

to read as follows, to wit: "Section 20. The court in which such judgment has been or shall be rendered at any time within one year thereafter, upon the application of the party against whom the same was rendered, his heirs or assigns and upon payment of all costs recovered thereby, shall vacate such judgment and grant a new trial in such cause: *provided*, that if such cause shall within ninety days after such judgment be or have been taken to the supreme court upon appeal or writ of error, the time during which the same is pending in and unremitted from the supreme court shall be excluded from, and be no part of the time within which application may be made as aforesaid, but no more than one new trial shall be granted under this section."

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 9, 1869.

CHAPTER 126.

[*Published March 12, 1869.*]

AN ACT to authorize certain counties, towns, cities and villages to aid in the construction of the land grant railroad from Portage City and from Doty's Island to Lake Superior.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. It shall be lawful for the proper officers of any county through any portion of which any part of the railroad of the Portage and Superior, or of the Winnebago and Superior railroad company, or of the company consolidated by the two said companies from Portage City to Lake Superior, and from Doty's Island to Lake Superior shall run, or any town or incorporated city or village in such county, to levy a tax upon all the taxable property in such county, town, incorporated city or village, to aid in the location and construction of any portion of such road, and for the purchase of right of way and depot grounds, and for like purposes, May levy tax to aid railroads.

to issue the bonds of any such county, town, incorporated city or village, in such sum or sums, and upon such terms and conditions as shall be agreed upon by and between such county, town, incorporated city or village and the said Portage and Superior railroad company, or the said Winnebago and Superior railroad company, or any railroad company which may be consolidated by or grow out of the two said companies; but no such tax shall be levied nor bonds issued by any such county, town, incorporated city or village, unless a majority of the legal voters of such county, town, incorporated city or village, voting on the question, shall first have voted in favor of such tax or the issuing of such bonds, in the manner hereinafter provided.

Companies may make proposition for aid.

SECTION 2. Whenever either of said railroad companies shall require aid from any such county, town, incorporated city or village, it shall make and deliver to the clerk of the board of supervisors of such county, the town clerk or clerk of such incorporated city or village, as the case may be, a definite proposition in writing, signed by the president or secretary of said railroad company, and sealed with the common seal of said company, which proposition shall contain a distinct statement of the amount of money or bonds desired, and the terms and conditions and considerations upon which the same will be required to be paid and delivered to said railroad company. Upon receiving such definite proposition, the clerk of the board of supervisors of such county, the town clerk or clerk of such incorporated city or village, as the case may be, shall within ten days, publish or cause to be published, a notice of an election to be held by the legal voters of such county, town, incorporated city or village, at the usual place or places of holding elections in such county, town, incorporated city or village, and at such time as he may designate, which shall not be less than twenty nor more than thirty days from the date of such notice, which notice shall contain a full statement of the proposition made by said railroad company, and shall call upon the voters to deposit a ballot upon which shall be written or printed the words, "for the railroad proposition," or the words, "against the railroad proposition."

Clerk of board shall give notice of election.

Form of ballot.

How election conducted.

SECTION 3. Such election shall be held and conducted in the same manner that other general elections

in such counties, towns, incorporated cities or villages are by law required to be held and conducted, and the votes cast at such election shall be counted, canvassed and returned in the same manner as the votes at any such general election; and the canvassers shall make, certify, sign and deposit with the clerk of such county, town, incorporated city or village, a statement of the whole number of votes cast upon the question, as well as a statement of the number for the railroad proposition and of the number against the railroad proposition; and such certificate shall be conclusive evidence of the fact as to the number of votes cast for or against such proposition, and also of the fact that such election was regularly held and conducted according to law.

SECTION 4. If a majority of the legal voters who shall vote on the question at any election to be held in any such county, town, incorporated city or village, in pursuance of the provisions of this act, shall, as indicated by the official returns of any such election, vote "for the railroad proposition," it shall be the duty of the proper officers in every such county, town, incorporated city and village, to cause said tax or bonds so voted to be raised or issued, and to be levied and collected or issued, and to be paid over or delivered to the said railroad company, on the performance by said company of the terms and conditions contained in such railroad proposition.

If majority in favor of proposition, bonds to be issued or tax raised.

SECTION 5. For the purpose of giving effect to the provisions of this act, the proper officers of every county, town, incorporated city and village mentioned in this act, are hereby declared to be the chairman of the county board of supervisors and the clerk of the board of supervisors in each county, the chairman of the board of supervisors and the town clerk in each town, the mayor and city clerk of such incorporated city, and the president and clerk of each incorporated village.

Who to constitute officers for purpose of this act.

SECTION 6. The tax authorized by this act shall be levied, assessed and collected in the same manner and form as other taxes are levied, assessed and collected in such county, town, incorporated city or village, and shall, when collected, be paid over to said railroad company by the treasurer of such county, town, incorporated city or village, as the case may be, on the certificate of the chairman of the board of supervisors of

How tax shall be levied.

such county or town, or the mayor or president of such incorporated city or village, that the said railroad company has performed all the terms and conditions of the proposition under which such tax was voted, levied, assessed and collected; and such treasurer shall give additional bonds, to be approved in the usual manner, in double the amount of the tax so to be collected by him, conditioned that he will faithfully pay over such tax as required by this act; and the bonds hereby authorized to be issued, shall be issued by such officers, in such amounts and with such rate of interest, and upon such time, and delivered to such railroad company as shall have been agreed upon between such county, town, incorporated city or village.

How stock and bonds of railroad company may be disposed of.

SECTION 7. All shares or the capital stock of [or] the bonds or other securities given by said railroad company to any county, town, incorporated city or village, may be taken, held, sold and transferred by such county, town, incorporated city or village in the same manner and with like effect as can be done by individuals, and upon such terms and conditions as shall have been agreed upon between such county, town, incorporated city or village and the said railroad company.

Tax to pay interest on bonds to be levied.

SECTION 8. Whenever any county, town, incorporated city or village shall issue any bonds, it shall be the duty of the proper officers of such county, town, incorporated city or village to levy annually upon the property thereof, as aforesaid, a tax sufficient to pay the interest upon such bonds, and raise a sinking fund to pay the principal thereof, when the same shall become due and payable; and whenever any such county, town, incorporated city or village shall issue and deliver to such railroad company, its orders on its treasurer for the payment of the amount of any tax, or part thereof voted, when the same shall become due, it shall be the duty of its proper officers to annually levy a tax sufficient to pay such orders when due, according to the terms thereof; and when any officers shall fail to levy any such tax, as hereby required, the holders of any such bonds or orders may apply to a circuit judge of the proper county in term time or in vacation, whose duty it shall be to issue forthwith his proper writ or order commanding such officers to levy, collect

and pay over such tax to the persons entitled to the same.

SECTION 9. This act is declared a public act and shall take effect and be in force from and after its passage.

Approved March 9, 1869.

CHAPTER 127.

[Published March 23, 1869.]

AN ACT in relation to actions of *quo warranto*.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. In all actions of *quo warranto* or to determine the right to any office in this state, it shall be necessary for the plaintiff or relator in every case where the defendant is in possession of the office in controversy, under a certificate of election issued by the proper officer or board of canvassers, to state in his complaint in what respect such certificate was improperly or illegally issued, and in case it is claimed that the relator received a majority of legal votes cast for the office, at any legal election to fill such office, he shall also state in such complaint the actual number of legal votes cast for the relator, and for the defendant for such office respectively, and also the number of votes cast for the relator and for the defendant respectively, for such office as determined by the legal canvass of such election, and shall also state the names of the persons whom such relator shall claim voted illegally at such election for the defendant which were canvassed, and in what such illegality consists, and the township or ward where such illegal votes were cast, and the plaintiff and relator shall upon the trial of any such action be confined and restricted to proof as to the illegality of such alleged illegal votes so specified, and shall not be permitted to give evidence of any other illegal votes than those so specified, and if such

Relator shall state in what respect certificate of election is defective.