

territory west is hereby attached to the county of Slaughter for judicial purposes.

Each county to pay its proportion of debt.

SECTION 8. That the several counties hereby established, shall liquidate and pay so much of the debt as was due and unpaid by the original county of Des-moines, on the first day of December eighteen hundred and thirty-six, as may be their legal and equitable proportion of the same, according to the assessment value of the taxable property therein.

Approved Jan. 18, 1838.

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## No. 68.

AN ACT for assessing and collecting county revenue.

Sources of revenue.

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That for the purpose of raising a revenue for county purposes, the board of county commissioners shall levy a tax on all lands, town lots and out lots, with the improvements thereon, not heretofore exempt from taxation by any law of the United States now in force, and on all personal property with the exception of seventy-five dollars worth of household furniture to each householder, and excepting libraries, tools of mechanics and agricultural implements; on each tavern license a sum not less than five dollars nor more than fifty dollars, to be discretionary with the board of commissioners; on each license for retailing spirituous liquors and foreign and domestic groceries, beer, ale and cider, by a less quantity than one gallon, to be drank in or about the house where such liquors are retailed, not less than one hundred dollars per annum; on each license to vend merchandise not less than ten dollars, nor more than fifty dollars per annum, discretionary with the board of commissioners; on each license for hawking wooden or brass clocks in the county, not less than one hundred nor more than three hundred dollars; on each ferry not less than five nor more than twenty dollars per annum.

Amount of tax.

SECTION 2. The commissioners shall, annually at their regular session in July, or so soon thereafter as

the assessment roll is filed, levy a per centage on real and personal property as aforesaid, sufficient, when added to the amount that will probably be received by the county from other sources of revenue, to defray the current expenses of such county for the year: *provided*, that such per centage shall not in any case exceed five mills on the dollar. Limit.

SECTION 3. *And further*, That at the time and place of holding the election for county commissioners, there shall be elected one assessor, for each county, who shall be a qualified elector, and whose term of office shall be one year, and until his successor is duly elected and qualified. Such assessor shall, within sixteen days after receiving a certificate of his election, enter into bonds with security to be approved by the board of county commissioners, in the penalty of three hundred dollars, conditioned for the faithful performance of his duties as assessor, and also take an oath or affirmation to be administered by the clerk of the board of county commissioners, well, truly and faithfully to discharge the duties required of him by law. Assessor to be elected and qualified.

SECTION 4. If any assessor so elected under the provisions of this act, shall refuse to accept of such office, or fail to comply with the foregoing section, the clerk of the board of commissioners shall upon such failure, issue a notice thereof to the board of commissioners, which shall be served by the sheriff upon said commissioners. And it shall be the duty of said commissioners upon receiving notice thereof, to call a meeting forthwith, and appoint some suitable person to fill such vacancy, which assessor so appointed shall be qualified according to the foregoing section. And should any assessor die, or become unable from bodily infirmity, or any other cause to complete the assessment of his county, township or district, according to the provisions of this act; upon information thereof to the clerk aforesaid, a like summons as above mentioned shall be by him issued, and the appointment and qualification thereupon made. And such last mentioned assessor shall demand and receive the assessment roll of his predecessor or of the person in whose possession it may be, and proceed to complete the assessment of taxable property according to the provisions of this act; and if the roll of his predecessor

cannot be obtained, the clerk on application shall make out a new form.

Assessment,  
when made.

What the assess-  
ment roll shall  
contain.

SECTION 5. *And further*, Immediately after the election and qualification, each assessor shall commence assessing all property subject to taxation within his township, district or county, as the case may be, and shall deliver to the board of commissioners on or before the first Monday in July thereafter, a full and complete assessment roll thereof, which roll shall exhibit the description, number of acres and rate, whether 1st, 2d and 3d of the lands, the description and value of the town lots, and all other property specifically chargeable with tax for county purposes. The lands shall be designated by the numbers and descriptions, as laid down on the plan or map of the original surveys, and the town lots by their numbers and description, as laid down on the plan of said town, or by the boundaries, if no other specific description can be obtained. And all lots in towns or villages, the plats or plans of which have not been recorded, shall be taxed in the same manner that lots are in towns and villages, whose plats or plans have been recorded; and all tracts and lots of land, owned by non-residents, or persons unknown, and where specific description is not furnished by the owner or claimant, shall be described by their subdivisions, as known or designated on the map or plan deposited in the office of the clerk, or any other public offices, or which are generally recognized as containing a correct representation of the same, by their numbers or other specific description, and as the property of persons unknown and non-residents. The rates of the land shall be determined as described in this act, and in estimating the value of town lots, the assessor shall take to his assistance two discreet persons; and should any person feel aggrieved by the rate which may be affixed upon his land by the assessor, or by the value at which the appraisers estimated his town lot, he may produce evidence before the board of commissioners, and if they think the rate or value too high they shall order the clerk to alter it accordingly.

Appeal.

Clerk's duty.

SECTION 6. The clerks of each board of commissioners shall prepare blank forms of assessment rolls under this act, and deliver one to each of the assessors of his county at the time of his qualifying.

SECTION 7. On the last Monday in June the assessor shall attend at the office of the clerk of commissioners and with the assistance of said clerk shall publicly, in order that all persons interested may have the necessary corrections made, examine the assessment rolls and correct all double or imperfect listing or errors in rates, descriptions or quantities of lands or lots; and if it shall appear that there are omissions or lands taxable not entered by the assessor on his roll, the clerk and assessor shall correct all such omissions and shall enter upon the rolls lands so omitted, as non-resident lands. And if the entry of any tract of land or lot cannot be rendered certain in its descriptions by the before mentioned examinations, such entry shall be rejected from the roll, and the assessor shall within five days thereafter return to the clerk a correct description of such lands or lot and the clerk shall thereby amend the defective entry in said roll. And if the assessor shall fail to attend at the time and place required, the roll when returned shall be compared, corrected and completed as herein required; and for such failure the assessor shall be liable under this act for a violation of his duty.

Mode of correcting the assessment roll.

SECTION 8. After the clerk and assessor shall have corrected the assessment roll as aforesaid, the same shall be laid before the board of commissioners, and if it is found to contain all the taxable land in said county and is otherwise correct, the board shall accept it in writing on the back thereof, signed and attested by their clerk; and the clerk shall file the same in his office, where it shall remain unalterable as a matter of record and shall be a guide to future assessors as far as the same may remain correct. But the assessment roll, shall every year be corrected in the manner named in the preceding section of this act, before such roll shall be accepted and filed as aforesaid.

Which must then be laid before the commissioners.

SECTION 9. In all transfers of real estate made after the taking effect of this act it shall be the duty of the purchaser at the time he gets his deed recorded, to have his name entered on the assessment roll by the clerk in the place of the grantor; and the assessors elected by the authority of this act shall leave a sufficient blank space on each page of his or their roll for subsequent entries of the kind.

Duty of purchasers.

SECTION 10. Whenever any assessor shall discover

**Mistakes of former years, how rectified.**

during the time he is making his assessment that there are tracts of land, town lots or chattels, subject to taxation, in his county or district, which were liable to taxation and were omitted by the assessor in one or more preceding years, he shall enter the same upon his roll, noting distinctly the years in which such omissions were made, in the same manner as the assessments for the current year (but no such assessment shall be made for a longer period than one year back,) and such assessment shall have the like force and effect, as assessments made at the proper time; and the tax due thereon charged and collected with the revenue of the year in which such assessment is made; and land and town lots shall be subject to the tax omitted to be assessed as aforesaid, in whose hands soever they may come.

**Assessor to keep a duplicate of assessment roll.**

**SECTION 11.** For the purpose of aiding future assessors in making assessments under this act, the first assessor shall make out and retain in his possession a duplicate of his assessment roll and shall make the necessary corrections therein, from time to time, so that it correspond with the assessment roll returned by him into the office of the clerk. And when he is succeeded in his office he shall deliver the same with all other documents in his possession relating to said office to his successor.

**Compensation.**

**SECTION 12.** The board of commissioners shall allow to the assessors in their respective counties such compensation as to them shall seem just and reasonable, to be paid out of the treasury of the proper county on the order of said board as other moneys are paid. At the time the collector of the county makes return of the amount of taxes collected by him, of unassessed property as hereinafter provided, the said board shall make an order deducting such sums as to them may seem reasonable for failing to assess such property from the allowance made to such assessor. If such assessor shall have received his pay for assessing, he and his securities shall be liable on their bond for the amount of such deduction.

**Deductions.**

**Rates of taxation.**

**SECTION 13.** The board of commissioners for the purpose of enabling the clerk to calculate and carry out the amount of tax on all property returned by the assessor shall, at their session in July of each year, determine the rates of taxation upon the several subjects

allowed to be taxed for county revenue under the restrictions of this act, and enter such determination on record which shall govern the clerk in making the said calculations.

SECTION 14. Immediately after the return, perfection, acceptance and filing of the assessment roll, as hereinbefore directed, the clerk shall calculate and carry out the amount of taxes opposite to the specified property, lots or lands charged with tax; and within ten days after the filing shall make out and deliver a certified statement of the amount, as exhibited by said assessment roll, to the treasurer of the county; and within the same time shall also make out a duplicate or transcript of the roll or rolls aforesaid and deliver the same together with a precept in the name of the territory tested by the clerk, under the seal of the board of commissioners, and directed to the collector of his county, commanding him to collect the taxes charged in said transcript, by demanding payment of the persons charged therein; and sale of their goods and chattels severally or by sale of the tracts of land or lots mentioned in said transcript according to exigency and that he pay over the moneys collected by him by virtue of said precept as directed by and return such precept together with the transcript of the roll aforesaid and an account of his acts thereon to the said clerk on or before the first Monday in January, next ensuing the date thereof.

SECTION 15. Whosoever may be in possession of any real estate, at the time any tax is to be collected, shall be liable to pay the tax thereon; and if any other person, by agreement or otherwise, ought to pay such tax, or part thereof; the person paying the same may by action of debt recover the amount from the person so bound, or liable, with damages, not exceeding twenty per cent. on the amount paid; and all taxes on real estate, shall be a lien thereon, until paid, and have preference of all other charges, and all taxes upon personal estate, shall have preference of all other demands.

SECTION 16. *And be it further enacted,* That the sheriffs of the several counties, shall collect the county revenue, and pay over to the county treasurer, all such sums collected, and take his receipt therefor, which receipt shall be a sufficient voucher, for the board of

Proceedings  
thereafter.

Who liable for  
taxes.

Sheriff to be  
collector.

commissioners to cancel the amount of such assessment roll standing charged against said collector, on the books of said board of commissioners.

When and how collection to be made.

SECTION 17. The collector, on receiving the duplicate and precept, which he shall demand at the office of the clerk, at the expiration of the time limited for their completion, shall proceed to collect the taxes charged thereon, by demanding payment thereof at the most usual and best known places of residence of each person charged in the duplicate, or from the person so charged at any other place, on or before the first Monday in November next, ensuing, and on the payment of the full amount of the county revenue, due from any person, shall give a receipt, in which the amount paid, and for what year, shall be particularly designated, in words at full length: *provided*, that a demand of the person at any other time shall be a sufficient demand.

Joint owners may pay their taxes separately.

SECTION 18. Any collector, in cases of gross assessment of taxes upon any tract or lot of land, upon the application of any claimant or owner of a part thereof, either divided or undivided, of such lot or tract, to pay a part of the taxes, interest and charges due thereon, proportionate to the quantity of such lot or tract, owned or claimed, shall receive the same: *provided*, the owner or claimant will specify with sufficient certainty to such collector, by a map or plan of such lot or tract, or by a memorandum of the undivided part of a survey, which indicates the boundaries thereof, to be delivered to such collector, by such owner or claimant; and the balance of such taxes, interest and charges, shall be a lien only on the balance of such lot or tract of land.

Collector may distrain after the first of November.

SECTION 19. If the taxes are not paid to the collector, on or before the first day of November, he may proceed to collect the same by distress and sale, of the goods and chattels of the person charged, or of the person found in possession of the lands or town lots, charged with such unpaid taxes, giving ten days' notice of the time and place of such sale, by written notices, set up in three of the most public places in said county, and publishing the same in a newspaper printed in said county, if there be any.

SECTION 20. If no goods or chattels can be found, out of which to make the taxes, charged on lands and

town lots, the collector shall give notice in some weekly newspaper published in his county, or, if no such paper be there published, then in some paper published in the county nearest thereto, also by putting up four written notices, one of which shall be on the court house door, the others in three of the most public places in said county, for four weeks preceding the second Monday in December, annually, notifying all whom it may concern, that he will on the second Monday in December, next ensuing the date of such notice, commence selling at the court house door, or where courts are usually holden in such county, or at the most public place in the county seat, all and singular, the lands and town lots in said county, on which the taxes due thereon for the year or years (naming the year or years for which he is authorized to collect) are not paid, on or before the said second Monday of December; and that such sale will be continued from day to day, between the hours of nine o'clock in the forenoon, and four o'clock in the afternoon of each day, until all are offered for sale, but such notices are not to contain any description of lands or lots: *provided, however,* and it is hereby made the further duty of such collector, to put up a written notice at the court house door of the proper county, describing each tract of land or town lot intended to be sold as aforesaid, at least four weeks previous to such day of sale.

Lands to be sold where there is no personal property.

Notice thereof.

SECTION 21. Before any collector shall proceed to make any sale of real estate under the provisions of this act, he shall procure and file in the clerk's office of his county, a verification under oath, of the printer or some persons belonging to his office, that the advertisement hereinbefore required to be published relating to the sale of lands and town lots, a copy of which is to be annexed to such verification, has been duly published the length of time required by this act.

SECTION 22. After having filed evidence of the publication of the notice required in the preceding section, the collector shall proceed in pursuance thereof, on the said second Monday of December, between the hours of nine and four o'clock of said day, to expose to sale each and every tract of land and town lot, on which the taxes are not paid, by the description and number by which they are designated on the duplicate for the taxes and interest due thereon; and the

Time and manner of sale.

costs of advertising and selling the same, or so much thereof as will sell for the amount due and chargeable thereon, to the best bidder for ready cash; such collector declaring at such exposure to sale, in what manner the division of a lot or tract of land shall be made, if a part thereof shall pay the tax and other charges thereon, and continue from day to day between the said hours to expose the said lands and lots to sale, until all shall be duly offered.

Purchaser to have deed unless re-paid in two years with fifty per cent. interest. ;

SECTION 23. When any lots or tract of land, or part thereof, shall be sold for the non-payment of the taxes and costs and charges thereon, the collector shall give to the purchaser a certificate in writing, describing the same with specific certainty, the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lot or tract, or part thereof; which certificate shall be assignable and transferable by endorsement on the same, which assignment shall have the same force and effect as the assignment of other bonds for the conveyance of lands. And if the owner or claimant of the lot or tract of lands, described in such certificate, shall not within two years from the date thereof, pay to the purchaser, his heirs or assigns, or to the board of commissioners of the county in which such lot or tract of land be situate, for the use of such purchaser, his heirs or assigns, the sum mentioned in said certificate, with interest thereon at the rate of fifty per centum per annum, together with such other taxes, costs and charges upon the lot or tract of land sold, as mentioned in the certificate, as may have accrued under the laws of this territory, and have been paid by such purchaser, his heirs or assigns, if vouchers of the payment thereof be deposited with the said board of commissioners, or produced to such owner or claimant. The said collector or his successor in office at the time such deed is demanded, shall at the expiration of the said two years, execute to the said purchaser, his heirs or assigns, in the name of the territory of Wisconsin, a conveyance of the lot or tract of land so sold as aforesaid, and described in said certificate, which conveyance shall vest in the person to whom it is given, an absolute estate in fee simple, subject to the claims of the county for all taxes, costs and charges, accrued and remaining unpaid upon such lot or tract of land after such sale as afore-

said. And such conveyance shall be prima facie evidence that the sale was regular according to the provisions of this act, and every such conveyance executed by the collector or successor, and duly acknowledged before any officer authorized to take acknowledgements of conveyances, may be recorded and have like force and effect as other conveyances when acknowledged and recorded: *provided* that idiots, *femmes covert*, and insane persons, who are owners or claimants of lands or lots, sold under the provisions of this act, may redeem such lands or lots at any time, not exceeding five years after the sale thereof, in the same manner as is provided in other cases; *and provided also*, that every person wishing to redeem any lands or lots sold under the provisions of this act, by depositing the money with the board of commissioners of the proper county, shall pay to the clerk of said board at the time of depositing the redemption money the sum of seventy-five cents for his services: *provided* no sale of lands for taxes, nor deed made in pursuance thereof shall be of any validity if the taxes for which the same is sold shall have been paid prior to such sale: *provided always* that when the lands of minors be sold, the same shall be redeemable when said minor becomes of age and one year thereafter.

SECTION 24. All lands and town lots which shall not be sold as above provided, and the taxes charged thereon still remain unpaid, shall still remain charged therewith until finally paid. And such taxes and charges from the second Monday of December in the year such taxes were assessed, shall bear interest at the rate of seven per centum per annum until paid. And the board of commissioners before the duplicate for the succeeding year is made out, shall examine the delinquent list returned by the collector, and strike therefrom all lands which they know to be forfeited or relinquished to the United States, all lands or lots which have been double listed, or on which the taxes have been paid; and correct all manner of errors that may exist, and see that the clerk makes due return of such corrected lists of former years to the collector every year. And the several clerks when they make out the duplicate of taxes for each and every year, shall annex to the new duplicate of taxes, the taxes and charges of any and all former years that remain

Lands to remain charged until tax is paid.

as unpaid on lands, lots and personal property, on the delinquent list of the preceding year, after its correction by the board as herein before directed; and the same together with the interest thereon, shall be collected by the collector of the current year as herein before directed.

Lien thereon.

**SECTION 25.** Taxes are hereby made a lien on the land or town lot on which they may be due in whose-soever hands such lands or town lots may come. And when any land or town lots is offered for sale for any such taxes, it shall not be necessary that the collector should sell it as the property of any particular person; and if it should be sold as the property of any particular person no misname of the owner or supposed owner, or other mistake respecting the ownership of said land or town lot shall ever in any way affect the sale or render it void or voidable.

Payment of taxes shall release property taken.

**SECTION 26.** At any time before the sale of goods and chattels, or lands and town lots, under the provisions of this act, the owner or claimant may release the same, by the payment of the taxes, interest and charges, for which the same are liable to seizure and sale; and whenever any balance of any sale of any goods and chattels under this act, over and above what is sufficient to pay the taxes, interest and charges, for which the same were sold, remains, the collector shall pay the same over to the owner of such goods and chattels on his demand; and if at any time within two years after the payment of tax, the person who has paid the same, can satisfy the board of county commissioners that such tax was improperly assessed, or paid by mistake, when it was not legally chargeable, the said board shall order that the same be repaid, and such order shall be a legal debt against the county, and shall be paid by the treasurer of said county; and such treasurer shall be entitled to a credit for the amount thereof as in cases of payment of other claims.

Mistakes, how rectified.

Remedy when purchaser does not pay.

**SECTION 27.** In cases when sales of goods and chattels, lots or lands, are made under the provisions of this act, unless the purchaser shall, within such time as may be allowed by the collector who makes such sale, pay the purchase money, the collector may at his discretion again expose the property to sale, or sue such purchaser for the amount of the purchase money,

and shall recover the same with costs and ten per centum damages.

SECTION 28. If the collector of any county, shall Ré-sale. at any time unavoidably fail to offer for sale the delinquent lands, or town lots, in his county, or may have offered them for sale and the purchaser thereof shall refuse to pay the collector the amount due thereon, it shall be the duty of such collector to again advertise and sell such land or lots, on the second Monday in April next ensuing; and such advertising and sale shall in all things be governed by the provisions of this act, and be as legal and valid to all intents and purposes, as such sales would have been had they been made on the second Monday in December. And when such collector shall have settled at the treasury, at the proper time, the amount charged against him, he shall be entitled to draw on the treasury for the balance in his favor, on account of lands that shall not sell when offered by him on the said second Monday in April, which account shall be made out and sworn to as is provided for in this act for his delinquent return.

SECTION 29. The collector of taxes, in his return Return of the collector of taxes. to the precept before mentioned, shall state fully and distinctly, the payment of taxes made by way of credit to the property charged on the transcript of the assessment roll aforesaid, the payments enforced by distress and sales of goods and chattels, and in like manner the sales of lots and tracts of lands or parts thereof, and the persons to whom, and the sums for which the same were sold; also the taxes remaining unpaid, designating particularly the tracts or lots remaining unsold, the name of the owner or claimant if known, the name of the person delinquent in the payment of other taxes, and the tax or property with which he is charged, and the legal cause of failure to enforce payment as commanded in said precept, and such other special matters as are provided by this act to be by him done. And the truth of such return shall be verified by the affidavit of the collector, to be taken before the clerk of the board of commissioners. When liable for treble damages. And if any individual shall be injured, or sustain a damage by a false return of any collector, made to any precept under the provisions of this act, or other illegal or fraudulent act of such collector, such individual, upon suit to be brought against such collector

and his securities upon their bond for his use, shall recover treble damages and full costs and charges.

List of delinquents to be posted up.

SECTION 30. It shall be the duty of the clerk of the board of commissioners of the several counties, to make four copies of the lists of delinquents as returned by the collectors of their several counties, one of which they shall put up in some conspicuous place in their office, and shall keep the same up at least twelve months, and shall cause three other copies to be posted up in three of the most public places in their counties, within ten days after receiving said return. And the board of commissioners of the county may, if they should deem it necessary, cause fifty copies of such delinquent list to be printed and circulated in their county: *provided*, that it shall be lawful for any collector to proceed, by distress and sale of goods and chattels, to collect any taxes returned delinquent within ten days after making such return.

Collector may collect taxes due two years.

SECTION 31. All collectors, shall have power to proceed in the collection of taxes due them, for two years from the time at which they were bound to pay over to the county in each year, in the same manner they would have done during their appointment or term of office; but this provision shall not be so construed as to authorize any collector to collect taxes by him returned as delinquent, after receiving credit therefor.

When collector may assess.

SECTION 32. Each and every collector, is authorized and required to assess a county tax, on all real or personal estate that may not have been assessed, and, at the time he makes return of the precept and list of delinquents, as required by this act, shall make out, sign, and verify by affidavit, a list of the property by him so assessed, and the taxes collected thereon. And no allowance shall be made to any collector on his delinquent list, by the board of commissioners, until he shall have complied with the foregoing requisition. And it shall be the duty of the clerk, to publish a list of the unassessed property, that has been assessed, and taxes collected thereon by the collector, in the same manner, and at the same time, that he publishes the delinquent list.

When he may rectify mistakes.

SECTION 33. When any collector discovers that any tract of land, or town lot, has been assessed more than once for the same year, he shall credit only the

tax really due, and make return of the balance as illegal assessments; and in all cases where too much personal property has been through mistake charged by the assessors, the collector may remit the excess of tax and report the same with the list of illegal assessments: *provided however* that all such lists of illegal assessments returned by any collector, shall contain a description of the property illegally assessed, in what the illegality consists, and the names of the persons concerned, and be verified by affidavit and filed with the clerk before it shall have any effect.

SECTION 34. If any collector shall die or become unable from bodily infirmity to perform the duties of his office, the board of commissioners shall forthwith appoint a collector in the place of the one deceased or infirm as aforesaid, who shall take the oath of office before said clerk, with like penalty and condition as hereinafter prescribed. And the said collector shall forthwith demand and receive from the person in whose possession the same may be, the precept and duplicate of the assessment rolls as aforesaid, and shall immediately proceed to complete the collections as commanded by said precept; and such collector shall be liable under the provisions of this act, for the amount of the assessed taxes of his county, after deducting those which appear from the memorandum of the deceased, or the statements of the infirm collector to have been collected. And the executors, administrators, heirs, devisees, and securities of the deceased collector, and the infirm collector and his securities, shall be liable under the provisions of this act for the amount of taxes collected by them severally, unless the same be paid over as is herein provided. And any person injured by the neglect of a deceased or infirm collector to enter credits for taxes paid on the transcripts aforesaid, shall have redress by action on such collector's bond for the damages thereby sustained. And if any person charged with the taxes on the transcript of the deceased or infirm collector, (no evidence being furnished to the successor of payment thereof, by or on the part of such collector deceased or infirm) be able to produce a receipt for such taxes, paid such prior collector, the successor aforesaid shall not be charged therewith, but shall take up such receipt, giving his own in lieu thereof, and return the

When another collector to be appointed, and how.

same with said receipt; and the amount thereof shall be recoverable as before provided: *provided however* that this section shall not be so construed as to prohibit any collector who may be disabled by bodily infirmity from appointing deputies under the provisions of this act hereinafter provided.

County orders  
to be received.

SECTION 35. Every collector of taxes shall receive for any individual or individuals, orders regularly drawn upon the treasurer of his county in payment of taxes due said county.

When money to  
be paid over.

SECTION 36. It shall be the duties of the collectors of the several counties to pay to the county treasurer the amount of taxes assessed in their respective counties, on or before the first Monday in January in each year; and if there be any deficiency in the amount thereof, he shall account for the same, by producing to the board of county commissioners a certified statement to be made by the clerk, attested by his signature and official seal, of the amount of delinquencies in the payment of taxes, specifying the name of the person, and the property or tax for which he is delinquent, as appears from such collector's return to the precept. And it is made the duty of the clerk to make out such statement and certificate and calculate the amount thereof, and if the amount of such certified statement of delinquencies, and the treasurer's receipt for the payment aforesaid, will balance the charges on the books of the county commissioners, they shall give him a receipt for the amount of such taxes.

Receipt.

Fees of col-  
lector.

SECTION 37. Each collector shall be entitled to the following fees for his services: five dollars for every one hundred dollars of county tax by him collected, and in the same proportion for less sums, to be retained by him in making payment, and credited therefor in his settlement with the board of county commissioners; five per centum commission where goods are distrained, and taxes, commission and charges paid before sale; eight per centum commission on sales of distress, and charges for keeping property distrained, together with the tax and charges out of the moneys received therefrom on sales of real estate; five per centum on the amount for which the same is exposed to sale, and twenty five cents for each certificate of sale under this act, which are to be added to, and estima-

mated in the sum for which any tract of land or lot or part thereof shall be sold.

SECTION 38. If any collector shall fail to make settlement of the taxes assessed in his county for county purposes at the time required by this act, it shall be the duty of the board of county commissioners, forthwith to charge in the account against such collector, five per centum damages on the amount of balance due from such collector on account of such taxes, for such delinquency; and unless the said debt and damages and the interest thereon to be paid to the treasurer of the county, the county commissioners shall with due diligence cause suit to be commenced upon such collector's bond, against him and his securities, for the debt and damages due as aforesaid. And said amount shall bear interest from the day at which payment thereof should have been made, at the rate of ten per centum per annum until paid.

Liability of collector.

SECTION 39. There shall be no continuance of any suit, instituted against any collector and his securities, under the provisions of this act, when process is returned executed upon any of the defendants, unless by the assent of the attorney prosecuting the same, on behalf of the board of commissioners. And judgment shall be rendered against the defendants upon whom process is executed, and the attorney may elect to proceed to scire facias or summons against the defendants, and make them parties to the said judgment, at any future term of the court in which such suit was instituted. And upon the trial of any such suit, the stated account of the collector, against whom the suit is brought, certified by the clerk of the board of commissioners, as truly transcribed, from the accounts current against such collector, on the books of said commissioners, authenticated by the county seal, shall be conclusive evidence of the demand against such collector and his securities; nor shall such collector or his securities, be permitted to set-off, or allege, in payment of such demand, any payment or claim of credit, unless the same has first been presented to the board of county commissioners, and been allowed or rejected by them, or the same could not, by using due diligence, have been presented to said board of commissioners for their determination thereon, to be had before trial of such suit.

No continuance of suits against collector.

Set-off.

**Damages.**

**SECTION 40.** The court before whom such trial may be had, in rendering judgment against the defendants, shall also include in said judgment six per centum on the amount ascertained to be due the county, besides the usual costs and charges allowed in suits prosecuted on the behalf of the county; which per centum shall be for the use of the attorney prosecuting such suit.

**SECTION 41.** The board of county commissioners, are authorized to employ such attorney or attorneys at law, in the prosecution of suits in behalf the county, for matters relating to the principal concerns thereof, as they may deem expedient; and all suits against collectors and their securities, shall be commenced in the district court of this county where the collector or any of the defendants reside.

**Penalty for negligence or false return by collector.**

**SECTION 42.** If any collector shall fail to return the precept and duplicate as hereinbefore directed, or shall make a false return thereto, the judgment, upon the determination of the suits which may be brought by the board of county commissioners against such collector and his securities, shall be for the full amount of the taxes for the county revenue, as contained in the transcripts of the assessment rolls aforesaid, together with the damages, commission, costs, and charges, as hereinbefore provided; and of the amount of said taxes, the stated account of the board of commissioners aforesaid in the several cases shall be sufficient evidence. And it shall be the duty of the district attorney, to aid the board of commissioners in prosecutions under this act when requested, and to give advice and counsel of concerning the revenue when requested by any officer concerned in the collection thereof; and it shall be the duty of all officers to give information to the grand jury of the proper county, of all frauds and offences against this act.

**Duty of district attorney.**

**Penalty for official negligence, &c.**

**SECTION 43.** If any officer shall neglect or refuse to perform any of the duties imposed on him by this act, he and his securities shall forfeit and pay to the county, not less than fifty, nor more than one hundred dollars for each offence, besides all damages which may be sustained by the county or any individual in consequence of such violation of his duty; the said penalties to be adjudged within the limitations aforesaid, by the court before whom the adjudication shall be had, and to be recovered with costs of suit, in an action to

be brought upon the official bond of such officer. And this provision shall be construed to attend to all cases of violations of official duties not provided for by this act.

SECTION 44. All bonds, directed to be taken by this act, shall be made payable to the board of county commissioners of the proper county; and all suits brought thereon, shall be prosecuted in the corporate name of the board of county commissioners, and if brought for the use or benefit, or by the direction of any person or persons, such suit shall be brought in the corporate name of the board of county commissioners, on the relation of such person or persons. And several rights may be prosecuted in the same suit on such bond, and one judgment entered thereon shall be no bar to other rights; but the board of county commissioners or any person having right thereto, may have the defendants to such judgment again summoned, by scire facias, to show cause why execution should not be had on such judgment, for the debt or damages supposed to be due, owing, or belonging to the party complaining, as often as such right may accrue.

Bonds, how payable and how prosecuted.

SECTION 45. Any officer, withholding the payment of any moneys belonging to the county after the same shall be demanded or become due, shall be liable to pay five per centum in damages, and ten per centum interest per annum, from the date of such defalcation, to be recovered of such officer and his securities or either of them, by action as in other cases. And the accounts in favor of the county, in all cases upon the trial against all and every person or persons, charged on the books of the board of county commissioners, and certified to be true by the clerk of said board of commissioners, as above provided in the case of collections, and authenticated by their seal, shall be evidence in all cases of debtors of the charges therein stated, and put the defendant upon his defence to the demand.

Penalty for withholding money.

SECTION 46. The sheriff, before he enters upon the duties of his office as collector, shall take an oath or affirmation before some person authorized to administer the same, that he will well and truly perform the duties of his office as collector, and shall enter into bond to be filed with the clerk, with security to be approved of by the board of county commissioners, in the penalty of fifteen thousand dollars, conditioned for

Collector, how to be qualified.

the faithful performance of the duties of his office as prescribed by law. And such collector may appoint as many deputies as he may think necessary or proper, who shall be sworn and possess the same power and authority as his principal, such collector being at all times responsible for the acts of his deputies. And should any deputy fail to pay over any moneys collected by him, as such for county revenue, such principal is hereby authorized to proceed against him in the same summary manner as is provided for proceeding against collectors in like cases.

Merchants to obtain license.

SECTION 47. *Be it further enacted,* That no merchant, pedler or other person or persons, company or corporation, shall hereafter be permitted to vend, sell or retail at private sale, any goods, wares or merchandize, without first having obtained a license for that purpose from the board of county commissioners of the proper county, in which such goods, wares or merchandize may be offered for sale; for which he or they at the granting thereof shall pay into the county treasurer for the use of such county, such sum as shall be assessed by the said board, not less than ten nor more than fifty dollars. Which license, when thus procured, shall authorize the applicant or applicants to whom the same may be granted, to vend, sell and retail goods, wares and merchandize in such county for the term of one year from the time of granting the same: but no such license as aforesaid shall authorize any person or persons to vend or peddle clocks in this territory, but in order to authorize any person to vend or peddle clocks he shall procure a special license for that purpose in the manner herein prescribed. And the board of county commissioners may grant licences to vendors and pedlers of clocks, for any term not less than three months nor more than one year, which shall authorize such person or persons to vend and peddle clocks within the county for the time specified in such license. The person or persons so applying shall pay a sum not less than twenty-five nor more than seventy-five dollars per quarter of a year, for the use of the county. But any resident in this territory may sell or peddle without license any articles not prohibited by law, except clocks, if such articles shall have been produced or manufactured within this territory by the person selling or peddling the same.

Clock pedlers.

SECTION 48. In all cases when the said board of commissioners shall not be in session, when application is about to be made for a license as aforesaid, it shall be lawful for the clerk of such board to grant a written permission to such applicant or applicants, to vend, sell and retail goods, wares and merchandize as aforesaid until the next meeting of said board of county commissioners, to be holden after the granting of such permit, and for one year from the date thereof if the said board of commissioners at their said next meeting shall, upon examination and consideration approve the same: *provided*, such applicant or applicants shall first pay into the county treasury for the use aforesaid, such sum as the said clerk in his discretion shall direct, in conformity with the rate prescribed in the foregoing section, and as shall be usual in similar cases; for each of which permits or licenses when granted the clerk shall receive one dollar, to be paid by such applicant.

When clerk to grant licenses conditionally.

SECTION 49. When a permission is granted by the clerk in vacation as aforesaid it shall be the duty of the board of commissioners at their next session thereafter to examine such permit and to proceed forthwith to assess the amount of the tax to be paid in such case as in the case of an original application; and if the tax thus assessed shall correspond with the amount fixed by the clerk as aforesaid they shall cause a license to be issued to the applicant or applicants for the term of one year commencing with the date of the permit. If a greater sum shall be assessed than that fixed by the clerk the applicant or applicants shall forthwith be required to pay over the residue to the county treasurer under the penalty of forfeiting the amount already paid and of having his, her or their permit revoked; but if a less sum shall be assessed it shall be the duty of the board of commissioners to order a warrant to be drawn on the treasurer in favor of such applicant or applicants for the overplus, payable out of any money in the county treasury not otherwise appropriated.

How confirmed.

SECTION 50. If any person or persons, company or corporations, shall, directly or indirectly keep a store or shall sell or retail any goods, wares or merchandize, (except as hereinbefore excepted) without being duly authorized by a license or permit as aforesaid,

Penalty for selling goods without license.

said, such person or persons, company or corporations so offending, shall forfeit and pay any sum not exceeding one hundred dollars nor less than ten dollars, to be recovered by action of debt, in the name of the board of commissioners of the proper county, for the use of the county, before any justice of the peace or court of record having jurisdiction of the same; in all of which cases it shall be the duty of the county commissioners, sheriffs, coroners, justices of the peace, constables and clerks of the several courts in this territory, and lawful for any other person or persons in case of their neglect, to cause such offenders to be sued, and the suit or suits prosecuted to effect, and bail may be required in such cases without affidavit, if the court or justice in their discretion shall deem the same necessary, to secure the county in the ultimate payment of any such penalty.

SECTION 51. *Be it further enacted,* That no person or persons, applying for a license or permit, shall be entitled to the same until he, she or they file, with the clerk of the board of commissioners, a receipt from the county treasurer for the amount ordered to be paid by such applicant, agreeably to the provisions of this act; and such receipt shall be charged in account against said treasurer, on the books of said board of commissioners.

SECTION 52. *Be it further enacted,* That from and after the first organization of the board of county commissioners under the provisions of the act organizing boards of county commissioners, in the several counties in this territory, all acts and parts of acts contravening any of the provisions of this act, are hereby repealed and of no effect.

Approved January 18, 1838.

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### No. 69.

AN ACT providing for, and regulating general elections in this territory.

Times of holding elections

SECTION 1. *Be it enacted by the council and house of representatives of the territory of Wisconsin,* That an election for delegate to congress, and members of the