

An ordinance for ascertaining the mode of locating and disposing of lands in the Western Territory.

An **ORDINANCE** for ascertaining the mode of locating and disposing of **LANDS** in the **WESTERN TERRITORY**.

BE it ordained by the **UNITED STATES** in **CONGRESS** assembled, That the territory ceded by individual states to the United States, when the same shall have been purchased of the Indian inhabitants, and laid off into states, shall be disposed of in the following manner. It shall be divided into hundreds of ten geographical miles square, each mile containing 6085 feet, and four-tenths of a foot, by lines to be run and marked due north and south, and others crossing these at right angles, the first of which lines, each way, shall be at ten miles distance from one of the corners of the state within which they shall be. But if the Indian purchase shall not have included any one of the corners of the state, the lines shall then be run at the termination of integral miles, as measured from some one of the corners, but shall be extended, by actual marks, only so far as the purchase extends. These hundreds shall be subdivided into lots of one mile square each, or 850 acres and four-tenths of an acre, by marked lines running in like manner due north and south, and others crossing these at right angles.

For laying off the said territory, surveyors shall be appointed by Congress, or the Committee of the States, who shall proceed forthwith, under the direction of the register hereafter to be mentioned, to divide the same into hundreds, by lines in the directions, and at the intervals before mentioned; which lines shall be measured with a chain, shall be plainly marked by chaps or marks on the trees, and shall be exactly described on a plat, whereon shall be noted, at their proper distances, all watercourses, mountains, and other remarkable and permanent things, over or near which such lines shall pass.

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The hundreds being laid off and marked, nine of them shall be assigned as a district to each surveyor, who shall then proceed to divide each hundred of his district into lots as before directed, beginning with the hundreds most in demand, and measuring, marking and platting the said dividing lines thereof in the manner before directed for the hundreds; save only that the lines of the lots shall be distinguished by a single mark on each tree, and those of the hundreds by three marks. And that the said lots may be capable of more accurate description and distinction from each other, those in every hundred shall be designated by the numbers in their order from 1 to 100, beginning at the northwestern lot of the hundred, and applying the numbers 1 to 10, to the lots of the first row from west to east successively; those from 11 to 20, to the lots of the second row from west to east and [?] The surveyors shall pay due and constant attention to the variation of the magnetic meridian, and shall run and note all lines by the true meridian, certifying with every plat what was the variation at the time of running the lines thereon noted.

A register shall be appointed by Congress, for each of the states within which the said territory shall lie, who shall keep his office within the said state, be resident at it himself, and provide a seal for authenticating its acts. To him returns shall be made, by the several surveyors, on the last days of March and August in every year, of the plats of all lines measured and marked by them in the preceding half year, to be by him collated, and reduced into a general map of the whole state for which he acts. He shall annually, to wit, on the first Monday in November of every year, deliver, or cause to be delivered, to the secretary of Congress, a copy of such portions of the said general map as shall have been formed, or further filled up, during the preceding year; retaining one in own his office for the use thereof. He shall have power to suspend any surveyor for negligence or malversation, making report thereof to Congress, or a Committee of the States, that they may direct a proper enquiry.

Each register shall cause to be printed, under such devices, difficult of imitation, as he shall think best, warrants, each of which shall give right to one lot of a mile square,

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described as before directed: and other warrants for each of the said states, which shall give right, each of them, to one of the hundreds of ten miles square as before described. These warrants shall have blanks for names and dates; shall be numbered and signed by the register; sealed with the seal of his office; and shall be cut with indentures from a book, the margin of which shall be numbered in correspondence with the warrant cut therefrom, and shall be preserved in the office as a further check. The said warrants shall be deposited in the treasury of the United States, and the treasurer thereon debited with them. From thence they shall be sent in such numbers as the register issuing them shall direct, to the commissioner of the loan-office for the United States in each of the states within the union, the treasurer countersigning them on parting therewith, and having a credit duly entered in his own account with the United States, and a debit against the loan officer to whom they are sent.

Any person chusing to become a purchaser of lands within the said territory, and paying to the treasurer or loan-officer, the sum of dollars, shall receive in lieu thereof, one of the said smaller warrants entitling him to a lot, or paying dollars, shall receive in lieu thereof one of the said larger warrants, entitling him to a whole hundred within the states from which the warrant issued; the treasurer or loan officer inserting the name of the purchaser in the proper blank, filling up the date, and attesting the warrant by his own subscription. Loan-office certificates reduced to their specie value by the scale of depreciation, or certificates of liquidated debts of the United States, shall be receivable for the said warrants in lieu of money; and evidences of military rights to lands, hereinafter to be described, shall be receivable instead of the price itself of so much land. These warrants shall pass as lands, by descent or devise, but not by assignment nor by survivorship.

The owner of any warrant proceeding to locate the same, shall deliver it to the surveyor of the district, wherein his location is to be, describing to him the particular lot on which he places it, or the hundred, if it be a warrant for a hundred, by a designation of some point, either naturel or artificial, within the said lot or hundred, so singular and certain as may be adapted to no other lot or hundred; or by reference to the positions of the

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hundred, or number of the lot, which description the surveyor shall immediately enter in a book well bound, with the date of the entry, describing the warrant located thereon by its number, date, signatures and name of the original owner, and leaving no blank space or leaf between that and the preceding entry, nor any margin by its side. If the location be made before the lot or hundred be yet laid off by lines actually run and marked, the surveyor shall retain the warrant in his hands until the hundred, if it be for a hundred, or until all the lots of the hundred, if it be for a lot, shall be actually laid off by marked lines: and then, or at the time of the entry, if the lines were marked before the entry was made, having satisfied himself by proper evidence, or by his own inspection and examination, on what particular lot, or on what hundred, the location is, and that there has been no previous location on the same, he shall give to the party a certificate, describing the lot of hundred so specially as that it may be known from all others, by particular marks or circumstances, natural or artificial, by stating the order or position of the hundred, relatively to the boundaries of the state, and specifying the lot by its number: with which certificate he shall return the warrant also to the party. These being delivered to the register, and the warrant examined and found genuine by him, he shall give a receipt for the same, and in due time proceed to execute a grant of the land in the following form.—“A. B. register of the land-office of the United States, within the state of to all to whom these presents shall come greeting: Know ye, that for good consideration, there is granted by the United States of America, unto C. D. a certain lot [or hundred of land as the case shall be, describing it from the certificate] within the said state of to have and to hold the said lot [or hundred] of land, with its appurtenances to him the said C. D. and his heirs forever. In witness whereof, the said A. B. register of the land-office of the said state, hath hereunto set his hands, and caused the seal of his office to be affixed, this day of in the year and of the independence of the United States the .” Which grant shall be entered of record, at full length, in good well bound books to be provided for that purpose, at the expence of the United States, and kept by the register; and being so entered, shall be certified to have been registered, and then be delivered to the party or his order. Different lots, adjoining side by side within the same hundred, may be included and passed by the same grant;

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but separate lots, and lots in different hundred, as also different hundreds, shall be passed by different grants. No fractions of a lot shall be granted, unless where such fractions are occasioned by the boundary of the state, or of the Indian conveyance. Until a temporary government shall be established in any state according to the resolutions of Congress of April 1784, the lands therein shall pass in descent and dower, according to the customs known in the common law, by the name of gavelkind; and shall be transferable by deed or will proved by two witnesses. But so soon as a temporary government shall be so established, they shall become subject to the laws of the state, and shall never after, in any case, never to the United States. Where a grant shall be made out to the heir or devisee of the person in whose name the warrant was originally issued, he shall be named in the said grant as heir or devisee.

For preventing hasty and surreptitious titles, the register shall execute no grant for lands until the warrant and certificate delivered him for the same shall have remained in his office months: at any time within which period, any person claiming the same lands under a prior location, shall be at liberty to enter a caveat, with the register, against the execution of any grant to the other, setting forth in the entry a copy of the location under which himself claims. The register shall thereupon issue a summons reciting the entry made with him, and calling the defendant to appear, at a certain time and place, in defence of his right; which summons being served, and the parties appearing, he shall refer the decision to three arbitrators to be chosen by them, or if they cannot agree then to three intelligent honest and indifferent persons, to be named by himself; which arbitrators being first sworn to do justice between the parties according to the best of their knowledge and abilities by the register who is hereby authorised to administer such oath shall proceed thereon at such times and places as they shall appoint, giving notice thereof to the parties, and their award being rendered, the register shall execute a grant to the plaintiff or defendant, conformably therewith. The party whose location is annulled shall be authorised to receive again his warrant, and to locate it on other lands. If the defendant, being summoned, or the plaintiff fails to appear by himself or another before the register on the day appointed, the

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register may give a further day, or in his discretion may proceed on the evidence before him to execute a grant to the party having the right. If the defendant fails to appear, and there be no sufficient proof that the summons has been served, the register shall issue a new summons, unless it shall be proved that he hath been sought at the usual place of his dwelling, and hath not been found, in which case the summons shall be advertised three times in some gazette of the state wherein he then resides, or last was known to reside, giving a new day of appearance, which shall not be within less than months after the date of the third publication, and on his failing to appear at that day, the register shall proceed to decision. But in case of a decision against the defendant, where there was no actual service of the summons, he shall be allowed at any time within one year after such decision, a rehearing before arbitrators to be appointed and qualified as directed in the case of an appearance: but on such rehearing the mere right alone shall be tried.

The register, together with the map before directed to be delivered annually to the secretary of Congress, shall report a calendar of all grants executed by him, stating in different columns thereof the date, grantee, quantity, how much of that was for military service, the hundred and lot.

The monies arising from the sale of warrants shall be applied to the sinking such part of the principal of the national debt as Congress shall from time to time direct, and to no other purpose whatsoever.

The register before he enters on the duties of his office, shall give such bond and security for the faithful discharge thereof as Congress, or the Committee of the States, shall approve, and shall be entitled to receive, for the execution of every grant dollars, for every lot the same shall contain, or dollars if it be for a whole hundred: which shall be paid at the time he receives the warrant and certificate, and shall be deemed satisfaction for all the services and expences of his office, except the purchase of books for registering grants and of the seal of his office.

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Every surveyor shall also, before he enters on the duties of his office, give such bond and security, for the faithful discharge thereof as Congress, or the Committee of the States shall approve, and shall be entitled to receive for every lot located with him dollars, and dollars for a whole hundred, which shall be paid at the time of location, and shall be deemed satisfaction for all the services and expences of his office. But where he shall have admitted more locations than one on the same land, he shall restore the fees received from the party whose location shall be set aside.

A surveyor desiring to locate land, for himself, shall make such location with the register.

And whereas Congress by their resolutions of September 16, 1776, and August 12, 1780, stipulated grants of land to the officers and soldiers who should engage in the service of the United States, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officer and soldiers as should be slain by the enemy, in the following proportions, to wit, to a major general 1100 acres, to a brigadier 850, to a colonel 500, to a lieutenant colonel 450, to a major 400, to a captain 500, to a lieutenant 200, to an ensign 150, and to a non commissioned officer or soldier 100, for complying therefore with such stipulation, and for ascertaining the evidence of rights accruing under the same which shall be receivable instead of money, it is ordained that the evidence to be required from commissioned officers shall be a certificate from the war office of their rank and continuance in service to the end of the war; from non commissioned officers and soldiers, a certificate from the captain of their company, countersigned by the officer who commanded their regiment at the time of their discharge, that they were enlisted into the service of the United States, during the war, and continued therein to the close of it, to wit, to the day of 1783, and from the representatives of such officers and soldiers as were slain by the enemy, a certificate from the same authority, of the rank or term of enlistment of the deceased, and that he was slain by the enemy, together with satisfactory affidavits that they are his representatives, which evidences shall be receivable by the loan officers of the United States, in the state to the line of which he

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belonged, or by the treasurer if he belonged to the line of no state: and on the warrant issued shall be an endorsement, signed by the treasurer or loan officer declaring the proportion thereof which was satisfied by military service; and in the same proportion shall all fees be abated to which that warrant would otherwise be subject. The proceedings on it in all other respects shall be the same as on a warrant issued wholly for money.

Saving and confirming always to all officers and soldiers entitled to lands on the northern side of the Ohio, by donation or bounty from the commonwealth of Virginia, and to all persons claiming under them all rights to which they are so entitled by the laws of the said state and the acts of Congress accepting the cession of western territory from the said states.

Western Territory