

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

36

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CHAPTER II.

TAXES.*

***§ 1. Property subject to taxation.**

A demand for money loaned may have an actual *status* other than the domicile of the owner. In re Jefferson, 35 Minn. 215, 28 N. W. Rep. 256.

As to the taxation of the personal property of non-residents of the state, see City of St. Paul v. Merritt, 7 Minn. 258, (Gil. 198.)

***§ 2. Real property defined.**

This definition is of no value for the purposes of assessments for local improvements. State v. District Court of Ramsey Co., 31 Minn. 354, 358, 17 N. W. Rep. 954.

***§ 4. Definition of terms.**

Where several government subdivisions of land, or village lots, owned by the same person, adjoin, and are so connected and occupied as to constitute one parcel of land in fact, they may ordinarily be treated as one tract or parcel for the purposes of assessment and sale. Farnham v. Jones, 32 Minn. 7, 13, 19 N. W. Rep. 83.

***§ 5. Exemptions.**

All property described in this section, to the extent herein limited, shall be exempt from taxation; that is to say:

First. All public school-houses, academies, colleges, universities, and seminaries of learning, with the books and furniture therein, and the grounds attached to such buildings, necessary for their proper occupancy, use, and enjoyment, and not leased or otherwise used with a view to profit; houses used exclusively for public worship, and the lot or parts of lots upon which such houses are erected.

Second. All lands used exclusively for public burying-grounds or cemeteries.

Third. All property, whether real or personal, belonging exclusively to the state, or to the United States.

Fourth. All buildings belonging to counties used for holding courts, for jails, for county offices, with the ground, not exceeding in any county ten acres, on which such buildings are erected.

Fifth. All lands, houses, and other buildings belonging to any county, township, or town, used exclusively for the accommodation or support of the poor.

Sixth. All buildings belonging to institutions of purely public charity, including public hospitals, together with the land actually occupied by such institutions, not leased or otherwise used with a view to profit; and all moneys and credits appropriated solely to sustaining, and belonging exclusively to, such institutions; and all lands owned and occupied by agricultural societies, not leased, or used with a view to profit, not exceeding eighty acres.

Seventh. All fire-engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe-keeping thereof, and for the meeting of fire-companies, whether belonging to any town or to any fire-company organized therein.

Eighth. All public market-houses, public squares, or other public grounds, town or township houses or halls, used exclusively for public purposes, and all works, machinery, or fixtures belonging to any town, and used exclusively for conveying water to such town.

Ninth. All public libraries, or libraries owned by corporations other than

*In relation to the one-mill tax for the redemption of state bonds and coupons, see *ante*, c. 6, *§§ 44c-44g.

those for pecuniary profit, and real and personal property belonging to or connected with the same.

Tenth. The personal property of each individual liable to assessment and taxation, under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding one hundred dollars in value: *provided*, that each person shall list all of his personal property for taxation, and the county auditor shall deduct the amount of the exemption, authorized by this section, from the total amount of his assessment, and levy taxes upon the remainder. (1878, c. 1, § 5, *as amended* 1887, c. 80.)

The burden of proof is upon the party claiming the exemption. Illinois Cent. R. Co. v. People, (Ill.) 6 N. E. Rep. 451; People v. Railroad Co., Id. 469.

SUBD. 1. A parsonage or rectory belonging to a church is not exempt from taxation. St. Peter's Church v. County of Scott, 13 Minn. 395, (Gil. 280;) County of Hennepin v. Grace, 27 Minn. 503, 505, 8 N. W. Rep. 761.

As to taxation of edifices owned by individuals, but used for purposes of public worship, or of education, see People v. Andersen, (Ill.) 7 N. E. Rep. 625; Hebrew Free School Ass'n v. City, (N. Y.) 2 N. E. Rep. 399.

SUBD. 6. Applied, County of Hennepin v. Brotherhood of Gethsemane, 27 Minn. 460, 8 N. W. Rep. 595.

A parochial school, and the adjacent land used as a play-ground, are exempt under this section. County of Hennepin v. Grace, 27 Minn. 503, 505, 8 N. W. Rep. 761.

A society for the prevention of cruelty to animals, which has a hospital for animals, held to be a "benevolent and charitable institution." Massachusetts Soc., etc., v. City, (Mass.) 6 N. E. Rep. 840.

***§ 5a. Exemptions—Property of agricultural societies, etc.**

That all property belonging to and used for the purposes of any state, district, or county agricultural society, or industrial expositions, incorporated under the laws of the state of Minnesota, shall be exempt from general and special taxation and assessment. (1887, c. 126.)

***§§ 7, 8. Listing personal property—Place.**

See In re Jefferson, 35 Minn. 215, 23 N. W. Rep. 256.

***§ 11. Property of street-railroad companies, etc.**

Applied, State v. District Court of Ramsey Co., 31 Minn. 354, 17 N. W. Rep. 954.

***§ 16. Valuation to be fixed by assessor—Items of list.**

It shall be the duty of the assessor to determine and fix the true and full value of all items of personal property included in such statement, and enter the same opposite such items, respectively, so that, when completed, such statement shall truly and distinctly set forth—

First. The number of horses, mules, and asses one year old, the number two years old, and the number three years old and over. (*As amended* 1881, c. 10, § 1; 1885, c. 2, § 1.)

Second. The number of cattle one year old, the number two years old, the number of cows, the number of working oxen, and the number of all other cattle three years old and over. (*As amended* 1881, c. 10, § 1; 1885, c. 2, § 1.)

[The last amendment inserts "the number of working oxen" after the words, "the number of cows *two years old and over*," being the words of the original subdivision, Gen. St. 1878.]

[Third subdivision stricken out, and the succeeding subdivisions renumbered accordingly. 1885, c. 2, § 1.]

Third. The number of sheep of all ages, and the value thereof.

Fourth. The number of hogs of all ages, and the value thereof.

Fifth. The number of wagons and carriages, of whatever kind, and the value thereof.

Sixth. The number of sewing and knitting machines, and the value thereof.

Seventh. The number of watches and clocks, and the value thereof.

Eighth. The number of melodeons and organs, and the value thereof.

Ninth. The number of piano-fortes, and the value thereof.

Tenth. The value of household and office furniture.

Eleventh. The value of agricultural tools, implements, and machinery.

Twelfth. The value of gold and silver plate and plated ware.

Thirteenth. The value of diamonds and jewelry.

Fourteenth. The value and description of every franchise, annuity, royalty, and patent-right.

Fifteenth. The value of every steam-boat, sailing vessel, wharf-boat, barge, or other water-craft.

Sixteenth. The value of goods and merchandise which such person is required to list as a merchant.

Seventeenth. The value of materials and manufactured articles which such person is required to list as a manufacturer.

Eighteenth. The value of manufacturers' tools, implements, and machinery, including engines and boilers.

Nineteenth. The amount of moneys of banks, (other than those whose capital is represented by shares of stock,) bankers, brokers, or stock-jobbers.

Twentieth. The amounts of credits of banks, (other than those whose capital is represented by shares of stock,) bankers, brokers, or stock-jobbers.

Twenty-First. The amount of moneys other than of banks, bankers, brokers, or stock-jobbers.

Twenty-Second. The amount of credits other than of bank, banker, broker, or stock-jobber.

Twenty-Third. The amount and value of bonds and stocks other than bank stock.

Twenty-Fourth. The amount and value of shares of bank stock.

Twenty-Fifth. The amount and value of shares of capital stock of companies and associations not incorporated by the laws of this state.

Twenty-Sixth. The value of stock and furniture of sample-rooms and eating-houses, including billiard tables, bagatelle tables, or other similar tables.

Twenty-Seventh. The value of all other articles of personal property not included in the preceding twenty-seven items.

Twenty-Eighth. The value of all elevators, warehouses, and improvements on lands the title of which is vested in any railroad company.

Twenty-Ninth. The value of all improvements on lands held under law of the United States.

Thirty-First. [*Thirtieth.*] The number of all dogs over six months of age, and the value thereof. (Added, 1885, c. 126, § 1. See Gen. St. 1878, c. 11, *§ 16.)

*§ 20. Who are merchants.

Personal property owned by a non-resident, sent into the state to agents to be sold here, is taxable here. *McCormick v. Fitch*, 14 Minn. 252, (Gil. 185.)

*§ 22. Property of companies or associations—Listing.

The president, secretary, or principal accounting officer of any company or association, whether incorporated or unincorporated, except railroad, insurance, and telegraph companies, and banking corporations, whose taxation is specifically provided for in this act, shall make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly—

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares into which said capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if they have no market value, then the actual value of the shares of stock.

Fifth. The total amount of all indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all its real property, if any.

Seventh. The value of its personal property.

The aggregate amount of the fifth, sixth, and seventh items shall be deducted from the total amount of the fourth item, and the remainder, if any, shall be listed as "bonds or stocks," under subdivision twenty-four [twenty-three, as amended] of section sixteen of this act. The real and personal property of each company or association shall be listed and assessed the same as that of private persons. In all cases of failure or refusal of any person, officer, company, or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain. The monthly installments deposited in building associations, and subject to withdrawal on demand, or on thirty or sixty days' notice, as provided in the by-laws of such associations, are an indebtedness which may be deducted from the value of their stock, as provided in this section. Mortgages of said associations, which are represented in their stock, and assessed as stock, shall not be assessed as mortgages. They shall list their real estate and all personal property as provided in this section. (1878, c. 1, § 22, as amended 1881, c. 10, § 2; 1885, c. 78.)

Under the tax laws of New York, held, that a franchise is not real estate, to be deducted from the value of its capital stock. *People v. Commissioners*, 10 N. E. Rep. 437.

*§ 23. Property of bankers, brokers, and stock-jobbers— Listing.

The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker, or stock-jobber, shall make out and deliver to the assessor, when required to list personal property, a statement which he shall verify by oath, showing—

First. The amount of money on hand or in transit.

Second. The amount of funds in the hands of other banks, brokers, or others, subject to draft.

Third. The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

Fourth. The amount of bills receivable, discounted, or purchased, and other credits due or to become due, including accounts receivable, and interest accrued but not due, and interest due and unpaid.

Fifth. The amount of bonds and stocks of every kind, (except United States bonds,) and shares of capital stock of joint-stock or other companies or corporations, held as an investment, or in any way representing assets.

Sixth. All other property appertaining to said business, other than real estate, which real estate shall be listed and assessed as other real estate is listed and assessed under this act.

Seventh. The amount of all deposits made with them by other parties.

Eighth. The amount of all accounts payable, other than current deposit account counts.

The aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third, and fourth items, and the remainder, if any, shall be listed as money under subdivision twenty [nineteen, as amended] of section sixteen of this act. The amount of the fifth item shall be listed as bonds and stock under said section sixteen, and the sixth item shall be listed the same as other similar personal property is listed under this act, except that in case of savings banks organized under the general laws of this state, the amount of the seventh and eighth items above enumerated shall be deducted from the aggregate amount of the first, second, third, fourth, fifth, and sixth items also above enumerated, and the remainder

if any, shall be listed as credits, according to the provisions of said section sixteen. (1878, c. 1, § 23, *as amended* 1881, c. 10, § 3.)

***§ 24. Bank stock—Valuation—Listing.**

The stockholders of every bank located within this state, whether such bank has been organized under the banking laws of this state or of the United States, shall be assessed and taxed on the value of their shares of stock therein, in the county, town, district, city, or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such place or not. Such shares shall be listed and assessed annually, with regard to the ownership and value thereof, on the first day of May in each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every such bank shall furnish a statement to the assessor, verified by oath, showing the amount and *number of such shares of the capital stock of such bank*, the amount of its surplus or reserve fund, and the amount of its legally authorized investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks not located in this state, held in this state, shall not be required to be listed under this act. (1878, c. 1, § 24.)

[Amended "by striking out the word 'such' where it occurs in the fourteenth line." Gen. Laws 1881, c. 10, § 4. The italicized words are the fourteenth line, as printed in the Session Laws. The word does not occur in the fourteenth line, as printed in the General Statutes. The chapter amended is specified only in the title, and there both its position in the Session Laws and in the General Statutes are designated.]

***§ 24. Bank stock—Listing.**

See *Commissioners of Rice Co. v. Citizens' Nat Bank*, 23 Minn. 280.

***§ 27. Leased property and equitable interests.**

Lands which have ceased to be used for corporate purposes are taxable, whether the corporation rents the lands for use to individuals, or suffers them to be wholly vacant. So, lands which have never been used, but are held for use at some future time, are taxable, although it is probable that they will be needed for such contemplated use. *County of Ramsey v. Chicago, M., etc., Ry. Co.*, 33 Minn. 537, 538, 24 N. W. Rep. 313.

***§ 28. Valuation.**

All property shall be assessed at its true and full value in money. In determining the true and full value of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt, as a criterion of value, the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also, the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a

fair, voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. Every credit for a sum certain, payable either in money, property of any kind, labor, or services, shall be valued at the full price of the same, so payable; if for a specific article, or for a specified number or quantity of any article of property, or for a certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or for such labor or services, at the place where payable. (1878, c. 1, § 28, *as amended* 1881, c. 10, § 5.)

***§ 33. Assessment.**

The assessor shall perform the duties required of him during the months of May and June of each year, except in cases otherwise provided, and in the manner following, *to-wit*: He shall actually view, when practicable, and determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property. He shall make an alphabetical list of the names of all persons in his town or district liable to an assessment of personal property, and require each person to make a correct list and statement of such property, according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property, and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books, opposite the name of the party assessed; and, in making such entry in his assessment books, he shall give the name and the post-office address of the party listing the property; and, if the party reside in a city, the assessor shall give the street and number, or other brief description, of his residence or place of business. (1878, c. 1, § 33, *as amended* 1881, c. 10, § 6.)

***§ 36. Failure to list—Powers of assessor.**

See, as to powers of assessor to add non-listed property to assessment, *Thompson v. Tinkcom*, 15 Minn. 295, (Gil. 226.)

***§ 38. Failure to obtain statement—Duty of assessor.**

See *Thompson v. Davidson*, 15 Minn. 412, (Gil. 333.)

***§ 40. Meeting of board of review—Notice.**

The assessor shall cause at least ten days' previous notice of the time and place of the meeting of the town board of review, by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied. It shall be the duty of the assessor to attend the meeting of the town board of review, with his assessment books and papers, and note all changes and additions made by the board, and correct his work accordingly. (1878, c. 1, § 40, *as amended* 1881, c. 10, § 7.)

***§ 44. County board of equalization—Meetings—Duties.**

The county commissioners, or a majority of them, with the county auditor, or, in the absence of the county auditor, the deputy county auditor, shall form a board for the equalization of the assessment of the property of the county. They shall meet for this purpose annually, on the third Monday in July, at the office of the auditor; and having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of property of the several towns or districts of the county, and proceed to equalize the same, so that each tract or lot of real property, and each article or class of personal property, shall be entered on the assessment list at its true and full value, subject to the following rules:

Valuation of real property, when to be raised.

First. They shall raise the valuation of each tract or lot of real property which, in their opinion, is returned below its true and full value, to such price or sum as they believe to be the true and full value thereof.

Same—When to be reduced.

Second. They shall reduce the valuation of each tract or lot which, in their opinion, is returned above its true and full value, to such price or sum as they believe to be the true and full value thereof.

Valuation of personal property, when to be raised.

Third. They shall raise the valuation of each class of personal property which, in their opinion, is returned below its true and full value, to such price or sum as they believe to be the true and full value thereof; and they shall raise the aggregate value of the personal property of each individual, whenever they believe that such aggregate valuation is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe was the true and full value thereof.

Same—When to be reduced.

Fourth. They shall, upon complaint of any party aggrieved, being a non-resident of the town or district in which his property is assessed, reduce the valuation of each class of personal property enumerated in section sixteen aforesaid, which, in their opinion, is returned above its true and full value, to such price or sum as they believe to be the true and full value thereof; and, upon like complaint, they shall reduce the aggregate valuation of the personal property of such individual who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and full value of his personal property.

Aggregate value not to be reduced, but may be increased.

Fifth. They shall not reduce the aggregate value of the real property, or the aggregate value of the personal property, of their county, below the aggregate value thereof, as returned by the assessors, with the additions made thereto by the auditor, as hereinbefore required; but they may raise the aggregate valuation of such real property, and of each class of personal property of said county, or any town or district thereof, whenever they believe the same is below the true and full value of said property, or class of property, to such aggregate amount as they believe to be the true and full value thereof.

Auditor to publish record—Length of session.

The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, and the said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of state with the abstract of assessment hereinafter required. The county board of equalization may continue in session, and adjourn from time to time, during four weeks, commencing on the said third Monday of July; but, after final adjournment, the county commissioners shall not have power to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county: *provided*, if by reason of sickness, or any other cause, the county auditor cannot be present at the meeting of said board of equalization, the deputy auditor, or, in case there be none, then the clerk of the district court, shall act for the county auditor at said meeting of said board. (1878, c. 1, § 44, *as amended* 1885, c. 2, § 2; 1885, c. 119.)

The board must continue in session for the purpose of equalizing assessments on every business day during the week, if necessary for that purpose. An adjournment, ex-

cept from day to day, is such an irregularity as will let in the defense provided in section 119 of the act of 1874, regulating the assessment and collection of taxes. *Commissioners of St. Louis Co. v. Nettleton*, 22 Minn. 356.

***§ 44a. Board of equalization—Compensation.**

That the members of the several boards of county commissioners, while performing the duties prescribed by law as boards of equalization, shall be entitled to the same pay and mileage as is provided by law while performing their duties as county commissioners: *provided*, that no county commissioner, while acting on such board of equalization, shall receive pay for more than ten days' service or mileage for more than one session: *provided*, that the provisions of this act shall not apply to the counties of Dakota, Hennepin, and Ramsey. (1881, c. 113, § 1.)

***§ 46. State board of equalization—How constituted—Meetings—Rules for equalizing.**

The governor, auditor of state, and the attorney general, with one qualified elector, not a member of any county board of equalization, from each judicial district of the state, to be appointed by the governor with the advice and consent of the senate, shall constitute the state board of equalization. The members from the odd-numbered districts shall be appointed every even-numbered year, and those from the even-numbered districts shall be appointed every odd-numbered year, and their term of office shall be two years. The governor shall fill all vacancies that may occur in said board by special appointment. The governor shall be *ex officio* president of the said board, and the auditor of state shall act as secretary. The board may adjourn from day to day, and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The members of said board shall receive the same per diem and mileage as may be allowed by law to members of the legislature. The said board shall meet annually, on the first Tuesday of September, at the office of the auditor of state, and, each member having taken the oath prescribed by law, they shall examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and full value. In the performance of their duties they shall be governed by the following rules:

First. They shall add to the aggregate valuation of the real property of every county, which they believe to be valued below its true and full value in money, such per centum in each case as will bring the same to its true and full value in money.

Second. They shall deduct from the aggregate valuation of the real property of every county, which they believe to be valued above its true and full value in money, such per centum in each case as will reduce the same to its true and full value in money.

Third. If they believe that the valuation of the real property of any town or district in any county, or of the real property of any county not in towns, villages, or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may, in every such case, add to or take from the valuation of any one or more of such towns, villages, or cities, or of the property not in towns, villages, or cities, such per centum as they believe will raise or reduce the same to its true and full value in money.

Fourth. They shall add to the aggregate valuation of any class of personal property of any county, town, township, village, or city, which they believe to be valued below the true and full value thereof, such per centum in each case as will raise the same to its true and full value in money.

Fifth. They shall take from the aggregate valuation of any class of per-

sonal property in any county, town, township, village, or city, which they believe to be valued above the true and full value thereof, such per centum as will reduce the same to its true and full value in money.

Sixth. They shall not reduce the aggregate valuation of all the property in the state, as returned by the several county auditors, more than one per centum on the whole valuation thereof. (1878, c. 1, § 46, *as amended* 1881, c. 10, § 8.)

***§ 47. Proceedings — Publication — Abstract — Duty of county auditors.**

The secretary shall keep a record of the proceedings of the board, which shall be published in the annual report of the auditor of state, and upon final adjournment he shall transmit to each county auditor an abstract of such proceedings, specifying the per centum added to or deducted from the valuation of the real property of each of the several towns, townships, villages, and cities, and of the real property not in towns, villages, or cities, in case an equal per centum has not been added to or deducted from each, and specifying also the per centum added to or deducted from the several classes of personal property in each of the towns, townships, villages, and cities in the state; and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar; and shall also add to or deduct from such class of personal property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting, in manner as aforesaid, any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar. (1878, c. 1, § 47, *as amended* 1881, c. 10, § 9.)

***§ 48. Taxes—How to be levied—Rates.**

All taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property, as equalized by the state board of equalization each year, except such general taxes as may be definitely fixed by law. The state tax shall be levied by the legislature, and the rate of such tax shall be certified by the auditor of state to each county auditor on or before the first day of October, annually. He shall also notify each county auditor of the amount due the state from his county on account of school text-books furnished such county, and it shall then be the duty of said county auditor so notified to levy a tax sufficient to meet such indebtedness, which tax shall be levied and collected and paid into the state treasury in the same manner as other state taxes. The county taxes shall be levied by the county commissioners at the time of their meeting in July of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five per cent. of the same. The taxes voted by incorporated cities, villages, townships, and school-districts shall be certified by the proper authorities to the county auditor on or before the tenth day of October in each year. The rate per centum of all taxes, except the state tax and such other taxes, the rates of which may be fixed by law, shall be calculated and fixed by the county auditor according to the limitations herein-after prescribed: *provided*, that if any county, city, town, or school-district shall return a greater amount than the prescribed rates will raise, then the

county auditor shall only extend such amount of tax as the limited rate will produce. (1878, c. 1, § 48, as amended 1885, c. 114.)

See *Goodnow v. Commissioners of Ramsey Co.*, 11 Minn. 31, 41, (Gil. 12, 20.)

***§ 49. Rates.**

As to limit to three mills on the dollar, see *McCormick v. Fitch*, 14 Minn. 252, (Gil. 185.) See, also, *Commissioners of St. Louis Co. v. Nettleton*, 22 Minn. 356.

***§ 51. Abstract of tax-lists.**

The county auditor shall, on or before the first day of January in each year, make out and transmit to the auditor of state, in such form as may be prescribed, a complete abstract of the tax-lists of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon, the value of town and city lots, including structures, the total value of all taxable personal property in the several assessment districts of the county, the aggregate amount of all taxable property in the county, and the total amount of taxes levied in the county for state, county, town, and all other purposes for that year. (1878, c. 1, § 51, as amended 1885, c. 2, § 3.)

***§ 52. Tax-list—Certificate.**

The tax-list, or tax duplicate, duly certified, is *prima facie* evidence of the due levy of the taxes in it. In *re Jefferson*, 35 Minn. 215, 28 N. W. Rep. 256.

***§ 53. Tax-lists—Delivery to treasurer.**

The county auditor shall deliver the lists of the several districts of the county to the county treasurer on or before the first Monday in January in each year, taking his receipt therefor, showing the total amount of taxes due upon the said lists; and such lists shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied. (1878, c. 1, § 53, as amended 1885, c. 2, § 4.)

***§ 54. County treasurer to be tax collector.**

See *Morgan v. Smith*, 4 Minn. 104, (Gil. 64.)

***§ 56. Tax receipts—Contents—Stubs.**

The county treasurer, upon the payment of any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, town, or city lot, or other property, on which said tax was levied, according to its description on the tax-list, or in some other sufficient manner, and the year or years for which the tax was levied. The said receipt shall have a duplicate stub, showing the name of the person, description of property, and the amount and date of payment; and the county treasurer shall return all such duplicate stubs made by himself or deputies, to the county auditor, at the end of each month, who shall file and preserve them in his office, charging the treasurer with the amount thereof. If the tract or parcel of land described in said receipt, or any part thereof, shall have been sold for taxes within two years of the time of giving such receipts, and remain unredeemed therefrom, the county treasurer shall stamp upon the face thereof the words "sold for taxes." (1878, c. 1, § 56, as amended 1887, c. 60, § 1.)

The stub duplicates are evidence of the receipt of the tax represented thereby, although they have never been returned to the auditor, as required. *State v. King*, 29 Minn. 78, 84, 11 N. W. Rep. 233.

***§ 58. Delinquent personal property tax—Collection.**

All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due; and thereupon a penalty of ten per cent. shall attach and be charged upon all such taxes. On the first day of April in each and every year the county treasurer shall make a list of all such delinquent personal property taxes, which he shall certify to the clerk of the district court of his county, and the said clerk shall immediately issue his

warrants to the sheriff of the county, directing him to proceed to collect the same, and if such taxes are not paid on demand, said sheriff shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of ten per cent. and all accruing costs, together with twenty-five cents from each delinquent, as compensation to said clerk: *provided*, that, in case the sheriff shall fail to collect the tax, such sum of twenty-five cents, as compensation, shall be paid by the county. The sheriff shall immediately proceed to advertise the same in three public places in the town or district where such property is taken, stating the time when and the place where such property will be sold; and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale,—which shall not be less than ten days after the taking of such property,—such sheriff, or his deputy, shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay such taxes and the costs of such distress and sale. (1878, c. 1, § 58, *as amended* 1885, c. 2, § 5.

[See note to *§ 69, *post*.]

***§ 59. List of uncollected taxes—Cancellation.**

If the sheriff of said county is unable, for the want of goods and chattels whereon to levy, to collect, by a distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, accounting officer, agent, or factor, such sheriff shall file with the clerk of the court, on the first day of June following, a list of such taxes, with an affidavit of himself or of the deputy-sheriff intrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes and was unable to make or collect the same. He shall note on the margin of such list the place to which any delinquent tax-payers may have removed, with the date of his removal, if he is able to ascertain the fact. The clerk shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied cannot be collected. (1878, c. 1, § 59, *as amended* 1885, c. 2, § 6.)

***§ 60. Delinquent taxes—Suit to collect—Proceedings.**

Within ten days after the adjournment of the board of commissioners the auditor shall file a copy of such revised list with the clerk of the district court of the county, and within ten days after the filing of such copy the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time resides, for service, a citation to each delinquent named on the list, stating the amount of tax and penalty, and requiring such delinquent to appear on the first day of the next general term of the district court in the county appointed, to be held at a time not less than thirty days after the issuance of such citation, and show cause, if any there be, why he should not pay said tax and penalty; and if he fails to pay said tax, penalty, and cost to the sheriff before the first day of the term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty, and cost: *provided, however*, that if said sheriff shall for any reason be unable to serve the citation on the person or persons to whom the same is issued, he shall return the same to the clerk of said court, with his return thereto that he was unable to make such service, and thereupon, or in case the court shall, for any reason, decide that the service of such citation made or attempted to be made, or that the issuance thereof by the clerk was illegal, the clerk of said court shall issue another citation of the character aforesaid, and requiring such delinquent to appear on the first day of the next general term of the district court to be held in said county, and show cause as aforesaid;

and if he fails to pay said tax, penalty, and costs to the sheriff before said first day of said term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter judgment as aforesaid: *provided, further*, that whenever the sheriff has, for any reason, been unable to serve any citation heretofore issued in such proceeding in any year or years, or whenever the court has or hereafter may for any reason decide that the service of any such citation heretofore made or attempted to be made, or that the issuance thereof by the clerk was illegal, the clerk of said court shall in every such case issue another citation of the character aforesaid, and requiring such delinquent to appear on the first day of the next general term of said district court to be held in said county, and to show cause as aforesaid; and if he fails to pay such tax, penalty, and costs to the sheriff before said first day of said term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter judgment as aforesaid: *and provided, further*, that all citation other than the first shall only be issued on the request of the county attorney: *provided, further*, the citation herein provided for shall be *prima facie* evidence that all the provisions of law in relation to the assessment and levy of taxes have been complied with. And no omission of any of the things by law provided in relation to such assessments and levy, or of anything required by any officer or officers to be done prior to the issuance of such citation, shall be a defense or objection to such taxes, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that such taxes have been unfairly or unequally assessed, and in such case, but no other, the court may reduce the amount of such taxes, and give judgment accordingly. It shall, however, always be a defense to such taxes that the same have been paid, or that the property upon which the same were assessed was not subject to taxation. (1878, c. 1, § 60, *as amended* 1885, c. 2, § 7.)

***§ 61. Same—Execution—Fees.**

The clerk shall receive as fees for issuing such citation, and perfecting the judgment, one dollar and fifty cents, in case not contested, and in contested cases such fees as are allowed by law in civil actions. The clerk shall also receive the sum of twenty-five cents for each citation issued in cases where the sheriff shall fail, after diligent inquiry, to find the defendant. Execution shall be issued upon such judgment at the request of the county attorney, and shall state that the judgment was obtained for delinquent personal property taxes, and no property shall be exempt from seizure thereon, and such execution may be renewed and reissued in the same manner as now provided by law in executions upon judgments in civil actions; and all of which said fees and costs shall be entered taxed, and made part of the judgment herein provided for. (1878, c. 1, § 61, *as amended* 1885, c. 2, § 8.)

***§ 62. Sheriff—Liability for uncollected taxes.**

If the sheriff of any county shall refuse or neglect to collect any tax assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit as herein provided, he shall be held liable for the whole amount of such taxes uncollected, and the same shall be deducted from any bill or bills presented by him to and allowed by the board of county commissioners, and applied to the several funds for which they were levied. (1878, c. 1, § 62, *as amended* 1885, c. 2, § 9.)

***§ 63. Delinquent taxes—Penalty in case of removal.**

The county auditor, within thirty days after the first day of June in each year shall make out and forward to the clerk of the court of any county in this state to which any delinquent personal property tax-payer may have removed a statement or account of such delinquent taxes, specifying the value of the property on which said taxes were levied, and the amount of taxes

levied thereon, to which he shall add an amount equal to the sum of twenty-five per centum on the taxes levied, if said delinquent personal property taxpayer left the county in which said taxes were levied after the day upon which the said taxes became due, but if he left the county previous to the said day, then the said county auditor shall not add the said twenty-five per centum. (1878, c. 1, § 63, *as amended* 1885, c. 2, § 10.)

***§ 64. Same—Collection.**

On receipt of any such statement or account the clerk of the court receiving the same shall issue his warrant to the sheriff of his county, and the sheriff shall immediately proceed to collect the same of the person so charged with said taxes and per centum, together with a fee of twenty-five cents for each warrant so issued, which sum, when collected, shall be paid to the clerk as his fee for issuing the same, and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and at the same time he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remain unpaid, the reason why such taxes could not be collected, certifying in his official capacity to the same, and the auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel said taxes from the list: *provided*, that in case of all delinquent taxes collected by the sheriff receipts shall be issued to him, and payment shall be made in the manner provided in section fifty-six of this chapter. (1878, c. 1, § 64, *as amended* 1885, c. 2, § 11.)

***§ 65. Same—Fees—Satisfaction of judgment.**

The sheriff, or his deputy, shall be allowed the same fees for collecting the said tax, and for making distress and sale of goods and chattels for the payment of taxes, as are allowed by law to constables for making levy and sale of property on execution. Traveling fees to be computed from the county-seat to the place of making distress, unless such distress is made by his deputy, in which case the same shall be computed from the residence of such deputy, which fees shall be added to the tax, and collected by the sheriff. Upon payment to the county treasurer of any personal property tax for which judgment has been obtained, the treasurer shall deliver a certificate of the fact of such payment to the clerk of the court, who shall satisfy the judgment upon the margin of the record thereof, by stating date of payment and number of receipt given therefor, and file such certificate. (1878, c. 1, § 65, *as amended* 1885, c. 2, § 12.)

***§ 66. Settlement between treasurer and auditor.**

On the last days of February, May, and October, respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes, from the date of the last settlement up to and including each day mentioned, and the county auditor shall, within twenty days after each settlement, send an abstract of the same to the auditor of state, in such form as the said auditor may prescribe. At each settlement the treasurer shall make complete returns of his collections on the current tax-list, showing the amount collected on account of the several funds included in said list. (1878, c. 1, § 66, *as amended* 1885, c. 2, § 13.)

***§ 68. County treasurer—Time for paying over funds.**

The county treasurer shall, immediately after each settlement in February, May, and October, pay over to the treasurer of state, or of any municipal corporation, or organized township, or other body politic, on the order of the county auditor, all moneys received by him, arising from taxes levied and collected, belonging to the state, or to such municipal corporation, organized township, or school-district, and deliver up all orders and other evidence of

indebtedness of such municipal corporation or other body politic, taking duplicate receipts therefor, one of which shall be filed in the office of the county auditor. (1878, c. 1, § 68, *as amended* 1881, c. 10, § 10; 1885, c. 2, § 14.)

***§ 69. Delinquent real-estate taxes—Penalty—Return to auditor.**

On the first day of June of each year a penalty of ten per cent. shall immediately accrue and thereafter be charged upon all unpaid taxes on real estate on the lists in the hands of the county treasurer, and any treasurer who shall make out and deliver any receipt for such taxes without including such penalty therein, and who shall receive payment of such tax without including such penalty therein, shall be liable to the county for the amount of such penalty. On the first Monday in January of each year the county treasurer shall return to the county auditor the several tax-lists in his hands, having compared the same with his duplicate receipts on file in the auditor's office, and written opposite the amount of each tax so receipted for the word "Paid," and the number of the treasurer's receipt given in discharge of such tax, and each tract or lot of real property against which the taxes remain unpaid shall be deemed delinquent, and thereupon an additional penalty of five per cent. on the amount of the original tax shall immediately accrue and thereafter be charged upon all such delinquent taxes; and any auditor who shall make out and deliver any statement of delinquent taxes without including the penalties imposed by this section therein, and any treasurer who shall receive payment of such taxes without including such penalties, shall be liable to the county for the amount of such penalties omitted. (1878, c. 1, § 69, *as amended* 1885, c. 2, § 15.)

[By Gen. Laws 1885, c. 2, § 25, taxes extended December 1, 1884, became delinquent, and penalties accrued, and sales were to take place as provided by chapter 11, as amended by that act.]

***§ 70. Delinquent tax-list—Filing—Effect.**

On or before the twentieth day of January the county auditor shall file in the office of the clerk of the district court of the county, or, if it be attached for judicial purposes to some other county, then in the office of the clerk of such court in that county, a list of the delinquent taxes upon real estate within his county, which list shall contain a description of each piece or parcel of land on which such taxes shall be so delinquent, with the name of the owner, if known, and if unknown, so stated, appearing on the delinquent list, and the total amount of tax delinquent and penalty for each year opposite such description, and shall verify such list by his affidavit that the same is a correct list of taxes delinquent, for the year or years therein appearing, upon real estate in said county. The filing of such list shall have the force and effect of filing a complaint in an action by the county against each piece or parcel of land therein described, to enforce payment of the taxes and penalties therein appearing against it, and shall be deemed the institution of such action; and the same shall operate as notice of the pendency of such action.* (1878, c. 1, § 70, *as amended* 1885, c. 2, § 16.)

The filing of the list is, in effect, the commencement of an action, though not an ordinary action. *County of Chisago v. St. Paul, etc., R. Co.*, 27 Minn. 109, 6 N. W. Rep. 454.

***§ 71. Copy of list and notice for auditor.**

The clerk shall, within fifteen days thereafter, make and deliver to the county

*The following are the provisions of Gen. Laws 1881, c. 135, entitled "An act to enforce the payment of taxes which became delinquent in and prior to the year 1879: "

§ 1. DELINQUENT TAX-LISTS. At the time of making the list of delinquent taxes for the present year, as required by section seventy of the general tax law, the auditor of each county shall make out and append to such delinquent list a list of all taxes upon real es-

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auditor a copy of the list so filed, and attach thereto a notice, which may be substantially in the following form:

State of Minnesota, } ss. District Court,
 County of _____, } _____ Judicial District.

The state of Minnesota, to all persons, companies, or corporations who have or claim any estate, right, title, or interest in, claim to, or lien upon, any of the several pieces or parcels of land in the list hereto attached described:

The list of taxes and penalties on real property for the county of _____, remaining delinquent on the first Monday in January, _____, has been filed in the office of the clerk of the district court of the county of _____, of which that hereto attached is a copy. Therefore you, and each of you, are hereby required to file in the office of said clerk, on or before the twentieth day of March, 18—, your answer in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any piece or parcel of land described in said list, in, to, or on which you have or claim any estate, right, title, interest, claim, or lien, and in default thereof judgment will be entered against such piece or parcel of land for the taxes on said list appearing against it, and for all penalties, interest, and costs.

[Signed]

_____,
 Clerk of the District Court of the County of _____.

(Here insert list.)

(1878, c. 1, § 71, as amended 1881, c. 10, § 11; 1885, c. 2, § 17.)

tate in the county which appear to have become delinquent in the year one thousand eight hundred and seventy-nine, or any prior year or years, and have not been satisfied by payment, redemption, or sale of the real estate to actual purchasers. Such list shall include all taxes upon any real estate which may have been at any tax sale struck off to or declared to be forfeited to the state, whether such sale or forfeiture was valid or invalid; and it shall also contain a description of each piece or parcel of land upon which such taxes shall not have been paid or satisfied as aforesaid, and opposite such description the name of the owner to whom assessed, if known, and if unknown shall so state, and the amount of taxes, principal, and interest due thereon, according to the provisions of this act.

Judgment charging land not described in published list is void, and does not set in motion the limitation provided in section 7. *Feller v. Clark*, 36 Minn. 338, 31 N. W. Rep. 175.

Insufficient description in tax-list and judgment. See *Kipp v. Fernhold*, 33 N. W. Rep. 697; *Kerr v. Kipp*, Id. 116.

See *Burdick v. Bingham*, 38 N. W. Rep. 489.

§ 2. PROCEEDINGS TO ENFORCE. The same proceedings shall be had with reference to advertisement, judgment, and sale of the property described in such forfeited lists as are required by the general tax law for advertisement, judgment, and sale of property described in the regular delinquent list, but separate tax judgment and copy tax judgment books shall be provided for the forfeited lists.

§ 3. REDEMPTION. Any person having an interest in any tract or parcel of real estate included in such forfeited list may redeem the same at any time before the sale thereof, as hereinafter provided, by paying into the county treasury the original amount of taxes due thereon, with ten per cent. per annum interest on the amount during the time said taxes have been delinquent, together with all costs of proceedings herein described.

§ 4. SALE. The sale herein provided for shall be made by the county auditor, at his office, immediately following the delinquent sale in September, and shall be absolute and final. The auditor shall sell such forfeited property at public vendue, each piece or parcel separately, in the order described on the copy judgment book and by the description therein. In offering such property for sale, he shall state the amount of taxes, interest, and costs due thereon, as hereinbefore provided for redemption thereof, and he shall first offer each piece or parcel to the highest bidder therefor; but if no bidder shall offer to pay such amount due, or more, he shall then offer the same to the bidder that will pay the highest sum less than the amount of taxes, interest, and costs due. The county treasurer shall attend at the sale and receive all money paid thereon.

§ 5. CERTIFICATE OF SALE. The auditor shall execute to the purchaser of any piece or parcel of property at such sale a certificate, which may be substantially in the following form:

I, _____, auditor of the county of _____, do hereby certify that, at the sale of forfeited lands pursuant to real-estate tax judgment entered in the district court in the county of _____, on the _____ day of _____, 18—, in proceedings to enforce payment of taxes upon real estate delinquent in the year one thousand eight hundred and seventy-

***§ 72. Notice and list—Publication.**

The county auditor shall cause said notice and list to be published once in each of two consecutive weeks in some newspaper of general circulation, printed in the English language, and which has been regularly published for at least three months previously in the county in which said real estate is situate, if there be one, or in the county where the proceedings are instituted, or, if there be no such newspaper published in either county, then in some newspaper published within the judicial district, the first publication of which list shall be made within fifteen days after the delivery thereof to the auditor, as provided in the preceding section. The newspaper in which such publication shall be made shall be designated by resolution of the board of county commissioners of the county in which the taxes are levied, at their annual meeting in January, a copy of which resolution, certified by the county auditor, shall be filed in the office of the clerk of the court: *provided*, that if the county commissioners shall fail to designate such paper, then it shall be designated by the county auditor: *provided, further*, that the papers designated by the commissioners of the several counties in January, one thousand eight hundred and eighty-five, shall be entitled to publish the list of lands delinquent for taxes on

nine, and for prior years, for the county of _____, which sale was held at _____, in said county of _____, on the _____ day of _____, the following described piece or parcel of land, situate in said county of _____, state of Minnesota, to-wit, _____ was offered for sale to the highest bidder, and at said sale I did sell the said piece or parcel of land to _____, for the sum of _____ dollars, that being the highest sum bid therefor, and he having paid said sum, I do therefore, in consideration thereof, and pursuant to the statute in such case made and provided, convey the said piece or parcel of land in fee-simple to said _____, his heirs and assigns, forever.

Witness my hand and official seal this _____ day of _____, 18—.

_____, County Auditor.

Such certificate shall pass to the purchaser the estate therein described without any other act or deed whatever, and may be recorded as deeds of real estate, and the record of such certificate shall have the same force and effect, as evidence or otherwise, as the records of deeds of real estate. If any purchaser shall purchase at said sale more than one piece or parcel of land, all of the pieces or parcels so purchased may be included in the same certificate.

§ 6. **SAME—EVIDENCE.** Said certificate, or a copy of the record thereof, shall be *prima facie* evidence that the title to the tract or tracts of land therein mentioned is in the person named in said certificate.

§ 7. **POSSESSION—ACTION—LIMITATION.** When any piece or parcel of land shall be so sold, the purchaser shall be entitled to immediate possession of the piece or parcel purchased by him, and if on demand and presentation of the certificate of sale the person in possession of the piece or parcel refuse or neglect to deliver such possession, such person may be proceeded against as a person holding over the termination of his estate, which proceedings may be instituted and prosecuted under the provisions of chapter eighty-four of the General Statutes; and the judgment and sale herein provided for shall not be set aside, unless the action in which the validity of the judgment or sale shall be called into question, or the defense to any action alleging its invalidity, be brought within nine months of the date of said sale; except that in case any tract or parcel shall be included in any such judgment when such taxes shall have been paid, or such property was exempt from taxation, that said judgment and sale shall be void upon proof at any time that such taxes have been paid or such property was exempt.

§ 8. **PROCEEDS.** The proceeds of such sale shall be distributed to the several funds for which the taxes were levied, except in cases where the property may be sold for less than the original amount of such taxes, when the state tax shall be first satisfied, and the remainder, if any, shall be apportioned to the other funds *pro rata*, and in no case shall any piece or parcel be sold for any sum less than the amount of state tax due thereon: *provided, however*, that, upon the application of the party entitled thereto, the auditor shall give to such party his warrant upon the treasurer for any money paid into the treasury on the sale of any piece or parcel of land in excess of the amount due upon such piece or parcel at the time of the sale, and if a distribution of such excess has been made, the several funds which received such excess shall be charged with the amount paid upon the warrant of the auditor. (*As amended 1885, c. 122.*)

§ 9. **UNSOLD LAND.** All pieces or parcels of land remaining unsold at such sale shall thereafter be stricken from the tax-lists, and shall be subsequently sold, as provided by section one hundred and one of the general tax law.

See supplemental act applicable to Goodhue county, Gen. Laws 1881, Ex. Sess. c. 72.

the first Monday in January, one thousand eight and eighty-six. (1878, c. 1, § 72, *as amended* 1881, c. 10, § 12; 1885, c. 2, § 18.)

Sections 70, 71, and 72, construed together, as to time when publication should begin. *Kipp v. Dawson*, 31 Minn. 373, 380, 381, 17 N. W. Rep. 961, and 18 N. W. Rep. 96.

That the notice did not in fact reach the plaintiff, and in consequence he has lost his opportunity to defend, is a contingency which the law may be presumed to have contemplated as not impossible when it provided that constructive notice should be sufficient. *Dousman v. City of St. Paul*, 23 Minn. 394, 400.

The objection that the commissioners did not designate the paper in which the list of taxes should be published is not proper matter of answer, but should be made by objection to, or motion to dismiss, the proceedings before answering. *Commissioners of Houston Co. v. Jessup*, 22 Minn. 552.

If the board fail to designate the newspaper in January or March, their power to act is terminated, and thereafter the power and duty to designate such newspaper is devolved exclusively upon the county auditor. *Hall v. County of Ramsey*, 30 Minn. 68, 14 N. W. Rep. 263. See *Russell v. Gilson*, 36 Minn. 366, 31 N. W. Rep. 692.

***§ 73. Jurisdiction—Errors and irregularities—Effect.**

When the last publication shall have been made, the notice shall be deemed to have been served, and the court to have acquired full and complete jurisdiction to enforce against each piece or parcel of land in said published list described, the taxes, accrued penalties, and costs upon it then delinquent, so as to bind every estate, right, title, interest, claim, or lien, in law or equity, in, to, or on such piece or parcel of land, of every person, company, or corporation; and such jurisdiction shall not be in any way affected by any error in making the list filed with the clerk, nor by any error, irregularity, or omission in the assessment or levy of the taxes, or in any other proceedings prior to filing the said list, nor by any mistake in copying the list for publication, nor by any mistake in publishing such list, nor by any mistake in the amount of tax in such published list appearing against any piece or parcel of land therein described: *provided*, that any judgment rendered in such proceedings shall be void upon satisfactory proof made at any time that such real estate was exempt from taxation, or that such taxes were paid before judgment was rendered. (1878, c. 1, § 73, *as amended* 1887, c. 91, § 1.)

The fact that the land against which the tax is sought to be enforced is exempt, does not affect the jurisdiction of the court to try and determine the validity of the tax. *County of Chisago v. St. Paul, etc., R. Co.*, 27 Minn. 109, 6 N. W. Rep. 454.

No defect in the affidavit verifying the list filed with the clerk will affect the jurisdiction. *Commissioners of Mille Lacs Co. v. Morrison*, 22 Minn. 173; *Kipp v. Dawson*, 31 Minn. 373, 17 N. W. Rep. 961, 18 N. W. Rep. 96. See *Feller v. Clark*, 36 Minn. 338, 31 N. W. Rep. 175; *Collins v. Welch*, 35 N. W. Rep. 566; *Chauncey v. Wass*, 35 Minn. 1, 25 N. W. Rep. 457, and 30 N. W. Rep. 826.

***§ 74. Publication—Affidavit—Filing.**

The owner, publisher, manager, or foreman in the printing-office of the newspaper in which such notice and list shall have been published, shall, within twenty days thereafter, make and file with the clerk an affidavit of such publication, stating the days in which such publication was made, and shall also file with the clerk three copies of each number of the paper and supplement, if any, in which the notice and list shall have appeared. The publication may be made in such newspaper, or partly in such newspaper and partly in a supplement issued therewith. (1878, c. 1, § 74, *as amended* 1881, c. 10, § 13.)

In an action for compensation for printing and publishing the list, the complaint need not allege that an affidavit of publication had been made and filed with the clerk of the district court. If the making and filing of such an affidavit is included in an agreement to print and publish a "delinquent tax-list," it is sufficiently covered by an allegation that the list was "duly printed and published according to law." *Folsom v. County of Chisago*, 28 Minn. 324, 9 N. W. Rep. 881.

***§ 75. Appearance and answer.**

Any person, company, or corporation, having any estate, right, title, or interest in, or lien upon, any piece or parcel of land embraced in said list as pub-

lished, may, on or before the twentieth day of March next, after the last publication of said notice, file in the office of the said clerk an answer, verified as pleadings in civil actions, setting forth his defense or objection to the tax or penalty against such piece or parcel of land, which answer need not be in any particular form, but shall clearly refer to the piece or parcel of land intended, and set forth, in ordinary and concise language, the facts constituting the defense or objection to such tax or penalty; and if the list shall embrace the taxes for two or more years, the defense or objections may be to the taxes or penalty for one or more of such years. (1878, c. 1, § 75, as amended 1885, c. 2, § 26.)

Cited, Kipp v. Dawson, 31 Minn. 373, 375, 17 N. W. Rep. 961, and 18 N. W. Rep. 96; Wass v. Smith, 34 Minn. 304, 306, 25 N. W. Rep. 605.

***§ 76. Failure to answer—Judgment—Form—Entry.**

On the twenty-first day of March the said clerk shall, the affidavit of publication being filed, proceed to enter judgment against each and every of such pieces or parcels as to which no answer shall have been filed, which judgment shall include all of such pieces or parcels, and shall be substantially in the following form:

State of Minnesota, County of _____, District Court.

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent on the first Monday in January, 18—, for the county of _____, state of Minnesota.

A list of taxes on real property, delinquent on the first Monday in January, 18—, for said county of _____, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published as required by law, and the twentieth day of March, 18—, has passed and no answer having been filed by any person, company, or corporation to the taxes upon any of the pieces or parcels of land hereinafter described, it is hereby adjudged and decreed that each piece or parcel of land hereinafter described as liable for taxes, penalties, and costs, to the amount set opposite the same, as follows, to-wit:

Description.

Amount.

And the amount of taxes, penalties, and costs to which, as hereinbefore stated, each of said pieces or parcels of land is liable, is hereby declared a lien upon such pieces or parcels of land as against the estate, right, title, interest, claim, or lien, of whatever nature, in law or equity, of every person, company, or corporation whatsoever; and it is adjudged that, unless the amount to which each of said pieces or parcels is liable be paid, each of said pieces or parcels be sold, as provided by law, to satisfy such amount to which it is liable.

[Signed]

Clerk of the District Court, County of _____.

Such judgment shall be entered by the clerk in a book to be kept by him, to be called the "Real-Estate Tax Judgment Book," and shall be dated and signed by the clerk. The judgment shall be written out on the left-hand pages of such book, leaving the right-hand pages blank for the entries hereinafter provided; and the same presumption in favor of the regularity and validity of the said judgment shall be deemed to exist as in respect to judgments in civil actions in said court, except in cases where taxes have been paid before the entry of such judgment, or where the land was exempt from taxation. In all which cases such judgment shall be *prima facie* evidence only of its regularity and validity. (1878, c. 1, § 76, as amended 1881, c. 10, § 14; 1885, c. 2, § 19; 1887, c. 60, § 2.)

***§ 79. Judgment—Defenses.**

It is the policy of the statute that every objection to the enforcement of the taxes appearing on the list filed should be litigated and decided in those proceedings. That the

land is exempt, or that the tax has been paid, is a defense which must be "made to appear by answer and proofs." County of Chisago v. St. Paul, etc., R. Co., 27 Minn. 109, 111, 6 N. W. Rep. 454.

The owner may show that there was no authority to levy the tax, or that the land is exempt, or the taxes have been paid, or that the special facts authorizing their insertion in the list did not exist, or any omissions prior to the filing of the list resulting to his prejudice. County of Olmstead v. Barber, 31 Minn. 256, 258, 17 N. W. Rep. 473.

The owner of lands proceeded against may set up as a defense, and prove, that the tax is void for want of authority to levy it, and need not allege that he is prejudiced by such void tax, or that the same was partially, unfairly, or unequally assessed. Commissioners of St. Louis Co. v. Nettleton, 22 Minn. 356.

It is a good defense, *pro tanto*, that the county commissioners have omitted to remit a part of the taxes on the list, as directed by Laws 1875, c. 10. Commissioners of Houston Co. v. Jessup, 22 Minn. 552.

***§ 80. Judgment—Effect—Review by supreme court—Proceedings.**

The judgment which the court shall render shall be final, except that, upon application of the county or other party against whom the court shall have decided the point raised by any defense or objection, the court may, if in its opinion the point is of great public importance or likely to arise frequently, make a brief statement of the facts established bearing on the point, and of its decision, and forthwith transmit the same to the clerk of the supreme court, who shall enter the same as a cause pending in said court, and place the same on the term calendar of said court for the term then in session, or for the first term thereafter; and the same shall be entitled to a preference over all other business before said court, and shall be decided by said court at the term for which it shall be entered in the calendar. As soon as it shall be decided, the clerk of the supreme court shall enter the proper order, and forthwith transmit a certified copy of such order to the clerk of the proper district court: *provided*, that such proceeding shall in no case prevent the entry of judgment in the district court, nor prevent the sale of any piece or parcel of land pursuant to the judgment of the district court, unless, at the time of applying for such statement, an undertaking with at least two sureties, and in an amount to be approved by the judge of the district court, conditioned for the payment of the amount for which judgment shall be rendered in the district court, and the penalties and costs allowed by law, if the decision of the district court shall be affirmed, shall be filed with the clerk of the district court: *provided, further*, that the court wherein such judgment is entered shall have power, in its discretion, and for good cause shown by any person interested, to open such judgment at any time before the expiration of the period of redemption, and may allow any defense to be interposed in such case that might have been interposed before the entry of such judgment, and may at any time, upon satisfactory proof, vacate and set aside such judgment, on the ground that the tax in question was paid before judgment was rendered, or that the real estate in question was not subject to taxation. Application to open such judgment may be summary upon such notice to the purchaser and county auditor of the proper county as the court may direct, and, in case a defense is allowed to be interposed, the case shall proceed in all respects as in defended cases under this act. (1878, c. 1, § 80, as amended 1887, c. 91, § 2.)

The only mode of reviewing a judgment for taxes is the one here pointed out. County of Washington v. German-Amer. Bank, 28 Minn. 360, 10 N. W. Rep. 21.

The supreme court, on the hearing of a certified case, will give the same effect to the findings of fact which have been properly made by the district court, and to its decision, as is ordinarily given to the determination of a trial court. County of Ramsey v. Chicago, etc., Ry. Co., 33 Minn. 537, 539, 24 N. W. Rep. 313.

No costs are allowed in tax cases certified to the supreme court under this section. County of Olmstead v. Barber, 31 Minn. 256, 263, 17 N. W. Rep. 473.

***§ 82. Annual tax-judgment sale—Notice.**

On the first Monday in May in each year the county auditor shall sell all pieces or parcels of land against which judgment has been rendered for the taxes of the

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preceding year or years. Before making such sale, he shall give notice thereof by posting such notice, one copy in the office of the clerk of the court where the judgment shall have been entered, one copy in the office of the county treasurer, and one copy at some conspicuous place at the county-seat of said county, at least ten days before the day of sale, and by publishing such notice once in each of two successive weeks, the first publication to be at least fifteen days before the day of sale, in some daily or weekly newspaper printed in the English language, published in the county where such lands are situated, if there be one. If there be none, then in one published in the county in which the judgment shall have been entered; or if there be none in either, then in one published in some county in the judicial district: *provided*, that in all cases where answer has been filed as provided by law, and judgment shall have been entered, the county auditor shall give the required notice by publication and otherwise, and within thirty days after judgment has been entered proceed to sell all property against which taxes stand charged in such judgment. The notice herein required may be substantially in the following form:

Tax-Judgment Sale.

Pursuant to a real-estate tax judgment of the district court in the county of _____, State of Minnesota, entered the _____ day of _____, in proceedings for enforcing payment of taxes and penalties upon real estate in the county of _____, remaining delinquent on the first Monday in January, 18____, and of the statutes in such case made and provided, I shall on the _____ day of _____, at ten o'clock in the forenoon, at _____, in the town or city of _____, and county of _____, sell the lands which are charged with taxes; penalties, and costs in said judgment, and on which taxes shall not have been previously paid.

_____,
Auditor of _____ County.

At the time and place appointed in such notice, the county auditor shall commence the sale of such lands, and proceed with the sale thereof from day to day, for six consecutive days, or until the whole shall have been sold. (1878, c. 1. § 82, *as amended* 1881, c. 10, § 15; 1885, c. 2, § 20.)

See Supervisors of Ramsey Co. v. Heenan, 2 Minn. 330, 340, (Gil. 281, 292;) Kipp v. Dawson, 31 Minn. 373, 378, 17 N. W. Rep. 961, and 18 N. W. Rep. 96.

***§ 84. Certificate of sale—Title.**

The auditor shall execute to the purchaser of any piece or parcel of land a certificate, which may be substantially in the following form:

I, _____, auditor of the county of _____, state of Minnesota, do hereby certify that at the sale of lands, pursuant to the real-estate tax judgment entered in the district court in the county of _____, on the _____ day of _____, 18____, in proceedings to enforce the payment of taxes delinquent upon real estate for the years _____, for the county of _____, which sale was held at _____, in said county of _____, on the _____ day of _____, the following described piece or parcel of land, situate in said county of _____, state of Minnesota, to-wit, (insert description,) was offered for sale to the highest bidder above the amount for which the same was subject to be sold; and at said sale I did sell the said piece or parcel of land to _____ for the sum of _____, that being the highest sum bid therefor; and he having paid said sum, I do therefore, in consideration thereof, and pursuant to the statute in such case made and provided, convey the said piece or parcel of land, in fee-simple, to said _____, his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand and official seal, this _____ day of _____, 18____.

[L. S.]

County Auditor.

Such certificate, in case the land shall not be redeemed, shall pass to the purchaser the estate therein expressed, without any other act or deed whatever. Such certificate may be recorded, after the time for redemption shall have expired, as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the record of such deeds, and shall be evidence in like manner. If any purchaser shall at said sale purchase more than one piece or parcel, the auditor shall issue to the purchaser a certificate for each piece or parcel so purchased. (1878, c. 1, § 84, *as amended* 1881, c. 10, § 16.)

Under the act of 1874, held, that a certificate containing no date of sale is invalid, and not evidence of title. *Gillilan v. Hobart*, 35 Minn. 185, 28 N. W. Rep. 222.

The certificate does not give the holder title or the right to possession before the expiration of the period for redemption. *McLellan v. Omodt*, 33 N. W. Rep. 326. Until the time to redeem expires, he acquires only a lien, but no estate or interest in the land. *Brackett v. Gilmore*, 15 Minn. 245, (Gil. 190.)

See *Stewart v. Railway Co.*, 36 Minn. 355, 31 N. W. Rep. 351; and note to section 121, *post*.

***§ 85. Certificate as evidence—Grounds of avoiding sale—
New sale.**

Such certificate, or the record thereof, shall in all cases be *prima facie* evidence that all the requirements of law with respect to the sale have been duly complied with, and of title in the grantee therein, after the time for redemption has expired, and no sale shall be set aside or held invalid unless the party objecting to the same shall prove either that the taxes were paid before judgment was rendered, or that the real estate was exempt from taxation, or that the court rendering the judgment pursuant to which the sale was made, had not jurisdiction to render the judgment, or that, after the judgment and before the sale, such judgment had been satisfied, or that notice of sale, as required by this act, was not given, or that the piece or parcel of land was not offered at said sale to the bidder who would pay the amount for which the piece or parcel was to be sold, nor unless that action in which the validity of the sale shall be called in question be brought, or the defense alleging its invalidity be interposed, within three years after the date of the sale, except that any sale may be set aside or held invalid, at any time, on satisfactory proof that the taxes were paid before judgment was rendered, or that the real estate was exempt from taxation. If any sale shall be set aside by reason of any defect in the proceedings subsequent to the entry of the judgment, the court so setting aside the sale shall have power in such case to order a new sale to be made, as near as may be, in accordance with the provisions of this act: *provided*, that every judgment rendered against any tract or parcel of land for a tax which has been paid before the entry thereof, or where the land was exempt from taxation, shall be void; and all sales made, under such judgment, or under a judgment which has been paid, shall be void, and no title or interest in any tracts or parcel of land sold under such judgment shall pass or be conveyed to any purchaser at such sale. In any action brought to set aside or cancel such sale, or in any action [in which] the validity of such sale may arise, the tax receipt, or the duplicate stub thereof, or any other record of the payment of such tax in the office of the county auditor or county treasurer, shall be *prima facie* evidence of the payment of such tax; but such payment shall not be established by parol testimony only. In such action the county in which the land is situated, or the state, if the county or state claim any interest in the land sold under such judgment, may be made parties defendant, in which case the county attorney shall appear for and in behalf of such county and state. An action to set aside and cancel such sale may be commenced at any time. (1878, c. 1, § 85, *as amended* 1887, c. 91, § 3, *approved March 5*; *and c. 60, § 3, approved March 8.*)

To make the tax certificate *prima facie* evidence it is not necessary to prove that there has been no redemption. The auditor's certificate of no redemption, provided for

in § 100, is only necessary as a prerequisite to record. *Stewart v. Colter*, 31 Minn. 385, 389, 18 N. W. Rep. 98.

The limitation of three years does not apply to tax sales had under Laws 1875, c. 5, § 30. *O'Mulcahy v. Florer*, 27 Minn. 449, 8 N. W. Rep. 166.

As to irregularities in the proceedings, and their effect on tax titles, see *Gage v. Mayer*, (Ill.) 7 N. E. Rep. 97; *Harland v. Eastman*, (Ill.) 8 N. E. Rep. 810; *Wallahan v. Ingersoll*, (Ill.) 7 N. E. Rep. 519; *Gage v. Bailey*, (Ill.) 4 N. E. Rep. 777; *Langdon v. Stewart*, (Mass.) 8 N. E. Rep. 605.

***§ 85a. Illegal tax sales—Relief.**

That whenever any taxes or assessments heretofore have been, or hereafter may be, levied or assessed upon any tract or lot of land in this state, and such taxes heretofore have been, or hereafter shall be, paid, and after any such payment, any such taxes or assessments heretofore have been, or hereafter shall be, returned as delinquent, and any such tract or lot heretofore has been or hereafter shall be, sold, under any law of this state, for such alleged delinquent taxes, and the validity of such sale heretofore has been, or hereafter shall be, in any manner brought in question in any action, suit, or proceeding that heretofore has been, or hereafter may be, commenced, tried, or determined in any court of record of this state, or of the United States, sitting within the district of Minnesota, and any such court heretofore has, or hereafter shall, in any such action, suit, or proceeding, adjudge, decree, determine, or hold any such sale to be valid, then, and in such case, the owner, at the time of any such tax sale of any such tract or lot, shall have and maintain an action against the county in which such tract or lot is situate, for the recovery of the value of any such tract or lot. (1887, c. 131, § 1.*)

***§ 85b. Same—Damages.**

In any action that may be brought under this act, such owner shall be entitled to recover of such county the value of such tract or lot at the time of the determination of the action, suit, or proceeding in which the validity of any such tax sale heretofore has been, or hereafter may be, brought in question, with interest thereon from the time of such determination, together with all costs, disbursements, and expenses adjudged against or incurred by him in the action last aforesaid, and also the costs and disbursements of the action brought to recover the value of any such tract or lot. (*Id.* § 2.)

***§ 85c. Same—Limitation—Procedure.**

All actions brought under or by virtue of this act shall be commenced within six years after the final determination of the action in which the validity of any such tax sale heretofore has been, or hereafter may be, brought in question, and shall be commenced, prosecuted, and tried in the same manner as other civil actions. (*Id.* § 3.)

***§ 87. Who may purchase—Purchase by owner.**

Any person, except county auditors, county treasurers, and each of their deputies or clerks, may become the purchaser at such sale. If the owner purchase, the sale shall have the effect to pass to him (subject to redemption as herein provided) every right, title, and interest of any and every person, company, or corporation, free from any claim, lien, or incumbrance, except such right, title, interest, lien, or incumbrance as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made; and no such sale of real estate for taxes shall be considered invalid on account of the same having been charged in any other name than that of the rightful owner: *provided*, that nothing herein contained shall be so construed as to prevent any such officer or his deputy or clerk from becoming the purchaser, at such sale, of any lands of which he

*"An act for the relief of persons whose lands heretofore have been, or hereafter may be, sold for alleged delinquent taxes, in cases where such taxes have been or may be paid prior to such sale." Approved February 28, 1887.

may be the owner, or upon which he may have a lien: *provided, further*, that no county auditor, county treasurer, their deputies or clerks, shall act as agent or attorney for the purchasers at such sale. (1878, c. 1, § 87, *as amended* 1881, c. 10, § 17.)

***§ 88. Taxes subsequent to sale.**

The provisions of this section, and of § 98, *infra*, relating to the tacking of subsequent taxes paid by the purchaser, must be construed with the provisions of § 90, and are limited thereby to delinquent taxes. *Sprague v. Roverud*, 34 Minn. 475, 26 N. W. Rep. 603.

***§ 89. Property bid in for state—Assignment—Form—Record—Evidence.**

At any time after any piece or parcel of land shall have been bid in for the state, and before such piece or parcel of land shall have become forfeited to the state, and while such tract or parcel of land shall remain unredeemed, the county auditor shall assign and convey the same, and all the right of the state in any such piece or parcel of land acquired at such sale, to any person except the county auditor, county treasurer, and their deputies or clerks, who shall pay the amount for which the same shall have been bid in, with interest, and the amount of all subsequent delinquent taxes, penalties, costs, and interest upon the same; and shall execute to such persons a certificate or conveyance for each piece or parcel, which may be substantially in the following form:

I, _____, auditor of the county of _____, state of Minnesota, do hereby certify that at the sale of lands pursuant to the real-estate tax judgment, entered in the district court in the county of _____, on the _____ day of _____, 18—, in proceedings to enforce the payment of taxes delinquent upon real estate for the years _____ for the county of _____, which sale was held at _____, in said county of _____, on the _____ day of _____, the following described piece or parcel of land, situate in said county of _____, state of Minnesota, to-wit, (insert description,) was offered for sale to the highest bidder above the amount for which the same was subject to be sold; and, no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the same was then bid in for the state at such amount, being the sum of _____, and the same still remaining unredeemed, and on this day _____ having paid into the treasury of said county the amount for which the same was so bid in, and all subsequent delinquent taxes, penalties, costs, and interest, amounting in all to _____ dollars: therefore, in consideration thereof, and pursuant to the statute in such cases made and provided, I do hereby assign and convey the said piece or parcel of land in fee-simple, with all the right, title, and interest of said state acquired therein at said sale, to the said _____, his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand and official seal this _____ day of _____, 18—. [L. s.] _____,

County Auditor.

Which certificate or conveyance may be recorded, after the time of redemption shall have expired, as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the records of such deeds; and the same, or the record thereof, shall be evidence in like manner; and with like force and effect, as the certificate provided for in section eighty-four of this act. (1878, c. 1, § 89, *as amended* 1881, c. 10, § 18.)

See *Pigott v. O'Halloran*, 35 N. W. Rep. 4, and note to § 121, *post*.

***§ 90. Same—Redemption.**

If, at said sale, any piece or parcel of land shall be sold to a purchaser, or the piece or parcel bid in for the state, the same may be redeemed, at any

time within three years from the date of sale, by any person having an interest therein, who shall pay into the treasury of the county, for the use of the person thereto entitled:

When right of state not assigned.

First. If such piece or parcel shall have been bid in for the state, and the right of the state shall not have been assigned, the amount for which the same was bid in, with interest and the amount of delinquent taxes, penalties, costs, and interest thereon.

When right has been assigned.

Second. If the right of the state shall have been assigned, the amount paid by the assignee, with interest from the day when so paid, and all unpaid delinquent taxes, interest, costs, and penalties that may have accrued on such piece or parcel after such assignment; and if he shall have paid any delinquent taxes, penalties, costs, or interest accruing subsequent to the assignment, the amount so paid by him, with interest from the day of such payment.

When sold to a purchaser.

Third. If the same shall have been sold to a purchaser, the amount paid by such purchaser, with interest; and, if he shall have paid any subsequent delinquent taxes, penalties, costs, or interest accruing subsequent to the sale, the amount so paid by him, with interest from the day of paying the same, and all unpaid delinquent taxes, interest, costs, and penalties accruing subsequent to such sale.

Certificate by auditor—Receipt by treasurer.

The county auditor shall certify to the amount due upon such redemption; and, on payment of the same to the county treasurer, he shall make duplicate receipts for the certified amount, describing the property redeemed, one of which shall be filed with the county auditor, which shall have the effect to annul the sale. If the amount so paid for the purpose of redemption be less than that required by law, it shall not invalidate such redemption, but the auditor shall be liable for the deficiency to the person entitled thereto. (1878, c. 1, § 90, as amended 1887, c. 60, § 4.)

[See *post*, *§ 101, as to time of redemption.]

Where land is sold as one tract, the owner of a part of the tract may redeem the whole, but he cannot redeem a part of it. *State v. Schaack*, 28 Minn. 358, 10 N. W. Rep. 22.

This section permits the purchaser to tack to the amount of his claim against the land such subsequent taxes only as have become delinquent when paid by him. *Sprague v. Roverud*, 34 Minn. 475, 26 N. W. Rep. 603.

***§ 91. Redemption by minors, etc.**

The suit authorized by this section is one not merely to establish the right to redeem from a tax sale, but to effect a redemption. In it the court must declare what land, estate, or interest the plaintiff may redeem, and how much he shall pay for that purpose. *Goodrich v. Florer*, 27 Minn. 97, 6 N. W. Rep. 452.

***§ 94a. Forfeited lands—Hay, timber, etc.**

Any hay, wood, or timber cut upon lands forfeited to the state under the provisions of the general tax law shall be liable to seizure and sale by the county treasurer at any time, and wherever found, prior to its possession by a *bona fide* purchaser, to satisfy the taxes, interest, and costs that may be due on the tract or lot upon which it may have been cut; and the said treasurer, in making such seizure and sale, shall be governed by the provisions of law prescribing his duties in the collection of personal property taxes. (1881, c. 142, § 1.)

***§ 95. Clerk's and sheriff's fees.**

The fees of the clerk of the court in said proceedings shall be as follows: For all services (except oaths administered to witnesses on trial) to and in-

cluding the entries to be made by him on the right-hand page of the real-estate tax judgment book, fifteen cents for each and every description, which, with fifteen cents (or such rate as may be paid) per description, for reimbursement of the county for publication of the notice and list, shall be included in the amount charged to each description in the judgment; for each oath administered to witness on the trial of any answer, fifteen cents, which shall be included in any amount charged by the judgment against any piece or parcel with respect to which the oath was administered; for issuing a writ of attachment as herein provided, including the filing of the affidavit and order of allowance, and filing the writ and return when returned, fifty cents. All which fees shall be paid to him by the county in which the taxes are levied: *provided*, that in the counties Ramsey and Hennepin such fees shall be paid into the county treasury to the use of the county. To the sheriff shall be allowed, for serving the writ of attachment provided by the preceding section, and receiving or collecting the money, the same fees as are allowed by law upon an execution in a civil action; and in case he brings suit as herein provided, such additional compensation as the district court may allow, not exceeding one-half the fees as are allowed by law for all like services in ordinary cases. (1878, c. 1, § 95, *as amended* 1885, c. 2, § 19.)

Fees of county treasurer on sales of delinquent lands. *Bingham v. Winona County*, 8 Minn. 441, (Gil. 390.)

***§ 97. Void sales—Judgment—Refunding price.**

When any tax sale is declared void by judgment of court, such judgment shall state for what reason such sale is annulled; and in all cases where any sale has been, or hereafter shall be, so set aside, the money paid by the purchaser at the sale, or by the assignee of the state on taking the assignment certificate, and all subsequent taxes, penalties, and costs that may have been paid thereon, shall, with interest at the rate of ten per cent. per annum from the date of such payment, be returned to the purchaser or assignee, or the party holding his right, out of the county treasury, on the order of the county auditor. Such proceedings shall not operate as a payment or cancellation of any tax included in the judgment or refundment, but the same shall stand as originally extended against the property, and, with all accruing penalties, interest, and costs, be included with the taxes thereon for the current year in the next delinquent tax sale: *provided*, that when lands have been sold for taxes, the title to which, at the time such tax was levied thereon, was in the United States, the state of Minnesota, or of any railroad company, and not subject to taxation, upon the presentation to the county auditor of the certificate of the register of the United States land-office of the district in which such lands are situated, or of the state auditor, or of the proper officer of the railroad company, approved by the state auditor, showing the date of entry or sale of such lands, if any, the amount paid on such sale, and for subsequent taxes levied prior to such entry or sale, shall be refunded to the tax purchaser or his assigns, with interest as herein provided; and if such lands were bid in by the state of Minnesota, the state auditor shall cancel such sale and satisfy the tax judgment. This *proviso* shall also apply to sales of real estate upon which satisfactory proof shall be made to the county auditor that the taxes had been paid prior to sale, or that the property was otherwise legally exempt from taxation, or that it was taxed on a duplicate assessment: *provided, further*, that the provisions of this section shall apply to all sales of land for taxes made prior to the passage of this act. (1878, c. 1, § 97, *as amended* 1881, c. 10, § 19.)

This section, as amended in 1881, is constitutional. *Easton v. Hayes*, 35 Minn. 418, 29 N. W. Rep. 59.

This section applies to a case where the sale was made prior to the date of the passage of the statute, but the judgment declaring it void was rendered subsequently. *State v. Cronkbite*, 28 Minn. 197, 9 N. W. Rep. 681.

In the cases provided for in this section as amended, (Laws 1881, c. 10, § 19,) the tax for any prior year may be inserted in the list, though there be no tax becoming delinquent in the current year. County of Olmsted v. Barber, 31 Minn. 256, 259, 262, 17 N. W. Rep. 473.

The rule in State v. Cronkhite, *supra*, held not to apply, at least, where the subsequent statute gave a lower rate of interest than that given by the statute in force when the sale took place. Such a statute will not be allowed to act retrospectively. State v. Foley, 30 Minn. 350, 15 N. W. Rep. 375.

In proceedings to enforce payment of taxes against real estate, jurisdiction as to a particular tract is not affected by the fact that taxes upon such tract have been previously paid. The rule is not changed by Gen. Laws 1881, c. 10, § 19. Chauncey v. Wass, 35 Minn. 1, 25 N. W. Rep. 457, 30 N. W. Rep. 826.

See Howes v. Gillett, 23 Minn. 231; Fleming v. Roverud, 30 Minn. 273, 15 N. W. Rep. 119; Goldschmidt v. Mills, 33 N. W. Rep. 544.

***§ 98. Interest on tax judgments and purchase money.**

The amount charged by the judgment against any piece or parcel of land shall bear interest at the rate of one per cent. per month from the date of the sale. The amount for which any piece or parcel shall be sold, or bid in for the state, shall bear interest from the date of the sale until redemption at the rate of one per cent. per month; and the amount paid by any assignee for the right of the state shall bear interest at the same rate until redemption. All penalties, costs, and interest accruing on lands bid in for the state, before redemption or assignment, when not otherwise provided by law or special act, shall be apportioned to the county revenue fund. The amount paid by any purchaser or assignee of the state for taxes, penalties, costs, and interest accruing subsequent to the sale or assignment, shall bear interest at the same rate until redemption: *provided*, that when the amount bid and paid by the purchaser at any public sale shall be greater than the amount charged by the judgment, such purchaser shall be entitled to interest upon no greater amount than that charged by said judgment. (1878, c. 1, § 98, *as amended* 1887, c. 60, § 5.)

See Sprague v. Roverud, cited in note to § 88, *supra*.

***§ 100. Indorsement on certificates.**

See Stewart v. Colter, cited in note to § 85, *supra*.

***§ 101. Sale of property bid in for the state — Timber lands.**

All pieces or parcels of real property bid in for the state under the provisions of this act, and not redeemed within two years from the date of sale, shall become the absolute property of the state, and may be disposed of by the county auditor at public or private sale, as the auditor of state may direct, subject to such rules and restrictions as he may prescribe. The county auditor shall, when required by the auditor of state, make out and transmit to him a list of all forfeited lands and lots, showing the date of forfeiture, assessed valuation, amount of taxes, penalties, interest, and costs due on each description of property; and no tract or lot shall be sold for less than the amount so shown to be due thereon, unless such amount exceeds the actual value of the property, in which case it may be sold for such sum as it will bring at public or private sale. Any person having an interest in or lien upon any piece or parcel of forfeited land may redeem the same, at any time after forfeiture, and before sale thereof, by paying the amount due thereon: *provided*, that if any lands having valuable timber thereon have been or may hereafter be sold under the provisions of this section, and an amount of timber, equal in value to the amount paid by the purchaser under this section, shall have been removed or sold by said purchaser or his assignee, then said purchaser or assignee shall not be entitled to any refundment from the county, if the title obtained from the state proves to be invalid for any reason except

that the taxes had been paid prior to said sale under this section. (1878, c. 1, § 101, *as amended* 1885, c. 2, § 21.)

[But see *ante*, *§ 90, as to time of redemption.]

See *State v. Smith*, 36 Minn. 456, 32 N. W. Rep. 174.

***§ 102. Sale of forfeited property—Deed—Proceeds.**

Upon the sale of any tract or lot of forfeited real property, the county auditor shall execute to the purchaser thereof a deed in fee-simple of the property so purchased, which shall pass to such purchaser an absolute title to the estate therein described, without any other act or deed whatever; and when so sold, such lands or lots shall be again listed for taxation. If the former owner of such forfeited property becomes the purchaser, such deed shall pass to him any and all rights of action which may have arisen or may exist for any trespass committed upon such property prior to the execution of the deed. Such deed may be recorded as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the record of such deeds, and shall be evidence in like manner. The proceeds of all lands or lots sold at such sale, for a sum equal to or exceeding the amount of taxes due thereon, shall be distributed the same as other collections of taxes; but if any tract or lot shall be sold for any sum less than such amount, the state tax shall first be paid, and the remainder, if any, shall be divided equally between the county revenue and general school funds: *provided*, that such deed, or the record thereof, shall be evidence in like manner and with the same force and effect as the certificate provided for in section eighty-four of this chapter. (1878, c. 1, § 102, *as amended* 1885, c. 15.)

[The last proviso added by amendment of 1885, approved March 5, 1885. § 2 provides that "this act shall take effect and be in force from and after its passage, but shall not apply to or affect any deed the validity of which is involved in any action now pending in any court of this state."]

See *Murphy v. Doyle*, 33 N. W. Rep. 220; *Sherburne v. Rippe*, 35 Minn. 540, 29 N. W. Rep. 322.

***§ 104. Mortgagees, etc.—Taxes paid by.**

If a mortgagee, before foreclosure, pays taxes on the mortgaged property, he does not thereby acquire a personal claim against the mortgagor. His only remedy is to add the sum so paid to the amount due on the mortgage when he forecloses. For those paid after foreclosure he has no remedy. *Spencer v. Levering*, 8 Minn. 461, (Gil. 410.)

What is a sufficient claim to a lien for taxes paid, in a notice of foreclosure of a mortgage containing a power of sale, see *Jones v. Cooper*, 8 Minn. 334, (Gil. 294.)

As to the rate of interest to which a mortgagee, who has been in receipt of the rents and profits, is entitled, on taxes paid by him, see *Martin v. Lennon*, 19 Minn. 67, (Gil. 45.)

See *Northwestern Mut. Life Ins. Co. v. Allis*, 23 Minn. 337; *Coles v. County*, 35 Minn. 124, 27 N. W. Rep. 497.

***§ 104a. Void taxes paid by mortgagees, etc.—Refunding.**

Whenever money has been paid, or hereafter shall be paid, for taxes on any land by a person who holds a mortgage on such land, or who in good faith believes himself to be the owner of such land under a mortgage foreclosure, which foreclosure has been or hereafter shall be declared void, the money so paid, with interest from the date of such payment, at the rate of seven per cent. per annum, shall be refunded to such person, his executors, administrators, or assigns, whenever such taxes have been or hereafter shall be adjudged void in an action for the foreclosure or reforeclosure of said mortgage. (1885, c. 261, § 1.*)

Not unconstitutional as applied to cases arising before the passage of the act. *Coles v. County*, 35 Minn. 124, 27 N. W. Rep. 497.

*"An act to authorize the refunding of money paid by mortgagees for taxes which have been or shall be declared void." Approved March 9, 1885.

***§ 104b. Same—Authority for refunding—Reassessment.**

Such moneys shall be refunded on the order of the county commissioners, by the county treasurer, on the presentation to said commissioners of a certified copy of the final decree or judgment declaring said taxes void; and said lands shall thereafter become subject to reassessment for the taxes so adjudged void. (*Id.* § 2.)

***§ 104c. Moneys refunded—Chargeable, to what district.**

All moneys so refunded shall be charged among the various taxing districts in the proportion in which they shared in the amount originally paid. (*Id.* § 3.)

***§ 105. Lien of taxes—Grantor and grantee.**

The taxes assessed upon real property shall be a lien thereon from and including the first day of May, in the year in which they are levied, until the same are paid; but, as between grantor and grantee, such lien shall not attach until the first Monday in January of said year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed, from and after the time the tax-books are received by the county treasurer. (1878, c. 1, § 105, *as amended* 1885, c. 2, § 22.)

As to the lien of the state, for taxes, see *Webb v. Bidwell*, 15 Minn. 479, (Gil. 394; *County of Hennepin v. St. Paul, etc.*, Ry. Co., 33 Minn. 534, 24 N. W. Rep. 136.

***§ 106. Deed—Recording—Auditor's certificate of taxes paid, etc.**

When any deeds, plat of any town-site, or instrument affecting the same, or any other conveyance of real estate, is presented to the county auditor for transfer, he shall ascertain from the books and records in his office if there be delinquent taxes due upon the land described therein, or if it has been sold for taxes; and if there are delinquent taxes due, he shall certify to the same; and upon the payment of such delinquent or other taxes that may be in the hands of the county treasurer for collection, he shall transfer the same, and note upon every deed of real property so transferred, over his official signature, "taxes paid and transfer entered;" or if the land described has been sold or assigned to an actual purchaser for taxes, "paid by sale of land described within;" and unless such statement is made upon such deed or other instrument, the register of deeds shall refuse to receive or record the same. A violation of the provisions of this section by the register of deeds shall be deemed a misdemeanor, and, upon conviction thereof, he shall be punished by a fine not less than one hundred dollars, nor exceeding one thousand dollars, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained: *provided*, that sheriffs' or referees' certificates of sales on executions, decrees, or foreclosures of mortgages, may be recorded by the register of deeds without any such certificate from the county auditor. *And provided*, that the provisions of this section shall not apply to the filing of any town or village plat, for the purpose of incorporation, in so far as the land therein embraced is included in a plat already filed in the office of the register of deeds, or in so far as the description of lands therein is not changed by said plat; nor to the filing of a copy of any town or village plat, in case the original plat of such town or village, filed in the office of the register of deeds, shall have been lost or destroyed: *provided*, this act* shall not apply to Ramsey and Hennepin counties. (1878, c. 1, § 106, *as amended* 1887, c. 263.)

Applied. *State v. Register of Ramsey Co.*, 26 Minn. 521, 524, 6 N. W. Rep. 337.

*This proviso is contained in the act of 1887, which added the last preceding proviso.

***§ 108. Irregular tracts—Platting.**

Sufficiency of description of land in plat, and in surveyor's certificate thereto annexed. *Williams v. Central Land Co.*, 32 Minn. 440, 21 N. W. Rep. 550.

***§ 110. Letting publication of tax-lists.**

There can be no valid letting by the board of county commissioners of the advertising of the list of the delinquent taxes on real estate without a designation of the newspaper in which such list shall be published. *Hall v. County of Ramsey*, 30 Minn. 68, 70, 71, 14 N. W. Rep. 263.

Sufficiency of the allegations in the complaint, in an action by the person contracting for the publication of the list, against the county, for the agreed price of such publishing, determined. *Folsom v. County of Chisago*, 23 Minn. 324, 9 N. W. Rep. 881.

***§ 113. Property omitted from assessment—Uncollected taxes—Subsequent assessment.**

If any real or personal property shall be omitted in the assessment of any year or years, and the property shall thereby escape taxation, when such omission shall be discovered the county auditor shall enter such property on the assessment and tax-books for the year or years omitted, and he shall assess the same, and extend all arrearage of taxes properly accruing against said property, with seven per cent. interest thereon from the time said taxes would have become delinquent, and the same shall be extended against such property on the tax-list for the current year. If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.* (1878, c. 1, § 113, *as amended* 1881, c. 5, § 1; 1885, c. 2, § 23.)

***§ 118. Public and railroad lands to be certified for taxation.**

On or before the first day of April in each year the auditor of state shall obtain lists of all government and railroad lands becoming taxable, and he shall compile from such lists, and from the records of sales of state land, complete lists of all such lands; and on or before the fifteenth day of April in each year he shall certify the same for taxation to the auditors of the counties in which said lands may be situated. He shall also at the same time obtain lists of lands reverting to the railroad companies each year, by reason of the forfeiture of contracts, and certify the same to the respective county auditors for cancellation of taxes; and it shall be the duty of the railroad companies to report such sales and forfeitures on or before the first day of April each year to the auditor of state: *provided*, that all forfeited lands not so reported shall be held for all taxes accruing therein. (1878, c. 1, § 118, *as amended* 1881, c. 10, § 20.)

*Gen. Laws 1879, c. 55, entitled "An act to provide for the collection of delinquent taxes in certain cases," enacts as follows:

§ 1. IRREGULAR SALES, ETC.—RESALE. In any county where there has been a failure from any cause, to be ascertained and determined by the county auditor, to advertise, or by reason of such failure, or of a defective advertisement, to sell any tract or lot of real property, or the entire list of real property, subject to delinquent taxes for any year or years, according to the provisions of the general tax law, and in all cases where a tax sale, or the certificate issued thereon, shall have been set aside for any cause to be ascertained and determined by the county auditor, such property shall be included in the delinquent list of the present year, if such taxes shall remain unpaid, and the same proceedings shall be had against such property as for taxes becoming delinquent this year, and judgment shall be rendered for the taxes, with interest thereon from the date it should have been sold, with all accruing penalties and costs.

§ 2. UNPAID TAXES. If there are personal taxes remaining unpaid in any county for any year or years prior to the year one thousand eight hundred and seventy-eight, for which a judgment has not been rendered as provided by law, the county treasurer shall proceed to collect such taxes, and make return of all that he may be unable to collect with the personal taxes now in his hands for collection.

*§ 118a. Railroad lands—Liability to tax laws.

Whenever any railroad company, to which lands have been granted to aid in the building of its line of road in the territory or state of Minnesota, and which lands have been by law exempted from taxation until leased, contracted, or sold by said company, has sold, assigned, transferred, or disposed of, or shall sell, assign, transfer, or dispose of, any estate, right, title, or interest therein or thereto, the right, title, estate, or interest of such purchaser, assignee, or holder, by whatsoever mode or in whatsoever form such sale, transfer, or assignment is or may have been made, shall become and be taxable, and shall be assessed and taxed as other real property in this state; and the taxes of such right, title, interest, or estate shall be collected and enforced as taxes on other real property; and the purchaser at any such tax sale of such right, title, interest, or estate, or the successor in interest of such purchaser, shall acquire, take, hold, or be subrogated to all the right, title, interest, or estate of the person holding the same under or from the railroad company; and said purchaser at such sale, or his successor in interest, shall have the right to do any and every act or thing which the said person holding such right, title, interest, or estate under such railroad company might, could, or should do or have done in order to be entitled to a perfect title or deed of such lands; and, on performance, the purchaser at such tax sale, or his successor in interest, shall be entitled to a deed of such lands from the railroad company holding the legal title thereto: *provided, always*, that the right of redemption from such tax sale shall exist as in other cases of the purchase of real property at tax sales: and *provided, further*, that the purchaser of any such lands, or of such right, title, interest, or estate in such lands sold for delinquent taxes, or as forfeited to the state, shall acquire, and shall only acquire, by virtue of such purchase, such rights and interests as belong to the person holding or claiming under the railroad company, as aforesaid, and the right to be substituted in the place of such holder or claimant under the railroad company, and as the assignee of all his interests and rights to all intents and purposes. And upon the production to the proper officer of such railroad company, of the tax certificate obtained on the purchase at such tax sale, in case such lands have not been redeemed, such purchaser at such tax sale, or his successor in interest, shall have the right to make any payment of principal or interest due or to grow due (if any) upon or on account of such lands to said railroad company as the assignee of the rights of the person purchasing, holding, or claiming under the said railroad company prior to the redemption of such lands. In case the holder under the railroad company shall fail to redeem such lands within the time allowed by law, and at the same time also pay to the treasurer of the county in which such lands lie, for the use of the holder of such tax certificate, all payments of principal and interest, if any, by him made to said railroad company on account of said lands, with interest from the time they were so made, at twelve per cent. per annum, then the holder or owner of such tax certificate, upon the receipt of his tax deed thereupon duly given, and the filing of a certified copy of the same with the land commissioner or proper officer of such railroad company, shall be entitled to receive, and the said land commissioner or proper officer of such railroad company shall execute to him, such a deed or contract, on such evidence of sale or right to said lands as was issued to the original purchaser, holder, or claimant under the railroad company, or as such original claimant would be entitled to, and with the like force and effect as such original contract or evidence of sale or right to such lands, and in lieu of such original contract, certificate, or evidence of sale. (1887, c. 128, § 1.)*

*"An act to provide for the taxation of lands held or which have been held by railroad companies in this state, and for the taxation of certain rights, interests, and estates in such lands." Approved March 1, 1887.

***§ 118b. Same.**

That whenever any special stock or land stock, or any other writing or instrument whatever, is or has been issued by any railroad company to any person or persons, with a view or intention to thereby grant or transfer or secure to the person to whom such stock or instrument is issued or delivered, any interest, right, title, or estate in or to any lands held by such railroad company, the right, title, interest, or estate of such person holding such special stock, stock bond, writing, or instrument in or to the lands to which such stock or writing is applicable or refers, shall be held and considered within the purview of this act subject to taxation, and shall be taxable and taxed as aforesaid. (1887, c. 128, § 2.)

***§ 118c. Same—Invalid tax sale—Refunding.**

In case the tax title of the purchaser at any tax sale of any such lands or interest on lands as are referred to in this act, or of his successor in interest, shall be held or adjudged invalid for any reason, then, in such case, the holder of such tax certificate shall be entitled to recover from the treasurer of the county to which such taxes were paid the amount of such taxes so paid, with interest thereon at the rate of eight per cent. per annum. (*Id.* § 3.)

***§ 118d. Same—Assessment—Attacking—Burden of proof.**

In the assessment or taxation of such lands, or of any interest or estate in such lands, or in any of the proceedings to collect or enforce such tax, it shall not be necessary to state the name or names of the owner or owners of such lands or of such interest so assessed, but it shall in all such proceedings be sufficient to describe or refer to such owner or owners as "unknown," and in all such proceedings to assess or tax or to enforce any tax on or against such lands or interest, the burden of proof shall be on the person claiming or alleging that such tax is invalid, or who sets up any defense against the same, to allege in his answer, and to show on trial the particular facts establishing such invalidity or illegality. And if it is alleged that such lands or interests are exempt from taxation for any reason, it shall be incumbent on and necessary for the person attempting to establish such defense to allege and to affirmatively prove the same; and if there be any facts within the knowledge of the person setting up such defense, showing, or tending to show, or which might show, that such lands or any estate or interest therein have been bargained, sold, or transferred to any person whose property is not by the laws of this state exempt from taxation, it shall be incumbent on such person to set up and prove such facts particularly. The answer in every such case shall be duly verified, and if any person verifying such answer shall willfully misstate any matter or facts in the verification, he shall be guilty of the crime of perjury, and the judge or court before whom such action or proceeding is tried shall have the power to require the answer or verification to be made more full and particular, and in default thereof to strike out the same. On any such trial the burden shall be on any person claiming that such lands or interest are exempt from taxation to show that the railroad company to which they were granted had not sold or transferred such lands, or any estate or interest therein, at or prior to the time when such tax was levied or assessed. The assessment or levy of such tax shall be *prima facie* evidence of its legality, and the lands or interests taxed were subject to taxation at the time such tax was levied. (*Id.* § 4.)

***§ 118e. Same—Pending litigation—Assessment.**

It shall be proper for the proper assessing officer or officers of any county or subdivision of the state in which any of the lands referred to in this act lie, for the year one thousand eight hundred and eighty-seven, and any subsequent year during which the question of the taxability of such lands or inter-

ests may be in litigation, in fixing the rate for assessment or taxation in such county or subdivision of the state, to fix such rates so as to raise the sum required to be raised for any general or special purpose, as if the lands or interests referred to in this act were not taxed for such year, and so that the tax or sum levied on the other property of such county or subdivision of the state shall be sufficient to meet all sums to be raised by tax for that year: *provided*, that the lands or interests in this act referred to shall be assessed and taxed as other property in such county or subdivision of the state, and shall be collected as such taxes. (*Id.* § 5.)

***§ 118f. Railroad companies—Report to state auditor.**

If any railroad company shall issue any land stock or special stock, bond, or any certificate, contract, or writing, conveying, granting, or giving to the holder thereof any interest, estate, right, or title in or to any lands held by said company, and exempted from taxation as aforesaid, and shall fail within sixty days after the issuance of such certificate, stock, contract, or writing, to report the same to the land commissioner or auditor of this state, or, if having heretofore issued such contract, special stock, bond, certificate, or writing, shall fail to report the same within sixty days after the passage of this act, the failure so to report shall be held to be and to operate as a forfeiture by said company of its corporate franchises and privileges, and the attorney general of the state shall at once proceed against said company to have its charter and franchises declared forfeited. (*Id.* § 6.)

***§ 118g. Actual settlers—Saving rights of.**

In all cases where any railroad lands, referred to in this act, have been sold prior to the first day of January, 1887, to actual settlers, who use the same for farm purposes, and who bought the same in good faith from any railroad company, under the belief that the same were free from taxes at the time of their purchase, all taxes for which said lands might be liable prior to such purchase shall not be a lien upon said lands.* (*Id.* § 7.)

***§ 120. Repeal.**

The saving clause that all rights heretofore acquired under any act hereby repealed shall not be affected hereby, applies to vested rights of property. An immunity from certain forms of action is not a "right" within the meaning of this clause. No man has a vested right to mere remedy, or in an exemption from it. *Kipp v. Johnson*, 31 Minn. 360, 363, 17 N. W. Rep. 957.

*Gen. Laws 1887, c. 129, entitled "An act to relieve settlers and others from payment of certain back taxes," and approved March 5, 1887, provides as follows:

§ 1. *St. P. & C. R. R. Co.—TAXES REMITTED.* That all back taxes on lands of the St. Paul & Chicago Railroad Company included in the swamp-land grant made by the state to that company, which are and remain the property of that company for any and all years prior to one thousand eight hundred and eighty-four, be and the same are hereby remitted, and the state auditor is hereby directed to place said lands upon the tax-lists for the year one thousand eight hundred and eighty-four, and subsequent years, and cause the taxes of those years to be duly levied and assessed thereon pursuant to the statutes in such cases made and provided.

§ 2. *SAME.* That all taxes upon the lands included in said grant to the St. Paul & Chicago Railroad Company for years prior to the time when said lands were sold or contracted to be sold by said company, and which lands are held and owned by actual purchasers from said company, are hereby remitted, and the auditor of state is directed to cause the taxes on said lands so purchased of said company, and owned by actual purchasers, to be levied and assessed upon said lands in the hands of such purchasers for the years subsequent to the sale or contract for sale of said lands by said company to said purchaser.

§ 3. *SAME.* That all lands included in said swamp-land grant, which have heretofore been placed upon the tax-lists of any county of this state contrary to the provisions of this act, and not embraced in the description of lands contained in the first and second sections of this act, shall be stricken from the tax-lists.

***§ 121. Notice of expiration of redemption period.**

[The attempted repeal of this section by § 22, c. 10, Gen. Laws, 1881, is held unconstitutional, the subject of the enactment not being expressed in the title. *State v. Smith*, 35 Minn. 257, 28 N. W. Rep. 241.]

This provision does not apply to cases where, at the time of its passage, the title sold, under the act of 1874, was vested in others than the state. *State v. McDonald*, 26 Minn. 145, 1 N. W. Rep. 832.

The "redemption period" does not expire, notwithstanding the lapse of three years from the date of sale, until after the service of notice of the amount for which the land was sold, the amount required to redeem, and the time when the redemption period will expire. *Merrill v. Dearing*, 32 Minn. 479, 21 N. W. Rep. 721.

The term "tax certificate" is equally applicable to the certificate of sale prescribed by section 84, and the certificate of assignment provided for in section 89, *Nelson v. Central Land Co.*, 35 Minn. 408, 29 N. W. Rep. 121; and the burden rests upon the party asserting title by virtue of such certificate to prove due service of such notice. *Id.*

The purchaser's rights accrue when he pays the purchase money in full into the county treasury, and the certificate is delivered to him; and where these events occurred subsequent to March 6, 1877, the notice provided for in this section must be given. *Pigott v. O'Halloran*, 35 N. W. Rep. 4.

This provision remained in force until repealed by Laws 1881, c. 10, § 22, and applies to sales made in 1878 and 1879. *Gaston v. Merriam*, 33 Minn. 273, 22 N. W. Rep. 614.

See *Frawley v. Hoverter*, 36 Minn. 379, 31 N. W. Rep. 356.

***§ 121a. Expiration of period of redemption—Notice.**

Each county auditor shall, at least three months before the expiration of the time for redeeming lands hereafter sold for taxes, caused to be published in a newspaper, printed in the English language, published in his county, if there be such a newspaper, and if there be none, then in a newspaper printed at the state capital, once a week for three successive weeks, a list of all unredeemed lands so sold, specifying each tract or lot, the name of the owner if known, and if unknown, so stated, and the amount required to redeem the same calculated to the last day of redemption, due on each parcel, lot, or tract of land, together with a notice giving the date on which the time for redemption will expire. (1885, c. 194, § 1.*)

***§ 121b. Publisher's fees.**

The publisher of the paper, who shall publish the list and notice, as provided in section one of this act, shall receive for such publication the sum of twenty-five cents for each description so published, to be paid by the county and charged to each description of land so published. (*Id.* § 2.)

***§ 125. Taxes in unorganized counties.**

[Gen. Laws 1879, c. 25, § 1, adding proviso as to Itasca county, repealed. 1887, c. 130.]

***§ 127. County auditor—Annual statement to town clerk.**

[Repealed 1885, c. 2, § 24.]

***§ 129. Railroad companies—Commutation tax.**

This section and section 128 control in respect to the taxability of the property of a railway corporation which has accepted these provisions. *County of Ramsey v. Chicago*, etc., Ry. Co., 33 Minn. 537, 24 N. W. Rep. 313.

See *In re Stevens County*, 36 Minn. 467, 31 N. W. Rep. 943.

***§ 129a. Railroad companies—Taxation.**

Any railroad company, owning or operating, or which may hereafter own or operate, any line or lines of railroad in this state, which has not accepted and become subject to sections one and two of chapter one hundred and eleven of the Special Laws of eighteen hundred and seventy-three, relative to taxa-

* "An act requiring publication of notice of expiration of time for redemption of lands from tax sale." Approved March 7, 1885.

tion, or some special act or acts relating to taxation, of the company accepting the same, shall become liable to pay, and shall pay, a percentage of its gross earnings, in lieu of all other taxes, in accordance with the provisions of the chapter hereinbefore referred. (1887, c. 11, § 1.*)

***§ 129b. Same—New roads—Notice to commission—Filing map, etc.**

No railroad, or branch, or extension of a railroad, in this state shall hereafter be opened for public use until the management thereof shall officially notify the railroad and warehouse commission that the same is finished and in a safe condition for operation. Within one year after such notification the corporation constructing or operating such railroad, branch, or extension shall file in the office of said commission a map and profile thereof, with table of grades, curvatures, and mileage, and a statement of the other characteristics of the road, certified by its president and engineer, in such form as the board may prescribe. (*Id.* § 2.)

***§ 131a. Telegraph companies—Taxation.†**

That each and every telegraph company, corporation, association, partnership, or person owning or operating, or which shall hereafter own or operate, within this state, for hire or compensation, any telegraph or telegraph line, the rate and manner of taxation of which for any purpose has not been fixed and prescribed by special charter granting such franchise, shall on or before the first day of February, one thousand eight hundred and eighty-eight, and annually thereafter, on or before the first day of February in each year, pay into the treasury of this state two per centum of the gross earnings of said company, corporation, association, partnership, or person, earned upon business done wholly within this state during the year ending upon the first day of July immediately preceding the day upon which payment shall be made as aforesaid; which payment shall be in lieu of and in full payment of all taxes

*"An act for the taxation of railroad companies." Approved March 7, 1887.

† The following are the provisions of c. 68, Gen. Laws 1881, Ex. Sess., entitled "An act to provide for the assessment and taxation of telegraph and telephone lines within the state of Minnesota:—"

§ 1. TELEGRAPH AND TELEPHONE LINES—TAXATION. That all telegraph and telephone lines built and operated within this state shall be subject to taxation as hereafter required.

§ 2. ANNUAL STATEMENT. It shall be the duty of the president, vice-president, general manager, or superintendent of every telegraph and telephone company, operating a line in this state, to furnish the auditor of state, on or before the first Monday of July in each year, a statement under oath, and in such form as the auditor may prescribe, showing the following facts:

First. The total number of miles owned, operated, or leased within the state, with a separate showing of the number leased.

Second. The total number of telegraph and telephone stations on each separate line, and the total number of telegraphic and telephonic instruments in use therein, together with the total number of stations mentioned.

Third. The total number of miles in each separate line or division thereof, together with the number of separate wires thereon, and stating the counties through which the same are carried.

Fourth. The average number of telegraph and telephone poles per mile used in the construction and maintenance of said lines.

§ 3. ASSESSMENT. Upon the receipt of said statement from the several companies, the auditor of state shall lay the same before the state board of equalization at its annual meeting, which board shall proceed to assess said telegraph and telephone lines at the true cash value thereof, in contradistinction from its original cost.

§ 4. RATE. The said state board shall also, at said meeting, determine the rate of tax to be levied and collected upon said assessment, which shall not exceed the average rate of taxes, general, municipal, and local, levied throughout the state, which tax shall be in lieu of all other taxes, state and local, and shall be payable into the state treasury.

§ 5. WHEN PAYABLE. The taxes levied as provided by this chapter shall become due and payable at the state treasury on the first day of February following the levy thereof, and if such taxes are not paid as herein provided, it shall be the duty of the treasurer of state to collect the same by distress and sale of any property belonging to said company, in the same manner as required of county treasurers in like cases by the General Statutes relating to collection of taxes on personal property, and the record of the state board in such cases shall be sufficient warrant therefor.

§ 6. FAILURE TO FILE REPORT. If the officers of any such company fail to make and file the report required by section two of this act, such neglect shall not release its lines from taxation, but the state board shall proceed to assess the line, notwithstanding, adding thereto thirty per centum on the assessable value thereof.

and assessments of every description levied upon or payable by said company, corporation, association, partnership, or person by virtue of any law of this state, upon all personal property, rights, and privileges, immunities, or franchises owned and used by said company, corporation, association, partnership, or person in the operation or management of its, their, or his business as a telegraph company, or telegraphing within this state. (1887, c. 139, § 1.)*

***§ 131b. Same—Annual report to state auditor.**

For the purpose of ascertaining the gross earnings aforesaid, each and every such telegraph company, corporation, association, partnership, or person doing business within this state as aforesaid shall, on or before the first day of September, A. D. one thousand eight hundred and eighty-seven, and annually thereafter, on or before the first day of September of each and every year, make and transmit to the state auditor of the state of Minnesota, at his office in the capitol at St. Paul, a full and true report and statement, under oath, of the proper officer of said company, corporation, association, partnership, or by said person, of the affairs of their said business, as it existed on the first day of July immediately preceding the making of such report; specifying—

First. The number of miles of route over which business is done in this state.

Second. The value of all wires, poles, fixtures, and instruments in use in this state.

Third. The value of all other personal property owned within this state.

Fourth. The value of all real estate owned within this state.

Fifth. The number of persons actually employed within this state.

Sixth. The number of telegraph offices or stations occupied within this state.

Seventh. The amount paid employes for services rendered within this state.

Eighth. The amount paid for rent of offices within this state.

Ninth. The amount paid for repairing lines and instruments within this state.

Tenth. The amount paid for all other expenses in the management and operation of its, their, or his said business within this state.

Eleventh. The gross earnings on all business done wholly within this state. (*Id.* § 2.)

***§ 131c. Interrogatories to companies.**

The said state auditor may make and propound to such telegraph company, corporation, association, partnership, or person any additional interrogatories relating to the condition, operation, management, and control of its, their, or his said business and lines, which shall be answered by such companies, corporations, associations, partnerships, and persons in the same manner as those specified in the foregoing section. (*Id.* § 3.)

***§ 131d. Books, etc.—Inspection—Examination of officers.**

The property, books, records, accounts, papers, and proceedings, so far as they relate to the condition, operation, or management of said telegraph companies, corporations, associations, partnerships, or persons, shall at all times, during business hours, be subject to the examination and inspection of the said state auditor or any person appointed by him for such purpose, and he or they shall have power to examine under oath or affirmation any and all directors, officers, managers, agents, and employes of any such telegraph company, corporation, association, partnership, or other person, concerning any matter relating to the condition and management of such business. (*Id.* § 4.)

*"An act to provide for the taxation of telegraph companies." Approved March 7, 1887. No repealing clause.

***§ 131e. Misconduct—Penalty.**

Every telegraph company, association, corporation, partnership, or person, or any of its, their, or his officers, managers, agents, or employes, who shall willfully neglect or refuse to make and furnish any report required in this act, at the time herein required, or who shall unlawfully and willfully hinder, delay, or obstruct said state auditor, or his legal representative, in the discharge of his duties hereby or hereinafter imposed upon him, shall forfeit and pay a sum of not less than one hundred dollars, nor more than five hundred dollars, for each offense, to be recovered in a civil action upon complaint of said state auditor and in his name, for the use and benefit of the state of Minnesota; and every such telegraph company, corporation, association, partnership, or person, and every officer, manager, agent, or employe thereof shall be liable to a like penalty for every period of ten days it, they, or he shall willfully neglect or refuse to make such report; and any person who shall in any affidavit, report, statement, or examination provided for or required in this act, intentionally or knowingly swear falsely to any matter to which the same, or either of them, relate, shall be deemed to have committed the crime of perjury, and be punished accordingly. (*Id.* § 5.)

***§ 131f. State auditor—Report of tax.**

The state auditor shall, on or before the first day of January of each year, immediately following the filing of each report or statement hereinbefore mentioned, make and file with the state treasurer a report showing the amount of tax or payment due and payable from each and every such company, corporation, association, partnership, or person owning or operating any telegraph or telegraph line within this state. (*Id.* § 6.)

***§ 131g. Lien of tax—District telegraph companies.**

For the purpose of securing to the state the payment of the aforesaid taxes or sums the state shall have a lien upon each and all of the telegraph lines and telegraphs on account of which, or for and on account of the operation of which, such tax, sum, or percentum shall become payable, and upon all the property, estate, and effects whatsoever, real, personal, and mixed of the company, corporation, association, partnership, [or person,] by or from which any such tax or per centum shall be payable; which said lien, hereby created, shall have and take precedence of any and all other liens, demands, decrees, and judgments upon or against said property or against the party by which said tax, sum, or per centum shall be payable; and such lien hereby created may be enforced by the sale of any such property to which such lien may attach, by the state treasurer, in the manner prescribed by section one hundred and thirty-one of chapter eleven of the General Statutes of one thousand eight hundred and seventy-eight, or by other process of law *provided*, this act shall not apply to "district telegraph companies" whose business and operation is wholly confined to one city or town." (*Id.* § 7.)

***§ 131h. Telephone companies—Taxation.**

Each and every telephone company, corporation, association, partnership, or person owning or operating, or which shall hereafter own or operate, within this state, for hire or compensation, any telephone or telephone line or lines, the rate and manner of the taxation of which for any purpose has not been fixed or prescribed by special charter granting such franchise, shall, on or before the first day of February, one thousand eight hundred and eighty-eight, and annually thereafter, on or before the first day of February in each year, pay into the treasury of this state two per centum of the gross earnings of said company, corporation, association, partnership, or person, earned upon the business done wholly in the state during the year ending upon the first day of July, immediately preceding the day upon which payment shall be made as

aforesaid, which payment shall be made in lieu of, and in full payment of, all taxes and assessments of every description levied upon or payable by said company, corporation, association, partnership, or person by virtue of any law of this state, upon all personal property, rights, privileges, immunities, or franchises, owned and used by said company, corporation, association, partnership, or person, in the operation and management or its, their, or his business within this state: *provided*, however, that any and all sums of money which may be paid out by said company, corporation, association, partnership, or person as royalties upon patented articles used in said business shall be deducted from the said gross receipts, and the two per centum shall be levied only upon the balance of said gross receipts, after the said amount so paid as royalties shall have been deducted. (1887, c. 138, § 1.*)

***§ 131i. Report to state auditor.**

For the purpose of ascertaining the gross earnings aforesaid, each and every such telephone company, corporation, association, partnership, or person doing business in this state as aforesaid, shall on or before the first day of September, in the year of our Lord one thousand eight hundred and eighty-seven, and annually thereafter, on or before the first day of September of each and every year, make and transmit to the state auditor of the state of Minnesota, in his office at the capitol at St. Paul, a full and true report and statement under oath of the proper officers of said company, corporation, association, partnership, or of said person, of their said business as it existed on the first day of July, immediately preceding the making of such report, specifying:

First. The gross receipts on all business done wholly within this state during the year ending immediately preceding said first day of July.

Second. All sums of money paid out during said year as royalties upon all patented articles or instruments used by said company, corporation, association, partnership, or person. (*Id.* § 2.)

***§ 131j. Books, etc.—Officers—Examination.**

The property, books, records, [accounts,] papers, and proceedings, so far as they relate to the condition, operation, or management of said telephone companies, corporations, associations, partnerships, or persons, shall at all times, during business hours, be subject to the examination and inspection of the said state auditor, and he shall have power to examine, under oath or affirmation, each and all directors, officers, managers, agents, and employes of any such telephone company, corporation, association, partnership, or other persons, concerning any matter relating to the subject of such report. (*Id.* § 3.)

***§ 131k. Violation of duty—Penalty.**

Every telephone company, association, corporation, partnership, or person, or any of their, its, or his officers or managing agents, who shall willfully neglect or refuse to make or furnish any report required in this act at the time herein required, or who shall willfully or unlawfully hinder, delay, or obstruct said state auditor in the discharge of his duties hereby imposed upon him, shall forfeit and pay a sum of not less than two hundred dollars, nor more than five hundred dollars, for such offense, to be recovered in a civil action upon complaint of said state auditor, and in his name, for the use and benefit of the state of Minnesota; and every such telephone company, corporation, association, partnership, or person, and every officer, and managing agent thereof, whose duty it may be to make such report, shall be liable to a like penalty for every period of ten days it, he, or they shall willfully neglect or refuse to make such report, and any person who shall in any affidavit, re-

*"An act to provide for the taxation of telephone companies." Approved March 3, 1887. § 7 repeals all inconsistent acts and parts of acts.

port, statement, or examination provided for or required in this act, intentionally or knowingly swear falsely to any matter to which the same, or either of them, relate, shall be deemed to have committed the crime of perjury, and be punished accordingly. (*Id.* § 4.)

***§ 131l. State auditor—Report to treasurer.**

The state auditor shall on or before the first day of January of each year immediately following the filing of such report or statement hereinbefore mentioned, make and file with the state treasurer a report showing the amount of taxes as payment due and payable from each and every such company, association, corporation, partnership, or person owning or operating any telephone or telephone lines within this state. (*Id.* § 5.)

***§ 131m. Lien of tax.**

For the purpose of securing to the state the payment of the aforesaid taxes or sums, the state shall have a lien upon each and all of the telephone lines and instruments for or on account of the operation of which such tax, sum, or per centum shall become payable, which said liens hereby created shall have and take precedence of any or all other liens, demands, decrees, and judgments upon or against said property, or against the party by which said tax, sum, or per centum shall be payable, and which lien hereby created may be enforced by the sale of any such property to which said lien may attach, by the state treasurer, in the manner prescribed by section one hundred and thirty-one of chapter eleven of the General Statutes of eighteen hundred and seventy-eight, relating to telegraphs, and telegraph companies, or by other process of law. (*Id.* § 6.)

***§ 144. Municipal bonds—Registration.**

County commissioners may provide for paying the interest on county bonds issued to railroad companies, although such bonds have not been registered with the auditor of state. *Commissioners of St. Louis Co. v. Nettleton*, 22 Minn. 356.

***§ 145. Municipal bonds—Tax to pay interest.**

When the bonds of any county, city, village, or township shall be so registered, the state auditor shall annually ascertain the amount of interest for the current year due and accrued and to accrue upon such bonds, and shall make a certificate showing such amount, and transmit the same to the county auditor, at the same time with other taxes to be levied for that year, and the county auditor, from the basis of the valuation of property in such county, city, village, or township, shall estimate and determine the rate per centum on the valuation of property within said county, city, village, or township voting bonds, requisite to meet and satisfy the amount of interest due and to become due for that year, together with the ordinary cost to the state of collection and disbursement of the same, and the amount so certified by the state auditor, and the cost of collecting the same, shall thereupon be deemed added to and a part of the per centum or amount which is or may be levied as provided by law for purposes of state revenue, and shall be so treated by any and all officers or authority in determining levies and making estimates, duplicates, and books for the collection of taxes, and the said tax shall be collected with the state revenue, and all law relating to the collection of state revenue shall apply thereto, except as herein otherwise provided. (1871, c. 17, § 3, as amended 1881, c. 16, § 1, and 1881, *Ex. Sess.* c. 15, § 1.)

***§ 147. Coupons—Payment.**

The taxes so collected shall be paid by the county treasurer upon the warrant of the county auditor, issued to the person or persons presenting coupons therefor, if authorized to receive the same. Each coupon so redeemed shall be effectually canceled by the said county auditor, and by him transmitted to the city, village, township, or other organization issuing the same, and the

proper officer of such organization shall return to said auditor his proper receipt for the amount of the coupons so remitted, which receipt said auditor shall file in his office as his sufficient authority for auditing the claim and issuing his said warrant. (1871, c. 17, § 5, *as amended* 1875, c. 115, § 1; 1881, c. 16, § 2; 1881, *Ex. Sess.* c. 15, § 2; 1885, c. 59; *Id.* § 2, *repeals all inconsistent acts and parts of acts.*)

***§ 148. Tax certificate—Application to set aside—Refunding price.**

Whenever the holder of any tax certificate of sale, who is not in possession by himself or others, of the real property described therein, or any part thereof, shall petition the board of county commissioners of the county where the lands are situate, setting forth facts claimed to invalidate said certificate within the meaning of any decision of the supreme court of this state, said commissioners shall inquire into the truth of the facts alleged in said petition, and if they are satisfied that all the facts affecting the case are fully and fairly stated, they shall so certify to the state auditor, and the latter officer, if he is satisfied, upon consultation with the attorney general, that the facts stated render the certificate void within the principle of any decision of the supreme court, shall authorize the refunding of the amount paid for said certificate, with interest, together with the amount of other subsequent taxes paid on said property by the holder of said certificate, with interest from the payment thereof, upon the surrender of said certificate, if the same has not been recorded, or upon the delivery of an assignment thereof to the state, duly executed, acknowledged, and recorded, as by law provided for the execution, acknowledgment, and record of instruments conveying real property; and thereupon the county auditor shall draw an order, for the sum so authorized to be refunded, on the treasurer of said county, to be countersigned and paid as other county orders. The several funds—state, county, town, city, village, school, and other—shall be charged with their several proportions of the amount so refunded, and the same proceedings shall be had for reassessing said property for said taxes or again selling the same as provided by law in other cases of void assessment or sales. (*Added* 1881, c. 10, § 21.)

The proceeding under this section is not judicial in its nature, and the duties thereby imposed may be performed by other than judicial officers. *State v. Dressel*, 35 N. W. Rep. 580. After the time to redeem from a tax judgment sale has expired, the former owner cannot be heard to question the regularity of the proceeding.—*Id.*

***§ 149. Mining corporations—Commutation tax—Tax on product—Rate per cent.**

That all corporations now organized, or that may be hereafter organized, under the laws of this state, for the purpose of carrying on the business of mining, smelting, or refining copper or iron ores, or for the purposes of mining coal within this state, may pay into the state treasury annually, on or before the first day of January in each year, in lieu of all the taxes or assessments upon the capital stock, personal property, income, and real estate of such corporation in or upon which real estate such business of mining may be carried on, or which real estate is connected therewith and set apart for such business, the following amounts; that is to say, on and for each ton of copper, fifty cents; on and for each ton of iron ore mined and shipped or disposed of, one cent for each ton; and for each ton of coal mined the sum of one cent per ton,—each ton to be estimated as containing two thousand two hundred and forty pounds; one-half of such payments to be credited to the general fund of the state, and the other half credited to the county or counties in which such mines are located. (1881, *Ex Sess.* c. 54, § 1.)*

*“An act to encourage mining in this state by providing a uniform rule for the taxing of mining property and products.” Approved November 22, 1881.

***§ 150. Same—Report to state auditor.**

That it shall be the duty of each and every corporation accepting the provisions of this act to make return in writing and report to the state auditor, on or before the fifteenth day of December in each year, a true and full statement of each and every ton of copper or iron ore or coal mined and sold or disposed of during the year preceding the date of such return, which statement shall be verified by the oath of the president and secretary of such corporation; that any such officer who shall knowingly make or sign any false or untrue statement in such report or return, shall be deemed guilty of perjury, and on conviction thereof shall be punished as provided in chapter twenty-seven of the General Statutes 1878. (*Id.* § 2.)

***§ 151. Same—Acceptance.**

That any corporation now organized under the laws of this state, or that may hereafter be organized therein, for the purpose of mining, smelting, or refining copper or iron ores, or for mining coal, may, by resolution duly adopted by its board of directors, accept all the provisions of this act, and that upon the filing of a certified copy of such resolution of acceptance in the office of the secretary of state for this state, such corporations shall be bound by the provisions of this act, and thereafter be entitled to all the benefits thereof. (*Id.* § 3.)

***§ 152. Testing tax titles.**

That it shall be lawful for any person having or claiming title to any land, whether in his possession, or whether it is vacant or unoccupied, or in the possession of any other person, to commence and maintain at any time an action against any person who claims any title or interest in said land, or lien upon the same adversely to him by or through any tax certificate or tax deed, heretofore or hereafter made, to test the validity of the tax sale and tax judgment under which the same was made to quiet his title to said land as against [such claims of such] adverse claimant, and to remove a cloud from his title, arising from such tax certificate or tax deed, and it shall also be lawful for any person having or claiming title to any land to interpose and maintain at any time a defense to any action in law or equity concerning said land which may be brought against him by any person so claiming title adversely under any such tax certificate or tax deed, and to test in such defense the validity of the tax sale and tax judgment upon which such certificate or deed was made, to remove the clouds upon his title arising therefrom, and to quiet his title against such person so claiming title adversely thereunder, notwithstanding any and all laws heretofore passed, which limited the time within which such action might be commenced or defense interposed. (1887, c. 127, § 1.*)

***§ 153. Repeal—Saving vested rights.**

All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall not be construed so as to affect vested rights. (*Id.* § 2.)

*"An act enabling owners of land to test the validity of tax judgments and tax sales heretofore or hereafter made, and to quiet their title against adverse claimants under tax certificates and tax deeds heretofore or hereafter made under such judgments and sales, and to remove the clouds upon their title arising therefrom." Approved March 2, 1887.