

Establishing KLW Patents (1815)

CHAPTER CCXLIX.

An ACT for appropriating the vacant Lands in this Commonwealth.

Approved by the Kentucky General Assembly on February 6, 1815.

WHEREAS, there are large quantities of waste and unappropriated lands in this commonwealth, the granting of which, will promote population, increase the annual revenue and erect a fund for public use:

Section 1. **Be it therefore enacted by the General Assembly of the Commonwealth of Kentucky**, that from and after the last day of February, 1815, any person except aliens may acquire title to so much waste and unappropriated lands as he or she shall desire to purchase, on paying the consideration of twenty dollars for every hundred acres, and so in proportion for a greater or smaller quantity, in manner following: the consideration money shall be paid to the treasurer of this commonwealth, who shall thereupon give to the purchaser a receipt, specifying the purpose for which it was paid; which being delivered to the auditor of public accounts, he shall give to such person a certificate, stating the quantity of land he or she is thereby entitled to; upon lodging such certificate with the register of the Land Office, he shall grant to such person a printed warrant, under his hand and seal of office, specifying the quantity of land, and authorizing the county surveyor of any county within this commonwealth, by himself or deputy, to survey and lay off the same; which warrant shall be valid until executed by actual survey, or exchanged as hereinafter directed.

Section 2. **Be it further enacted**, that all applications for surveys to be made under the provisions of this act, shall be made at the office of the county surveyor of the county in which the land proposed to be surveyed, or part of it, may lie. And it shall be the duty of the said surveyor to enter in a book to be kept by him, the date of the application when made, with the number of the warrant and the number of acres expressed in it, and the name of the person or persons for whom the application is made; and if more than one application is made on the same day, he shall enter the applications in his books as they are made: and it shall be the duty of the surveyor and his deputies, when they proceed to make the surveys so applied for, to pay the strictest attention to the seniority of application, surveying those first which were first applied for; and it shall be the duty of any county surveyor to whom application may be made, to make surveys under the provisions of this act, to give the persons making such application, a certified copy of the entry made in his book, of such application, if requested so to do; and the surveyor may demand and receive from the person making application, twelve and a half cents for making the entry in his book of such application, and giving a certified copy of such entry when required. And where a survey is wanted to be made under the provisions of this act, of land, which survey, when made, may include land in two several counties, the surveyor of either of the counties may make the survey; and if it shall happen that the surveyors of two counties meet at the same time for the purpose of surveying the same land, the surveyor to whom the first application has been made, shall make the survey; which applications shall be all numbered as they are made: **provided, however**, that the county surveyor shall

not receive any application to make a survey or surveys under the provisions of this act, other than the application of actual settlers, before the first day of January, 1816.

Section 3. The register shall enter, in a well bound book, to be provided for that purpose, the number, date, proprietor and quantity of acres of every warrant; in which book a column for remarks shall be left; and the register, whenever a warrant is carried into grant or exchanged, shall enter the same therein, with a reference to the book and page where the same may be found.

Section 4. The proprietor of any such warrant, upon lodging the same with the surveyor of any county in this commonwealth, shall be entitled to have one or more surveys executed thereon, (not exceeding in the whole the quantity of acres specified in such warrant) upon any waste or unappropriated lands which he or she, or their attorney or agent, may point out or show for that purpose; which survey or surveys shall not be less than one hundred and fifty acres, unless the same shall be adjoined all round by the lines of prior existing claims; and in that case the surveyor shall state in the certificate of survey, the name of all the persons whose lines the same may bind on; and in that case the register is hereby directed to receive and register such survey so certified, for a less quantity than one hundred and fifty acres.

Section 5. Every surveyor shall, by himself or deputy, upon application being made to him as above mentioned, proceed immediately to make survey or surveys upon such warrant; and should any surveyor neglect or refuse so do to, he shall forfeit and pay to the proprietor of such warrant one hundred dollars for each hundred acres of land mentioned therein, and at the same rate for a greater or smaller quantity, to be recovered of him by action of debt, at the suit of the party injured: **provided, however,** that if at the time such application is made, the surveyor is engaged in those duties of his office which will not admit of being postponed, without injury to the persons concerned, his finishing such business and proceeding immediately thereafter to make a survey or surveys, by himself or deputy, as required, shall exonerate him from the penalties aforesaid.

Section 6. Every survey made under warrants obtained by virtue of this law, shall be bounded plainly by marked trees, stones, if to be had, or stakes, except where a water course or ancient marked line shall be the boundary; they shall be made in the presence of two house-keepers resident in the county in which the survey may be made, and who are in no respect interested in such survey; and the surveyor shall, upon finishing the survey, and before leaving the ground surveyed, specify in his field notes for whom the survey was made, the number of the warrant, and have the same attested by the said house-keepers; which field notes shall be carefully preserved, be subject to inspection, and to have copies taken there from, in the same manner as any other books or papers in the surveyor's office.

Section 7. The surveyor shall, as soon as it can conveniently be done, and within three months from making the survey, at farthest, make out and record a fair and true plat and certificate of the survey, setting down at the foot thereof the names of the house-keepers aforesaid, and of the chain-carriers and marker; and shall write on the face of the warrant executed, in full, or to as many acres as the case may be, and sign his name thereto. He shall, upon request, thereafter deliver to the proprietor or to his agent or attorney or order, the plat and certificate and warrant.

Section 8. Every plat and certificate of survey made under this law, together with the warrant upon which it was founded, shall be lodged in the register's office within one year from the date of making the survey; they shall remain in the same office for six months, after which time grants shall issue for the land in the usual form. When a warrant shall be carried into grant or exchanged, the register shall write on the face of the warrant, satisfied or exchanged, as the case may be, and sign his name thereto.

Section 9. And to prevent any kind of doubts as to the kind of title derived under this act, be it further enacted, that the actual survey shall be considered the commencement of the title; and when perfected by grant, the title shall relate to the time of survey, so as to be available in courts of law against an elder grant founded upon a younger survey.

Section 10. And for quieting litigation, **be it further enacted**, that all entries heretofore made, and all titles founded upon surveys heretofore made, which by the laws at the time being were authorized to be made, shall be deemed superior to surveys made upon warrants obtained by virtue of this act, notwithstanding any alleged vagueness in the entries or certificates on which surveys were founded, and notwithstanding such surveys may not be made conformable to entry; and that no lands shall be subject to appropriation under the provisions of this act, that hath reverted to the commonwealth by escheat, or for non-payment of the tax or taxes due thereon, or for a failure to enlist the same for taxation, or for any forfeiture that may have happened from a failure to pay the installment or installments due thereon prior to the passage of this act; and that no lands are to be appropriated by this act to which the Indian claim is not extinguished.

Section 11. Should any plat and certificate of survey obtained under this act, be not returned into the register's office within the period herein prescribed, such plat and certificate may nevertheless be registered, the register endorsing thereon "received after the regular time"; and in issuing grants on all such plats and certificates, the register shall, after reciting the date of the survey, recite the date when the same was registered; to which latter time only this grant has relation; and the title conveyed by such grants shall, in contests with other claimants, be considered valid from the date of the registry only, and not from the date of the survey, as is herein provided for those claims which are registered in due time.

Section 12. Warrants and plats and certificates obtained by virtue of this law, shall be transferable by assignment, and until a survey be made upon a warrant, it shall be deemed personal estate, and may be sold by executors or administrators.

Section 13. If the proprietor of any warrant desire it, he may, by filing in the Register's Office any warrant obtained by virtue of this law, have it exchanged for smaller warrants, equal in the whole to the quantity specified in the original warrant. In like manner, when a survey shall be made for less than the whole quantity of acres specified in any warrant, the holder, upon filing the warrant with the plat and certificate in the Register's Office, may take out a new warrant for the deficiency. For every warrant obtained under this section, there shall be paid to the Register of the Land Office, a fee of twenty-five cents, to be accounted for as the other fees of his office are.

Section 14. **Be it further enacted**, that this act shall not take effect and be in force until the first day of December next, except as to persons who shall at the passage thereof be actual settlers upon vacant

land, who may respectively, from the day of the passage thereof until the said first of December 1815, appropriate not exceeding four hundred acres, including his actual settlement: **provided**, that every settler shall obtain from the circuit or county courts of the county in which the land upon which he is actually settled lies, a certificate that the said court has been satisfied by disinterested and creditable testimony, that the claimant is an actual settler upon the land which he claims to appropriate in that character; which certificate shall be lodged with the register, who shall, upon receiving the certificate of the auditor that the money has been paid into the treasury, together with the aforesaid certificate of the circuit or county courts, grant to the said actual settler a warrant for not exceeding four hundred acres including his settlement; which warrant shall be proceeded upon in other respects pursuant to the provisions of this act.

Section 15. **Be it further enacted**, that the money acquired under the provisions of this act, shall be, and the same is hereby reserved in the treasury, subject to the further disposition of the legislature.

Section 16. **Be it further enacted**, that this law shall continue and be in force until the first day of January 1818, and no longer; and that all laws allowing persons to relinquish to the commonwealth, any claim or part of a claim of land taken up under the laws of this state, and for which the state price is not paid in full, shall be suspended during the time this act is in force; and all such relinquishments made during the time aforesaid, shall be void; and no actual settler shall be allowed to appropriate, either directly or indirectly, more than four hundred acres under this act.

REF: "The Statute Law of Kentucky", Vol. V., by William Littell, 1819, pp 266-271.