

[No. 375, A.]

[Published April 6, 1878.]

CHAPTER 333.

AN ACT to authorize the granting of state certificates to graduates of the state university.

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

SECTION 1. After any person has graduated at the state university, and after such graduation, has successfully taught a public school in this state for sixteen school months, the superintendent of public instruction shall have authority to countersign the diploma of such teacher after such examination as to moral character, learning, and ability to teach, as to said superintendent may seem proper and reasonable.

State Superintendent authorized to countersign diploma.

SECTION 2. Any person holding a diploma granted by the board of regents of the state university, certifying that the person holding the same is a graduate of the state university, shall, after his diploma has been countersigned by the state superintendent of public instruction as aforesaid, be deemed qualified to teach any of the public schools of this state, and such diploma shall be a certificate of such qualification until annulled by the superintendent of public instruction.

Privileges conferred by diploma.

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

Approved March 21, 1878.

[No. 343, A.]

[Published March 25, 1878.]

CHAPTER 334.

AN ACT in relation to the collection and re-assessment of taxes, and amendatory of section one, chapter two hundred and fifty, of the laws of Wisconsin for 1877, entitled "An act to amend section sixteen of chapter one hundred and thirty of the general laws of 1868, entitled, 'An act to provide for the re-assessment of property for taxes, and the levy of taxes thereon.'"

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

SECTION 1. Section one of chapter two hundred and fifty, of the laws of Wisconsin for 1877, entitled "An act to amend section sixteen of chapter one hundred

Amended.

Valuation of
property.

and thirty, of the general laws of 1868, entitled 'An act to provide for the assessment of property for taxes and the levy of taxes thereon,' is hereby amended so that said section shall read as follows: Section 16. Real property shall be valued by the assessor either from actual view or from the best information that the assessor can practicably obtain at the full value which could ordinarily be obtained therefor at private sale. In determining the value the assessor shall consider, as to each piece, its advantage or disadvantage of location, quality of soil, quantity of standing timber, water privileges, mines, minerals, quarries, or other valuable deposits known to be available therein, and their value. Real property held under lease from any religious, scientific, literary or benevolent association, but otherwise exempt, shall be assessed to the lessee. The assessor, having fixed the value, shall enter the same opposite the proper tract or lot in the assessment roll. Property omitted from assessment in any of the three next previous years, by mistake or inadvertence, unless previously re-assessed for the same year or years, shall be entered once additionally for each previous year of such omission, designating each such additional entry as omitted for the year 18— (giving year of omission): *provided*, that this section shall not be construed as amending chapter two hundred and sixty-nine of the laws of Wisconsin for 1877, entitled "An act relating to iron ore and the assessment for taxation of lands containing iron ore."

Omission of
certain duties
not to invali-
date assess-
ment.

SECTION 2. No omission by any assessor to take or subscribe the oath required by law by him to be annexed to the assessment roll, no omission or neglect of any town treasurer, city marshal or other officer whose duty it is to collect taxes in any town, city or village within this state, to take, subscribe or annex an affidavit to his return of delinquent taxes to the county treasurer, no omission or failure of any school district clerk to deliver to the town clerk in which the district is situated, a verified statement, in writing, showing the amount of taxes voted to be raised at the last preceding annual meeting or special meeting of his district, or at any first meeting or special meeting of his district, together with a list of all persons and corporations liable to a school district tax therein, nor any error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, unless such action, omission, error or informality shall affect the substantial justice of the tax it-

self, shall invalidate or in any wise affect the validity of the assessment or tax: *provided*, that nothing herein contained shall be held or construed as relieving such officer from the performance of any duty now required of him by law, nor from any penalty or liability now prescribed by law for neglect or failure to perform the same.

SECTION 3. In all actions brought in any of the circuit courts of this state by tax title claimants to quiet title under the provisions of chapter twenty-two of the general laws of 1859, and of the several acts amendatory thereof, in which the former owner or owners, his or their representative or assigns, shall defend upon any ground other than those distinctly specified in section thirty-eight of said chapter twenty-two of the general laws of 1859, and the several acts amendatory thereof; and in all actions brought in such courts to set aside or avoid any assessment, tax or tax proceeding based thereon, or to recover back any tax previously paid, on the ground that such assessment, tax or tax proceeding is for any reason invalid, except when it is alleged that such tax has been paid, or the property affected by such action is not subject to taxation, in all such actions the party seeking to avoid such assessment, tax or tax proceeding, or to recover back such taxes, shall within such time as the court shall order, and before he shall be entitled to the relief prayed for, or any part thereof, tender or offer in writing to pay or allow, as the case may be, to the person, officer or corporation entitled to receive the same, the just and equitable proportion to be determined by the party making such offer, which the property on which such tax is sought to be set aside or avoided, ought in justice to pay of the tax and interest at seven per cent. per annum, justly chargeable upon the taxable property of the town, city or village in which the same was assessed, or attempted to be assessed, for the year in which the same was so assessed, or attempted to be assessed, and serve such offer of payment or allowance, as the case may be, upon the opposite party, who shall, if the same is accepted, serve written notice thereof within twenty days. If such offer shall be accepted, and the money to be paid, the action shall be dismissed, and the cost shall be apportioned by the court to the parties, or either of them, at the discretion of the court. But if such offer be not accepted, and it shall be finally adjudged and determined that the amount so tendered or offered to be paid was not equal in amount to the amount or taxes, justly charge-

Actions to quiet title—how conducted.

able against said lands for such year, and the said interest, judgment shall be rendered against the party making such tender or offer, for the whole amount of taxes so justly chargeable, and full costs. But if the amount of such tender or offer to pay shall be equal to or greater in amount than the amount of taxes so justly chargeable, and such interest, and such tender shall be made and kept good by payment of the amount so tendered or offered to be paid into court, then the party making such tender shall recover full costs against the opposite party.

Re-assessment.

SECTION 4. In any action which has been or which shall be commenced for the recovery of any sum or sums of money paid as and for taxes levied either upon real or personal property, or both, if upon the trial it shall appear that the assessment upon which the taxes were so paid is void, the court, before entering judgment in the action, shall continue the action for a sufficient and reasonable time to permit a re-assessment under the provisions of this act, of the property affected by such void assessment, and such re-assessment shall thereupon be made in accordance with the provisions of this act. If from such re-assessment and apportionment it shall appear that the sum or sums paid for taxes by the plaintiff are no greater than his equitable and just share of the taxes, as so re-assessed and apportioned, judgment shall be entered for the defendant; and if from such re-assessment and apportionment it shall appear that the plaintiff has paid more than his equal and just share of the taxes, judgment shall be entered in his favor for the excess only over such equal and just share.

Stay of proceedings for re-assessment.

SECTION 5. In all actions hereafter tried upon issue joined in any of the courts of this state in which it shall be sought by either party, to avoid, or set aside in whole or in part, any assessment, tax, or tax proceeding, for any of the causes mentioned in this act, if the court shall be of the opinion, after a hearing in that behalf had, that for any reason affecting the ground work of the tax, and affecting all the property in any town, village, city or county, said assessment, tax, or tax proceeding should be set aside, it shall immediately stay all proceedings in such action, and in all other actions brought to set aside such tax in such town, village or city, until a re-assessment of the property of such town, village or city, can be made, and the proper authorities of such town, village or city shall immediately proceed to re-assess the property thereof, in the manner specified in section one of this act, and shall levy upon the prop-

erty thereof the amount of tax for the year in question levied in such year in such assessment district, and such re-assessment shall be made by the assessor of such town, village or other assessment district, and the town clerk of such town, village clerk of such village, and city clerk of such city, in which such assessment district is situated, shall extend upon such assessment roll the tax levied upon the property of such assessment district in such year, and such assessment roll and such tax so extended thereon shall be and become a public record, and shall be conclusive evidence of the amount of tax justly chargeable against such plaintiff and upon the lot or lots, tract or tracts of land respecting which the said action is brought, and shall also be conclusive evidence of the amount of tax justly chargeable against any and every other person or corporation, and every other lot, parcel or tract of land in such tax roll for such year, in any legal proceeding that may arise respecting the same: *provided, however*, that no judgment rendered in any such action shall be taken or understood as in any way affecting the validity of any tax against any other person than the parties to such action or any tract or parcel of lands or other property than that described in the complaint in such action.

SECTION 6. Every action or proceeding for the recovery of lands heretofore sold, or which may hereafter be sold, for the non-payment of taxes heretofore levied, shall be commenced within nine months after the recording of the tax deed, and not thereafter: *provided*, that in the case of tax deeds heretofore issued, the action, if not already barred, shall be brought within nine months after the publication of this act, and not thereafter.

Limitation for commencement of action.

SECTION 7. Every action or proceeding to set aside any sale of lands for the non-payment of taxes, or to cancel any tax certificate, or to restrain or prevent the issuing of any tax deed or any tax certificate, or to set aside and cancel a tax deed, shall be commenced within nine months after the making of such sale, date of such certificate, or recording of such tax deed, as the case may be, and not thereafter: *provided*, that in the case of sales, tax certificates and tax deeds heretofore made, issued or recorded, such action or proceeding if not already barred, may be brought within nine months after the publication of this act, and not thereafter.

Suit for cancellation of tax-deed.

SECTION 8. The provisions of the two preceding sections shall not apply to any case where the lands so sold, or described in such tax certificate, or tax deed,

Two preceding sections not to apply.

were not liable to taxation, or where the taxes on such lands have been paid or the lands redeemed according to law.

Actions to recover must be brought within one year.

SECTION 9. Every action hereafter brought to recover back from any county, town, city, or village, any money paid for taxes, upon the ground that such taxes are invalid, shall be brought within one year after the payment of such taxes and not thereafter, and no action shall be brought to recover back any taxes heretofore paid, unless such action shall be brought within nine months after the passage of this act.

Power of compromise.

SECTION 10. If it shall appear from any tax roll or tax proceeding heretofore made or had, that any sum of money is due from any person, or is charged against any lands or other property, and such taxes have been returned as delinquent to the county treasurer of the proper county, and such person or the owner of the lands or property so charged with such taxes, shall claim such taxes to be illegal for any cause, the county treasurer, county clerk and district attorney of such county may, if they shall deem that there is reasonable cause to believe such taxes illegal, compromise with such person or owner, and receive in lieu of the whole tax so appearing due or charged as aforesaid, such part thereof as the said county treasurer, county clerk and district attorney, or a majority, of them shall determine to be equitable, and for the best interest of such county.

Manner of re-assessment.

SECTION 11. In all cases where a re-assessment is ordered in any town, city or village in pursuance of the provisions of this act, the re-assessment roll of such town, village or city, when prepared by the assessor thereof, shall be submitted to, and passed upon, by the board of review of such town, city or village, in the same manner, in all respects, and with like notice, as is provided by law for the revision of the annual assessment roll of such town, city or village, by the board of review thereof.

Impeachment forbidden.

SECTION 12. No assessor shall be allowed in any court or place, by his oath or testimony, to contradict or impeach any affidavit or certificate made or signed by him as such assessor.

Construction of act.

SECTION 13. This act shall be construed to permit the re-assessment by or under the direction or authority of any city, of the property, real and personal, therein, which city, before and until the passage of this act, was authorized by law to make its own tax sales, tax certificates and tax deeds, by its own proper officers. And in and for and in respect to every such city, and

the property, real and personal therein, the mayor and council thereof, the assessors thereof, the city clerk thereof, the board of equalization thereof, and the city treasurer thereof, shall, as to any such city and the wards therein, respectively exercise all the powers, and perform all the duties, and proceed in the manner hereinbefore provided in respect to towns, villages and other cities, and exercise the powers and perform the duties devolved upon the board of supervisors, upon the assessors, upon the town clerk, upon the board of review, and upon the town treasurer respectively, for the re-assessment of taxes and the collection thereof.

SECTION 14. All real or personal property, the taxes upon which have been set aside by any court of this state within two years prior to the passage of this act, shall be re-assessed by the assessors of the several towns for the year 1878, upon the order of the county board of supervisors, giving a description of such real and personal property, with the names of the respective owners, if known. Such county boards are hereby authorized to charge back to the proper town, city or village, all taxes as aforesaid, set aside in the action or actions in which such assessment or assessments were adjudged void; such assessment and the levy of taxes thereon to be made in accordance with existing laws for assessment of lands omitted from any previous assessment. May be re-assessed.

SECTION 15. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1878.

[No. 405, A.]

[Published April 9, 1878.]

CHAPTER 335.

AN ACT to amend sections three and four of chapter one hundred and fifty-three of the revised statutes, entitled "Of the liens of mechanics and others,"

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

SECTION 1. Section two of chapter one hundred and fifty-three of the revised statutes, is hereby amended by adding the following: *And provided further, that in case any person shall order or contract for the purchase of any machinery to be placed in or connected to or* Amended.
Lien on machinery to be retained.