

No. 470, A.]

[Published May 9, 1891.

CHAPTER 401.

AN ACT to provide for the organization of drainage districts and for the construction, maintenance and repair of drains, ditches, and levees in certain cases.

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

SECTION 1. Drainage districts comprising lands located in one or more townships may be organized and established in the manner hereinafter provided.

Drainage districts.

SECTION 2. Whenever a majority of the owners of lands within a district proposed to be organized, who shall have arrived at lawful age, and who shall represent one-third in area of the lands to be reclaimed or benefited, or whenever the adult owners of more than one-half of such lands desire to construct a drain or drains, ditch or ditches, levee or levees or other work across the lands of others for agricultural, sanitary or mining purposes, or to maintain and keep in repair any such drain or drains, ditch or ditches, levee or levees, heretofore constructed under any law of this state, such owners may file in the circuit court of any county in which the lands, or if they lie in more than one county, in which the greater part of the lands to be affected by said drain or drains, ditch or ditches, levee or levees, or other work proposed to be constructed, maintained or repaired shall lie, a petition signed by a majority of the owners of said lands, or by the owners of more than one-half of such lands within said district proposed to be organized as aforesaid, setting forth the proposed name of said drainage district, the necessity of the same, with a description of its or their proposed starting points, route and terminus, and a general description of the lands proposed to be affected, with the names of the owners, when known; and if the purpose of said owners is the repair and maintenance of a ditch or ditches, levee or levees

How may be organized.

Petition to circuit court, what to contain.

or other work heretofore constructed under any law of this state, said petition shall give a general description of the same, with such particulars as may be deemed important, and may apply for the organization of a drainage district, by the name and with the boundaries proposed, and for the appointment of commissioners for the execution of such proposed work according to the provisions of this act. Provided, that the lands embraced in such drainage district shall be liable for any and all damages resulting to lands lying outside of its boundaries because of the proposed work, and that the organization of such drainage district shall, in no manner interfere with any other drainage district above or below the proposed district; and if, through the construction of any proposed ditch or ditches, drain or drains, levee or levees, increased cost shall be entailed upon a lower district in providing means to carry off the water flowing from the higher district, then, and in such case, the lands in the higher district shall be liable for such increased cost.

Notice of filing petition to be published and served on each land owner; what to contain.

SECTION 3. Such petition being filed the clerk of the circuit court for the county in which the proceedings are instituted shall cause three weeks' notice of the presentation and filing of such petition to be given by posting notices thereof in at least five of the most public places in said proposed district in which said work is to be done, by serving or causing to be served a copy of such notice on each land owner, or person interested, residing in any county affected by the proposed work, either personally or by leaving at the last and usual place of abode, and also by publishing a copy thereof, at least once a week for three successive weeks, in some newspaper or newspapers published in each county from which any part of the district is proposed to be taken. If there be no newspaper published in such county, such notice may be printed and published in any newspaper printed and published in any adjoining county. Such notice shall state when and in what court said petition was and is filed, the starting point, route, termini and a general description of the proposed work; the boundaries and name

of the proposed drainage district; and at what term of said court, and when and where the petitioners will ask a hearing of said petition. If any of the land owners of said district are non-residents of the county or counties in which the proposed district will lie, the petition shall be accompanied by an affidavit giving the names and places of residence of such non-residents, if known, and, if unknown, stating that upon diligent inquiry their places of residence cannot be ascertained; and the clerk shall send a copy of the notice aforesaid to each of said non-residents, whose residence is known, within three days after the first publication of the same. The certificate of the clerk, or the affidavit of any other credible person, affixed to a copy of said notice, shall be sufficient evidence of the posting, service, mailing or publication of said notices.

SECTION 4. The circuit court in which such petition shall be filed, may hear the said petition at any general or special term thereof, and may adjourn the hearing from time to time or continue the case for want of sufficient notice or for other good cause.

Court may adjourn hearing

SECTION 5. On the hearing of any petition filed under the provisions of this chapter, all parties through or upon whose lands any of the proposed work may be constructed, or whose lands may be damaged or benefited thereby, may appear and contest the necessity or utility of the proposed work, or any part thereof, and the contestants and petitioners may offer any competent evidence in regard thereto. It shall be the duty of the court to hear and determine whether or not the said petition contains the signatures of a majority of the owners of lands within said proposed district, who are of lawful age, and who represent one-third in area of the lands proposed to be affected by said work, or the signatures of the owners of more than one-half of such land; and the affidavit of any three or more of the signers of said petition that they have examined said petition and are acquainted with the locality of said district, and that said petition is signed by a majority of such owners who are of lawful age and who represent at least one-third in area of the land proposed to be affected by such work, or by the owners of

Hearing of the petition; appointment of commissioners

more than one-half of such lands, may be taken by the court as *prima facie* evidence of the facts therein stated; and the oath or affirmation of any person before such court, properly taken and certified by any person or court authorized to take acknowledgments of deeds to real estate in this state, giving the age of such party, and his or her ownership of such lands, to be named in said oath, affirmation or affidavit, by proper description, shall be sufficient evidence to the court of such facts; provided, that all deeds made for the purpose of establishing or defeating the prayer of said petition, not made in good faith and for a valuable consideration, shall be taken and held to be a fraud of the provisions of this act, and the holders thereof shall not be considered as the owners of the land described in such fraudulent conveyance. If the court, after hearing any and all competent evidence that may be offered before it, for and against the said petition, shall find that the same has not been signed by a majority of the land owners, or by the owners of more than one-half of the wet lands in said proposed district, as hereinbefore required, the said petition shall be dismissed at the cost of the petitioners, but if it shall appear to the court that the petition has been signed by land owners constituting a majority of such land owners, or by the owners of a majority of said lands, the court shall so find, and if it shall further appear to the court that the proposed drain or drains, ditch or ditches, levee or levees, or other works, is or are necessary, or will be useful for the drainage of the lands proposed to be drained thereby, for agricultural, sanitary or mining purposes, the court shall so find and shall appoint three competent persons as commissioners to lay out and construct such proposed work. In case the land to be affected by the proposed work shall be situated in different counties, not more than two of the commissioners shall be selected from any one of such counties. If the court shall find against the petitioners, the petition shall be dismissed and the petitioners shall pay the costs of the proceeding.

SECTION 6. Before entering upon the duties of their office, such commissioners shall take and subscribe an oath to support the constitution of

Qualification of
commissioners.

the United States and the constitution of the state of Wisconsin, to faithfully and impartially discharge the duties of their office, and to render a true account of their doings to the court by which they are appointed, whenever required by law or by the order of the court; and shall execute a bond running to the clerk of said court and his successors in office, as obligees, to be filed with said clerk for the benefit of the parties interested, in the amount and with sureties to be approved by the court or presiding judge, conditioned for the faithful discharge of their duties as such commissioners, and the faithful accounting for and application of all moneys which shall come into their hands as such officers. Upon the due qualification of each commissioner the said clerk shall issue to him a certified copy of the order of his appointment.

SECTION 7. At their first meeting which shall be held within ten days after their appointment and qualification, the said commissioners shall elect one of their number as secretary.

First meeting,
when to be
held.

SECTION 8. A majority of the commissioners shall constitute a quorum, and a concurrence of a majority of their number in any matter within their duties shall be sufficient to its determination.

Quorum.

SECTION 9. As soon as may be after their appointment, or within such time as the court may direct, the commissioners shall examine the land, described in the petition, proposed to be drained and protected, and the lands over or upon which the work is proposed to be constructed and shall determine and report:

Commissioners
to examine
land and re-
port. Report,
what to con-
tain.

1st. Whether the starting point, route and terminus of the proposed work and the proposed location thereof, is or are in all respects proper and feasible, and if not, what is or are so.

2nd. The probable cost of the proposed work, including all incidental expense, and the cost of the proceedings therefor.

3rd. The probable cost of keeping the same in repair after the work is completed.

4th. What lands will be injured thereby, and the aggregate amount of such injuries; and they shall award to each tract, lot, easement or interest, by whomsoever held, the amount of damages so determined by them.

5th. What lands will be benefited by the con-

struction of the proposed work, whether the benefits will equal or exceed the aggregate cost of constructing such work, including all incidental expenses, costs of proceedings and damages; and they shall apportion and assess the estimated cost of the same, on the lands so benefited, setting down opposite to the correct description of each tract, lot, easement, interest or servitude, by whomsoever held, the portion of such cost assessed as benefits thereon. And if any particular part of the work so proposed to be done should be assessed upon any particular tracts or lots of land, or upon any town, municipality or corporation, they shall so specify; and if any town, municipality or corporation should in their judgment bear a part of the expense, or as such, will derive a public or special benefit from the whole or any part of such proposed work, they shall so report and assess the amounts of such benefits.

6th. Whether the proposed district as set out in the petition filed, will embrace all of the lands that may be damaged or benefited by the proposed work, and if not, to report what additional lands will be benefited or damaged, and the amounts of the benefits or damages in the same manner as though such lands were included in such original petition. In case the prayer of the petition is for the purpose of repairing and maintaining a levee or levees, ditch or ditches, or other work heretofore constructed under any law of this state, it shall be the duty of the commissioners to examine the said levee or levees, ditch or ditches or other work, and the lands intended to be reclaimed thereby and to report to the court:

1st. Whether, in their opinion, said levee or levees, ditch or ditches, with proper repairs can be made sufficient to protect permanently said lands from overflow from high water or to drain the same.

2nd. The probable annual expense of keeping the same in repair.

3rd. What lands will be benefited thereby, giving accurate descriptions by government subdivisions, the names of the owners, and if any repairs are needed, the cost of the same, with all incidental expenses, and an assessment

of such cost on each tract, lot, easement or servitude, by whomsoever held. And if any particular part of such cost should be assessed upon any particular tracts, or lots of land, they shall so specify, and if any town or municipality derives a public or special benefit from such work, they shall so determine and report, and assess to such town or municipality its equitable portion of such cost.

4th. Whether the aggregate amount of such costs will exceed the benefits resulting to the lands and interests assessed.

5th. Whether the proposed district will embrace all of the lands that may be benefited by the maintenance of such levee or ditch, and if not, to report what additional lands will be so affected; which report shall be filed with the clerk of the court.

SECTION 10. If the commissioners shall find that such costs, expenses and damages are more than equal to the benefits that will be bestowed upon the land to be benefited, they shall so report, and the proceedings shall be dismissed at the cost of the petitioners.

Benefits and damages.

If damages exceed benefits, work will not be ordered.

SECTION 11. If the commissioners report that the whole cost of such proposed work will be less than the benefits resulting therefrom, they shall proceed to have the proper surveys, profiles, plans and specifications made therefor and shall report to the court their conclusions thereon, with a copy of such surveys, profiles, plans and specifications, and their recommendations as to the best and cheapest method of doing the proposed work.

If benefits exceed damages and cost, commissioners to file report with court.

SECTION 12. The commissioners shall not be confined to the point of commencement, route or termini of the drains or ditches, or the number, extent or size of the same, or the location, plan or extent of any levee, ditch or other work as proposed by the petitioners, but shall locate, design, lay out and plan the same in such manner as to them shall seem best designed to drain or protect the lands of the parties interested, with the least damage and greatest benefit to all lands to be affected thereby; and any plan proposed by the commissioners may, on the application of any person interested, on the hearing hereinafter provided for, or on the application of the commissioners, be altered by the court, by written order, in

Commissioners need not follow petitioners' plan. May extend or contract boundaries of proposed district.

such manner as shall appear to the court to be just. If the commissioners find that the proposed district, as described in the petition filed, will not embrace all of the lands that will be benefited by the proposed work, or that it will include lands that will not be benefited and not necessary to be included in said district for any purpose, they may extend or contract the boundaries of the proposed district so as to include or exclude all such lands, as the case may be, and the boundaries adopted and reported by said commissioners, may, upon the hearing of their report as hereinafter provided, upon the application of said commissioners or of any person interested, be altered by the court in such manner as shall appear to the court to be just. Provided, the alteration of boundaries, as aforesaid, shall not have the effect of so far enlarging or contracting the proposed district as to render such petition void or dismissible under the requirements of this act.

Hearing on commissioners' report. Notice of, what to contain, and service.

SECTION 13. Upon the filing of such report, the court having jurisdiction of the matter shall make and enter an order, fixing a time and place when and where all persons interested in said report, or in the work referred to therein, may appear and contest the confirmation thereof; and the clerk of said court shall cause notice of the time and place of such hearing to be given to all parties interested by the publication of a notice thereof and of the amount of benefits and damages, assessed and awarded by said report, which notice shall contain a description of all lands affected. for at least three successive weeks prior to the day set for such hearing, in one or more newspapers published in said county, and by serving a copy of such notice on each of the persons or corporations affected thereby, who reside in any of the counties out of which the proposed district is formed, at least twenty days before the day of hearing, either personally or by leaving at the last and usual place of abode.

Owner may appear and remonstrate against work proposed to be done. Drainage districts made bodies corporate.

SECTION 14. Any owner of lands, or any person or corporation, affected by the work proposed, may appear on the day set for hearing of said report and remonstrate against the whole or any part of the proposed work. Such remonstrance shall be verified by affidavit, and shall set forth

the causes, whether legal or jurisdictional objections, or that any lands are assessed too high or too low, or improperly, or that lands are assessed which ought not to be, or that lands should be assessed which are not assessed, or that the plans for said proposed work should be changed, or that the boundaries of said district should be altered so as to include or exclude certain lands, or by any person or corporation to whom damages, are allowed, that they are inadequate, or, by any person or municipality that the public will not be benefited by the proposed work. The circuit court for said county or the presiding judge thereof may fix a time at any term or appoint a special term for hearing the objections, and, on demand of any person or corporation assessed for benefits or awarded damages, may frame an issue in said matter and may impanel a jury and take the verdict of a jury upon the trial of such issue, whether the amount of damages awarded by the commissioners is adequate and whether the assessments of benefits as made by the report, to any remonstrant, demanding the review by a jury, is too high; and the jury may assess the same. All other issues arising on remonstrances shall be tried by the court. If the court finds from a hearing duly had, that the report requires modification, the same may be referred to the commissioners, who may be required to modify the report in any respect. In any case between the commissioners and any remonstrant the court may award and apportion the costs as the justice of the case may demand, and costs awarded against the commissioners shall be paid out of the fund realized from the assessment made. If the finding of the court be in favor of the validity of the proceedings, the court, after the report shall have been modified to conform to the findings, or if there be no remonstrance, shall confirm the same, and the order of confirmation shall be final and conclusive, and the proposed work be established and authorized, and the proposed assessments approved, subject to the right of appeal to the supreme court, as in other actions. And upon the entering of such order of confirmation of record, said district is hereby declared by law to be organized as a drainage district by the

name mentioned in said petition, and with the boundaries fixed by the order confirming the report of said commissioners. And said district is hereby declared to be a body corporate by the name mentioned in said petition as aforesaid, with the right to sue and be sued, to adopt and use a corporate seal, and to have perpetual succession; and the commissioners appointed as aforesaid and their successors in office shall, from the entry of such order of confirmation, constitute the corporate authorities of such drainage district and shall exercise the functions conferred upon them by law, and shall do all things and perform all acts necessary to the construction and preservation of the proposed work; and all proceedings had prior to the entry of such order of confirmation, shall be deemed and are hereby declared to be necessary to the formation of said body corporate.

Assessment
for benefits,
when payable.

SECTION 15. At the time of confirming such assessment it shall be competent for the court to order the assessments of benefits to be paid in installments of such amounts and at such times as will be convenient for the accomplishment of the proposed work; otherwise the whole amount of such assessment shall be payable immediately upon such confirmation, and shall be a lien upon the lands until paid. In cases where a ditch has been heretofore built under any law of this state, or may hereafter be built under the provisions of this act, the annual amounts of benefits for keeping the same in repair shall be due and payable on the first day of September, annually. The commissioners having charge of any such completed drain, shall on the first Tuesday in July, in each year, file with the clerk of the court having jurisdiction of the matter, a report in which they shall specify and set forth in detail the work necessary to the preservation and protection of the work under their control, and the amount of benefits to be assessed to each tract, lot, easement, servitude or corporation. In cases where the ditch or other work is constructed under this act, no notice of the filing of such report shall be necessary; but in all other cases notice shall be given as set forth in section 13 of this act. In cases where the work is constructed under the provisions of this act, and in all other cases

after the confirmation of the first report assessing benefits, all assessments thereafter made shall be proportioned on the first assessment. Upon the filing of such annual report, the court shall, in all cases excepting the first report on work not constructed under this act, examine the same and fix and determine upon the amounts of such benefits and cause such adjudication to be entered of record in said court and a certified copy of the same to be delivered to said commissioners. The amount to be collected under the order of said court for the preservation and maintenance of any work, as aforesaid, shall not in the aggregate, amount in any one year to a sum greater than would be produced by a levy of thirty cents per acre on the lands benefited. In all cases after assessments are confirmed by the court, the commissioners shall give notice of the amount of such assessments and of the time when and the place or places where the same must be paid. If assessments are not paid when due, the commissioners shall certify the same to the town clerk of the town in which the delinquent lands are situated, as due and unpaid for such work, and the town clerk shall enter the same in the tax list for such town next thereafter to be made, against the lands benefited, and the same shall be collected in the same manner that state, county and town taxes are collected, excepting only that the personal property of individuals shall not be liable to seizure and sale therefor.

Payment how enforced.

SECTION 16. Immediately after the entry of any confirmation of assessment by the court, the clerk thereof shall make out and certify to the register of deeds in each county in which lands are assessed, a true copy of so much of said order as sets forth the assessed lands within said county, and the said register of deeds shall thereupon enter such order of record and the same shall be notice of the lien of said assessments to all persons.

Statement of assessments to be filed with register of deeds.

SECTION 17. In case the assessments of benefits shall be payable in installments, each such installment shall draw interest at the rate of six per cent. per annum, from the time they shall become payable until paid, and such interest shall be collected and enforced as a part of the assessment.

Interest on deferred payments of assessments.

SECTION 18. The commissioners, when qualified in pursuance of this act, may do any and all

Powers of commissioners.

acts that may be necessary in and about the surveying, laying out, constructing, repairing, altering, enlarging, cleaning, protecting and maintaining any drain, ditch, levee or other work for which they shall have been appointed, including all necessary bridges, crossings, embankments, protections, dams and lateral drains, clearing out and removing of obstructions from natural or artificial channels or streams within or beyond the limits of the drainage district, procuring, purchasing or condemning, under proceedings similar to the proceedings had on the award of damages hereunder, riparian rights, rights of flowage and waterpowers; and may use any moneys in their hands, arising from assessments, for that purpose.

Contracts may be let to lowest bidders; when advertisements for bids.

SECTION 19. In all cases where the work to be done at any one time, under the direction of the commissioners, shall in their opinion cost to exceed five hundred dollars, the same shall be let to the lowest responsible bidder, and the said commissioners shall advertise for sealed bids, by notice published in some newspaper issued in the county in which the petition is filed and if there be no newspaper issued or published in said county, then in some newspaper published in an adjoining county, which said notice shall particularly set forth the time and place, when and where, the said sealed bids will be opened, the kind of work to be let, and the terms of payment. Said commissioners may continue the letting from time to time, if in their judgment the same shall be necessary, and may reserve the right to reject any and all bids. And said commissioners shall not, during their term of office be interested, directly or indirectly, in any contract for the construction of any ditch, drain, or levee, in such drainage district, nor in the wages of, or supplies to men or teams employed on any such work in said district.

Supplementary assessments.

SECTION 20. If in the first assessment the commissioners shall have reported to the court a smaller sum than is needed to complete the work, either in construction or repair, a further assessment, proportioned on the first assessment, may be made under the order of the court or presiding judge thereof without notice, on the lands benefited, to be collected in the same manner as the original assessment.

SECTION 21. The commissioners may borrow money, not exceeding the amount of assessments unpaid at the time of borrowing, for the construction of any work which they shall be authorized to construct, or for the payment of any indebtedness they may have lawfully incurred, under the provisions of this act, and may secure the same by notes or bonds, bearing interest at the rate of six per cent. per annum, and not running beyond one year after the last assessment, on account of which the money is borrowed, shall fall due; which notes or bonds shall not be held to make the commissioners personally liable for money borrowed, but shall constitute a lien upon the assessments for the repayment of the principal and interest thereof; and the circuit court may, on the petition of the commissioners, authorize them to refund any lawful indebtedness of the district authorized by and created under this act, by taking up and cancelling all outstanding notes and bonds of such district, issued under this act, as fast as they become due, or before they shall become due, if the holders thereof will surrender the same, and issue in lieu thereof, new notes or bonds of such district, payable on such longer time as the court shall deem proper, not to exceed in the aggregate the amount of all notes and bonds of the district then outstanding, and the unpaid, accrued interest thereon; and the court shall have power, on the petition of the commissioners, to order that the collection of any installment of assessments may be postponed to such time as the court under the circumstances of the case may deem proper and reasonable.

Commissioners may borrow money to complete work.

SECTION 22. All damages allowed to the owners of property under the provisions of this act shall be first paid or tendered to such owners before the commissioners shall be authorized to enter upon his land for the construction of any work proposed thereupon. In case the owner is unknown or there shall be a contest in regard to the ownership of the land, or the owner will not receive the payment when tendered, or the commissioners cannot, for any reason, safely pay the same to the owner, they may deposit the same with the clerk of the court, for the benefit of the owners or parties interested, to be paid or distributed as the court shall direct, and such pay-

Tender of amount of damages.

ment by the commissioners shall have the same effect as the tender and acceptance of the damages awarded by the true owner of the land.

Commissioners may enter upon lands to examine or do work without becoming trespassers.

SECTION 23. The commissioners from the time of their appointment, may go upon the lands lying within said district, for the purpose of examining the same, and making plans, plats and surveys, and after the organization of said district, and after payment or tender of compensation allowed may go upon said lands with their servants, teams, tools, instruments and other equipments, for the purpose of constructing such proposed work, and may forever thereafter enter upon said lands, as aforesaid, for the purpose of maintaining and repairing such proposed work, doing no more damage than the necessity of the occasion may require.

Owners of contiguous lands, may be admitted to benefits, how.

SECTION 24. Whenever owners of land contiguous to any drainage district formed under the provisions of this act may desire to be admitted to the benefits of said district, they shall file in the office of the clerk of the court having jurisdiction of the original district, a petition signed by more than one-half the adult owners of lands in said proposed new territory, which said signers shall represent more than one third of the lands in said proposed extension or addition, or a petition signed by the owners of more than one-half of the lands in said proposed new territory, together with a description of the lands included in said district, the names of the owners, so far as the same are known or can be ascertained, with a plat showing the original district and the proposed new territory. Upon the filing of such petition, like proceedings shall be had as on the original petition, and in case the court finds the petition to be in due form, the matters therein contained shall be referred to the commissioners in the original drainage district, who shall proceed to examine said lands and make report thereon; and all further proceedings shall be had therein as in the case of the formation of a new drainage district, excepting that personal notice need not be served upon the owners of lands in the original district. In case the report of the commissioners and the finding of the court is in favor of the prayer of the petition, then the new territory as the same is described

in the final order of confirmation on the petition shall become and be deemed to be a part of the original drainage district, and the lands therein shall thereafter be chargeable with assessments for the preservation, repair and maintenance of the works in said district in the same manner as are the lands in the original district; provided, that in fixing the first assessment on such new territory the commissioners shall, in addition to the cost of whatever work must necessarily be done therein to place such lands on the same footing as to drainage facilities as that enjoyed by the lands in the original district, assess thereon such further sum on said lands as will make the amount to be paid by each acre of said lands in said new territory equal to the amount paid for the original drainage work by each acre of the original drainage district, similarly situated; and the additional amount so received shall be held by the commissioners for the benefit of the entire drainage system under their control.

SECTION 25. In all proceedings under this act, the court shall appoint some reputable attorney, as guardian *ad litem*, to represent all infants and incompetent persons interested in said proposed work. In case the interests of such infants or incompetent persons shall appear to the court to be adverse to each other, then and in such case the court shall appoint as many different persons as guardians *ad litem* as the circumstances of the case may require. The persons so appointed shall appear for and represent their wards in all matters connected with said proceedings and shall be paid such sums as the court may fix upon out of the moneys in the hands of the commissioners for their services.

Infants, how represented.

SECTION 26. The commissioners first appointed shall hold their offices until the first Tuesday in the second succeeding July next following the date of their appointment and until their respective successors are selected and qualified. All commissioners appointed after the first board, excepting those appointed to fill vacancies, shall hold their respective offices for the term of two years, and until their respective successors are selected and duly qualified. Appointments to fill expired terms in the office

Commissioners, their term of office, etc., compensation and vacancies.

of drainage commissioner, shall be made by the presiding judge of the circuit court of the county having jurisdiction of the drainage district, at the court house in the county on the first Tuesday of July in each second succeeding year. Vacancies in the board of commissioners may be filled by the presiding judge by appointment at any time, the commissioner so appointed to hold his office for the residue of the unexpired term. The removal of any commissioner from the county or counties interested, shall render his office vacant. The commissioners shall keep an accurate account of all moneys collected by them on account of the work under their charge and of all payments made by them as such commissioners and shall take vouchers for such payments. They shall, on the first Tuesday in July of each year, file in the office of the clerk of the court having jurisdiction of the matter, an itemized statement of all of their receipts and disbursements and leave said report in such office for examination by parties interested, at all times. They shall receive for their services the sum of two dollars per day and their actual expenses. They shall at all times be under the control and direction of the court or presiding judge, and shall obey directions, and for a failure so to do shall forfeit their compensation and be dealt with summarily as for contempt, and may also be removed from office for cause shown, by the court or presiding judge. Suits may also be brought upon their bonds, in the name of the clerk of the court, and the amount recovered shall be applied to the construction of the work, or to the party injured, as justice may require.

Act to be
liberally
construed.

SECTION 27. The provisions of this act shall be liberally construed to promote the drainage and reclamation of wet and overflowed lands within this state, the building of necessary embankments or levees, and the preservation of any system of drainage heretofore constructed under any law of this state.

Not to repeal
existing laws.

SECTION 28. This act shall not be construed as repealing any general or private law of this state relating to the drainage or reclamation of swamp, wet or overflowed lands, or any law relating to the preservation, maintenance or protection of any work thereunder, or as affecting any pro-

ceedings had or to be had under such existing laws.

SECTION 29. This act shall take effect and be in force from and after its due passage and publication.

Approved April 23, 1891.



No. 408, A.]

[Published May 9, 1891.

CHAPTER 402.

AN ACT for the establishment of a sixth normal school in the state of Wisconsin.

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

SECTION 1. The board of regents of normal schools, may establish, build, equip and maintain a sixth normal school in the state of Wisconsin at a site to be selected by said board in the territory north of the north line of township number twenty-four north, in the manner and upon the conditions in this act prescribed. The school shall be located and established at such place all things considered, as shall best promote the educational interests of this state and the purposes for which the school is established. The necessary sums of money for the building, equipping and operating of said school shall be taken and used by said board out of the normal school fund income, except such amounts of money or other property as may be donated by municipalities for such purpose, as herein prescribed.

Board of regents may establish Sixth Normal school.

SECTION 2. The location and building of said school shall be commenced by said board whenever in its judgment the same shall be advisable and the normal school fund income is sufficiently large to warrant the expenditure of the necessary sums of money for such purpose, and the conditions of this act shall have been complied

When to be located and built.