

asked for, or continuing it as originally granted until the decision of the appeal, unless the opposite party shall, at any time pending such appeal, give a written undertaking, with sufficient surety, in the amount to be fixed by the court or judge, to abide and perform the judgment in the action, if it shall be in favor of the appellant: *provided*, that the court shall discharge such last mentioned order, if it shall appear at any time that such appeal is not diligently prosecuted; and such want of diligence shall be deemed *prima facie* evidence of a breach of the conditions of the appellant's undertaking; *and provided, further*, that on notice of appeal being given, all proceedings under and in pursuance of the order appealed from, shall be stayed until the time allowed to the appellant to tender his undertaking to the opposite party shall have expired, or such undertaking shall have been tendered."

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

Approved March 29, 1861.

CHAPTER 140.

[Published April 1, 1861.]

AN ACT to amend Chapter 134 of the Revised Statutes, entitled "Of executions and proceedings supplementary thereto."

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

SECTION 1. The party in whose favor judgment has been heretofore or shall hereafter be given, may, at any time within five years after the entry of judgment, proceed to enforce the same, as provided in this act. Executions may issue within five years.

SECTION 2. After the lapse of five years from the entry of judgment, an execution can be issued only by leave of the court upon motion, with personal notice to the adverse party, unless he be absent, or non-resident, or cannot be found to make such service, in which case such service may be made by publication, or in such manner as the court shall direct. Such leave shall not be given unless it be established by the oath of the After that only by leave of court

party, or other satisfactory proof, that the judgment or some part thereof remains unsatisfied and due. When the judgment shall have been rendered in a court of justice of the peace, and docketed in the office of the clerk of the circuit or county court, the application for leave to issue execution must be to the court where judgment is docketed.

Repeal.

SECTION 3. Sections one and two of chapter one hundred and thirty-four, to which this act is amendatory, are hereby repealed.

SECTION 4. This act shall be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 141.

[Published April 3, 1861.]

AN ACT to declare Joint School District No. 12, in the town of Sterling, Bad Ax county, and town of Freeman, Crawford county, legal, and to legalize the acts of said Joint School District since its formation.

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

Acts of superintendents declared legal.

SECTION 1. The acts of William S. S. White, superintendent of schools in the town of Sterling, Bad Ax county, and of Amos Hubbard, superintendent of schools in the town of Freeman, Crawford county, on the 16th day of April, A. D. 1859, in forming joint school district No. 12, in said towns, are hereby declared legal and valid for all purposes whatever; and said joint school district is hereby declared to be a legally organized school district.

Ibid. district.

SECTION 2. All the acts done by said joint school district in regularly held district meetings, and by the elected officers of said district, since the formation of the same, are hereby legalized and declared valid and binding.

SECTION 3. This act shall be in force immediately after its passage.

Approved March 29, 1861.