

Transcript of 1854 January 16: John J. Clendenin, Attorney General, to Governor Elias N. Conway, Opinion regarding disposition of swamp and overflowed lands in Arkansas, L.C. Gulley collection, Arkansas State Archives, Little Rock, Arkansas.

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Attorney Generals Office
Little Rock.
Jany. 16. 1854.

Sir.

Your communication of the 12th ultimo was handed to me on Saturday last and since its receipt, I have investigated the ~~the~~ questions ~~the~~ case in regard to the questions upon which you desire my opinion.

You wish to know first if there "is any law empowering the governor of the State of Arkansas, to execute deeds on the certificates issued by the present board of Swamp land Commissioners, for lands dispersed of by them since the passage of the act amendatory of existing laws regulating the landed interests of this State approved Jany 12. 1853, and before the maps and plats were furnished by the Auditor under section three of that act to the respective land agents." and second, "Had the present board of Swamp Land Commissioners any authority by law to dispose of Swamp and overflowed lands at any time before the respective land agents were furnished with plats."

These questions in my opinion will be determined by a reference to the act approved January 6th. 1851. because by the provisions of the 38th section of the act of the last session to which you have referred it is enacted "That nothing in this act shall be construed to alter or change existing laws

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until the election and qualification of he
offices herein before provided for and unto
the auditor shall make out and furnish
the Several land agents herein provided
to be elected for the General land districts
with the maps and plats as received
to be furnished by him as aforesaid
which he shall furnish without delay.”

From the terms of this section which
are very explicit, the act entitled “an
act to provide for the reclaiming of the
Swamp and overflowed lands donated
to this State by the United States
approved Janry. 6th. 1851. would be in
force until the maps and plats were
furnished to the land agents as required
and whatever authority the Swamp
land Commissioners had under that
act, was continued until the plats and
maps were furnished.

By reference to the 8th. Section of the
act of January 1851. I find that the –
Swamp Land Commissioners had the –
power to Sell Swamp Land and upon
there certificate the Governor was authorized
to make deeds for such land
and the provisions of this section was
in my opinion continued until the
maps and plats were furnished to the
Land Agents.

Resply Your Obt. Sert.
Jno. J. Clendenin
Atty Genl.

To His Excellency
Elias N. Conway
Governor of the

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State of Arks.

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16 January 1854
J.J. Clendenin
Atty, General
giving his
opinion on
Swamp Land
Laws.
to
Gov E. N. Conway