

upon them by this act, it shall be the duty of the secretary of the commonwealth, to deliver to the secretary of the land office and surveyor general, all books, papers, drafts or documents now in his office, relative to donation lands, returns of survey, general or connected drafts, maps or charts so received, to be deposited in the surveyor general's office, and all others of the said papers, books or documents, to be deposited in the office of the secretary of the land office; and when the whole donations shall be completely effected, the general drafts to be deposited in the rolls office, agreeably to the directions of a former law.

Section V. (Section V, P. L.) And be it further enacted by the authority aforesaid, That upon satisfactory proof being made to the board of property, by the widow, heir or heirs of any deceased officer or soldier, it shall be the duty of said board to direct a patent or patents to issue in the usual way, in favor of such widow, heir or heirs, for such donation lands, and on the same conditions as the officer or soldier would, if living, be entitled to.

Section VI. (Section VI, P. L.) And be it further enacted by the authority aforesaid, That no application for donation lands shall hereafter be admitted; and that no patent for such land, already applied for, shall be granted, unless such patent is demanded within one year after the passing of this act.

Approved April 2, 1802. Recorded L. B. No. 8, p. 104.

CHAPTER MMCLXXXVIII.

AN ACT TO SETTLE THE CONTROVERSIES ARISING FROM CONTENDING CLAIMS TO LANDS WITHIN THAT PART OF THE TERRITORY OF THIS COMMONWEALTH, NORTH AND WEST OF THE RIVERS OHIO AND ALLEGHENY, AND CONEWANGO CREEK.

Whereas, by the ninth section of an act of the general assembly, passed the third day of April, one thousand seven hundred and ninety-two,⁽¹⁾ entitled "An act for the sale of the vacant lands within this commonwealth," it is enacted that no warrant or survey to be issued or made in pursuance of the

said act, for lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, shall vest any title in or to the lands therein mentioned, unless the grantee has, prior to the date of such warrant, made or caused to be made, or shall within the space of two years next after the date of the same, make or cause to be made an actual settlement thereon, by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon for the space of five years next following his first settlement of the same, if he or she shall so long live; and in default of such actual settling and residence, it shall and may be lawful to and for this commonwealth to issue new warrants to other actual settlers, for the said lands, or any part thereof, reciting the original warrants, and that such actual settlements and residence have not been made in pursuance thereof, and so as often as defaults shall be made for the time and in the manner aforesaid, which new grants shall be under and subject to all and every the regulations contained in this act; provided that if any such actual settler, or any grantee in any such original or succeeding warrant, shall by force of arms of the enemies of the United States, be prevented from making such actual settlement, or be driven therefrom, and shall persist in his endeavors to make such actual settlement as aforesaid, then in either case, he or his heirs shall be entitled to have and hold the said lands in the same manner as if the actual settlement had been made and continued: And whereas applications have been made and are making to the land office for new warrants, in cases where the applicants are of opinion that the original warrantees are barred from claiming title by their own default, in not complying with the conditions required in the section above recited; and although it appears from the act aforesaid that the commonwealth regarded a full compliance with those conditions of settlement, improvement and residence, as an indispensable part of the purchase or consideration of the lands so granted, yet as much confusion might arise if the state were to continue to grant lands which in consequence of former

acts may have become the property of others: And whereas it appears on the one hand, by the representations of the agents of certain companies called the Holland company and the Population company, to the legislature of this commonwealth, that they complain of certain lawless men having intruded on the lands within the claim of said companies, which claim appears to extend over the greater part of the territory of this commonwealth, situate north and west of the rivers Ohio and Allegheny, and Conewango creek, praying for the interposition of the legislature, and stating that the claims of the said companies arise from warrants and patents duly applied for and fairly issued and granted by the officers of the land office of this commonwealth, under the provisions of the act aforesaid; and on the other hand, it appears that petitions and representations have also been made to the legislature of this commonwealth, by and on the part of a number of persons calling themselves actual settlers, and stating that they have settled and improved a considerable part of the land lying within the claims of the aforesaid companies, in consequence of the act aforesaid inviting them so to do; that in most instances, when they began their improvements, the lands were, to the best of their knowledge, vacant and unoccupied, and that since their settlement they have been much harrassed and threatened by the agents of the companies aforesaid. And whereas it is indispensably necessary that the peace of that part of the state should be preserved, and complete justice done to all parties interested, as speedily and effectually as possible: And whereas it hath been intimated to the legislature, that from the present distracted and agitated state of the public mind between those conflicting claims in that part of the state, a fair and impartial trial cannot be obtained where so many persons are directly or indirectly interested in the event of the decision: And whereas the companies aforesaid, by their application to the supreme court of this commonwealth, for a mandamus to compel the secretary of the land office to complete their titles, did endeavor to put the question between them and this commonwealth fairly to issue before the judiciary. And whereas it is just and proper that the

questions both of law and of fact, arising under the act aforesaid, should be fully, fairly and speedily heard and decided, and the validity of all those titles that have been issued under certain certificates of justices of the peace within the territory aforesaid, known by the name of prevention certificates, determined, as well for the direction of the officers of the land office, on behalf of this commonwealth, as for settling the existing disputes between such grantees as have omitted or neglected to make the settlements, improvements and residence enjoined by the act aforesaid, and the persons actually in possession of the same lands, and claiming under the provisions of the same act: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That at some time and place (not exceeding three months from the first day of the month of April of the present year) as shall be most convenient to the judges of the supreme court of this commonwealth, or the majority of them, it shall be the duty of the said judges, and they are hereby enjoined and required to meet together and devise some method, either by means of a feigned issue or otherwise, as in their judgment shall seem best, of bringing before a court and jury, to be holden as hereinafter is directed, the following questions respecting the claims to land within that part of the territory of this state north and west of the rivers Ohio and Allegheny, and Conewango creek, to wit: Are warrants heretofore granted under the act of the third day of April, one thousand seven hundred and ninety-two⁽¹⁾, valid and effectual in law, against this commonwealth, so as to bar this commonwealth from granting the same land to other applicants under the act aforesaid, in cases where the warrantees have not fully and fairly complied with the conditions of settlement, improvement and residence required by the said act, at any time before the date of such warrants respectively, or within two years after? Are the titles that have issued from the land office under the act aforesaid, whether by warrant or patent, good and effectual in law against this commonwealth,

or any person claiming under the act aforesaid, in cases where such titles have issued on the authority, and have been grounded upon the certificates of two justices of the peace, usually called prevention certificates, without any other evidence being given of the nature and circumstances of such prevention, whereby, as is alleged, the conditions of settlement, improvement and residence required by the said act, could not be complied with? And so soon as the said judges have devised the form in which the questions above stated, shall be brought to a hearing and decision before a court and jury as aforesaid, they shall transmit the same to the governor of this commonwealth, whose duty it shall be, with the assistance of the attorney general of this commonwealth, to carry the same into effect without delay.

Section II. (Section II, P. L.) Be it enacted by the authority aforesaid, That for the purpose of hearing and deciding on the questions aforesaid, and the facts relating thereto, a jury shall be summoned according to the method to be appointed by the judges aforesaid, consisting of the usual number of disinterested persons, inhabitants of the counties of Northumberland or Lycoming, which jury shall be summoned, impanelled and sworn, or affirmed, at the court house at Sunbury, in the said county of Northumberland, at such time as to the said judges, or a majority of them, shall be most convenient, provided the same be not deferred beyond the first Monday in December next; at which time and place the judges of the supreme court aforesaid, or the majority of them, shall meet for the purpose of hearing and trying the questions aforesaid, and the facts relating thereto, in conjunction with the said jury, in the usual manner; at which trial and hearing it shall be competent to the said jury, under the constitutional direction of the court, to decide upon the law and upon the facts, and if they think fit, to bring in a general verdict thereon; and it shall also be competent to any person, party in the controversy, to offer evidence of the nature and circumstances of the prevention certificates aforesaid, and of the circumstances of the country at the time to which the said certificates relate, and also of every other fact tending to illustrate the questions

aforesaid, or to induce a full investigation and fair decision thereon, which the court shall consider as evidence, competent to be offered according to the usual rules of law.

Section III. (Section III, P. L.) Be it enacted by the authority aforesaid; That it shall be the duty of the said judges, at their meeting aforesaid, within three months from the first day of April next, to devise and direct in what manner and under what circumstances parties shall be admitted to the said suit, and what notice or notices shall be respectively given relating to the same; and they shall have power also to direct the secretary of the land office to attend at the said trial, with such books, papers and documents as they may think fit to specify, or he may deem material to be produced and consulted thereat; and it shall be the duty of the said judges to certify the verdict of the jury and the judgment of the court on the trial aforesaid, to the governor of this commonwealth, previous, to the meeting of the next legislature.

Section IV. (Section IV, P. L.) And in order to prevent the confusion that would arise from issuing different warrants for the same land, and to prevent law suits in future respecting grants from the land office under the aforesaid act of April the third, one thousand seven hundred and ninety-two⁽¹⁾. Be it enacted by the authority aforesaid, That from and after the passing of this act, the secretary of the land office shall not grant any new warrant for land which he has reason to believe hath been already taken up under a former warrant, but in all such cases he shall cause a duplicate copy of the application to be made, on which duplicate copy he shall write his name, with the day and year in which it was presented, and he shall file the original in his office, and deliver the copy to the party applying. Provided always, that on every application so to be made and filed, shall be certified on the oath or affirmation of one disinterested witness that the person making such application, or in whose behalf such application is made, is in actual possession of the land applied for, and such certificate shall mention also the time when such possession was taken, and the application so filed in the secretary's office shall be entitled to the same force and effect, and the same

priority in granting warrants to actual settlers, as though the warrants had been granted at the time when the applications were filed; and should the decision of the court and jury, at the trial aforesaid, be in favor of the claims of the actual settlers, the secretary of the land office shall proceed to grant the warrants, upon the purchase money being paid, according to the priority of the applications filed in his office.

Section V. (Section V, P. L.) Be it enacted by the authority aforesaid, That it shall be lawful for the governor of this commonwealth to appoint not more than two counsel learned in the law, to assist the attorney general at the said trial, on the part of this commonwealth.

Approved April 2, 1802. Recorded L. B. No. 8, p. 115.
Note (*). Chapter 1624. 14 Statutes at Large, p. 232.

CHAPTER MMCLXXXIX.

AN ACT TO EMPOWER THE TRUSTEES OF CRAWFORD COUNTY, TO
ERECT A SUITABLE BUILDING FOR A SEMINARY OF LEARNING IN
THE TOWN OF MEADVILLE.

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That David Meade, James Gibson, Roger Alden, Joseph Stockton, Thomas R. Kennedy, Samuel Dale, junior, and Patrick M'Gill, be, and they are hereby constituted and appointed trustees for a public seminary of learning, to be erected in the town of Meadville, in Crawford county, and that they, or a majority of them, be, and they are hereby empowered to take and receive all and every grant or grants of land, or any other estate, real or personal, which have or may be made, granted or given to them, or to the former trustees, for the use of said seminary, and to take to themselves, in fee simple, or otherwise, any conveyance or assurance, in trust for the same, and to ask, demand, and to sue for and recover all such sum or sums of money, as may have at