

CHAPTER 135.

[Published March 13, 1868.]

AN ACT relating to and amendatory of section sixty of chapter eighteen of the revised statutes, entitled "of the assessment and collection of taxes."

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

SECTION 1. Section sixty of chapter eighteen of the revised statutes is hereby amended by striking out the word "second" in the fourth line of said section and amending (of) it so as to read as follows: "The said town clerk shall immediately make out a fair copy of such assessment roll when thus completed, and deliver the same to the town treasurer of his town, on or before the third Monday of December in each year, but in no case shall the assessment roll be delivered to such treasurer until he shall have executed the bond and delivered the receipt required in the fifty-seventh and fifty-eighth section of this chapter." Amended.

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

Approved March 6, 1868.

CHAPTER 136.

[Published March 14, 1868.]

AN ACT to provide for the re-assessment and collection of delinquent taxes of 1865 and 1866, on the shares of national banks in this state.

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

SECTION 1. It shall be the duty of the state treasurer to transmit, as soon as practicable, to the assessor of every city, ward or town in this state, in which is located any banking association organized under a law of the United States, a statement prepared from the Delinquent bank tax must be re-assessed.

best information within his reach, showing the date of the organization of such bank, and the amount of its capital stock and the names of the persons who were shareholders in such banks on the 5th day of June, 1865, and on the 5th day of June, 1866, and the number of shares held then by each, and stating whether the taxes due to the state for the year 1865 or 1866, or for both of said years remain unpaid.

Duty of assessor.

SECTION 2. It shall be the duty of the assessor of every such city, ward or town to include in the valuation of the personal property for the year 1868, of any person or corporation (whether residing or located in or out of such city, ward or town), the shares of such banking association which were owned by such person or corporation, at the time fixed by law for the assessment of personal property in each of the years for which taxes thereon appear by said statement of the state treasurers [to] remain unpaid, and to assess such shares at their true cash value at such time, but such shares shall in no case be assessed at more than their par value.

Shall be furnished with names of shareholders.

SECTION 3. Such assessor may apply to any officer or manager of such banking association for the names of such shareholders, and, upon such application, it shall be the duty of such officer or manager to furnish to such assessor a correct list of all the shareholders in such association during each of said years separately, showing their respective places of residence, so far as he can ascertain the same, and the number of shares held by each shareholder on the 5th day of June, 1865, and the 5th day of June, 1866, to be verified by the affidavit of such officer or manager.

Shall ascertain value of shares.

SECTION 4. Such assessor shall inquire into and ascertain the true cash value of such shares, at the time fixed by law for the assessment of personal property for taxation during each of said years 1865 and 1866, for which the taxes on such shares appear by the statement of the state treasurer to be unpaid, and, to enable him to do so, he is hereby authorized to examine on oath any officer or manager of such association, or any other person whom he may suppose to possess the necessary information, or he may apply to any justice of the peace of the county, or county judge, who shall summon any such officer or manager or other person to appear before him at such time as the assessor may designate, and answer on oath all pertinent questions that may be

put to him by such assessor, his agent or attorney, touching the value of such shares. Any person who shall willfully neglect or refuse to obey the process of such justice or county judge, or to be sworn to make answer to the questions aforesaid, shall be deemed guilty of misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding one thousand dollars nor less than two hundred dollars.

SECTION 5. It shall be the duty of the clerk of the city, village or town in which any bank is located, to set down on the proper assessment roll opposite the name of each owner of such shares for each of said years therein mentioned separately, the same per centum of rate of tax which was in such year assessed and levied upon other monied capital in the hands of individual citizens of the state, in such city, ward or village, or town, and no greater rate: *provided, however*, that the per centum or rate so to be set down shall not in any case exceed the rate of one and one-half per centum, upon the assessed value of such shares; *and provided further*, that if the organization of any such bank took place after the first day of January in either of said years, then the tax so to be set down for such year shall be reduced so as to bear such proportion to the rate above provided for as the part of the year unexpired at the date of its organization bore to the whole year.

Clerk shall assess shares at same rate as other capital.

SECTION 6. The town, city or village collector shall collect the taxes so levied upon such shares in the same manner as taxes upon other personal property are by law to be collected and may retain out of the same for his fees, three per cent, and the residue, as fast as collected, he shall pay over to the state treasurer. In case such collector shall seize upon any personal property of the shareholders, for the payment of such tax, the proceedings under such seizure and the sale of the property seized, shall be the same as provided by section 75 and 76 of chapter 18 of the revised statutes.

Duty and fees of collector.

SECTION 7. If any such tax is returned delinquent the same proceedings shall be had for its collection as in the case of delinquent taxes on other personal property, or the amount may be collected of the person owning the same, by action in the name of the state treasurer in any court of competent jurisdiction.

If returned delinquent, how to proceed.

Tax not to be held invalid.

SECTION 8. No tax levied under the provisions of this act shall be held invalid for want of form or for any mere omission or irregularity which does not affect the substantial justice of such tax.

Penalty for non-performance of duty by assessors and collectors.

SECTION 9. Any such assessor or collector who shall willfully neglect or refuse to perform any of the duties required of him by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not less than one thousand dollars nor more than two thousand dollars, or by imprisonment in the county jail not less than six months nor more than one year.

Penalty for refusal to give list of stockholders

SECTION 10. If any president or cashier of any such national bank shall refuse to give to the proper assessor, the list and statement required by the third section of this act, the president or cashier so refusing shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not less than two thousand dollars nor more than five thousand dollars.

State treasurer to forward instructions.

SECTION 11. The state treasurer is hereby directed to forward to each assessor and collector of taxes at places where such banks are located a printed copy of this act, with such instructions as he may think necessary to aid them in the performance of their duties under the same.

Tax may be paid directly to state treasurer.

SECTION 12. The said banking associations may pay directly to the state treasurer the amount of taxes upon the shares of their respective shareholders, assessed under this act at any time before the warrant for the collection of the same is issued with rebate of interest from the time of such payment until the first day of January ensuing, and upon exhibition of the state treasurer's receipt for such taxes, proceedings for collection thereof shall be suspended and the collector shall make return accordingly.

SECTION 13. The value of bank shares assessed under this act shall not be included in the basis for apportionment of taxes.

National banks may bring action to test legality of tax.

SECTION 14. Any shareholder in any national bank or banking association in this state may at any time before the first day of May, A. D. 1869, pay to the state treasurer the amount of tax required to be levied and collected upon his share or shares in such associations, and may immediately after such payment bring (*in*) and maintain an action against the state in the

supreme court thereof, to recover back the money so paid, with interest from the time of payment, at six per cent., in which action the payment so made shall be taken and deemed to have been compulsory and not voluntary, and if it shall be determined by the supreme court of this state or the supreme court of the United States, on error to that court in such action, that this state could not, under chapter 400 of the laws of this state or the provisions of this act, lawfully impose and collect or re-assess and collect the taxes provided for in said chapter 400 of the laws of 1865, or this act, and required by this act to be re-assessed and collected, then all taxes paid or collected under the provisions of this act on such shares, together with the taxes heretofore paid to the state treasurer on such shares, by any national bank or any shareholder or shareholders therein for the year 1865, shall be refunded and repaid to the person or party paying the same, his or their assigns or legal representatives, with interest in each case from the time of such payment, at six per cent., and the court may render judgment accordingly in such action. It shall be the duty of the secretary of state to audit and certify to the state treasurer in each such case, the amount or amounts so to be repaid or refunded under the provisions of this act, with interest as aforesaid, and draw his warrant or warrants on the state treasurer for the payment of the same; and it shall be the duty of the state treasurer to pay the same upon presentation, out of any money in the treasury not otherwise appropriated. No more than five such actions shall be so brought to test the validity of the aforesaid taxes, or the re-assessment thereof.

SECTION 15. This act shall take effect from and after its passage and publication, and all acts and parts of acts coming within the purview of this act, so far as they conflict with the provisions of this act, are repealed.

Conflicting acts
repealed.

Approved March 6, 1868.