

[*Published March 3, 1859.*]

**CHAPTER 34.**

AN ACT to amend chapter seventy-nine of the revised statutes, entitled "Of railroads."

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

**In case of sale** SECTION 1. Section thirty-eight of chapter seventy-nine of the revised statutes is hereby repealed.

**May redeem.** SEC. 2. In case of any sale of any railroad, or of any portion of any railroad, with its appurtenances, property, right of way, franchises, and privileges, or any of them, under and by virtue of any trust deed or mortgage, now executed, or that may be hereafter executed, upon the same, such sale, when made in accordance with the provisions contained in such trust deed or mortgage, shall be absolute, unless the said company, or any subsequent encumbrancer, shall, within one year from and after the date of such sale, redeem said railroad and property so sold, by paying or depositing the amount of the purchase money on such sale, and the cost of such sale, and the interest thereon, at the rate of ten per cent. per annum, with the trustee or party making the sale, or with the court in which the decree ordering said sale is entered; and any such sale shall not be required to be made in accordance with any other law of this State for the sale of real estate under the foreclosure of mortgages, or otherwise.

**Value of improvements to be paid.** SEC. 3. The party so redeeming shall pay to the purchaser or purchasers at such sale, the value of all substantial and necessary improvements made by such purchaser or purchasers after the sale, whether in the further construction of said road, or for the better use and enjoyment of the same, with interest thereon, as hereinbefore provided, within sixty days after the value of such improvements has been agreed upon between the parties interested. And in case they cannot agree, the same shall be determined by three commissioners, who shall be competent engineers, and who shall be appointed by the chief justice of the Supreme Court, on the application of either party interested, on ten days notice of such application.

**Duty of commissioners.** SEC. 4. It shall be the duty of such commissioners, immediately after their appointment, to proceed to ascer-

tain and appraise the value of such improvements, under oath, in such manner and upon such testimony as they may deem proper, and with all possible dispatch to report the result of their deliberation, together with all evidence taken by them, to the clerk of the court where the decree of sale was entered; and in case the sale is made by virtue of any provision in such trust deed or mortgage, such determination and report shall be filed with the clerk of the supreme court. The decision of any two of such commissioners, so filed, shall be final and conclusive between the parties, as to the amount to be paid for such improvements. Decision to be conclusive.

SEC. 5. Upon depositing the sum of money named in such report with the clerk of the circuit or supreme court, as the case may be, the person so redeeming shall be entitled to the full possession, enjoyment, and occupancy of said road. Possession how gained

SEC. 6. The provisions of sections two, three, four and five of this act, in so far as they authorize any redemption after the sale of any railroad or any portion thereof, with its appurtenances, shall not be applicable to any mortgage heretofore executed by the Chicago, St. Paul and Fond du Lac Railroad Company, but the sale of the railroad of said company, when made in accordance with the provisions contained in any trust deed or mortgage now a lien upon the same, shall be absolute and final. Application of this act.

SEC. 7. This act shall take effect and be in force from and after its passage. Take effect.

Approved March 1, 1859.

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## CHAPTER 35.

AN ACT concerning certain actions.

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

SECTION 1. In all actions of money demands, of which justices of the peace have jurisdiction, which shall hereafter be commenced in any municipal, county, or circuit court, and in which judgment shall be rendered for the plaintiff, no more costs shall be recovered than would be recoverable in justices' courts, had the action been commenced. Certain actions how commenced.