

Establishing Patent Series (1821)

CHAPTER CCCXXVI.

An ACT providing for the Sale of the Vacant Lands West of the Tennessee River.

Approved December 21, 1821.

Section 1. **BE it enacted by the General Assembly of the Commonwealth of Kentucky**, That it shall be the duty of the register of the land office to attend, on the first Monday in September next, at the town of Princeton, in the county of Caldwell, and then and there, from day to day (until completed), expose to public sale, to the highest bidder, the following sections of land, for ready money, under the restrictions and limitations herein prescribed, viz. The odd sections of land in township one north, range four east of the meridian line; the odd sections of land in township one north, range one west of the meridian line; the odd sections in township one north, range three west of the meridian line; the odd sections in township four north, range one east of the meridian line; the odd sections in township three north, range four east of the meridian line; the odd sections of township three north, range two east of the meridian line; the odd sections of township three north, range one west of the meridian.

Section 2. **Be it further enacted**, That the odd sections in the following townships shall also be exposed to sale, viz. In township one north, range two east of the meridian line; in the fractional township, range seven west of the meridian line; in township two north, range four east of the meridian line; in fractional township two north, range six east of the meridian line; in township three north, range one east of the meridian line: **Provided**, that the register shall not sell any portion of the sections authorized to be exposed to sale, unless the same will bring at least one dollar and twenty five cents per acre; nor shall he sell such portions of any township which may be selected for the seats of justice for the counties which may be established west of the Tennessee river.

Section 3. The register, in making the sales, shall not sell, at the same time, a greater quantity than a quarter section; and if the same will not bring, per acre, at least the sum designated by this act, it shall be stricken off to the state; nor shall the register sell more than the odd sections in two townships in each day.

Section 4. It shall be the duty of the cashier of the Branch Bank of the Commonwealth of Kentucky, at Princeton, to receive and receipt to the purchasers for the amount of the purchase money which they may have severally bid, and upon the production of which receipt to the register, he shall give such purchaser or purchasers a printed certificate, specifying the quantity of acres by him or them purchased, the price, number, and situation of the quarter section sold, and in what township: **Provided**, that in any case where any one individual shall purchase a half or whole section, he may give one certificate including the whole; and upon the production of such certificate at the register's office, the register shall forthwith, as soon as practicable, issue a patent for the same to the original purchaser, or his or her assignee, and record the same in a separate book or books, as in other cases; which grant shall pass the title of this commonwealth to the patentee; but in no case shall the register give a certificate of sale, unless it shall appear from the cashier's receipt of the bank of Princeton, that the whole purchase

money has been paid. And if any person shall fail or refuse to pay immediately, the price by him or her bid for any land at such sale, when the same shall have been stricken off to such person, he shall forfeit and pay the sum of one hundred dollars, (to be recovered by information filed by the attorney-general in the general court, to the use of the commonwealth, upon application made to him by the register), and the register shall immediately proceed to sell the land to the highest bidder again, as though the same had not been previously sold, and such first purchaser shall not be permitted to bid for the same.

Section 5. It shall be the duty of the register of the land office, in making such sales, to keep a correct record of the same, describing therein the particular quantity and situation of each parcel of land by him sold, the price of the same, and the name of the purchaser or purchasers, to be by him kept as one of the record books of his office; and to enable the register to perform this duty, it shall and may be lawful for him to employ one clerk, during the time of making said sales, at a sum not exceeding three dollars per day.

Section 6. When the register issues any grant, according to the provisions of this act, he shall carefully preserve the original certificate in his office, and record the same in a book to be by him procured for that purpose.

Section 7. The register shall advertise the time and place of sale in the "Argus of Western America", the "Kentucky Gazette" and "Lexington Public Advertiser", one of the papers in Louisville and Hopkinsville, and one or more papers in Tennessee, North Carolina, Virginia, and "National Intelligencer", at least four months before the day of sale.

Section 8. The money paid into the Branch Bank of the Commonwealth at Princeton, shall be placed as a deposit in said bank, and shall be subject to the order of the president and directors of the principal bank. And for the purpose of enabling the cashier of the principal bank to check for the same, under the order of the said president and directors, it shall be the duty of the register of the land office to file with the cashier of the principal bank the receipts of the cashier of the Princeton bank, and take his aggregate receipt for the same, which shall be filed with the auditor, who shall issue a certificate of the amount to the treasurer, which shall be the treasurer's receipt for the amount thereof, as paid to the Bank of the Commonwealth of Kentucky, on the part of the state.

Section 9. The register shall have power to employ a crier to make said sales, whose compensation shall not exceed three dollars per day, for each day he may be employed in making the sales; and the register shall receive the sum of four dollars, for every day he shall be engaged in going to, attending upon, and returning from said sales.

Section 10. The register shall not, either directly or indirectly, purchase on his own account, or that of any other, any lands at the sales hereby directed to be made; and should any such purchase be made, it shall be absolutely null and void.

Section 11. The register shall, and he is hereby authorized to suspend the whole, or in part, the sales hereby directed to be made, if he shall be of opinion that there is not on the ground a sufficient number of bidders to produce a just competition.

Section 12. The register, in making the sales provided for by this act, may receive in payment, notes of the State and Commonwealth's Bank and their branches, notes of the United States' Bank and its branches, gold and silver, or the notes of any specie paying bank within any of the United States.

Section 13. If the lands sold under this act shall be taken from any purchaser or his assignee, by a prior claim adverse to the title acquired by the sale and purchase under this state, the said purchaser, or person claiming under him, shall receive from the treasury the amount of the original purchase money, upon the production of the record and the certificate of the judge of the court, that said land was lost upon a fair and full trial upon the merits of the respective titles, to the auditor of public accounts, who shall issue his warrant on the treasury for the amount of the original purchase money, without interest.

Section 14. The register shall expose the said lands to sale in the order, progressively, as the townships are named in this act.

Section 15. The register's certificate, that his clerk and crier have faithfully performed their duties, and of the number of days that they may have respectively acted, shall authorize the auditor to issue his warrant on the treasurer for the compensation allowed by this act; and the register shall also make out his account, on oath, for the number of days he may have been engaged in going to, attending on, and returning from said sale, which shall be submitted to the governor for his approval, who shall certify the same to the auditor, who shall issue his warrant on the treasurer accordingly.

Section 16. If the register shall, from any cause, fail to act, the governor shall appoint some other fit person to discharge the duties hereby enjoined, who shall enter into bond, with at least two or more securities, to be approved of by the governor, in the penalty of ten thousand dollars. The person so appointed shall be authorized to go on and make the sales, under the same rules and regulations as are prescribed to the register by this act.

Section 17. The register of the land office shall not sell, under the provisions of this act, any section or portion of a section of land which may be included in any military entry or survey; **Provided**, he is satisfied of such interference by an attested copy of such entry or survey being served on him.

And whereas may persons have heretofore settled upon the lands west of the Tennessee river, and made improvements, under a hope that some liberal provision would be made for them by their government:

Section 18. **Be it further enacted**, That all those who are actual settlers upon any of the sections by this act directed to be sold, shall be entitled to a reasonable compensation for the improvements they have made thereon, or to hold and enjoy the same for the term of five years from the passage of this act, free from any charge for rent, at the election of the purchasers.

Section 19. **Be it further enacted**, That if any purchaser under this act shall elect to pay the settler for his improvements, he may, upon giving to such settler ten days' previous notice, apply to the circuit court of the county in which the land may be situated, to appoint commissioners to value said improvements; and upon such application, it shall be the duty of said court to appoint three

commissioners to value the same, who, or a majority of them, shall value the same and make report to said court; upon which such court shall render judgment against the purchaser for the value assessed, subject to all just exceptions and proceedings as are usual in such cases.

Section 20. **Be it further enacted**, That the settler shall have a lien on the land, to secure payment of the value of his improvements: **Provided**, when the purchase fails or refuses to pay for the improvements as aforesaid, before the occupant shall be entitled to the privileges hereby granted, he shall enter into bond to the purchaser, in an adequate penalty, conditioned that he, she or they will not commit unnecessary waste, and that he or they will deliver up to the purchaser peaceable possession of the premises, at the end of the term aforesaid. **Nevertheless**, the purchaser shall be entitled to the possession of that part of his purchase, not actually improved and occupied by such settler, except for firewood and timber for repairs.

REF: "Acts of the Kentucky General Assembly", 1821, pgs 409-415.