The second board of commissioners was organized on October 1, 1832,³⁷⁹ but Updyke resigned shortly thereafter, leaving Conway and Linn to continue taking testimony until a replacement could be confirmed. To further hinder the board's progress, the Asiatic cholera swept into Missouri, so that many claimants and witnesses were unable to appear before the board to present their testimony. Thus, no report could be made the first year.³⁸⁰

On November 19, 1832 recorder Conway and commissioner Linn wrote to the Commissioner of the General Land Office, recommending

that the Act of July 9, 1832, chapter 180, be amended in two ways so as to accomplish a truly final settlement of all the claims that could possibly be brought forward. First, they believed that the act should be extended to include claims founded on written grants, concessions, warrants or orders of survey that had not previously been filed in the office of the recorder of land titles, but which might have been submitted to the district court of the United States for Missouri. Second, they believed the act should be extended to include claims based on settlement and cultivation that had previously been submitted and rejected under other acts of Congress.³⁸¹

Congress responded by passing the Act of March 2, 1833, chapter 84, *An Act supplemental to the act entitled "An act for the final adjustment of land claims in Missouri,"*³⁸² extending the provisions and restrictions of the previous act to every claim based on settlement and cultivation. Additional testimony for these claims was allowed to be taken for two years from the date of the original act.

President Jackson nominated Albert G. Harrison of Missouri on December 31, 1832 to fill the vacancy left by the resignation of Wilkins Updyke. The United States Senate confirmed the appointment of Harrison on January 8, 1833.³⁸³

Before commencing examination of the claims before them, Conway, Linn and Harrison resolved to settle the general principles that would serve as a guide for the decisions they were to make. They reviewed all of the pertinent Acts of Congress, consulted the available compilations of French and Spanish laws and considered the decisions of the United States Supreme Court that had been made up to that time.³⁸⁴

On October 30, 1833 they passed a resolution adopting the following guiding principles:³⁸⁵

1st. That it was the custom of both France and Spain, and formed a part of the policy of those nations in the settling of new countries, to appoint officers, whose business it was, by

express regulations, to grant lands to all such of their subjects as might wish to settle in those countries, for the avowed purposes of improving and populating said countries.

2d. That all acts in relation to grants, concessions, warrants, and orders of survey, done and performed by the French and Spanish officers during the time those governments had possession of and exercised the sovereignty over the province of Upper Louisiana, ought to be considered as prima facie evidence of their right to do those acts and perform those duties, and ought to be held and considered binding on the government of the United States, inasmuch as the acts of the officers in said province were not only tolerated but approved by their superiors in power.

3d. That all grants, concessions, warrants, or orders of survey, made and issued by the French or Spanish officers in the late province of Upper Louisiana on or before the 10th day of March, 1804, where the same are not proved to be fraudulent, ought to be confirmed, provided the conditions annexed to the grant have been complied with, or a satisfactory reason given for not fulfilling the same.

4th. That O'Reily's instructions or regulations of 18th February, 1770, those of Gayoso of 9th September, 1797, and those of Morales of 17th July, 1799, were not in force in Upper Louisiana, except, perhaps, the provisions contained in those of Gayoso, which related to new settlers.

5th. That sub-delegates, in making grants, &c., were not limited by any known law or custom as to the quantity of arpents they should grant, except, perhaps, as to new settlers, and that such grants passed title, and that a survey was merely an incidental matter after the title had passed by the grant, so as to identify the land, that the grantee might take possession of it.

6th. That what are called incomplete grants by the custom and practice of the country were recognized as property capable of passing by devise, transferable from one to another, and were liable to be sold for debt.

7th. That those grants which are general in their terms pass as good a title as those which are more special, the difference being in the description of the land, and not in the title.

8th. That those officers of the French and Spanish governments whose names are signed to concessions must be

presumed to have acted agreeably to powers vested in them by their sovereign, and that their acts are accordingly legal until the contrary is shown.

9th. That fraud is an affirmative charge, and, as relates to the French and Spanish claims, as well as in all other cases, must be proved, and not presumed.

10th. That in all cases where there are conditions to a grant, &c., if the grantee shows satisfactorily that he has been prevented from a fulfillment of the conditions by the act of God, by the act of law, by the enemies of the country, or by the act of the party making the grant, or any other sufficient cause, the grantee will be considered as absolved from the performance of the same, and the grant regarded as absolute.

The second board of commissioners submitted their first report of claims of the first class, dated November 27, 1833, to the Commissioner of the General Land Office, who then forwarded the report to the United States Senate on January 18, 1834.³⁸⁶ The report contained decisions numbered 1 through 142 that the recorder and commissioners recommended for confirmation.

In June 1833 Alexander Buckner, United States Senator for Missouri, along with his wife succumbed to the cholera and died. Missouri Governor Daniel Dunklin appointed Dr. Linn to fill the vacancy.³⁸⁷ By the time the first report of the second board of commissioners was submitted to Congress, Dr. Linn had already joined the United States Senate. Dr. Linn would eventually end up on the Committee for Private Land Claims.

Albert Harrison resigned as commissioner to the second board and was elected to the United States House of Representatives. The second board then having two vacancies could not proceed with its business until those vacancies were filled.

President Jackson nominated James S. Mayfield on February 3, 1834 to replace Dr. Linn³⁸⁸ and he nominated Dr. James H. Relfe on April 8, 1834 to replace Harrison.³⁸⁹ The nomination of Mayfield was referred to the Committee on Public Lands in the United States Senate

and was not approved until April 24, 1834.³⁹⁰ Relfe was approved by the Senate on May 1, 1834.³⁹¹

The next iteration of the second board of commissioners with Conway, Mayfield and Relfe resumed the examination of land claims in June 1834. They submitted the second report of claims of the first class, dated December 5, 1834, to the Commissioner of the General Land Office, who then forwarded the report to the United States Senate on January 7, 1835.³⁹² The report contained decisions numbered 143 through 255 (113 claims) that the recorder and commissioners recommended for confirmation.

At some point early in 1835 James Mayfield was removed from the second board of commissioners. President Jackson nominated Falkland H. Martin on March 3, 1835 to replace him and the United States Senate approved the appointment the same day.³⁹³

The board was approaching a deadline set by the Act of July 9, 1832, chapter 180, so recorder Conway and commissioner Relfe continued the examination of claims until Martin joined them sometime around August 1835. The final reports of the second board of commissioners, dated September 30, 1835, were sent to the Commissioner of the General Land Office, who then forwarded the reports to the United States Senate on December 10, 1835.³⁹⁴ The third report of claims of the first class contained decisions numbered 256 through 345 (90 claims) that the recorder and commissioners recommended for confirmation. The report of claims of the second class, being claims considered destitute of merit, contained decisions numbered 1 through 152.

The board further reported that they were not able to complete the investigation of all the claims that they were authorized to examine. There were about seven hundred (700) claims in the State of Missouri yet to be decided. The board earnestly recommended to Congress that the investigations should continue until the business

was finally completed. If Congress should pass an act for that purpose, the board estimated that the work could be completed in another two years.³⁹⁵

Congress scrutinized the reports of the recorder and commissioners, particularly questioning the validity of the principles used by them in making their determinations. Congress requested opinions and arguments from the Secretary of the Treasury and the Commissioner of the General Land Office, who further called upon the Attorney General of the United States, who deferred to the legal counsel for the United States that had been arguing the similar cases from Florida in the United States Supreme Court.³⁹⁶ Thus, a thorough examination of the facts was pursued.

When Congress was finally satisfied, they passed the Act of July 4, 1836, chapter 361, *An Act confirming claims to land in the State of Missouri, and for other purposes*.³⁹⁷ This act confirmed all of the claims recommended for approval by the recorder and commissioners. However, twenty-nine (29) claims were explicitly excluded from confirmation. Any adverse claimants were reserved the right to assert the validity of their claims in a court or courts of justice.

By that time it was entirely possible that all or part of the lands confirmed by this act had already been sold or claimed by someone else under some other law of the United States. If that was the case, no title was conferred by this act to those lands. An equivalent amount of land was permitted to be located on any unappropriated land of the United States within the same state or territory. The new locations were to conform to legal divisions and subdivisions.

Chapter 17

Claims to Land After 1836 ³⁹⁸

Since the second board of commissioners had not been able to complete its investigation of all the unconfirmed claims in the State of Missouri, new legislation was needed to bring the task to completion. By that time Dr. Lewis F. Linn was a United States Senator for Missouri and was serving on the Committee on Private Land Claims. He reported for the committee to the United States Senate on January 4, 1837, recommending that new legislation be passed to complete the unfinished business of the second board of commissioners. He emphasized the importance of permanently settling the land titles in the State of Missouri associated with these claims.³⁹⁹

In each succeeding year the United States Senate passed a bill to continue the work left unfinished by the second board of commissioners. The United States House of Representatives, however, failed to address the matter. Senator Linn reported to the Senate on behalf of the Committee on Private Land Claims on April 20, 1842 again urging the passage of the bill.⁴⁰⁰

Another bill had been introduced, however, that would revive the expired Act of May 26, 1824, chapter 173, *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*.⁴⁰¹ This bill would also extend the provisions of the revived act to additional states that were dealing with similar issues with private land claims.⁴⁰² The United States House of Representatives supported this bill and it passed as the Act of June 17, 1844, chapter 95, *An Act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers*.⁴⁰³ The

provisions set out in the 1824 act, as they pertained to the State of Missouri, were to be continued in force for a term of five years and no longer and were extended to the States of Louisiana and Arkansas and parts of the States of Mississippi and Alabama.

In February 1847, the General Assembly of Missouri complained to Congress that there were still many private land claims in an unsettled state and that the uncertainty surrounding them hindered settlement and development. Many of these claims, through negligence, ignorance or unfortunate circumstances, had failed to be presented to the recorder of land titles when required and had, thus, been excluded from consideration by previous acts of Congress. They further complained that the Act of May 26, 1824, chapter 173, allowing claimants to seek confirmation from the courts was so expensive and difficult that very few claimants were able to pursue that course of action. The General Assembly requested that Congress pass a law for the final adjustment of all of these claims, stating, *"It is better to settle them at once, even if some unjust ones are confirmed in the mass, than to spend years of legislation and litigation to separate the good from the bad. The time and money thus wasted, and the injury to the country by retarding its improvement, would be far greater than the value of any illegal claim that might be thus included."*⁴⁰⁴

The Act of June 22, 1860, chapter 188, *An Act for the final Adjustment of Private Land Claims in the States of Florida, Louisiana, and Missouri, and for other Purposes*,⁴⁰⁵ authorized claimants and their legal representatives to apply for the confirmation of their title to any lands claimed in Florida, Louisiana or Missouri by virtue of a grant, concession, order of survey, permission to settle or other written evidence originating from any foreign government prior to the transfer of the territory to the United States. In Missouri, claimants were to file a notice in writing with the recorder of land titles at Saint Louis, along with the supporting evidence of their claim. They were to include a

brief abstract of the title, copies of the plats of survey, if any, and a sworn statement by the claimant indicating the legal divisions and subdivisions of the public land surveys that corresponded with the location of the claim. Any claim that had already been twice rejected on its merits by any previous board of commissioners was barred from consideration.

The recorder of land titles was to record the notices and evidence, hear witnesses, seek out existing public records, thoroughly examine the claim and provide an opinion as to whether it should be confirmed or rejected. He was then to make a report to the Commissioner of the General Land Office, separating the claims into three distinct classes.

Class number one was for all claims recommended for confirmation that had been possessed and cultivated by the claimants or their predecessors in title for a period of at least twenty (20) years before the date on which notice was filed with the recorder of land titles. The claim had to be based on some grant, concession, order of survey, permission to settle or other written evidence of title that originated from the foreign government claiming sovereignty at a date before the territory was transferred to the United States.

Class number two was for all claims recommended for confirmation that were based on written evidence of title as in Class number one, but which had not been actually possessed and cultivated for a period of at least twenty years prior to the filing of the claim.

Class number three was for all claims that were not recommended for confirmation. Justification for rejection may include defect of proof, suspicion of fraud, uncertainty of location, vagueness of description or any other sufficient cause. No claim was to be included in class one or class two that had been rejected as being fraudulent by any prior board of commissioners or that had already been twice rejected on its merits by previous boards.

If the Commissioner of the General Land Office approved the report of classes one and two, then the report was sent to Congress for further action. If the report of class three was approved by the Commissioner, the rejection of the claims was to be final and conclusive and the land was to be considered as public land of the United States (section 4). The Commissioner was also to report to Congress all claims in any of the three classes of which he disapproved (section 5). The Commissioner was to report to each regular session of Congress all activity done under this act (section 10).

Section six of the act provided that if the claim was confirmed and it had already been sold, in whole or in part, by the United States prior to the confirmation or if the surveyor general determined that the land claimed could not be surveyed and located, then the claimant was authorized to select from the public lands subject to private sale a quantity equal to what had been sold by the United States. The land selected was to conform to the legal divisions and subdivisions of the surveys of the public lands.

If a tract of land was claimed as a complete grant, but had not been possessed and cultivated by the original claimant or his successors in title for twenty years as required, then those making the present claim had the option to forego the proceedings of this act and to enter a petition in the district court of the United States (section 11).

This act was to remain in force for five years (section 12). Any proceeding that extended beyond the five years was permitted to be prosecuted to a final decision.

For claims or grants of land derived from any foreign government that had not yet been located by survey, the Act of June 2, 1862, chapter 90, *An Act for the Survey of Grants or Claims of Land*,⁴⁰⁶ authorized claimants to make application to the proper officer of the United States government for a survey to be performed at the expense

of the claimant. The survey gave no more validity to the claim than to define its true location.

The provisions of the 1860 Act were extended for an additional three years by the Act of March 2, 1867, chapter 184, *An Act to extend the Provisions of an Act entitled, "An Act for the final Adjustment of private Land Claims in the States of Florida, Louisiana, and Missouri, and for other purposes."* ⁴⁰⁷

The provisions of the 1860 Act were further extended for another three years by the Act of June 10, 1872, chapter 421, *An Act to extend the Provisions of an Act entitled "An Act for the final Adjustment of private Land-claims in the States of Florida, Louisiana, and Missouri, and for other Purposes."* ⁴⁰⁸ Section two of this act also provided for the confirmation of claims to land as specified in Section one of the 1860 Act in all cases where it could be shown that the claimants and their successors in title had continuously maintained possession of the land claimed since the date of the transfer to the United States.

Eventually it became necessary to pass the Act of June 6, 1874, chapter 223, *An act obviating the necessity of issuing patents for certain private land-claims in the State of Missouri, and for other purposes.* ⁴⁰⁹ The first section of this act released all of the right, title and interest of the United States in and to all of the lands in the State of Missouri that had previously been confirmed by any act of Congress or by any officer or officers, or any board or boards of commissioners acting under the authority of any act of Congress. The lands were released in fee simple to the owners of equitable title as completely as could have been done by patents issued according to law.

Section two of the act noted that the act did not affect the validity of any conflicting or adverse claim to the same land. The act also did not pertain to any lands previously relinquished to the United States.

Section three of the act provided for the discontinuance of the office of recorder of land titles, when the public interest no longer

required it. All of the records of the recorder of land titles were to be transferred to the State of Missouri with the United States reserving the right of free access to the records. After the discontinuance of the office, the former duties of the recorder of land titles would pass to the Commissioner of the General Land Office.

The office of recorder of land titles in the State of Missouri was formally abolished by the Act of July 31, 1876, chapter 246, *An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-seven, and for other purposes.*⁴¹⁰ The office ceased to exist after September 30, 1876.

Since it appeared that some act of the General Assembly of Missouri was necessary to affect the transfer of records from the United States to the State of Missouri, the General Assembly passed "*An Act to provide for the removal of the archives in the office of the United States Recorder of Land Titles of Missouri,*" which was approved April 28, 1877.⁴¹¹ The Register of Lands was to receive the records and keep them in his office.

The office of Register of Lands was abolished by an act of the General Assembly of Missouri, approved February 25, 1891.⁴¹² Upon expiration of the last term of office in 1892, the responsibilities and records of the Register of Lands were transferred to the Missouri Secretary of State.

Chapter 18

Confirmation of Individual Claims to Land

The following claims to land in Missouri were confirmed by special acts of Congress:

Daniel Boone claimed 1000 arpents of land in the Spanish district of Femme Osage based upon a concession, dated 1798, from Zenon Trudeau, Lieutenant Governor of Upper Louisiana. His claim was rejected by the Board of Revision on December 1, 1809.⁴¹³ He appealed to Congress in 1810. After the Board of Revision had submitted its final report in 1812 and Congress had time to examine the facts, the claim of 1000 arpents was confirmed by the Act of February 10, 1814, chapter 10, *An Act for the relief of Daniel Boone*.⁴¹⁴ This tract was surveyed as General Series Survey Number 1646.

James Maxwell was vicar general for the Catholic Church in the Spanish Province of Louisiana and claimed several tracts of land. Some were confirmed by the Board of Revision and some were not. The United States released all right, title and interest in and to any real estate possessed by James Maxwell at his death on May 28, 1814 by the Act of April 27, 1816, chapter 105, *An Act for the benefit of John P. Maxwell, and Hugh H. Maxwell*.⁴¹⁵ This act did not, however, extinguish any adverse claims to the same land.

John Baptiste Pratte, St. James Beauvais, Francis Valle and John Baptiste Valle claimed a tract of land two leagues square in the Spanish district of Sainte Genevieve, including the Mine la Motte and surrounding timberlands. Although they had possessed the tract of land, extracted lead from the mine and cut timber from the surrounding land since 1790, they failed to secure a concession before the United States took possession of Upper Louisiana in 1804. Their claim was subsequently rejected by the Board of Revision on December 27, 1811.⁴¹⁶ They petitioned Congress for relief in 1826 ⁴¹⁷

and were granted a confirmation of the Mine La Motte tract by the Act of May 24, 1828, chapter 135, *An Act confirming to Francis Valle, Jean Baptiste Valle, Jean Baptiste Pratte, and St. James Beauvais, or to their heirs or legal representatives of the county of Madison, in the state of Missouri, certain lands.*⁴¹⁸ The confirmation served only as a relinquishment of title by the United States and did not affect any adverse claim or prior purchase from the United States. This tract was surveyed as General Series Survey Number 2963.

Thomas Fenwick claimed 500 arpents of land near Apple Creek in the Spanish district of Sainte Genevieve based upon a concession, dated 1797, from Zenon Trudeau, Lieutenant Governor of Upper Louisiana. Fenwick failed to make a settlement on the land, because the Shawnee Indians had been permitted by the Spanish to settle in that area. Consequently, Fenwick's claim was rejected by the Board of Revision on November 14, 1811.⁴¹⁹ Fenwick subsequently sold his claim in 1813 to Isidore Moore, who proceeded to locate and settle the tract of land.⁴²⁰ Moore presented a petition to the district court of Missouri, but that court could not confirm a claim that had not been located until 1814. He then withdrew his claim from the court and applied directly to Congress for relief. Congress confirmed the claim by passing the Act of May 26, 1830, chapter 109, *An Act to confirm the claim of Isidore Moore, of Missouri,*⁴²¹ subject to any adverse claims that may exist. This tract was surveyed as General Series Survey Number 3134.

Matthew Ramey claimed 1056 arpents of land by settlement right on the river Des Peres in the Spanish district of Saint Louis. His claim was rejected by the Board of Revision on July 16, 1810.⁴²² His heirs continued to occupy the land and subsequently sold it to George Gordon in 1829.⁴²³ Gordon petitioned Congress in 1832 and was confirmed in his claim to 640 acres by settlement right by the Act of June 30, 1834, chapter 251, *An Act for the relief of George Gordon,*

*assignee and representative of the heirs of Matthew Ramey, deceased,*⁴²⁴ subject to any adverse claims that may exist. This tract was surveyed as General Series Survey Number 2966.

David Kincaid claimed 500 arpents of land by settlement right in the Spanish district of Saint Charles. His claim was rejected by the Board of Revision on November 20, 1809.⁴²⁵ It should have been confirmed by the Act of April 29, 1816, chapter 159, but was inadvertently omitted from the list of settlement claims produced by the recorder of land titles at that time.⁴²⁶ The second board of commissioners recommended this claim for confirmation on October 15, 1834.⁴²⁷ Congress confirmed the claim by the Act of March 3, 1835, chapter 108, *An Act for the relief of David Kincaid,*⁴²⁸ subject to any adverse claims that may exist. This tract was surveyed as General Series Survey Number 1830.

John Howell claimed 640 acres of land in Saint Charles County by settlement right and was confirmed in his claim by the Act of July 2, 1836, chapter 272, *An Act for the relief of John Howell.*⁴²⁹ This tract was surveyed as General Series Survey Number 3208, but the land had already been sold by the United States. Howell was, therefore, permitted by the Act to select the appropriate quantity from any lands of the United States subject to entry at private sale.

Joseph Sorin, alias Larochele, was confirmed in his claim to a tract of land two arpents in front by forty arpents in depth in the Cul de Sac fields of Saint Louis by the Act of July 2, 1836, chapter 338, *An Act confirming the title of Joseph Sorin, alias Larochele, and those claiming under him, to a tract of land in Missouri,*⁴³⁰ subject to any adverse claims that may exist. This tract is shown as "Lot 22" on a plat of survey made by William H. Cozens under instructions, dated May 9, 1846.⁴³¹

James Baldrige was confirmed in his claim to 640 acres of land as a settlement right by the Act of July 2, 1836, chapter 351, *An Act for*

the relief of James Baldrige.⁴³² This tract was surveyed as General Series Survey Number 3098.

Philip Riviere was confirmed in his claim to 450 arpents by the Act of March 28, 1838, chapter 39, *An Act for the relief of Philip Riviere and his legal representatives*,⁴³³ provided that it did not interfere with any claim already confirmed by Congress or any land already sold by the United States. This tract was surveyed as General Series Survey Number 3331.

Michael Butcher, Bartholomew Butcher, Sebastian Butcher and Peter Bloom were stone masons. Having finished their work in Upper Louisiana, they intended to leave. The commandant at New Bourbon, however, persuaded them to stay by promising to lobby on their behalf for a grant of land. In June 1802 the Butchers and Bloom petitioned the intendant general in New Orleans for 1600 arpents, being 400 arpents for each of them, and the commandant of New Bourbon added his recommendation.⁴³⁴ No concession materialized, however, before the United States took possession of Upper Louisiana. Their claim was rejected by the Board of Revision, since it was based merely on a recommendation without a concession.⁴³⁵ The second board of commissioners did not consider this claim within their jurisdiction, but recommended it to Congress for confirmation.⁴³⁶ The claimants promptly petitioned Congress⁴³⁷ and were eventually confirmed in their claim to 1600 arpents in two tracts by the Act of August 11, 1842, chapter 166, *An Act for the relief of Sebastian Butcher, and the heirs and legal representatives of Bartholomew Butcher, Michael Butcher and Peter Bloom*.⁴³⁸ Any existing adverse claims to the same land were not to be affected. These two tracts were surveyed as General Series Survey Numbers 3272 and 3273.

James Journey claimed 400 arpents of land in the Spanish district of Saint Charles based on a concession, dated 1799, from the Spanish Lieutenant Governor of Upper Louisiana.⁴³⁹ The claim, however, had

not been located and the recorder of land titles reported it in 1816 as not recommended for confirmation.⁴⁴⁰ In November 1833 the second board of commissioners recommended that the claim be confirmed according to the concession.⁴⁴¹ The claim, however, was explicitly excluded from confirmation by the Act of July 4, 1836, chapter 361, *An Act confirming claims to land in the State of Missouri, and for other purposes*.⁴⁴² The claim was finally confirmed by the Act of August 8, 1846, chapter 137, *An Act for the Relief of James Journey*.⁴⁴³ He was confirmed in his claim to the northeast quarter of Section 30 and the northwest quarter of Section 29 in Township 47 North, Range 1 West of the fifth principal meridian, in Warren County, and was permitted to select an additional 40 acres of unappropriated public land then on the market in the Saint Louis land district.

The legal representatives of John Ruddle were authorized by the Act of August 8, 1846, chapter 163, *An Act for the Relief of the legal Representatives of John Ruddle*,⁴⁴⁴ to select 350 arpents of land from any unlocated land subject to entry in the State of Missouri at that time.

John Smith T. claimed 10,000 arpents of land as the assignee of Jacque St. Vrain, who obtained a concession from the Baron de Carondelet in 1796. St. Vrain had petitioned for permission to locate the quantity of land in separate tracts wherever he may find a lead mine or mill seat or any other tract of land that may suit his interests without the obligation to improve them.⁴⁴⁵ This claim was rejected by the Board of Revision on December 27, 1811.⁴⁴⁶ Smith T. petitioned the district court for the State of Missouri in 1827, but was denied confirmation. He then appealed the decision to the United States Supreme Court.⁴⁴⁷ Before the Supreme Court rendered a decision, the second board of commissioners examined the claim in October 1833 and recommended that it be confirmed according to the concession.⁴⁴⁸ At its January term in 1836, the Supreme Court upheld the decision of

the district court.⁴⁴⁹ The claim was further explicitly excluded from confirmation by the Act of July 4, 1836, chapter 361, *An Act confirming claims to land in the State of Missouri, and for other purposes*.⁴⁵⁰ The heirs of Smith T. petitioned Congress in 1846, proposing to pay the minimum price for public lands for the tracts that had been actually located and possessed in accordance with the concession.^{451 452 453} Congress agreed to the proposal and passed the Act of March 3, 1847, chapter 72, *An Act to grant a Preemption Right to the Heirs or legal Representatives of John Smith T.*⁴⁵⁴ This act allowed the heirs and legal representatives of John Smith T. the right to purchase so much of the claim as had been reserved from the sales of public lands. They were not allowed to purchase more than 5600 acres and the selections had to conform to the subdivisions of the public lands.

Charles McLane claimed 748 arpents 68 perches of land as a settlement right in the Bellevue area of the Spanish district of Sainte Genevieve. The only evidence presented to the Board of Revision to support his claim was a boundary survey from 1806. His claim was, therefore, rejected by the commissioners on November 25, 1811.⁴⁵⁵ Having no additional evidence, the second board of commissioners on June 10, 1835 considered this claim destitute of merit.⁴⁵⁶ His claim was subsequently shown to be ancient and continued and was confirmed by the Act of March 3, 1849, chapter 173, *An Act for the Relief of Charles McLane, of Missouri*,⁴⁵⁷ subject to any adverse claim that may exist. This tract was surveyed as General Series Survey Number 3329.

After the passage of the confirmatory act of July 4, 1836, chapter 361,⁴⁵⁸ the Surveyor General discovered that several of the claims confirmed by that act could not be surveyed, either because they had no location prior to confirmation or because the information available was inadequate to determine the location. The claimants, apparently,

assumed they were free to locate these confirmed claims on any of the unappropriated lands of the United States. The Commissioner of the General Land Office, however, expressed the opinion in 1838 that the second section of the 1836 act only authorized a selection of unappropriated lands of the United States when there was interference with a claim that already had a definite location.⁴⁵⁹ When this issue came up again, the Commissioner sought the opinion of the United States Attorney General. In February 1841, the Attorney General acknowledged that the first section of the 1836 act definitely confirmed these unlocated claims. The second section of the act, however, could not be applied to "floating and unascertained claims." Although the act confirmed the claims, it did not provide for their location. This deficiency could only be fixed by the Legislature.⁴⁶⁰

The five sons of Benito Vasquez Senior, being Benito Junior, Antoine, Hypolite, Joseph and Pierre, claimed 800 arpents each for a total of 4000 arpents, by a concession from the Spanish Lieutenant Governor of Upper Louisiana in February 1800. These claims were rejected by the Board of Revision on September 22, 1810.⁴⁶¹ The second board of commissioners reviewed these claims and on November 2, 1833 recommended that they be confirmed according to the concession.⁴⁶² They were subsequently confirmed by the Act of July 4, 1836, chapter 361.⁴⁶³ The claims of Benito Junior and Pierre had been located prior to confirmation and were thus surveyed. Benito Junior's claim was surveyed as General Series Survey Number 3061 and Pierre's claim was surveyed as General Series Survey Number 3282. The claims of Antoine, Hypolite and Joseph, however, had no specific location and could not be surveyed.⁴⁶⁴

A petition seeking relief on behalf of Antoine, Hypolite and Joseph Vasquez was brought before the United States House of Representatives in February 1843.⁴⁶⁵ Included in this petition was the unlocated claim of John Colligan, which was also confirmed by the

1836 act.⁴⁶⁶ The committee recommended a bill for their relief. No legislation resulted, however, so the petition was renewed in February 1844.⁴⁶⁷ Still no legislation resulted. The petition continued to be renewed until March 1854, when it was presented to the United States Senate.⁴⁶⁸ Finally, the Act of January 12, 1855, chapter 27, *An Act authorizing the Legal Representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain Lands in Missouri*,⁴⁶⁹ allowed them to select from the unappropriated lands of the United States subject to private entry the quantity of land confirmed to them by the 1836 act.

Manuel Gonzales Moro claimed 7056 arpents of land by a concession from the Spanish Lieutenant Governor of Upper Louisiana in September 1799. The Board of Revision rejected this claim on November 27, 1811, doubtless because it had not been located.⁴⁷⁰ The second board of commissioners reviewed this claim and on November 11, 1833 recommended the claim for confirmation according to the concession.⁴⁷¹ It was subsequently confirmed by the Act of July 4, 1836, chapter 361, and surveyed in April 1837 as General Series Survey Number 3024. The Commissioner of the General Land Office rejected this survey in 1841, however, because, like the claims of the sons of Benito Vasquez, this claim had not been located prior to its confirmation.⁴⁷² The representatives of Moro petitioned the United States House of Representatives in April 1856, asking for the authority to locate their claim on the unappropriated lands of the United States.⁴⁷³ Congress recognized the similarity to the Vasquez case and granted relief by passing the Act of August 23, 1856, chapter 20, *An Act authorizing the Legal Representatives of Manuel Gonzales Moro to enter certain Lands in Missouri*.⁴⁷⁴

Pascal L. Cerré claimed 7056 arpents of land to be taken in two halves at different locations by a concession from the Spanish Lieutenant Governor of Upper Louisiana in November 1799. The Board

of Revision rejected this claim on September 28, 1810.⁴⁷⁵ The second board of commissioners reviewed the claim and on October 31, 1833 recommended it for confirmation.⁴⁷⁶ The claim was subsequently confirmed by the Act of July 4, 1836, chapter 361, and one half was surveyed in June 1838 as General Series Survey Number 3120. The other half, however, did not have a definite location and could not be surveyed. The Commissioner of the General Land Office considered this case as similar to others requiring some action by Congress to grant relief.⁴⁷⁷ The representatives of the deceased Cerré petitioned the United States House of Representatives for relief in April 1856.⁴⁷⁸ Congress recognized the justice of the petition and granted relief with the Act of January 26, 1857, chapter 21, *An Act to authorize the Legal Representatives of Pascal L. Cerre to enter certain Lands in the State of Missouri*.⁴⁷⁹

A trend was developing and Congress recognized that other claims existed with similar circumstances to the Vasquez, Moro and Cerré claims.⁴⁸⁰ It was undesirable to have to address each of these claims individually with special acts, so legislation to confirm all such claims was initiated.⁴⁸¹ As petitions began to come in for claims that had been excluded from confirmation by the Act of July 4, 1836, chapter 361, Congress realized that these claims had likely been excluded because they had no specific location. They were, therefore, as deserving of relief as those claims that had been confirmed without a specific location.^{482 483 484}

The Act of July 4, 1836, chapter 361, explicitly excluded from confirmation twenty-nine (29) claims of the first class that the second board of commissioners had recommended for confirmation, including the following twenty-three (23) claims:

- Class 1, Decision No. 33 ⁴⁸⁵ - Manuel de Liza claimed 6000 arpents of land by a concession from the Spanish Lieutenant Governor in July 1799. This claim was rejected by the Board of Revision on July

9, 1810.⁴⁸⁶ A petition regarding this claim was presented to the United States House of Representatives in January 1857 and its merits for confirmation were recognized.⁴⁸⁷

- Class 1, Decision No. 44 ⁴⁸⁸ - John Coontz and Edward Hempstead claimed 450 arpents of land by a concession from the Spanish Lieutenant Governor in May 1800. This claim was rejected by the Board of Revision on November 13, 1811.⁴⁸⁹

- Class 1, Decision No. 57 ⁴⁹⁰ - Pierre Chouteau claimed 1200 arpents of land as the assignee of Matthew Saucier who obtained a concession from the Spanish Lieutenant Governor in November 1800. This claim was rejected by the Board of Revision on December 9, 1811.⁴⁹¹

- Class 1, Decision No. 67 ⁴⁹² - Pierre Chouteau claimed 1600 arpents of land as the assignee of Charles Tayon who obtained a concession from the Spanish Lieutenant Governor in January 1800. This claim was rejected by the Board of Revision on December 10, 1811.⁴⁹³

- Class 1, Decision No. 74 ⁴⁹⁴ - The sons of Joseph M. Papin, including Joseph, Alexander, Hipolite, Pierre, Silvester, Didier and Theodore, each claimed 800 arpents of land by a concession for a total of 5600 arpents of land from the Spanish Lieutenant Governor in January 1800. None of the tracts had been located, however, so the Board of Revision rejected these claims on June 18, 1810.⁴⁹⁵

- Class 1, Decision No. 87 ⁴⁹⁶ - Louis Lorimier claimed 30,000 arpents of land by a concession from the Spanish Lieutenant Governor in January 1800. The land, however, had not been located, so the Board of Revision rejected this claim on March 22, 1810.⁴⁹⁷

- Class 1, Decision No. 89 ⁴⁹⁸ - Bartholomew Cousin claimed 10,000 arpents of land by a concession from the Spanish Lieutenant Governor in December 1802. The land had not been surveyed or

located, so the Board of Revision rejected the claim on March 13, 1810.⁴⁹⁹

- Class 1, Decision No. 95⁵⁰⁰ - Manuel Gonzales Moro claimed 800 arpents of land in the Spanish district of Saint Charles by a concession from the Lieutenant Governor in June 1800. The Board of Revision rejected this claim on November 27, 1811.⁵⁰¹

- Class 1, Decision No. 104⁵⁰² - James Mackay claimed 400 arpents of land in the Spanish district of Saint Charles as the assignee of Seneca Rawlins who obtained a concession from the Lieutenant Governor in December 1802. The Board of Revision rejected this claim on December 6, 1811.⁵⁰³

- Class 1, Decision No. 106⁵⁰⁴ - William L. Long claimed 400 arpents of land in the Spanish district of Saint Louis by a concession from the Lieutenant Governor in October 1799. The Board of Revision rejected this claim on November 25, 1811.⁵⁰⁵

- Class 1, Decision No. 125 - The legal representatives of Manuel Lisa claimed 400 arpents of land as the assignee of Francis Lacombe who obtained a concession from the Spanish Lieutenant Governor in February 1800.⁵⁰⁶

- Class 1, Decision No. 133⁵⁰⁷ - Manuel Lisa claimed 6000 arpents of land as the assignee of Joachim Lisa who obtained a concession from the Spanish Lieutenant Governor in July 1799. This claim was rejected by the Board of Revision on July 9, 1810.⁵⁰⁸ A petition regarding this claim was presented to the United States House of Representatives in January 1857 and its merits for confirmation were recognized.⁵⁰⁹

- Class 1, Decision No. 292⁵¹⁰ - Camille Delassus claimed 400 arpents of land as the assignee of Andrew Chevalier who obtained a concession from the Spanish Lieutenant Governor in October 1799. The land had not been located, however, so the Board of Revision rejected the claim on September 28, 1810.⁵¹¹

- Class 1, Decision No. 293 ⁵¹² - Joseph Silvain claimed 250 arpents of land in the Spanish district of Cape Girardeau by a concession from the Lieutenant Governor in December 1799. The Board of Revision rejected this claim on December 9, 1811.⁵¹³

- Class 1, Decision No. 298 ⁵¹⁴ - Jean Pierre Cabanne claimed 2000 arpents of land wherever he may choose it by a concession said to have been lost. The Board of Revision rejected this claim on June 18, 1810.⁵¹⁵

- Class 1, Decision No. 301 ⁵¹⁶ - James Mackay claimed 650 arpents of land in the Spanish district of Saint Louis as the assignee of John Long who was the assignee of William Hartley who obtained a concession from the Lieutenant Governor in January 1800. The Board of Revision rejected this claim in November 1811.⁵¹⁷ This claim was further rejected by the recorder of land titles in 1816 as interfering with another claim.⁵¹⁸

- Class 1, Decision No. 307 ⁵¹⁹ - George Washington Morrison claimed 750 arpents of land in the Spanish district of Saint Charles as the assignee of William Morrison who obtained a concession from the Lieutenant Governor in June 1803. The Board of Revision rejected this claim on November 27, 1811.⁵²⁰

- Class 1, Decision No. 308 ⁵²¹ - Hartley Lanham claimed 350 arpents of land in the Spanish district of Saint Louis as the assignee of Solomon Bellew by a concession from the Lieutenant Governor in December 1800. This claim was rejected by the recorder of land titles in 1816.⁵²²

- Class 1, Decision No. 309 ⁵²³ - William Morrison claimed 7056 arpents of land in the Spanish district of Sainte Genevieve as the assignee of Pascal Detchemendy who obtained a concession from the Lieutenant Governor in December 1798. The Board of Revision rejected this claim on November 14, 1811.⁵²⁴

- Class 1, Decision No. 310 ⁵²⁵ - Baptiste Amure or Taumier claimed 240 arpents of land in the Spanish district of Sainte Genevieve by a concession from the Lieutenant Governor in November 1797. The Board of Revision rejected this claim on December 10, 1811.⁵²⁶

- Class 1, Decision No. 323 ⁵²⁷ - Peter Menard claimed 400 arpents of land in the Spanish district of Sainte Genevieve as the assignee of Alexis Morris (or Alexander Maurice) who claimed a settlement right. The Board of Revision rejected this claim on November 27, 1811.⁵²⁸

- Class 1, Decision No. 334 - John Baptiste Valle claimed 20,000 arpents of land wherever he may choose it by a concession from the Spanish Lieutenant Governor in February 1797.⁵²⁹ It appears, however, that the claim was never located on the ground. The legal representatives of this claim petitioned the United States House of Representatives for confirmation in May 1850. The Committee on Private Land Claims could find no justification for confirmation, however, and recommended its rejection.⁵³⁰

- Class 1, Decision No. 338 - Israel Dodge claimed 1000 arpents of land by a concession from the Spanish Lieutenant Governor in October 1799.⁵³¹

These twenty-three preceding claims were confirmed by the Act of June 2, 1858, chapter 81, *An Act to provide for the Location of certain confirmed Private Land Claims in the State of Missouri, and for other Purposes*.⁵³² Section three of this act also provided satisfaction for those claims confirmed by this act or any previous act of Congress that had no specific location or had not yet been located for whatever reason. In such cases, the claimants were permitted to select an equal quantity of land from the public lands that were subject to sale at private entry. The selection was to conform to the legal divisions and subdivisions of the public lands.

In 1860, a bill was sent to the Committee on Private Land Claims in the United States House of Representatives, proposing to confirm

the claims of Mackay Wherry, Israel Dodge, Walter Fenwick, James Journey and John Smith T. that had been explicitly excluded from confirmation by the Act of July 4, 1836, chapter 361, and had not been included in the confirmations by the Act of June 2, 1858, chapter 81. As has already been mentioned, James Journey and John Smith T. had previously received relief by other Acts of Congress.⁵³³

Mackay Wherry claimed 1600 arpents of land in the Spanish district of Saint Charles by a concession from the Lieutenant Governor said to have been in April 1802. The location of the tract was to be pointed out at the time of the survey. The survey, however, was not accomplished in time, so that the claim remained unlocated.⁵³⁴ This claim was rejected by the Board of Revision on July 9, 1810.⁵³⁵ The heirs of the claimant pursued confirmation of the claim through the Court of the United States for the Missouri District in 1830, but the court was convinced the concession was fraudulent and decided against the claim.⁵³⁶

Israel Dodge claimed 7056 arpents of land in the Spanish district of Sainte Genevieve by a concession from the Lieutenant Governor in December 1800. His claim was rejected by the Board of Revision on November 14, 1811.^{537 538}

Walter Fenwick claimed 10,000 arpents of land in the Spanish district of Sainte Genevieve by a concession from the Lieutenant Governor in August 1796. His claim was rejected by the Board of Revision on November 14, 1811.^{539 540}

The committee considered these claims similar to those confirmed by the Act of June 2, 1858, chapter 81, and, therefore, recommended them for confirmation. The claims of Wherry, Dodge and Fenwick were subsequently confirmed by the Act of June 21, 1860, chapter 177, *An Act to confirm certain Private Land Claims in the State of Missouri*.⁵⁴¹ If the claims had not previously been located by survey or they had no actual location or they had already been sold by the United States,

then the claimants were permitted to select the same quantity from the public lands that were subject to sale at private entry. The selection was to conform to the legal divisions and subdivisions of the public lands.

Martin Fenwick claimed 500 arpents of land by a concession from the Spanish Lieutenant Governor of Upper Louisiana in June 1797. This claim was rejected by the Board of Revision on November 14, 1811.⁵⁴² The second board of commissioners reviewed this claim on September 15, 1835 and determined it to be destitute of merit, because of an alteration to the petition and a failure to comply with the conditions of the concession.⁵⁴³ The claim was brought before the United States Senate Committee on Private Land Claims in 1854, but the committee chose to report adversely on the claim.⁵⁴⁴ The claim was again presented to the United States Senate Committee on Private Land Claims in 1856 with supporting information and was subsequently recommended for confirmation.⁵⁴⁵ Congress confirmed the claim by the Act of March 3, 1857, chapter 134, *An Act for the Relief of Martin Fenwick*,⁵⁴⁶ at the location that had been reserved from sale on the land office township plats. The act was only a relinquishment on the part of the United States and did not affect the rights of any adverse party.

Jacques Clamorgan claimed 151,162 arpents and 85 perches of land as the assignee of Regis Loisel, who obtained a concession from the Spanish Lieutenant Governor of Upper Louisiana in March 1800. This claim was rejected by the Board of Revision on September 14, 1810.⁵⁴⁷ The second board of commissioners examined this claim on November 17, 1834 and refused to recognize it, considering it to be outside of their authority.⁵⁴⁸ The legal representatives of Regis Loisel in 1857 petitioned the United States House of Representatives for confirmation of the claim. The House Committee on Private Land Claims reported on January 16, 1857 that this claim, being similar to

other cases decided by the United States Supreme Court, was a good and valid claim.⁵⁴⁹ Therefore, Congress granted a confirmation by the Act of May 24, 1858, chapter 51, *An Act for the Relief of Regis Loisel, or his legal Representatives*.⁵⁵⁰ This confirmation, however, did not affect any lands previously located under any law of the United States or lands already sold by the United States. This claim was also confirmed by the Act of June 2, 1858, chapter 81, *An Act to provide for the Location of certain confirmed Private Land Claims in the State of Missouri, and for other Purposes*.⁵⁵¹

Thomas Maddin Junior claimed 800 arpents of land by a concession, dated December 1799. The Board of Revision rejected this claim on August 23, 1810.⁵⁵² Although the tract had not been confirmed, it was surveyed by the United States in 1818 as General Series Survey Number 1831. The heirs and legal representatives of the deceased Maddin petitioned the United States Senate in 1860, asserting that the claim should have been confirmed, but was unintentionally omitted by the recorder of land titles. The Committee on Private Land Claims was not convinced that the claim should have been confirmed, but they readily acknowledged the occupation, cultivation and improvement of the land for a number of years. The claimants were, therefore, entitled to a preference in the purchase of the land.⁵⁵³ They were granted the right to purchase the land covered by the claim at the minimum price by the Act of June 1, 1860, chapter 71, *An Act to grant the Right of Preemption to a certain Tract of Land, in the State of Missouri, to the Heirs and legal Representatives of Thomas Maddin, deceased*.⁵⁵⁴

The representatives of Madame Camp and Antoine Reilhe (or Reithe) claimed 2905 arpents 56 perches 40 feet and 6 inches of land by patent, dated June 19, 1802, from Intendant General Juan Ventura Morales. On December 9, 1811 the Board of Revision determined that this claim was not a title made and completed prior to October 1,

1800.⁵⁵⁵ The claim appears to have been regarded as confirmed under the provisions of the Act of April 12, 1814, chapter 52,⁵⁵⁶ but it was not included on the list submitted by the recorder of land titles. The tract was surveyed in 1840 as General Series Survey Number 3217, but the Commissioner of the General Land Office refused to issue a patent. A petition was brought before the United States Senate Committee on Private Land Claims in January 1868 and relief to the claimants was recommended.⁵⁵⁷ The claim was confirmed by the Act of July 4, 1868, chapter 132, *An Act for the Relief of the Owners of the Land within the United States Survey Number three thousand two hundred and seventeen, in the State of Missouri.*⁵⁵⁸ This confirmation did not affect any adverse claim to the tract.

Gabriel Cerré claimed 400 arpents of land by a concession in 1789 from Spanish Lieutenant Governor Manuel Perez. The Board of Revision rejected this claim on October 18, 1811.⁵⁵⁹ The claim was later examined by the second board of commissioners and recommended for confirmation on November 8, 1833.⁵⁶⁰

Sophia Bolaye claimed 150 arpents of land by a concession in 1796 from Spanish Lieutenant Governor Zenon Trudeau. This claim was rejected by the recorder of land titles in 1816.⁵⁶¹ The second board of commissioners examined this claim and recommended it for confirmation on June 10, 1835.⁵⁶²

These two claims of Gabriel Cerré and Sophia Bolaye were confirmed by the Act of July 4, 1836, chapter 361,⁵⁶³ but they were contested by the village of Carondelet as being within the bounds of the common of the village. The village of Carondelet claimed the common under the provisions of the Act of June 13, 1812, chapter 99.⁵⁶⁴ This dispute was brought before the Committee on Private Land Claims in the United States House of Representatives in July 1868. The Committee was of the opinion that the claims of Cerré and Bolaye were superior to that of the village of Carondelet. They consequently

recommended a bill favoring the claims of Cerré and Bolaye.⁵⁶⁵ The Act of March 3, 1869, chapter 163, *An Act to confirm certain private Land Claims in the State of Missouri*,⁵⁶⁶ further confirmed the claims of Cerré and Bolaye as they were, subject to any valid adverse rights that may exist.

Moses Austin claimed 7153 arpents 32 2/3 feet of land by official order of the Baron de Carondelet to Spanish Lieutenant Governor Zenon Trudeau in March 1797. The tract was surveyed by Antoine Soulard in June 1800 and the concession was perfected into a grant by the Intendant Juan Ventura Morales at New Orleans on July 25, 1802. On December 21, 1811, a majority of the Board of Revision ascertained that this claim was not a grant made and completed prior to October 1, 1800.⁵⁶⁷ The claim, therefore, was not confirmed, but, nonetheless, it was surveyed by the United States in 1817 as General Series Survey Number 430. Austin later incurred indebtedness that resulted in the tract being sold to others. Apparently, there was a general assumption that the claim had been confirmed under the provisions of the Act of April 12, 1814, chapter 52,⁵⁶⁸ even though the recorder of land titles had not included it in his list of claims recommended for confirmation. In 1868 a bill was referred to the Committee on Private Land Claims in the United States House of Representatives that would quiet the title of this tract along with three others with similar circumstances. The Committee, however, did not favor the bill, instead recommending that the Acts of May 26, 1824, chapter 173,⁵⁶⁹ and June 17, 1844, chapter 95,⁵⁷⁰ be revived to allow the claimants and any adverse parties to assert their claims in court.⁵⁷¹ When this matter came before the Commissioner of the General Land Office in the 1870s, he asserted that the claim had never been confirmed.⁵⁷² Congress took up the matter again and passed the Act of February 14, 1874, chapter 29, *An act to confirm certain land titles in the State of Missouri*,⁵⁷³ to release any interest of the United

States in the land claimed by Austin. This release did not affect any adverse claim to any part of the tract.

Appendix A

Comparison of Land Measures

The following is a comparative statement of the land measures of the United States and the French measures formerly used in the late province of Louisiana:

Lineal Measure

72 French feet = 77 English (U.S.) feet

6 French perches = 7 English (U.S.) poles = 1.75 chains

10 French perches = 1 lineal French Arpent

12 lineal French Arpents = 35 chains

Superficial Measure (area)

1 French Arpent = 0.8507 U.S. acre

288 French Arpents = 245 U.S. acres

1 League square = 7056 French Arpents = 6002.5 U.S. acres

(American State Papers, Public Lands, Volume 4, page 22, Gales & Seaton Edition)

Appendix B

Sample Instructions from the Surveyor General

Instructions of William Rector, surveyor general of Illinois, Missouri, and Arkansas, to deputy surveyors for surveying the confirmed claims of individuals therein.

SURVEYOR'S OFFICE FOR THE STATES OF ILLINOIS AND MISSOURI AND TERRITORY OF ARKANSAS

Sir: You will herewith receive a description of each of the confirmed claims of individuals that are supposed to lie within your district. Such of these claims as you may find to be in your district you will lay off and survey in strict conformity with the confirmations as express in the transcript.

In making these surveys you will be careful at all the intersections of the lines of the surveys of the public lands with the lines of the surveys of individuals to establish corners by taking bearing trees or erecting mounds, and to mark in the corner of each fractional section the number of the range, township, and section, and also to ascertain the distance from each intersection to the nearest corner of both surveys, so that you may be able thereby to know and state in your returns the precise length of each line of each fractional section.

All surveys, both of the public lands and claims of individuals, must be surveyed agreeably to the true meridian, and you will keep your reckoning or distances in chains and links.

Where the quantity of land confirmed to an individual is expressed in arpents on the transcript of confirmations, you will in your returns express on the survey the quantity in acres and decimal parts of an acre, and also in arpents.

When the transcript with which you are furnished does not give such a description of the situation of a claim as will enable you to know at what place the survey ought to be made, you will use all means that may be in your power to ascertain where such claim is situated. Information given you by a claimant or his agent with respect to the situation of such claimant's lands you will be governed by, provided such

information does not disagree with the description given of such land in the transcript, and you may believe, from all the circumstances that may have come to your knowledge, that such information is correct. You will then proceed to survey the land accordingly, provided the survey does not interfere with the right of any other person. And where two or more confirmed claims interfere with each other, you may, provided the parties concerned shall mutually agree, lay off each claim in such manner that there be no interference in the surveys, and provided the surveys so made shall embrace the nearest unappropriated lands, and do not interfere with the right of any other person, and shall in every other respect conform to the rules and regulations for laying off the claims of individuals.

Where the boundaries of an old survey can be found and known with certainty, you must conform your survey to such boundaries, unless you discover that considerable error was made in the old survey, in which case it will be your duty to correct such error.

Where a survey is found to contain an excessive quantity of land, the claimant, if present, will have the right to point out the side or end of the survey at which such excess must be thrown off. If the claimant does not attend and superintend his survey, you will throw off the excess of land at the side or end that you may suppose will be most convenient for the claimant. Where a survey is found not to contain as much land as is expressed in the confirmation, you will extend the lines of the survey as the claimant may direct or you may think right, so as to include the proper quantity of land, provided by such extension of the lines you do not interfere with the right of any other person.

In making the surveys of the claims of individuals you will keep your field notes in the following manner:

No. ____ . Surveyed for A B, who claims in his own right, or in right of C D, (as the case may be,) three hundred and forty acres and twenty-eight hundredths of an acre, equal to four hundred arpents.

Beginning at a post from which a black walnut 14 inches in diameter bears south 27° west, 25 links, and an ash 10 inches in diameter bears south 41° east, 43 links distant; thence north at 9 chains 27 links a brook 15 links wide runs southeast 20 chains 18 links; a black oak 24 inches in diameter at 37 chains 22 links intersected the line between sections 15 and 22, township 46 north, range 4 west, where

set a post corner of fractional sections 15 and 22, from which a white oak 18 inches in diameter bears north 26° west, 75 links, and a maple 12 inches in diameter bears south 33° east, 48 links; thence measured along the line between sections 15 and 22 west 19.40 links to the corner of sections 15, 16, 21, and 22. In this manner you will proceed until you complete the survey, establishing the corners of the survey by taking bearing trees or raising mounds, and noting the distance you have run at the intersection with each sectional line as well as the length of each line of your survey, and also the distance from the points of intersection of the nearest sectional corner. You will also, at the end of each line of a survey, describe the land, timber, &c., over which it runs.

In surveying sectional lines that intersect the lines of surveys of individuals that have been made, you will, in all cases, at each intersection, establish corners for the fractional sections, and ascertain and note in your field book the distance from such intersection to the nearest corner of such survey, when it shall be necessary so to do, in order to ascertain the quantity of land contained in each fractional section.

(*American State Papers, Public Lands, Volume 4, page 21, Gales & Seaton Edition*)

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Notes

- ¹ Chapter 1 is a modification of the article published in *Missouri Surveyor*, September 2018, page 4
- ² Stoddard, pages 14, 41
- ³ Houck, Volume 1, page 160
- ⁴ Stoddard, page 16
- ⁵ Stoddard, page 20
- ⁶ Stoddard, page 70
- ⁷ Stoddard, pages 71, 138
- ⁸ Stoddard, pages 211, 254
- ⁹ Stoddard, page 249
- ¹⁰ *American State Papers, Public Lands*, Volume 6, page 712, Gales & Seaton Edition
- ¹¹ *American State Papers, Public Lands*, Volume 4, page 3, No. 418, Gales & Seaton Edition
- ¹² Stoddard, page 251
- ¹³ *American State Papers, Public Lands*, Volume 6, page 712, Gales & Seaton Edition
- ¹⁴ Stoddard, page 257
- ¹⁵ *American State Papers, Public Lands*, Volume 1, page 177, No. 99, Duff Green Edition
- ¹⁶ Stoddard, page 245
- ¹⁷ *American State Papers, Public Lands*, Volume 1, page 177, No. 99, Duff Green Edition
- ¹⁸ *American State Papers, Public Lands*, Volume 6, page 801, Gales & Seaton Edition
- ¹⁹ Stoddard, page 248
- ²⁰ *American State Papers, Public Lands*, Volume 6, pages 712-714, Gales & Seaton Edition
- ²¹ *American State Papers, Public Lands*, Volume 6, page 713, Gales & Seaton Edition
- ²² Stoddard, page 248
- ²³ Chapter 2 is a modification of the article published in *Missouri Surveyor*, March 2019, page 20

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- ²⁴ United States Statutes at Large, Volume 8, page 200
- ²⁵ Stoddard, page 102
- ²⁶ Houck, Volume 2, page 356
- ²⁷ *Annals of Congress*, 8th Congress, Appendix, page 1229
- ²⁸ Stoddard, pages 102-103
- ²⁹ Houck, Volume 2, pages 356-362
- ³⁰ United States Statutes at Large, Volume 2, page 245
- ³¹ Stoddard, page 103
- ³² *Territorial Papers*, Volume 13, page 8
- ³³ United States Statutes at Large, Volume 2, page 283
- ³⁴ *Territorial Papers*, Volume 13, page 51
- ³⁵ United States Statutes at Large, Volume 2, page 331
- ³⁶ *Territorial Papers*, Volume 13, page 98
- ³⁷ Stoddard, pages 253-254
- ³⁸ United States Statutes at Large, Volume 2, page 324
- ³⁹ *Territorial Papers*, Volume 13, pages 111, 124, 218
- ⁴⁰ Marshall, Volume 1, page 97
- ⁴¹ *Territorial Papers*, Volume 13, page 100
- ⁴² *Territorial Papers*, Volume 13, pages 122, 123, 130
- ⁴³ *Territorial Papers*, Volume 13, page 189
- ⁴⁴ Marshall, Volume 1, page 97
- ⁴⁵ *Territorial Papers*, Volume 13, page 122
- ⁴⁶ *Territorial Papers*, Volume 13, pages 161-162, 186
- ⁴⁷ *Territorial Papers*, Volume 13, pages 237-238
- ⁴⁸ Chapter 3 is a modification of the article published in *Missouri Surveyor*, June 2019, page 26
- ⁴⁹ *Territorial Papers*, Volume 13, pages 318-319
- ⁵⁰ *Territorial Papers*, Volume 13, pages 393-394, 493-501
- ⁵¹ *American State Papers, Public Lands*, Volume 2, pages 560-561, Duff Green Edition
- ⁵² *Territorial Papers*, Volume 13, pages 462-463
- ⁵³ *American State Papers, Public Lands*, Volume 2, page 561, Duff Green Edition

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- ⁵⁴ United States Statutes at Large, Volume 2, page 391
- ⁵⁵ *Territorial Papers*, Volume 13, pages 507-508
- ⁵⁶ *American State Papers, Public Lands*, Volume 3, page 356, Duff Green Edition
- ⁵⁷ *Territorial Papers*, Volume 13, pages 567-568
- ⁵⁸ *American State Papers, Public Lands*, Volume 3, pages 356-357, Duff Green Edition
- ⁵⁹ *Territorial Papers*, Volume 14, pages 19-20
- ⁶⁰ *Territorial Papers*, Volume 14, pages 21, 27, 64
- ⁶¹ *Territorial Papers*, Volume 14, pages 27-29, 40-43
- ⁶² *Territorial Papers*, Volume 14, pages 58-70
- ⁶³ *Territorial Papers*, Volume 13, page 537
- ⁶⁴ *Territorial Papers*, Volume 14, page 64
- ⁶⁵ *Territorial Papers*, Volume 14, page 36
- ⁶⁶ *Territorial Papers*, Volume 14, pages 27, 40, 52, 58, 81
- ⁶⁷ *Territorial Papers*, Volume 14, page 47
- ⁶⁸ *Territorial Papers*, Volume 14, page 97
- ⁶⁹ Chapter 4 is a modification of the article published in *Missouri Surveyor*, September 2019, page 7
- ⁷⁰ Stoddard, page 248
- ⁷¹ *Territorial Papers*, Volume 14, page 30
- ⁷² *American State Papers, Public Lands*, Volume 6, page 711, Gales & Seaton Edition
- ⁷³ *Territorial Papers*, Volume 14, page 30
- ⁷⁴ *Territorial Papers*, Volume 13, page 533 and Volume 14, page 32
- ⁷⁵ United States Statutes at Large, Volume 2, page 283
- ⁷⁶ *Territorial Papers*, Volume 13, pages 71-72, 81
- ⁷⁷ United States Statutes at Large, Volume 2, page 324
- ⁷⁸ United States Statutes at Large, Volume 2, page 331
- ⁷⁹ *Territorial Papers*, Volume 13, page 98
- ⁸⁰ *Territorial Papers*, Volume 13, page 175
- ⁸¹ *Territorial Papers*, Volume 13, pages 437-438
- ⁸² *Territorial Papers*, Volume 13, pages 432-437

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- 83 United States Statutes at Large, Volume 2, page 352
- 84 *Territorial Papers*, Volume 13, pages 461-462
- 85 *Territorial Papers*, Volume 13, page 446
- 86 *Territorial Papers*, Volume 13, pages 533-535
- 87 *American State Papers, Public Lands*, Volume 2, page 559, Duff Green Edition
- 88 *American State Papers, Public Lands*, Volume 8, page 866, Gales & Seaton Edition
- 89 *Territorial Papers*, Volume 14, page 30
- 90 *Territorial Papers*, Volume 13, pages 534-535
- 91 *Territorial Papers*, Volume 13, pages 433 and Volume 14, page 71
- 92 *Territorial Papers*, Volume 13, pages 383-384
- 93 Chapter 5 is a modification of the article published in *Missouri Surveyor*, December 2019, page 5
- 94 United States Statutes at Large, Volume 8, page 200
- 95 *Territorial Papers*, Volume 13, pages 432-433
- 96 *Territorial Papers*, Volume 13, pages 432-435
- 97 *Territorial Papers*, Volume 13, page 533 and Volume 14, page 32
- 98 *Territorial Papers*, Volume 13, pages 71, 81
- 99 *Territorial Papers*, Volume 13, page 98
- 100 *Territorial Papers*, Volume 13, page 175
- 101 *Territorial Papers*, Volume 13, pages 497-498
- 102 *Territorial Papers*, Volume 13, page 264
- 103 *Territorial Papers*, Volume 13, pages 432-435
- 104 United States Statutes at Large, Volume 2, page 352
- 105 *Territorial Papers*, Volume 13, pages 448-449
- 106 *Senate Journal*, 9th Congress, 1st session, 1806, Volume 4, pages 38, 45
- 107 *Territorial Papers*, Volume 13, pages 461-462
- 108 *Territorial Papers*, Volume 13, pages 460-461
- 109 *Territorial Papers*, Volume 13, page 519
- 110 *Territorial Papers*, Volume 13, page 536

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- 111 *American State Papers, Public Lands*, Volume 8, page 866, Gales & Seaton Edition
- 112 *Territorial Papers*, Volume 14, pages 8-9
- 113 *Territorial Papers*, Volume 14, page 12
- 114 *Territorial Papers*, Volume 14, page 14
- 115 *Territorial Papers*, Volume 14, pages 21, 27, 64
- 116 *Territorial Papers*, Volume 14, page 19
- 117 *Territorial Papers*, Volume 14, pages 27-29, 36, 40-43
- 118 *Territorial Papers*, Volume 14, pages 15, 22, 25-26
- 119 *Territorial Papers*, Volume 14, pages 23-25
- 120 *Territorial Papers*, Volume 14, pages 36-37
- 121 *Territorial Papers*, Volume 14, page 51
- 122 Chapter 6 is a modification of the article published in *Missouri Surveyor*, March 2020, page 20
- 123 *Territorial Papers*, Volume 14, pages 79-80
- 124 United States Statutes at Large, Volume 2, page 440
- 125 United States Statutes at Large, Volume 2, page 324
- 126 Marshall, Volume 1, page 91
- 127 *Territorial Papers*, Volume 14, page 117
- 128 Marshall, Volume 1, page 9
- 129 *Territorial Papers*, Volume 14, pages 107, 171
- 130 Marshall, Volume 1, pages 102, 134
- 131 Marshall, Volume 1, pages 93-97
- 132 Marshall, Volume 1, page 134
- 133 Marshall, Volume 1, pages 159-160
- 134 *Territorial Papers*, Volume 14, pages 130, 145, 182-183
- 135 Marshall, Volume 1, pages 280, 282, 300-301
- 136 *Territorial Papers*, Volume 14, page 367
- 137 Marshall, Volume 1, page 283
- 138 *Territorial Papers*, Volume 14, pages 182-183
- 139 *Territorial Papers*, Volume 14, page 190
- 140 Marshall, Volume 2, page 7-11

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- 141 Marshall, Volume 2, page 11-13
- 142 *Territorial Papers*, Volume 14, page 366
- 143 *Territorial Papers*, Volume 14, page 222
- 144 *Territorial Papers*, Volume 14, pages 231-232, 241, 249, 367
- 145 Marshall, Volume 2, page 42-44
- 146 *Territorial Papers*, Volume 14, pages 366-368
- 147 *Territorial Papers*, Volume 14, pages 404-405
- 148 *Territorial Papers*, Volume 14, pages 421-422
- 149 United States Statutes at Large, Volume 2, page 662
- 150 Marshall, Volume 2, pages 172-173
- 151 Marshall, Volume 2, pages 179, 182-183
- 152 Marshall, Volume 2, page 214
- 153 Marshall, Volume 2, page 216
- 154 *American State Papers, Public Lands*, Volume 2, pages 388-603, Duff Green Edition
- 155 Chapter 7 is a modification of the article published in *Missouri Surveyor*, June 2020, page 14
- 156 United States Statutes at Large, Volume 2, page 440
- 157 *Territorial Papers*, Volume 14, pages 127-128
- 158 *Territorial Papers*, Volume 14, pages 137-138
- 159 Marshall, Volume 1, page 134
- 160 *Territorial Papers*, Volume 14, pages 366, 368
- 161 *Territorial Papers*, Volume 14, pages 405, 408-409, 423
- 162 *Territorial Papers*, Volume 14, pages 51-52
- 163 *Territorial Papers*, Volume 14, page 423
- 164 Marshall, Volume 2, pages 180, 183
- 165 *Territorial Papers*, Volume 14, page 470
- 166 *Territorial Papers*, Volume 14, pages 515-517
- 167 *Territorial Papers*, Volume 14, pages 508-511, 514, 515-517
- 168 *Territorial Papers*, Volume 14, page 546
- 169 United States Statutes at Large, Volume 2, page 748
- 170 United States Statutes at Large, Volume 2, page 743

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- 171 United States Statutes at Large, Volume 2, page 812
- 172 *Territorial Papers*, Volume 14, pages 681-684
- 173 Marshall, Volume 1, page 321
- 174 Marshall, Volume 2, page 193
- 175 Marshall, Volume 2, page 190
- 176 *Territorial Papers*, Volume 14, pages 626, 631
- 177 *Territorial Papers*, Volume 14, pages 707, 709
- 178 Chapter 8 is a modification of the article published in *Missouri Surveyor*, September 2020, page 16
- 179 Stoddard, page 249
- 180 *American State Papers, Public Lands*, Volume 6, page 712, Gales & Seaton Edition
- 181 *American State Papers, Public Lands*, Volume 2, page 396, Duff Green Edition
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- 183 United States Statutes at Large, Volume 2, page 324
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- 186 *American State Papers, Public Lands*, Volume 2, pages 563-564, Duff Green Edition
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- 190 *Territorial Papers*, Volume 14, page 718
- 191 *American State Papers, Public Lands*, Volume 2, page 736, No. 218, Duff Green Edition
- 192 United States Statutes at Large, Volume 6, page 127
- 193 Chapter 9 is a modification of the article published in *Missouri Surveyor*, December 2020, page 14
- 194 Marshall, Volume 2, page 218

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- 195 *Territorial Papers*, Volume 14, page 539
- 196 *American State Paper, Public Lands*, Volume 2, pages 377-379, No. 200, Duff Green Edition
- 197 United States Statutes at Large, Volume 2, page 748
- 198 *American State Papers, Public Lands*, Volume 2, page 379, Duff Green Edition
- 199 United States Statutes at Large, Volume 2, page 716
- 200 *Territorial Papers*, Volume 14, page 607
- 201 United States Statutes at Large, Volume 2, page 812
- 202 *Territorial Papers*, Volume 14, pages 623-624
- 203 United States Statutes at Large, Volume 3, page 86
- 204 United States Statutes at Large, Volume 3, page 121
- 205 *Territorial Papers*, Volume 15, page 21
- 206 *Territorial Papers*, Volume 15, pages 65, 75, 77, 82
- 207 *American State Paper, Public Lands*, Volume 3, page 325-330, Duff Green Edition
- 208 *Territorial Papers*, Volume 15, pages 119
- 209 *American State Papers, Public Lands*, Volume 3, page 274, No. 273, Duff Green Edition
- 210 United States Statutes at Large, Volume 3, page 328
- 211 Chapter 10 is a modification of the article published in *Missouri Surveyor*, March 2021, page 4
- 212 Marshall, Volume 2, page 216
- 213 *Territorial Papers*, Volume 14, page 546
- 214 United States Statutes at Large, Volume 2, page 748
- 215 United States Statutes at Large, Volume 2, page 716
- 216 *Senate Executive Journal*, 12th Congress, 1st Session, Volume 2, pages 262-263
- 217 United States Statutes at Large, Volume 2, page 720
- 218 *Senate Executive Journal*, 12th Congress, 2nd Session, Volume 2, pages 303-304
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