

machinery hereafter erected in such a manner as to become a fixture within the state of Wisconsin, together with the right, title and interest of the person or persons owning such dwelling house, building or machinery in and to the lands upon which the same shall be situated, not exceeding forty acres, or if in the limits of any incorporated city or village plat, the lot on which such dwelling house, building or machinery shall be situated, not exceeding one acre, shall be subject to the payment of all debts contracted for or by reason of any work done or any material found or provided by any brick-layer, stone-cutter, mason, lime merchant, carpenter, plasterer, painter and glazier, lumber merchant, iron monger, plumber, electrician, gas-fitter, tinsmith or any other person employed in erecting or furnishing materials in the erection, construction, protection or repairing or removing of such dwelling house, building or machinery, before any other lien which originated subsequent to the commencement of such house, building or repairs or removal.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 18, 1871.

CHAPTER 21.

[Published February 21, 1871.]

AN ACT to consolidate and amend the laws relating to trespassing on state lands.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. The commissioners of school and university lands are hereby authorized and empowered to appoint such number of clerks, not exceeding four, as they may determine to be necessary, for the purpose of protecting the school, university, swamp and overflowed lands belonging to the state, or any lands in which the state may have an interest, legal or equit-

May appoint clerks for the protection of school lands.

able, from any injury, from any person or persons trespassing thereon, by digging or removing any mineral therefrom, or by cutting or removing, or in an any manner injuring any lumber, timber, trees, wood or bark, being standing or growing on such premises.

May prescribe rules.

Section 2. It is hereby made the duty of the commissioners of school and university lands, and they are hereby authorized and empowered, to prescribe, by written rules and regulations, the duties and the compensation of such clerks. And the secretary of state is hereby authorized to audit the accounts for the compensation and expenses of said clerks, upon the certificate of the commissioners, which shall be paid out of the state treasury from the general fund. And there is hereby annually appropriated out of the state treasury the sum of six thousand dollars (\$6,000), for the purpose of defraying such expenses: *provided*, that nothing herein or in any law of this state shall prevent the said commissioners from paying said clerks by allowing them a percentage upon the moneys received from the sale of materials seized, and from payment of penalties on account of such trespasses.

Compensation of clerks.

Clerks not authorized to compromise.

SECTION 3. Said commissioners shall not have power to authorize any such clerk or clerks to settle or compromise with any person or persons trespassing or injuring any premises described in the first section of this act.

May seize timber taken from school lands.

SECTION 4. The said commissioners shall have power to authorize and empower any such clerk to seize or cause to be seized, any timber, lumber, logs, shingles, shingle-bolts, staves, shocks, headings, wood, bark or other material cut upon or removed, or taken from any of the land described in section one of this act, without process, and to sell the same at public auction to the highest bidder: *provided*, that no such sale shall be made until the clerk making such seizure shall report the same to the said commissioners, nor until the time and place of such sale shall have been advertised in a newspaper printed in the county where such sale is to be had, if any there be, at least once in each week for three successive weeks; and if there is no newspaper printed in said county, then by written or printed notice of such time and place, posted up in the most public place in said county, at least twenty days before such sale. And the said commissioners

may cause a bid to be made on behalf of the state at such sale, to an amount not less than one-half the actual value of the property offered for sale. No part of the money realized at any such sale shall be applied on the certificates issued by the said commissioners, then outstanding, if any. Property purchased on behalf of the state at such sales, shall be sold by the said commissioners for such price and at such time or times as they may deem for the best interests of the state.

SECTION 5. Any person or persons found trespassing upon any such lands belonging to the state, shall have the right to purchase said premises of the state, by paying the amount in lawful money of the United States, at the minimum price at which such land shall be appraised, if the same is subject to private entry at the office of the said commissioners, and also by paying in addition thereto, the sum of one hundred per centum of the amount paid for said land, and all expenses of seizure, and taking charge of material seized until the settlement is completed. If the person or persons owning the certificate or certificates of purchase for such land shall be found trespassing thereon, he or they shall have the right to obtain a patent for such land, by paying the amount due the state on such certificate or certificates, with all legal charges thereon, and the sum of one hundred per centum on the amount due the state for such land, and all expenses of seizure and taking charge of material seized until the settlement is completed. In either case the commissioners are hereby required to release to the person or persons so paying for the land, any lumber, timber, logs, shingles, shingle bolts, or any other articles seized under the provisions of this act, and they are hereby required to discontinue any and all suits commenced to recover any damages for such cutting, taking or carrying away, without cost to the state: *provided*, that the state treasurer shall in no case receive pay for such land from any other person or persons than those holding the certificate or certificates, or from their authorized agents, in cases where the land has been previously sold by the state; *and provided, further*, that in all cases when the sale of property is made under the provisions of this act, or the one to which this is amendatory, the person or persons owning the certificate or certificates, and not

Trespassers may purchase lands trespassed upon.

Holders of certificates may bid at sale of lands.

being the trespasser, shall have the right to bid at such sale the amount due to the state for such land, and the expenses of seizure and sale, the amount of which shall be stated at the sale by the person authorized to sell; and when such bid is made, it shall be the duty of the person making such sale to strike off the property to such bidder or bidders: *provided*, that if there shall be at the sale any dispute between bidders as to the ownership of the certificate or certificates of sale issued by the state, the person conducting and making such sale shall sell the property so seized to the highest bidder, he first bidding as provided in this act; in which case the amount so received, or the proceeds of the sale when received shall be paid into the state treasury, and remain there until the commissioners shall determine the ownership of said certificate or certificates; and for that purpose they are hereby authorized to adopt such rules and take such evidence as in their judgment shall be necessary to determine the fact. When such fact is determined it shall be the duty of the state treasurer, and he is hereby directed to pay over to the rightful person or persons on their order the avails of such sale, after deducting the price of the land and expenses herein provided for.

Trespassers not entitled to timber till penalties and charges are paid.

SECTION 6. Whenever any trespass shall be committed on any of the lands mentioned in this act, the trespasser or his assigns shall not be entitled to the possession of the timber or other material taken from the said lands, until all penalties and charges, as provided for in this act, shall be paid, and the timber clerk is authorized to seize and hold timber or any other material taken from said lands until payment shall be made, even though the lands were sold and patented previous to the seizure, but after such trespass.

Purchasers of land entitled to all timber, etc. taken from land before issue of patent.

SECTION 7. Any person who shall hereafter enter and receive a patent for any school, university, swamp or other state land, shall thereby also acquire the right to all timber, lumber, trees, wood, bark, stone, earth, mineral or other materials cut upon or removed from such land before the issue of such patent, unless the same shall have been cut or removed with the assent of the proper state authorities, or sold by the state; and he may seize, sue for and recover such materials, as if the same had been cut or removed from such land

after the issue of such patent. The person so obtaining a patent may also bring an action for any trespass upon or other injury to such lands, committed before such patent shall issue, against the person or persons committing such trespass or other injury, in the manner and with like effect, and he shall be entitled to like damages, as if such trespass or other injury had been committed after the patent had issued: *provided*, that any such purchaser of land previously reported to the commissioners of school and university lands as trespassed upon, shall pay, in addition to the price thereof, the penalty of one hundred per cent, and charges as fixed by section five of this act, and thereupon any material seized shall be released to him; *and provided further*, that no such purchase and nothing in this act contained, shall affect the liability of any person to punishment for the offense of trespassing or cutting materials upon or removing materials from such lands, or prevent or bar any prosecutions for such offense, whether commenced before or after the sale of such lands, and that the heirs or assigns of such purchaser shall have the same rights conferred upon them as the original purchaser.

SECTION 8. All acts or parts of acts conflicting with the provisions of this act are hereby repealed.

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

Approved February 18, 1871.

CHAPTER 22.

[*Published February 25, 1871.*]

AN ACT to fix the terms of the circuit and county courts in the county of Milwaukee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. The terms of the circuit court in and for the county of Milwaukee shall hereafter be held as Terms of circuit court fixed