

**Appropriation** SEC. 2. There is hereby appropriated out of the swamp land income a sufficient amount of money to pay the accounts to which reference is had in section one of this act.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 9, 1860.

## CHAPTER 92.

[Published March 12, 1860.]

AN ACT to amend chapter 131, of the Private and Local Laws of 1857, entitled "An act to incorporate the city of Mineral Point."

(See Supplement to Local Laws.)

## CHAPTER 93.

[Published March 13, 1860.]

AN ACT for the relief of Sheboygan county.

**Preamble.**

*Whereas*, all the records, files and papers belonging to the office of the clerk of the board of supervisors of Sheboygan county, in this State, all the judgment rolls, files in pending suits, official oaths and bonds, and records of naturalization, belonging to the office of the clerk of the circuit court of said county, all probate records of the county court of said county, and the greater part of all papers, books and files belonging to the office of the treasurer of said county, were destroyed by fire on the first day of January, one thousand eight hundred and sixty: Now, therefore, in order to restore the evidence lost by the destruction of said records and files, and in order to perpetuate the same, and to relieve the said county, the people thereof, and other interested persons, from the disorders that might result therefrom, therefore:

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

CHAPTER I.

SECTION 1. Within six weeks after the passage of this act, the clerk of each town and city of said county of Sheboygan, shall make out a list of all the justices of the peace ever elected in said town or city, together with the term of office of each, as far as the same shall appear by the records in his possession, with his certificate that the same is a true and perfect list of all such justices of the peace ever elected in such town or city, and return the same to the clerk of the circuit court of said county, who shall file the same, and enter the names and terms of office of such justices of the peace, in a record kept for that purpose, and such entry shall be *prima facie* evidence that such persons were duly qualified and acting justices of the peace for such town or city, for the period therein specified, and full force and credit shall be given to their acts as such.

SEC. 2. In all cases where judgment has been entered by the clerk of the circuit court, either upon confession, upon the verdict of a jury, by default, or by an order of the court, the docket entry of such judgment shall be taken as *prima facie* evidence of the regularity of all previous proceedings in the case, and such judgment shall, for all purposes whatsoever, have the same force and effect as if all the papers in the case were properly on file, and execution may issue thereon, and the same proceedings had as upon perfect judgments, unless cause to the contrary be shown to the court.

SEC. 3. In all cases where, by the docket entries in the dockets of the clerk of the circuit court of said county, it shall appear that there has been a final order, decree, or judgment, such docket entries shall be deemed and taken as *prima facie* evidence of the regularity of all the proceedings in the case, and of all subsequent proceedings in the same, which appear from said docket entries.

SEC. 4. In all cases where transcripts of judgments from justices of the peace have been filed in the office of the clerk of the circuit court of said county, and the same docketed by the clerk, the judgment so docketed shall be a lien, from the date of the docketing thereof, but no execution shall issue upon any such judgment until a

new transcript of the same shall have been filed with the clerk of said circuit court, which transcript shall be filed by the said clerk as of the date of the original transcript, and shall, for all purposes whatsoever, have the same effect as such original transcript.

When judicial  
sales of real  
estate.

SEC. 5. In all cases where there has been a judicial sale of any real estate in the county of Sheboygan, prior to the first day of January, one thousand eight hundred and sixty, or which shall hereafter be made upon any judgment, order, or decree of the circuit court of said county, made prior to that date, by the sheriff or coroner of said county, or by a referee appointed by the court, the deed, executed by said sheriff, coroner or referee, shall be *prima facie* evidence of the right of the grantee of such sheriff, coroner or referee to the possession or ownership of such real estate, as against the defendant or defendants in the judgment, decree, or order, and all persons claiming under him or them, and shall, to all intents and purposes, have the same effect as if the full record of the judgment, order, or decree, and all proceedings in the case, were on file in the office of the clerk of said court, and the deed shall be deemed and taken as *prima facie* evidence of the regularity of all proceedings, prior to the execution of the same.

Where suits  
commence.

SEC. 6. In all cases where suit has been commenced in said court, prior to the first day of January, one thousand eight hundred and sixty, and no final judgment has been had, if the party bringing the suit shall have paid the state tax, and shall discontinue the same, and shall commence a new suit for the same cause, the clerk shall refund to him the state tax so paid, and shall charge it to the State, and retain the same out of any moneys which may come to his hands for the State, and in no case of discontinuance, by the plaintiff, of suits brought prior to the first day of January, one thousand eight hundred and sixty, shall the opposite party be entitled to costs.

In cases of  
naturalization

SEC. 7. Any person who has declared his intention to become a citizen of the United States, prior to the first day of January, one thousand eight hundred and sixty, before the clerk of the circuit court of Sheboygan county, or who shall have been admitted to citizenship, prior to that date, by said court, may present the copy of his declaration of intention, or his certificate of admission to citizenship, to the clerk of said court, who shall make an entry thereof in a book, to be kept for that purpose, and

the same shall be taken as *prima facie* evidence of the facts set forth therein.

SEC. 8. All officers now holding office within the county of Sheboygan, whose term of office shall not expire before the thirty-first day of December next, who are required by the existing laws of this State, to take an official oath, and give an official bond, to be filed in the office of the clerk of the circuit court, or in the office of the clerk of the board of supervisors of said county, shall, within three months after the passage of this act, take the oath and file the bond prescribed for them, before entering on the duties of their respective offices.

## CHAPTER II.

SECTION 1. It shall be the duty of the treasurer of Sheboygan county, to make separate lists for each year, of all lands sold by him, or his predecessors in office, for unpaid taxes, as far as the same can be ascertained from the files, books, and tax certificates that remain in his office, and from tax certificates in the hands of town treasurers and other persons, which shall be presented to him for that purpose, within two months after the passage of this act.

SEC. 2. Such lists shall contain a particular description of each tract and parcel of land so sold, specifying the year for which such lands were sold, the name of the person to whom sold, if known, the amount for which such tract was sold, and the date of such sale, as far as the same can be ascertained, and when so completed, the treasurer shall attach thereto his certificate, that said lists are correct, as gathered from the files, records, and tax certificates in his office, or which have been produced to him by the owners or holders thereof, and a copy of said lists shall be filed with the clerk of the board of supervisors of the county, as soon as the same is completed.

SEC. 3. It shall be the duty of said treasurer, immediately after the passage of this act, to cause notice to be given, by publication in each of the newspapers of said county, to all persons holding any tax certificates issued by him, or his predecessor in office, to present the same to him for record, as hereinafter provided, within two months after the passage of this act.

SEC. 4. It shall be the duty of the clerk of the board of supervisors of said county to enter, of record, in books,

to be provided for that purpose, a description of all lands advertised for sale by the county treasurer each year, which shall not appear in the lists furnished said clerk by the treasurer, as provided in section second of this chapter.

Co. clerk to furnish lists to town and city clerks.

Town or city clerk to find out am't of tax

Duty of county clerk on return of lists.

In case of failure to procure copies of taxes assessed on land.

What lands re-deemed.

SEC. 5. When the clerk shall have completed the record, as provided in the preceding section of this chapter, he shall furnish to each town and city clerk in said county, a full list, for each year, of all the lands included in said record, which are located in the town or city of which said person is clerk, which town or city clerk shall ascertain, from the assessment rolls of said town or city, the amount of tax assessed, for each year, on each tract of land, described in said lists, and return the same, within ten days after he shall receive the same, to the clerk of the said board of supervisors.

SEC. 6. On the return of said lists, the clerk of the board of supervisors shall, in separate columns, add to the several amounts so returned, the interest and all legal charges up to and including the sale, which amounts shall be entered opposite the corresponding piece or parcel of land in the record made by said clerk, as provided in section four of this chapter, and when so entered shall be deemed and taken for the amount for which such tract or tracts of land were sold, and the same may be redeemed, at the amount so entered, adding thereto the interest and costs, as now provided by law.

SEC. 7. If the clerk of the board of supervisors shall fail to procure copies of the taxes assessed upon any land, according to the previous provisions of this chapter, he shall take the advertised lists of non-redeemed lands, as published by said clerk, or his predecessors in office, and the amount therein specified, as due upon each tract, less the interests and costs, shall be entered in his record, opposite the corresponding tract, as the true amount for which such tract was sold, and the same may be redeemed at said amount, adding interest and charges, as now provided by law.

SEC. 8. In all cases where the clerk of the board of supervisors has, for any year, advertised a list of lands that will be subject to deeds for the non-payment of taxes, according to the laws of this State, the same shall be compared, by him, with the list and record provided for in sections one and four of this chapter, and any land or lands not appearing in said advertised list, which are included in the lists and records aforesaid, shall be presumed to

have been redeemed, and the clerk shall so enter the same.

SEC. 9. The holder or holders of any certificates of redemption, issued prior to the first day of January, one thousand eight hundred and sixty, of lands heretofore sold by the treasurer of said county, for the non-payment of taxes, shall, on or before the sixteenth [sixteenth] day of July next, present the same to the clerk of said board, who shall enter the date of the redemption of said land, the name of the person redeeming the same, the amount of any such certificate, less the costs, in the lists of sale made by the county treasurer, or in the record made by said clerk, as herein before provided.

Certificates of redemption issued prior to first of January.

SEC. 10. Any person or persons holding any certificates of the sale of lands by the county treasurer, for the non-payment of taxes prior to the first day of January, one thousand eight hundred and sixty, shall, unless the same have been presented to the county treasurer under the provisions of this act, within six months after the passage of this act, present the same to the clerk of the board of supervisors, who shall enter the date and number of the same, and the amount for which such lands were sold, in the list or record of the same for the proper year.

Certificates to be presented.

SEC. 11. The lists furnished by the county treasurer, under the provisions of this act, shall have the same character and effect as evidence, as the original statements of lands sold for non-payment of taxes would have, by the existing laws of this State, were the same in being.

Lists to be evidence.

SEC. 12. The board of supervisors of said county may allow, to the members thereof, mileage for two sessions and their per diem allowance for a number of days, not exceeding six days, in addition to the amount now limited by law, and all officers of whom a service is required, by this and the preceding chapter, shall be allowed an adequate compensation for the same.

Compensation of board.

CHAPTER III.

SEC. 1. The judge of the county court of Sheboygan county, in this State, is hereby authorized and empowered to restore the records of all proceedings, heretofore had in said court, as far as the same can be done, in the manner hereinafter provided.

County court records.

Duties of guardians, &c.

SEC. 2. It shall be the duty of all guardians, executors, and (and) administrators, heretofore appointed by said court, within three months after the passage of this act, to appear before the judge of said court and make application for the restoration of said records, in any matter in which he may be guardian, executor, or administrator, as aforesaid. Such application shall be by petition, setting forth all such proceedings as have already been had before the said court, as fully as the petitioner is able to do, and praying that the same may be made a matter of record, and if such petition be made by any executor, or administrator with the will annexed, a copy of the will duly certified, or proved, to be a true copy, to the satisfaction of the judge, shall be annexed to the petition, and made a part of the record.

Duty of Co. judge.

SEC. 3. Upon the filing of such petition, the judge shall make an order requiring all persons interested in any such estate to appear before him, at a day therein named, to show cause why the record should not be restored; but no such hearing shall be had till said order has been published, at least six successive weeks, in some newspaper published within the county of Sheboygan.

Duty of Co. judge on hearing.

SEC. 4. If it shall appear upon the hearing, to the satisfaction of the judge, that the guardian, executor, or administrator, filing the petition, has fully discharged the duties of his trust, the judge shall enter a certificate of the facts upon the records.

When county judge shall require new bonds.

SEC. 5. If it shall appear that such guardian, executor, or administrator, has not fully executed his trust, the judge shall make an order requiring him to give a new bond, in such sum, and with such sureties, as said judge may direct and approve, conditioned for truly accounting for all moneys and assets which have come into his hands, as such guardian, executor, or administrator, and otherwise, pursuant to the Statute, in case of an original bond; and upon filing such bond, such other and further proceedings may be had, as if no previous appointment had been had, except as hereinafter provided.

When claims have been allowed.

SEC. 6. Whenever any claims have been allowed by the judge or commissioners, and paid by the executor, or administrator, no further proceedings shall be had in relation thereto; but if the claims have not been actually paid, the same proceedings shall be had as if no action had been taken.

Certified copy of copy of or-

SEC. 7. Whenever a certified copy of an order for the conveyance, by an executor or administrator, of lands,

held under contract, or a certified copy of the record thereof in the office of the register of deeds, in any county in this State, shall be produced to said court, the same shall be recorded, and when so recorded, shall be *prima facie* evidence that the order was duly made. der to be recorded.

SEC. 8. In any matter in which application shall have been made to said court, prior to the destruction of said records, by any guardian, executor, or administrator, for license to sell real estate, and no confirmation of sale New application to sell real estate may be granted. shall have been made, such application, and all proceedings thereon, shall be dismissed upon a new application being made.

SEC. 9. If any guardian, executor, or administrator, shall neglect or refuse, for the space of twenty days, to give the bond, as provided in section five of this chapter, he may be removed from said trust, without further notice, and a new guardian, administrator with the will annexed, or administrator, may be appointed. Guardian may be removed for failure to give bond.

SEC. 10. If any guardian, executor, or administrator, shall neglect, or refuse, to petition the court for the space of two weeks after application to him, in writing, by any person interested, either in his own behalf, or in behalf of any minor, for the restoration of the records, as provided in section second of this chapter, the judge shall make an order, removing such guardian, executor, or administrator, and shall appoint some suitable person guardian, administrator with the will annexed, or administrator, in place of such removed guardian, executor, or administrator, and the guardian, executor, or administrator, neglecting or refusing to act, in the manner provided in this chapter, after the notice aforesaid, shall be responsible to his successor for all moneys and estate, of whatever nature or kind, which may have come into his possession as such guardian, executor, or administrator, and shall be allowed nothing for service heretofore rendered, or any sums he may claim to have disbursed as such guardian, executor, or administrator. Guardian, &c, may be removed for refusal to notice records.

SEC. 11. All deeds of land purporting to have been executed by any guardian, executor, or administrator, prior to the first day of January, one thousand eight hundred and sixty, and which shall have been acknowledged prior to that date and duly recorded, or which shall hereafter be recorded, shall, to all intents and purposes, have the same effect as if the orders and proceedings of the county court were in being, and the deeds shall be Deeds of land.

*prima facie* evidence of the regularity of all proceedings prior to and including the sale and confirmation thereof.

In cases of final decree. SEC. 12. In all cases where there has been a final decree, or order in any matter before the county court and a certified copy of the same is produced to the judge of said court, he shall enter the same of record, and said order or decree shall have the same force and effect as the original order or decree, and as if all the prior proceedings were of record, and the same shall be *prima facie* evidence of the regularity of all proceedings prior to granting the same.

In cases where dower has been assigned. SEC. 13. In all cases where dower has been assigned, or partition of real estate made, by direction of the county court, the papers relating thereto, entitled to record in the office of the register of deeds, or a certified copy of the record thereof, when produced to said court, shall be recorded, and when so recorded, the record thereof shall have the same force and effect, as if the proceedings upon which they are predicated had not been destroyed, and shall be *prima facie* evidence of the regularity of all prior proceedings in the case.

In case of death of guardian, &c. SEC. 14. In case of the death of any guardian, executor, or administrator, the petition to be made by such guardian, executor, or administrator, shall be made by the executor or administrator of such deceased guardian, executor [executor] or administrator, and in case he neglects and refuses to make such petition, it shall be the duty of the county judge to remove him from his trust, and appoint some other person in his place.

The county judge to draft papers. SEC. 15. The county judge is hereby authorized to draft all papers made necessary by this chapter, and he shall be entitled to the same fees for such services and for all other services which he may perform in restoring the records of said court, as are now allowed by law for similar services; and the same, together with all fees for printing, necessary in restoring said records, shall be audited by the county board, and paid out of the county treasury.

SEC. 16. This act shall take effect and be in force from and after its passage.

Approved March 9, 1860.

## ERRATA.

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- Page 77, chapter 89, third line of section, for "thereafter," read "hereafter."  
86, chapter 93, subdivision III., Sec. 6; insert "before" after "had," in  
last line of said section.  
154, chapter 174, Sec. 5, first line, for "133," read "183."  
228, chapter 254, insert enacting clause—omitted.  
352, chapter numbered 342, should be 343.  
388, chapter 375, last line of Sec. 2, for "fifty," read "fifteen."  
378, chapter 368, for "4," read "2," in No. of second section.