

SECTION 4. There is hereby appropriated, out of <sup>Appropriated.</sup> any money in the general fund not otherwise appropriated, a sum sufficient to carry into effect the provisions of section two of this bill [act]: *provided*, that the same shall not be paid before February 1, 1874.

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

Approved March 19, 1873.

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## CHAPTER 244.

[*Published March 25, 1873.*]

AN ACT to enable the town of Grand Chute and the city of Appleton to settle their bonded indebtedness.

WHEREAS, The town of Grand Chute, A. D. 1855, issued its bonds to the amount of ten thousand dollars, pursuant to an act of the legislature of the state of Wisconsin, approved February 10th, 1854, entitled an act to authorize the towns therein named to subscribe plankroad stock; and Preamble.

WHEREAS, The validity of said bonds has been contested by said town, but such bonds have been declared to be valid by the supreme court of the United States; and

WHEREAS, The said town of Grand Chute and the city of Appleton are desirous of compromising with the holders of said bonds, and adjusting terms for the payment of the same; therefore,

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

SECTION 1. It shall be lawful for the common council of the city of Appleton and the board of supervisors of the town of Grand Chute to make and execute the joint bond or bonds of said city and town, and to exchange the same for any bond or bonds, or any coupons which have been cut off from any bond or bonds which were issued as aforesaid, or to use the same in payment or part payment, or for the purchase of any judgment or decree against said town and city, or either of them, and which judgment or decree may be founded upon any bond or bonds issued under said act, or any interest coupon or coupons originally at-

Council and supervisors may execute joint bonds of city and town.

tached thereto, or any judgment or decree rendered or entered thereon.

Council may execute city bonds, and exchange for bonded indebtedness.

SECTION 2. It shall also be lawful for the common council of said city to make and execute the bond or bonds of said city, and to exchange the same for the whole or any part of its *pro rata* share of indebtedness upon the bonds or detached coupons, or upon any judgment or decree against said town or city, or either of them, founded thereon, and the supervisors of said town of Grand Chute are also hereby authorized and empowered to issue the bond or bonds of said town, and exchange the same for the whole or any part of its *pro rata* share of indebtedness upon said bonds or detached coupons, or upon any judgment or decree against said town and city, or either of them founded thereon.

When bonds to become due, the rate of interest, the denomination and where payable.

SECTION 3. All bonds issued under the provisions of this act shall become due and payable on or before twenty years from the 10th day of February, 1873, and shall bear interest at the rate of not exceeding seven per cent. per annum, payable annually from the said 10th day of February, 1873, and they may be issued of such denomination as may be agreed upon at the time of issue, and may be made payable in the city of New York, or elsewhere, with exchange on New York, as the parties may agree at the time of issue: *provided, however,* that the bonds to be issued to any person or persons under the provisions of this act, shall not exceed the amount due to such person or persons, upon bonds which were issued under said act of February 10th, 1854, with the interest thereon, or upon judgments or decrees founded thereon, and the cost and interest on such judgments or decrees.

How indebtedness to be apportioned between town and city.

SECTION 4. The indebtedness outstanding or existing upon all bonds or coupons issued pursuant to the provisions of said act, or upon any judgment or decree founded thereon, shall be apportioned between said town and city, and the *pro rata* share of such indebtedness to be paid by said town and city respectively shall be ascertained and determined in the manner provided in section sixteen of sub-chapter ten of chapter one hundred and thirty-two of the private and local laws of this state, approved March 2d, 1857, entitled an act to incorporate the city of Appleton, and the acts (if any) amendatory thereof: *provided,* that whenever any portion of said indebtedness has heretofore been or shall hereafter be apportioned between said town and city, by the judgment or decree, shall be conclusive as to the proper *pro rata* share of the said town and of the said city of the indebtedness so apportioned by

Previous apportionment to be conclusive, as to *pro rata* share of town and city.

said court; and *provided further*, that it shall be competent for the supervisors of said town and the common council of said city, at any time hereafter, to agree upon a different basis for the apportionment of the said indebtedness or any part thereof, between the said town and the said city, and to fix and determine the percentage thereof to be assumed and paid by the said town and city respectively; and such agreement, when so made, shall thereafter be final and conclusive upon both the said town and the city. Such agreement, when made, shall be in writing and signed by a majority of the supervisors of said town and a majority of the members of the common council of said city, and the same may be recorded by the clerk of said town and the city clerk of said city in the records kept by them respectively.

Different basis may be agreed upon, in writing.

SECTION 5. The said town and city shall be severally liable to the holder thereof for the whole amount of principal and interest, payable upon any such joint bond as the same becomes due; and in case either the said town or city shall fail to pay its *pro rata* share of such bond or interest as the same becomes due, an action may be maintained for the amount due and unpaid against both the said town and city to recover the amount so due and unpaid.

The town and city to be severally liable upon joint bonds.

SECTION 6. It shall be lawful for the said town or the said city to pay the whole amount of principal or interest on any such joint bond or bonds as the same becomes due and payable; and in case either party shall pay voluntarily, or otherwise, more than its *pro rata* share of indebtedness upon any such joint bond, the excess so paid, with interest thereon at the rate of ten per cent. from the time of such payment, shall be paid by the party in default to the party making such payment, and the same may be recovered in an action at law by the party entitled thereto; and in addition thereto, the party making such payment shall have the same remedy to enforce its collection as is herein provided for the collection of interest or principal by the holders of any bond issued pursuant to the provisions of this act.

Town or city may pay whole amount, and recover back amount over its *pro rata* share.

SECTION 7. In case the supervisors of said town, or the common council of said city, shall exchange any bond or bonds provided for in section two of this act, for any of the bonds, interest, coupons, judgments or decrees mentioned in section two, the same shall be deemed, as between said town and city, a payment upon and towards its *pro rata* share of such indebtedness to the amount of principal and interest outstand-

Exchange of bonds for indebtedness to be considered as payment of *pro rata* share.

Town or city may recover any excess it may pay of its pro rata share.

ing upon such bond, coupon, judgment or decree, so received in exchange at the time or times the same may be received. And if at any time hereafter either the town or city shall pay any sum or sums whatever, for or on account of its liability upon the bonds or interest coupons so issued, or upon any judgment or decree heretofore rendered or entered, or hereafter to be rendered, as entered upon any such bond or coupons in excess of its pro rata share of such indebtedness, the excess so paid, with interest thereon at ten per cent. from the time of payment, may be recovered of the other party, and the party paying such excess shall have all the remedies for the collection thereof which are provided for in this act for the collection of interest or principal, by the holder of any bond issued pursuant to the provisions of this act.

Shall levy annual tax to pay bonds and coupons maturing for each year.

SECTION 8. There shall annually be levied by the city of Appleton and town of Grand Chute, a tax upon all the taxable property of said city and town respectively, sufficient to raise in the aggregate a sum sufficient to pay all bonds and coupons maturing in the next succeeding year, and collect its pro rata share with other taxes for the same year, and the money so collected, or so much thereof as may be necessary, shall be applied to the payment of the interest which has accrued at any time during the next year succeeding such levy upon the bonds that may be issued pursuant to the provisions of this act; and the balance of said money shall be used in the purchase or payment of any one or more of said bonds, so far as said money be sufficient for that purpose, in the manner hereinafter provided; and in case the supervisors of said town, or the common council of said city, shall neglect to direct such levy for the ensuing year, it shall be the duty of the town clerk of said town, or the city clerk of said city, without any order or direction from the supervisors of said town, or the common council of said city, to levy and place in the next assessment roll, with other taxes, the pro rata share of such town or city, as the case may be, of said sum of eighteen thousand dollars; and it shall be the duty of the town treasurer of said town, and the city treasurer of said city, to collect the amount of said tax, as the same appears on the assessment roll, or his hands, in the same manner as other taxes are collected by him.

If supervisors or council neglect to levy said tax, the town or city clerk shall place it in assessment roll without order.

If said clerks neglect to levy, they shall be liable for amount.

And if the town clerk of said town, or the city clerk of said city, shall neglect or refuse to levy the proper pro rata share of such tax, as provided in this section, he shall be personally liable therefor to the party or parties entitled to such money, and each and every person hold-

ing or owning any of said bonds or coupons, may recover against such clerk the amount of money due and owing thereon, and which amount the said clerk omitted to insert in such tax levy.

SECTION 9. It shall be lawful for the supervisors of said town, or for the common council of said city, to levy upon the taxable property within said town or city, such sum as the said supervisors or common council may think proper, in addition to the moneys provided for in the eighth section of this act, and the same shall be collected in the same manner as other taxes are collected, and when collected the moneys shall be used only for the payment or purchase of bonds authorized to be issued by this act.

Additional sums may be levied for the purchase of bonds.

SECTION 10. All moneys collected or received under and pursuant to the provisions of this act, shall be used for the purpose of paying the principal and interest upon the bonds hereby authorized to be issued, and for the purchase of such bonds, and shall be treated as a separate fund for that purpose, and the same shall not be liable for the payment of any other debt or demand against said town or said city; and the same shall not, nor shall any part thereof, be paid out or expended for any other purpose except as is provided in the eleventh section of this act.

All moneys collected under this act, to be used only for purposes herein named.

SECTION 11. If, at the time any interest on said bonds is about to fall due, there is not sufficient money in the treasury of said town or city to pay its share of interest on said bonds jointly issued, or the interest on its separate bonds, it shall be the duty of the supervisors of said town, or the common council of said city, as the case may be, to borrow from the general funds in the town or city treasury, or from any other person or party, a sum sufficient to meet the deficiency, and for that purpose may issue town or city orders, payable out of said trust fund, bearing interest at a rate not exceeding ten per cent., and due not more than six months after the date of such order.

If money in the treasury is not sufficient to pay bonds falling due, may make temporary loan.

SECTION 12. In case the treasurer of said town, or the treasurer of said city, shall fail, during any year to collect the full amount required or authorized by this act, to be collected before the 10th day of February next succeeding the date of his tax warrant, the said treasurer shall transfer from the moneys in his hands belonging to the general fund of said town or city, to said trust fund, an amount sufficient to supply the deficiency, so that there will be in his hands, belonging to the fund provided by this act, the same amount there should or would have been if said tax had been collected in full

If treasurer fail to collect sufficient money, may transfer from general fund to trust fund.

May return to general fund without interest.

before the return of such delinquent taxes, and the money thus transferred shall thereupon form and constitute a part of said fund, and shall be paid out and disposed of in the same manner as moneys collected by virtue of this act, and any money so borrowed of the general fund or transferred from the general fund to the said trust fund may be repaid, without interest, to the general fund out of any money in the treasury belonging to said trust fund, at any time between the 10th day of February and the 1st day of December, in any year: *provided*, that there shall remain in the treasury belonging to said trust fund, money sufficiently to pay all interest coupons which are past due (if any such there be) and which are properly payable out of said trust fund.

May be payable when agreed upon.

SECTION 13. Nothing in this act shall be construed to forbid making said bonds payable at different times as may be agreed upon by the parties concerned.

Shall levy sufficient to pay off full amount.

SECTION 14. There shall be levied on the tax lists of the town and city, which are to be made out next prior to the time the principal sum of said bonds shall become due, a sum sufficient to pay off in full the amount of principal and interest payable by said town and city respectively, upon the bonds issued pursuant to the provisions of this act, and which are outstanding at the time of such levy, and the same shall be paid over in satisfaction and discharge of the said bonds, principal and interest.

No compensation to treasurer for transfer of funds.

SECTION 15. No compensation shall be allowed to the treasurer for making a transfer of any moneys from the general fund, as hereinbefore provided, nor for paying out the same after such transfer.

Coupons receivable for taxes.

SECTION 16. The coupons for interest upon any bond or bonds issued under the provisions of this act, becoming due on or before the 10th day of February next, succeeding the levy of any annual taxes by the town or city, shall be receivable by the treasurers respectively of said town or city in payment of taxes: *provided*, said bonds are issued jointly by the said town and city and by the treasurer of said town, so far as said bonds are issued by said town, or by the treasurer of said city so far as said bonds are issued by said city.

Liability of clerks and treasurers for failure to perform their duties.

SECTION 17. If the clerk of said town, or the clerk of said city, or the treasurer of said town, or the treasurer of said city, shall fail to perform the duties imposed upon him by this act, he shall be personally and officially liable to any person who is thereby injured to the full amount of money which such person would have been entitled to receive had such officer per-

formed his said duty imposed by this act, to be recovered in any court having jurisdiction thereof.

SECTION 18. The bonds issued pursuant to the provisions of this act, shall be payable to — or bearer, and shall be negotiable and shall pass on delivery, and without any indorsement whatever. The joint bonds of the town and city (if any such shall be issued) shall be signed by the mayor of the said city and the chairman of the supervisors of said town, and shall be countersigned by the clerk of said city and the clerk of said town. The separate bonds of the city shall be signed by the mayor and countersigned by the clerk of said city; and the separate bonds of the town shall be signed by the chairman of the supervisors of the town and countersigned by the clerk of said town, and all of said bonds shall be regarded as sealed instruments, whether the same shall actually be sealed or not.

To whom bonds payable, and how they shall be executed.

SECTION 19. The clerk of the city of Appleton shall keep a record in a book to be provided and kept for that purpose, in which he shall enter the date and number of each and every bond executed by the mayor and clerk in behalf of the city, pursuant to the provisions of this act, the amount of the principal sum payable upon every such bond, the place of payment, the name of the payee, the time of the delivery of such bond, and the person to whom the same was delivered; and whenever any payment of interest or principal shall thereafter be made by said city upon any such bond, the amount and time of such payment shall be entered by the city clerk in the proper place upon such record, and a like record shall be kept by the town clerk of all bonds executed by the chairman of supervisors and the town clerk of said town for and in behalf of said town of Grand Chute.

City clerk to keep record of bonds issued.

Shall enter time and amount of payments.

SECTION 20. If any interest coupons are received for taxes by the treasurer of said town or by the treasurer of said city, in the manner provided in section fifteen of this act, the same shall be deemed paid at the time they are received by such treasurer, and the said treasurer shall enter upon every such coupon the date at which he received the same, and upon the settlement of his accounts, the said treasurer shall be credited with the amount payable upon such interest coupons so received by him.

Treasurer shall enter date of receipt of coupons for taxes.

SECTION 21. Nothing herein contained shall be construed to hinder the interposition of such defense to any outstanding bonds or coupons of said act of February 10, 1854, as said town and city, or either of them, may be advised.

Not to hinder defense.

SECTION 22. This act shall take effect and be in force from and after its passage and publication.

Approved March 19, 1873.

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CHAPTER 245.

AN ACT to authorize Alvin N. Bugbee, Alanson M. Thomas, Henry Sines, D. H. Forbes and J. G. Clark, to erect and maintain a dam across a fork of the north branch of Wood river.

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

May build and maintain dam.

SECTION 1. Alvin N. Bugbee, Alanson M. Thomas, Henry Sines, D. H. Forbes, J. G. Clark and John Clark, their heirs and assignees, are hereby authorized and empowered to erect, keep up and maintain a dam across a fork of the north branch of Wood river on the northwest quarter of the northeast quarter, section thirty-three (33), town thirty-nine (39) north, range eighteen (18) west, in the county of Burnett, for the purpose of flowing a cranberry marsh adjacent thereto, and for such other purposes as may be necessary in in the operation of said marsh.

Not to flow lands belonging to other parties.

SECTION 2. Said dam may be of a sufficient height to give a head of water not to exceed five feet at the point where the same is located: *provided*, nothing in this act shall be so construed as to authorize said parties or either of them, or their successors or either of them, to flow any lands of the state or of any individual other than those named herein, or any highway, without making compensation therefor, as now provided by law in relation to mills and mill-dams.

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

Approved March 19, 1873.