

Transcript of 1837 April 8: B.F. Butler to Levi Woodberry, Opinion concerning rights of land claimants under certain acts of Congress, L.C. Gulley collection, Arkansas State Archives, Little Rock, Arkansas.

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Attorney General Office
April 8th 1837

Sir

I have very naturally considered the case referred to me by your letter of the 28th of Feby. as stated in the correspondence, between the Commissioner of the General land Office and the honourable Dixon H. Lewis. So far as regards the particular question discussed in that correspondence- I concur in the views taken by the Commissioner- But there is in my Opinion a very plain and clear ground for reading the equity of the case, and giving to the parties represented by Mr. Lewis, the benefits they ask sum, The first section of the act of the 14th July 1832 supplemented to the act of the 29th May 1830, provides "that all the Occupants and settlers upon the public lands of the United States who are entitled to a preemption, according to the provisions of the act of Congress, approved the 29th day of May 1830. and who have not been and shall not be enabled to make proof and enter the same within the time limited in said act in consequence of the public surveys not having been made and returned, or when the land was not attached to any land district, or when the same has been reserved from sale, on account of a disputed boundary between any State and territory. the said occupants shall be admitted permitted to enter the said lands on the same condition in every respect. as are prescribed in said act, within one year after the surveys are made, or the land attached to a land district or the boundary line established, and if the said land shall be proclaimed for sale before the expiration of one year as aforesaid then they shall be entered before the sale

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thereof. This act was evidently passed under a conviction

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that the cases embraced in it were within the equity of the Original law, and that Justice and reason required that they should be provided for. It may therefore well be regarded as one of those amendments of an Original law, which become so incorporated, therewith as to be revived by the revival of the Original, agreeably to the well renown rules of construction, which I have already applied in a similar Case, to this very subject (as my Opinion of the 6th of March 1835)

I am accordingly of opinion that the act of the 14th of July 1832 is to be deemed a part of the Act of the 29th of May 1830. and that it was levied therewith by the Act of the 19th of June 1834

I am sir very respectfully Your
Obdt Servt B.F. Butler

Honl.
Levi Woodberry