

PUBLIC LANDS - LAND OFFICES - SETTLING DISPUTES

Act of Apr. 2, 1802, P.L. 153, No. 75

Cl. 68

An Act

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, 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 for 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 settlor, or any grantee and 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 and 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 on 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 the 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 harassed and threatened by the agents of the companies aforesaid: and whereas it is indispensibly 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 1. (Expired.)

Section 2. (Expired.)

Section 3. (Expired.)

Section 4. New warrants not to be issued for land already taken up

In order to prevent the confusion that would arise from issuing different warrants for the same land, and to prevent

lawsuits in future respecting grants from the Land Office, under the aforesaid act of April 3, 1792: Be it enacted, 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. 1802, April 2, P.L. 153, 3 sm.l. 506, Sec. 4.

Section 5. (Obsolete.)