

No. 667, A.]

[Published July 17, 1919.

CHAPTER 550.

AN ACT to amend subsections (3) and (4) of section 20.01 of the statutes, relating to the compensation of the chief clerks and sergeants at arms and making an appropriation.

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

SECTION 1. Subsections (3) and (4) of section 20.01 of the statutes are amended to read: (20.01) (3) To the chief clerk of the senate, and of the assembly, each, one thousand *five hundred* dollars for the regular session, payable one-half at the beginning and one-half at the end of the regular session; * * * *twelve* dollars per day for any special session, and fifty dollars for service at the opening of the succeeding regular session.

(4) To the sergeant at arms of the senate, and of the assembly, each, * * * *one thousand two* hundred dollars for the regular session, payable one-half at the beginning and one-half at the end of the regular session and * * * *ten* dollars per day for any special session.

SECTION 2. This act shall take effect January 1, 1921.

Approved July 10, 1919.

No. 496, S.]

[Published July 17, 1919.

CHAPTER 551.

AN ACT to renumber and amend the numbers and titles of chapters 45o and 45p of the statutes relating to towns and to amend, revise and consolidate the sections of said chapters.

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

SECTION 1. The numbers and titles of chapters 45o and 45p are consolidated and revised to read:

CHAPTER 60.

TOWNS.

SECTION 2. Section 773 of the statutes is renumbered to be section 60.01 and amended to read:

60.01 CORPORATE POWERS. * * * Each organized town is * * * a body corporate and empowered to sue and be sued; to purchase, take and hold real and personal property for public uses and convey and dispose of the same; and to make all contracts necessary and convenient for the exercise of its corporate powers and any order for the sale or

disposal of its corporate property which the inhabitants thereof may deem expedient. It shall be designated in all actions and proceedings by its name as "town of. . . ."

SECTION 3. Sections 780, 774, and 775 of the statutes are renumbered respectively to be sections 60.02 COUNTY, WHEN A TOWN, 60.03 CONVEYANCES TO TOWNS, and 60.04 SALE OF REALTY.

SECTION 4. Sections 671, 671a, 672 and 673 of the statutes are consolidated, renumbered and amended to read:

60.05 ORGANIZATION OF NEW TOWNS, DIVISION, DISSOLUTION. (1) CONDITION, NOTICE. * * * When thirty or more freeholders, residents of any town, and at least one-third of the * * * electors thereof, shall petition the county board *to divide, or to dissolve* * * * such town, and * * * shall, at least twenty days before the next annual * * * meeting, file a copy of such petition with the town clerk * * * he shall, at least ten days before such town meeting, give notice that the question of * * * division, *or of dissolution, as the case may be*, of such town will be voted upon *by ballot* at such meeting, by posting, *upon the question of division*, notice * * * thereof, showing the manner in which it is proposed to divide such town, in four public places in each proposed subdivision thereof, and *upon the question of dissolution, notice thereof in four public places in such town.* * * *

(2) VOTE HOW TAKEN; DUTY OF TOWN CLERK. * * * *The ballot upon the question of division shall contain the words "for division" and "against division."* The electors * * * residing in each * * * proposed subdivision * * * shall vote separately. *The ballot upon the question of dissolution shall contain the words "for dissolution" and "against dissolution."* * * * If a majority of the votes cast in either subdivision shall be in favor of division, *or if a majority of the votes cast upon the question of dissolution shall be in favor thereof*, the town clerk shall certify the fact to the county clerk, and thereupon the county board shall have power to divide *or dissolve* such town accordingly.

(671) (3) LIMITATIONS. * * * No town shall be divided so as to constitute or leave any town, * * * *not having fifty electors, and real estate valued at the last preceding assessment at one hundred thousand dollars or more, of less than thirty-six sections in area.*

(671) (4) VALIDITY; HOW TESTED; WHEN PRESUMED. * * * *The validity of the proceedings to constitute or divide any town shall not be questioned in any manner, except by certiorari, or*

proceeding brought directly for that purpose by the proper officer or some person owning taxable property in any such town within one year from the date of the order constituting or dividing such town, and every town which shall have exercised the powers and functions of a town for a period of one year shall be conclusively presumed to have been duly organized.

(5) CREDITS; INDEBTEDNESS; APPORTIONMENT OF. * * * Whenever the county board shall form a new town from parts of a town or towns * * * the boards of all of said * * * towns * * * shall meet in joint session at the time and place fixed by the county board in its ordinance of division and apportion to the new town its pro rata share of credits and indebtedness of the town or towns from which it was detached according to the last assessment rolls of said town. The new town shall receive its just share of credits so apportioned and shall pay its portion of the indebtedness at such times as the same shall become payable and the town board of the new town shall levy the necessary tax to pay the same on all the taxable property in the town. * * *

(6) PLAT AND RECORD. * * * Whenever any county board shall organize a new town or alter the boundaries of any town, they shall cause a plat and record thereof to be made by the county clerk, specifying the name and boundaries of such town, which plat and record shall be kept in the office of such clerk.

SECTION 5. Sections 775a, 775b, 775c, 775d, 775e, and 775f of the statutes are renumbered to be section 60.06 and are revised and consolidated to read:

60.06 ORGANIZATION OF TOWNS IN SPECIAL CASES.

(1) REQUISITE CONDITIONS. Any government township, or any two or more contiguous fractional government townships bordering on any of the Great Lakes, being part of any town or towns, equal in area to at least a government township lying within the same county, having at least thirty-five resident freeholders or homesteaders, at least twenty of whom are electors who have resided within such territory for at least one year prior to the verification of the petition referred to in this section, and an assessed valuation of at least one hundred thousand dollars according to the last preceding assessment, may be organized into a town, where the remaining area of any town of which such proposed town forms a part is not less than thirty-six square miles, and has not less than fifty resident electors and an assessed value of not less than one hundred thousand dollars according to the last preceding assessment.

(2) PETITION; PUBLICATION. A petition signed by a majority of the electors and a majority of the resident freeholders and

homesteaders of proposed town showing the existence of facts entitling such territory to be organized as a town and containing an accurate description of such territory, the name of the town or towns of which it forms a part, the names of the electors, and the proposed name of the new town verified by at least three signers, shall be presented to the circuit court, or the presiding judge thereof, of the county in which such territory is located, who shall thereupon by order fix the time and place for the hearing of the petition by said court, and direct that a copy of the petition and order be served upon the clerk of the town or towns of which such territory forms a part, at least fifteen days before the hearing and that notice of such hearing be published once a week for three successive weeks in a newspaper designated as most likely to give notice to the people of such territory. No formal answer to the petition need be filed.

(3) **EXPENSE; HEARING.** The court shall hear any elector or taxpayer of such territory, or of any town of which such territory is a part who may appear at the hearing and may adjourn the hearing from time to time and refer any issue of fact. The fees and expenses of the referee shall be fixed and apportioned by the court after the trial of any such issue and paid by the town or towns of which such territory is a part as apportioned thereto by the court.

(4) **ORDER CREATING.** If the court after such hearing shall find the facts necessary for the organization of such territory into a town, it shall enter an order creating such territory into a town under the name proposed in the petition and providing for the place of holding the first annual meeting.

(5) **INDEBTEDNESS; APPORTIONMENT OF.** The credits and indebtedness as between the town so created and the town or towns of which it was formerly a part shall be apportioned according to the provisions of subsection (5) of section 60.05.

(6) **REMAINDERS OF OLD TOWN.** Whenever the remaining territory of any town out of which a new town is organized, shall be divided into two detached parts by the organization of the new town, that part thereof with the least number of electors shall be attached to and become a part of the new town.

SECTION 6. Sections 782, 784, 785, 786, 787, 788, 789, and 790 of the statutes are respectively renumbered to be sections 60.07 ANNUAL TOWN MEETING, 60.08 ADJOURNMENT FROM PLACE TO PLACE, 60.09 ADJOURNMENT FROM TIME TO TIME, 60.10 FIRST MEETING IN NEW TOWN, 60.11 PROCEEDINGS, 60.12 SPECIAL TOWN MEETINGS,

60.13 NOTICE OF SPECIAL TOWN MEETINGS, and 60.14 WHO TO PRESIDE.

SECTION 7. Section 792 of the statutes is renumbered to be section 60.15 and is amended to read:

60.15 CHAIRMAN'S POWERS. * * * The chairman of each town meeting shall regulate its proceedings, decide all questions of order and make public declaration of all votes passed; he shall possess authority to enforce obedience to his lawful requirements; and if any person at such meeting shall conduct himself in a disorderly manner, and after notice from the chairman shall persist therein, the chairman may order him to withdraw from the meeting, and on his refusal may order any constable or other person to take him into custody until the meeting shall be adjourned. He shall have the same authority to preserve order and enforce obedience as is possessed by the * * * inspectors of election at a general election.

SECTION 8. Sections 793 and 795 of the statutes are respectively renumbered to be sections 60.16 CLERK OF MEETING and 60.17 ORDER OF BUSINESS.

SECTION 9. Section 776 of the statutes is renumbered to be section 60.18 and is amended to read:

60.18 POWERS OF TOWN MEETING. * * * The qualified electors of each town shall have power at any annual town meeting by vote:

(1) **RAISING MONEY; LIMITATIONS.** To * * * raise money for the repair and building of roads or bridges, or either; for the support of the poor and defraying all other charges and expenses of the town, * * * *not exceeding in the aggregate, exclusive of taxes for schools and liabilities theretofore lawfully incurred and not including income taxes in the treasury, one per centum of the assessed valuation of such town for the preceding year as equalized by the town board of review; except that an additional sum not exceeding one-fourth of one per centum of said valuation may be raised for the repair of highways and bridges; and a further additional sum not exceeding two per centum of said valuation may be raised for school purposes when under the township system of school government.*

(2) **ACTIONS.** To direct the institution and defense of all actions in which the town is a party or interested; to employ all necessary agents and attorneys for the prosecution or defense of the same, and raise such sums of money for that purpose as they may deem proper.

(3) **POLICE REGULATIONS.** To make * * * orders and by-laws for the management of all the affairs of the town

* * * conducive to the peace, welfare and good order thereof;
 * * * to restrain drunkenness or disorderly conduct,
 * * * *to restrain cattle, horses, sheep, swine and other animals from going at large on the highways; * * * to provide for the impounding and sale of any animals so going at large contrary thereto, and to fix penalties for the violation of said orders and by-laws, not exceeding ten dollars for any one violation thereof.*

(4) NOTICE; PUBLICATION OF. No order or by-law shall take effect before the same shall be published by posting up copies in three of the most public places in the town; and such by-laws and orders, when so published, shall be binding upon all persons coming within the town as well as upon the inhabitants thereof, and shall be in force until altered or repealed at some subsequent town meeting. * * *

(5) INDEBTEDNESS. To direct the compromise or settlement of any legal indebtedness, outstanding bonds or other obligations, or of any suit or controversy existing against such town, and to provide how the money necessary for that purpose shall be raised, and for that purpose may authorize the town board to issue the bonds or obligations of such town, not exceeding the amount of such indebtedness, and to negotiate the same either directly in settlement of such indebtedness or in raising money to settle and pay the same.

(6) DESTITUTE SOLDIERS. * * * *To raise money for the support of destitute soldiers and their families, not exceeding one hundred fifty dollars for any one person, to be expended under the direction of the town board.*

(7) BONDS FOR BRIDGES AND ROADS. To authorize the town board to issue, *in the manner provided by law*, and negotiate, bonds of the town, not exceeding five thousand dollars in the aggregate, for the purpose of defraying the expenses of building any bridge over any stream in such town, when the cost thereof shall exceed the sum of two thousand dollars; to authorize the town board to issue and negotiate bonds of the town, not exceeding ten thousand dollars in the aggregate, for the purpose of defraying the expenses of building roads. Such bonds may be made payable at different times, not, however, to exceed ten years from the date thereof, with interest. The powers conferred by subsection * * * and * * * *this subsection shall not be exercised at any such town meeting unless the town board shall have given notice of their intention to present the proposition to such meeting as is required in case of special town meetings, nor unless a resolution or order to be voted upon containing*

the particulars required by section * * * 60.63 shall be first publicly read to such meeting before the vote shall be taken, nor in case of this * * * subsection unless seventy-five per cent of the electors present at such meeting shall have voted in favor of such resolution or order.

(8) **LANDMARKS.** * * * *To provide for the erection of landmarks at section corners and quarter stakes when notice of proposed action shall have been previously given as required by law for holding special town meeting.*

(9) **HIGHWAY TAX.** * * * *To provide that highway taxes be paid in labor, when a petition signed by not less than twenty electors and freeholders, requesting that the electors at such town meeting vote on the question that highway taxes shall be paid in labor, shall have been, fifteen days prior thereto, filed with the town clerk and notice of the submission of such question to the electors posted by such clerk in three public places in the town at least ten days prior to the day of such meeting. When highway taxes shall have been made payable in labor they shall remain so payable until the electors, shall, upon like petition and notice, decide to pay them in money.*

(10) **BUILDINGS.** To * * * *raise money to purchase or build a town hall or other building for the use of the town, or * * * to unite the same with the money of any * * * corporation or society doing business or located in such town, for the purpose of building or purchasing such hall or * * * building; but no such vote shall be taken * * * except by ballot nor unless a request in writing signed by at least twelve freeholders of such town shall have been delivered to the town clerk twenty days before the holding of such meeting, asking that such proposition be submitted to a vote of the electors of the town at such town meeting, and setting forth the amount of money which they desire shall be raised by the town for that purpose and whether the same shall be raised by direct tax or the issue of * * * bonds, * * * and if the proposition be to issue * * * bonds it shall state the denomination thereof, the time and place of the payment of the principal and interest, and the manner in which and by whom the same shall be negotiated; and if to be raised for the purpose of uniting the same with the money of some * * * corporation or society, the name of such corporation or society; nor unless the town clerk shall have given notice as is required in the case of a special town meeting that such proposition would be voted upon at such meeting. Whenever the voters of any town * * * shall have voted money to build a town hall in the manner provided by law, the board of super-*

visors of such town or towns are * * * authorized to accept in the name of the town, any contributions offered of money, labor or locations.

(11) SALE OF PROPERTY. To authorize the town board to sell and convey any real or personal property belonging to the town not donated to and required to be held by the town for a special purpose.

(12) CEMETERIES. To instruct by vote the town board to purchase grounds for one or more town cemeteries, to limit the price to be paid and to raise * * * money by *taxation* for the payment thereof.

(13) ACQUIRING WOOD LOT. * * * To authorize the town board to acquire by purchase or otherwise a sufficient tract of land to be used, preserved and reforested * * * as a wood lot, * * * under regulations approved by the state * * * conservation commission; and to authorize the sale of said tract.

(14) TOWN BOARD TO EXERCISE POWERS OF VILLAGE BOARDS; WHEN. * * * To direct, by resolution, the town board in towns having a population of not less than five hundred, and having therein, one or more unincorporated villages, to exercise all powers relating to villages and conferred on village boards by chapter 61 of the statutes, except such power, the exercise of which would conflict with the statutes relating to towns and town boards. Any such resolution heretofore adopted pursuant to existing law or hereafter adopted pursuant to this law, shall remain in force until rescinded.

(15) TOWN ORDERS. * * * To * * * determine the rate of interest, if any, * * * town orders * * * shall draw, * * * which shall not * * * be less than six nor more than eight per centum per annum.

(16) PURCHASE OF LAND ACCESS TO WHICH MAY BE COSTLY. * * * To authorize the purchase of any lands within such town lying in such a position that the cost to the town of constructing and maintaining roads, bridges and other means of access thereto will in the near future exceed the purchase price of such lands; and to provide how the money necessary for such purchase shall be raised, and to authorize the town board to issue bonds or obligations of such town in an amount not exceeding such purchase price, and to negotiate such bonds or obligations either directly in payment of such purchase price, or in raising money to make such payment.

SECTION 10. Sections 808 and 808a of the statutes are renumbered to be section 60.19 and are consolidated and revised to read:

60.19 ELECTION OF OFFICERS. At the annual town meeting there shall be elected in each town the following officers, viz.: Three supervisors, one of whom shall be designated on the ballots as chairman, unless changed by section 663 of the statutes, a town clerk, a treasurer, an assessor (either two or three, if the town board at their last meeting before such election shall have so ordered), one justice of the peace, and in towns containing a village, or city of the fourth class, wholly within its limits a justice of the peace residing within such village or city who shall have jurisdiction throughout the county, so many constables, not exceeding three, as shall have been ordered by the last preceding annual town meeting. In all counties which contain a population of not less than one hundred thousand, such election shall be held biennially in the even-numbered years, and town officers shall hold office for two years. No person not an elector of the town shall hold any town office, and no person shall hold the offices of treasurer and assessor at the same time.

SECTION 11. Sections 809, 810, and 811 of the statutes are renumbered to be sections 60.20, 60.21, and 60.22, respectively, and are amended to read:

60.20 NOTICE OF ELECTION; OFFICIAL OATH.

* * * within five days after the election of any town officer
 * * * the town clerk shall transmit a notice thereof to the person elected, unless he voted at the meeting; and every person elected or appointed to any town office, except justices of the peace, shall, within ten days after his election or appointment, or notification thereof, if required, * * * take and * * * file * * * *the official oath.* * * * The neglect to file such oath, or an official bond when required, within the time prescribed therefor shall be deemed a refusal to serve in such office.

60.21 OFFICIAL BONDS. * * * Every *official* bond required of a town officer shall be * * * in such sum, when no other provision is made, as shall be fixed by the town board therefor, and if none be fixed, then in the sum of the bond of the last incumbent of the office; shall have at least two sufficient sureties to be approved by the chairman in writing thereon, and * * * whenever the town board shall deem any bond insufficient they may require an additional bond to be made and filed in a sum, and within a time not less than ten days, to be fixed by them.

60.22 TERM OF OFFICE. * * * Every town officer elected at the annual *town* meeting, except as provided in section * * * 60.19 and excepting justices of the peace, shall hold his

office for one year, and * * * until his successor is elected and qualified. * * *

SECTION 12. Sections 812, 813, 814, 815, and 816 of the statutes are renumbered respectively to be sections 60.23 FAILURE TO GIVE BOND OR TO ACT, 60.24 CONTINUANCE OF JUSTICES IN NEWLY ORGANIZED TOWNS, 60.25 TERMS DECIDED BY LOT, 60.26 SAME, and 60.27 CERTIFICATE OF RESULT.

SECTION 13. Sections 783 and 817 of the statutes are repealed.

SECTION 14. Section 818 of the statutes is renumbered and amended to read:

60.28 REFUSALS TO SERVE; TEMPORARY DISABILITY. * * * If the treasurer-elect refuses to serve or the office * * * becomes vacant, or if he shall be unable for any cause to perform his official duties, the town board shall forthwith appoint a treasurer for the remainder of such term; and such appointment shall not exonerate the former treasurer or his sureties from any liability incurred. If *the incumbent of any other town office, except that of justice of the peace,* * * * shall from any cause be unable to perform his official duties, the town board may appoint a suitable person to discharge the duties of such office until the * * * disability is removed. The appointee * * * shall file an oath of office and give the like bond required of the officer in whose place he is appointed and within the time hereinbefore prescribed.

SECTION 15. Section 819 of the statutes is renumbered and amended to read:

60.29 TOWN BOARDS; POWERS. * * * The supervisors of each town shall constitute a board to be designated the "town board of . . ." any two of whom shall constitute a quorum, except when otherwise provided by law, and the chairman may administer oaths and affidavits in all matters pertaining to the affairs of the town. *Meetings of the board shall be held in the town or in any village or city within or adjoining the town.* Such board is empowered and required:

(1) To have charge of all the affairs of the town not by law committed to other officers.

(2) To draw all orders for the payment of money out of the town treasury for purposes allowed by law, except for the support of schools;

(3) To procure legal advice when needed in the conduct of the town affairs and employ counsel for that purpose;

(4) To have charge of all actions to which the town is a party;

(5) To demand payment into the town treasury of all penal-

ties and forfeitures recoverable by the town, and all damages suffered by the town by breaches of official bonds, by injuries to its property or by other injuries; and, in case of failure to comply with such demand, to bring and prosecute proper actions or proceedings to recover the same;

(6) To designate and cause to be recorded by the town clerk the boundaries of any unincorporated village located within the town;

(7) To appoint, * * * when the public good requires it, not exceeding three policemen, one superintendent of police and one night watchman, for service in the village;

(8) To appoint policemen, a superintendent of police and a night watchman for service at any other place in the town when needed to protect persons or property or to preserve order at any assemblage for moral, religious or educational purposes;

(9) To adopt by-laws, when needed, to regulate the conduct of * * * policemen, superintendents of police and night watchmen and to restrain drunkenness, disorderly conduct and the careless use of firearms; and fix a penalty not exceeding ten dollars for each violation thereof; *but such by-laws shall be published in the manner prescribed for the publication of by-laws adopted by town meetings and shall have the same effect as such by-laws;*

(10) To purchase a fireproof safe for the use of the town clerk whenever chattel mortgages securing the payment of one thousand or more dollars are filed with such clerk;

(11) To provide, by contract or otherwise, for the lighting, when necessary to facilitate public travel, of the principal improved highways of the town, and of bridges located thereon;

(12) *To purchase for the use of town officers such handbooks or manuals relating to their powers and duties as the board shall deem of material assistance to such officers in the performance of their duties.*

(13) *To exercise powers relating to villages and conferred on village boards when lawfully authorized so to do by resolution of the town meeting adopted pursuant to subsection (14) of section 60.18;*

(14) *To appoint a superintendent or superintendents of highways;*

(15) *To suppress mountebanks;*

(16) *To suppress, or license and regulate the keeping of billiard tables, pool tables, pigeonhole tables and bowling alleys for hire or gain, the term of any such license not to extend beyond*

the date of the next town meeting, fix the license fee, and to revoke any such license for cause, and any person operating without a license or violating any regulation made by the town board shall forfeit to the town not exceeding fifty dollars nor less than ten dollars, or, in default of payment thereof, be imprisoned in the county jail for a term not exceeding six months;

(17) To grant to any adjoining city or village permission, in the extension of its water or sewerage systems, subject to the rights of abutting property owners, to lay and maintain water mains and sewers in any street or highway in the town, and no abutting property owner who is permitted to connect with and use any such water main shall be deprived of the use thereof, except as to the use of water for nonpayment of water charges, without the consent of the town board;

(18) To borrow money, when authorized at the last preceding town meeting, not exceeding the amount appropriated at such meeting, at a rate of interest not to exceed eight per centum per annum, to pay town orders which may be drawn upon the town treasurer and to direct the town chairman and clerk to issue negotiable promissory notes of the town therefor, payable not later than the first day of March following the date of their issue;

(19) Each officer appointed under the provisions of this section shall possess and may exercise all the powers possessed by the same officer in villages incorporated under general law.

(20) The town board of every town in counties having a population of one hundred and fifty thousand or more are hereby authorized upon petition of two-thirds of the property owners in a block to build and construct water mains and sewers along the streets on which such blocks abut and adjoin and to assess property abutting and adjoining upon such streets for the cost thereof.

SECTION 16. Sections 797, 819a, 819c, 819d and 822a of the statutes are repealed.

SECTION 17. Sections 819b and 819m of the statutes are consolidated and revised to read:

60.30 SEWERS. The town board, may, whenever they may deem it necessary for the public health, cause a sewer or sewers to be constructed and maintained in any part of the town where an outlet can be obtained into any sewerage system and alter or repair any sewer so constructed within the town, and in so doing such work the town board shall proceed in accordance with sections 925—208 to 925—222, inclusive, so far as the same may be applicable and for the purpose of this section the town

board shall have and may exercise all the powers conferred by said sections upon the common council and board of public works of cities. Any notice therein required shall be given by posting such notice in three public places in said town for two weeks or by publication thereof for two weeks successively in any newspaper in said town.

SECTION 18. Sections 819e and 819f of the statutes are consolidated, revised and renumbered to read:

60.31 SIDEWALKS. The town board may cause sidewalks to be constructed upon a petition of a majority of the owners of frontage on either side of any part of a highway who own one-half or more of the frontage of property abutting upon that portion of the highway on which it is proposed to build such sidewalks and may cause any sidewalk to be repaired or replaced without any petition pursuant to the provisions of sections 909a, 909b, and 909c. The provisions of said sections are made applicable to towns except that the superintendent of highways shall serve the required notice upon the abutting property owners.

SECTION 19. Section 820 of the statutes is renumbered and amended to read:

60.32 AUDITING ACCOUNTS; MEETINGS FOR; VACANCIES ON BOARD. * * * The town board shall meet * * * on the Tuesday next preceding the annual town meeting and also on the first Tuesday of December, *and at such other time or times as they shall deem necessary* to audit and settle all charges against the town; and if the three supervisors be not present the chairman, or in his absence, either of the other supervisors attending, shall call one or more justices of the town to act instead of the absent supervisor or supervisors, and if any such vacancy cannot be filled by reason of there being no legally qualified justice or justices of the peace in said town, then said vacancy may be filled by selecting a qualified elector or electors thereof. And said elector or electors if so chosen shall take and *file* * * * the usual oath of office, so as to make a board of audit composed of three. * * * No such special meeting shall be held unless notice of the same shall be given to each supervisor at least two days prior to the time fixed therefor, and none but supervisors shall act on the board of audit at such special meetings.

SECTION 20. Sections 821, 822, 823 and 824 of the statutes are renumbered respectively to be sections 60.33 DUTIES OF BOARD OF AUDIT, 60.34 REPORT TO BE READ, 60.35 NUMBERING AND CONTENTS OF TOWN ORDERS, and 60.36 FILING CLAIMS; DEMAND ON ORDER.

SECTION 21. Sections 824a, 824b, 824c, 824d, 824e, 824f and 824g are transferred to Chapter 64i entitled "Highways and Bridges" and renumbered respectively to be sections 1244—1, 1244—2, 1244—3, 1244—4, 1244—5, 1244—6 and 1244—7.

SECTION 22. Sections 825 and 825m of the statutes are consolidated and renumbered to be section 60.37 and revised to read:

60.37 LANDMARKS. Whenever a town meeting shall have lawfully ordered the erection of landmarks the town board shall procure a sufficient number of monuments of stone or other durable material, each not less than three feet in length and six inches square, and either all dressed, with perpendicular sides and a square, flat top having engraved therein a cross formed by lines connecting the corners of said top, or having engraved on the top of such as shall be set at section corners the number of each section for which such monument forms a landmark in figures, and those set for quarter posts " $\frac{1}{4}$ S.," as the board shall order; or, when authorized by resolution adopted by the town meeting, of three inch iron pipes not less than one-quarter inch in thickness, and three feet long, either galvanized or coal charred to prevent rust, and having screwed to the top thereof a flat plate likewise engraved, with a suitable plate or anchor at the lower end, and shall also contract with the county surveyor or any competent surveyor for the survey of all the sections of said town and the erection of such monuments, one at each section corner and one at each external quarter-section corner in said town; each to be set two and one-half feet in the ground, except when in highways, when the top shall be made even with or below the surface. Such surveyor shall, before the signing and delivery of such contract, give a bond to the town in the sum of three thousand dollars, with sufficient sureties to be approved by the board, conditioned that he will make a correct and true survey of all the sections in said town and cause landmarks to be set permanently at the section and quarter-section corners as established by United States survey, and faithfully perform such work and the duties imposed upon him according to law.

SECTION 23. Sections 826 and 827 of the statutes are renumbered respectively to be sections 60.38 **MINUTES OF SURVEY; LOCATION OF LANDMARKS,** and 60.39 **LOCATION OF SECTION CORNERS.**

SECTION 24. Section 827a of the statutes is renumbered to be section 60.40 and subsection (1) thereof is revised to read:

60.40 RELOCATION AND PERPETUATION OF SECTION CORNERS. (1) Whenever the majority of the owners of land in any section residing thereon shall request in writing

the county surveyer to establish, relocate or perpetuate any sectional or other corner or division line thereof, he shall file such request in his office and shall within a reasonable time give notice to the owners of all the adjoining land of the day and hour when such survey will be started by serving, at least ten days prior thereto, written notice thereof on all such owners who reside in the county and upon all other owners by publishing such notice in the weekly newspaper published nearest to such land for three successive weeks prior to the date so fixed and shall proceed with the survey at the time designated in the notice. If a corner is to be perpetuated he shall deposit in the proper place a stone or other equally durable material prepared, marked and of the dimensions prescribed in section 60.37. He shall make a certificate setting forth full and correct minutes of the survey, giving the description and exact bearing and distance of one or more trees, if there be such, from each corner located, or if there be no trees, of one or more suitable stones deposited at sufficient depth as witnesses to such corner. Such certificate shall be recorded in the office of the register of deeds.

SECTION 25. Sections 828 and 829 of the statutes are renumbered respectively to be sections 60.41 LANDMARKS EVIDENCE and 60.42 EXPENSE, HOW PAID.

SECTION 26. Sections 829o and 829p of the statutes are repealed.

SECTION 27. Sections 830 and 831 of the statutes are renumbered and amended respectively to read:

60.43 TOWN CLERK'S BOND. * * * Every town clerk shall * * * *execute and file an official bond.* * * *

60.44 DEPUTY; DUTIES. * * * Each town clerk may appoint a deputy for whom he shall be responsible, who shall take and file the *official* oath, * * * and in case of the absence, sickness or other disability of the clerk shall perform his duties and receive the same compensation unless the town board shall appoint a person to act as clerk.

SECTION 28. Sections 832 and 832m of the statutes are consolidated, renumbered and amended to read:

60.45 DUTIES OF CLERK. * * * It shall be the duty of the clerk:

(1) To act as clerk of all town meetings, perform all the duties of clerk of election and keep faithful minutes of all the proceedings, and record such minutes and enter at length every order, resolution or direction and all rules and regulations made by the meeting in the book of town records; and if in his ab-

sence another person shall have acted in his stead, to record the minutes taken by him of the proceedings.

(2) To transmit to the county clerk within ten days after any town meeting a certified statement of all town officers elected at the same, showing the post-office address of the chairman, treasurer, assessor and town clerk, and promptly to notify him of any subsequent changes in either of said last-named offices, and to notify the persons elected when required by section * * * 60.20.

(3) To forthwith notify the county treasurer of the appointment by the town board of any town treasurer.

(4) To transmit to the clerk of the circuit court, immediately after the election or appointment of any justice of the peace in his town, a written notice, stating the name of each such justice and the term for which he was elected or appointed, and when to fill vacancy, who was the last incumbent of the office, and likewise the name of every constable after he shall have qualified. * * *

(5) To record every request for any special vote or any special meeting, and to properly post the requisite notices thereof as required by law.

(6) To post up, in at least three of the most public places in the town, fair copies of all by-laws made by the town, and enter over his hand in the town records, in connection with such by-laws, the time when and the places where the same were posted.

(7) To act as clerk of the town board, to keep and record faithful minutes of their proceedings, and to enter at length every vote, order, direction, resolution or regulation made by the board or by the supervisors in their official capacity, and to file all accounts audited by the board or allowed at town meeting and enter a statement thereof in the book of records.

(8) To furnish to the town board of audit at the annual meeting every statement received from the county treasurer of money paid to the town treasurer and all other information respecting the fiscal affairs of the town in his possession, and all accounts, claims and demands against the town filed with him.

(9) To have the custody and to safely keep all accounts, oaths of office, bonds, chattel mortgages, records, files, papers and property received from his predecessor or other persons and required by law to be deposited in his office, and all books, records and papers of the town not otherwise provided for by law, and to deliver all the same to his successor; and if the town board has provided a fireproof safe for his use, to keep therein all bonds, records, chattel mortgages, books, papers and documents in his

custody as clerk which the capacity of such safe will permit, and securely lock such safe at all times when it is not necessary that it be unlocked, and for each failure to so use and lock the same he shall forfeit to the town not less than ten dollars nor more than one hundred dollars; he shall also permit any person with proper care to examine any such books, records and papers and make and certify a copy of any thereof when required, on payment of his fees therefor.

(10) To file, when presented, all chattel mortgages and affidavits relating thereto, and to enter at the time of filing, in a book properly ruled and kept therefor, the names of all the parties, arranging mortgagors alphabetically, the date of each mortgage and the date of filing the same, and of each affidavit relating thereto; to file, keep and index in like manner conditional contracts for the sale of furniture or other household effects, when presented.

(11) To demand and obtain the official books and papers of any justice of the peace when his office shall become vacant and his successor be not elected or appointed and qualified, or when any justice of the peace shall die, and dispose of the same as required by law.

(12) To post copies of the report of the town board to the annual town meeting on the morning of the day of such meeting in three public places as convenient as possible for the examination thereof by the electors.

(13) To read to the people assembled at the annual town meeting, at the time fixed for the transaction of town business, the provisions of these statutes relating to the protection of life and property against forest fires.

(14) * * * To report to the county superintendent within ten days after his election or appointment his name and post-office address, and likewise the name and post-office address of each district clerk within ten days after the same are filed in his office.

(15) * * * To record such description of school districts, and such orders concerning the organization, alteration or dissolution thereof as shall be made by the town board.

(16) * * * To make and keep in his office a map of the town, showing the exact boundaries of all the school districts therein as appear from the records on file, and when a new district is formed to make and furnish a map thereof to the district clerk.

(17) * * * To apportion the school money collected by the town and that received from the state for the several school

districts of the town on the third Monday of March each year, or as soon as the same shall be collected or received by the town treasurer, to the several districts and parts of districts within the town as provided in these statutes.

(18) * * * *To make and transmit* * * * on or before the first day of August in each year, * * * to the county or district superintendent of the county or district in which his town is situated two copies of a report, stating the whole number of school districts separately set off within the town, and the number of parts of joint districts in which the schoolhouses belonging thereto are located in his town.

(19) *To issue licenses, when granted by the town board, upon the presentation to him of the town treasurer's receipt for the prescribed fee.*

(20) * * * To perform the duties required in title two respecting elections; * * * in title six, respecting public instruction; and title fourteen, respecting highways, * * * bridges and drains, and such other duties as may be required by law.

SECTION 29. Sections 832n of the statutes is repealed.

SECTION 30. Sections 833 and 834 of the statutes are respectively renumbered to be sections 60.46 DELIVERY OF PAPERS TO CLERK OF NEW TOWN and 60.47 CLERK'S FEES.

SECTION 31. Section 835 of the statutes is renumbered and amended to read:

60.48 TOWN TREASURER'S BOND. * * * Every town treasurer shall * * * *execute and file an official bond* in a sum to be fixed at not less than the whole amount of money estimated to come into his hands during his term. * * *

SECTION 32. Sections 836 and 836m of the statutes are consolidated, renumbered and amended to read:

60.49 DUTIES OF TREASURER. * * * It shall be the duty of the town treasurer:

(1) To receive and take charge of all moneys belonging to the town or which are required by law to be paid into the treasury, and to pay the money of the town only upon the lawful order of such town or of its officers, duly made pursuant to law.

(2) To preserve all books, papers and property appertaining to or filed in his office.

(3) To keep a true itemized account of all moneys whatsoever received by him upon any account by virtue of his office and of the disbursement thereof, and to exhibit such account and all moneys in his custody or under his control as such treasurer, and

to make oath, if so required, that such moneys are the funds of the town, and deliver all his vouchers to the town board of audit at its annual meeting.

(4) To collect and pay over taxes, making return of delinquents, and to perform all the duties appertaining thereto required of him by title thirteen.

(5) * * * To apply for and receive from the county treasurer all moneys apportioned for the use of common schools in his town and to pay the same, together with all moneys collected in the town for the support of the schools, to the treasurers of the districts entitled to receive them upon the order or apportionment of the town clerk.

(6) * * * To pay to the district treasurer on demand all school district taxes raised in each district and collected by him, and the amount of all school district taxes returned to the county treasurer of his county as delinquent, whenever the same shall have been paid to him by said county treasurer or whenever he shall receive credit from the county treasurer for such delinquent tax or any part thereof on account of any demand or claim due from such town to such county.

(7) * * * To certify to the town clerk on or before the second Monday of March in each year * * * the amount of school money in his hands to be apportioned by said clerk, and immediately upon the receipt of any money from the school fund income to certify the same to the said clerk for apportionment.

(8) * * * To make and forward on the second Monday of June in each year to the clerk of each school district, in whole or in part in his town, a certified statement of the amount of money paid by the town treasurer during the year next preceding to such district treasurer, specifying the date and amount of and the account upon which each such payment was made.

(9) * * * If the county treasurer shall neglect or refuse to pay over the school money which by law should be paid to the town treasurer, he shall commence and prosecute an action on the official bond of such county treasurer for the recovery of such money.

(10) * * * To perform all the duties required of him in title six, relating to * * * *public instruction*. * * *

(11) * * * To make the statements required in section * * * 60.51 and perform all other duties required by law.

SECTION 33. Sections 837, 838, and 839 renumbered respectively to be sections 60.50 PAYMENTS, ORDER OF, 60.51 STATEMENTS AS TO RECEIPTS, and 60.52 PENALTY.

SECTION 34. Section 840 of the statutes is repealed.

SECTION 35. Sections 841, 842, and 843 of the statutes are

renumbered respectively to be sections 60.53, 60.54 and 60.55 and are amended to read:

60.53 CONSTABLES' BONDS. * * * Every constable shall * * * *execute and file an official bond.* * * *

60.54 CONSTABLES' DUTIES. * * * The constable shall be a ministerial officer of justices of the peace, and it shall be his duty:

(1) To serve within his county any writ, process, order or notice, and execute any order, warrant or execution lawfully directed to or required to be executed by him by any court or officer.

(2) To attend upon sessions of the circuit court in his county when required by the sheriff.

(3) To inform the district attorney of all trespasses on public lands of which he shall have knowledge or information.

(4) To perform the duties required in chapter 66, prohibiting the sale of liquors to Indians.

(5) *To impound cattle, horses, sheep, swine and other animals at large on the highways in violation of any duly published order or by-law adopted at an annual town meeting.*

(6) * * * To cause to be prosecuted all violations of law of which he has knowledge or information.

(7) * * * To perform all other duties required by any law.

60.55 FEES. * * * Constables may receive the following fees:

(1) For serving a warrant or other writ, not otherwise provided for, on each person named therein, twenty-five cents.

(2) For a copy of every summons delivered on request or left at the place of residence of the defendant, twelve and a half cents.

(3) For serving a subpoena or summons on each person named therein, twelve and a half cents.

(4) For serving an attachment, fifty cents.

(5) For each copy of an attachment, twelve and a half cents.

(6) For each copy of inventory of property seized on attachment, twelve and a half cents.

(7) For issuing summons on garnishee, twenty-five cents.

(8) For copy of any affidavit or other paper not otherwise enumerated, per folio, ten cents.

(9) For posting up each notice, twelve cents.

(10) For each mile actually traveled, going and returning to serve any process or to give or to post up notices, ten cents; but he shall serve all process and papers in any one action which may then be in his hands for service, which can be served at the same time and upon all persons upon whom service is required,

who can be served in the same journey; and he shall be entitled to one mileage for the greatest distance actually traveled to make such service and no more.

(11) For committing to prison, thirty-seven cents.

(12) For summoning a jury, fifty cents.

(13) For writing a list of jurors, twelve cents.

(14) For attending on a jury, twenty-five cents.

(15) For attending at the command of a justice of the peace on the trial of a cause before him, fifty cents for each half day, which, in a criminal case, shall include his services as custodian of the defendant.

(16) On all sums made on execution and paid over, charged upon the defendant, five per cent.

(17) For notifying a plaintiff of a service of a warrant or summons or attachment returnable in three days, twelve cents.

(18) For serving every writ in an action for the recovery of personal property, fifty cents.

(19) For summoning and swearing appraisers and taking appraisal, fifty cents.

(20) For taking and approving sureties in any case, twenty-five cents.

(21) *For impounding live stock such fees as the order or by-law providing therefor shall prescribe.*

(22) He shall also receive all his necessary disbursements actually made for board and conveyance of prisoners, to be settled by the county board; and when any person accused of any criminal offense shall escape his custody or pursuit, without fault or negligence of the constable, and the district attorney shall certify that such pursuit was necessary and proper, the county board may, in their discretion, on being satisfied by proof that such escape was not the result of the carelessness or negligence of the constable, allow a fair compensation for the time and necessary expense incurred in such pursuit. He shall keep his office in the town, village or city in and for which he was elected or appointed; and any constable who shall keep or open an office without the limits of such town, village or city shall receive no fees for any service by him performed during the period for which he holds his office contrary to the provisions hereof.

SECTION 36. Sections 844 and 845 of the statutes are renumbered respectively to be sections 60.56 and 60.57 and are amended to read:

60.56 ACTING CONSTABLE; NO FEES, WHEN. * * *

When the services in the last section mentioned are performed by any other person except a party to the action, the same fees

shall be allowed as constables are entitled to receive and no more. No constable shall serve or execute any summons, writ or process in any action or proceeding wherein he is agent or attorney for the plaintiff or interested in the collection of the claim sought to be recovered, * * * nor recover any costs, fees or expenses nor shall any costs or fees be taxed for any services rendered in violation of the provisions of this section.

60.57 JUSTICES; NUMBER; TERMS. * * * There shall be two justices of the peace in each town, of whom one shall be elected at each annual town meeting. Their term of office shall be two years from the first Monday of May next following such town meeting; provided, that in all counties which contain a population of not less than one hundred thousand no justices of the peace shall be elected in the odd-numbered years, except to fill vacancies, and that in the even-numbered years two justices of the peace shall be elected for the term of two years.
* * *

SECTION 37. Section 845m of the statutes is repealed.

SECTION 38. Section 846 of the statutes is renumbered and amended to read:

60.58 JUSTICE'S OFFICIAL OATH AND BOND.

* * * (1) TIME OF FILING. Every justice of the peace, elected for a full term, shall on or before the first Monday of May, next succeeding his election, and every justice elected or appointed to fill a vacancy, shall within ten days thereafter, or after notice thereof, if required to be given, take and * * * file the official oath * * * prescribed in * * * subsection (1) of section 2564m, * * * and shall also, within the same time, execute and file * * * an official bond with two or more sufficient sureties, to be approved by the chairman or any two of the supervisors. * * *

(2) COPY OF BOND, WHERE FILED. The clerk of the circuit court shall within ten days after the filing with him of said oath and bond, execute and mail to the clerk of the town, city or village, wherein such justice of the peace was elected, a certified copy of said bond, which certified copy shall be filed by said town, city or village clerk, and preserved in his office, and the same shall be presumptive evidence of its execution by such justice and his sureties.

SECTION 39. Section 847 of the statutes is renumbered to be section 60.59 WHEN JUSTICE MAY QUALIFY AFTER PRESCRIBED TIME.

SECTION 40. Sections 848 and 849 of the statutes are repealed.

SECTION 41. Sections 850 and 850a of the statutes are consolidated, revised and renumbered to read:

60.60 COMPENSATION OF TOWN OFFICERS. The compensation of supervisors shall be three dollars per day unless a different sum is fixed by the annual town meeting. Supervisors of towns situated in counties having a population of not less than three hundred thousand, shall be paid such salary as shall be fixed by the electors at the annual town meeting, not to exceed twelve hundred dollars per annum, which shall be in lieu of compensation per diem. The clerks of the polls and town clerks shall be entitled to a compensation of two dollars per day, and at the same rate for parts of a day actually and necessarily devoted by them to the service of the town and in the discharge of any of the duties of their respective offices required of them by law, unless a different compensation shall have been fixed. No town officer shall be entitled to pay for acting in more than one official capacity or office at the same time.

SECTION 42. Section 851 of the statutes is renumbered to be section 60.61 and is amended to read:

60.61 SAME. * * * Town assessors shall be paid such compensation for their services * * * as may be allowed them by the town board, * * * *not exceeding ten dollars per day* in all towns in counties having a population of one hundred and fifty thousand inhabitants or upwards, * * * *and not less than three nor more than five dollars per day in other towns.* * * *

SECTION 43. Section 779 of the statutes is renumbered to be section 60.62 ERECTION AND CONTROL OF BUILDINGS.

SECTION 44. Sections 777 and 778 of the statutes are renumbered to be sections 60.63 ISSUE OF BONDS and 60.64 PAYMENT OF BONDS.

SECTION 45. Sections 1097 and 1114 of the statutes are amended to read:

Section 1097. In case any person shall refuse or neglect to pay the tax imposed upon him the treasurer shall levy the same by distress and sale of any goods and chattels belonging to such person, wherever the same may be found within his town, city or village; and if a sufficient amount of such property cannot be found in such town, city or village the treasurer may levy the same by distress and sale of the goods and chattels belonging to such person, wherever the same may be found in the county or in any adjoining counties, *and shall receive therefor the fees allowed by law to constables for levy and sale of goods upon execution.*

SECTION 1114. (1) The town, city or village treasurer shall then make an affidavit to be annexed to such statement, before the county treasurer or before any officer authorized to administer oaths, that the facts set forth in said statement are correct, that the sums therein returned as unpaid taxes have not been paid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the persons charged with such unpaid taxes whereon he could levy the same, which statement and affidavit shall be filed with the county treasurer; and he shall thereupon be credited by the county treasurer with the amount of taxes so returned as unpaid and doubly assessed, except the penalty provided by section 1090, and he shall be allowed by the county treasurer, in settlement * * * *one dollar and six cents for each mile traveled one way to deliver the same.*

(2) If any actions have been commenced by him for the recovery of any personal property tax he shall also state that fact and what proceedings have been had therein. And any town, city or village treasurer who shall render his return without duly making, annexing, subscribing and making oath to the affidavit as above required shall forfeit one hundred dollars; and every county treasurer who shall receive such return, and credit the amount of unpaid and doubly assessed taxes to the town, city or village treasurer, without first requiring such return to be duly verified by affidavit as above required shall forfeit two hundred dollars; and neither said town, city or village nor county treasurer shall be permitted to offer such unverified statement in evidence in any settlement made by them with their respective boards of supervisors or auditing officers, nor in any action brought against them on their respective official bonds, nor in any prosecution against them for embezzlement.

(3) All taxes so returned as delinquent shall belong to the county and be collected, with the interest and charges thereon, for its use; and all actions and proceedings commenced and pending for the collection of any personal property tax shall be thereafter prosecuted and judgments therein be collected by the county treasurer for the use of the county; but if such delinquent taxes, exclusive of the penalty provided by section 1090, exceed the sum then due the county for unpaid county taxes such excess, when collected (with the interest and charges thereon), shall be returned to the town, city or village treasurer for the use of the town, city or village.

SECTION 46. Section 7760 of the statutes is repealed.

SECTION 47. Section 781 of the statutes is renumbered to be section 60.65. COLLECTION OF JUDGMENTS AGAINST TOWNS.

SECTION 48. A new section is added to the statutes to be numbered 60.66 and to read:

60.66 PENDING PROCEEDINGS AND CONTRACTS CONTINUED. Every proceeding instituted and every executory contract made by any town before the enactment of this section for public improvements or for other public purposes shall be continued to completion or carried into full execution pursuant to the laws in force at the time the proceeding was instituted or the contract entered into.

SECTION 49. This act shall take effect upon passage and publication.

Approved July 12, 1919.

No. 588, S.]

[Published July 26, 1919.

CHAPTER 552.

AN ACT to renumber subsections (1) to (5) and create a new subsection of section 51.24, relating to the Milwaukee hospital for the insane.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsections (1) to (5) of section 51.24 are renumbered, respectively, to be subsections (2) to (6) of said section.

SECTION 2. A new subsection is added to section 51.24 to read: (51.24) (1) Any county having a population of two hundred and fifty thousand may, pursuant to section 46.17, establish and maintain a hospital for the insane, for the detention and care of persons adjudged or alleged to be insane pursuant to law and whose insanity has not become chronic. Such hospital shall be governed pursuant to section 46.21.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 12, 1919.