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## THE DEPRECIATION AND DONATION LANDS\*

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Two questions of general interest today are the soldiers' bonus bill and the depreciation of European currency. The advantages and disadvantages of the bonus have long been made subjects of bitter partisan debate, while the remedy for the depreciation of European currency has commanded the attention of our leading financiers. It may be of interest to know that the legislature of the State of Pennsylvania was confronted with both these questions at the very inception of our Government. In those days these questions were not political issues, but rather matters of life or death, not only for the state government but for the Federal government as well.

The Federal government during the Revolution was extremely weak and depended entirely on the actions of the different states. It could levy taxes for its purposes, but had no power to collect them. The states were required to pay their troops out of state funds. The troops of the Pennsylvania line were paid in continental currency, which decreased or depreciated in value as the war progressed. This depreciation in the value of the soldiers' pay naturally caused considerable discontent and dissatisfaction which at times approached mutiny. To remedy this condition and to offer a further inducement to the officers and men in the Pennsylvania line to continue in the service, the legislature promised a bonus or donation

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of public lands at the close of the war to all who continued in the service. These lands were called the donation lands.

The first move by the legislature was made in March, 1780 (1) when it promised the public lands to the officers and men. In December of the same year, the legislature took the first steps to settle and adjust the accounts of all the troops of the Pennsylvania line in the service of the United States on a gold and silver basis. The act passed by the legislature (2) provided for the appointment of three auditors who were directed to estimate in specie or hard money all sums of continental money which had been received by the officers and men from January 1, 1777, to August 1, 1780.

The auditors to be appointed or any two of them were empowered to deliver to such officers and men certificates which specified the sums due them in gold or silver. The act of the legislature also provided that these certificates should be considered as equal to specie in the purchase of certain public lands. The public lands which were set apart to be sold to the holders of these certificates were thereafter known as the depreciation lands.

The auditors appointed under the provisions of the act of the legislature proceeded to perform the duties imposed upon them and found that the continental money used to pay the officers and men had depreciated according to the following scale:

	1777	1778	1779	1780
Jan.-----	1½	4	8	41½
Feb.-----	1½	5	10	47½
Mar.-----	2	5	10½	61½
Apr.-----	2½	6	17	61½
May-----	2½	5	24	59
June-----	2½	4	20	61½
July-----	3	4	19	64½
Aug.-----	3	5	20	
Sept.-----	3	5	24	
Oct.-----	3	5	30	
Nov.-----	3	6	38½	
Dec.-----	4	6	41½	

It will be observed that the greatest fluctuation of 14 points occurred from February to March, 1780. Al-

though the decline of the continental money was not as rapid or complete as that of the German mark, the situation caused serious consideration among the lawmakers of the time.

It must be presumed that the certificates of depreciation were duly distributed among the officers and men entitled to the same, as we find that in March, 1783, the legislature undertook to provide a method whereby the bonus of public lands could be distributed and the certificates of depreciated currency redeemed (4). The purpose of the Act of March 12, 1783, was to speedily and effectually comply with the intention of the original promise of a bonus. A tract of land was accordingly laid off for the purpose of redeeming the depreciation certificates. This tract, known as the depreciation lands, was bounded as follows:

“Beginning where the western boundary of the state crosses the Ohio River, thence up the said river to Fort Pitt; thence up the Allegheny River to the mouth of Mogulbughtition (now Mahoning) Creek; thence south by the said boundary line to the place of beginning. Reserving to the use of the state 3,000 acres in an oblong of not less than one mile in depth from the Allegheny and Ohio Rivers, and extending up and down said rivers from opposite Fort Pitt so far as may be necessary to include the same . . . and the further quantity of 3,000 acres on the Ohio and on both sides of Beaver Creek, including Fort Mackintosh”.

The tract of 3,000 acres opposite Fort Pitt was subsequently known as the Reserve tract, and extended down the Ohio River to a point below and opposite the mouth of Chartiers Creek, and up the Allegheny to the mouth of Girty's Run. This tract is now included in what was a part of the former City of Allegheny. The tract reserved on the Ohio and Beaver Rivers is now occupied by the town of Beaver.

The boundaries of the depreciation lands as defined in the Act of Assembly included what are now parts of Allegheny, Beaver, Butler, Lawrence and Armstrong Counties.

The Surveyor General of the state was directed to survey this tract into lots of not more than 350 nor less than 200 acres. These plots were to be numbered and when 100 of the lots were surveyed and numbered they were to be sold in numerical order. The purchase price was to be paid in gold or silver or by the certificates issued to the officers and men who served in the army. The gold and silver received was directed to be paid into the Treasury for the purpose of redeeming the certificates previously issued. The cost of surveying the different plots was to be paid by the purchasers.

The same act of the legislature which defined the depreciation lands and provided a method for their sale, set apart a tract to be known as the donation lands. These lands were bounded and described as follows:

"Beginning at the mouth of Mogulbughtition Creek, thence up the Allegheny River to the mouth of the Cagnawaga Creek; thence due north to the northern boundary line of the state; thence west by the said boundary line to the northwest corner of the state; thence south by the western boundary of the state to the northwest corner of lands appropriated by this Act for discharging the certificates herein mentioned (depreciation lands), and thence by the same eastwardly to the place of beginning."

The donation lands as thus described included what are now portions of Lawrence, Butler, Armstrong, Venango, Forest, Warren, Erie and the whole of Crawford and Mercer Counties.

The area of the depreciation lands was approximately 1,125 square miles or about 720,000 acres.

The Act of Assembly provided that no warrants or other evidence of title received from the Indians or proprietors should be valid for any of the donation lands. All officers and privates in the service who were entitled to receive said lands were required to make application for the same within two years after peace was declared. None of the donation lands could be sold by the persons entitled to the same until the share of land was actually surveyed and laid off.

The article written by Major Robert H. Foster, of the Land Office Department of Internal Affairs (5) describes the donation lands as including all the present counties of Tioga, Potter, McKean, Warren, Crawford, Venango, Forest, Clarion, Elk, Jefferson, Cameron, Butler, Lawrence and Mercer, and parts of Bradford, Clinton, Clearfield, Indiana, Armstrong, Allegheny, Beaver and Erie. This portion of the article is clearly erroneous as the Act of Assembly definitely defines the eastern boundary line of the tract.

The Surveyor General caused the depreciation lands to be divided into five districts, and the surveyors were appointed to make the necessary surveys. Every precaution was taken to insure a just and proper survey. The districts began at the western boundary of the state and were named as follows:

- No. 1—McLean's District
- No. 2—Leet's District
- No. 3—Part 1—Breeding's District  
Part 2—Alexander's District  
Part 3—Nicholson's District  
Part 4—Douglass's District  
Part 5—Jones' District
- No. 4—Cunningham's District
- No. 5—Elder's District

The first surveys of the districts were completed in the year 1785 and a number of drafts showing hundreds of tracts were submitted to the Surveyor General. The first sale of the depreciation lands was held in Philadelphia in the month of November, 1785, and certain lots in Leet's District were sold. During all the period that these lands were exposed to sale as provided by the original Act, a total of 316,935 acres were sold for the equivalent of \$87,805.33, or an average price of twenty-eight cents per acre.

Shortly after the Treaty of Peace was signed with Great Britain, the General Assembly of the state proceeded to devise means whereby the donation lands which had been set apart as a bonus for the officers and men could be distributed. An Act of the General Assembly on March 24, 1785 (6) was enacted for that purpose. This act provided that surveys should be made by deputy surveyors to

be appointed for that purpose. The act provided further that Baron Steuben, late Inspector General of the American Army, should be entitled to a grant equal to that of a Major General of the Pennsylvania line and that Lieut. Col. Tilghman should be entitled to a grant equal to a Lieutenant Colonel of the Pennsylvania line.

The donation lands were divided into plots of four classes as follows: The first class of 500 acres each; the second, of three hundred acres each; the third, of 250 acres each; and the fourth, of 200 acres each. The lands to be allotted to the Major Generals, Brigadier Generals, Colonels, Captains, and two-thirds of the Lieutenant Colonels were laid out in 500 acre tracts. Those to be allotted to the Regimental Surgeons and Mates, Chaplains, Majors and Ensigns, in 300 acre tracts; those to one-third of the Lieutenant Colonels, Sergeants, Sergeant-Majors, and Quartermaster Sergeants, in 250 acre tracts; and those to the Lieutenants, Corporals, Drummers, Fifers, Drum-Majors, Fife-Majors, and Privates in 200 acre tracts.

The lines of the plots to be laid off were to be well defined by the marking of trees and the northwestern corner tree was required to be marked with a Roman numeral. When the surveys were made, the lots in the different classes were numbered in numerical order and a draft or plan of each lot filed with the surveyor general.

The distribution of the donation lands was accomplished in the following manner: (7) The Supreme Executive Council of the state was directed to cause numbers corresponding to each of the four classes of lots to be made on pieces of square white paper as nearly of an equal size as may be. These squares of paper so numbered were then carefully rolled and well bound with silken thread as uniformly as possible and then deposited in four wheels like unto lottery wheels, to be provided at the expense of the state. These wheels were to be well turned around before any applicant was permitted to draw any of the numbers.

The Act provided that the numbers from the different classes should be drawn by the officers and men as follows:

Major Generals to draw four tickets from first class.

Brig. Generals to draw three tickets from first class.

Colonels to draw two tickets from first class.

Lieutenant Colonels to draw one ticket from first class and one ticket from the third class.

Surgeons, Chaplains and Majors each to draw two tickets from the second class.

Captains, one ticket from the first class.

Lieutenants, two tickets from the fourth class.

Ensigns and Regimental Surgeons Mates, one ticket from the second class.

Sergeants, Sergeant-Majors, and Quartermaster Sergeants, one ticket from the third class, and all others, including Drum-Majors, Fife-Majors, Drummers, Fifers, Corporals and privates, one ticket from the fourth class.

The Supreme Executive Council was required to deliver patents for the plots so drawn from the wheels, the costs of the surveys, however, to be paid by the applicant. Such of the lands as were not drawn were directed to be sold for the benefit of the state. Certificates of depreciation were accepted as payment for any of the donation lands so sold.

Although the original act providing for the distribution of the donation lands required all applicants to appear and make their drawings within two years, the legislature was inclined to be lenient, and by numerous subsequent acts the time for drawing was ultimately extended to May 1, 1800 (8).

The boundary line between the states of Pennsylvania and New York had not been definitely determined at the time the donation lands were surveyed and a number of officers and men drew tickets for lands which were found to be located in the state of New York. To remedy this injustice, the legislature permitted the holders of such tickets to make other drawings for lands within the donation district (9).

The 3,000 acres opposite Fort Pitt and reserved from the depreciation lands were surveyed in the year 1785. They extended down the Ohio to a point a short distance below the mouth of Chartiers Creek, and up the Allegheny

to the mouth of Girty's Run. This plot was known as the Reserve tract opposite Pittsburgh. In the year 1787, the legislature empowered the Supreme Executive Council to lay out a town on the Reserve tract (10), the town to have in-lots and out-lots, and the residue to be in plots of not less than one, nor more than ten acres. It appears from the old surveys and maps that the whole of the Reserve tract was laid out as provided by the legislature with the exception of the high rough land formerly known as Nunnery Hill. The Supreme Executive Council was directed to sell the whole of the Reserve tract for the use of the state, reserving, however, unto the use of the state so much as was necessary for a Court House, jail, market house, places of public worship, and for burying the dead, and a further tract of 100 acres without the town for a common pasture. The north and east parks in the old town of Allegheny are the remnants of the common pasture.

By Act of September 24, 1788, the trustees of Allegheny County were authorized to choose any of the public lands set apart for public buildings as a site for a Court House and prison, but that part of the Act was subsequently repealed on April 13, 1791, and the trustees of the County directed to purchase a lot in Pittsburgh for the use of the County.

The most valuable of the depreciation lands were soon sold and the state found that it was the owner of hundreds of thousands of acres of unsalable lands (11). The legislature accordingly fixed a price of 7£ 10s per 100 acres and an allowance of 6% for roads and highways for the remaining portion. This same Act threw the lands open to settlement and provided the manner in which patents could be issued to the settlers. An actual settlement was prerequisite to the obtaining of a warrant for said lands. The act expressly stated that no warrant could issue unless the grantee had made or caused to be made, or within two years after the date of the warrant, made or cause to be made an actual settlement on said lands by clearing, fencing and cultivating at least two acres for every 100 acres contained in the survey. The settlers were required to erect a building on said tract for the habitation of man



and to reside or cause a family to reside thereon for five years next following the first settlement, if he or she shall so long live. In default of such settlement new warrants could be issued.

The legislature recognized that the Indians were not always willing to permit the settlers to remain on the lands chosen, and to prevent injustice to such of the settlers who were driven off their lands, added a proviso that if the grantee or actual settler were driven off the lands by the enemies of the United States, and should persist in endeavoring to make a settlement, he should hold the land as if an actual settlement had been made. The provision in the Act pertaining to the settlers being driven from the lands or prevented from making a settlement by Indians was a fruitful source of litigation. The Courts in the early days were required to decide whether the settler was a prudent man or a coward in leaving his lands. An interesting case involving the interpretation of this section of the Act is that of *Ewalt vs Highlands*. (12) It determined the ownership of land, a part of which is now occupied by West View Park. The plaintiff's lessor left Fort Pitt and entered upon the lands in question. He took several laborers with him and deadened about one acre of timber. Two weeks afterwards they again visited the tract, deadened a little more timber and commenced the erection of a cabin eight feet square. A place was cut in the cabin for a door. At this visit a few peach seeds, apple seeds and some potatoes were planted. Neither the plaintiff nor anyone representing him visited the premises for a period of several years, when a man named Smith, under the direction of the plaintiff, visited the cabin, built a fire therein and remained for one hour. He then returned to Fort Pitt; in the meantime the defendant and his family had settled on the tract in question. An action in ejectment was brought to determine the title to the premises, and the question turned on whether the plaintiff had made such a settlement as was contemplated under the terms of the act. The Court held that an actual residence as provided by the act had not been made by the plaintiff nor his lessor and that the title was in the defendant.

The act authorized the proper authorities at Harrisburg to grant a patent to the settler upon proof that he had complied with the terms of the act and payment of the necessary consideration, providing no suit at law concerning the title to said land was then pending.

The confusion relative to the patents and warrants became so great and local prejudice ran so high that the legislature was compelled to grant relief to certain land companies known as the Holland Company and the Population Company, by requiring the Supreme Court to meet at Sunbury, Northumberland County, and try certain questions concerning the title of the disputed depreciation lands. (13) *Commonwealth vs Coxe* 4 Dallas 168 gives an interesting account of what the Holland Company had done relative to the development and settlement of the depreciation lands. At one time it had purchased 1,162 tracts and paid the consideration to the Commonwealth.

Much of the best land was obtained by land speculators. Two persons obtained 48 warrants from the actual settlers and obtained patents for 23,000 acres of land lying on both sides of the Venango path (now Perry Highway) (14). This land was all sold to settlers in the early part of the last century and some of it is still owned by the descendants of the original purchasers.

Thomas McKean, at one time Governor of the State, owned many tracts in Leets District in the vicinity of the present Borough of Sewickley. While Governor, he deeded a princely estate, consisting of 8 tracts of about 300 acres each to his daughter Sara Marie Theresa, Marchioness de Casa Yrujo, wife of his Excellency the Marquis de Casa Yrujo, late Minister Plenipotentiary and Envoy Extraordinary of his Catholic Majesty the King of Spain to the United States (15).

The Marquis was evidently a true son of royalty as all of said tracts were sold by the Commissioners of Allegheny County by reason of the non-payment of taxes.

The tendency of the legislature has been to quiet the title to all public lands granted to settlers. Every inducement was given to the settlers to purchase lands and mortgages were received in payment thereof. (16). By means

of this wise and beneficent policy on the part of the legislature lands were rapidly settled and developed and today the depreciation and donation lands are among the most valuable in the State.

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9. Act April 5, 1793, 3 Sm. Laws, 110; Act Feb. 3, 1801, 3 Sm. Laws 467; Act April 2, 1802, 3 Sm. Laws 506.
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12. *Ewalt vs. Highlands*, 4 Dall. 161.
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