

acted by the authority aforesaid, That the party who shall enter such rule for striking a jury as aforesaid shall bear and pay the fees for striking the same and shall not have any allowance for them upon taxation unless the court upon trial shall certify that it was proper the cause should be tried by a special jury.

[Section XIX.] (Section XX, P. L.) And be it enacted by the authority aforesaid, That if any person shall be legally summoned in the supreme court or other court of record of this commonwealth as a grand juror or as a special juror and such person shall not appear accordingly but shall make default, the judge or judges or justices of the proper court shall inflict such fine upon such offender not exceeding six pounds unless reasonable cause be shown as aforesaid as to the court shall seem proper, to be levied, collected and paid over in like manner as is by this act authorized and directed in other cases and to be applied to like uses and purposes.

[Section XX.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the regulations in and by this act directed shall take effect and be in force from and after the first day of September next.

Passed March 19, 1785. Recorded L. B. No. 2, p. 453, etc. See the Acts of Assembly passed September 13, 1787, Chapter 1307; March 27, 1789, Chapter 1412.

CHAPTER MCXXXIX.

AN ACT FOR DIRECTING THE MODE OF DISTRIBUTING THE DONATION LANDS PROMISED TO THE TROOPS BY THIS COMMONWEALTH.

(Section I, P. L.) Whereas the general assembly by a resolution passed the seventh of March, one thousand seven hundred and eighty, did resolve upon certain allowances of land to be given by this state to the officers and privates of the Pennsylvania line as therein particularly specified:

And whereas, by an act of assembly passed the twelfth day of March, one thousand seven hundred and eighty-three, a cer-

tain tract of country therein described, was located and set apart, exclusively for the purpose of fulfilling the aforesaid grant:

Therefore, in order that the persons to whom the said allowances were made may have the same distributed to them respectively and legal titles granted vesting in them the right thereto;

[Section I.] (Section II, P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That the surveyor-general shall forthwith appoint deputies, such as shall be approved of by the supreme executive council for the purpose of surveying and laying off in lots the said tract of country, which deputies shall severally give bond to the state with sufficient security in the sum of eight hundred pounds conditioned for the faithful performance of the duties of their office and shall follow such directions and instructions as they may from time to time receive from the executive council and surveyor-general.

(Section III, P. L.) And whereas difficulties may arise in determining the cases to which the said grant of lands by the aforesaid resolution shall extend and whether the same doth also include the grant of lands promised to the army by congress:

[Section II.] (Section IV, P. L.) Be it further enacted by the authority aforesaid, That all officers and soldiers of the Pennsylvania regiments or of independent corps acknowledged by this state as of the quota of Pennsylvania in the federal army and officers being citizens of this state at the time of their entering into the service, not attached to the line of any state, who have served therein until the end of the [late] war with Great Britain; and all officers as aforesaid who have been deranged by the regulations and arrangements of the army according to act of congress passed October one thousand seven hundred and eighty, or at any subsequent period of the war, together with the widows and children or either thereof of such officers and privates aforesaid as were slain in battle or died in the service, shall be and they are hereby entitled to lands ac-

ording to the pay and rank they held last before they left the said service in the proportions laid down in the resolution aforesaid.

(Section V, P. L.) And whereas the general assembly by their resolutions of the twenty-first of March, one thousand seven hundred and eighty-three did declare, that the honorable the Baron Steuben, late inspector-general of the American army should be entitled to receive from this state a grant of lands equal to a major-general of the Pennsylvania line and that Lieutenant-Colonel Tilghman should be entitled to a grant of lands equal to a Lieutenant-Colonel of the same line.

And whereas, by resolutions of assembly of the twenty-first of February, one thousand seven hundred and eighty, and the twenty-third of December, one thousand seven hundred and eighty and by act of assembly passed the twenty-second day of December, one thousand seven hundred and eighty-one, the troops therein directed to be raised were promised like proportions of land with the Pennsylvania line:

[Section III.] (Section VI, P. L.) Be it therefore enacted by the authority aforesaid, That the said Major-General Baron Steuben, Lieutenant-Colonel Tilghman, and the aforesaid officers and soldiers of the troops raised by virtue and in pursuance of the aforesaid resolutions of the twenty-first of February and twenty-third of December, one thousand seven hundred and eighty, and the aforesaid act of the twenty-first day of December, one thousand seven hundred and eighty-one, shall also be and they are hereby entitled to lands according to the pay and rank they respectively held last before they left the service in the proportions aforesaid.

[Section IV.] (Section VII, P. L.) And be it enacted by the authority aforesaid, That the said grant of lands by this state shall not include the donation of lands promised by congress as aforesaid nor shall it be construed so as to affect or invalidate the claim of the said troops thereto.

(Section VIII, P. L.) Provided nevertheless, That no person shall be entitled to any lands agreeable to this act by virtue of any promotion or rank obtained by brevet or other commission

unless he hath actually been allowed pay agreeable thereto by the United States.

[Section V.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That the comptroller-general of this state shall and he is hereby directed forthwith to form complete lists of the persons entitled to receive lands agreeably to this act annexing thereto their rank and the quantity to which they are respectively entitled and shall lay the same before the supreme executive council who shall thereupon give orders to the surveyor-general that he may instruct his deputies what number of lots to survey and in what quantities to lay them off.

[Section VI.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That the lots shall be of four descriptions, one to contain five hundred acres each, another three hundred acres each, another two hundred and fifty acres each, and another two hundred acres each, with the usual allowances, that a quantity equal to what may be necessary for the major-generals, brigadier-generals, colonels, captains, and two-thirds of the lieutenant-colonels shall be laid off into lots of five hundred acres; a quantity equal to what may be necessary for the regimental surgeons and mates, also for the chaplains, majors and ensigns, into lots of three hundred acres each, a quantity equal to what may be necessary for one-third of the lieutenant-colonels, and for the sergeants, sergeant-majors and quarter-master-sergeants, into lots of two hundred and fifty acres, and a quantity equal to what may be necessary for the lieutenants, corporals, drummers, fifers, drum-majors, fife-majors and privates, into lots of two hundred acres each, and that the surveyor-general, and every of his deputies [respectively] shall, before they proceed to the execution of the duties prescribed by this act, take and subscribe an oath or affirmation, that, in laying off the lots as aforesaid, he will not choose out the best land, either as to quality or situation, to favor any one of the foregoing four classes of lots, to the prejudice or injury of the others nor of this state, and in running the boundary lines of the lots, the surveyors respectively shall cause the same to be well defined, by marking the trees on the lines at small distances and

particularly the angles and corners and on the north-western corner tree of each lot shall be marked in Roman figures the number of the lot and if the said corner should be a post then the said number to be marked on a tree in said lot most contiguous thereto and shall transmit copies of their field-notes with the draughts and returns into the surveyor-general's office.

[Section VII.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That the surveyor-general shall give [such] instructions to his several deputies concerning the numbering of the classes of lots respectively as that they may succeed each the other in numerical order and that each of the said classes shall commence with the number one and proceed on numerically and that no two of the same class of lots shall bear the same number.

[Section VIII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That when a sufficient number of lots shall be surveyed and be turned to the surveyor general he shall cause a draught to be laid down of the whole noting on each the number thereof which shall be kept by the supreme executive council until after all the applications agreeable to this act shall have been satisfied and afterwards shall be safely deposited in the office of the master of the rolls as a public record, to serve, to all intents and purposes, in lieu of recording the patents, any law, custom or usage, to the contrary notwithstanding.

[Section IX.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the supreme executive council shall cause numbers, correspondent to each of the four classes, to be made on pieces of square, white paper, as nearly of an equal size as may be and the said numbers separately and carefully in their presence to roll and bind up well with silken thread as uniformly as possible and deposit the same in four wheels like unto lottery wheels to be by them provided at the expense of the state for that purpose, which wheels shall be well turned round, before any applicant shall be permitted to draw therefrom and the same shall be frequently afterwards repeated that the said wheels shall be kept in safe custody under the direction of a committee of three of the members of the supreme

executive council, to be chosen by the board from time to time, and sealed except when drawing from, that the said committee shall judge and determine on the right of every applicant to receive grants of land under this act, allowing an appeal to the supreme executive council in all cases of doubt and difficulty, whose decision thereon shall be final and conclusive and having approved thereof shall admit each applicant by himself or order (except in cases where alienation is prohibited before the distribution of the lands) if a major-general to draw four tickets from the wheel containing the numbers on the five hundred acre lots; if a brigadier-general three tickets from said wheel, if a colonel two tickets from said wheel, if a lieutenant-colonel, one from said wheel, and one from the wheel containing the numbers on the two hundred and fifty acre lots, if a surgeon, chaplain or major two tickets from the wheel containing the numbers of the three hundred acre lots, if a captain one ticket from the wheel containing the numbers on the five hundred acre lots, if a lieutenant two tickets from the wheel containing the numbers on the two hundred acre lots, if an ensign or regimental surgeon's mate one ticket from the wheel containing the numbers on the three hundred acre lots, if a sergeant, sergeant-major or quarter-master-sergeant, one ticket from the wheel containing the numbers on the two hundred and fifty acre lots; and if a drum-major, fife-major, drummer, fifer, corporal or private sentinel one ticket from the wheel containing the numbers on the two hundred acre lots.

[Section X.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That the said committee shall make report from time to time to the supreme executive council of the numbers drawn for or by each applicant and the president or vice-president in council shall then forthwith cause to be filled up and sealed with the state seal and signed and delivered, patents for the lots respectively, corresponding to the numbers so drawn, which patents shall be provided and printed at the expense of the state in sufficient quantities upon parchment in manner and form following, viz:

The Supreme Executive Council of the Commonwealth of Pennsylvania, to all whom these Presents shall come, Greeting:

Know ye, that in consideration of the services rendered by _____ in the late army of the United States (or in the service of this state, as the case may be) there is granted by the said commonwealth unto the said _____ a certain tract or parcel of land lying in the county of _____ (describing the particular bounds of the land, and the number it bears) with its appurtenances, unto the said _____ his heirs and assigns forever (here insert the usual tenure and reservation.) In witness whereof his Excellency _____ Esquire, President (or, if absent, the Honorable _____ Esquire, Vice-President) of the Supreme Executive Council hath hereunto set his hand and caused the state seal to be affixed, the _____ day of _____ in the year of our Lord _____ and _____ of the commonwealth.

Attest:

Secretary.

And the supreme executive council shall insert [in] the general draught and within each lot, the name and rank of the person, for whom it was drawn.

[Section XI.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That the following fees shall be allowed for surveying, draughting and returning, as herein before directed, and no other, that is to say, for every lot of five hundred acres, three pounds, every lot of three hundred acres, two pounds, every lot of two hundred and fifty acres, and every lot of two hundred acres, one pound ten shillings, which allowance shall include all expenses of chain-bearers, markers and other charges, to be paid by each applicant, in proportion to his lands, previous to his being admitted to draw. And whereas the term of two years limited in the law passed March, one thousand seven hundred and eighty-three appears to be too short for making all the applications, a considerable part thereof having since elapsed:

[Section XII.] (Section XVI, P. L.) Therefore be it enacted and it is hereby enacted by the authority aforesaid, That the said term shall be extended to continue until the expiration of

one year after the surveyor-general shall have returned to council the draught of the lots laid down as herein before directed of which return public notice shall immediately be given by council in the newspapers and the drawing and patenting shall then forthwith commence.

[Section XIII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That immediately after the termination of the period allowed for making applications as aforesaid, the supreme executive council shall cause the remaining lots and the residue of the lands appropriated as aforesaid which may not be applied for to be laid off, advertised and sold within a reasonable time under their direction for the benefit of the state; and that all certificates shall be receivable in payment of the purchase money thereof which are now receivable at the land-office for the purchase money of lands sold by this commonwealth agreeable to law.

(Section XVIII, P. L.) And whereas the lines of the western and northern boundaries of this state are not yet run and the lands appropriated for the army and herein directed to be surveyed extend thereto:

Therefore, in order to avoid interference by surveying lands without the lines of this state.

[Section XIV.] (Section XIX, P. L.) Be it enacted and it is hereby enacted by the authority aforesaid, That the supreme executive council shall direct in such manner as may be best that the lands remote from the said boundaries shall be first surveyed until the said lines shall be run for the completion of which measures are already taken by the state.

[Section XV.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That an agent duly qualified shall be appointed by the supreme executive council, who shall proceed immediately and explore the country to be laid off, agreeable to the directions of this act, noting the quality of the land in the several parts [thereof,] the hills, mountains, waters, creeks, marshes, uplands, bottom land, etc., and such [other] occurrences as may deserve notice, with their situation, and distance, but particularly the parts of the land which he may deem unfit for cultivation.

[Section XVI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That the said agent shall take and subscribe an oath or affirmation before the supreme executive council well and truly to execute the business [hereby] entrusted to him without partiality or favor either to the state or any individual and for his services and expenses herein he shall be allowed at the rate of one pound and ten shillings for every day he shall be so employed.

(Section XXII, P. L.) Provided always, That the length of time charged by him shall not exceed four months, and the supreme executive council shall draw for such part of his pay to enable him to proceed on the business as may to them seem proper.

[Section XVII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That the remarks, notes and description of the country made by the said agent as before directed shall be published as soon as possible under the direction of the supreme executive council.

[Section XVIII.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That the surveyor-general shall appoint such a sufficient number of deputies in manner aforesaid as to have the whole tract of country surveyed and returned to him on or before the first of February, one thousand seven hundred and eighty-six, and if any deputy so as aforesaid appointed who shall accept thereof shall not have returned the surveys assigned him within that period his bond shall be put in suit immediately after to be recovered by the attorney-general for the use of the commonwealth. And the agent to be appointed as directed by this act shall also report to the surveyor-general from time to time if any of the deputies neglect or unnecessarily delay the performance of their duty.

Passed March 24, 1785. Recorded L. B. No. 2, p. 464. See the Acts of Assembly passed September 13, 1788, Chapter 1352; September 30, 1791, Chapter 1592; April 6, 1792, Chapter 1637; April 17, 1795, Chapter 1855.