

CHAPTER 230.

[Published April 14, 1860.]

AN ACT to remit to the county of Portage certain indebtedness to the State.

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

\$1422.59 of
state tax
charged to
Portage Co.
prior to 1853.
remitted.

\$1831.75 of
state tax up to
1860, to be
charged to
Wood Co.

SECTION 1. There is hereby remitted to the county of Portage the sum of one thousand four hundred and twenty-two dollars and fifty-nine cents of the State tax, assessed against said county prior to the year A. D. 1853, and the State Treasurer is hereby directed to credit said county with that sum, and the State Treasurer is hereby directed to also credit said county with the further sum of one thousand three hundred and thirty-one dollars and seventy-five cents, being the proportion of the indebtedness of said county to the State, up to, and including, the year A. D. 1856, that is properly chargeable to the county of Wood; and the said last named sum is hereby remitted to said county of Portage; and the Secretary of State and State Treasurer are hereby directed to transfer and charge the same to the account of the county of Wood.

SEC. 2 This act shall take effect from and after its passage.

Approved March 29, 1860.

CHAPTER 231.

[Published April 10, 1860.]

AN ACT to authorize the service of process by publication, in certain cases.

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

Of actions to
quiet title.

SECTION 1. Actions may be brought in the circuit courts of the proper counties, to quiet the title to real estate, or to cancel mortgages or other titles, or discharge mortgages, or other titles of record, from incumbrance on real estate, or to declare the alleged obligations which they may purport to secure, illegal, invalid, inoperative,

or satisfied. And when any such mortgage, or other title or obligation, has been assigned or transferred, and the assignee or holder thereof shall be unknown to the plaintiff or plaintiffs, it shall not be necessary for the plaintiff in the summons, complaint, or other proceeding, to name the assignee or holder thereof; but the plaintiff may proceed against the mortgagee, assignee, or other grantee or claimant of record, by name, and the unknown assignees or holders of such mortgage or other title or obligation; and in all such cases, service of the process may be made on such unknown assignees or holders of such mortgage, or other title or obligation, by publication, as hereinafter provided: and service of such process shall be made on the mortgagee or mortgages [mortgagees], assignee or assignees, or other grantee or claimant of record, in the manner provided now by law.

Proceedings against mortgagee by name
Against unknown assignee by publication.

SEC. 2. Whenever any such action shall be brought, and it shall appear by the complaint, duly verified, that any such mortgage or other title, or the obligation it may purport to secure, was obtained fraudulently, or by or under false representations, or that the plaintiff, or person through whom he claims, was induced to execute such mortgage, or other title, or the obligation it may purport to secure, by false statements relative to the consideration for which the same was executed; or that such consideration has failed; or that such mortgage, or other title, or alleged obligation, is, for any cause, invalid, or has ceased to operate, or has become satisfied; and the plaintiff, his agent or attorney, shall make and present to a judge of the circuit court, or a court commissioner, an affidavit, stating that he has good reason to believe such mortgage, or other title, or such obligation, has been assigned or transferred, and that the plaintiff does not know to whom the same was assigned or transferred, nor who holds the same; that service of the summons in the action has been made on the mortgagee, or other grantee or claimant of record, and that no assignee or holder of such mortgage or obligation, or other title, has appeared in the action; such judge or court commissioner shall order service to be made by the publication of a summons entitled in the action, and directed to the assignees and holders of such mortgage or other title, or obligation, setting forth the date of such mortgage or other title, the name of the person or persons by whom, and to whom, the same was executed, and the place where the same is recorded.

When complaint alleges fraud, failure of consideration, etc.

And plaintiff or his attorney presents affidavit of assignment thereof to person unknown, etc.

Judge or Ct. Comm'r shall order service by publication

Manner of
publication.

SEC. 3. The summons mentioned in the next preceding [preceding] section, shall be subscribed by the plaintiff, or his attorney, and shall be published in such newspaper as the judge or court commissioner shall designate in his order of publication, at least once a week, for six successive weeks; which summons shall be entitled in the proper court, the plaintiff (by name) against the mortgagee or other grantee or claimant of record (by name) and persons unknown, and may be substantially in the following form:

Form of notice
and summons
to answer.

In Circuit Court.

STATE OF WISCONSIN, }
County of —, } ss.

A— B—, Plaintiff,

against

C— D—, and persons unknown, }
defendants. }

THE STATE OF WISCONSIN,

To the assignees and holders of a certain (mortgage or other title, and the obligation it professes to secure,) (on or of) real estate, executed [by] — to —, and bearing date the — day of —, A. D. 18—.

In the name of the State of Wisconsin, you are hereby notified that the above entitled action has been commenced in the circuit court in and for said county, to (cancel, release, or discharge of record,) the mortgage or other title, and to declare the alleged obligation, for which the same was given, (illegal, inoperative, invalid, or satisfied, as the case may be,) [as] above described. And you are hereby summoned to answer the complaint in this action, which is filed in the office of the clerk of the circuit court in and for said county of —, and serve a copy of your answer on the subscriber, at his office in the (here, insert the town, village, or city,) within four months from the date hereof; and if you fail to answer the complaint within the time aforesaid, the plaintiff will apply to the court for the relief demanded in the complaint.

Dated this — day of —, A. D. 18—.

D— C—, Plaintiff's Attorney.

Publication
made of same
effect as per-
sonal service.

SEC. 4. The publication or [of] the summons, as required in this act, shall be equivalent to personal service of the same on such unknown defendants, and on proof, by the affidavit of the printer, or his foreman, of such publica-

tion being filed in the office of the clerk of the court, and the time for answering having expired, and no appearance made for such defendants, the court shall proceed to hear and determine the action, in all respects as though the action had been against the assignees and holders of the mortgage, or other title, or the alleged obligation it was given to secure, by their proper names, and the summons personally served on them. And if it shall appear, from the evidence in the action, that the complaint is true, or that a good defence to the mortgage, or other title, or the alleged obligation it purports to secure, exists, under the laws of this State, the court shall, by its judgments, order and adjudge that such mortgage, or other title, be null and void, and that the same be cancelled, released and discharged of record; and may also order and adjudge the alleged obligation it professes to secure, illegal, inoperative, invalid, and grant such further relief as may be deemed equitable. In case the assignees or holders of such mortgage, or other title or obligation, shall not have appeared in the action, such judgment shall have the same force and effect as judgments against absent defendants, and shall be as effectual to bind and bar them as though the action had been against them by their proper names; and service of the summons made on them, by the publication of such summons, containing their names as defendants, in pursuance of the laws and practice of this State.

May proceed to take judgment, as against absent defendants.

SEC. 5. Whenever a copy of the judgment of the court, duly certified by the clerk of such court, shall be deposited in the office of the register of deeds, where such mortgage or other title is recorded, showing that such mortgage or other title is adjudged by the court to be null and void, and that the same is canceled, released, and discharged of record, it shall be the duty of such register of deeds to record such judgment in a book of deeds, and immediately cancel and discharge such mortgage, or other title of record, by writing on the margin of the record thereof as follows: "Canceled and discharged of record by judgment of the court."

Certified copy of judgment to be recorded by register of deeds.

SEC. 6. Whenever judgment shall be rendered in any action commenced under the provisions of the foregoing sections of this act, in any of the courts of this State, and any party thereto desires to appeal therefrom, such appeal shall be taken and perfected in the manner provided by law, within six months from the date of the entry of such judgment, and not thereafter.

Effect.

SEC. 7. This act shall be published, and shall take effect and be in force from and after its publication.

Approved March 29, 1860.

CHAPTER 232.

[Published April 14, 1860.]

AN ACT to provide for the disposal and expenditure of the drainage fund in the counties of Kewaunee and Door.

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

When interest shall be paid over.

SECTION 1. That portion of the interest of the drainage fund which is now, or shall hereafter become due to the counties of Kewaunee and Door, shall be paid over to the county treasurers of said counties, at the same time with the money due to said counties from the school fund for each year.

Duty of Co. treasurer to apportion.

SEC. 2. It shall be the duty of the county treasurers of said counties, immediately upon the receipt of the said drainage money, to apportion the same among the several towns of said counties, in proportion to the amount received from the sales of swamp and overflowed lands, in said towns respectively, and he shall immediately give notice, in writing, to the treasurer of each town in said counties, of the amount apportioned to his town.

Shall give notice to town treasurers. Town treasurers to execute a bond.

SEC. 3. Each town treasurer, before receiving the drainage moneys apportioned to the town of which he is treasurer, or any part thereof, shall execute to the chairman of the town board of supervisors of such town, a bond, with two sureties, to be approved by said chairman, by endorsement over his signature on said bond, in a penal sum not less than double the amount of such drainage moneys as shall come into his hands, conditioned for the faithful application and disbursement of all such drainage moneys, in such manner as shall be prescribed by this act, which said bond he shall deliver to the town clerk of said town, to be filed in his office.

Conditions.

Bond to be filed.

Duty of town clerk.

SEC. 4. The town clerk of said town, on the receipt thereof, shall file and safely keep such bond in his office, and he shall give to said town treasurer a receipt, stating that he has filed the bond required by the preceding section of this act; which receipt the said treasurer shall

When moneys