

Chap. 96.

AN ACT to allow appeals from the decisions of the Register of the State Land Office in certain cases.

Published, May 1, 1854.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Appeals.

§ 1. In all cases where any person shall claim a pre-emption right to any land granted to this state to aid in the improvement of the Fox and Wisconsin rivers, which have been decided by the register of the state land office, it shall be lawful for any person feeling himself aggrieved thereby, whether such claim was contested before such register or not, to appeal to the circuit court of the county, where such land lies, at any time before the patent is issued thereon by the governor, pursuant to law.

Mode of bringing the appeal.

§ 2. The party bringing such appeal, shall serve a notice upon the person who has proved up his pre-emption claim before such register or upon some person in the possession of the premises in dispute, or in case no person shall be in possession of said premises, then by publishing such notice for six successive weeks in a newspaper printed in the county in which said land shall be situated, that he appeals from such register to the circuit court of such county, which notice shall be served as aforesaid, at least thirty days before the term of the circuit court at which the same shall be tried; said notice shall also specify the term of the court, at which the same will be brought to trial; said appellant shall at or before the time of serving or publishing said notice as aforesaid, file a copy thereof with the clerk of said court.

Bond to be given the opposite party

§ 3. The party bringing such appeal, shall execute and file with the clerk of the circuit court in which such land lies, a bond to the opposite party, with sufficient surety, to be approved by the circuit judge, of said circuit, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant.

§ 4. The court in which any such appeals shall be tried, shall make an order awarding the land in question to the successful party and award cost against the losing party, and enter judgment therefor against such party for costs; said circuit court shall also ascertain, if either party require it, the value of the improvements made by any person upon such premises who claim a pre-emption right thereto, and who has obtained the certificate of the register of said land office pursuant to law, after the granting of such certificate.

Court to make an order awarding land to successful party.

§ 5. The cases provided for by this act may be removed to the supreme court, by appeal or writ of error as in other cases, and said court shall on the hearing of any such case; by order affirm or reverse the order of the court below.

Cases may be removed to supreme court.

§ 6. Upon the production of the order mentioned in the foregoing sections, certified to by the clerk of the proper court, that such determination has been made in favor of the party appealing, and also upon the production of the certificate of the clerk of said circuit court that said appellant has deposited with him for the use of the appellee, one dollar and twenty-five cents per acre for such land, together with interest thereon from the time the same was paid to the register or treasurer of said state land office, together with the value of the improvements thereon so found by said circuit court, in case there shall be any such improvements found to have been made thereon as aforesaid, to the governor of this state, it shall be his duty to give to the person to whom said land has been adjudged a patent under the seal of the state, and countersigned by the secretary of state, which shall vest in the purchaser, his heirs or assigns an absolute estate in fee simple.

Patent to be given to person to whom land is adjudged.

§ 7. Such circuit court shall proceed and ascertain from the proofs in such case which shall be offered before said court, which of said parties are entitled to the pre-emption right of said lands in dispute, without any pleadings or issue in such case, other than is provided in this act.

Court to ascertain which parties are entitled to pre-emption.

§ 8. Either party to said suit shall be entitled to have the same tried by a jury upon demanding the same as in other cases: *Provided*, This act shall not extend or apply to the county of Columbia.

§ 9. This act shall take effect and be in force from and after its passage.

Approved April 3, 1854.