

nially thereafter, but whenever a vacancy occasioned by death, removal, or resignation shall occur in the office of a justice of the peace, such vacancy may be filled at the next election, when by law justices may be elected, but any person elected to fill such vacancy, shall not hold his office longer than the residue of the term of his immediate predecessor.

§ 14. That sections 4, 5, 6, and 15, of article third; section 10, of article fourth; section 1 and 2 of article ninth; article 10th and article 12th of the act entitled "an act concerning justices of the peace;" and section 51 of the act entitled "an act concerning costs and fees;" and all other acts and parts of acts repugnant to the provisions of this act are hereby repealed.

§ 15. When the name of any defendant is not known to the plaintiff, a suit may be commenced against him by a fictitious name, and it shall not be abated for that cause, but may be amended on such terms as the justice shall think reasonable.

§ 16. If it appear on the trial of any cause before a justice from the showing of either party, that the title to lands is in question, which title shall be disputed by the other party, the justice shall immediately make an entry thereof in his docket, and cease all further proceedings in the cause, and shall certify and return to the district court of the county, a transcript of all the entries made in his docket relating to the case, together with all the process, and other papers relating to the suit in the same manner, and within the same time, as upon an appeal, and thereupon the district court shall proceed in the cause to final judgment and execution, the same as if said suit had been originally commenced therein, and the costs shall abide the event of this suit.

§ 17. This act shall take effect on the first day of April next.

APPROVED, January 30, 1844.

AN ACT to provide for the election of Clerks of the Board of Supervisors, and for other purposes.

§ 1. *Be it enacted by the Council and House of Representatives of the Territory of Wisconsin:*

That the Clerk of the Board of Supervisors in each of the counties in this Territory which have adopted the

Clerks how and when elected. system of township and county government, shall be elected annually at the general election, by the qualified electors in each of said counties, who shall hold his office for one year, and until his successor is elected and qualified.

Tenure. The term of service of said Clerk shall commence on the first Monday of January in each year.

When commences.

§ 2. The term of service of the several Clerks of the Boards of Supervisors then in office, shall expire on the first Monday of January, A. D. 1845, and in case the said office shall in any way be or become vacant in any county, it shall be the duty of the Board of Supervisors of such county to appoint a Clerk of said Board who shall hold his office until his successor is duly elected and qualified.

When expire.

vacancies how filled.

§ 3. It shall be the duty of the several Clerks of the Boards of Supervisors and County Commissioners, before entering upon the duties of their office, to give bonds to the Treasurer of the proper county, with two or more sureties to be approved by said Treasurer in the sum of two thousand dollars, with the condition following, to wit: the condition of this bond is such, that whereas A. B. has been elected a clerk of the Board of Supervisors or commissioners, (*as the case may be*) of the county of . Now, therefore, if the said A. B. shall faithfully discharge the duties of the said office, and shall pay to each and every person such sums of money as he, the said Clerk, shall become liable to pay, for, or on account of any money which may come into his hands as such Clerk, for any such person, together with interest and costs, if any accrue, after demand thereof made by any such person, his agent, assignee or attorney after such moneys shall have actually come into the hands of such Clerk, then the above to be void, otherwise to be in full force. And the Board of Supervisors or Commissioners of any county, may at any meeting require said Clerk to give new bonds to be approved by them.

To give bonds.

How approved.

Form of bond.

Shall pay over money

on demand.

To give new bond.

§ 4. A copy of such bond, under the official certificate of the Treasurer, with whom the same is filed, shall be legal evidence of the contents and execution thereof in all courts.

Copy of bond shall be evidence.

§ 5. The said clerk and his sureties shall be liable on said bond to each and every person for whom such Clerk shall receive money and refuse to pay the same; and it shall be competent for any person, to whom such Clerk and his sureties may have become liable as aforesaid, to

Who and how liable.

may sue in his own name such Clerk and his sureties, or any one of them, in an action on the conditions of said bond for money had and received; and on proof that the said Clerk has neglected or refused to pay any such sum of money by him received, as aforesaid, then, and in every such case, judgment shall be given against the party or parties defendant in such suit, for the money so received, together with interest and costs, according to the condition of such bond.

§ 6. It shall be the duty of the county Treasurer or Collector (*as the case may be*) immediately after the close of any sale of land for taxes, to make out duplicate lists of the lands so sold, together with the name of the purchaser and the name of the owner if known, and the amount for which each tract was sold; one of which lists shall be kept by the Treasurer of the county and the other shall forthwith be deposited by him with the Clerk of the Board of Supervisors or commissioners (*as the case may be*).

§ 7. Whenever any person shall wish to redeem any land hereafter sold by the county Treasurer or collector for taxes, he shall pay the amount required for such redemption, to the Clerk of the Board of Supervisors, or the Clerk of the Board of Commissioners of the proper county, who shall thereupon execute to him a certificate of redemption, specifying therein the amount so paid; and such clerk shall also enter on the said sale list kept by him, opposite to each tract redeemed, the name of the person redeeming, the sum paid for such redemption, and the time when paid; which certificate shall be presented to the Treasurer of the proper county, who shall countersign the same, and shall also in like manner make a similar entry on the sale list kept by him, with that which is required to be made by such Clerk.

§ 8. The said sale list kept by the Treasurer, or Clerk, and the proper entries made thereon shall be prima facie evidence in any prosecution against any such Clerk and his sureties, or either of them.

§ 9. If any such Clerk shall neglect or refuse to pay to any person upon demand any money which he may have received for him, he shall forfeit and pay for every such neglect or refusal, ten dollars; to be recovered by the party aggrieved, from such Clerk and his sureties, or either of them, in the same action and in the same man-

May sue.

Duplicate to be made out.

May redeem land sold.

Clerk shall enter the sum

Also entry on sale list.

List shall be evidence.

On refusal to pay over shall forfeit \$10.

ner as is provided for the recovery of moneys in section five of this act.

§ 10. Every such Clerk upon the expiration of his office shall immediately pay over to his successor all the moneys in his hands received for the redemption of lands.

§ 11. Any lands or town lots and tenements which may hereafter be sold in any of the counties of the Territory for the non-payment of taxes, may be redeemed by any person having the right of redemption at any time within three years from the day of sale, and the interest in all such cases shall be at the rate of twenty-five per centum per annum until redeemed, any law of this Territory to the contrary notwithstanding: *Provided*, that when lands or town lots shall have been sold for taxes due thereon to any county, town or village of this Territory, the owner or claimant may redeem the same at any time before the recording of the tax deed executed upon such sale at the same rate of interest allowed by law thereon. This proviso to take effect on and after the first day of April next.

§ 12. Any action for the recovery of lands or town lots and tenements, forfeited for taxes, except in cases where the taxes shall actually have been paid, shall be commenced within three years from the recording of the deeds of sale and not thereafter; and so much of any law of the Territory as conflicts with the provisions of this section is hereby repealed.

§ 13. If any lands or town lots and tenements upon which the taxes shall have been paid shall by the neglect of any Collector or Treasurer to cancel the same be returned to the proper officer as delinquent, and shall be sold by reason of such neglect such Collector or Treasurer shall be liable under his official bond to pay the purchaser of such lands or town lots and tenements, or his assignee, double the amount of such sales, and interest thereon, at the rate of twelve per centum, to be collected by an action of debt in any court having competent jurisdiction.

§ 15. The Clerks of the Boards of County Commissioners or County Supervisors, as the case may be, are hereby severally authorized and empowered to appoint a deputy who may, in the absence of such Clerk discharge any of the duties required of him by law: *Provided*, however, that such Clerks shall severally be held responsible under their official bonds for the acts of their respective deputies.

APPROVED, January 27, 1844.