

interest of the said Cathrina Kroeger, that her natural father should have the care of maintaining and educating her.

HARRISON C. HOBART,
Speaker of the Assembly.
J. E. HOLMES,

Lt. Governor and President of the Senate.

Approved, March 31, 1849.

NELSON DEWEY.

An act to extend the time for collecting the taxes in certain towns in the county of Brown, for the year 1849. Chap 211

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

SECTION 1. That the time for collecting the taxes in the towns of Kaukalin and Suamico, in the county of Brown, for the year 1848, is hereby extended to the first day of June, 1849; and the collectors of taxes in said towns, are hereby authorized to proceed to collect such taxes and make return thereof, on or before the first day of June, aforesaid. Time extend-
ed.

Sec. 2. The town clerks of said towns shall have until the first Monday of July, 1849, to make return to the county treasurer of the delinquent lands of their towns for said year, 1848. Clerk to
make returns.

Sec. 3. The county treasurer shall proceed to sell all such delinquent lands, on the first Monday of September, 1849, unless the taxes shall be sooner paid, and the proceedings in the collection of such taxes, making returns, and in the sale of delinquent lands shall be conducted in all respects (except as to time) according to the laws now in force. Treasurer to
sell delin-
quent lands.

HARRISON C. HOBART,
Speaker of the Assembly.
JOHN E. HOLMES,

Lt. Governor and President of the Senate.

Approved, March 31, 1849.

NELSON DEWEY.

An act in relation to the School and University Lands, the sale and superintendence thereof, and the powers and duties of Commissioners of said Lands. Chap 212

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

SECTION 1. The secretary of state, treasurer, and attorney general shall constitute a board, to be called "the Commissioners of the School and University lands," for the superintendence and sale of the school and university lands belonging to this state, and for the investment of the funds arising therefrom, in such manner as the legislature shall direct, and also for the investment of the other university and school funds; and they shall have the general care and superintendence of all of said lands, in such manner as State officers
to be a board
to sell lands,
&c.

the legislature shall direct; and any two of said commissioners shall be a quorum for the transaction of business.

When to sell. SEC. 2. The said commissioners shall, before the fifteenth day of December in the year one thousand eight hundred and fifty, offer for sale at public auction as hereinafter provided, all the university lands and all the school lands embraced in the sixteenth section in every township in this state, which shall have been appraised according to law, and returns whereof shall have been duly made to the secretary of state prior to the first day of June, in the year aforesaid; but said commissioners shall, with the approval of the governor, withhold from such sale any portions of said lands, when in their opinion it will be most beneficial for the school or university fund that the same should be reserved from such sale.

How to sell. SEC. 3. All school and university lands not offered for sale, as provided in the preceding section, except the same shall be purchased under a pre-emptive right, shall, from time to time, at the discretion of the commissioners and the governor, after the same shall have been duly appraised and returned, be offered for sale at public auction, as hereinafter provided, and no such lands, except those above excepted, shall be subject to private entry, until they shall have first been offered for sale at public auction.

To sell at appraised value. SEC. 4. The minimum price of every tract or lot of school and university lands, shall be [the] appraised value thereof, including the appraised value of the improvements thereon, and also the expense of appraising and subdividing the same, and no such lands shall be sold for less than the minimum price, except as hereinafter provided.

Places of sale &c. SEC. 5. All sales at auction of school and university lands, shall be made at such times and at such public place in each county in which such lands are situated, as the commissioners and governor shall designate; and the commissioners shall, previous to any such sale, cause a notice thereof, specifying the time when and the place where the same will be held, to be published once in each week for at least eight successive weeks in each newspaper printed in the county where such lands are to be sold, if any, but if there be no such newspaper, then in the newspaper printed nearest to the place where such sale is to be held, and the expenses of such publication shall be audited and paid by the commissioners out of the school fund.

Hour of sale. SEC. 6. At the time and place specified in such notice, the commissioners shall commence the sale of such lands as are then to be sold by them, and shall continue the sale from day to day, Sundays excepted, between nine o'clock in the forenoon and the setting of the sun, so long as shall be necessary.

Tracts to be offered separately, &c. SEC. 7. Each lot or tract of such lands, as appraised and described by the appraisers, then to be sold, shall, except as provided in the succeeding section, be offered separately at such sale, at the minimum price as specified in the fourth section of this chapter, and shall be cried long enough to enable any one to bid who desires; and if the minimum price, or more than such price shall be bid, such lot or tract shall be struck off to the highest bidder;

but if such price be not bid, the same shall be set down as unsold.

SEC. 8. Whenever there shall be a water power upon any school or university lands which are offered for sale, it shall be optional with the commissioners to sell together all the tracts or lots upon which such water power is situated, and such other tracts or lots as are necessary for the use and enjoyment of the same, not exceeding, however, one hundred and sixty acres, or they may sell each such tract and lot separately, as in their opinion will be most beneficial to the interests of the school and university fund.

Where water power how to proceed.

SEC. 9. All lands sold under the provisions of this chapter, shall be subject to the levy and collection of taxes as in ordinary cases; and if the purchaser shall refuse or neglect to pay the taxes thus levied and the collector shall be unable to find personal property upon which to levy, he shall return such land with other delinquent lands, and they shall be advertised; and the interest of the purchaser therein sold in the manner prescribed by law for the sale of lands for delinquent taxes.

Lands sold subject to taxes.

SEC. 10. The order of sale at auction of the school and university lands shall be, to begin at the lowest numbers of the sections, townships and ranges in each county, and proceed regularly to the highest, until all then to be sold are offered for sale; and no bid shall be received from any one person for more than one hundred and sixty acres of land in this state.

Order of sales.

SEC. 11. The terms of payment on the sale of all school and university lands, shall be not less than ten per cent. and not more than seventy-five per cent. of the purchase money, to be paid at the time of the sale, as shall be determined by the commissioners, and interest on the balance to the first day of January next following, at seven per cent., and the balance of the principal to be paid in one or more instalments at any time within ten years from such sale, at the option of the purchaser, with like interest, payable in advance on the first day of January, or within thirty days thereafter, in each year, at such place or places as shall be specified in the certificate of sale; but nothing in this section contained shall prevent any purchaser from paying the whole purchase money at the time of sale, if he chooses so to do.

Terms of payment.

SEC. 12. In fixing the amount of purchase money to be paid at the time of sale, the commissioners shall have reference to the amount of permanent improvements on the land sold not liable to be destroyed, the proportion of timber, mineral or prairie, if any, thereon, and the general situation of such land relative to its liability to be injured, or its becoming less valuable by trespass, waste or otherwise.

How amount of ready purchase money to be determined.

SEC. 13. Upon the close of the sales each day, every purchaser of any lot or tract shall pay the amount of purchase money, and interest required by the terms of the sale to be paid in hand, or in case of failure to make such payment by the opening of the sales on the next day, the lot or tract so sold shall be again offered at public sale on the same terms as before.

Money to be paid on day of sale.

SEC. 14. If any purchaser shall neglect or refuse to make the

Penalty for neglecting to pay. payment specified in the preceding section, before the lot or tract bid off by him shall be again offered for sale, he shall, for every such refusal or neglect, forfeit the sum of twenty-five dollars for each lot or tract so bid off by him, to be recovered in the name of the state by the commissioners.

When additional surety required. SEC. 15. Whenever in the opinion of the commissioners, any school or university lands are so situated that additional security should be given for the payment of the balance of the purchase money, they may require such security, which shall be a bond and mortgage, the mortgage to be executed upon unincumbered real estate of double the value of the amount of the purchase money remaining unpaid.

Forfeiture for non-payment. SEC. 16. In case of the non-payment, either of principal or interest, when due, according to the terms of the certificate of sale such certificate shall become void from the time of such failure, and the purchaser or purchasers shall forfeit all right and interest in the land described in such certificate, and the commissioners may take immediate possession thereof and re-sell the same, as is hereinafter provided.

How contract revived. SEC. 17. At any time before a re-sale of such land, the payment of the sum due with interest, and all costs occasioned by the delay, together with five per cent. damages on the whole sum owing for such land, shall prevent such re-sale, and revive the original contract.

When residue to be paid to purchaser. SEC. 18. If on a re-sale of such land, the same shall produce more than sufficient to pay the sum owing therefor, with interest and costs and five per cent. damages on the amount of purchase money unpaid, the residue, when collected, shall be paid over to the former purchaser or his legal representatives.

Punishment for waste. SEC. 19. In case of such forfeiture, the former purchaser of such land shall be liable to be sued for any waste or unnecessary injury which he may have done to the same, or to the timber or mineral thereon, and any suit therefor shall be prosecuted by the commissioners in the name of the state for the benefit of the school or university fund.

Title to remain in state. SEC. 20. The title or fee of all school and university lands shall remain in the state until the patents shall issue for the same, and no such patent shall issue except upon full payment of the interest.

Certificate of sale how far evidence of title. SEC. 21. The certificate of sale issued by the commissioners, pursuant to the provisions of law, shall entitle the purchaser to the lands therein described, and shall be sufficient evidence of title to enable the purchaser, his heirs or assigns to maintain actions for injuries done to the same, or any proper action or proceeding to recover possession thereof, and also for rents becoming due, or breaches of covenant accruing after his purchase, under any lease existing at the time of such purchase; unless such certificate shall have become void by forfeiture.

How far certificate justify cutting down timber, &c. SEC. 22. No such certificate shall be deemed to confer upon the purchaser, or any person claiming under him, the right to cut down or destroy, or carry off from the land any wood or timber standing or growing thereon, or any mineral therefrom, without the

written consent of the commissioners, and only to the extent of such consent; but nothing herein contained shall prevent such purchaser from actually using and applying any wood or timber on the land to the erection of fences or buildings thereon; nor for taking firewood therefrom necessary for the use of his family; nor from actually and fairly improving any such land for the purposes of cultivation.

SEC. 23. Certificates of sale in force, may be acknowledged and recorded in the same manner that deeds of conveyance are authorized to be recorded; and they may also be assigned by writing, which may be acknowledged and recorded in like manner; and the person to whom the same shall be legally assigned, shall have the same rights and remedies thereupon, as the original purchaser would have had.

Certificate may be acknowledged and assigned.

SEC. 24. Whenever any such certificate shall be lost or destroyed before the patent shall issue, the commissioners, upon satisfactory proof of the fact by affidavit to be filed with them, may issue a certified copy of the original certificate of sale to the person entitled thereto, which shall have the same force and effect as the original or duplicate.

New certificate may be issued in case of a loss.

SEC. 25. When full payment shall have been made for any such lands, as required by law, and the purchaser or his legal representatives, shall produce to the said commissioners the duplicate certificate of sale, with the receipt of the state treasurer endorsed thereon, showing that the whole of the principal and interest due thereon has been paid, and that the holder of such certificate is entitled to a patent for the lands described therein, the original and duplicate certificates shall be canceled, and a patent from the state for the land described in such certificate shall be issued by the commissioners to the person or persons entitled thereto; which patent shall be signed by the governor and countersigned by the secretary of state, with the great seal of state thereto affixed.

When certificate canceled and patent issued.

SEC. 26. The purchaser of any such land, when the balance of the purchase money therefor shall become due, may retain the same as a loan from year to year, on payment annually in advance of the interest on the sum due, at the rate of interest specified in the certificate of sale; but no patent shall issue for such land until full payment is made as provided in the preceding section, together with all taxes levied thereon, and the legislature may hereafter change the law so as to require payment of such purchase money at any time after one year from the time when the original credit shall have expired.

Purchaser may retain money, &c.

SEC. 27. Purchasers may, at any time before due, pay any part or the whole of such purchase money, and the interest thereon.

SEC. 28. Any school and university lands which shall be forfeited by the non-payment of either principal or interest, before the same shall be subject to private entry, shall be re-offered for sale at public auction, and the minimum price of all parcels or lots so forfeited, upon which improvements shall have been made, shall be such as (*shall be such as*) shall be determined in the manner provided in the forty-eight section of this chapter.

Lands forfeited to be re-offered for sale.

Forfeited lands to be advertised and sold.

SEC. 29. Such forfeited lands shall, from time to time, at the discretion of the governor and said commissioners, be advertised and sold at public auction, in the same manner and on the same terms, as is provided in this chapter for the sale of school and university lands at auction.

Lands once offered subject to private sale.

SEC. 30. All school and university lands which have once been offered at public sale and remain unsold, and all forfeited school and university lands, if they shall have been re-offered at public sale and remain unsold, shall be subject to private sale to the person first making application therefor and complying with the terms of sale, at the last appraised value of such lands, including the expenses of appraising and subdividing the same; but if two or more persons shall apply at the same time to purchase any of such lands, the same shall be offered to the highest bidder; and the applicant who will pay the highest price shall be the purchaser.

Improvements to be paid for by purchaser.

SEC. 31. Whenever any lot or parcel of the school and university lands shall have improvements thereon, and such improvements shall have been appraised and returned by the appraisers, the person purchasing such land, if he be not the owner of such improvements, shall, in addition to the price agreed to be paid to the state for the land, pay to the person owning or entitled to such improvements the appraised value thereof, and interest on such value from the time of sale until paid, and the person owning or entitled to such improvements may recover by suit such value and interest, of the purchaser; and if the value of such improvements and interest thereon shall not be paid within two years from the day of sale, unless the person entitled to the same shall give further time for payment, the certificate of sale of such land shall become void, and the commissioners may re-sell the same; and no patent shall issue for such interest for such lands, until satisfactory proof shall be produced to the commissioners that payment has been made as aforesaid for such improvements.

Person owning improvements entitled to purchase.

SEC. 32. Whenever the person purchasing any lot or parcel of land, specified in the preceding section, shall be the owner of the improvements thereon, he shall be entitled to purchase the same as unimproved lands, irrespective of the value of the improvements.

Written application to sec'y of state.

SEC. 33. Every person making application for the purchase at private sale of any school and university lands, shall produce to the secretary of state an application in writing, describing the tract or lot which he proposes to purchase by the proper number of the section, township and range, and the subdivision of the section, with his name subscribed thereto, which application the secretary shall file and preserve in his office.

Duty of sec'y of state.

SEC. 34. Upon the receipt of such application, the secretary of state shall, if the land applied for may then be sold, enter on books kept for that purpose a note of every such application, specifying the day when made, the name of the applicant, and the description of the land applied for, and shall also give to such applicant a memorandum stating such application and describing the tract or lot of land specified in his application, and stating the price at which the

same may be sold, and the amount to be paid at the time of sale, which memorandum shall be signed by the secretary.

SEC. 35. Upon producing such memorandum to the state treasurer, and paying to him such sum as shall be required to be paid upon the sale for the land purchased, and also upon the payment of such sum as shall be so required to be paid upon the sale of any of said lands at public auction, the said treasurer shall give a receipt therefor to such applicant or purchaser, and shall make out, execute and deliver to such person a duplicate certificate of sale, in which he shall certify the description of the land sold, the sum paid, and the amount remaining due thereon, and the times, place and terms of payment, and that if it shall be duly discharged, the purchaser, or his assignees, or other legal representatives shall be entitled to a patent for such land; the original and the duplicate certificate shall be properly numbered, and signed by the treasurer and countersigned by the secretary of state, and the original shall be filed and recorded in the office of the said treasurer, and no certificate unless the duplicate shall be so countersigned, shall be valid in law.

Duty of state treasurer.

SEC. 36. The said certificate shall further set forth, that in case of the non-payment into the treasury of the purchase money as it shall become due, or of the interest due thereon, by the first day of January, or within thirty days thereafter, in each and every year, by the purchaser or purchasers, or by any person claiming under him or them, then the said certificate from the time of such failure shall be utterly void and of no effect, and the said commissioners may take possession of the land described in such certificate and re-sell the same.

Certificate to set forth certain conditions.

SEC. 37. Upon presentation by the purchaser to the secretary of state of the duplicate certificate and the receipt for the purchase money required to be paid at the time of sale, he shall countersign and deliver the same to such purchaser, and make a note thereof in the book of entries, and shall enter therein the day of sale, the name of the purchaser, the number of the certificate, the sum paid, and the amount of purchase money due, and when such lands shall have been sold at public auction, he shall note that fact, and describe the land sold as specified in section thirty-three of this chapter.

Sec'y required to countersign certificate, &c.

SEC. 38. All moneys paid on account of school or university lands, whether for principal, interest or otherwise, shall be paid to the state treasurer, in specie only, and when so paid, he shall give his receipt therefor, and credit the proper fund therewith; and every such receipt or other writing given by the said treasurer, which purports to be evidence of money received by him on account of said lands, shall be countersigned by the secretary of state; and unless such receipt or other writing shall be so countersigned, it shall not be evidence of payment.

Moneys to be paid to state treasurer—his receipt evidence of payment.

SEC. 39. The secretary, upon countersigning such receipt or other writing, shall charge the said treasurer with the amount received by him as therein mentioned, in a book to be kept for that purpose, and shall also enter the name of the person paying the

Sec'y to charge treasurer with

amount received by him

same, the number of the certificate upon which the amount shall be paid, and the time of the payment.

Sec'y to make statements to governor.

SEC. 40. The secretary of state shall, after comparing with the attorney general, the accounts so kept by him with those kept by the treasurer, on the first Monday of every month, transmit to the governor a statement of all the certificates of sale issued during the preceding month, the numbers thereof, a description of the lands mentioned in each, and the name of the purchaser, also showing the amount of moneys received by the treasurer, on account of school and university lands, the names of the several persons paying the same, the time of payment, and the particular fund to which they belong.

Treasurer to pay over to county treasurer.

SEC. 41. The state treasurer shall, upon the application of the treasurer of any county, pay over to such county treasurer the costs of appraising and surveying all school and university lands which have been sold in his county, and take his receipt therefor: the amount of money to be thus paid over shall be determined by the returns of the appraisers, of the costs of appraisal and survey of the several tracts of land having been sold as aforesaid: *Provided*, if said county shall be delinquent in the payment of state revenue, the state treasurer shall retain the money so due and credit such county therewith.

Sec'y to record all reports.

SEC. 42. The secretary of state shall record, in suitable books kept by him for that purpose, all the reports heretofore made, or which may hereafter be made by the appraisers of school and university lands, together with the plats and maps accompanying the same.

Treasurer to keep account with each purchaser.

SEC. 43. The state treasurer shall open an account with each purchaser, for every tract or lot of said lands that shall be sold, either at public or private sale, in a book to be kept by him for that purpose; in which he shall charge the purchaser with the whole purchase money, and give him credit for all his payments, making the proper charges for interest as the same shall become due; and upon all payments being completed and the patent issued, the account shall be balanced.

How sec'y to note sale of lands.

SEC. 44. Whenever any tract or lot of said lands shall be sold, the said secretary shall note the sale on the record of plats returned by the appraisers by inserting the letter "S" upon such tract or lot, at the time the certificate of sale shall be issued, and the letter "P" when the patent for the same is granted, and if the land sold shall become forfeited, he shall note the same by crossing the letter "S," on the day the forfeiture shall take place.

Gov. and com'rs to regulate keeping of the books.

SEC. 45. The governor, together with said commissioners, may prescribe such further regulations as to the manner of keeping books and accounts by the said commissioners, or either of them, as may appear necessary and proper, in order fully to carry into effect the provisions of this chapter; and the governor shall procure and furnish for the commissioners all such books and stationery as they or either of them shall need in the discharge of their duties under this chapter.

Gov. to furnish books &c

SEC. 46. On or before the first day of June in any year, when the commissioners of the school and university lands shall deem it

necessary, they shall prepare and transmit to the clerk of the board of supervisors of every county in which such lands are situated, lists of all such forfeited lands in the several towns therein, and of the unsold school and university lands which have been once appraised and have improvements thereon, and also all such other appraised school and university lands as have been offered for sale at public auction, and shall have remained unsold for two years thereafter, as they shall deem expedient; together with proper forms and instructions to be forthwith distributed by such clerk, to the supervisors of the towns to whom the same may be directed.

Lists of forfeited lands to be sent to clerk.

SEC. 47. The supervisors of every town receiving the lists and forms as aforesaid, shall, after first being duly sworn faithfully and impartially to discharge their duties as appraisers, proceed to estimate and appraise the value of all improvements upon the several lots and parcels of land specified in such lists, and also the value of such portions of said lands as they shall be required to appraise, and after making such appraisement, they shall make return thereof, duly certified by them, to the commissioners, on or before the first day of August in the same year: all the expenses incurred under this section shall be paid out of the county treasury of the proper county, and shall be allowed and paid to such county out of the school fund.

Supervisors to appraise improvements—their duties

SEC. 48. On the return of such appraisement, the amount of the appraised value of improvements on each lot or parcel of land shall be added to the last appraised value of such land, and the amount thus obtained, together with all expenses of appraising and subdividing the same, shall be the minimum price of such lot or parcel, until the same shall be changed by a subsequent appraisal; and the value of any lands that may be re-appraised, as provided in the preceding section, shall be the minimum price of such lands until the same shall again be appraised as aforesaid.

What the minimum price.

SEC. 49. Whenever, in the opinion of the commissioners, the school or university fund will be improved by laying off any section or portion of school or university lands into small parcels or village lots, the said commissioners may cause the same to be so laid off, or subdivided, and appraised by three disinterested freeholders of the county in which the lands so to be subdivided are situated.

Com'rs may subdivide lands.

SEC. 50. Such freeholders shall be appointed by the commissioners, and after being first duly sworn faithfully and impartially to discharge the duties of their appointment, shall lay off the lands they may be directed to subdivide into parcels and lots, with streets and alleys where necessary, and shall appraise such parcels and lots at their true value respectively, and shall make a return of their doings, with the appraisement, and the survey and map of the lots so laid off, duly certified to the commissioners.

Persons appointed by com'rs to appraise and make return.

SEC. 51. All parcels and lots so laid off and appraised, shall be subject to sale in the same manner, and upon the same terms and conditions, as other school and university lands, at the prices at which they shall be so appraised, until a new appraisal shall be made as hereinbefore provided.

Lots laid off subject to sale as other lands

Com'rs may withhold lands from sale.

SEC. 52. The said commissioners and the governor may in their discretion, reserve and withhold from sale, such portions of the school and university lands, as in their opinion it may not be advantageous to sell and dispose of, and for so long a time as in their opinion will be most beneficial to the university and school funds.

May lease lands.

SEC. 53. The commissioners may from time to time lease, for terms not exceeding one year, and until the same are disposed of according to law, all such university and school lands as shall have improvements on them; and such leases shall contain proper covenants to guard against trespasses and waste, and the rents arising therefrom shall be paid into the state treasury, to the credit of the proper fund.

Rents how paid

Com'rs to have general supervisory care of all state lands.

SEC. 54. The said commissioners shall have the general care and supervision of all lands belonging to this state, and of all lands in which the state has an interest, or which are or may be held in trust by the state, unless the superintendence thereof is vested in some other officer or board.

May cause surveys to be made.

SEC. 55. Whenever it shall appear to the commissioners necessary that surveys should be made, in order to ascertain the true boundaries of any tract or portion of the school or university lands, or to enable them to describe and dispose of the same in suitable and convenient lots, they may cause all such necessary surveys to be made.

Precluded from purchasing lands.

SEC. 56. The commissioners of the school and university lands shall be precluded from purchasing any of said lands, either in their own name, or in the name of any other person in trust for them.

Fees for certificate of sale.

SEC. 57. The secretary of state and treasurer shall each be entitled to receive twenty-five cents for each duplicate certificate of sale issued by them, and the same fees for each patent granted, to be paid by the purchaser or grantee, which shall be in full payment for clerk hire and expenses incurred in discharging the duties required of them by this chapter.

Annual report to be made by com'rs.

SEC. 58. The said commissioners shall annually make a report to the legislature of their official proceedings, showing the quantity of land sold or leased, and the amount received therefor, the amount of interest moneys accrued or received, the amount of money loaned in each county, and on what terms, and all such other matters relative to the duties of their office as they may think proper to communicate, or as the legislature may require.

Of the School and University Funds and the Investment thereof.

Proceeds of school fund appropriated to the support of schools.

SEC. 59. The nett proceeds of all receipts into the treasury on account of the capital of the school fund, shall be set apart and remain a perpetual fund, the interest of which and the revenues arising from the interest on the unpaid balances that may be due on the sales of school lands, and from the leases of said lands, shall be appropriated and applied to the support of common schools, throughout the state, the maintenance of academies and

normal schools, and the purchase of suitable libraries and apparatus for the same.

SEC. 60. The nett proceeds of the sales of all lands which have been or may be granted to this state for the support of a university, shall be and remain a separate and perpetual fund, the interest of which and the rents accruing from the leases of said lands, shall be appropriated to the establishment and support of the State University. University fund.

SEC. 61. Of the amount of the said school or university fund, the principal shall be loaned out, and the annual interest be applied in payment of the current expenses of the university and common schools throughout the state. Fund loaned and interest how applied.

SEC. 62. The commissioners shall have power, and it is hereby made their duty, from time to time, to make loans of any and all the moneys authorized by the preceding sections, to citizens of Wisconsin on a pledge of real estate, to be secured by mortgage as hereinafter prescribed: *Provided*, That all moneys arising from the sale of any school and university lands situate within the limits of any county in this state, shall be set apart and loaned to individual citizens, residents of said county. Com'rs to make loans.

SEC. 63. The commissioners shall duly inform themselves of the value of all real estate offered in pledge as aforesaid, and shall judge of the validity of the title thereof; and it is hereby made the duty of all persons applying for a loan, to produce to said commissioners, for their inspection, the title papers, showing a clear and valid title in fee simple, without incumbrance, for the property so offered in pledge, and not derived through any executor or administrator's sale, or sale on execution. Duty of com'rs to ascertain the value of lands pledged—duty of persons asking a loan.

SEC. 64. The commissioners shall have power, whenever they may deem it necessary, to appoint commissioners in any county in this state, to value and appraise any lands which may be offered in mortgage. Com'rs may be appointed in any county.

SEC. 65. Such commissioners, first being duly sworn, faithfully to discharge their duty as herein required, shall, on the application of the owner of any land proposed to be mortgaged, examine and appraise the same, and give to the applicant a certificate signed by them, setting forth the value thereof in specie, at the common selling rate in their county at the time of such valuation. Duty of com'rs to examine and appraise land.

SEC. 66. In making such appraisement, perishable improvements shall not be taken into consideration.

SEC. 67. Such certificate shall also show the quantity of land in acres; the quarter or half quarter section, the number of the section, township and range in which such land lies, or if said land consist of one or more town lots, the said commissioners shall otherwise specify and designate the land in the best manner possible. Land to be described.

SEC. 68. The commissioners appraising any such land, or town lots, shall each be entitled to one dollar per day while so occupied, to be paid by the applicant. Fees of com'rs.

SEC. 69. No greater sum than five hundred dollars, nor less than one hundred dollars shall be loaned to any one person out of said fund. Amount to be loaned.

- Rate of interest.** SEC. 70. The rate of interest required shall be seven per cent. per annum, payable annually in advance.
- Excess of money to be loaned.** SEC. 71. Whenever there shall be in the treasury any money belonging to the capital of the school or university fund, exceeding one thousand dollars, it shall be the duty of the commissioners of the school and university lands, to loan the same in the manner herein provided.
- Loan made for 5 years.** SEC. 72. No such loan shall be made for a longer period than five years: *Provided*, That any person obtaining said loan may have the privilege of extending the time of payment of the principal from year to year, on payment annually in advance of the interest on the sum due, at the rate of interest specified in the original mortgage, and the legislature may hereafter change the law so as to require payment of such loaned money at any time after one year from the time when the original credit shall have expired.
- Persons may pay.** SEC. 73. Nothing in the preceding section contained shall prevent any person who may have obtained such loan, from paying the whole or any part of the principal at the time when any interest becomes due.
- Amount loaned.** SEC. 74. The sum loaned shall not exceed one half of the appraised value of the premises to be mortgaged, clear of all perishable improvements: and the commissioners may reduce the amount to be loaned on any such valuation, when from any cause they may have good reason to believe that the same was not in proportion to the prices of similar property selling in the vicinity.
- Mortgages to be considered a record.** SEC. 75. The mortgages taken for loans as aforesaid shall be considered as a record from the date thereof, and shall have priority of all mortgages and conveyances not previously recorded, and of all liens not previously incurred in the county where the land lies.
- Mortgages to be recorded—expense how paid.** SEC. 76. It shall be the duty of the commissioners to have all such mortgages recorded with due diligence, the expense thereof shall be borne by the applicant for such loan, and may be retained out of the money borrowed.
- Persons applying for a loan to show title.** SEC. 77. The person applying for a loan shall produce and file with the commissioners, a complete chain of title to the land offered to be mortgaged, and the certificate of the clerk of the circuit court, and register of deeds of the county in which the land lies, showing that there is no conveyance of, nor incumbrance on said land in either of their offices.
- To make oath.** SEC. 78. Such person shall also, before he receives the money to be loaned, make oath to the truth of an abstract of title to his said land, and that there is no incumbrance, or better claim in law or equity that he knows or believes, upon or to said land.
- Loans and interest paid to state treasury.** SEC. 79. All loans refunded and all interest shall be paid into the state treasury; and the treasurer's receipt shall be filed with the said commissioners, who shall give the payer a quietus for the amount thereof, and make the proper entries on their books.
- Mortgage how satisfied.** SEC. 80. Whenever the amount due on any mortgage shall be fully paid and the treasurer's receipt filed therefor, the said commissioners shall endorse on the note and mortgage that the same

have been fully satisfied, and surrender such note and mortgage to the person entitled thereto, and on the production of the same, with such endorsement thereon, the recorder of the proper county shall enter satisfaction upon the record thereof.

SEC. 81. When the interest or principal of any such loan shall become due and remain unpaid, the commissioners shall proceed to collect the same by suit on the note, or sale of the mortgaged premises, or by both, as to them may seem advisable; they may also, by action of ejectment, obtain possession of the mortgaged premises.

How to make collections

SEC. 82. In case of suit on such note, and judgment thereon, no stay of execution shall be allowed.

No stay.

SEC. 83. Should any person in possession of any such mortgaged premises wilfully destroy or injure the same, whereby the security of the state shall be lessened, he shall be held guilty of a misdemeanor, and on conviction, be fined and imprisoned at the discretion of the jury trying the same.

Punishment for malicious waste.

SEC. 84. On failure to pay any interest or principal, when due, on any such mortgage, the commissioners shall advertise the mortgaged property for sale in one or more of the newspapers printed in the county where the land is situated, or, in case no newspaper be printed in said county, in a newspaper printed at Madison, for sixty days, such sale to take place at such place, and be conducted in such manner as the commissioners may direct.

Com'rs. to advertise, &c.

SEC. 85. At the time appointed for such sale, one or more of said commissioners shall attend, and they shall make sale of so much of the mortgaged premises to the highest bidder for cash, as will pay the amount due for principal, interest, damages and costs of advertising and selling the same.

Amount of sale limited.

SEC. 86. In case no one will bid the full amount due as aforesaid, the commissioners present shall bid on the same on account of the proper fund; and as soon thereafter as may be, shall sell the same to the highest bidder for cash or on a credit of five years, interest being payable annually in advance.

When no bid is made how to proceed.

SEC. 87. The sale authorized in the preceding section, shall not be for a less amount, than the sum chargeable on said land, and if for more, the overplus shall be paid to the mortgagor, his heirs, or assigns.

How surplus disposed of.

SEC. 88. Such sales may be in parcels, so that the whole amount required be realized thereby.

SEC. 89. A statement of such sale shall be made out and signed by said commissioners, and shall be recorded in their office, and such record or a copy thereof, authenticated by the certificate of the commissioners shall be received as evidence of the matters therein contained.

Statement of sale to be made out, &c.

SEC. 90. When any land is bid off by the state at such sale, no deed need be made therefor to the state; but the statement of such sale and the record thereof made, as in the preceding section required, shall vest the title in the state for the use of the school fund.

No deed necessary in sales to the state.

SEC. 91. In case of a sale of any such lands to any person for cash, on production of the treasurer's receipt for the purchase

To give purchaser certificate. money, the commissioner shall give to the purchaser a certificate, which shall entitle him to demand and receive a deed for said land; to be executed by the governor of this state and recorded in the office of the secretary of state.

When entitled to a deed SEC. 92. In like manner, when any tract of land bid off by the state, is sold on a credit, on the execution and delivery of a note and mortgage for the proper amount, as in other cases required, the purchaser shall be entitled to a deed for the same, to be made as prescribed in the preceding section; and the transaction shall be entered and appear upon said commissioners' books, as a payment of the sum bid, and a re-loan of the same to the purchaser, and the proper receipts and warrants shall pass therefor.

Com'rs to keep record. SEC. 93. The said commissioners shall keep fair and regular entries of the sums received and paid out on account of said fund, and shall report the names of borrowers, the sums borrowed, and a description of the property mortgaged, with their annual report to the legislature.

To keep accounts, &c. SEC. 94. In addition thereto, the said commissioners shall keep fair and regular accounts with the borrowers of said fund and shall include the same in their annual report.

Form of mortgage. SEC. 95. The mortgage to be taken may be in the following form in substance, to wit: "I, A. B., of the county of _____ in the state of Wisconsin, do assign over and transfer to the state of Wisconsin all (here describe the land) which I declare to be mortgaged for the payment of _____ dollars, with interest at the rate of seven per cent. per annum, payable in advance, according to the conditions of the note hereunto annexed."

Form of note. SEC. 96. The note accompanying the same may be in substance as follows, to wit: "I, A. B., promise to pay to the state of Wisconsin, on or before the _____ the sum of _____ with interest thereon, at the rate of seven per cent. per annum, in advance, commencing on the _____ day of _____ 18____, and do agree that in case of failure to pay any instalment of said interest, the said principal sum shall become due and collectable, together with all arrears of interest; and on any such failure to pay principal or interest when due, five per cent. damages on the whole sum due shall be collected with costs, and the premises mortgaged may be forthwith sold by the board of commissioners for the sale of the school and university lands, for the payment of such principal sum, interest, damages and costs."

Miscellaneous Provisions.

To record map. SEC. 97. The said commissioners shall cause a correct map of every tract of school or university land, which has been or shall be laid off into village lots as provided by law, to be recorded in the office of the register of deeds of the county where such land is situated.

Registers to record patents. SEC. 98. The registers of deeds of the several counties are authorized to record all patents issued by the commissioners pursuant to the provisions of this chapter; and the record thereof shall

have the same effect as the record of other conveyances executed according to the laws of this state.

Sec. 99. In case of the sale of any school or university lands made by mistake, or not in accordance with law, or obtained by fraud, such sale shall be void; and no certificate of purchase issued thereon shall be of any effect, but the holder of any such certificate shall be required to surrender the same to the commissioners, who shall thereupon refund the amount paid for the land described in such certificate.

Sales by mistake, &c. void.

Sec. 100. The town superintendent of common schools in each town shall be authorized to sell the fallen timber and the grass growing upon any unsold school or university lands in his town, if such lands are not leased by the commissioners, and shall pay the proceeds thereof into the county treasury; for the benefit of the school and university fund, and shall immediately report the amount so paid, to the state treasurer.

Town superintendent to sell timber and grass.

Sec. 101. All records, books, reports, surveys, maps and plats kept by the said commissioners, or either of them, as provided in this chapter, shall, at all business hours, be open in the presence of one of the commissioners, to the inspection of every person, free of charge.

Records, &c. to be open to inspection.

Sec. 102. If the state treasurer shall refuse or neglect to give an additional bond when required by the governor as provided by law, the governor shall, by his proclamation, suspend all sales of the school and university lands, and all payments on account of the same, until such security is given, or a new treasurer shall be elected or appointed and duly qualified.

On neglect of treasurer to give additional bond sales to be suspended.

Sec. 103. In case any person shall hold or continue in possession of any school or university lands, without express permission in writing from the commissioners of said lands, or contrary to the conditions or covenants of any lease or written agreement, or after such lands shall have become forfeited by reason of the non-payment of any portion of either of the principal or interest due thereon, he shall be liable to an action of forcible entry and detainer, or other proper action, or actions, for the recovery of the possession of such lands, and damages for the detention of the same.

Persons taking possession illegally how to be proceeded against.

Sec. 104. All damages and fines recovered for any trespass, or other injury upon, or to any of the lands set apart for university or school purposes, or either, or any other lands belonging to the state, shall be paid into the state treasury, for the benefit of the fund to which the same may properly belong.

Fines how disposed of.

Sec. 105. The appraisers appointed pursuant to an act entitled "an act providing for the appraisal and subdivision of the school and university lands," approved August twelfth, 1848, in those counties where the lands required to be appraised by said act, have not been appraised, shall continue to hold their appointment as such appraisers, until all of said lands within their respective counties shall be appraised and due returns thereof shall have been made, and they shall proceed with due diligence to make such appraisal and returns, whenever and as fast as such lands shall be surveyed; and in case of any vacancy in the office of such appraiser, the governor shall supply the same by appointment, and so much of

Appraisers to continue to hold appointments, &c.

said act as shall be necessary to carry into effect the provisions of this section is hereby continued in force.

Pre-emption.

SEC. 106. There is hereby secured to all persons who now are, and who, previous to the 13th day of August, 1848, were in the occupancy of any of the school and university lands in this state; and to any person or persons, who at the time of the appraisal were in possession of any such lands, either by lease or the express permission of the school commissioners of the town where such lands are situated, where the lands are situated in counties which were under the township system of government, or without permission where the lands are situated in those counties which were under the county system of government; the pre-emption right to purchase such portion of said lands so occupied by them, at the appraised value thereof: *Provided*, that no such right shall extend to more than the least subdivision of the section, as divided by the appraisers, and shall in no case exceed forty acres; and provided, also, that no such pre-emptor shall be allowed to purchase any such land at a less price than one dollar and a quarter per acre.

Proviso.

Pre-emptors to prove up right.

SEC. 107. Whenever the said school or university lands shall be offered for sale, any person or persons residing thereon, or holding the same by lease, wishing to avail themselves of the pre-emption right secured to them in the preceding section, shall, at any time before the day of such sale, prove up their right to such pre-emption before the said commissioners, by the affidavits of two or more disinterested persons, citizens of this state, and comply with the same conditions and obligations as are imposed upon other purchasers of said lands.

On failure, lands to be sold.

SEC. 108. If any person entitled to a pre-emption right as is above provided, shall, previous to the day set for the sale of said lands, fail to prove up his pre-emption, as is prescribed in the preceding section, and comply with the terms and conditions imposed upon him, he shall forfeit all right to such pre-emption, and the said lands, so occupied, may be offered as other lands, and sold on the same conditions, at such sale.

Appraisals in the cos. of Brown and Winnebago.

SEC. 109. The act to amend "an act providing for the appraisal and subdivision of the school and university lands," approved March second, 1849, shall not be so construed as to prevent the commissioners for the counties of Brown and Winnebago from proceeding in the appraisal and subdivisions of the surveyed lands in said counties, north and west of the Fox river, in the same manner as if said act had not passed.

Expenses of appraisers, how paid.

SEC. 110. All necessary expenses incurred by the appraisers of the school and university lands, for the employment of surveyors, chainmen or packers, during the time said appraisers were engaged in the appraisal and subdivision of said lands, shall be paid out of the county treasury of each county, upon the certificate of said appraisers, to be refunded to such county paying the same, at the same time and in the same manner, that the expenses of the appraisers are.

Sales to pre-emptors.

SEC. 111. The commissioners of said lands are hereby authorized to sell the lands upon which pre-emption rights have been, or

may hereafter be proven, to the person proving the right thereto, as is provided in the preceding sections, at the appraised value thereof, if such value shall not be a less sum than one dollar and twenty-five cents per acre, and for all lands claimed by pre-emption as aforesaid, which have been appraised at a less sum than one dollar and twenty-five cents per acre, the commissioners are hereby authorized and required to increase the said appraisal to said sum, so that in no instance whatsoever, shall any of the school or university lands within this state be sold to pre-emptors, at a less sum than one dollar and twenty-five cents per acre.

Price in all cases not to be less than \$1.25 per acre.

Sec. 112. It shall be the duty of each judge of the circuit court, especially to charge the grand jury, at every term of such court, to enquire into all offences of trespassing on said lands, against the provisions of this chapter, and present any person who may be guilty of any such offence within their county.

Charge on grand jury.

HARRISON C. HOBART,
Speaker of the Assembly.

JOHN E. HOLMES,

Lt. Governor and President of the Senate.

Approved, April 2, 1849.

NELSON DEWEY.

An act to appropriate to Seymour and Varney, to Timothy Robertson and James Helpin, the sums therein named. Chap 213

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

SECTION 1. That there be and hereby is appropriated out of the state treasury, out of any money not otherwise set apart or appropriated, the following sums for the purposes herein named, to wit:

Sec. 2. To Seymour and Varney, the sum of three hundred and one dollars and ten cents for stationery, candles, carpeting, &c., furnished the state up to the thirty-first day of January, A. D. 1849. Seymour and Varney.

Sec. 3. To Timothy Robertson, the sum of fifty-two dollars for work done for the state, up to the first day of January, A. D. 1849. T Robertson.

Sec. 4. To James Helpin, the sum of eighty-five dollars and eighty cents, for work and labor done for the state up to the 11th day of January, A. D. 1849. Jas. Helpin.

HARRISON C. HOBART,
Speaker of the Assembly.

JOHN E. HOLMES,

Lt. Governor and President of the Senate.

Approved, March 22, 1849.

NELSON DEWEY.