

north, of range twelve east, of the same height as the one, the construction of which is herein above authorized. And the said Anson W. Pope and Virgil Pope, their associates, successors and assigns, shall have the same privileges, and be subject to all the limitations and restrictions, which are by this act granted or applied to the said Clouden Stoughton or Luke Stoughton, their associates, successors and assigns: *Provided*, however, that the said Anson W. Pope and Virgil Pope, their associates, successors and assigns, shall have power to construct a canal on or over any part of said sections, numbers fourteen and fifteen, which they may own; which canal shall contain not less than three feet of water, and shall be of capacity sufficient to receive a boat or barge twenty-four feet wide, and shall contain a lock, in all respects like the one above described: *Provided, further*, said canal, and the lock in it, shall be so constructed as to convey boats, barges and other water craft around any rapids within eighty rods of the said dam, and to permit the said boats, barges and other water craft to enter the said river in deep water below said rapids; and the said Anson W. Pope and Virgil Pope, their associates, successors and assigns, shall attend to the passage of boats, barges and other water craft, free of charge.

Proviso.

lb.

Provision.

§ 6. In case the said Anson W. Pope, Virgil Pope, their associates, successors and assigns, shall construct the canal and lock as above provided, it shall not be necessary to construct a lock in the said dam.

§ 7. This act may at any time be repealed by the legislature.
 APPROVED, April 7, 1843.

AN ACT to amend an act, entitled "an act to provide for the government of the several towns in the Territory, and for the revision of county government."

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:

Supervisors to annex certain towns.

Duties of officers.

§ 1. If there shall be any portion of any county which shall not be embraced in the limits of an organized town, the board of supervisors of such county shall have power to annex such portion not so embraced, to any adjoining organized town, for all township purposes; and the powers and duties of the town officers of such organized town, and of said board of supervisors, shall ex-

tend to and be exercised over the portion of country so annexed, the same as if it constituted a part of such town.

§ 2. Should any town, from any cause, neglect to make out and return to the board of county supervisors their assessment roll, as required by law, it shall be lawful for such county board to proceed in the usual manner to levy the county expenses for such year, upon such towns as shall have made returns as aforesaid.— But in all such cases, it shall be the duty of the county board for the next ensuing year, to apportion upon such town double the amount of such town's portion of taxes for the year so omitted, (the amount being ascertained by themselves from some former assessment,) and such town shall forfeit an equal amount, in addition to its yearly portion of county taxes for every year, until the assessments shall be made and returned according to law: *Provided*, however, that if such omission to make or return the assessment as aforesaid, shall be caused by the refusal or inability of any town officer to discharge the duties required of him by law, it shall be lawful for the supervisors of such town to appoint some other person or persons, as the case may be, to perform such duties, and the said appointment shall be valid in law; and the persons thus appointed, shall be subject to all the provisions of law applicable to such officer: *And provided, also*, that the town supervisors shall have the same authority to appoint a collector under like circumstances, and the provisions of law shall apply in the same manner to such collector.

§ 3. If any town, at its annual town meeting, shall by vote determine not to elect separate boards of assessors, commissioners of highways, or commissioners of common schools, or from any cause shall fail to elect such officers, the supervisors of such town shall do and perform all the duties, and be subject to all the provisions pertaining to any such office, whose duties they may be thus required to perform.

§ 4. At all general and other elections, except town meetings, two poll lists shall be kept by the clerks of the election, on which shall be entered the name of each person whose vote shall be received; and the canvass of votes shall commence by a comparison of the poll lists, and the correction of any mistake that may be found therein, until they shall be found or made to agree; before the ballots are opened, they shall be corrected and compared with the corrected poll lists, and if the ballots shall be found to exceed

Clerk to take
oath.

in number the whole number of votes on the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw out and destroy so many ballots unopened as shall be equal to such excess. If two or more ballots shall be found so folded together as to present the appearance of a single ballot, they shall be destroyed. Any member of the board of inspectors of election may act as a clerk of election; but every person acting as such clerk, shall, before any votes are received, take the oath required of such clerk by the act, entitled "an act to provide for and regulate general elections."

Poll book, how
kept and de-
livered.

§ 5. The board of inspectors shall enclose and seal one of the poll books, under cover, directed to the clerk of the board of county supervisors of the county in which such election was held; and the packet thus sealed, shall be conveyed by one of the judges or clerks of the election, to be determined by lot, if they cannot otherwise agree, and delivered to the clerk of the board of supervisors, at his office, within nine days from the close of the polls; and the other poll book shall be deposited with the town clerk of the town where the election is held; and the said poll books shall be subject to the inspection of any elector who may wish to examine them; and if any judge or clerk of any election, after having received, or being deputed to carry the poll book of such election, as aforesaid, shall fail or neglect to deliver such poll book to the clerk of the board of county supervisors, within the time prescribed by law, safe, with the seal unbroken, he shall, for every such offence, forfeit and pay the sum of five hundred dollars, for the use of the county, to be recovered by an action of debt, in the name of the board of county supervisors, in the district court.

Fine, imposed
and collected.

Acts in force.

§ 6. All the provisions of the act, entitled "an act to provide for and regulate general elections," so far as applicable and not inconsistent with the provisions of this act, and the act of which this is amendatory, shall apply to and be in force as to all elections, except town meetings, in the several counties which have adopted the town and county system of government.

Town meet-
ings.

§ 7. When the election at any town meeting is by ballot, the clerk of such meeting shall, before acting as such, take an oath and keep a poll list, as specified in the fourth section of this act; and at the close of the election the ballots shall be compared with the poll list, and the like proceedings shall be had in all respects in canvassing the votes as is required in the said last named sec-

tion. The poll book kept at every town meeting shall be deposited with the town clerk.

§ 8. The reading of the statement of the result of the canvass ^{Notice of the} by the clerk of any town meeting, as required by law, shall be ^{result.} deemed notice of the result of the election to every person whose name shall have been entered on the poll list as a voter.

§ 9. The town clerk of every town, within ten days after any ^{Notice of elec-} town meeting, shall transmit to each person elected to any town ^{tion.} office, whose name shall not have been entered on the poll list as a voter, or when no poll list shall have been kept, a notice of his election.

§ 10. The canvass of the votes given at any town meeting, or ^{Canvass.} election, may be had or continued after sun-down.

§ 11. Any person elected or appointed to the office of town ^{File oath.} clerk, may file his oath of office as soon as the same shall be taken and duly certified.

§ 12. The time allowed to the collectors of the several towns ^{Time of mak-} in which to make returns of their transcript rolls, together with ^{ing returns.} their precepts and doings thereon, to the town clerks office, is hereby extended to the third Monday of January, in each year; and the time allowed such collectors in which to pay over the amount of all taxes collected by them, is hereby extended to the fourth Monday of January in each year.

§ 13. Hereafter, the town clerks of each town shall make out ^{Clerk, duty of.} and forward to the county treasurer of the proper county, the certificate and attested copy of the collector's affidavit, as required by the tenth section of part first, chapter tenth, of the act of which this is amendatory, on or before the first Monday of January in each year.

§ 14. No collector or his sureties shall be liable on his bond, ^{Collectors, not} as provided by the thirteenth section of part first, chapter tenth, ^{liable.} of the act of which this is amendatory, for failing to pay over to the treasurer of any county, as required by law, any portion of the tax due such county, provided it shall be made to appear that such portion, not paid over, could not be collected on the precept or warrant of such collector.

§ 15. If, after the supervisors have made out the corrected ^{Land omitted} assessment rolls, it shall be ascertained that any land or property ^{in assessment.} liable to taxation, and which should be included therein, is not so included, by reason that the same has not been assessed, or from

any other cause, then it shall be the duty of the town supervisors of the proper town, at any time before the first Monday of January next, thereafter, to assess such land or property so omitted, if not already assessed for that year, and after ascertaining the amount of town, county, and territorial taxes payable thereon, in the proper columns of the tax roll of said town, with the name of the owner, if known, and the description of the land; and such taxes, so entered, shall be collected in the same manner that other taxes are collected; and the lands so assessed, in case the taxes thereon are not paid, shall be returned and sold in like manner as delinquent lands contained in the original transcript roll: *Provided*, however, that no land so added to the transcript roll, shall be assessed higher than any other lands, in the same town, of equal value, and that all lands and other property may, within twenty days after they shall be so added, be liable to be reduced in valuation by the town supervisors, in the manner provided by law for ascertaining the value of real and personal property liable to taxation.

Proviso.

Tax omitted. § 16. Whenever any assessor shall discover, during the time he is making his assessment, that there are tracts of land, town lots, or chattels, subject to taxation, in his town, which were liable to taxation in said town, and were omitted by the assessors, in one or more preceding years, he shall enter the same upon his roll, noting distinctly the years in which such omission was made, in the same manner as the assessment for the current year; but no such assessment shall be made for a longer period than one year back; and such assessment shall have the like force and effect as assessments made at the proper time, and the tax due thereon shall be charged and collected with the revenue of the year in which such assessment is made and levied; and town lots shall be subject to the taxes omitted, to be assessed as aforesaid, in whose hands soever they may come.

Tax sale, returns of, &c. § 17. The several county treasurers shall, as soon as may be, after the close of any sale of lands for taxes, return to the clerk of the board of county supervisors, in their respective counties, all papers and notices in relation to such tax sale; also a particular description of all tracts of land and town lots, designating the quantity of each sold by them, the names of the persons to whom sold, the amount for which each tract, part of tract, or lot, was sold, together with the names of the respective owners, if known;

and the said clerk shall record all such returns, so made to him, in a book of record, to be preserved in his office, and at all sales of lands and town lots hereafter had for the collection of any tax authorized by law, in any county of this territory, if a sum sufficient to pay the amount of said taxes and charges shall not be offered by any bidder, for any of the tracts of land or town lots so offered for sale, it shall be the duty of the officer conducting such sale to strike off, in the name of the treasurer of the proper county, all such lands or town lots not bid for, and execute to such treasurer a certificate of sale, as provided by law, for such tract or town lot; and it shall be the duty of such treasurer to exchange and assign such certificate to any person desiring such exchange or assignment, having drafts or warrants upon him of an amount equal to, or greater than, that mentioned in said certificate: *Pro-Provided*, that the treasurer shall not exchange or assign any such certificate for less than the par value thereof, and interest allowed by law for such certificate.

§ 18. The supervisors of the several towns may issue town orders for any sums due from their respective towns, which shall be received in payment for the town taxes of the same town in which they were issued.

§ 19. Appeals may be taken from all the decisions of any board of county supervisors to the district court of the same county, by any person or persons aggrieved thereby, in the same manner that appeals may be taken from the decisions of the boards of county commissioners.

§ 20. Whenever there shall be a contested election between two or more persons for the office of chairman of the board of supervisors, in any town, the board of county supervisors shall determine, on examination, which of the contestants is duly elected, and entitled to that office.

§ 21. If any assessor elected in any town, and required by law to serve as such, shall neglect or refuse to perform the duties of his office; or if any person elected town clerk, if required by law to serve as such, shall neglect or refuse to make out and deliver to the collector of such town a transcript roll and precept, as required by law, such assessor or town clerk, so neglecting or refusing, shall be liable to a fine of not less than one hundred nor more than five hundred dollars, to be collected by the board of county supervisors, in an action of debt, for the use of the county.

- Organisation.** § 22. All towns now organized, and in which no town meeting has been held, and all towns hereafter to be organized, shall organize, hold and conduct their first town meeting in the same manner as is provided by the act of which this is amendatory, for holding the first town meetings organized by said act; and such first town meeting shall be held on the day established by law, and no previous notice thereof shall be requisite.
- Town meeting when and where held.** § 23. When in any year no place shall be fixed by any town for holding its subsequent annual town meeting, it shall be held at the place where it was held the year immediately previous; and all general elections shall be held at the place in each town where the last town meeting was held: *Provided, however,* that the supervisors of any town may, when they shall deem it necessary, appoint some other place for holding any town meeting or election; in which case they shall give notice of the place of holding the same, by posting notice thereof in three of the most public places in their town, three days previous to any such town meeting or election; and, *Provided further,* that the supervisors of the town shall have power, when in their opinion the convenience of the inhabitants requires it, to appoint two or more places in such town for opening the polls and holding the general election, giving the like notice of the places so appointed by them; and, *Provided further,* that no such alteration of the place of holding town meetings shall be made in any town which shall have established the same by vote, as authorized by law, except in case of the destruction of such house by fire or otherwise.
- Appoint another place.**
- Ib.**
- Ib.**
- Brands, &c.** § 24. It shall be the duty of the town clerk, in each town, on the application of any person residing in the same town, to record a description of the marks or brands with which such person may be desirous of marking his horses, cattle, sheep, or hogs; but the same description shall not be recorded for more than one resident of the same town.
- Chattel mortgage.** § 25. Any mortgage of personal property may be filed in the office of the town clerk where the mortgagor executing the same resides; or, in case he is a non-resident of the territory, in the town where the property mortgaged may be at the time of executing the same; and such town clerk shall endorse thereon the time of receiving such mortgage, and shall keep the same in his office for the inspection of all persons interested; and such mortgage, so filed, shall be as valid and binding as if the same had

been recorded in the office of the register of deeds. For recording any mark or brand, the town clerk shall be allowed twelve and a half cents; for giving a certificate of the same, when required, twelve and a half cents; and for filing a chattel mortgage, six cents.

OF COMMON SCHOOLS.

§ 1. Every school district which has been, or shall hereafter be, set off and organized according to law, shall be a body corporate and politic, capable of contracting and being contracted with, of suing and being sued, by its name or number; and the trustees of any such district are hereby authorized to conduct and manage for such district, any suit or proceeding for or against the same.

§ 2. All school districts heretofore organized under any law in existence at the time of their organization, shall be held to be regularly organized, and need not be re-organized, any law to the contrary notwithstanding. And every school district may at any annual meeting determine in what manner future district meetings shall be notified.

§ 3. The school commissioners of any town shall have power to call a district meeting in any district where no way has been provided at any annual meeting, whereby future meetings shall be held, or when no annual meeting has been held, and shall cause notices to be posted in three or more public places in said district, of the time when and place where said meeting shall be held, at least ten days before said time specified in said notices; and such meeting shall have the same power, in all respects, as the annual meeting.

§ 4. Any school district may vote a tax to purchase or lease a site for the district school house, and to build, hire, or purchase, keep in repair, and furnish such school house with the necessary appendages, not exceeding the sum of two hundred dollars in any one year, unless the commissioners of common schools of the town in which such district may be, shall certify in writing that in their opinion a larger amount ought to be raised, and shall certify the sum; in which case a sum not exceeding the amount so certified shall be raised: *Provided*, that in no case shall a sum exceeding three hundred dollars be raised for the purposes contemplated in this section. All school taxes shall be assessed in the manner now provided by law.

§ 5. It shall be the duty of every person sending a child to school, to provide his just proportion of fuel for such school, which

proportion shall be determined by the trustees of the district, according to the number of children sent by each; but such indigent persons as in the judgment of the trustees shall be unable to provide the same, shall be exempted from all such liability.

Neglect to furnish.

§ 6. If any person liable to provide such fuel shall omit to provide the same, on notice from any one of the trustees, it shall be the duty of the trustees to furnish the fuel, and charge to the persons so in default the value of, or the amount paid for, the fuel furnished.

Moneys, how collected.

§ 7. Such value or amount may be added to the rate bill of the moneys due for instruction, and may be collected therewith, and in the same manner, or the trustees may sue for and recover the same in their name of office, with costs of suit.

Warrant.

§ 8. The warrant annexed to any tax list shall be under the hands of the trustees, or a majority of them; and shall command the collector to collect from any person, and from all property taxed in such list, the sum therein assessed, together with his fees, within sixty days from the date thereof; and such collector shall, within thirty days thereafter, personally demand the same of the persons charged therewith, if they be found within his town; and if such tax be not paid before the expiration of said thirty days, such district collectors shall then collect the same by distress and sale of personal property, in the same manner as town collectors are authorized to collect town and county taxes; and if the tax assessed on real property shall remain unpaid for the space of one month after the expiration of the time prescribed for the collection thereof, as aforesaid, provided sufficient personal property cannot be found on which to levy the same, the district collector shall report on affidavit the list of such delinquent taxes to the town clerk of the town in which such school district may be; and such clerk shall, in making out the duplicate assessment roll next thereafter, enter such delinquent taxes in a separate column thereon, to be collected in the same manner as other taxes; and said taxes, when so collected, shall be paid over to the district collector of the proper district, for the use of his district: *Provided*, that when there shall be a part of a school district in any town, the district collector shall make his returns, as aforesaid, to the town clerk of the town in which such part of any district shall be.

How execut'd.

Proviso.

§ 9. The warrants issued by trustees of school districts for the collection of rate bills, shall be issued and executed in the same

manner, and shall have the like force and effect, as warrants issued by them on tax lists.

§ 10. If the sum or sums of money payable by any person named in any tax list, or rate bill, issued by the trustees, shall not be paid by him, or collected by such warrant, within the time therein limited, it shall and may be lawful for the trustees to renew such warrant for thirty days, in respect to such delinquent person; or in case such person shall not reside within their district at the time of making out a tax list or a rate bill, or shall not reside therein at the expiration of such warrant, and no goods or chattels can be found therein whereon to levy the same, the trustees may sue for and recover the same in their name of office.

§ 11. Whenever there shall be a deficiency of moneys to pay Levy tax. the teacher of any school district, after the return of the warrant issued on the rate bill, it shall be lawful for any school district to assess and collect a tax on all the actual residents in such district, in the same manner that they are authorized to assess and collect taxes for building school houses: *Provided*, that no tax to pay such deficiency shall be raised, unless two-thirds of all the legal voters attending the meeting when such tax shall be voted to be raised, shall vote in favor thereof. Proviso.

§ 12. All the moneys apportioned by the commissioner to any district, or separate neighborhood, which shall have remained in the town treasury for two years after such apportionment, by reason of the trustees neglecting to make the necessary returns to the clerk's office, as is provided by law, or by reason of their neglecting or refusing to receive such money, or because no school has been kept in such district, part of a district, or separate neighborhood, by a qualified teacher to whom such money may be paid, then such moneys so remaining shall be added to the moneys next thereafter to be apportioned by the commissioners, and shall be apportioned and paid therewith, and in the same manner. Where no school.

§ 13. Every free white male inhabitant of twenty-one years of age or upwards, who shall have resided in any school district for three months immediately previous to any district meeting, and who shall have paid any tax, or have had any tax assessed against him in the same year in which said meeting may be held, or the year next preceding, shall be allowed to vote at such meeting, and no other person shall vote at such meeting. Voters, qualifications of.

**THE LAYING OUT OF PUBLIC AND PRIVATE ROADS,
AND OF THE ALTERATION AND DISCON-
TINUANCE THEREOF.**

Alter roads. § 1. Any six or more freeholders of any town may apply to the commissioners of highways of the town in which they shall reside, to alter or discontinue any road, or to lay out any new road. Every such application shall be in writing, addressed to the commissioners of highways, and signed by the persons applying for the same.

Survey to be recorded. § 2. Whenever the commissioners of highways shall lay out, alter, or discontinue any road, upon application or otherwise, they shall cause a survey or description to be made of such road, and shall incorporate such survey in an order to be signed by them, and to be filed and recorded in the office of the town clerk, who shall note the time of receiving the same.

Where road shall not be laid. § 3. No public or private road shall be laid out through any orchard or garden, without the consent of the owner thereof, if such orchard be the growth of two years or more, or if the same have been cultivated for two years or more, before the laying out such road; nor shall any such road be laid out through any building, or any fixtures or erections for the purpose of trade or manufacture, or any yards or enclosures necessary to the use and enjoyment thereof, without the consent of the owners.

Improvements appraised. § 4. No highway shall be laid out through enclosed, improved, or cultivated lands, without the consent of the owner or occupant thereof, except the same shall be appraised, and damages awarded to such owners, as is hereinafter provided for.

Notice of application. § 5. Upon the application of six or more freeholders as aforesaid, for the laying out of a highway through any land, the commissioners of highways shall, thereupon, cause notice in writing to be posted up in three of the most public places of the town, (and which notices shall be posted up by the persons applying therefor,) specifying, as near as may be, the commencement and route of the proposed highway, the several tracts of land through which the same is proposed to be laid, if known, and the time and place at which the said commissioners will meet to make such examination and survey; and which notices shall be posted up, as aforesaid, at least six days before the said meeting. Should there be residents upon any of the lands proposed to be crossed by such roads, the commissioners shall require the applicants to serve each

of such residents with a copy of the said notice, or to leave a copy at his or her usual place of abode, at least three days before the time of such meeting.

§ 6. Upon being satisfied that the notices required by the preceding section have been given, as aforesaid, which may be shown by affidavit or otherwise, the commissioners shall then proceed to examine, personally, such highway, and shall hear any reasons that may be offered for or against laying out the same. If they shall be of the opinion that such highway is necessary and proper, they shall proceed to lay out the same. Commissioner's shall examine.

§ 7. Having laid out such highway, the commissioners shall make out and subscribe a certificate, describing the road so laid out, particularly, by metes and bounds, and by its courses and distances, which shall be left with the town clerk, and filed as herein before required. Shall describe.

§ 8. The damages sustained by reason of the laying out and opening such road, may be ascertained by the agreement of the owner and commissioners of highways; but when such agreement cannot be made between the owner of the land and the commissioners, the same shall be made by the appraisal of the commissioners of highways, they being first duly sworn well and truly to appraise the damages under consideration. Damages, how assessed.

§ 9. Every such appraisement, release, or agreement, shall be signed by such commissioners, and filed in the town clerk's office as aforesaid; and such agreement or release shall forever preclude such owner from all farther claim for such damages. Where filed.

§ 10. If any person through whose land such road or highway is located, shall consider himself aggrieved by such appraisal or assessment of the damages of such road by the commissioners, he may apply to a justice of the peace within thirty days thereafter, who shall, upon such application, issue a precept to some constable of an adjoining town, neither interested nor of kin to any person interested in the land through which said road is laid, directing him to summon six disinterested freeholders of the town where such constable shall reside, and not of kin to the owner of such land, to re-assess the damages sustained by the laying of such road; and the said justice shall therein specify the time and place at which the said freeholders or jury shall meet: *Provided, however,* that such justice shall not be authorized to issue such precept until such applicant shall give to the commissioners of high- Justice to summon jury. Proviso.

ways, good and sufficient bond of indemnity, with one or more sureties, to be approved by such justice, conditioned to pay all costs arising from such appeal and re-assessment of damages, in case the jury should not award a larger amount of damages than was appraised by the commissioners of highways.

Jury of four.

§ 11. Upon such juries appearing, the justice of the peace shall draw, by lot, from of the names of the persons attending to serve as a jury, and the first four of the persons drawn who shall be free from all legal exceptions, shall be the jury to assess the said damages.

Hear evidence,
&c.

§ 12. In all cases of the assessment of such damages, the persons or jury by whom the assessment is to be made, shall view and examine the premises, if required, or they deem it proper, and hear testimony, if necessary, having been previously sworn faithfully and impartially to discharge their duty, and shall make return of their assessment, under their hands, to the justice aforesaid.

Applicant to
pay costs.

§ 13. If the award of the said jury shall not exceed the assessment of the commissioners of highways, the applicant or applicants for such jury shall pay all costs; but if the award shall exceed the said assessment of the commissioners, the amount of damages as finally settled by the jury, or as assessed by the commissioners as hereinbefore provided, together with the charges of the commissioners of highways, or of the jury, as the case may be, and the expenses of other persons and officers employed in making the survey or the assessment, shall be levied and collected within the town within which the highway shall be situated, and shall be paid by order of the commissioners of highways to the several persons to whom the same shall of right belong; the same having been previously audited and allowed, as other town accounts.

Expenses, how
collected and
paid.

Powers of
commissioners

§ 14. The commissioners of highways shall also have authority to alter and discontinue any town roads, and shall proceed in all respects agreeably to the foregoing provisions for laying out new roads, and shall make returns in like manner to the town clerk.

Damages, how
appraised in
certain cases.

§ 15. When any person shall be the owner of any land over which any highway shall run, and such highway shall be discontinued in whole or in part, by reason of some other road to be established and laid out under this chapter through the land of the same person, the persons who shall assess the damages shall take into calculation the value of the road so discontinued and the ben-

cost resulting to such person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out of such road; and thereupon the owner of the land may enclose so much of the highway so discontinued as shall belong to him.

§ 16. Whenever a disagreement shall take place between the commissioners and the owner or owners of any land so taken and used, the same provisions shall apply as are provided for in the assessment of damages when new roads are laid out. Disagreement of com'rs, how determined.

§ 17. Whenever it shall become necessary to have a highway upon the line between two towns, such highway shall be laid out by two or more of the commissioners of highways of each of said towns, either upon such line or as near thereto as the convenience of the ground will admit, and they may also vary the same either to the one side or other of such line, as they may think proper. Road on town line.

§ 18. When the commissioners of highways of any town shall disagree with the commissioners of any other town, in the same county, relating to the laying out of a new road, or the alteration of an old road, extending into both towns; or when the commissioners of a town in one county disagree relative to the laying out a new road, and the altering of an old road, which shall extend into both counties, the commissioners of both towns shall meet together, at the request of either disagreeing commissioners, and make their determination upon such subject of disagreement. When com'rs disagree.

§ 19. It shall be the duty of the commissioners when they shall lay out any highway upon the line between two towns, as contemplated by section seventeen, to divide it into two or more districts in such manner that the labor and expense of opening, working and keeping in repair such highway through each of said districts may be equal as near as may be; and to allot an equal number of the said districts to each of said towns. Roads to be districted and worked.

§ 20. Each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the road and for keeping it in repair; and the commissioners shall cause such highway, and the partition and allotment thereof, to be recorded in the office of the town clerk in each of their respective towns. District established and recorded.

§ 21. All highways heretofore laid out upon the line between any two towns shall be divided, recorded, and kept in repair, in the manner above directed.

Old roads on town line.

§ 22. The commissioners of highways shall also have authority to lay out and establish private roads through the land of any person or persons, upon the application of any freeholder whose residence shall be excluded from public highway, and for such purpose shall proceed in all respects, so far as the same shall be applicable, as required for laying out new roads: *Provided*, also, that the damages of the owner or owners of land through which such road shall be laid out, shall be ascertained and assessed in the same manner as if the same were a public highway; and provided, also, that all such damages and costs shall be paid by the person applying for such road.

Proviso, damages assessed and paid.

Width of roads.

§ 23. All public roads to be laid out by the commissioners of highways of any town shall not be less than three rods wide, and all private roads shall not be more than three rods wide.

Papers to be filed.

§ 24. All applications, certificates, and other papers relating to the laying out, altering, or discontinuing, any public or private road or highway, shall be filed by the commissioners of highways as soon as they shall have decided thereon, in the office of the town clerk of the town.

Objections to commiss'n'rs.

§ 25. Whenever any one or more of the commissioners of highways shall be interested in any lands over which any road or highway, or any private way, is petitioned to be laid out, or whenever any such commissioner shall be interested in the alteration of any old road, the town clerk shall be authorized to detail by lot, under his hand and certificate, one or more of the supervisors of the town, not disqualified as aforesaid, to fill the vacancy or vacancies in the board of commissioners of highways occasioned by reason of any such interest, in which case such supervisor or supervisors so detailed shall constitute a part of the board of commissioners of highways for such purpose; but it is herein *Provided*, that no such authority shall be exercised by such clerk without satisfactory proof being made, or being within the knowledge of such clerk, that the commissioner or commissioners objected to is or are interested as aforesaid; and, *Provided, also*, that no such alteration in the board of commissioners of highways shall be made, unless such commissioner or commissioners shall be objected to for the reasons aforesaid, by some person interested in such road, on or before the day appointed for viewing and locating the same.

Proviso.

§ 26. Whenever ordered by the board of commissioners of Clerk. highways, the town clerk shall act as clerk of said board.

MISCELLANEOUS PROVISIONS IN RELATION TO ROADS.

§ 1. The following amendment shall be made to chapter ele- Amendment. ven, to wit: part first, section eleven, shall be so amended as to provide that no overseer of highways shall receive more than one dollar per day for any excess of highway labor over and above his taxes; part three, section four, is so modified that whenever any person shall elect to commute the whole or any part of his highway tax, he may do so by paying one dollar for each day's work thus commuted.

Section nineteen, of part three, is hereby so amended as to Further provide that in computing the amount of arrearages of labor to be amendment. levied upon delinquent lands, the amount shall be estimated at one dollar per day, and no more; and section sixteen, of the same part, is so amended that every overseer of highways shall have till the first day of April in each year to make return of delinquent non-resident lands.

The following proviso shall be added to section ten, of part se- Proviso. ven, to wit: *Provided*, however, that no amount so collected shall ever exceed the sum of ten dollars for any one tree.

§ 2. No person shall be required to pay a poll tax for highway What age ex- purposes, who shall be over the age of fifty-five years. empt.

§ 3. It shall be lawful for any overseer of highways, or any May ditch, &c person or persons by his order, to enter upon any land adjoining on lands near or lying near the road in his district, and cut or open such ditches road. or drains, and construct such dams, as shall be necessary for the making or preservation of said road, doing, however, as little injury to the owner of such land as possible.

§ 4. Every overseer of highways shall have full power to enter May take ma- upon any unimproved lands adjoining or near the road in his dis- terials. trict, and gather, dig, or cause to be dug, any gravel, sand, or stone, and cut away wood or trees, and carry off the same, that shall be necessary for the making or repairing of said road; doing, however, as little damage as may be to the owner of the land.

§ 5. If any person feel aggrieved by any act or acts done in Damages, how assessed. pursuance of either of the two preceding sections, such person may apply to the commissioners of highways of the same town, who shall appoint three disinterested electors, who, after taking

the proper oath or affirmation, shall proceed to assess the damages, if any there be, which shall be paid out of the town treasury.

Commissioners
to contract.

§ 6. The commissioners of highways shall have power to order and direct the construction of bridges on highways in their respective towns, and to contract for the building thereof; and it shall be the duty of the overseers of highways to build the necessary bridges on highways in their respective road districts, unless otherwise ordered by said commissioners; and to repair the same when necessary.

Notice to
open roads.

§ 7. Whenever the commissioners of highways shall have laid out any public highway through any enclosed, cultivated, or improved lands, and their determination shall not have been appealed from, and on all public highways already laid out through such lands, they shall give the owner, his agent, or the occupant of the land through which such road shall have been laid, thirty days notice in writing to remove his fences; if such owner shall not remove his fences within the thirty days, the commissioners shall cause such fences to be removed, and shall direct the road to be opened and worked; if the determination of the commissioners shall have been appealed from, then the thirty days notice shall be given after the final decision upon such appeal: *Provided, however,* that no person shall be required to remove any fence under the provisions of this section or the act of which this is amendatory, except between the first day of October and first day of May in each year.

Proviso.

May sue, &c.

§ 8. The commissioners and overseers of highways shall have power to make contracts, and to sue and be sued in their name of office on all subjects pertaining to their respective offices.

MISCELLANEOUS PROVISIONS.

Town meet-
ings.

§ 1. If, from any cause, any town organized at the last or present session of the legislative assembly shall not hold a town meeting at the time fixed for holding annual town meetings, such town may hold its first town meeting on the first Monday of May next.

Acts in force.

§ 2. This act shall be in force only in those counties which have or may hereafter adopt the township and county system of government.

Repealed acts.

§ 3. The following parts and sections of the act of which this is amendatory, are hereby repealed, to wit: all of part fourth, chapter eleven; sections four, six, and eight, in part first of chapter four;

section seven in part third of chapter five; sections five, nine, and twenty, in part third of chapter eight; and section eight in part seven of chapter eleven; and all such other parts of said act as contravene, or are not consistent with, the provisions of this act; and all the provisions of the act of which this is amendatory, not hereby repealed, shall be and remain in full force and virtue, as modified by the provisions of this act.

§ 4. Section four of the act entitled "an act to amend the several acts to provide for the support of common schools," approved February 18, 1842, is hereby repealed, as to all of these counties which have adopted the town and county system of government, but shall be in full force and operation in all other counties of the territory.

§ 5. The second section, chapter first, of the act hereby amended, shall be so amended as to authorize any county of this territory, which shall not already have adopted the same, to vote for or against the adoption of said act, at any annual election in such county, and to proceed therein and make returns of such election according to the provisions of said section two: *Provided, however,* that the electors of no county shall be required to vote upon such question, unless a notice to that effect shall have been issued by the clerk of the board of commissioners, as required by law in relation to other election notices. And the clerk of the board of commissioners of any such county shall, upon the petition of a majority of the persons who shall have notice at the next previous annual election, as shall appear by the poll lists, be required to issue such notice of the time of issuing general election notices.

§ 6. No person shall vote at any town meeting who has not resided in the town in which he shall claim the right to vote, for six calendar months next preceding the day of such meeting, and who shall not be otherwise qualified as required by law.

§ 7. The cost of advertising unredeemed land, which shall remain unpaid at the first subsequent assessment after the forfeiture, shall be a charge upon all lands thus advertised and unpaid, and the county board of supervisors shall annually include all such unpaid costs, and thirty per cent. interest thereon, from the day of forfeiture, with the amount of other county expenses, to be collected by the respective towns, in the same manner as other county taxes are or shall be collected: *Provided, however,* that here-

after, the legal charges for such advertising shall not be more than twenty-five cents per folio for the first insertion, nor more than ten cents per folio for each subsequent insertion.

Act amended. § 8. Chapter three, part first, section five, of the act to which this act is amendatory, is hereby amended as follows, to wit; add to the end of section five, the following: *Provided*, that the percentage to be laid on the assessment for any one year shall not exceed, for all purposes whatever, one and a half per cent; *Provided, further*, that this provision shall not apply to school district taxes for building school houses.

Duty of town clerks. § 9. It is hereby made the duty of the town clerks of the several towns to act as clerk of the board of town supervisors, when so required by said board.

APPROVED, April 15, 1843.

AN ACT relative to Dodge county.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:

Judge of Probate. § 1. That at the special election to be held on the first Monday of May next, there shall be elected in and for the county of Dodge, a judge of probate; whose jurisdiction shall be co-extensive with said county.

Votes, how canvassed. § 2. At the said special election, the qualified voters of said county shall determine, by ballot, the place at which the board of county commissioners shall hold their sessions; and the votes for said place of holding the sessions of said board shall be canvassed in the same manner that the votes for judge of probate are canvassed; and thereafter, until otherwise provided by law, the sessions of the said county board shall be held at the place determined upon by said electors.

Notices. § 3. The county commissioners of the said county are hereby authorized to appoint some suitable person to post up election notices, and to serve all notices issued by the said board, or its clerk, which are now required to be executed by the sheriff; and whenever it shall become necessary to hold a special election to fill any vacancy in county officers, it shall not be necessary for the sheriff of Jefferson county to order such election, but the same may be ordered by the clerk of the board of commissioners of said county of Dodge.