

taxes have not been paid, with the taxes assessed thereon, and all such taxes not then collected, and so returned to the county treasurer as aforesaid, shall draw interest after such return at the rate of twenty per cent. per annum, up to the day of the sale of lands for taxes; and *provided*, that any such tax may be paid prior to such sale by paying the amount of such tax with interest at the rate of twenty per cent. per annum, and two per cent. for collection, and all costs thereon to that date; and the county treasurer shall possess the same powers and rights in collecting such taxes so returned as in other cases, and shall proceed to advertise and sell all lands on which such taxes shall remain unpaid, at the same time and in the same manner and with the same effect as provided by law for the sale of lands for taxes; and all such taxes returned to the county treasurer and collected by him shall be by him paid over to the treasurer of said town with the interest collected thereon.

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

Approved March 7, 1877.

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[Published March 21, 1877.]

## CHAPTER 217.

AN ACT to facilitate the more perfect execution of trusts in certain cases.

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

Parties disagreeing as to construction of provisions in mortgage may have same decided by decree of circuit court.

SECTION 1. Whenever any misunderstanding or disagreement shall arise between the mortgager and the mortgagees or trustees named, in any railway mortgage or trust deed of property situated within this state, as to the proper construction of any of the provisions of such mortgage or deed of trust, or as to the rights and duties of either of the parties thereto thereunder, either of the parties to such mortgage or deed of trust, or all of them jointly, may, by petition addressed to the circuit court of any county within which the mortgaged property or any of it may be situated, have a judgment or decree declaring the true intent and meaning of the provision or provisions of such mortgage or deed of trust the construction of

which is so in controversy and the rights and duties of the parties to such mortgage or deed of trust thereunder. And such judgment or decree shall be binding upon the parties to any such mortgage or deed of trust until the same is reversed on appeal as hereinafter provided.

SECTION 2. The petition shall be filed in the office of the clerk of the circuit court in and for the county in which the proceeding is instituted, and shall in all cases set out or have annexed thereto a certified copy of such mortgage or deed of trust, and of the whole thereof, and shall contain a recital of the provision or provisions of such mortgage or deed of trust, the construction of which is in controversy, with a precise and accurate statement of the points in dispute. From the time of filing such petition the proceedings shall be considered an action pending in the circuit court of said county.

Petition to be filed, and to be accompanied by copy of mortgage.

SECTION 3. Upon presentation of said petition to the judge of said court, he shall by an order fix the time and place when and where the same will be heard: *provided*, that the time of such hearing shall, except in cases where all of the parties to said mortgage or deed of trust join in said petition, not be less than sixty days from the date of said order; *provided further*, that if any of the said parties are not resident in the United States, said time shall not be less than ninety days from the date of said order. Immediately upon the making of said order, the party or parties signing and filing said petition shall give notice to all the parties to said mortgage or deed of trust who have not joined in the said petition, of the filing of the same and of the time when and the place where the same will be heard, as fixed by said order. Said notice shall be accompanied by a copy of the petition, certified by the clerk of said court, and shall be delivered personally to the party intended to be so notified, and said notice when to be served without the United States shall also be accompanied by a copy of this act. Proof of the delivery of such notice and copy of petition shall be made, if the party notified is resident in any of the states or territories of the United States, by affidavit of the person delivering the same, authenticated under and in accordance with the provisions of chapter 79 of the general laws of 1864, entitled "An act to amend chapter one hundred and thirty-seven of the revised statutes, entitled 'of evidence,'" and if the said notice and petition are delivered without the limits of the

Judge to fix time and place of hearing.

Notice of hearing to be given.

United States, proof of such delivery may be made by affidavit taken before a judge of a court of record of the country where such delivery is made, certified by the clerk or prothonotary of such court under the seal thereof; *provided, further*, that no hearing shall be had upon said petition until the expiration of at least ninety days from the date of delivery of such notice as hereinbefore provided, to the party last notified. The court in which such proceeding is instituted, may at any stage of said proceeding order any party whose presence he may deem necessary and proper, to be served with notice as hereinbefore provided and for that purpose may stay all further proceedings on said partition, and any owner of bonds secured by said mortgage or deed of trust, may appear and be heard in such proceedings. The said court shall also be at liberty to adjourn from time to time the said hearing or to postpone the same; the practice in proceedings authorized by this act shall be the same so far as applicable as the practice which governs the prosecution of other civil actions in said court.

Court may stay proceedings, and adjourn from time to time.

Decree to be entered and docketed.

Appeal may be taken.

SECTION 4. The said court may, if essential, take proofs upon the hearing of said petition and the judgment or decree rendered thereon shall be entered and docketed as other judgments and decrees of said court. Either party may file exceptions to the decision of said court in said proceeding and appeal to the supreme court from the judgment therein, in like manner as appeals are taken from judgments in other civil actions. Either court may award costs to the prevailing party and render judgment therefor against the other party.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved March 7, 1877.

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[Published March 15, 1877.]

## CHAPTER 218.

AN ACT to extend the time for the construction of the North Wisconsin Railway, and to waive the forfeiture therein referred to.

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

Waiver of forfeiture.

SECTION 1. The forfeiture incurred by the North Wisconsin Railway Company by its failure to construct