

thereon: *provided*, that in no case shall payment of principal be demanded within one year after the expiration of the time of payment of principal, fixed in the original certificate of sale. Proviso.

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

Approved March 27, 1863.

CHAPTER 135.

[Published April 14, 1863.]

AN ACT to amend chapter 8 of the general laws of 1862, entitled "an act for the relief of Jackson county."

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

SECTION 1. Section two of chapter eight of the general laws of this state, of the year (A. D.) 1862, is hereby amended, by striking out the words "within six months," where they occur in the third line of said section two, and by inserting in lieu thereof the words "within two years."

When application for restoration of record may be made.

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

Approved March 27, 1863.

CHAPTER 136.

[Published April 15, 1863.]

AN ACT to provide for keeping in repair the highways, streets, alleys and bridges in the city of Oshkosh, and to repeal chapter 123 of the private and local [general] laws of 1862, entitled "an act to provide for keeping in repair the highways, streets, alleys and bridges in the city of Oshkosh."

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

SECTION 1. Each ward in the city of Oshkosh is hereby constituted one road or highway district, design-

Highway districts.

nated numerically the same as the wards of which they are composed.

Overseers of highways.

SECTION 2. It shall be the duty of the mayor of said city, on or before the third Monday in April, A. D. 1863, and annually thereafter, to appoint a suitable person in each ward, a resident freeholder thereof, as overseer of highways, and file a notice with the city clerk, who shall immediately notify such person of his appointment.

Lists of persons liable to pay poll-tax.

SECTION 3. Each overseer of highways shall, within sixteen days after his appointment, having filed his acceptance in writing with the city clerk, deliver to the city clerk a list, subscribed by himself, of all persons in his road district who are liable to pay a poll-tax therein. In case said overseer shall fail to accept his appointment within six days after his being notified by the clerk, he shall be deemed to have vacated his office, and the mayor shall immediately fill such vacancy, or any vacancy that may occur during the year.

Who liable—amount.

SECTION 4. Every male inhabitant in each road district or ward, being a resident thereof at the time of making such list by the overseer, over the age of twenty-one years, excepting persons of color, paupers, idiots and lunatics, shall be assessed to pay a poll-tax of one dollar to the overseer of said road district or ward, in cash or labor, as provided in section eleven of this act.

Assessment of highway taxes.

SECTION 5. In making an assessment of highway taxes, the city council shall proceed as follows: 1st. They shall cause to be made out by the city clerk, separate lists for each highway district or ward, of the names of all persons made liable by this act to pay a poll-tax therein. 2d. If an additional tax to the poll-tax, in the judgment of the common council, will be required to repair and keep in order the highways and bridges in each or any of said districts or wards, they may (or shall) assess upon the real and personal property in such district or districts, ward or wards, an amount not less than one mill or more than seven mills on the dollar, as valued in the city assessment roll for the preceding year, as revised, equalized and confirmed by the board of equalization of said city of Oshkosh. The per centage to be assessed upon the property of the respective districts or wards, may be varied by the common council, as in their judgment the necessities of the

respective districts or wards may require, but said percentage shall be uniform throughout each of said districts or wards.

SECTION 6. The common council shall cause to be made duplicates of the several lists of the names of persons assessed to pay a poll-tax, and of the amount directed to be expended by the warrant in each of the several districts or wards, which shall be signed by the mayor; one of which lists for each road district or ward, shall be filed by the city clerk in his office, and the other shall be delivered to the overseer of highways of the district or ward in which the highway labor therein specified is assessed, and the amount directed to be expended.

Duplicate poll-lists.

SECTION 7. The common council shall cause to be annexed to each of such tax-lists, a warrant, signed by the mayor and city clerk, which shall be in substance as follows:

Warrant.

“To A. B., overseer of highways in road district or ward No. —, in the city of Oshkosh: You are required to collect from each of the several persons named in the annexed list, one dollar poll-tax, within the time limited by section twelve of this act, and to apply the taxes collected by you, and make due return thereof. You are also hereby required to expend in labor and material, upon the highways and bridges in your district, in addition to the poll-tax, not exceeding the sum of — dollars, and to issue to the party or parties performing such labor or furnishing such material, a certificate or certificates of the respective amount so commuted or done, and make due return.

“Dated the — day of —, 18—.

“— —, mayor.

“— —, city clerk.”

SECTION 8. Any person or persons owning, possessing or occupying real or personal property in either or any of said districts or wards, whether residents or not, shall be allowed to pay an amount in labor, material or money, as provided in this act, to the overseer of the district or ward where such real or personal property is located and assessed, to pay highway taxes, and take the certificate or certificates of the overseer of such district therefor, which certificate or certificates shall be received by the city treasurer in payment of his taxes for

How highway taxes may be paid.

highway purposes, in the same ward, and not exceeding in amount the sum that such property is assessed for highway purposes, for the same year.

Amount to be placed in warrant.

SECTION 9. It shall be the duty of the city clerk, where the common council shall have determined by vote the per centage to be assessed, if any, upon the property of each or any of the several road districts or wards, for highway purposes, as provided in section five of this act, to ascertain the amount such per centage will produce, and place such proportion thereof as the common council may direct, in the warrant to be issued to the overseer of such district or districts, ward or wards, to be so expended in labor and materials; also, to add the whole amount such per centage will produce, to the ward taxes to be assessed upon the respective wards for the present year, to be collected with and in the same manner as the city taxes are collected by the city treasurer.

Credits to districts.

SECTION 10. The city treasurer shall credit to each of the respective road districts or wards, as a highway fund, the amount received by him in the collection of the ward taxes of the city, for highway purposes, that belongs to each of said districts or wards, respectively, and shall charge to each of said highway funds all certificates received by him in payment of taxes, as provided in section eight of this act, and file said certificates in his office as vouchers. And said treasurer shall, on or before the third Monday in March, annually, lay before the common council a statement of the condition of each of said road, district or highway funds.

Notice to persons wishing to pay poll-tax in labor.

SECTION 11. It shall be the duty of every overseer of highways to give three days' notice, either personally or in writing left at their usual place [places] of abode, to all persons residing in his district, who are by the terms of this act made liable to pay a poll-tax therein, and who have served a notice on such overseer, as required by section eleven of this act, that they desire to pay in labor the property tax assessed therein for highway purposes, of the time when and the place where they may appear and pay their highway taxes in labor, and with what implements. He shall also post in five of the most conspicuous places in his district, the following notice, written or printed, on or before the first day of May, in each year :

“ HIGHWAY NOTICE FOR DISTRICT NO. —.

“ Every person [All persons] owning, occupying or possessing real or personal property within this highway district or ward, if they desire, may ascertain from the last assessment book in the city clerk’s office, the total valuation of such property. And they are hereby notified, that — mills on the dollar is assessed upon said valuation for highway purposes, which tax may be paid in labor or material by notifying me, the subscriber, in writing, of the amount thereof, and of the desire so to do, on or before the first day of June next. And all persons not residents of this district, assessed for highway taxes upon property herein, will receive no further notice. And all highway taxes upon property in this district, in whole or in part, not so paid, will be collected by the city treasurer, in money, with and in the same manner as other city taxes are collected.

“ Dated this — day of —, 18—.

“ [Signed,] A. B., overseer of highways
in and for road district or ward No. —.”

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

SECTION 13. 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 section eleven of this act may direct, and work in person or by an able bodied substitute.

SECTION 14. 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.

SECTION 15. Every person intending to pay any highway tax 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 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.

Excess of time
employed by
overseer.

SECTION 16. 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.

Correction of
lists.

SECTION 17. 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 overseer in their polls.

Annual account
of overseer.

SECTION 18. Every overseer of highways shall, on or before the third Monday of 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 poll-tax in his district. 2d. The amount of taxes 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 manner in which all taxes collected and received by him have been disbursed, and the particular items of such disbursement.

Unexpended
moneys.

SECTION 19. 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

Penalty.

collected, shall be credited to the ward fund to which it belongs.

SECTION 20. If any person assessed to pay a poll-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, it shall be the duty of said overseer to collect such tax in money; and for that purpose, such 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 of delinquent taxes

SECTION 21. In case such person shall refuse or neglect to pay the poll-tax charged against him, such overseer shall levy the same by distress and sale of the goods and chattles of the person who ought to pay the same, and no property of such person shall be exempt from such levy and sale.

May distrain.

SECTION 22. Such overseer shall give public notice of the time and place of sale, and of the property to be sold, at least six days previously to the time of sale, by advertisement to be posted up in three public places in the district where such sale shall be made; the sale to be by public auction.

Sale of property.

SECTION 23. If the property levied upon shall be sold for more than the amount of tax and cost, the surplus shall be returned to the person from whom the property was taken.

Excess to be returned.

SECTION 24. Every overseer, in case of a levy and sale by him of goods and chattels for the payment of any poll-tax, shall be entitled to collect and receive for the same, such fees as constables are entitled to receive for leying [levying] upon and selling goods under execution.

Fees of overseer.

SECTION 25. It shall be lawful for any overseer of highways, for the purpose of collecting any unpaid poll-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 taxes, and be entitled to receive the like compensation, as overseers of highways in like cases.

Marshal or constable may collect.

SECTION 26. Whenever any overseer of highways shall place his tax-list in the hands of a constable or

Authority to officer.

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 indorse, over his signature, on such tax-list, in substance as follows:

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

“Dated ———, 18—.

“C. D., overseer of road district No.—.”

Return of officer
—warrant may
be renewed.

SECTION 27. 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 indorsement 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 or constable shall proceed thereon as hereinabove provided.

Garnisheeing for
tax.

SECTION 28. If any overseer of any road district or ward of said city shall make an affidavit, stating therein that any poll-tax amounting to (giving the amount,) is due by the terms of this act, from any person, (naming him,) that he has demanded payment thereof, and that the same was refused, and that deponent has good reason to believe that any person (naming him) has property, (describing the same,) money, credits or effects in his possession, belonging to such person liable to pay a poll-tax, or that he is indebted to such person liable to pay a poll-tax, or that he is employing at any kind of labor for him, such person liable to pay a poll-tax, and such overseer shall demand of the marshal of said city, or the sheriff, or any constable of Winnebago county, to summons such person as garnishee, such marshal, sheriff or constable shall summons such person in writing to appear before any justice of the peace, and at a time in such summons to be mentioned, not less than three days nor more than ten days from the date thereof, to answer such interrogatories as may be put to him touching his liability as garnishee.

Summons.

SECTION 29. The summons mentioned in the next

preceding section may be, substantially, in the following form, viz.:

“Winnebago County, }
 City of Oshkosh, } ss.
 “The state of Wisconsin to _____ : ”

“Whereas, A. B., an overseer of road district No. _____, in the city of Oshkosh, has made an affidavit, stating therein that a poll-tax amounting to _____ dollars, is due from C. D., according to law; that the same has not been paid, although demanded by him; and whereas, said overseer, A. B., has made oath that you have property (describing the same) belonging to said C. D., (or are indebted to him, or are employing him :) Therefore, I hereby attach all the property and credits in your hands belonging to the said C. D., and all indebtedness due or to become due from you to said C. D. And you are hereby summoned to be and appear before J. P., a justice of the peace in and for the county of Winnebago, at his office in the city of Oshkosh, on the _____ day of _____, A. D. 18—, at _____ o'clock in the _____ noon of that day, then and there to answer, under oath, such questions as shall be put to you touching your liability as garnishee.

“Given under my hand this _____ day of _____, A. D. 18—.

“_____ , constable.”

SECTION 30. The officer shall serve such summons on the garnishee, personally, at least three days before the return day, and shall return to the justice the affidavit and summons issued by him, and shall state the day when such summons was served, and make a full return of all his doings. Service of summons.

SECTION 31. The garnishee, from the time of the service of such summons, shall stand liable to such overseer, for the use of his road district or ward, to the amount of the property, money, credits and effects in his hands belonging to such person liable to pay a poll-tax, and the amount of his own indebtedness to him, as well for such indebtedness which accrued after the service of such summons as before, and for all wages due or to become due from such garnishee to such person liable to pay a poll-tax; and chapter one hundred and forty-eight of the general laws of the year one thousand eight hundred and fifty-eight, entitled “an act to exempt six- Liability of garnishee. Application of statutes.

ty days' earnings to mechanics and laborers," shall not apply to prevent the collection of such poll-tax; and no property or earnings of such person liable to pay a poll-tax shall be exempt from process for the collection of such tax.

Service of summons commence
ment of suit
Against garnishee.

SECTION 32. The service of such summons shall be deemed the commencement of an action against such garnishee and in favor of such overseer, and in his name, for the use of his road district or ward; and upon the return of the officer serving such summons, that the summons has been duly served, the justice shall enter an action in his docket, in which such overseer, for the use of his road district or ward, shall be plaintiff, and the garnishee defendant.

How suit to proceed.

SECTION 33. Such garnishee suit shall then proceed in all particulars and be governed by the same rules as garnishee suits, in which the plaintiff in an attachment suit is plaintiff, and the garnishee defendant, as prescribed in that part of chapter one hundred and twenty of the revised statutes, under the head of "of proceedings by attachment and against garnishees."

Expenditure of moneys in hands of treasurer.

SECTION 34. If, by the report of the city treasurer, on or before the third Monday in March, in each and every year, it shall appear that any moneys are remaining in his hands, belonging to each or any of said highway district or ward funds, the common council shall have power to appropriate such funds, or any part thereof so remaining unappropriated in the month of April, to repair and put in order any of the thoroughfares leading into the city, which in their judgment may require the same. The overseer of highways of the district in which such thoroughfare or roads specified are located, shall be entrusted with the expenditure of such appropriations, under the direction of said council, and draw his orders on the city treasurer, who is hereby authorized to pay the same to the amount so appropriated. The said overseer shall, in his annual report, as required to be made by section eighteen of this act, incorporate a full report of his expenditures under such appropriation.

Not applicable to certain bridges.

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 aldermen of the ward in which they are located, and be sustained at the expense of the city.

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

SECTION 37. Chapter one hundred and twenty-three ^{Repeal} of the private [general] laws of 1862, entitled "an act to provide for keeping in repair the highways, streets, alleys and bridges of the city of Oshkosh," is hereby repealed.

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

Approved March 27, 1863.

CHAPTER 137.

[Published April 14, 1863.]

AN ACT to provide for levying a state tax for the year 1863.

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

SECTION 1. There shall be levied and collected, for ^{\$76,000.} the year 1863, a state tax of seventy-five thousand dollars, for the estimated expenses of 1864, to be apportioned among and assessed upon the several counties of this state, as provided by law; and such tax shall be levied upon the taxable property of the state, real and personal, and collected and paid into the treasury, as provided by law.

SECTION 2. The secretary of state shall apportion ^{To be apportioned by secretary of state.} said tax among the several counties of the state, as provided by law, on or before the second Monday of October next, and certify the same to the board of supervisors of each of the several counties, as provided by law.

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

Approved March 28, 1863.