

CHAPTER 200.

[Published April 9, 1862.]

AN ACT to authorize the city council of the city of Green Bay to subscribe, in behalf of said city, fifteen thousand dollars to the capital stock of the Chicago and Northwestern railway company, and to provide for levying and collecting a tax to pay for the same.

WHEREAS, The city council of the city of Green Bay, Preamble.
 in the county of Brown, were duly authorized by a majority of the electors of that city, being freeholders, at an election duly called and held for that purpose, under the provisions of chapter 125 of the private laws of 1859, to aid in the construction of a railroad from Appleton, in the county of Outagamie, to said city of Green Bay : therefore,

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

SECTION 1. The city council of the said city of Green Bay are hereby authorized and required to subscribe, in the name and behalf of said city, to the capital stock of the Chicago and Northwestern railway company, the said sum of fifteen thousand dollars, voted as aforesaid by the electors of said city, if said company will receive the same and shall issue their capital stock therefor. City authorized to subscribe \$15,000 in aid of Ch. and N. W. R. R.

SECTION 2. Such subscription shall be paid by said city in two equal annual installments, of seven thousand five hundred dollars each, the first installment to be paid on or before the first day of November next, and the second installment on or before the first day of November, 1863. Payable in two equal installments.

SECTION 3. For the purpose of paying such subscription, the said city council shall, on or before the third Monday in the month of July, in the year one thousand eight hundred and sixty-two, levy the said sum of seven thousand five hundred dollars upon all the taxable property in said city, as appears by the last assessment roll filed with the clerk of said city. Tax to pay first installment.

SECTION 4. It shall be the duty of the clerk of said city, on or before the first Monday in August then next ensuing, to make a fair copy of said assessment roll, and to calculate and carry out the amount of such Clerk to make out railroad tax list.

taxes, adding thereto five per cent. for the expense of collection, in an additional column provided for that purpose, setting opposite to the several sums set down as the valuation of real and personal estate, the respective names [sums] assessed as taxes thereon, in dollars and cents. Said copy of said assessment roll, with said taxes calculated and extended as aforesaid, shall forthwith be copied by said clerk in a book provided for that purpose. Said last named copy, so entered in said book, shall be designated as the railroad tax list, and to it shall be appended a warrant, signed by said clerk and sealed with the corporate seal of said city, and directed to the treasurer thereof, and shall be substantially in [the] following form, to wit :

Form of war-
rant

“The state of Wisconsin to the treasurer of the city of Green Bay: You are hereby commanded to collect from each of the persons and corporations named in the annexed railroad tax list, and of the owners of the real estate described therein, the taxes set down in such list opposite to their respective names and to the several parcels and lots of land therein described, within thirty days after the receipt of this warrant by you; and in case any person or corporation upon whom any such sum or tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed, and hold the moneys so collected, subject to the order of the city council of said city.

“Given under my hand, this — day of —, in the year 18—.

“ ———, Clerk of said city.”

Tax list and
warrant to be
charged to
treasurer.

Treasurer to
give bond.

SECTION 5. Said clerk shall immediately deliver said warrant and tax list to the treasurer of said city, and shall make a memorandum or entry thereof, and charge to such treasurer the amount of such tax in the proper book in his office. Before such warrant and tax list shall be delivered to said treasurer, he shall execute to said city a bond in double the amount of the taxes required to be collected by said warrant, with good and sufficient sureties, to be approved by said clerk, conditioned that he will duly and faithfully perform his duties as such treasurer in the collection of said tax, and faithfully and truly account for and pay over, according to law, all of such tax as shall come into his hands,

and shall deliver such bond to said clerk, to be filed and kept in his office.

SECTION 6. Upon the receipt of said tax list and warrant by said treasurer, it shall be his duty to give public notice in a newspaper published in said city, that said railroad tax list has been committed to him for the collection of said tax, and that he will receive payment of said tax at his office, for the term of ten days next ensuing said notice; and all persons paying said tax during said term, shall be entitled to a deduction of three-fifths of the amount included in said list as his fees for collecting such tax so paid.

Notice of receipt of tax list and warrant.

Deduction on payments made within ten days.

SECTION 7. After the time limited in such notice shall have expired, the said treasurer shall proceed to collect the taxes charged in such list and remaining unpaid, and for that purpose shall call at least once on the person taxed, or at the place of his usual residence, if in said city, and shall demand payment of the taxes charged to him on such list.

Collection of taxes.

SECTION 8. The said treasurer shall, on the payment to him of any part of such tax, give a receipt for the same, therein describing the lands or specifying the amount of personal property upon which the same is paid, and shall note on said tax list the payment thereof.

Receipts, &c.

SECTION 9. In case any person or corporation shall refuse to pay the tax imposed on such person or corporation, the said treasurer shall levy the same by distress and sale of the goods and chattels of such person or corporation, wherever the same may be found within said city, or within the said county of Brown.

Treasurer may distrain, &c.

SECTION 10. The said treasurer shall give public notice of the time and place of such sale, and of the property to be sold, at least six days previous [previously] to the sale, by advertisement, to be posted up in three public places in said city; and the sale shall be at public auction, in the day time, and the property sold shall be present; but at any time previous [previously] to the sale, the owner or claimant of such property may release the same by the payment of the taxes, interest and charges for which the same is liable to be sold.

Notice of sale of property.

Property may be released on payment of taxes.

SECTION 11. Whenever the purchase money on such sale shall not be paid at such time as said treasurer shall require, he may, in his discretion, again expose

Itsale.

the property for sale, or sue, in his name of office, such purchaser for the purchase money, and recover the same with costs, and ten per cent. damages.

If property not sold, &c.

SECTION 12. If the property so distrained cannot be sold for want of bidders, said treasurer shall return a statement of the fact, and the tax, if unsatisfied, shall be collected in the same manner as if no levy had been made.

Surplus, &c.

SECTION 13. If the property distrained shall be sold for more than the amount of the tax and costs, the surplus shall be returned to the owner of such property.

If tax not paid nor any property found, summons may issue, &c.

In case the said treasurer is unable to collect the tax assessed upon any personal property, and payable by any person named in his tax list, he shall make and file with some justice of the peace of his county, an affidavit, stating that there is such tax upon personal property in said city assessed against such person; that he, the said treasurer, has demanded payment thereof, and is unable to collect the same. Such justice of the peace shall thereupon issue a summons, directed to such person, commanding him to appear forthwith before said justice, to answer, under oath, and show cause why he does not paid said tax. Such summons may be served by said treasurer, or by the sheriff or any constable of said county, by reading the same to such person or in his hearing. Upon its appearing by the return of the person serving such summons, that the same was duly served on the person to whom it was directed, and that he has failed or neglected to appear before said justice of the peace for twenty-four hours after the service of the summons, the said justice of the peace shall issue a warrant, directed to the sheriff or any constable of the county of Brown, commanding them [him] to forthwith arrest and bring such person before him, the said justice.

On failure to appear, warrant may issue.

Examination, and order to pay.

SECTION 14. The justice before whom such person shall appear or is brought, shall cause him to be examined on oath, and any witness that may be produced by him or by the said treasurer, as to the fact whether the person so arrested had any property liable to such taxation, and as to the ability of the person so arrested to pay such tax; or if it shall appear to the satisfaction of the justice from such examination, that he had personal property subject to such taxation at the time the assessment was made, and that he has money or

property, real or personal, of any description, which is not exempt from sale for taxes, sufficient to pay said tax, or such portion thereof as such justice shall determine the person so arrested ought to pay, the justice shall make an order requiring him to pay such tax forthwith; and if he shall neglect or refuse to pay such tax, as required by such order, no property belonging to him shall be exempt from seizure and sale for the payment of such tax; but if it shall appear from such examination that he has not sufficient money or property to pay such tax, or that he had no personal property subject to taxation at the time the assessment was made, he shall be forthwith discharged.

When person taxed may be discharged.

SECTION 15. The justice before whom such examination is held, shall reduce the examination of the person arrested, and all witnesses produced and examined, to writing, and cause the same to be subscribed by the persons examined, and the same shall be filed with the clerk of the circuit court of said county; and in case a new trial is had in the circuit court, the examination so returned shall be read on such trial, and either party may produce other proof on such trial.

Evidence to be reduced to writing and filed.

SECTION 16. Every person feeling himself aggrieved by the decision or order of the justice, as hereinbefore provided, may appeal to the circuit court of said county, by executing an undertaking to said city, with one or more sureties, to be approved by said justice, conditioned to abide by and perform such order as the court may make in relation to the payment of such tax; and upon the execution of such undertaking, the justice shall forthwith cause him to be discharged, and shall return said undertaking with the examination.

Appeal.

SECTION 17. The matter shall be tried in the circuit court as other issues, and if the court or jury shall find on such trial that the defendant had sufficient money, or property of any description not exempt from sale for taxes, to pay said tax at the time of his examination before said justice, judgment shall be rendered against him and the sureties in said undertaking for the amount of such tax, and for all costs, fees and disbursements before the justice and in the circuit court; and an execution shall thereupon issue against the property of the defendants in said judgment, and no property belonging to the defendant shall be exempt from seizure and sale under said execution.

How issue to be tried.

City attorney to appear for city.

SECTION 18. It shall be the duty of the city attorney to try for said city all cases in the circuit court provided for in sections sixteen and seventeen of this act.

Change of venue.

SECTION 19. Any person arrested and taken before a justice of the peace for examination, may cause such examination to be removed before the justice of the peace of the same county, nearest to the justice before whom he has been so taken by the treasurer, by making and delivering to the treasurer an affidavit stating that he believes such justice, from prejudice or other cause, will not decide impartially in the matter; and upon every such affidavit, the treasurer shall take the person so arrested before such nearest justice, who shall proceed therein in the manner hereinbefore provided; but such affidavit shall be made before such examination is commenced, and the person arrested shall not be entitled to remove the same more than once.

Tax may be received on part of lot, &c.

SECTION 20. The said treasurer shall receive the tax on any part of any lot or parcel of land, or any undivided interest or share therein, which the person paying the tax will clearly define; and if the tax on the remainder of such lot or parcel of land shall remain unpaid, said treasurer shall return such remainder and the tax due thereon to the clerk of said city; and if the part on which the tax is so paid, shall be an undivided share, the person paying the same shall state to the said treasurer the name of the owner of such share, that it may be excepted in case of sale for the tax on the remainder; for which purpose the said treasurer shall enter the name of such owner and a specification of such share in his account of the arrears of such tax, and the balance of such tax on such lot or parcel of land, shall be a lien on the residue thereof only.

Double assessments.

SECTION 21. If said treasurer shall discover that any lot or parcel of land has been assessed more than once for the same year, he shall collect only the tax justly due thereon.

Treasurer's fees.

SECTION 22. The said treasurer shall receive five per centum on all sums collected by him as such treasurer, according to the provisions of this act, except as provided in section six herein; and in case of a distress and sale by him of goods and chattels for the payment of any tax, he shall be entitled to collect and receive from the same, in addition, such fees as constables are

authorized to receive for levying upon and selling goods under execution.

SECTION 23. The said treasurer shall retain in his hands all moneys collected by him under the provisions of this act, subject to the order of the city council of said city. Moneys collected subject to order of city.

SECTION 24. If any of the taxes mentioned in said tax list on personal property, shall at the time of the expiration of said warrant, remain unpaid, and the said treasurer shall be unable to collect the same, he shall make a schedule thereof from said tax list, with the name of the person or corporation taxed, and the amount of such tax so remaining unpaid opposite to such name, and annex thereto a warrant, under his hand, directed to the sheriff of said county of Brown, commanding him to collect from each of the persons and corporations named in such schedule, the amount of the unpaid taxes set down in such schedule opposite to their respective names, together with his fees for collecting the same, of the goods and chattels, lands and tenements of said persons and corporations respectively, and to pay the same to said treasurer, and to make return of such warrant within sixty days after the date thereof; and said treasurer may renew said warrant from time to time, either before or after the return of the same, for sixty days at one time, and not longer than one year after the date of such warrant. Collection of delinquent taxes by sheriff.

SECTION 25. The sheriff to whom such warrant shall be delivered, shall proceed in the same manner, and shall have the same power to enforce the collection of the unpaid taxes specified in the schedule thereto annexed, against the several persons and corporations named in such schedule, as he would have upon execution issued out of a court of record of this state against the goods and chattels, lands and tenements of such persons or corporations: *provided*, that no law of this state, exempting any goods and chattels, lands and tenements, from forced sale under execution, shall apply to a levy and sale under such warrant. How sheriff to proceed.

SECTION 26. Any person may discharge such tax on any lot or parcel of land, or on any part thereof or undivided share therein, as may remain unpaid after the expiration of the warrant for the collection thereof, by paying the same, with interest and all lawful charges thereon, at 12 per cent., at any time from the expira- Discharge of tax.

tion of the warrant, to said treasurer, at any time before the day of sale hereinafter provided, and shall be entitled to a receipt therefor, as provided by section eight of this act.

When delin-
quent lands sub-
ject to sale.

SECTION 27. All lots and parcels of land upon which such tax, with the interest and charges, shall not be paid by the eighth day of September next after the levying of such tax, shall be subject to sale, as hereinafter provided.

When to be
sold.

SECTION 28. The said treasurer shall, immediately after the day specified in the preceding section, make out a statement of all such lands, containing a brief description thereof, with an accompanying notice, stating that so much of each lot or parcel of land described in said statement, as may be necessary therefor, will, on the seventeenth day of October, —, be sold by him, at public auction, at his office in said city, for the purpose of paying such unpaid taxes, together with all costs which may have accrued.

Notice of sale.

SECTION 29. Said treasurer shall cause such statement and notice to be published in a newspaper printed in said county of Brown, once in each week for four successive weeks prior to the seventeenth day of October aforesaid; and said treasurer shall also, at least four weeks previous [previously] to said day, cause to be posted up copies of said statement and notice, in three public places in said city, and in some conspicuous place in his office.

Sale of lands,
certificate of
purchase, &c.

SECTION 30. On the day and at the place mentioned in said notice, the said treasurer shall commence the sale of such lots, tracts and parcels of land, and continue the same from day to day, until so much thereof is sold as will pay the taxes and costs charged thereon, agreeably to the provisions of this act; and the treasurer shall make out and deliver to the purchaser of any lot or tract of land, or any portion thereof, a certificate, setting forth the description of the lot or tract sold, the amount for which the same was sold, the name of the purchaser, and the time when the purchaser will be entitled to a deed of the premises; and if the person claiming the title of the lot, tract or parcel of land, or parts thereof, sold and described in such certificate, shall not, within two years from the date thereof, pay to the treasurer of said city, or his successor in office, for the use of the purchaser, the sum mentioned in said

If lands not re-
deemed, deeds to
issue to pur-
chasers.

certificate, together with interest thereon, at the rate of twenty-five per cent. per annum, from the date of said certificate, the said treasurer or his successor in office shall, at the expiration of said two years, execute to the purchaser, his heirs or assigns, a conveyance of the lot, tract or parcel of land, or parts thereof, described in such certificate; which conveyance shall vest in the person or persons to whom the same shall be given, an absolute estate, in fee simple; and said conveyance, or the record thereof, shall be evidence that said sale and all proceedings prior thereto, were regular and in accordance with the provisions of this act; and any such conveyance, executed by the treasurer under his hand and seal, and the execution thereof, witnessed and acknowledged as by law required in other cases, may be given in evidence and recorded in the same [manner] and with like effect, as a deed by the former owner of such premises.

SECTION 31. If any such lot, tract or parcel of land cannot be sold for the amount of the tax, interest and charges thereon, the said treasurer shall bid off the same for the city, for such amount. Purchase of lands by city.

SECTION 32. All lots, tracts and parcels of land advertised as provided in section twenty-nine of this act, shall be subject to a charge of fifteen cents for each lot, tract or parcel so advertised; and (*for*) each lot, tract or parcel of land, or part thereof, which shall be sold as aforesaid, shall be chargeable with the following fees: for each certificate to be given to any purchaser, twelve and a half cents; for each conveyance executed in pursuance of the provisions of this act, one dollar. Fees.

SECTION 33. The second installment of seven thousand five hundred dollars mentioned in section two of this act, shall be levied and collected in the same manner as the first installment, and all the provisions of this act shall apply to the levy, collection and payment thereof. When second installment of tax to be paid.

SECTION 34. All acts or parts of acts inconsistent herewith, are hereby repealed. Repeal.

SECTION 35. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1862.