

road, eastward of the creek known by the name of the Five Mile or Indian creek, any toll for a greater distance than they shall actually travel: *And provided also*, That it shall not be lawful for the said company to ask, demand or receive from or for persons living on or adjacent to the said road who may have occasion to pass by the said road upon the ordinary business relating to their farms or occupations, and who shall not have any other convenient road or way by which they may pass, any toll for passing on or by the said turnpike. (s)

Passed 17th April, 1795.—Recorded in Law Book No. V. page 479.

(s) See note to act of 17th March, 1806, (chap. 2683, post.) for the construction of this *proviso*.

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distance actually travelled on the road.
No toll to be paid by persons for passing on the road, upon the business of their adjoining farms.

CHAPTER MDCCCXLIV.

An ACT relative to donation lands.

SECT. 1. [THE Comptroller to make a list of persons entitled to donation lands, and transmit it to the Land-Officers, who should contract with persons to prepare for drawing by lot the shares due to the parties so entitled. 2. Proceedings to be had by the persons employed to prepare for drawing the lottery. The lottery wheels to be kept by the Land-Officers, who shall draw for absentees. The number of tickets not to exceed the amount of claimants who have not heretofore drawn lots. How applicants may draw, and what number of tickets, according to their respective ranks. 3. Report to be made by the Land-Officers to the Governor of the numbers drawn. Patents to issue thereupon, at the expense of the state. 4. The legal representatives of any claimant deceased shall be admitted to his rights. 5. Applications allowed to be made within one year generally; and persons out of the United States shall have two years; and persons in the army shall have three years.]

(See vol. 2, pa. 63, 64, 287, 290, 297.)

SECT. VI. *And be it further enacted by the authority aforesaid*, That after the expiration of the respective periods for making application as aforesaid, so much of the said donation lands, for which no application shall have been made, may be disposed of in such manner as the Legislature shall in future by law direct.

SECT. 7. [The Surveyor to advertise the extension of the term for claiming donation lands.]

Passed 17th April, 1795.—Recorded in Law Book No. V. page 440.

CHAPTER MDCCCXLV.

An ACT to provide for laying out and establishing towns and out lots within the several tracts of land heretofore reserved for public uses, situated respectively at Presqu'Isle, on Lake Erie, at the mouth of French creek, at the mouth of Conewango creek, and at Fort le Bauf.

IN order to facilitate and promote the progress of settlements within this commonwealth, and to afford additional security to the

1795. frontiers thereof, by the establishment of towns within the several tracts of land heretofore reserved for public uses :

SECT. I. *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 the Governor may and shall appoint two commissioners to survey or cause to be surveyed, one thousand and six hundred acres of land for town lots, and three thousand and four hundred acres of land, adjoining thereto, for out lots, at or near to Presqu'-Isle, on Lake Erie, within the tract heretofore reserved for public use in and by an act, entitled "An act for the sale of the vacant lands within this commonwealth," passed on the third day of April, in the year one thousand seven hundred and ninety-two; and the said lands so surveyed shall respectively be laid out into town lots and out lots, in such manner, and with such streets, not more than one hundred nor less than sixty feet wide, and such lanes, alleys and reservations for public uses, as the said commissioners shall direct, but no town lots shall contain more than one third of an acre, no out lot shall contain more than five acres, nor shall the reservations for public uses exceed in the whole twenty acres; and the town hereby directed to be laid out shall be called "Erie," and all the streets, lanes and alleys thereof, and of the out lots thereto adjoining, shall be and for ever remain common highways.

SECT. II. *And be it further enacted by the authority aforesaid,* That the said commissioners shall with all convenient despatch, file a draft, return and report of the survey and proceedings made and executed by virtue of this act, in the office of the Secretary of the commonwealth, and thereupon it shall be lawful for the Governor, at such time and times, in such manner, and on such terms, as to him shall appear most advantageous to the commonwealth, to sell, or cause to be sold, at public auction, and by letters patent under the seal of the state to grant and convey, to the highest and best bidders respectively, one third part of the town lots and one third part of the out lots surveyed and laid out as aforesaid, upon the condition herein after specified, that is to say; [that the respective purchasers shall and do, within the term of two years from and after the day of sale, erect and build one house, at least sixteen feet square, and containing at least one brick or stone chimney, on each and every town lot by them respectively purchased; and the Governor shall not grant nor issue any patent, nor from and after the expiration of the said term of two years shall any sale, so made as aforesaid, be deemed or construed to vest in the respective purchasers any title, interest, claim or demand, in law or equity, to the lots by them respectively purchased, but all payments previously made shall thenceforth be forfeited to the commonwealth, unless satisfactory proof be first given to the Court of Common Pleas of the proper county, and be by such court certified to the Governor, that a house has been erected and built on the town lots respectively, for which patents shall from time to time be required, according to the true intent and meaning of this act: *Provided always,* That the Governor shall, at least eight weeks previously to the sale of the said town lots and out lots, or any of them, issue and publish,

Commissioners to be appointed to survey and lay out a town and out lots at Presqu'-Isle.

Dimensions of the lots and width of the streets.

The town called "Erie."

The commissioners to return the surveys into the office of the Secretary of the commonwealth.

Whereupon the Gov. nor may sell and convey one third of the lots.

Conditions of the sale.

Patents not to issue till the same are performed.

Forfeiture, in case of failure therein.

[Repealed, see note.]

The time, place, terms and conditions of sale

or cause to be issued and published, in at least one newspaper in each of the counties in this commonwealth, in which newspapers are printed, a notification of the time, place, terms and conditions of such sale; *Provided also*, That the Governor shall cause a draft or drafts of the said town and out lots to be exposed to view in some suitable public situation, in each of the places where such notifications shall be published, and also at the time and place when and where the said lots shall be exposed to sale: *And provided further*, That at the time of such sale, not more than one town lot and one out lot shall be put up to sale together.

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to be published.

Drafts of the town lots to be exposed to view.

Not more than one town lot and one out lot to be put up to sale together.

How the purchase money shall be paid.

and penalty in case of default.

Three tracts to be surveyed at Presqu'Isle for the use of the United States,

to be chosen by their Engineer.

Return to be made thereof into the Secretary's office, recorded there, and deposited in the office of the Surveyor-General.

The three tracts may thereupon be occupied by the United States.

Reservation of mill-seats out of the foregoing grant.

SECT. III. *And be it further enacted by the authority aforesaid*, That one moiety or half part of the purchase money of each and every lot sold in the manner directed by this act shall be paid within three months from and after the time of such sale, and the other moiety or half part thereof within one year from the time of such sale, together with lawful interest for the same; and in case payment for any of the lots should not be made within the term or terms herein mentioned and fixed for payment, the sale of such lot or lots shall be absolutely void, and of no effect.

SECT. III. *And be it further enacted by the authority aforesaid*, That the said commissioners shall also survey, or cause to be surveyed, previously to and exclusively of the survey of the said town lots and out lots, one lot of sixty acres, on the southern side of the harbour of Presqu'Isle, one moiety thereof upon the bank, and the other moiety below the bank, comprehending the point at the entrance of the harbour, one lot of thirty acres on the peninsula, at or near the entrance of the harbour, and one other lot on the peninsula, to contain one hundred acres, for the accommodation and use of the United States, in erecting and maintaining forts, magazines, arsenals and dock-yards thereon, and in such other improvements as the said United States may judge proper to make, for their advantage and convenience; and the situations and forms of the said three lots shall be chosen and fixed, with a special reference to the uses aforesaid, by the said commissioners, and the engineer who shall be employed by the United States, if any such shall be appointed, and shall attend for that purpose; and the said commissioners shall, with all convenient despatch, return and file in the office of the Secretary of the commonwealth, a draft of the location and survey of the said three last mentioned lots, and the said draft, being approved by the Governor, and recorded by the Secretary, shall be deposited in the office of the Surveyor-General; and it shall be lawful for the United States at any time thereafter to take possession of, and occupy the said three last mentioned lots, and thereon to erect, establish and maintain all necessary forts, magazines, arsenals and dock-yards, and to make such other improvements thereon, as they may judge proper, and the same to continue to possess, occupy and hold, so long as they shall deem it expedient to maintain and shall actually maintain a fort, garrison, or other military establishment, at or near Presqu'Isle, and no longer: *Provided always*, That if the mill-seats on the creek running near the ruins of the old French fort should fall within the cessions hereby made to the United States, the same shall neverthe-

1795. less be, and hereby are, reserved for the use of this state, with the right of erecting mills thereon, but no buildings, mills excepted, shall be erected within six hundred yards of the centre of any fort, which shall be erected by the United States on either of the lots ceded to them as aforesaid: *Provided also*, That it shall be lawful to lay out and open convenient roads through such parts of the said three lots, as the reasonable accommodation of the state or its citizens may require, without injury to the United States in respect to the true object of the cession: and it is the express intent and meaning of this act, that nothing herein contained shall be deemed, construed, or in any wise taken to cede and transfer unto the United States the jurisdiction or right of soil in and to the said three last mentioned lots, but only the occupancy and use thereof for the purposes aforesaid.

Reservation of the right to lay out roads through the three tracts.

Reservation of the jurisdiction and right of soil therein.

The commissioners shall also survey and lay out a town at the mouth of French creek.

The town called "Franklin."

The return of the plan of the last town, and proceedings thereupon, to be the same as in the case of Eric.

The commissioners shall also survey and lay out a town at the mouth of Conewango creek.

SECT. V. *And be it further enacted by the authority aforesaid*, That the said commissioners shall also survey, or cause to be surveyed, three hundred acres for town lots, and seven hundred acres of land adjoining thereto, for out lots, at the most eligible place within the tract heretofore reserved for public use at the mouth of French creek; and the lands so surveyed shall be respectively laid out and divided into town lots and out lots, in such manner, and with such streets, lanes, alleys, and reservations for public uses, as the said commissioners shall direct: but no town lot shall contain more than one third of an acre, no out lot shall contain more than five acres, nor shall the reservations for public uses exceed in the whole ten acres; and the town hereby last directed to be laid out shall be called "Franklin," and all the streets, lanes and alleys thereof, and of the out lots thereto adjoining, shall be and for ever remain common highways.

SECT. VI. *And be it further enacted by the authority aforesaid*, That the said commissioners shall file a draft, return and report of the survey, and proceedings made and executed with respect to the said last mentioned town and out lots; and the Governor shall proceed to sell at public auction, and to convey to the respective purchasers one third of the town lots and one third of the out lots, in like manner, with like power and authority, and subject to the like regulations, restrictions, terms, conditions and forfeitures, as are herein before provided touching the survey, return, sale and conveyance of the town lots and out lots directed to be laid out at or near to Presque-Isle.

SECT. VII. *And be it further enacted by the authority aforesaid*, That the said commissioners shall also survey, or cause to be surveyed, three hundred acres for town lots, and seven hundred acres of land adjoining thereto for out lots, at the most eligible place within the tract heretofore reserved for public use at the mouth of Conewango creek; and the lands so surveyed shall be respectively laid out and divided into town lots and out lots, in such manner, and with such streets, lanes, alleys and reservations for public uses, as the said commissioners shall direct; but no town lot shall contain more than one third of an acre, no out lot shall contain more than five acres, nor shall the reservations for public uses exceed in the whole ten acres; and the town hereby last directed to be laid out

shall be called "Warren," and all the streets, lanes and alleys thereof, and of the lots thereto adjoining, shall be and remain common highways.

SECT. VIII. *And be it further enacted by the authority aforesaid,* That the said commissioners shall file a draft, return and report of the survey and proceedings, made and executed with respect to the said last mentioned town and out lots; and the Governor shall proceed to sell at public auction, and to convey to the respective purchasers, one third of the town lots and one third of the out lots, in like manner, with like power and authority, and subject to the like regulations, restrictions, terms, conditions and forfeitures, as are herein before provided touching the survey, return, sale and conveyance of the town lots and out lots directed to be laid out at or near to Presque-Isle.

SECT. IX. And whereas Andrew Ellicott lately surveyed and laid out a town, within the tract heretofore reserved for the public use at Le Bœuf, near the head of the navigation of French creek, and the draft and plan of the said town being communicated by the Governor to the General Assembly, was by them approved: *Therefore be it enacted by the authority aforesaid,* That the said draft and plan of the town so surveyed and laid out by the said Andrew Ellicott, within the tract heretofore reserved for the public use at Le Bœuf aforesaid, being first recorded in the office of the Secretary of the commonwealth, and the original thereof deposited in the office of the Surveyor-General, shall be, and the same is hereby, in all respects, accepted, ratified, confirmed and established, as fully and effectually, as if it had been made by virtue of a law previously authorizing a town to be surveyed and laid out at Le Bœuf, agreeably to the division, and with such streets, lanes, alleys and reservations for public uses, as are in the said draft or plan particularly contained; and the commissioners herein before directed to be appointed shall also survey, or cause to be surveyed, five hundred acres of land, adjoining the said last mentioned town, for out lots: and the same shall be divided in such manner, and with such streets, lanes and alleys, as the said commissioners shall direct, but no out lot shall contain more than five acres, nor shall the reservation for public uses exceed in the whole ten acres; and the said last mentioned town shall be called "Waterford," and all the streets, lanes and alleys thereof and of the out lots thereto adjoining, shall be and for ever remain common highways.

SECT. X. And whereas sundry persons have already built and erected houses within the said last mentioned town, and it is reasonable that they should thereby acquire a right of pre-emption to the lots on which they are respectively settled: *Therefore be it enacted by the authority aforesaid,* That the several persons who have actually settled and built houses on the several lots, which in the said draft or plan of the last mentioned town are numbered, respectively, nineteen, twenty, twenty-one, twenty-two, seventy-six, seventy-seven, one hundred and fifty-six, one hundred and sixty-one, and two hundred and seventy-six, or their heirs and assigns, shall, at the expiration of two years from and after the passing of this act, be entitled to claim, and have patents for the said lots respectively,

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The town called "Warren." The return of the plan of the last town, and proceedings thereupon, to be the same as in the case of Eric.

Confirmation of Ellicott's plan of a town at Le Bœuf, the same being first recorded in the Secretary's office, and deposited in the office of the Surveyor-General.

Out lots to be surveyed and laid out adjoining thereto.

The town called "Waterford."

Actual settlers on certain specified lots in Waterford shall have a right of pre-emption.

1795.
Conditions thereof.

upon the conditions hereinafter specified, that is to say; that they shall respectively give satisfactory proof to the Court of Common Pleas of the proper county, who shall certify the same to the Governor, that they, or some persons representing them respectively, have constantly resided on their respective lots, for and during the said term of two years; and also shall, on one month's notice, pay into the treasury a sum equal to the price which shall be bid for any lots of similar dimensions, and of similar situations, of which the Governor shall be the judge, within the said last mentioned town, at the sale hereinafter directed to be made; and the Governor shall not grant or issue any patent, nor from and after the expiration of the said term of two years, shall the settlement of such persons respectively, or any provision in this act contained, be deemed or construed to vest in the respective settlers any title, interest, claim or demand, in law or equity, to the lots on which they are respectively settled as aforesaid, but all payments previously made shall thenceforth be forfeited to the commonwealth.

No patent to issue for two years; and a forfeiture of the right to it incurred by non-performance of the conditions.

The return of the out lots of Waterford, and the proceedings thereupon, to be the same as in the case of Eric.

SECT. XI. *And be it further enacted by the authority aforesaid,* That the said commissioners shall file a draft, return and report of the survey and proceedings made and executed with respect to the said last mentioned out lots, and the Governor shall proceed to sell at public auction, and to convey to the respective purchasers, one third of the town lots and one third of the out lots last mentioned (exclusively of those lots that shall be reserved for public uses, and those that are appropriated in favour of the present settlers thereon, by the next preceding section of this act) in like manner, with like power and authority, and subject to the like regulations, restrictions, terms, conditions and forfeitures, as are herein before provided touching the survey, return, sale and conveyances of the town lots and out lots directed to be laid out at or near to Presqu'-Isle.

Place for making sales of the lots.

SECT. XII. *And be it further enacted by the authority aforesaid,* That one half of the town lots and out lots to be sold in pursuance of this act shall be sold in the city of Philadelphia, one fourth in Carlisle, in the county of Cumberland, and one fourth in Pittsburgh, in the county of Allegheny.

The enlistments of the state troops at Le Bœuf may be protracted.

SECT. XIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Governor, with the consent of the individuals respectively, to protract the enlistments of such part of the detachment of state troops, or such part thereof as are or may be in garrison at fort Le Bœuf, or to enlist as many men as he shall deem necessary, not exceeding one hundred and thirty, for the term of eight months, (unless sooner discharged) from and after the expiration of the present term of enlistment, for the same pay and allowances as are now paid and allowed to the said detachment, and to draft and employ a competent number from the said garrison, to protect and assist the Commissioners, Surveyors and other attendants, intrusted with the execution of the several objects of this act: *Provided always nevertheless,* That as soon as a fort shall be established at Presqu'-Isle, and the United States shall have furnished adequate garrisons for the same, and for fort Le Bœuf, the Governor shall discharge the said detachment of state troops, except the party thereof employed in protecting and assisting the

A draft to be made for protecting the commissioners.

When the state troops shall be discharged.

[Obsolete.]

Commissioners, Surveyors, and other attendants as aforesaid, which shall be continued until the objects of this act are accomplished, and no longer.] 1795.

[SECT. XIV. *And be it further enacted by the authority aforesaid,* That if occurrences shall take place, which, in the opinion of the Governor, will make it requisite that a greater force than the aforesaid detachment will be necessary to carry into effect the purposes of this act, or if, in his opinion, from the continuation of hostilities by the Indians, it will be requisite for the defence of any part of the western frontiers, he may, at his discretion, raise one complete company of expert riflemen, to consist of one Captain, one Lieutenant, one Ensign, four Serjeants, four Corporals, one Drummer and Fifer, or two Buglers, and sixty-five privates, to serve until the first day of December next, unless sooner discharged, who shall be entitled to the same pay and rations, and be under the same regulations and restrictions, as the troops directed to be raised by an act passed the twenty-eighth day of February, in the year of our Lord one thousand seven hundred and ninety-four, entitled "An Act for more effectually securing the trade, peace and safety of the port of Philadelphia, and defending the western frontiers of this commonwealth."]

The govern-
or empower-
ed, if neces-
sary, to raise
an additional
company for
the protection
of the
frontiers.

How to be
organized;

their pay
and rations.

[Obsolete.]

SECT. XV. *And be it further enacted by the authority aforesaid,* That in order to defray the expenses of making the survey at fort Le Bœuf, and the various surveys and sales herein directed, and to maintain the garrison at fort Le Bœuf, there shall be, and hereby is, appropriated the sum of seventeen thousand dollars, to be paid by the Treasurer on the warrants of the Governor; and the accounts of all disbursements, services and expenses, made and incurred in pursuance of this act, shall be exhibited and settled agreeably to the laws for settling other public accounts.]

The expen-
ses of this
act, how to
be defrayed.

[Obsolete.]

SECT. XVI. *And be it further enacted by the authority aforesaid,* That the act, entitled "An Act for laying out a town at Presqu'Isle," passed the eighth day of April, one thousand seven hundred and ninety-three, and the supplement thereto, passed the eighteenth day of April, one thousand seven hundred and ninety-four, shall be, and the same are hereby, repealed. (t)

Repeal of
two former
acts, respect-
ing the town
at Presqu'-
Isle.

[Chap. 1666.
1737.]

Passed 18th April, 1795.—Recorded in Law Book No. VI. page 1.

(t) See the "Act to provide for selling the several reserved tracts of land adjoining the towns of Erie, Franklin, Warren and Waterford, and for other purposes therein mentioned, passed 11th April, 1799, in this volume, *post*. (chap. 2069.)

See also "A supplement to the several acts relative to establishing town and out-lots, and selling the same, within the reserved tracts of land adjoining Erie, Franklin, Warren and Waterford," passed 19th Feb'y, 1800, in this volume, *post*. (chap. 2096,) by which the improvement clauses as to lots in these towns is repealed; and pre-emption given to persons who had paid any money for, or improved any of said forfeit-

ed lots, at the prices they had been sold for, provided application, and payment, were made within twelve months. Which was extended for one year, by act of 26th Feb'y, 1801, (chap. 2189.)

The first section of the town of Erie, was erected into a borough, by act of 29th March, 1805, (chap. 2577.)

Two thousand dollars were granted to the commissioners, for the purpose of erecting public buildings in the town of Erie, for the use of the county: by act of 16th March, 1807, (chap. 2772.) (See "Erie county," in the General Index.)

By an act passed 20th March, 1811, entitled "A supplement to an act entitled "An act to provide for selling

1795. the several reserved tracts of land adjoining the towns of *Erie, Franklin, Warren and Waterford*, and for other purposes therein mentioned." The governor is directed to appoint two persons, who, together with the commissioner of sales, are to appraise all the in-lots in squares, and the out lots in the second section of *Erie*, which appraisement shall be entered in a book for that purpose, they shall then advertise the lots for sale on a day certain; but no contract shall be confirmed until sixty days after opening the books; and the terms prescribed, in yearly instalments; the bonds to be sent to the Secretary of the Land-Office within six months; who shall issue patents to the purchasers, on payment according to the sales. The commissioner and persons appointed to be under oath or affirmation, and to receive a certain compensation.

The Beach of the lake, from the upper corner of the garrison tract, and for twenty perches back from the water's edge, down the lake to the out-lots, and from thence down the same,

including all the land between the out-lots and the water's edge, to the tract of land No. 38, shall be and remain a public landing for the use of the inhabitants and others, until otherwise appropriated by law; and penalty for obstructing the said landing.

By an act passed 2d April, 1811. The occupancy and use of certain lands near *Presqu' Isle*, not less than two nor more than four acres, are ceded to the United States, for the purpose of erecting a light-house, commissioners appointed to survey and lay it off, and transmit the draft thereof to the Secretary of the treasury of the United States. —The jurisdiction, and right of soil excepted by the state.

An academy is incorporated in the borough of *Erie*, by act of 2d April, 1811. And five hundred acres of the reserved lands, adjoining the town and fifteen town lots, are granted to the said academy, for the use thereof, &c.

Two out-lots of the town of *Franklin*, ceded to the United States, by act of 1st Feb'y, 1796, (chap. 1858,) *post*.

CHAPTER MDCCCXLVI.

An ACT providing for the inspection of Gun-powder.

WHEREAS gun-powder imported from abroad, and manufactured within this state, hath frequently been found to vary much in its strength, and sometimes of inferior qualities, and its defects not discovered until brought into actual use: And whereas the modes heretofore used to prove the force thereof have been found uncertain and variable: And whereas Joseph Leacock, of the city of Philadelphia, hath invented an engine, called a pendulum powder proof, with a graduated arch and catch-pall, by which it is conceived that the force of gun-powder may be proved by experiment, and the article reduced to certain and uniform standards of strength, whereby the manufacture may be advanced towards ultimate perfection, and the purchaser and consumer protected against fraud and imposition:

SECT. I. *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* from and after the first day of October next, all gun-powder manufactured within this state, with intent, to sell the same within the city or county of Philadelphia, shall be put in good and tight kegs or casks of twenty-five, fifty, or one hundred pounds neat weight, each made of well seasoned timber, bound together with at least twelve hoops, and having a hole bored in each head, of the diameter of one fourth part of an inch, well stopped with corks and having the tare weight of each cask marked thereon, and that all such

[See vol. 2, pa. 401, and the note thereto.]

Gun-powder manufactured in this state, how to be packed in casks.