

CHAPTER 314.

[Published March 14, 1876.]

AN ACT relating to trespassing on state lands, and for the repeal of chapter twenty-one (21), of the general laws of 1871, entitled, "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 governor of the State of Wisconsin is hereby authorized and empowered to appoint six (6) agents 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 equitable, from any injury, from any person or persons trespassing thereon, by digging or removing any mineral therefrom, or by cutting or removing, or in any manner injuring, any lumber, timber, trees, wood or bark, being, standing or growing on such premises; *provided, however,* that this act shall apply only to lands which are or have been subject to entry and purchase at the office of the commissioners of school and university lands.

Governor empowered to appoint timber agents.

SECTION 2. It is hereby made the duty of the governor, and he is hereby authorized and empowered to prescribe, by written rules and regulations, the duties and the compensation of such agents; and the governor is hereby authorized to audit the accounts for the compensation and the expenses of said agents; 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, for the purpose of defraying such expenses.

Duty of governor to prescribe duties of agents, and to audit a counts for expenses of same.

SECTION 3. The governor and the commissioners of school and university lands shall not have power to authorize any such agent or agents to settle or compromise with any person or persons trespassing or injuring any premises described in the first section of this act.

Agents not empowered to compromise with trespassers.

SECTION 4. The governor shall have power to authorize and empower any such agent 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 (1), of this act.

Timber, etc., cut on state lands to be seized and sold

Notice of sale to be given.

without process; and to sell the same at public auction, to the highest bidder; *provided*, that no such sale shall be made, until the agent making such seizure shall report the same to the commissioners of school and university lands, 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 five most public places in said county, at least twenty (20) days before such sale, and the commissioners of school and university lands 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 for sale. No part of the money realized at any such sale shall be applied on the certificates issued by the commissioners of school and university lands, then outstanding, if any. Property purchased on behalf of the state at such sale, shall be sold by the commissioners of school and university lands for such price, and at such time or times as they may deem for the best interests of the state.

Money from sales not to be applied on certificates.

Trespassers may purchase lands trespassed upon.

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 commissioners of school and university lands, and also by paying in addition thereto the sum of a 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 (100) 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 of school and university lands are hereby required to release to the person or persons so paying for the land, any lumber, timber, logs, shingles, shingle-boits, or

When trespassers hold certificates of purchase of lands may obtain patent for same.

When lands purchased by trespasser, timber etc., to be released to same, and suits discontinued.

any other articles seized under the provisions of this act, and he is 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 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 of school and university lands shall determine the ownership of said certificate or certificates; and for that purpose they are hereby authorized to 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 the expenses herein provided for.

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 said lands until all penalties and charges, as provided for in this act, shall be paid, and the timber agent is authorized to seize and hold timber or any other ma-

Holder of certificate when not trespasser, to have right to bid in property.

When there is dispute as to ownership of certificate.

When trespassers to be entitled to possession of timber, etc.

terial 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.

Persons entering lands to acquire title to timber, etc., previously cut or removed without authority.

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 material 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 5 of this act, and thereupon any material seized shall be released to him; *and provided further*, that no such purchaser 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.

Chap. 21, general laws of 1871, repealed.

SECTION 8. Chapter 21, of the general laws of 1871, entitled, "An act to consolidate and amend the laws relating to trespassing on state lands," is hereby repealed.

Repeal of conflicting acts.

SECTION 9. All acts or parts of acts, conflicting with the provisions of this act, are hereby repealed, provided nothing in this act contained shall interfere with any seizures and settlements now made or pending.

SECTION 10. This act shall take effect and be in full force from and after its passage.

Approved March 11, 1876.

CHAPTER 315.

[Published March 30, 1876.]

AN ACT to declare Coon river, in the county of Vernon, a navigable stream.

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

SECTION 1. Coon river, in the county of Vernon, is hereby declared to be a navigable stream, between the village of Chaseburg and the Mississippi river.

Coon river declared to be navigable stream.

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

Approved March 11, 1876.

CHAPTER 316.

[Published March 30, 1876.]

AN ACT to amend chapter one hundred and thirty-three (133), of the private and local laws of 1857, entitled, "An act to consolidate and amend the act to incorporate the city of Kenosha," and the several acts amendatory thereof.

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

SECTION 1. Section one (1), of chapter six (6), of chapter one hundred and thirty-three (133), of the private and local laws of 1857, entitled, "An act to consolidate and amend the act to incorporate the city of Kenosha," and the several acts amendatory thereof, is hereby amended so as to read as follows: For the purpose of meeting any expenditure authorized by the common council, under the provisions of this act, or any ordinance of said city, or to defray the current expenses of said city, the common council shall have power to levy and collect, annually, a tax on all such real and personal property, or capi-

Amended.

Power of council to levy and collect tax.