

CHAPTER 122.

[Published March 26, 1862.]

AN ACT directing the disposition of moneys received for license [licenses] granted in the several towns in the county of Milwaukee, in pursuance of chapter 35 of the revised statutes, entitled "of excise."

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

To be paid into town treasuries—how disbursed.

SECTION 1. All moneys which shall hereafter be received for license [licenses] granted in the several towns in the county of Milwaukee, in pursuance of chapter thirty-five of the revised statutes, shall be placed in the treasury [treasuries] of the several towns where such license was [licenses were] granted, and such license money shall be disbursed the same as the other town funds.

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

Approved March 21, 1862.

CHAPTER 123.

[Published March 26, 1862.]

AN ACT to provide for keeping in repair the highways, streets, alleys and bridges of the city of Oshkosh.

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

Wards to be divided into districts.

SECTION 1. It shall be the duty of the common council of the city of Oshkosh, on or before the third Monday in March, 1862, to divide each ward of said city into so many road districts as it shall judge convenient. Such division shall be recorded by the city clerk in a book kept for that purpose in his office. After such division shall have been made, no alteration in the boundaries of any road district shall be made by the city council until public notice of such intention shall be given by the city clerk in the official paper of the city.

SECTION 2. On or before the 3d Monday in March, 1862, and annually thereafter, the mayor shall appoint a suitable person in each of such districts as overseer of highways, who shall hold his office for the term of one year and until his successor is appointed.

Appointment of overseers.

SECTION 3. The common council shall, before the third Monday of March of each year, assess a highway tax for the ensuing year.

Highway tax.

SECTION 4. Each overseer of highways shall, within sixteen days after his appointment, deliver to the city clerk a list subscribed by him, of the names of all the inhabitants of his road district, who are liable to pay a poll tax. If the overseer shall neglect or refuse so to do, he shall be deemed to have vacated his office, and the mayor of the city shall forthwith appoint some suitable person in his place and stead. Upon making such appointment, the mayor shall file a notice thereof with the city clerk, who shall immediately notify the person so appointed.

Duty of overseers.

SECTION 5. The common council shall cause to be made out by the city clerk, separate lists for each ward and district, of the names of all persons liable to pay highway taxes in each district, which list shall also contain a statement of all the taxable personal property, and a description of all lots or parcels of land within each such district, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll; and if such lot or tract was not separately described in such roll, then in proportion to the valuation which shall have been affixed to the whole tract of which such lot or parcel forms a part.

Lists of names and of taxable property.

SECTION 6. In making an assessment of highway taxes, the city council shall proceed as follows: 1st. Every male inhabitant in each road district, being over the age of twenty-one years and under the age of fifty years, excepting persons of color, paupers, idiots and lunatics, shall be assessed to pay a poll tax of one dollar. Said tax may be paid to the overseer in cash, or be commuted for in labor as now provided by law. 2d. The residue of the highway tax, to an amount of not less than one or more than seven mills on the dollar, shall be assessed on the valuation of the real and personal property in each district. 3d. The common council shall cause to be set opposite to the name of

Manner of making assessments.

each person and corporation, and to each description of taxable property, the amount of tax charged to each respectively.

Duplicate lists.

SECTION 7. The common council shall cause to be made duplicates of the several lists, which shall be subscribed by the mayor, one of which lists for each road district shall be filed by the city clerk in his office, and the other shall be delivered to the overseer of highways of the district in which, the highway labor therein specified, is assessed.

Warrant.

SECTION 8. The common council shall cause to be annexed to each such tax list, a warrant signed by the mayor and city clerk, which shall be in substance in the following terms :

Form.

“ To A. B., overseer of road district No. —, in the city of Oshkosh :

“ You are hereby required to collect from the several persons and corporations named in the annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to the names of such persons, corporations and property, within the time limited by law, and to apply the taxes by you collected, and make due returns as the law requires.

“ Dated the — day of —, 18—.

“ C—— D——, Mayor.

“ A—— B——, City clerk.”

Names omitted to be added.

SECTION 9. The names of persons left out of any such list, and who ought to have been included therein, and of new inhabitants who have not in the same year been assessed in some other place for highway taxes, shall be from time to time added to the several lists and assessed by the overseers, in their polls, and in proportion to their taxable property, as others are assessed on such lists by the common council, to pay taxes on the highways, subject to an appeal to the common council.

Assessment of occupant of lands.

SECTION 10. Whenever the occupant of any land not owned by him, shall be assessed therefor by the common council, it shall distinguish in the assessment, the amount charged upon such land from the personal tax, if any, of such occupant ; but when any such land shall be assessed in the name of the occupant, the owner thereof shall not be assessed during the same year to pay a highway tax on account of such land.

SECTION 11. Whenever a tenant of any land for a less term than twenty years, shall be assessed to pay a highway tax on account of such lands, pursuant to the last section, and shall actually pay such tax, he shall be entitled to a deduction from the rent due or to become due from him for such lands, equal to the full amount of such tax, or he may recover the same of his landlord in an action for money paid out for his benefit, unless otherwise provided by agreement between such tenant and his landlord.

Deduction from rent of tenant.

SECTION 12. Every overseer of highways shall cause at least one-half of the amount of highway tax assessed in his district to be collected and expended as the law requires, before the first of July, and the residue by the first day of November, in each year.

When tax to be expended.

SECTION 13. It shall be the duty of every overseer of highways, to give at least three days' notice to all persons residing in his district, assessed to pay highway taxes therein, either personal or in writing left at their usual place [places] of abode, of the time when, and (*in*) the place where they may appear and pay their highway taxes in labor, and with what implements.

Notice to be given.

SECTION 14. All persons assessed to pay highway taxes in such district, may appear at such times and places therein, and with such teams and implements as the overseer in the notice mentioned in the preceding section may direct, and work in person or by an able bodied substitute.

Tax may be worked.

SECTION 15. Every overseer of highways may require of all persons offering to pay their highway taxes in labor, to furnish a spade, shovel, ax or hoe, and any person offering to pay such tax in labor, and who is the owner of a team, plow, wagon or cart, or other implement useful for working the highways, may be required by such overseer to furnish such team, plow, wagon or cart, or other implement, if the assessment of such person on such highways be not less than three dollars.

Tools to be furnished.

SECTION 16. Every person intending to pay any highway tax assessed against him, or any part thereof, in labor, and who shall, upon the notice required to be given by the overseer, appear and work agreeably to the direction of such overseer, shall be credited on his tax one dollar for every day he shall actually work

\$1 per day allowed for work.

eight hours on such highway, and fifty cents a day for every wagon or plow, and seventy-five cents for each yoke of oxen, and one dollar and twenty-five cents for each span of horses, he shall furnish agreeably to the requirements of said overseer.

Pay of overseer.

SECTION 17. If any overseer shall be employed more time in executing the several duties enjoined upon him by this act, than shall be necessary for the payment of his highway tax, he shall be paid for the excess at the rate of one dollar per day, and be allowed to retain the same out of the moneys that may come into his hands on account of highway taxes, but he shall not be allowed to pay his own highway tax in money.

Penalty.

SECTION 18. If any person assessed to pay a highway tax, shall neglect to appear and work upon the highway at the time and place specified in the notice required to be given by the overseer, unless satisfactory cause shall appear to such overseer for such neglect, such person shall not thereafter be entitled to pay his highway tax assessed for that year, or any part thereof, in labor.

Persons taxed to be notified.

SECTION 19. It shall be the duty of the overseer of highways, whenever any person shall become liable to pay the highway tax assessed against him in money, as prescribed in the preceding section, to collect such tax; and for that purpose, said overseer shall call at least once on the person taxed, or at the place of his residence, if in such district in which such overseer has been appointed, and demand payment of taxes charged to such person.

Collection by distress and sale.

SECTION 20. In case such person shall refuse or neglect to pay the tax charged against him, such overseer shall levy the same by distress and sale of the goods and chattels of the person who ought to pay the same.

Notice of and sale of property.

SECTION 21. Such overseer shall give public notice of the time and place of sale, and of the property to be sold, at least six days previous [previously] to the time of sale, by advertisement, to be posted up in at least three public places in the district where such sale shall be made; the sale to be by public auction.

Excess to be returned.

SECTION 22. If the property levied upon shall be sold for more than the amount of tax and costs, the

surplus shall be returned to the person from whom the property was taken.

SECTION 23. Every overseer shall be entitled to retain five per cent. for his fees out of all moneys collected by him on his warrant, and in case of a levy and sale by him of goods and chattels for the payment of any tax, he shall be entitled to collect and receive for the same, such fees as constables are entitled to receive for levying upon and selling goods under execution.

Fees of overseers.

SECTION 24. It shall be lawful for any overseer of highways, for the purpose of collecting any unpaid highway taxes on his tax list against any person or persons who shall have become liable to pay the same in money, to place such tax list in the hands of the city marshal or any constable of the city, who shall possess the same powers in the collection of such tax, and be entitled to receive the like compensation, as overseers of highways in like cases.

List may be placed in hands of marshal or constable for collection.

SECTION 25. Whenever any overseer of highways shall place his tax list in the hands of a constable or the city marshal for collection, as provided in the preceding section, he shall designate the persons named therein from whom taxes are due in money, and he shall endorse over his signature, on such tax list, in substance as follows:

Authority to officer.

“I hereby authorize A. B. (naming the constable) to collect the unpaid taxes due in money on the within tax list.

“Dated _____, 18—.

“C— D—, Overseer.”

SECTION 26. The marshal or constable who shall receive any such tax list to be collected, shall to the best of his ability collect the sums due in money on such tax list from the persons who ought to pay the same, and shall, within thirty days from the date of such endorsement on said tax list, return to the said overseer his doings thereon, and pay over all moneys so collected to such overseer. And any overseer, if he shall deem it necessary, may at once reissue such warrant and tax list in the manner specified in the preceding section, and when so reissued, the marshal [marshal] or constable shall proceed thereon as herein above provided.

Return of officer—warrant may be renewed.

SECTION 27. Moneys collected or received by any

Application of moneys.

overseer of highways on account of highway taxes in his district, shall be faithfully applied and expended by such overseer in the procuring of labor and in the purchase of implements and materials, as in the opinion of said overseer will most benefit the highways and bridges in his district.

List of delinquent taxes to be annually made.

SECTION 28. Every overseer of highways shall, on or before the second Monday in November in each year, make out and deliver to the city clerk of his city, a statement in writing, containing a description of all the real estate taxed in his tax list, upon which the taxes remain unpaid, together with the amount of tax assessed to each such description of land, and the names of the owners thereof, if known, and he shall make and subscribe an affidavit thereon, before some justice of the peace or other person authorized to administer oaths, that the taxes mentioned in said statement remain unpaid. If the said overseer shall neglect or refuse to make out and deliver to the city clerk such statement as aforesaid, the mayor and city clerk shall issue a warrant under their hands to the city marshal or any constable of the city, commanding him forthwith to bring such overseer before them, to show cause why such statement has not been made as the law requires. The marshal [marshal's] or constable's fees for such service shall be paid by such delinquent overseer.

If overseer neglect, &c.

Collection of delinquent taxes.

SECTION 29. The city clerk shall, in the duplicate assessment roll of the city next thereafter, enter such unpaid taxes therein opposite the descriptions of the land upon which the taxes so remain unpaid, and such taxes shall be collected in the same manner as city taxes are collected, and when so collected, shall be paid over as hereinafter provided, for the use of the district in which they were originally assessed.

Duty of treasurer.

SECTION 30. It shall be the duty of the city treasurer, between the fifteenth and thirtieth days of April, in each year, to notify the overseer of highways of every road district in his city which may be entitled to any moneys in the city treasury, accruing from returned highway taxes in such district, or from any balance received from a former overseer; and the said treasurer shall pay to the order of the overseer of each road district all moneys in his hands belonging to such district, for the construction and improvement of roads and bridges therein.

SECTION 31. Every overseer of highways shall, on or before the third Monday in March, in each year, render to the city council an account in writing, verified by his affidavit subscribed thereon, before some person authorized to administer oaths, containing, 1st. The names of all persons assessed to pay a highway tax in his district. 2d. The amount of tax collected from each such person and from other sources, distinguishing the taxes which have been paid in labor from those which have been paid in money. 3d. The amount of money received from the city treasurer, on account of returned taxes on real estate, or paid into the city treasury by a former overseer in such district. 4th. The manner in which all taxes collected and received by him have been disbursed, and the particular items of such disbursements. 5th. A statement of the highway taxes assessed upon real estate in his district, which remain unpaid.

Annual statement of overseers.

SECTION 32. If any person shall, in any year, pay voluntarily more than the amount of his road tax for such year, it shall be the duty of the overseer to credit such overpayment upon the tax list to such person, and return the amount thereof to the city clerk, and the same shall be applied on such person's future road taxes.

Overpayment.

SECTION 33. If, upon rendering such account, any moneys shall remain unexpended in the hands of such overseer, he shall immediately pay over the same to the city treasurer. If any overseer shall neglect or refuse to pay over any money remaining in his hands as required in the preceding section, it shall be the duty of the city treasurer forthwith to sue for the same in his name of office, in an action for money had and received to the use of such treasury, which money, when collected, shall be applied as provided in the thirtieth section.

Balance in hands of overseers to be paid to treasurer.

SECTION 34. If any person assessed to pay a poll tax, shall neglect or refuse so to do, the overseer shall make a complaint before any justice of the peace, who shall thereupon cause such person to be arrested and fined not less than two or more than five dollars, and in default of said fine and costs being paid, the justice shall commit such person to prison for a term of not less than three or more than six days. Any fines collected by justices of [the] peace in pursuance of this

Penalty for refusal to pay poll tax.

act, shall be by him [them] immediately paid over to the overseer of highways making the complaint, to be used by such overseer as other moneys for highway purposes are used.

Application. SECTION 35. No part of this act shall apply to ward bridges over twenty-five feet in length. Such bridges shall continue to be under the charge of the alderman [aldermen] of the ward in which they are located, and be sustained at the expense of the ward.

Ibid. SECTION 36. No part of this act shall apply to the bridges across Fox river within the limits of the city of Oshkosh.

Repeal. SECTION 37. So much of any act conflicting with the provisions of this act, is hereby repealed.

SECTION 38. This act shall take effect and be in force from and after its passage.

Approved March 21, 1862.

CHAPTER 124.

[Published March 26, 1862.]

AN ACT to amend section four of an act entitled "an act to amend the city charter of the city of Fond du Lac," approved March 3d, 1857.

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

By whom witnesses and jury for award of damages may be sworn. SECTION 1. Section four of an act entitled "an act to amend the city charter of the city of Fond du Lac," approved March 3d, 1857, is hereby amended as follows: by striking out the last line of said section, and inserting the words following: "Such witnesses and jurors may be sworn by the mayor, marshal or any justice of the peace of said city."

SECTION 2. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed.

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

Approved March 21, 1862.