

CHAPTER 107.

[Published March 21, 1862.]

AN ACT to amend chapter 108 of the private laws of 1858, entitled "an act to reduce the law incorporating the city of Janesville, and the several acts amendatory thereof, into one act, and amend the same;" and to amend chapter 153 of the private [general] laws of 1860, entitled "an act to amend an act entitled 'an act to reduce the law incorporating the city of Janesville, and the several acts amendatory thereof, into one act, and to amend the same,' approved March 25th, A. D. 1858, and all acts amendatory of said act.'

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

SECTION 1. Section eighteen of chapter six of chapter one hundred and eight of the private laws of 1858, entitled "an act to reduce the law incorporating the city of Janesville, and the several acts amendatory thereof, into one act, and amend the same," is hereby amended so as to read as follows: "The common council shall have power to cause any street, highway, lane or alley, or part of any street, highway, lane or alley, in said city, to be graded, worked, graveled, McAdamized, paved or repaved, planked or replanked and repaired, and to cause any sidewalks, crosswalks, drains, sewers and culverts to be made therein, as it shall deem necessary, and the same shall be repaired or relaid as may be ordered by said common council: *provided*, that no street, highway, lane or alley, or any part thereof, shall be graded, McAdamized, paved or repaved, planked or replanked, without a recommendation in writing, signed by a majority of the resident owners of property which is bounded by such street, highway, lane or alley on which said work is proposed to be done, or improvement made, which recommendation shall be entered at length, by the clerk, upon the record of the proceedings of the common council;" and all provisions of said section eighteen, contrary to the provisions of this section, are hereby repealed.

Improvement of streets, &c.

Proviso.

Repeal.

SECTION 2. Section nineteen of chapter six of the act referred to in section one of this act, is hereby amended so as to read as follows: "The common council, prior to ordering by resolution, ordinance or otherwise, any street, highway, lane or alley, or any part

Specifications of work to be performed, and proposals solicited.

thereof, to be graded, McAdamized, paved or repaved, planked or replanked, shall cause a plain and accurate specification of the proposed work to be prepared. The said council shall cause to be published in some daily or weekly newspaper published in said city, such specification, with a notice signed by the clerk, that on a certain day fixed in said notice, at least eight days after the first publication thereof, the common council will proceed to act in relation to the work mentioned in such specification; and said notice shall specify that sealed proposals for the performance of said work will be received by the city clerk, up to the time fixed in said notice for the opening of such proposals. Upon the day mentioned in the above required notice, all such proposals shall be opened in the presence of the common council, when the said common council shall determine which is the most favorable of such proposals, and may, by a vote of a majority of its members, accept such proposal, and authorize and direct the construction of the proposed work, and direct the expense thereof to be assessed in the manner hereinafter specified: *provided*, however, that the common council are hereby authorized to reject all of such proposals, if in their opinion they shall be deemed unreasonable. The common council may require the person or persons whose proposal or proposals may be accepted, to execute a bond with one or more sureties, and in such penalty as the said council shall approve, conditioned that the person whose proposal has been accepted, shall perform the work mentioned in such proposal, at the price and upon the terms proposed, according to the published plan and specifications, and subject to the supervision of the aldermen of the ward in which said work is to be done, or of an overseer to be appointed by said aldermen, and to the approval of the common council, with such other conditions as the said council may prescribe: 1st. In case the work shall be the grading, graveling, leveling, paving, McAdamizing or planking any street, highway, lane or alley, or any part thereof, the common council shall appoint some competent person to ascertain the aggregate front length of lots and parcels of land, on both sides thereof, limited to the proposed improvement, and the front length of each lot or parcel of land bounded on such improvement, with a correct description thereof, and the name

Proposals to be opened and award made.

All proposals may be rejected.

Bond.

Grading, paving, &c.

of the owner, if known. The said council shall then determine the expense of the whole work, including the surveying, specifications, advertising, treasurer's commission, and preparing assessment lists, and cause the average expense upon each foot front of lots and parcels of land, on both sides of such street, highway, lane or alley, excluding cross streets from the computation, to be ascertained; and each lot or parcel of land shall be assessed with its proportion of the expense, to be ascertained by multiplying its number of feet front by the average expense per foot: *provided*, that when the owner or owners of any lot or lots, parcel or parcels of land, fronting any street, highway, lane or alley where such improvement is proposed to be made, have already made any improvement on said street, highway, lane or alley, in front of his or her lot or lots, parcel or parcels of land, of the same or of similar kind and character as the proposed improvement, the lot or lots, parcel or parcels of land fronting on such street, highway, lane or alley so improved by such owner or owners, shall be excluded from the computation and assessment; and all expense of such improvement to be made, shall in such case be assessed upon the other lot or lots, parcel or parcels of land fronting on the street, highway, lane or alley where such improvement is required to be made. 2d. In case the work shall be the constructing of any crosswalk or drain across any street, lane or highway, or any drain, street or walk in front of or across any public ground, or of any culvert or sewer in any street, alley, lane or highway or public ground, and the keeping in repair of crosswalks, drains, sewers, culverts, streets, highways, lanes and alleys, after the same have been constructed, graded, graveled, leveled, McAdamized, planked or paved, as in this chapter provided, and the cleaning and cleansing the same, the expense thereof shall be paid out of the moneys mentioned in section two of chapter five of the act to which this act is amendatory, belonging to the ward in which said work shall be done. 3d. In case the work shall be the construction, repairing, relaying or replanking any sidewalk, each lot or parcel of land fronting thereon shall be assessed with its just proportion of the expense of such work. The work specified in this subdivision may be ordered by the common council, on the written application of either of

Crosswalks,
drains, &c.

Sidewalks.

How work may
be ordered.

the aldermen of the ward in which the proposed work is situated, at any regular meeting of said council, twenty days after filing with the city clerk a specification of the work proposed, and notice to the resident owner or owners of the several lots or parcels of land fronting thereon, requiring such owner or owners to perform the work proposed in front of [his or] their respective lots or parcels of land, according to said specification, within the said twenty days, and in default thereof, that the said work will be done by contract, without publication;" and all the provisions of section 19 of chapter 6 of the act referred to in section one of this act, contravening the provisions of this section, are hereby repealed.

School commis-
sioner at large.

SECTION 3. Section one of chapter eight of the act referred to in section one of this act, as amended by chapter one hundred and fifty-three of the private [general] laws of 1860, entitled "an act to amend an act entitled 'an act to reduce the law incorporating the city of Janesville, and the several acts amendatory thereof, into one act, and to amend the same,' approved March 25th, A. D. 1858, and all acts amendatory of said act," is hereby amended as follows: add to the end of said section the following words: "And there shall be elected at the same time, by the qualified voters of said city, one school commissioner for said city at large, who shall, within ten days after his election, qualify in like manner as those elected by the several words, [wards,] and shall hold his office for the term of one year, and until his successor [successor] is elected and qualified."

Board of educa-
tion.

SECTION 4. Amend section two of said chapter eight referred to in the foregoing section, by inserting after the word "elected" in line one of said section, the following words: "together with the commissioner at large."

Highway work.

SECTION 5. Each male person residing in said city who would be required to perform highway work by the general laws of this state, shall be required to perform one day's work annually on the streets and highways in said city, to be performed in the ward [ward] where he resides, under the direction of the aldermen of such ward or of such person as said aldermen may appoint to superintend said work. But every such person so liable to perform work, may, at his option, pay

to said aldermen or to the person so appointed by them, at the rate of one dollar per day, in lieu of such work; and in default of the payment of said money or the performance of such labor, after having been notified to perform the same, the aldermen of the proper ward [ward] shall issue their warrant to any constable of said city, for the collection from each person so delinquent, of the sum of one dollar, with all legal costs accruing from such collection.

SECTION 6. The clerk of said city shall annually, on or before the first Monday of May in each and every year, make or cause to be made a correct list and enrollment of all persons within the several wards, so liable to perform highway work. One copy thereof he shall deliver to the alderman having the longest time to serve in each ward, and one copy thereof shall be filed in his office.

List of persons liable to perform highway work,

SECTION 7. The aldermen of each ward, or the person appointed by them, may add to said list of persons liable to perform highway work in the several wards, the names of persons omitted who ought to have been included, and of new inhabitants or residents in the ward, whose residence in the said ward may have commenced after said lists shall have been made out by said city clerk.

Ibid.

SECTION 8. The alderman to whom said list shall be delivered, shall cause at least three days' notice to be given to each person in his ward liable to perform highway work, either personally or in writing, left at his usual place of abode, of the time and place within his ward where such labor will be required; and said aldermen or the persons appointed by them, may require of all persons offering to pay in labor, to furnish a spade, shovel, ax or hoe.

Notice to persons thus liable.

SECTION 9. Every person intending to pay his said tax in labor, who shall, upon notice required to be given, appear and work agreeably to the direction of said aldermen or of the person appointed by them as an overseer, shall be credited on his tax one dollar for each day's work of eight hours actually performed by him. If any person notified shall neglect to appear and work on any street, highway or lane, at the time and place specified in the notice required to be given, such person shall not thereafter be entitled to pay his highway tax for that year in labor.

Performance of such work, &c.

Authority to and
duty of person
receiving war-
rant.

SECTION 10. Every constable to whom any warrant shall be delivered as above provided, shall have the same power and authority, and proceed in the service of said warrant and in the collection of said taxes, and in making return of said warrant, in the same manner as prescribed by sections thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three and forty-five of chapter nineteen of the revised statutes, relating to overseers of highways and constables; and shall, within thirty days from the date of said warrant, pay over to the alderman issuing the same, all moneys by him collected by virtue thereof.

Expenditure of
highway taxes.

SECTION 11. The aldermen of each ward in said city, shall faithfully apply and expend all moneys collected on account of said highway taxes, in procuring labor and in the purchase of implements and materials deemed by them most beneficial for repairing streets, highways and lanes in their respective wards; and shall annually, at the first regular meeting of the common council in the month of December, make a report of all moneys so collected and expended by them; and if there shall be any unexpended balance in their hands, shall pay over the same to the city treasurer, for the benefit of the ward fund of the ward in which the same may have been collected, and said treasurer shall credit the same to said ward fund.

Correction of er-
rors, &c.

SECTION 12. The common council shall have power to alter, amend and correct any error, omission or mistake in the description or valuation of any lot or parcel of land set down, or that should be upon the assessment roll of said city, for any year, prior or subsequent [subsequently] to the passage of this act, [and] to set aside the sale and to cancel any certificate of sale of any lot or parcel of land heretofore or [that may be] hereafter made by the treasurer of said city, for any error, illegality or inequality, at any time before a deed shall be made upon such certificate.

Amendment.

SECTION 13. Section eighteen of chapter seven of the act referred to in section one of this act, is hereby amended by striking out the words "treasurer's deeds of sale," where they occur in said section, and inserting in lieu thereof the words, "deeds of sale executed under the provisions of this act."

SECTION 14. Section 21 of chapter seven of said act, as amended by an act approved March 21st, 1860, is hereby amended as follows: after the word "provided," at the end of said section, add the following words: "No injunction, order, or other process or order, shall be allowed or issued by any court or judge, or commissioner in this state, to enjoin or restrain the sale of any lands in the said city of Janesville for taxes, or to enjoin or restrain the execution or recording of any deed executed in pursuance of said sales, or to enjoin, restrain or interfere with any proceedings taken, or attempted or threatened to be taken, for the collection of taxes; and no action or proceedings shall be commenced in any court of this state for the purpose of setting aside the taxes on any lands situate in the city of Janesville, or to invalidate or set aside any certificate of sale of land in said city for taxes, or any tax deed conveying any land in said city, or for the purpose of recovering the possession of lands in said city, held under a tax deed, unless the person or persons commencing such action or proceedings shall first pay to the treasurer of said city the amount of all taxes remaining unpaid thereon, whether such taxes have been regularly assessed or not; and the person commencing such action or proceedings shall allege in his complaint or papers, either that all taxes on such lands have been paid within the time required by law for the payment thereof, or if payment is made by virtue of this section, he shall allege the amount which has been paid to the city treasurer, to enable such party to commence such action or proceedings, the time of payment and the year for which such payment is made; and if it shall appear upon the trial or hearing of such action or proceedings, that the amount so paid is not the full amount of taxes justly chargeable upon such lands, such action or proceedings shall be dismissed, and costs taxed against the plaintiff."

All taxes, &c., must be paid before action can be commenced to restrain sale of lands, or to set aside tax certificates, tax deeds, &c.

SECTION 15. No costs shall be recovered against the defendant in any action where the same is commenced to set aside any tax or tax deed, or to prevent the collection of taxes in said city.

Costs not recoverable.

SECTION 16. The assessment upon the real estate for the taxes levied in the years 1858, 1859, 1860 and 1861, in the city of Janesville, and the advertising of said real estate for unpaid taxes, for the years afore-

Acts declared valid.

said, and all the proceedings had thereon, are hereby declared to be valid and binding to all intents and purposes, the same as if all the provisions of law then in force, relative to the collection of taxes, advertising, &c., &c., of lands for unpaid taxes, had been fully complied with; and the omission or neglect to do any act required to be done by law, shall not in any manner invalidate or obstruct such proceedings.

Repeal.

SECTION 17. All acts in conflict with this act, are hereby repealed.

SECTION 18. This act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1862.

CHAPTER 109.

[Published March 22, 1862.]

AN ACT to repeal chapter 181 of the private and local laws of 1859, entitled "an act to provide for a special tax to improve a road therein named."

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

Repeal.

SECTION 1. That chapter one hundred and eighty-one of the private and local laws of 1859, entitled "an act to provide for a special tax to improve a road therein named," approved March 17th, 1859, be and the same is hereby repealed.

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

Approved March 20, 1862.