

THE 79
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
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COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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CHAPTER II.

TAXES.¹

§ 1508. Property subject to taxation.

All real and personal property in this state, and all personal property of persons residing therein, the property of corporations now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created, and of all bankers, except such as is hereinafter expressly excepted, is subject to taxation, and such property, or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed by this act: provided, that railroad, insurance and telegraph companies, shall be taxed in such manner as now is or may be hereafter fixed by law.

(1878, c. 1, § 1; G. S. 1878, c. 11, § 1.)

A demand for money loaned may have an actual *situs* 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. 253, (Gil. 193.)

See St. Paul, M. & M. Ry. Co. v. Todu Co., 142 U. S. 232, 12 Sup. Ct. Rep. 281.

§ 1509. Real property defined.

Real property, for the purposes of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, trees or other fixtures, of whatsoever kind thereon, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, quarries and fossils in and under the same.

(1878, c. 1, § 2; G. S. 1878, c. 11, § 2.)

This definition is of no value for the purposes of assessments for local improvements. State v. District Court of Ramsey Co., 31 Minn. 354, 353, 17 N. W. Rep. 954.

§ 1510. Personal property defined.

Personal property shall, for the purposes of taxation, be construed to include all goods, chattels, moneys, credits, and effects, wheresoever they may be; all ships, boats and vessels belonging to inhabitants of this state, whether at home or abroad, and all capital invested therein; all moneys at interest either within or without this state due the person to be taxed, more than he pays interest for, and all other debts due such persons more than their indebtedness; all public stocks and securities, all stock in turnpikes, railroads, canals and other corporations (except national banks) out of the state, owned by inhabitants of this state; all personal estate of moneyed corporations, whether the owners thereof reside in or out of this state; and the income of any annuity, unless the capital of such annuity be taxed within the state; all shares of stock in any bank organized or that may be organized under any law of the United States, or of this state; and all improvements made by persons upon lands held by them under the laws of the United States, the fee of which lands is still vested in the United States; and all such improvements upon lands the title to which is still vested in any railroad company, or any other corporation whose property is not subject to the same mode and rule of taxation as other property.

(1878, c. 1, § 3; G. S. 1878, c. 11, § 3.)

§ 1511. Definition of terms used in this act.

The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same, or holding in trust and residing in this state, is entitled to withdraw in money on demand. The term

¹ See §§ 5821, 5822 for actions to test the validity of tax titles held adversely.

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"credits," wherever used in this act, shall be held to mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due. The terms "tract" or "lot," and "piece or parcel of real property," and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same claimant, person or company. Every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural number may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males. Wherever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear" in this act may be held to mean affirm. The words "town" or "district," wherever used in this act, shall be construed to mean township, village, city or ward, as the case may be. The term "true and full value," wherever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. The term "person," whenever used in this act, shall be construed to include firm, company or corporation.

(1878, c. 1, § 4; G. S. 1878, c. 11, § 4.)

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.

A contract for the sale of land, and for the payment of the balance of the price in the future, creates a debt in favor of the vendor, taxable to him as a credit. *State v. Rand*, 39 Minn. 502, 40 N. W. Rep. 835.

See *State v. Redwood Falls Building & Loan Ass'n*, 45 Minn. 154, 156, 47 N. W. Rep. 540.

§ 1512. 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.

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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 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; G. S. 1878, c. 11, § 5; as amended 1887, c. 80.)

See §§ 1742, 2152.

Statutes exempting property are to be strictly construed. County of Hennepin v. Bell, 43 Minn. 344, 45 N. W. Rep. 615; County of Ramsey v. Church of the Good Shepherd, 45 Minn. 229, 47 N. W. Rep. 788.

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, 12 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.

A parsonage is not exempt though some part is used for religious services. County of Ramsey v. Church of the Good Shepherd, *supra*.

The use of premises for school purposes under lease from the owner does not entitle him to exemption. County of Hennepin v. Bell, *supra*.

See, also, Ramsey County v. Macalester College, Ramsey County v. Stryker Seminary, and other cases cited in note to Const. art. 9, § 3.

Subd. 3. Lands embraced in a suspended pre-emption entry are taxable against the pre-emptor from the date of the final receipts. County of Polk v. Hunter, 42 Minn. 312, 44 N. W. Rep. 201.

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.

§ 1513. Same.

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; G. S. 1878, v. 2, c. 11, § 5a.)

§ 1514. Listing of real and personal property.

All real property in this state, subject to taxation, shall be listed and assessed every even-numbered year, with reference to its value on the first day of May preceding the assessment; and all real estate becoming taxable any intervening year shall be listed and assessed with reference to its value on the first day of May of that year. Personal property shall be listed and assessed annually, with reference to its value on the first day of May.

(1878, c. 1, § 6; G. S. 1878, c. 11, § 6.)

If railway lands which are exempt until "sold and conveyed" are conveyed before May 1st, they are taxable for the then current year; if not conveyed until after that date, they are not. County of Martin v. Drake, 40 Minn. 137, 41 N. W. Rep. 942.

See St. Paul, M. & M. Ry. Co. v. Todd Co., 142 U. S. 282, 12 Sup. Ct. Rep. 281.

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§ 1515. Manner of listing personal property.

Personal property shall be listed in the manner following:

First. Every person of full age and sound mind, being a resident of this state, shall list all his moneys, credits, bonds or stock, shares of stock, of joint-stock or other companies, (when the property of such company is not assessed in this state,) moneys loaned or invested, annuities, franchises, royalties, and other personal property.

Second. He shall also list separately, and in the name of his principal, all moneys and other personal property invested, loaned, or otherwise controlled by him as the agent or attorney, or on account of any other person or persons, company or corporation whatsoever; and all moneys deposited subject to his order, check or draft, and credits due from or owing by any person or persons, body corporate or politic.

Third. The property of a minor child shall be listed by his guardian, or by the person having such property in charge.

Fourth. The property of an idiot or lunatic, by the person having charge of such property.

Fifth. The property of a wife, by her husband, if of sound mind; if not, by herself.

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Sixth. The property of a person for whose benefit it is held in trust, by the trustee; of the estate of a deceased person, by the executor or administrator.

Seventh. The property of corporations whose assets are in the hands of receivers, by such receivers.

Eighth. The property of a body politic or corporate, by the president or proper agent or officer thereof.

Ninth. The property of a firm or company, by a partner or agent thereof.

Tenth. The property of manufacturers and others in the hands of an agent, by such agent in the name of his principal, as merchandise.

(1878, c. 1, § 7; G. S. 1878, c. 11, § 7.)

See In re Jefferson, 35 Minn. 215, 28 N. W. Rep. 256; State v. Rand, 39 Minn. 502, 510, 40 N. W. Rep. 335.

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§ 1516. Place of listing personal property.

Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county, town or district where the owner or agent resides. The capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed and taxed in the county, town or district where the principal office or place of business of such corporation or person is located in this state; if there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or district where his business is carried on.

(1878, c. 1, § 8; G. S. 1878, c. 11, § 8.)

The action of taxing officers in assessing personal property at the owner's residence is not void for want of jurisdiction, though the property, by its relation to certain business carried on in another county, is properly assessable in the latter county. Clarke v. County of Stearns, 47 Minn. 552, 50 N. W. Rep. 615.

See In re Jefferson, 35 Minn. 215, 28 N. W. Rep. 256; State v. Rand, 39 Minn. 502, 510, 40 N. W. Rep. 335.

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§ 1517. Property of transportation companies, etc., where to be listed.

The personal property of express, transportation and stage companies shall be listed and assessed in the county, town or district where the same is usually kept. All persons, companies and corporations in this state, owning steamboats, sailing vessels, wharf-boats, barges, and other water-craft, shall be required to list the same for assessment and taxation, in the county, town or district in which the same may belong, or be enrolled, registered or licensed, or kept when not enrolled, registered or licensed.

(1878, c. 1, § 9; G. S. 1878, c. 11, § 9.)

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§§ 1518-1523

§ 1518. Of gas and water companies, where listed.

The personal property of gas and water companies shall be listed and assessed in the town or district where the principal works are located. Gas and water mains and pipes, laid in roads, streets or alleys, shall be held to be personal property.

(1878, c. 1, § 10; G. S. 1878, c. 11, § 10.)

§ 1519. Of street-railroad companies, where listed, etc.

The personal property of street-railroad, plank-road, gravel-road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the principal place of business is located; and the track, road or bridge shall be held to be personal property.

(1878, c. 1, § 11; G. S. 1878, c. 11, § 11.)

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

§ 1520. Non-residents' farm property, where listed.

When the owner of live stock, or other personal property connected with a farm does not reside thereon, the same shall be listed and assessed in the town or district where the farm is situated; provided, if the farm is situated in several towns or districts, it shall be listed and assessed in the town or district in which the principal place of business of such farm may be located.

(1878, c. 1, § 12; G. S. 1878, c. 11, § 12.)

§ 1521. Personal property moved between May and July, where listed.

The owner of personal property removing from one county, town or district to another, between the first day of May and the first day of July, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state, between the first day of May and the first day of July, shall list the property owned by him on the first day of May of such year in the county, town or district in which he resides; provided, if such person has been assessed, and can make it appear to the assessor that he is held, for tax of the current year on the property in another state, county, town or district, he shall not be again assessed for such year.

(1878, c. 1, § 13; G. S. 1878, c. 11, § 13.)

§ 1522. Place of listing, how decided in case of doubt.

In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties or places in different counties, by the auditor of state; and when fixed in either case, shall be as binding as if fixed by this act.

(1878, c. 1, § 14; G. S. 1878, c. 11, § 14.)

See *Clarke v. County of Stearns*, 47 Minn. 552, 555, 50 N. W. Rep. 615.

§ 1523. Lists of personal property to be made under oath.

Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; but no person shall be required to include in his statement any share or portion of the capital stock or property of any company or corporation which such company is required to list or return as its capital and property for taxation in this state.

(1878, c. 1, § 15; G. S. 1878, c. 11, § 15.)

See *State v. Rand*, 39 Minn. 502, 510, 40 N. W. Rep. 835.

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§ 1524. 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.)

Laws 1885, c. 2, § 1, inserts after the words, "the number of cows two years old and over," the words "the number of working oxen," which are the words of the original subdivision, G. S. 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.

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

(1878, c. 1, § 16; G. S. 1878, c. 11, § 16; amended as supra.)

Thirtieth. The number of all dogs over six months of age, and the value thereof.

(1885, c. 126, § 1; G. S. 1878, v. 2, c. 11, § 16.)

Subd. 23. See State v. Rand, 39 Minn. 502, 504, 40 N. W. Rep. 835.

Subd. 29. This subdivision refers to property and improvements of other persons on railroad lands. Chicago, M. & St. P. Ry. Co. v. County of Houston, 38 Minn. 531, 33 N. W. Rep. 619.

§ 1525. Examination under oath by assessor—Refusal to answer.

Whenever the assessor shall be of opinion that the person listing property for himself, or for any other person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath, in regard to the amount of the property he is required to list; and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person or his principal, according to his best judgment and information.

(1878, c. 1, § 17; G. S. 1878, c. 11, § 17.)

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§ 1526. Deductions from credits, how made.

In making up the amount of credits which any person is required to list for himself or for any other person, company or corporation, he shall be entitled to deduct from the gross amount thereof, the amount of all bona fide indebtedness of himself or of any such person, company or corporation; but no acknowledgment of indebtedness, not founded on actual consideration, believed when received to have been adequate, and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt in the meaning of this section. Nothing in this section shall be so construed as to apply to any bank, banker, company or corporation, exercising banking powers or privileges, or to authorize any deductions allowed by this section from the value of any other item of taxation than credits: provided, that grain, to the amount of three hundred dollars in value, held for sale by the producer of the same, may be included with credits in the deductions herein authorized.

(1878, c. 1, § 18; G. S. 1878, c. 11, § 18.)

See State v. Rand, 39 Minn. 502, 507, 40 N. W. Rep. 835.

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§ 1527. What are not proper deductions—Verification of deductions.

No person, company or corporation shall be entitled to any deduction on account of any bond, note or obligation of any kind given to any mutual insurance company, nor on account of any unpaid subscription to any religious, scientific or charitable institution or society, nor on account of any subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated; and in all cases where deductions are claimed from credits, the assessor shall require that such deductions be verified by the person, officer or agent claiming such deduction. Such person, officer or agent shall make an affidavit that all moneys or other things for which such deductions are claimed were and are given for a bona fide consideration; said affidavit shall also contain the names and residences of the payees holding the obligations for which such deductions are claimed; and any such person, officer or agent knowingly or wilfully making a fraudulent statement of such deductions claimed and so verified by affidavit, shall be liable to all the pains and penalties of perjury, and, in addition to all damages sustained by the state, county, or any local corporation, to be recovered in any proper form of action, in any court of competent jurisdiction, in the name of the state of Minnesota.

(1878, c. 1, § 19; G. S. 1878, c. 11, § 19; as amended 1889, c. 188, § 1.)

By § 2 of the amendatory act all inconsistent acts or parts of acts are repealed.

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§ 1528. Who are deemed to be merchants—Property consigned—Nursery stock.

Whoever owns or has in his possession, or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property, within this state, with authority to sell the same, which has been purchased either in or out of this state with a view to being sold at an advanced price or profit, or which has been consigned to him, from any place out of this state, for the purpose of being sold at any place within this state, shall be held to be a merchant; and when he is by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant. No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property, nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise shall be listed and assessed as merchandise.

(1878, c. 1, § 20; G. S. 1878, c. 11, § 20.)

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.)

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§ 1529. Who are deemed to be manufacturers—What to be listed.

Every person who purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing, shall be held to be a manufacturer; and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received, or otherwise held, for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as part of his manufacturer's stock, the value of all engines and machinery of every description, used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of every kind used or designed to be used for the aforesaid purpose.

(1878, c. 1, § 21; G. S. 1878, c. 11, § 21.)

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§ 1530. 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.

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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 instalments 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; G. S. 1878, c. 11, § 22; as amended 1881, c. 10, § 2; 1885, c. 78.)

Mortgages held by building societies held taxable, the stock not having been taxed. *State v. Redwood Falls Building & Loan Ass'n*, 45 Minn. 154, 47 N. W. Rep. 540.

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.

§ 1531. 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 accounts.

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; G. S. 1878, c. 11, § 23; as amended 1881, c. 10, § 3.)

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

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1534) '05 60**§ 1532. 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; G. S. 1878, c. 11, § 24.)

Amended "by striking out the word 'such' where it occurs in the fourteenth line." Laws 1881, c. 10, § 4. The words in italics 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 of 1878.

§ 1533. Bank to keep and furnish lists of stockholders.

In every bank and banking office there shall be kept at all times a full and correct list of the names and residence of the stockholders, owners or parties interested therein, showing the number of shares and the amount held, owned or controlled by each party in interest, which statement or list shall be subject to the inspection of the officers authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution, to furnish the assessor with a duplicate copy of such assessment, verified by oath, which shall be returned to the county auditor, and filed in his office.

(1878, c. 1, § 25; G. S. 1878, c. 11, § 25.)

§ 1534. Taxes on bank stock to be a lien on dividends.

To secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or its officers, that such taxes have been paid; and any officer of any such bank who shall pay over, or authorize the paying over, of any such dividend or dividends, or any portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer where said bank is located shall sell such share or shares, or interest, to pay the same, like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock when sold on execution, shall apply to such sale.

(1878, c. 1, § 26; G. S. 1878, c. 11, § 26.)

§ 1535. Certain property held to belong to lessee or equitable owner.

Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to the state, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or other corporation whose property is not taxed in the same manner as other property, and school or other

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state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same.

(1878, c. 1, § 27; G. S. 1878, c. 11, § 27.)

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.

§ 1536. Valuation of property.

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; G. S. 1878, c. 11, § 28; as amended 1881, c. 10, § 5.)

The rule exempting judicial officers from civil actions for their decisions and acts extends to assessors in assessing property. *Stewart v. Case*, 53 Minn. 62, 54 N. W. Rep. 938.

§ 1537. County auditor to furnish books, etc.—List of real property—Of mortgages—Meeting of assessors.

The county auditor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out, in the real property assessment book, complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated opposite each tract or lot, the number of acres, and the lots or parts of lots or blocks, included in each description of property. The list of real property becoming subject to assessment and taxation every odd-numbered year may be appended to the personal property assessment book. There shall be appended to each personal property assessment book a list of all mortgages, or other real estate securities, held, owned or controlled by the residents of the town or district, showing the names of the owners or agents alphabetically arranged, and the amount due on each separate instrument. It is hereby made the duty of the register of deeds to make out such lists according to the records of his office, and deliver them to the county auditor on or before the last Saturday of April in each year. The expenses of such lists shall be paid by the county, on allowance by the county commissioners. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of April in each year, and the assessors shall meet on that day, at the office of the county auditor, for the purpose of receiving:

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such books and blanks, and for conference with the auditor in reference to the performance of their duties.

(1878, c. 1, § 29; G. S. 1878, c. 11, § 29.)

§ 1538. Bond and oath of assessors.

Every person elected or appointed to the office of assessor shall, at or before the time of receiving the assessment books, file with the county auditor his bond payable to the state of Minnesota, with at least one good freehold surety to be approved by the said auditor, in the penal sum of five hundred dollars, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond, or fails to take the oath required, within the time prescribed, such failure shall be deemed a refusal to serve.

(1878, c. 1, § 30; G. S. 1878, c. 11, § 30.)

§ 1539. Appointment of deputy assessors.

Any assessor who deems it necessary, to enable him to complete the listing and valuation of the property of his town or district, within the time prescribed by law, may, with the approbation of the county auditor, appoint some well qualified citizen of his town or district to act as his assistant or deputy, and assign to him such portion of his district as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after giving bond and taking the required oath, perform all the duties enjoined upon, vested in, or imposed upon assessors by the provisions of this act.

(1878, c. 1, § 31; G. S. 1878, c. 11, § 31.)

§ 1540. Assessor's duties in odd-numbered years.

The assessor shall, every odd-numbered year, at the time of taking a list of personal property, also assess all real property situated in his town or district that may have become subject to taxation since the last previous assessment of property therein, and of all new buildings or other structures, whether completed or in process of construction, of any kind, of over one hundred dollars in value, the value of which has not been previously added to or included in the valuation of the land on which such structures have been erected; and shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot of real property on which each structure has been erected, and the true value added to such parcel of real property by the erection thereof; and in case of the destruction by fire, flood, or otherwise, of any building or structure of any kind, over one hundred dollars in value, which has been erected previous to the last valuation of the land on which the same stood, or the value of which has been added to any former valuation of such land, the assessor shall determine, as near as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make return thereof to the county auditor.

(1878, c. 1, § 32; G. S. 1878, c. 11, § 32.)

§ 1541. Assessment, when and how made.

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

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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; G. S. 1878, c. 11, § 33; as amended 1881, c. 10, § 6.)

See State v. Archibald, 43 Minn. 328, 332, 45 N. W. Rep. 606.

§ 1542. Statement of personal property to be made by owner.

The assessor shall call at the office, place of doing business or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property, in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and delivered to the assessor, who shall thereupon assess the value of such property, and enter the same in his books: provided, if any property is listed or assessed on or after the fourth Monday of June, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time.

(1878, c. 1, § 34; G. S. 1878, c. 11, § 34.)

See State v. Archibald, 43 Minn. 328, 332, 45 N. W. Rep. 606.

§ 1543. Sickness or absence of owner—Duty of assessor.

If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice requiring such person to make out and leave, at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice, and the name of the person required to list the property, shall be noted by the assessor in his assessment book.

(1878, c. 1, § 35; G. S. 1878, c. 11, § 35.)

§ 1544. Refusal to list or swear to statement—Duty of assessor—Oath.

In every case where any person whose duty it is to list personal property for taxation has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused to list," or, "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same, the assessor shall enter opposite the name of such person, in an appropriate column, the words "absent," or "sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine, upon oath, any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property.

(1878, c. 1, § 36; G. S. 1878, c. 11, § 36.)

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

§ 1545. Number of school district to be given where property is assessed.

It shall be the duty of assessors, when assessing personal property, to designate the number of the school district in which each person assessed is liable for tax, which designation shall be made by writing the number of the district opposite each assessment, in a column provided for that.

purpose in the assessment book. When the personal property of any person is assessable in several school districts, the amount in each shall be assessed separately, and the name of the owner placed opposite each amount.

(1878, c. 1, § 37; G. S. 1878, c. 11, § 37.)

§ 1546. Failure to obtain statement—Duty of assessor.

In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor.

(1878, c. 1, § 38; G. S. 1878, c. 11, § 38.)

See *Thompson v. Davidson*, 15 Minn. 412, (Gil. 323); *State v. Rand*, 39 Minn. 502, 504, 40 N. W. Rep. 835.

§ 1547. Town board of review—Duties, complaints, and grievances.

The board of supervisors of each town, the assessor, recorder and president of each incorporated village, and the assessor, recorder and mayor of each city, (except cities whose charters provide for a board of equalization,) shall meet on the fourth Monday of June, at the office of the town clerk or recorder, for the purpose of reviewing the assessment of property in such town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list, and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property, and each article, parcel or class of personal property, shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intent of the board so to do. And on the application of any person considering himself aggrieved, they shall review the assessment, and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board: provided, that the complaints of non-residents in reference to the assessment of any property real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

(1878, c. 1, § 39; G. S. 1878, c. 11, § 39.)

Notice of intention to increase the valuation held sufficient, the party appearing. Action of the board after the statutory time, and their increase of valuation, sustained. *Faribault Waterworks Co. v. County of Rice*, 44 Minn. 12, 46 N. W. Rep. 143. See *State v. Archibald*, 43 Minn. 328, 332, 45 N. W. Rep. 606.

§ 1548. 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; G. S. 1878, c. 11, § 40; as amended 1881, c. 10, § 7.)

§ 1549. Assessor's statements and return to auditor.

The assessor shall add up and note the amount of each column in his assessment books; he shall also make in each book, under proper headings, a tabular statement, showing the footings of the several columns upon each page, and shall add up and set down, under the respective headings, the total amounts of the several columns; and on or before the first Monday of July, he shall make return to the county auditor of his assessment books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such return shall be verified by his affidavit, substantially in the following form:

State of Minnesota, }
 _____ County. } ss.

I _____, assessor of _____, do solemnly swear that the book to which this is attached contains a correct and full list of all the real property (or personal property, as the case may be,) subject to taxation in _____, so far as I have been able to ascertain the same; and that the assessed value set down in the proper column, opposite the several kinds and descriptions of property, is in each case the true and full value of such property, to the best of my knowledge and belief (where the assessment has been corrected by the town board, "except as corrected by the town board") and that the footings of the several columns in said book, and the tabular statement returned herewith, is correct as I verily believe.

_____, Assessor.

Subscribed and sworn to before me, this _____ day of _____ 18-.

[L. S.]

_____, Auditor of _____ county.

(1878, c. 1, § 41; G. S. 1878, c. 11, § 41.)

See State v. Archibald, 43 Minn. 323, 332, 45 N. W. Rep. 606.

§ 1550. List given to auditor for person sick or absent.

If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property, may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the auditor shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor, as provided herein; nor from any person, unless he makes and files with the county auditor an affidavit that he was absent from his town or district without design to avoid the listing of his property, or was prevented by sickness from giving to the assessor the required statement when called on for that purpose.

(1878, c. 1, § 42; G. S. 1878, c. 11, § 42.)

§ 1551. Auditor to examine assessment books and have return corrected.

The county auditor shall carefully examine the assessment books when returned to him by the assessors, and if he discovers that the assessment of any property has been omitted, he shall enter the same upon the proper list, and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform this duty, the auditor shall ascertain the value of such property and make the necessary corrections.

(1878, c. 1, § 43; G. S. 1878, c. 11, § 43.)

§ 1552. 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

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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; G. S. 1878, c. 11, § 44; as amended 1885, c. 2, § 2; Id. 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, except 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.
See State v. Archibald, 43 Minn. 328, 333, 45 N. W. Rep. 606.

§ 1553. Pay of board of equalization.

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; G. S. 1878, v. 2, c. 11, § 44a.)

§ 1554. Corrected lists—Abstract for state auditor.

The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state, on or before the fourth Monday of August following each county equalization.

(1878, c. 1, § 45; G. S. 1878, c. 11, § 45.)

§ 1555. 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

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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 personal 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; G. S. 1878, c. 11, § 46; as amended 1881, c. 10, § 8.)

§ 1556. Same—Proceedings—Abstract to be sent to county auditors—Duty of 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; G. S. 1878, c. 11, § 47; as amended 1881, c. 10, § 9.)

§ 1557. Taxes to be levied in specific amounts—By whom—Rate.

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

*See Laws 1833, c. 13, for amount of state tax to be levied for the years 1834 and 1835, respectively.

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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 hereinafter 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; G. S. 1878, c. 11, § 48; as amended 1885, c. 114.)

See *Goodnow v. Commissioners of Ramsey Co.*, 11 Minn. 31, 41, (Gil. 12, 20); *Bradish v. Lucken*, 38 Minn. 186, 190, 36 N. W. Rep. 454.

§ 1558. Tax levy—Rate per cent. for state, county, and other purposes.

There shall be levied annually on each dollar of taxable property in the state, (other than such as by law is otherwise taxed,) as assessed and entered on the tax lists for the several purposes enumerated, taxes at the rates specified as follows: For state purposes, such amount as may be levied by the legislature. For county purposes, such amount as may be levied by the county commissioners, the rate of which shall not exceed five mills in any county having a taxable valuation of one million dollars or more, and the amount of which shall not exceed five thousand dollars in counties having a taxable valuation less than one million dollars, (and) the rate of such tax shall not exceed one per cent. in any county. For township purposes, such sum as may be voted at any legal town meeting, the rate of which shall not exceed, exclusive of such sums as may be voted at the annual town meeting for road and bridge purposes, and for the support of the poor, two mills in any township having a taxable valuation of one hundred thousand dollars or more, and the amount of which shall not exceed one hundred and fifty dollars in any township having a taxable valuation less than one hundred thousand dollars, and the rate of such tax shall not exceed one-half of one per cent. in any township. The rate of tax for road and bridge purposes in any town shall not exceed ~~five~~ ^{five} mills per dollar, and the tax for poor purposes shall not exceed ~~two~~ ^{two} mills. For school district purposes, in addition to the general tax of one mill, such sum as may be voted at any legal meeting of the qualified voters of the district, the rate of which shall not exceed ~~three~~ ^{three} mills for the support of the school, or one per cent. for the erection of a schoolhouse: *provided*, that the aforesaid limitations shall not be construed as prohibiting assessments on property adjacent to local improvements made in any city or incorporated town or village, for the purpose of paying the cost thereof and the damages occasioned thereby; and that nothing in this section shall be construed to prevent the county commissioners, township supervisors, or corporate authorities of any city, town, village or school district, from levying any tax which by any special law they may be authorized to levy.

(1878, c. 1, § 49; G. S. 1878, c. 11, § 49.)

As to limit to three mills on the dollar, see *McCormick v. Fitch*, 14 Minn. 252, (Gil. 85.) See, also, *Commissioners of St. Louis Co. v. Nettleton*, 22 Minn. 356.

See *Bradish v. Lucken*, 38 Minn. 186, 190, 36 N. W. Rep. 454; *St. Paul & S. C. R. Co. v. Robinson*, 40 Minn. 360, 368, 42 N. W. Rep. 79; *Rogers v. Board of Com'rs (Minn.)* 59 N. W. Rep. 488.

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§ 1559. Tax list to be made out by county auditor—Form of tax books.

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The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts of the county. The rate per cent. necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the state board of equalization; but in calculating such rates, no rate shall be used resulting in any fraction other than a decimal fraction, or less than one-tenth of a mill; and in extending any tax, whenever it amounts to the fractional part of a cent, it shall be made one cent. The tax list shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation, and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of all special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate per cent. of each tax at the head of the proper columns, without extending the same, in which case a schedule of the rates per cent. of such taxes shall be made on the first page of each tax list.

(1878, c. 1, § 50; G. S. 1878, c. 11, § 50.)

See Scott County v. Hinds, 50 Minn. 204, 52 N. W. Rep. 523, 524.

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§ 1560. Abstract of tax-lists to be sent to state auditor, when.

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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; G. S. 1878, c. 11, § 51; as amended 1885, c. 2, § 3.)

§ 1561. Certificate of county auditor to tax book.

It shall be the duty of the county auditor to make, in each tax book or list, a certificate in the following form, viz.:

I, A B—, auditor of — county, and state of Minnesota, do hereby certify that the following is a correct list of the taxes levied on the real and personal property in the (town or district, as the case may be) of — for the year one thousand eight hundred and —. Witness my hand and official seal this — day of —, —, County Auditor.

(1878, c. 1, § 52; G. S. 1878, c. 11, § 52.)

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, 25 N. W. Rep. 256.

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§ 1562. Tax-lists—Delivery to treasurer.

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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; G. S. 1878, c. 11, § 53; as amended 1885, c. 2, § 4.)

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§ 1563. County treasurer to be collector of taxes.

The county treasurer shall be the receiver and collector of all the taxes extended upon the tax list of the county, whether levied for state, county, city, town, school, poor, bridge, road or other purposes, anything in the charter of any city or town, or in any other act of the legislature heretofore passed, to the contrary notwithstanding; and also of all fines, forfeitures

or penalties received by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds; but this provision shall not be so construed as to include any fines and penalties accruing to any municipal corporation for the violation of its ordinances, and which were recovered before any city justice.

(1878, c. 1, § 54; G. S. 1878, c. 11, § 54.)

See *Morgan v. Smith*, 4 Minn. 104, (Gil. 64;) *St. Paul & S. C. Ry. Co. v. Robinson*, 40 Minn. 360, 368, 42 N. W. Rep. 79.

**§ 1564. Notice of rates of taxation, and time for payment
—Deputy treasurers.**

On receiving the tax lists from the county auditor, the treasurer shall, if directed by the county commissioners, give notice by publication in some newspaper having general circulation in the county, once in each of three successive weeks, and by posting the same in three public places in each town or district in the county, one of which shall be the usual place of holding elections, specifying particularly in said notice the rates of taxation for all general purposes, and the amounts raised for each specific purpose, also designating a day on which he or his deputy will attend at the place of holding elections, or at some other convenient place in each town or district, which day shall not be prior to the first day of January in each year, for the purpose of receiving such taxes; and the treasurer or his deputy shall attend, for the purpose aforesaid, on the day and at the place named in said notice. The county treasurer shall, if directed by the county commissioners, have duplicate tax lists made, at the expense of the county, for his use while collecting taxes away from the county seat; and he may appoint one or more deputies to assist him in the collection of taxes, and may take such bond as security from the person so appointed as he deems necessary for his indemnity, and shall in all cases be liable and accountable for the proceedings and misconduct of his deputies in office.

(1878, c. 1, § 55; G. S. 1878, c. 11, § 55.)

§ 1565. Tax receipts—Contents—Duplicate 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." Provided, that to enable the treasurer to comply with the foregoing provision the county auditor shall, before delivering the tax lists to the treasurer, note on said lists opposite all tracts which may have been sold for taxes or bid in for the state and remaining unredeemed, the words, "sold for taxes."

(1878, c. 1, § 56; G. S. 1878, c. 11, § 56; as amended 1887, c. 60, § 1; 1889, c. 197, § 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.

§ 1566. What orders received for taxes.

The county treasurer shall receive, in payment of taxes, orders on the several funds for which taxes may be levied, to the amount of the tax for such fund, without regard to priority of the numbers of such orders, except

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when otherwise provided by law; and he shall write or stamp, across the face of all such orders, the date of their receipt, and the name of the person from whom received.

(1878, c. 1, § 57; G. S. 1878, c. 11, § 57.)

§ 1567. 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; G. S. 1878, c. 11, § 58; as amended 1885, c. 2, § 5.)

See County of Redwood v. Winona & St. P. L. Co., 40 Minn. 512, 521, 41 N. W. Rep. 465; Schmid v. County of Brown, 44 Minn. 67, 46 N. W. Rep. 145.

§ 1568. List of uncollected taxes to be filed—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 sheriff shall at the time of filing said list with the clerk, also return all the warrants with endorsements thereon showing his doings in the premises, and the clerk shall file and preserve said warrants in his office. 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; G. S. 1878, c. 11, § 59; as amended 1885, c. 2, § 6; 1889, c. 195, § 1.)

The board has no authority to cancel taxes till the clerk delivers the list and affidavit. Grundysen v. Board of Com'rs, (Minn.) 58 N. W. Rep. 864.

The sheriff cannot charge constructive mileage on uncollected warrants. Id.

§ 1569. 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

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whom such tax is claimed may at the time reside or be, 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. Provided further, that where a citation is not served by reason of the fact that the person against whom such tax is assessed is a non-resident of the state of Minnesota, or by reason of the fact that such person shall have died and his estate shall have been administered and assigned, or by reason of the fact that the administrator or executor of an estate or the assignee for the benefit of creditors or any other person acting in a position or capacity of trustee shall have been duly discharged from his trust by a court of competent jurisdiction after the time when the property in his charge shall have become subject to taxation and before the total amount of such taxes shall have been ascertained and levied. In any such case a new citation shall issue in a proceeding brought by the county attorney of the proper county against such non-resident or against the persons to whom the residue of any estate of any deceased person, or the persons (not a creditor) or persons to whom the

residue of any estate assigned for the benefit of creditors, shall be assigned, which proceeding shall be brought in the name of the state of Minnesota or of the proper county, and in any such action, proceedings may be had by attachment or garnishment as in civil actions; and such proceedings may be brought against any one of such persons receiving the residue of such estates, and the court may acquire jurisdiction by publication of such citation in the same manner as in the publication of the summons in proceedings in attachment against non-residents, and such proceedings may be brought to final judgment in the same manner as provided in proceedings in citation for non-payment of personal property taxes; and all the said taxes, penalties, officer's fees and statutory costs as provided in civil actions shall be inserted in such judgment, and execution may issue thereon as provided in relation to executions upon judgments entered for the non-payment of personal property taxes. Provided further, that in case any person against whom such tax is claimed resides out of the state of Minnesota at the time of the issuing of such citation, and thereafter, so that service of said citation cannot be obtained upon said person, then, and in that case, said action and proceeding may be commenced by the issuing and publication of a summons and by attachment as provided in reference to other actions and proceedings, and in accordance with the provisions of the statutes of Minnesota under title nine, of chapter sixty-six, of the general statutes of one thousand eight hundred and seventy-eight. Said proceedings shall be commenced and maintained in the name of the county wherein said citation would have been issued, had the person against whom such tax is claimed have been a resident of the state of Minnesota; and the said attachment may be issued upon the affidavit of the county attorney, and without the giving of any bond or undertaking, as required by said title nine, of chapter sixty-six aforesaid.

(1878, c. 1, § 60; G. S. 1878, c. 11, § 60; as amended 1885, c. 2, § 7; 1889, cc. 192, 193.)

On return of citation the assessment may be corrected on proper cause shown. *State v. William Deering & Co.* (Minn.) 57 N. W. Rep. 313.

See *Faribault Waterworks Co. v. County of Rice*, cited in note to § 1547; *Gutches v. County of Todd*, cited in note to § 1571.

§ 1570. Clerks' fees—Execution.

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; G. S. 1878, c. 11, § 61; as amended 1885, c. 2, § 8.)

§ 1571. Penalty for neglect of sheriff.

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; G. S. 1878, c. 11, § 62; as amended 1885, c. 2, § 9.)

This section does not justify charging the sheriff with liability merely because he did not file the list till after June 1st. *Gutches v. County of Todd*, 44 Minn. 383, 46 N. W. Rep. 678.

§ 1572. Removal of delinquent tax-payer—Duty of auditor.

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 tax-payer 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; G. S. 1878, c. 11, § 63; as amended 1885, c. 2, § 10.)

§ 1573. Collecting from such person.

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; G. S. 1878, c. 11, § 64; as amended 1885, c. 2, § 11.)

§ 1574. Sheriffs' 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; G. S. 1878, c. 11, § 65; as amended 1885, c. 2, § 12.)

The sheriff is entitled to the same compensation on a warrant which he is unable to collect as a constable on an execution which he is unable to collect. *Schmid v. County of Brown*, 44 Minn. 67, 46 N. W. Rep. 145.

§ 1575. 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 cur-

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rent tax-list, showing the amount collected on account of the several funds included in said list.

(1878, c. 1, § 66; G. S. 1878, c. 11, § 66; as amended 1885, c. 2, § 13.)

§ 1576. What accounts to be kept by auditor.

The county auditor shall keep accounts with the state, county, and with each township, city, incorporated village and school district in the county, and immediately after each settlement with the county treasurer, he shall credit the collections to the proper funds; and upon application of any town, city, village or school district treasurer, the auditor shall give him an order on the county treasurer for the amount due such township, city, village or school district, and shall charge them respectively with the amount of such order: provided, that the person so applying for such order shall deposit with the auditor a certificate from the clerk of the township, city, village or school district, stating that such person is treasurer of such township, city, village, or school district, duly elected or appointed, and that he has given bond according to law.

(1878, c. 1, § 67; G. S. 1878, c. 11, § 67.)

§ 1577. When treasurer shall pay 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; G. S. 1878, c. 11, § 68; as amended 1881, c. 10, § 10; 1885, c. 2, § 14.)

§ 1578. 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; G. S. 1878, c. 11, § 69; as amended 1885, c. 2, § 15.)

By Laws 1885, c. 2, § 25, taxes extended December 1, 1884, became delinquent, penalties accrued, and sales were to take place as provided by chapter 11, G. S. 1878, as amended by that act.

In what case penalties can be imposed. *County of Redwood v. Winona & St. F. L. Co.*, 40 Minn. 512, 41 N. W. Rep. 465.

See *Id.*, 42 Minn. 181, 43 N. W. Rep. 1152.

See *Croswell v. Benton*, 54 Minn. 264, 55 N. W. Rep. 1125, 1126.

1576
79-M - 206
81-NW 914

1577
97 - 100
1577
79-M - 206
81-NW 914

1578
97 - 54
1578
78-NW 14

1578
01 - 315
97 - 54
78-M - 448
78-M - 257
78-NW 14

1578 87-M . 446

§ 1579. Delinquent tax-list²—When to be filed—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; G. S. 1878, c. 11, § 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.

See *County of Brown v. Winona & St. P. L. Co.*, 38 Minn. 397, 402, 37 N. W. Rep. 949; *County of Redwood v. Winona & St. P. L. Co.*, 43 Minn. 181, 43 N. W. Rep. 1152; *McQuade v. Jaffray*, cited in note to § 1581; *Bennett v. Blatz*, 44 Minn. 56, 57, 46 N. W. Rep. 319.

1579
55-M - 202
62-NW - 272
62-NW - 618
60-NW - 846
1579
62-M - 520
65-NW - 80
1579
99 - 322
99 - 328
70-M - 287
75-NW - 119
78-NW - 15
1579
72-M - 150
73-M - 67
75-M - 448
75-M - 513
79-M - 131
78-NW - 15
78-NW - 17

²The provisions of Laws 1881, c. 135 (forfeited tax sale for taxes delinquent in 1879 and prior years), and those of Laws 1893, c. 150 (forfeited tax sale for taxes delinquent in 1859 and prior years), are given below.

Taxes delinquent in and prior to the year 1879.

Laws 1881, c. 135, entitled "An act to enforce the payment of taxes which became delinquent in and prior to the year 1879," is as follows:

§ 1. DELINQUENT TAX-LIST. 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 estate 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.

The title and provisions of this act indicate that it applied to all lands which had become delinquent prior to 1879, and not solely to lands forfeited to the state. *Croswell v. Benton*, 54 Minn. 264, 55 N. W. Rep. 1125.

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

A published list describing certain fractions of tracts of land indicated by numerals under the column headed "lots" is not a sufficient description of parts of "sections." A judgment against designated fractions of sections entered upon publication of such a list is void for want of jurisdiction. *Kipp v. Fernhold*, 37 Minn. 133, 33 N. W. Rep. 697. See, also, *Davis v. How*, 52 Minn. 157, 53 N. W. Rep. 1139.

See *McQuade v. Jaffray*, cited in note to § 1581.

§ 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.

The fact that the forfeited list is not published in immediate connection with the delinquent list does not invalidate the publication. *McQuade v. Jaffray*, 47 Minn. 326, 50 N. W. Rep. 233.

The provisions of §§ 1592 and 1598, except as expressly modified, are applicable. *Mulvey v. Tozer*, 40 Minn. 384, 42 N. W. Rep. 387.

§ 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

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95 . 77
1580
68-NW 106

1580
75-NW 752

1580
73-M - 65

1580 88-M . 495

§ 1580. Copy of list and notice for publication to be delivered to county auditor.

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

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.

A joint purchase by two sustained. *Kerr v. Kipp*, 37 Minn. 25, 33 N. W. Rep. 116.
A sale privately made is void, and not protected by the nine-months limitation of § 7 of this act. *Burdick v. Bingham*, 38 Minn. 482, 33 N. W. Rep. 439.
See *Sanborn v. Mueller*, 38 Minn. 27, 33 N. W. Rep. 666.

§ 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-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.

A certificate showing a sale of separate and distinct lots in gross at one price is void. Otherwise when such lots are contiguous, so that they may be used and assessed together as one tract. *Sanborn v. Mueller*, 33 Minn. 27, 33 N. W. Rep. 666. See, also, *Brown v. Setzer*, 39 Minn. 317, 40 N. W. Rep. 70.

A certificate held valid, though in its recital of the date of sale it omits the year. *Sanborn v. Mueller*, supra.

Where there is a discrepancy as to the date of sale between the certificate and the "copy judgment book," in the absence of other evidence the former controls, if the time of redemption is not involved. *McQuade v. Jaffray*, 47 Minn. 327, 50 N. W. Rep. 233.

§ 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

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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; G. S. 1878, c. 11, § 71: as amended 1881, c. 10, § 11; 1885, c. 2, § 17.)

It is not necessary that the original of the notice should be kept on file in the clerk's office. *Bennett v. Blatz*, 44 Minn. 56, 46 N. W. Rep. 319.

Laws 1881, c. 10, § 11, is valid. *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 865.

Under a former statute, where the notice required all persons interested to file their answers, etc., within 10, instead of 20, days, as provided, a certificate issued thereon was void. *West v. St. Paul & N. P. Ry. Co.*, 40 Minn. 189, 41 N. W. Rep. 1031.

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.

The limitation of this section was constitutional, and the repeal in Laws 1887, c. 127, § 1 (§ 5821), cannot affect it. *Whitney v. Weiler*, 54 Minn. 237, 53 N. W. Rep. 927.

See *Burdick v. Bingham*, cited in note to § 4 of this act.

§ 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, Laws 1881, Ex. S. c. 72.

The state acquires no title to land under the judgment unless it was first offered for sale as provided in § 4 of this act. *Gillilan v. Chatterton*, 38 Minn. 335, 37 N. W. Rep. 583; *Pine Co. v. Lambert* (Minn.) 58 N. W. Rep. 499.

Taxes delinquent in and prior to the years 1879 and 1889.

Laws 1893, c. 150, entitled "An act to enforce the payment of taxes which became delinquent in and prior to the years eighteen hundred and seventy-nine and eighteen hundred and eighty-nine," is as follows:

§ 1. **DELINQUENT TAX-LIST.** On or before the fifteenth day of July, 1893, the county auditors of the several counties in this state shall prepare and file with the clerks of the district court of said counties a list of all the pieces or parcels of land in their respective counties against which a judgment for taxes was entered under the provisions of chapter one hundred and thirty-five of the general laws of the year 1881; and which were not sold to an actual purchaser at the sale held under the provisions of said chapter one hundred and thirty-five of the general laws of 1881, and which still remain unsold and unredeemed, and against which pieces or parcels of land said tax judgment remains unsatisfied; and of all taxes upon real estate in the county which appear to have become delinquent in the year 1889, or any prior year or years, and has not been satisfied by payment, redemption or sale of the real estate to actual purchasers. Such list shall include all taxes now delinquent upon any such pieces or parcels of land or real estate which may have been at any tax sale struck off to or

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59-M - 84

63-M - 53

65-NW 128

65-NW 348

1581

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§ 1581. Publication of notice and list — Designation of newspaper.

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

declared to be forfeited to the state, whether such sale or forfeiture was valid or invalid, and said list shall also contain a description of each piece or parcel of land or real estate against which such judgment for taxes was entered under the provisions of said chapter one hundred and thirty-five, and which were not sold to an actual purchaser at such sale, and of each piece or parcel of land upon which such taxes shall have become delinquent in the year 1889, or any year or years prior thereto, and upon which such taxes shall not have been paid or satisfied, as aforesaid, and opposite each description the name of the owner to whom assessed, if known, and if unknown shall so state, and the total amount of such judgment and subsequent delinquent taxes and interest due thereon, according to the provisions of this act; provided, that in all counties where the salary of the county auditor is fixed by special law, the county commissioners may and are hereby authorized to allow such county auditors such compensation as may be reasonable for the services required under the provisions of this act.

Proceedings to enforce the collection of taxes, when barred by the statute of limitations. *Pine-
Co. v. Lambert* (Minn.) 58 N. W. Rep. 990.

§ 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 delinquent list provided for by said general tax law, except that the date of advertisement, judgment and sale shall be as hereinafter provided, and that separate tax judgment and copy tax judgment books shall be provided for said forfeited lists.

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

§ 4. PUBLICATION OF LIST—JUDGMENT—SALE. The lists of land upon which taxes have become delinquent shall be published in the newspaper designated for the publication of delinquent tax lists for 1891, and said list shall be prepared and delivered to the printer so that the last publication of said forfeited list may be made on or before August 2, 1893, on which last named date the last publication thereof shall be made, and that judgment shall be entered against the property described in said lists upon which taxes were delinquent in and prior to 1889, on September 12, 1893. The sale herein provided for shall be made by the county auditor at his office on October 12, 1893, 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 books and by the description therein. In offering such property for sale he shall state the amount of taxes, interest and cost 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 total amount due or more, he shall then offer the same to the bidder who will pay the highest sum less than the amount due; subject, however, to the provisions of this act. The county treasurer shall attend at the sale and receive all money paid thereon.

§ 5. AUDITOR'S CERTIFICATE—WHAT TITLE PASSES. 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-nine and for prior years, and in the year one thousand eight hundred and eighty-nine and for prior years, for the county of _____, which sale was held at _____, in said county of _____, on the _____ day of _____, 18____, the following described piece or parcel of land situated in the 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 _____

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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

* See §§ 7992-7996.

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 statutes in said 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 of the estate therein described, the fee simple thereto, subject to the right of redemption at any time within one year from the date of such sale, in the manner now provided by law, by paying all of the original taxes, interest, penalties and costs, without any other act or deed whatever, and may be recorded as deeds of real estate after ninety days have elapsed from the service of notice of redemption from tax sale as now provided by law, 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—PRIMA FACIE EVIDENCE OF TITLE.** Such 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, except as hereinafter provided, is in the person named in said certificate.

§ 7. **PURCHASER ENTITLED TO IMMEDIATE POSSESSION—SALE NOT TO BE AVOIDED AFTER TWO YEARS.** 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 of said lands, the person in possession of the piece or parcel refuses or neglects 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 of 1878; 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 be brought, or the defense to any action alleging its invalidity be interposed, within two years from 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 such judgment and sale shall be void upon proof, at any time, that such taxes have been paid, or such property was exempt.

§ 8. **SELLING PRICE.** In no case shall any piece or parcel of land upon which taxes appear to have become delinquent in the year 1879, or any year or years prior thereto, and which were not sold under the provisions of said chapter one hundred and thirty-five of the general laws of 1881, shall be sold for any sum less than twenty per cent of the original amount of taxes due thereon, including interest, penalties and costs, and in no case shall any piece or parcel of land upon which taxes shall have become delinquent in the year one thousand eight hundred and eighty-nine, or any year or years prior thereto, except those pieces or parcels of land upon which taxes became delinquent at or prior to the year one thousand eight hundred and seventy-nine as aforesaid, shall be sold for any sum less than fifty per cent of the original amount of taxes due thereon, including interest, penalties and costs; and after deducting the amount of costs, the proceeds of such sales shall be distributed pro rata to the several funds for which the taxes were levied.

§ 9. **NOTICE TO OWNERS OF LAND.** In all cases where the residence of the owner of such land is known, the auditor shall mail to such person a copy of the said notice of sale at least ten days before the date of such sale.

§ 10. **AUDITOR TO BID IN FOR THE STATE, WHEN.** In case no person shall bid an amount equal to that fixed by the provisions of this act at said sale for any of the pieces or parcels of land so offered, the auditor shall then bid in the said tracts for the state; and all tracts of land, whether sold to actual purchasers or bid in for the state at said sale, shall be listed for taxation on the tax lists for the year 1894, and subsequent years, and all tracts bid in for the state at said sale shall be subsequently sold under direction of the state auditor.

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eighty-five, shall be entitled to publish the list of lands delinquent for taxes on the first Monday in January, one thousand eight hundred and eighty-six.

(1878, c. 1, § 72; G. S. 1878, c. 11, § 72; as amended 1881, c. 10, § 12; 1885, c. 2, § 18.)

§§ 1579, 1580, and 1581, 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 are 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.

A designation by the board at any meeting, general or special, prior to the close of their March meeting, would be valid. *Banning v. McManus*, 51 Minn. 239, 53 N. W. Rep. 635.

If no paper has been designated, the tax judgment is void. *Brown v. Corbin*, 40 Minn. 503, 42 N. W. Rep. 431.

The filing of a copy of the resolution of the board with the clerk is jurisdictional. *Merriman v. Knight*, 43 Minn. 493, 45 N. W. Rep. 1093.

A resolution passed in January, 1884, designating the newspaper in which "the real estate delinquent tax list for the year 1883" should be published, construed as meaning the list of delinquent taxes for 1883. *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 365.

A copy of the proceedings of the board in designating a newspaper need not be filed; a copy of the resolution is sufficient. *Id.*

As to a change in the name of the newspaper after designation, and before publication. *Id.*

As to the sufficiency of the designation. *Knight v. Alexander*, 38 Minn. 384, 37 N. W. Rep. 796.

See, also, *Sperry v. Goodwin*, 44 Minn. 207, 46 N. W. Rep. 328; *Godfrey v. Valentine*, 45 Minn. 502, 48 N. W. Rep. 325; *Fairchild v. City of St. Paul*, 46 Minn. 541, 49 N. W. Rep. 325.

The affidavit of the auditor need not be published with the list. It is immaterial whether the notice follow or precede the list, if it be attached when published. *Chouteau v. Hunt*, 44 Minn. 173, 46 N. W. Rep. 341.

An erroneous statement of ownership in the published list will not invalidate the judgment. *McQuade v. Jaffray*, 47 Minn. 327, 50 N. W. Rep. 233.

Description held good, though town and range were stated in cross lines or headings. (*Olivier v. Gurney*, 43 Minn. 69, 44 N. W. Rep. 887, distinguished.) *McQuade v. Jaffray*, supra.

An erroneous description gives no jurisdiction to enter judgment on default. *Knight v. Alexander*, supra.

See, also, *Smith v. Kipp*, 49 Minn. 119, 51 N. W. Rep. 656; *Kipp v. Fernhold and Davis v. How*, cited in note to *Laws 1881, c. 135, § 1*. See footnote, p. 427.

A description in the published list held not a copy of the original, and not definite and certain enough to sustain the judgment. *Olivier v. Gurney*, 43 Minn. 69, 41 N. W. Rep. 887.

Under *Laws 1874, c. 1*—

The same strictness as to definiteness and certainty is not required in the statement of the amount of tax in the published list as in the judgment. Statement of the amount of taxes in the list held sufficient. (*Tidd v. Rines*, 26 Minn. 201, 2 N. W. Rep. 497, distinguished.) *Collins v. Welch*, 38 Minn. 62, 35 N. W. Rep. 566. Cf. *Gutzwiller v. Crowe*, 32 Minn. 70, 19 N. W. Rep. 344.

Statement of the amount of taxes held insufficient. *Bonham v. Weymouth*, 39 Minn. 92, 38 N. W. Rep. 805.

See, also, *Chouteau v. Hunt*, 44 Minn. 173, 46 N. W. Rep. 341; *Godfrey v. Valentine*, 45 Minn. 503, 48 N. W. Rep. 325.

§ 1582. Jurisdiction of court, not affected by what.

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

(432)

1582

62-M - 523
65-NW 80
66-NW 263

1582

73-NW 650
75-NW 708
77-NW 548

1582

64-M - 140

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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; G. S. 1878, c. 11, § 73; as amended 1887, c. 91, § 1.)

Judgment entered for want of an answer before the expiration of 20 days under Laws 1874, c. 1, held merely irregular. *Chouteau v. Hunt*, 44 Minn. 173, 46 N. W. Rep. 341.

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. 178; *Kipp v. Dawson*, 31 Minn. 373, 17 N. W. Rep. 961, 18 N. W. Rep. 96. See *Feller v. Clark*, 36 Minn. 333, 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; *Bennett v. Blatz*, 44 Minn. 56, 46 N. W. Rep. 319.

See *Collins v. Welch*, 38 Minn. 62, 35 N. W. Rep. 566.

§ 1583. Affidavit of publication to be filed.

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; G. S. 1878, c. 11, § 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*, 23 Minn. 324, 9 N. W. Rep. 881.

Publication of the list and notice is essential to the jurisdiction; but proof need not be made till after judgment. Proof held insufficient. *Bennett v. Blatz*, 44 Minn. 56, 46 N. W. Rep. 319.

Proof of publication held sufficient. *Irwin v. Pierro*, 44 Minn. 490, 47 N. W. Rep. 154.

§ 1584. Who may appear 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 published, 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. Such answer may embrace his

1583
66-NW 263

1583
64-M - 140

1584
68-M - 361
71-NW 267
77-NW 648

1584
71-M - 285
75-M - 81
75-M - 456
79-M - 305
82-NW 682

1584 87-M . 445
88-M . 191

defense or objections to any number of parcels of land embraced in said list as published, to which he has any estate, right, title, interest in or lien upon.

(1878, c. 1, § 75; G. S. 1878, c. 11, § 75; as amended 1885, c. 2, § 26; 1891, c. 65, § 1.)

Answer held sufficient to admit proof offered. County of Otter Tail v. Batchelder, 47 Minn. 512, 50 N. W. Rep. 536.

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; County of Brown v. Winona & St. P. L. Co., 38 Minn. 397, 37 N. W. Rep. 949.

§ 1585. Judgment where no answer is filed—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.
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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; G. S. 1878, c. 11, § 76; as amended 1881, c. 10, § 14; 1885, c. 2, § 19; 1887, c. 60, § 2.)

A tax judgment book contained a complete judgment on the first and last page against the land described on those pages. Each of the intervening pages contained descriptions of property, etc., and a blank form of judgment. Held, that this constituted a judgment only against the land described on the first and last pages. German American Bank v. White, 38 Minn. 471, 38 N. W. Rep. 361.

1585
97 - 27
66-NW 263

1585
64-M - 142
75-NW 107

1585
72-M - 251
78-M - 244
79-M - 134
80-NW 973
81-NW 765

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§ 1586. Proceedings when answer is filed.

If answers shall be filed within the time hereinbefore prescribed as to the taxes or penalties upon any pieces or parcels of land embraced in said list as published, such answers shall stand for trial at any general term of the district court in the county where such proceedings are pending, in session at the time when the time to file answers as aforesaid shall expire, or at the next general or special term appointed to be held in said county; and if no general or special term shall be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten days' notice. It shall be the duty of the county attorney of the county in which said taxes are levied, if there be one, and, if there be none, then of the county in which such proceedings are instituted, to take charge of and prosecute such proceedings; but the county commissioners of the county in which such taxes are levied may employ any other attorney to assist such county attorney therein. At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay, and summarily hear and determine the objections or defences made by the several answers, and shall dispose of all such answers, and direct judgment accordingly, at the same term, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits.

(1878, c. 1, § 77; G. S. 1878, c. 11, § 77.)

§ 1587. Proceedings after hearing—Judgment.

If, after a hearing, the court shall sustain the taxes and penalties in whole or in part against any piece or parcel of land, judgment shall be rendered against all such pieces or parcels for the amount as to which such taxes and penalties shall be sustained against such pieces or parcels respectively, with penalties and disbursements, unless the court otherwise direct; which judgment may be substantially in the form prescribed in section seventy-six of this act, except that it shall, in addition, state that the same was rendered after answer and trial; and, after the description of each piece or parcel, shall be stated the name of the person, company or corporation answering as to such piece or parcel. If the court sustain the defence or objections to the taxes and penalties as to any piece or parcel of land, the judgment shall, after the description of the lands against which judgment is given, state that all other pieces or parcels not embraced in that or the prior judgment of the court, and which are described in the list as published, are discharged from the taxes in said list set down against such other pieces or parcels, and from all penalties; and the court may, in its discretion, award disbursements against the county levying such taxes, and in favor of the party answering to the pieces or parcels so discharged.

(1878, c. 1, § 78; G. S. 1878, c. 11, § 78.)

§ 1588. Judgment for taxes—What defence may be made.

If all the provisions of law in relation to the assessment and levy of taxes shall have been complied with, of which the list so filed with the clerk shall be prima facie evidence, then judgment shall be rendered for such taxes, and the penalties and costs. But 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 filing of the list with the clerk, shall be a defence or objection to the taxes appearing upon any piece or parcel of land, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that the taxes against such piece or parcel of land have been partially, unfairly, or unequally assessed; and in such case, but no other, the court may reduce the amount of taxes upon such piece or parcel, and give judgment accordingly. It shall always be a defence in such proceedings, when made to appear by answer and proofs, that the taxes have been paid, or that the property is not subject to taxation.

(1878, c. 1, § 79; G. S. 1878, c. 11, § 79.)

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

1586
62-M - 522
65-NW 80

1586
78-NW 115

1586
78-NW 115

1588
60-NW - 809
63-NW - 630

1588
61-M - 236

1588
68-M - 361
71-NW 267
77-NW 548
78-NW 115

1588
71-M - 286
75 M - 61
78-NW 115

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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.

An omission to have an assessment revised and equalized by the county board will not affect the taxes, in the absence of a claim by the owner that the omission has resulted to his prejudice, etc. *Scott County v. Hinds*, 50 Minn. 204, 52 N. W. Rep. 523.

See *County of Redwood v. Winona & St. P. L. Co.*, 40 Minn. 512, 513, 41 N. W. Rep. 465; *County of Otter Tail v. Batchelder*, 47 Minn. 512, 514, 50 N. W. Rep. 536.

§ 1589. 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; G. S. 1878, c. 11, § 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. Rv. Co.*, 33 Minn. 537, 539, 24 N. W. Rep. 313.

1589

63-NW . 629

1589

61-M - 234
63-M - 499
65-NW 935
67-NW 68

1589

64-M - 292
65-M - 345
69-M - 133
70-M - 202
70-M - 287
72-NW 962
75-NW 108
77-NW 548
78-NW 116

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73-M - 72
75-M - 59
75-M - 462
78-M - 159
79-M - 127
79-M - 304
78-NW 962
79-NW1003

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87-M . 166
89-M . 121

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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.

Mandamus will not lie to compel the court to certify; but, if the court will not certify, the judgment will be reviewed on certiorari. County of Brown v. Winona & St. P. L. Co., 38 Minn. 397, 37 N. W. Rep. 949.

The judge should state what points he certifies up, and make a statement of the facts, together with his decision. County of Morrison v. St. Paul & N. P. Ry. Co., 42 Minn. 451, 44 N. W. Rep. 982; State v. St. Croix Boom Corp., 49 Minn. 450, 52 N. W. Rep. 44.

§ 1590. Proceedings after judgment—Payment before sale—Redemption—Payment before judgment.

1590 87-M . 243

When any real estate tax judgment shall be entered, the clerk shall forthwith deliver to the county auditor, in a book to be provided by said auditor, a certified copy of such judgment, which shall be written on the left hand pages of such book, leaving the right hand pages blank; and if, before sale, any person wishes to pay the amount adjudged against any piece or parcel of land, the auditor shall give him a statement showing the amount so adjudged against such piece or parcel, and the amount of accrued penalty and costs; and such person may present the same to the treasurer, and pay to him such amount, and the treasurer shall thereupon give duplicate receipts for such payment, one of which shall be filed with the county auditor; and on such duplicate receipt being produced to the clerk, he shall enter on the right hand page of the real estate tax judgment book, and opposite the description of such piece or parcel, satisfaction of the judgment against the same. If, after a sale, any person shall desire to redeem, the auditor shall give him a statement showing how much is required to be paid upon such redemption; and after lands are returned delinquent by the county treasurer, and before judgment is entered, if any person shall desire to pay the taxes, penalty and costs due thereon, the auditor shall certify to the amount due, and the treasurer shall receive and receipt for the same, and he shall immediately file a duplicate of such receipt with the county auditor, who shall enter such payment on the books of his office; and if the delinquent lists have been filed with the clerk of the court, he shall immediately certify to such payment, to said clerk, who shall note the same on the delinquent list on file in his office; and all proceedings pending against such piece or parcel of land shall thereupon be discontinued.

(1878, c. 1, § 81; G. S. 1878, c. 11, § 81.)

§ 1591. 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 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

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1591

99 - 328
73-NW 650

1591

01 - 105
71-M - 67
83-NW 189

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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; G. S. 1878, c. 11, § 82; as amended 1881, c. 10, § 15; 1885, c. 2, § 20.)

See Supervisors of Ramsey Co. v. Heenan, 2 Minn. 330, 340, (Gil. 231, 292;) Kipp v. Dawson, 31 Minn. 373, 378, 17 N. W. Rep. 961, and 18 N. W. Rep. 96.

1592

77-M - 89
79-M - 285
79-NW 652

§ 1592. Sale at public vendue—Procedure.

The auditor shall sell by public vendue each piece or parcel of land separately, in the order in which they are described in the judgment, and by the description therein; but if the sum bid for any piece or parcel shall not be paid for before the sale closes, he shall again offer such piece or parcel for sale. In offering the land for sale, he shall state the amount for which each piece or parcel is to be sold, and shall then offer the same in fee to the highest bidder who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the state at such an amount. The county treasurer shall attend at the sale, and receive all moneys paid thereon.

(1878, c. 1, § 83; G. S. 1878, c. 11, § 83.)

1593

79-M - 347
82-NW 646
83-NW 902

§ 1593. Certificate of sale for each parcel—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; G. S. 1878, c. 11, § 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. *Gilfillan v. Hobart*, 35 Minn. 185, 23 N. W. Rep. 222.

Compare *McQuade v. Jaffray*, 47 Minn. 326, 50 N. W. Rep. 233.

The certificate does not give the holder title or the right to possession before the expiration of the period for redemption. *McLellan v. Omodt*, 37 Minn. 157, 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 § 1654.

See, also, *Jewell v. Truhn*, 38 Minn. 433, 436, 38 N. W. Rep. 106.

A tax deed under the law prior to 1874, to be valid on its face, must state in some form that the taxes are delinquent. A recital that the tax was chargeable on the land, or due, does not show that it was delinquent. (*Sheehy v. Hinds*, 27 Minn. 259, 6 N. W. Rep. 781, and *Sherburne v. Rippe*, 35 Minn. 540, 29 N. W. Rep. 322, followed.) *Gilfillan v. Chatterton*, 38 Minn. 335, 37 N. W. Rep. 583.

§ 1594. 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; G. S. 1878, c. 11, § 85; as amended 1887, c. 91, § 3, approved March 5; *Id.* 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

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66-NW 263

1594
64-M - 142
75-NW 107

1594
71-M - 87
72-M - 253
77-M - 90
80-NW 206

in § 1615, is only necessary as a prerequisite to record. *Stewart v. Colter*, 31 Minn. 335, 339, 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, 3 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.

A state assignment certificate is not evidence of title until proof of service of notice of the expiration of the time of redemption. *Mueller v. Jackson*, 39 Minn. 431, 40 N. W. Rep. 565.

Want of jurisdiction may be shown by evidence dehors the record. *Brown v. Corbin*, 40 Minn. 508, 43 N. W. Rep. 481.

§ 1595. Action against county for value of land, when.

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; G. S. 1878, v. 2, c. 11, § 85a.)

§ 1596. 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.

(1887, c. 131, § 2; G. S. 1878, v. 2; c. 11, § 85b.)

§ 1597. 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.

(1887, c. 131, § 3; G. S. 1878, v. 2, c. 11, § 85c.)

§ 1598. Entry in judgment book of disposition of property at sale.

The county auditor shall, immediately after such sale, set out in the copy judgment book what disposition was made at said sale of each piece or parcel of land; if sold to an actual purchaser, to whom and for what amount; and

* 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 23, 1887.

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If bid in for the state, then so stating; and, upon any assignment or redemption, he shall make a note thereof in said copy judgment book, opposite the piece or parcel assigned or redeemed. After he shall have set out in the copy judgment book what disposition was made at the sale of the several pieces or parcels of land, he shall deliver the same to the clerk of the court, who shall forthwith enter, on the right hand page of the real estate tax judgment book, opposite the description of each piece or parcel sold, the words, "satisfied by sale," and opposite each piece or parcel bid in for the state, the words, "bid in for the state;" and he shall thereupon re-deliver said copy judgment book to the auditor.

(1878, c. 1, § 86; G. S. 1878, c. 11, § 86.)

See *Mulvey v. Tozer*, 40 Minn. 384, 42 N. W. Rep. 387.

§ 1599. 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 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; G. S. 1878, c. 11, § 87; as amended 1881, c. 10, § 17.)

A mortgagee may acquire a tax title if not bound to protect the property. *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 865.

When a mortgagor is disabled to defeat the mortgage by acquiring a tax title, his grantee stands in no better position. *MacEwen v. Beard* (Minn.) 59 N. W. Rep. 94.
See *Winston v. Johnson*, 42 Minn. 398, 404, 45 N. W. Rep. 958.

§ 1600. Taxes for subsequent years on property sold at tax sale.

The taxes for subsequent years shall be levied on property so sold or bid in for the state, in the same manner as though the sale had not been made; and if the purchaser or assignee of the state shall pay such taxes, the amount thereof, with interest from the date of payment after they shall have become delinquent, at the same rate as is provided upon the amount bid on the sale, shall be added to and be a part of the money necessary to be paid for redemption from sale.

(1878, c. 1, § 88; G. S. 1878, c. 11, § 88.)

The provisions of this section, and of § 1613, relating to the tacking of subsequent taxes paid by the purchaser, must be construed with the provisions of § 1602, and are limited thereby to delinquent taxes. *Sprague v. Roverud*, 34 Minn. 475, 26 N. W. Rep. 603.

§ 1601. 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,

(441)

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59-NW 942

1599
58-M - 178
66-NW 977
69-NW 327

1599
64-M - 275
66-M - 427
77-NW 298

1599
74-M - 484
79-M - 285
82-NW 587

1599 91-M - 395

1600
75-NW 118

1600
72-M - 148
78-M - 247
79-M - 346
80-NW 978
82-NW 646

1601
73-NW 650
75-NW 118
78-NW 16

1601
01 - 108
71-M - 67
72-M - 148
75-M - 512
79-M - 285
79-M - 347
78-NW 16
82-NW 587
82-NW 646

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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; G. S. 1878, c. 11, § 89; as amended 1881, c. 10, § 18.)

See *Pigott v. O'Halloran*, 37 Minn. 415, 35 N. W. Rep. 4, and note to § 1654.

See *Mueller v. Jackson*, cited in note to § 1594; *Sperry v. Goodwin*, 44 Minn. 207, 46 N. W. Rep. 328.

To sustain title under a state assignment certificate, under Laws 1874, c. 1, § 129, the holder must show a certificate of sale to the state. *Philbrook v. Smith*, 40 Minn. 100, 41 N. W. Rep. 545. See *Kipp v. Hill*, 40 Minn. 133, 41 N. W. Rep. 970; *Vanderlinde v. Canfield*, 40 Minn. 541, 42 N. W. Rep. 538.

§ 1602. Redemption within three years from sale.

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

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1602

73-NW 650

1602

71-M - 68

79-M - 235

82-NW 587

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89-M - 27

92-M - 210

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; G. S. 1878, c. 11, § 90; as amended 1887, c. 60, § 4.)

See § 1616, as to time of redemption, and §§ 1654-1663 as to notice of expiration of time for 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. 353, 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.

See *Forrest v. Henry*, 33 Minn. 434, 23 N. W. Rep. 848; *Croswell v. Benton*, 54 Minn. 264, 55 N. W. Rep. 1125.

§ 1603. Redemption by minors, etc.—When to be made.

Minors, insane persons, idiots, or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within two years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.

(1878, c. 1, § 91; G. S. 1878, c. 11, § 91.)

As to redemption by executors, etc., where owner has died after sale, see §§ 1662-1664.

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. *Godrich v. Florer*, 27 Minn. 97, 6 N. W. Rep. 452.

§ 1604. Proportionate redemption, by whom and how.

Any person who has or claims an interest in or lien upon any piece or parcel of land sold may redeem such estate or interest by paying into the treasury a proportionate part of the amount required to redeem the whole, such proportionate amount, in case the interest or estate sought to be redeemed is not an undivided one, to be determined by the district court or any judge thereof upon a summary application by the person desiring to redeem, notice in writing of which shall be given the treasurer of the county, the purchaser and the person in whose name such land was assessed at least ten days previous to such application. If such purchaser and the person in whose name said land was assessed do not or either of them does not reside in the county, then notice shall be given to such non-resident person or persons by publishing such notice for five consecutive weeks, once in each week, in a legal newspaper published in the county, or in case there is no newspaper published in such county, then in a newspaper published in an adjoining county, and such court or judge shall upon affidavits or otherwise determine the proportion to

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62-NW . 261

1604
60-M - 166
69-NW 327

1604
66-M - 428

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be paid, and upon its payment a certificate shall issue which shall express the interest or estate redeemed.

(1878, c. 1, § 92; G. S. 1878, c. 11, § 92; as amended 1889, c. 185, § 1; 1893, c. 113, § 1.)

1605
99 - 208

§ 1605. Auditor to draw warrant for money, when.

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79-M - 285
82-NW 587

Upon 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, or for any money paid in for redemption, which may be due to the purchaser at the sale, or other person appearing from his copy judgment book to hold the right derived at the sale.

(1878, c. 1, § 93; G. S. 1878, c. 11, § 93.)

§ 1606. Rents of land bid in by the state may be attached.

When any piece or parcel shall be bid in by the state, the sale shall not, until the right of the state be assigned as hereinbefore provided, or the piece or parcel be redeemed, operate as a payment of the amount for which the same is sold; but, at any time after such sale, the county auditor may make and file in the office of the clerk where the judgment is entered, an affidavit, stating the amount for which such piece or parcel shall have been bid in for the state, that the right of the state has not been assigned, the date of the sale, that there has been no redemption, that the piece or parcel is rented, producing rent, and giving the name or names of the parties in possession, paying rent for the whole or some part thereof. Upon such affidavit being presented to the judge of the court, or court commissioner for the county, he shall endorse thereon an order directing an attachment to issue to attach the rents and profits of said piece or parcel of land. The clerk of the court shall thereupon issue a writ of attachment to the sheriff of the county, directing him to attach the rents accruing for such piece or parcel of land from any person, and collect therefrom the amount for which the same was bid in for by the state, (stating such amount and the date of sale,) with interest accruing thereon, and his fees, and one dollar, the costs of the affidavit and attachment. The sheriff shall serve such writ by serving a copy thereof on each tenant, or person in possession paying rent for such piece or parcel, or any part thereof; and upon such service the same shall operate as an attachment of all rents accruing after such service from the person upon whom service is made. And as they become due, the sheriff shall receive such rents, and may bring suit in his own name, and collect the same in any court having jurisdiction, and shall pay into the treasury of the county the amount by him received or collected; and no payment of rents by any person so served, after such service or prior thereto, for the purpose of defeating such attachment, shall be valid against such attachment.

(1878, c. 1, § 94; G. S. 1878, c. 11, § 94.)

§ 1607. Timber cut on forfeited land may be seized, when.

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; G. S. 1878, v. 2, c. 11, § 94a.)

§ 1608. 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 including 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; G. S. 1878, c. 11, § 95; as amended 1885, c. 2, § 19.)

§ 1609. Rights of purchaser when land is not redeemed.

The purchaser of any piece or parcel of land shall, if there be no redemption, be entitled to the possession, rents and profits at the end of two years from the date of sale; and if, on demand of such purchaser to the party or parties in possession, such party or parties refuse or neglect to render such possession, such party or parties may be proceeded against as persons holding over after the determination of his or their estate, which proceedings may be instituted and prosecuted pursuant to the provisions of law in such cases made and provided.

(1878, c. 1, § 96; G. S. 1878, c. 11, § 96.)

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

§ 1610. 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 in any action or proceeding brought to vacate or set aside any tax judgment, when land has been sold to an actual purchaser pursuant to the provisions of this act, before any order, judgment, or decree shall be entered vacating or setting aside said tax judgment in favor of the plaintiff, or applicant, he shall pay into court for the benefit of the other party, all taxes, penalties and costs, as appears upon the books of the county auditor, with interest thereon paid by such party, or any one from whom he claims. *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

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61-NW . 459
59-NW . 634

1610
58-M - 3
69-NW 326

1610
66-M - 425
70-M - 286
73-NW 164
75-NW 711

1610
72-M - 518
77-M - 91
77-M - 345
79-M - 131
82-NW1114
83-NW 992
84-NW1011

1610 '05 . 308
88-M . 445

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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 not apply to any sales of land for taxes made prior to the passage of this act.

(1878, c. 1, § 97; G. S. 1878, c. 11, § 97; as amended 1881, c. 10, § 19; 1889, c. 186, § 1; 1891, c. 66, § 1.)

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. Cronkhite*, 28 Minn. 197, 9 N. W. Rep. 681.

This section, as amended by Laws 1881, c. 10, is retroactive and valid. *Schoonover v. Galarnault*, 45 Minn. 174, 47 N. W. Rep. 654.

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 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. County of Nobles*, 37 Minn. 49, 33 N. W. Rep. 544.

The right to recover does not depend upon the statement in the judgment of the reason for holding the sale void; it is enough that the sale has been declared void "by judgment of court." *Easton v. Hayes*, 35 Minn. 463, 33 N. W. Rep. 364; *German American Bank v. White*, 38 Minn. 471, 33 N. W. Rep. 361.

Nor is it essential that there should have been a valid tax levied. *Easton v. Hayes*, *supra*.

When the decision states that no valid judgment for the taxes has been entered, this sufficiently states the reason. *German American Bank v. White*, *supra*.

An heir or devisee of a purchaser is a person "holding his right," and may recover taxes paid by him on land bought by the ancestor or devisee at a void tax sale; and this though the payment was made for him by parent or guardian, who is also a tenant in common with him. *Schoonover v. Galarnault*, *supra*.

A person applying to the auditor for a warrant should furnish proof of his right to a return of the money. It is not enough to shew that the sale of another parcel under the same tax judgment has been adjudged void on grounds affecting all lands sold under the same judgment. *Corbin v. Morrow*, 46 Minn. 523, 49 N. W. Rep. 201.

The decision in *Corbin v. Morrow*, *supra*, does not apply to a proceeding under § 1697. *State v. Olson*, (Minn.) 59 N. W. Rep. 634.

The statute of limitations begins to run from the entry of judgment against the purchaser. *Easton v. Sorenson*, 53 Minn. 309, 55 N. W. Rep. 128.

See *Windom v. Wolverton*, 40 Minn. 439, 42 N. W. Rep. 296; *Brown v. Corbin*, 40 Minn. 508, 42 N. W. Rep. 481.

§ 1611. Payments at tax sale refunded, when.

When any state or indemnity school, agricultural college, state university or internal improvement lands which have been sold by the state since the first day of January, A. D. one thousand eight hundred and seventy, and for which certificates of purchase have been issued, have been thereafter sold for delinquent taxes thereon, and no redemption being made from said tax sale, but by reason of the non-payment of principal or interest due on said land to the state, the state auditor has declared said certificate of purchase to be forfeited and void of purchase, the purchaser at said delinquent tax sale, or his assigns, may, upon surrender of his certificate of tax purchase to the county auditor of the county in which said lands are situated, together with a certificate from the state auditor showing that the lands sold to said purchaser at tax sale have been forfeited to the state by the purchaser; receive from the county auditor of said county an order on the county treasurer for the amount paid at said delinquent tax sale, together with the amount of all taxes paid on said land by said purchaser or his assigns subsequent to the

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purchase of such tax sale certificate; Provided, however, That no interest shall be allowed or paid on the amounts so refunded; Provided further, That the provisions of this act shall apply to sales of lands heretofore made.

(1891, c. 6, § 1.4)

Laws 1891, c. 6, so far as it relates to "school lands," is unconstitutional. State v. Bruce, 50 Minn. 491, 53 N. W. Rep. 970.

§ 1612. Act not to apply, when.

The provisions of this act shall not apply to any purchaser, or his assignee, of any tax sale certificate who has allowed the land therein described to be again sold for taxes to any subsequent purchaser because of his failure to keep said taxes paid.

(1891, c. 6, § 2.)

§ 1613. 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; G. S. 1878, c. 11, § 98; as amended 1887, c. 60, § 5.)

See *Sprague v. Roverud*, cited in note to § 1600.

§ 1614. Filing of papers by clerk.

The clerk shall attach together, and keep on file in his office, the list, notice, affidavit of publication, one copy of the newspaper and supplement, if any, in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings.

(1878, c. 1, § 99; G. S. 1878, c. 11, § 99.)

See *Bennett v. Blatz*, 44 Minn. 56, 59, 46 N. W. Rep. 319.

§ 1615. Indorsement on certificates for record.

Before any certificate, assignment or conveyance provided for herein shall be recorded, the holder thereof shall present the same to the county auditor, who shall certify thereon that the property therein described still remains unredeemed; and no such certificate, assignment or conveyance shall be recorded by the register of deeds unless such endorsement is made.

(1878, c. 1, § 100; G. S. 1878, c. 11, § 100.)

See *Stewart v. Colter*, cited in note to § 1594; *Jewell v. Truhn*, 38 Minn. 433, 436, 38 N. W. Rep. 106.

§ 1616. 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,

⁴An act to authorize the refunding to purchasers at tax sales amounts paid by them on state school, indemnity school, agricultural college, state university or internal improvement lands, under certain circumstances, and to repeal chapter one hundred and eighty-seven of the General Laws of one thousand eight hundred and eighty-nine. Approved April 20, 1891.

§ 3 repeals Laws 1889, c. 187.

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82-NW 587

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79-M - 181
80-NW 860
81-NW 763
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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; G. S. 1878, c. 11, § 101; as amended 1885, c. 2, § 21.)

But see § 1602 as to time of redemption.

See State v. Smith, 36 Minn. 456, 33 N. W. Rep. 174; Mulvey v. Tozer, 40 Minn. 334, 42 N. W. Rep. 337; State v. Olson, cited in note to § 1607.

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80-NW 850
81-NW 763
84-NW 830

§ 1617. 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; G. S. 1878, c. 11, § 102; as amended 1885, c. 15.)

The 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, 37 Minn. 113, 33 N. W. Rep. 220; Sherburne v. Rippe, 35 Minn. 540, 29 N. W. Rep. 322; State v. Bigelow, 52 Minn. 307, 54 N. W. Rep. 95, 96.

§ 1618. Taxes paid by occupant or tenant.

When any tax on any real estate is paid by or collected of any occupant or tenant or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant or other person may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of twelve per cent. per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such

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tax is so paid; and the same shall, until paid, constitute a lien upon such real estate.

(1878, c. 1, § 103; G. S. 1878, c. 11, § 103.)

See Scharffbillig v. Scharffbillig, 51 Minn. 349, 53 N. W. Rep. 713.

§ 1619. Taxes paid by mortgagees, or others having liens.

Any person who has a lien, by mortgage or otherwise, upon any real property on which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon; and the receipt of the county treasurer shall constitute an additional lien on such land, to the amount therein stated; and the amount so paid and the interest thereon at the rate specified in the mortgage or other instrument, shall be collectible with, as a part of, and in the same manner as, the amount secured by the original lien.

(1878, c. 1, § 104; G. S. 1878, c. 11, § 104.)

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.

If the mortgage is barred, the claim for taxes falls. *Hill v. Townley*, 45 Minn. 167 47 N. W. Rep. 653.

§ 1620. 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; G. S. 1878, v. 2, c. 11, § 104a.)

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

See *County of Martin v. Drake*, 40 Minn. 137, 139, 41 N. W. Rep. 942.

§ 1621. 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.

(1885, c. 261, § 2; G. S. 1878, v. 2, c. 11, § 104b.)

§ 1622. 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.

(1885, c. 261, § 3; G. S. 1878, v. 2, c. 11, § 104c.)

§ 1623. Lien of taxes—Grantor and grantee—Personal property.

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 day of January of the next year thereafter. The taxes assessed

⁵ 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.

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81-NW 764
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84-NW 844

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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; G. S. 1878, c. 11, § 105; as amended 1885, c. 2, § 22; 1889, c. 184, § 1.)

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. 196.

§ 1624. Deed not to be recorded without auditor's certificate—Exceptions.

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; G. S. 1878, c. 11, § 106; as amended 1887, c. 263.)

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

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

§ 1625. Division of valuation where part of a tract is transferred.

When the transfer of any land or town lot, or any part thereof, becomes necessary by reason of sale or a conveyance by deed, and in case such conveyance is of less than the whole tract or lot, or part thereof, as charged in the tax list, said county auditor shall transfer the same whenever the seller and purchaser agree thereto in writing signed by them, or personally appear before the auditor, and agree upon the amount of valuation to be transferred therewith; but if the seller and purchaser do not agree as to the amount of valuation to be transferred, the auditor shall make such division of the valuation as may appear to him just. If the county auditor is satisfied that the proportion of the valuation agreed by the parties in interest to be transferred is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudulently to evade the payment of any taxes which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and when any such transfer has already been procured by fraudu-

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lent agreement, the same shall be cancelled by the auditor, and the land or lot so transferred be charged with taxes in the same manner as though said transfer had not been made.

(1878, c. 1, § 107; G. S. 1878, c. 11, § 107.)

§ 1626. Irregular tracts of lands, to be platted into lots, if required.

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In all cases when any tract or lot of land is divided in parcels of irregular shape that cannot be described except by metes and bounds, it shall be the duty of the owners of such tracts, upon request of the county auditor, to have such land platted into lots—if such plat cannot be made without an actual survey of the land, then they shall have the same surveyed—and the plat thereof recorded. If the owners of any such tract shall refuse or neglect to cause such plat and survey when necessary, to be made and recorded within thirty days after such request, the county surveyor, upon request of the county auditor, shall make out such plat from the records of the register of deeds, if practicable; but if it cannot be made from such records, then he shall make the necessary survey and the plat thereof, and the said auditor shall have the same recorded. Such plats being duly certified and recorded, the description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the county, upon allowance by the county commissioners, and the amount thereof shall be added to the tax upon such tracts or lots the next ensuing year, which tax, when collected, shall be credited to the county revenue fund.

(1878, c. 1, § 108; G. S. 1878, c. 11, § 108.)

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.

§ 1627. Abbreviations in describing lands, etc.

It shall be sufficient to describe lands in all proceedings relative to assessing, advertising, or selling the same for taxes, by initial letters, abbreviations and figures to designate the township, range, sections or parts of a section, and also the number of the lots and blocks. Whenever the abbreviations "do" or characters, ",", or any similar abbreviations or characters, shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial, letter or letters, abbreviations, figure or figures, as the last preceding such "do," ",", or other similar characters.

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(1878, c. 1, § 109; G. S. 1878, c. 11, § 109.)

§ 1628. Letting of publication of tax list.

The county commissioners shall let the advertising of the delinquent tax list, to the publisher or proprietor of a newspaper who will offer to do the same in some daily or weekly newspaper having not less than four pages of five columns to the page, each column to be not less than two inches in width, nor less than seventeen inches in length, printed in the English language, and of general circulation, which shall have been published and circulated for at least three months prior to the time of letting, for the lowest sum, not to exceed twelve cents for each description, and who shall give a bond to the county, with at least two sureties, freeholders of the county, to be approved and in an amount to be fixed by the county commissioners, conditioned for the correct and faithful performance of such advertising.

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(1878, c. 1, § 110; G. S. 1878, c. 11, § 110.)

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*, 28 Minn. 324, 9 N. W. Rep. 881.

A designation of a newspaper mentioned in one of three bids, all of which were at the same price, is sufficient. *Godfrey v. Valentine*, 45 Minn. 502, 43 N. W. Rep. 325.

§ 1629. Printer's errors in advertised lists.

In all cases where there is an error in the advertised lists, the fault thereof being the printer's, which prevents judgment from being obtained against any tracts or lots, or against all of said delinquent lists at the time stated in the advertisement that judgment will be applied for, the printer shall lose the compensation allowed by this act, for such erroneously advertised tracts or lots, or entire lists, as the case may be.

(1878, c. 1, § 111; G. S. 1878, c. 11, § 111.)

§ 1630. Auditor to correct false lists and returns.

The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all property required to be listed in his township or district, or has omitted or made an erroneous return of any property which is by law subject to taxation, shall proceed, at any time before the final settlement with the county treasurer, to correct the return of the assessor, and to charge the owners of such property on the tax lists with the proper amount of taxes; to enable him to do which he is hereby authorized and empowered to issue compulsory process, and to require the attendance of any person whom he may suppose to have a knowledge of the articles or value of the property, and to examine such person on oath in relation to such statement or return; and the auditor in all such cases shall notify every such person before making the entry on the tax list, that he may have an opportunity of showing that his statement or the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts or evidence upon which he made such corrections; but he shall in no case reduce the amount returned by the assessor, without the written consent of the auditor of state, on a statement of the case submitted by the county auditor, or the party aggrieved.

(1878, c. 1, § 112; G. S. 1878, c. 11, § 112.)

§ 1631. 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; G. S. 1878, c. 11, § 113; as amended 1881, c. 5, § 1; 1885, c. 2, § 23.)

See Laws 1879, c. 55, entitled "An act to provide for the collection of delinquent taxes in certain cases."

Taxes for several years regularly assessed and levied, but delinquent, and omitted from the delinquent list for the proper years, may be included in such list for a subsequent year. County of Brown v. Winona & St. P. L. Co., 38 Minn. 397, 37 N. W. Rep. 949.

This section does not authorize the inclusion in the assessment of penalties for past years. County of Brown v. Winona & St. P. L. Co., 39 Minn. 330, 40 N. W. Rep. 166; County of Redwood v. Same, 40 Minn. 512, 41 N. W. Rep. 465.

This section is valid as to the original taxes, but invalid as to interest and penalties. In what cases interest and penalties can be imposed. County of Redwood v. Winona & St. P. L. Co., 40 Minn. 512, 41 N. W. Rep. 465.

Proceedings to obtain judgment against land for delinquent taxes are barred by the six years' limitation of § 5136. (County of Brown v. Winona & St. P. L. Co., 38 Minn. 397, 37 N. W. Rep. 949, overruled.) Id.

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71-NW 266
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§ 1632. Property undervalued or unlawfully omitted from assessment—Examiner—His duties.

Whenever it shall be made to appear to the governor of this state by a complaint in writing and under oath or by the finding of any court, the legislature or any committee thereof, that for any reason any considerable amount of property in any county in this state has been or may hereafter be improperly omitted from the tax lists and assessment roll of any such county for any year or years, or, if assessed, that the same has been grossly undervalued by the assessor or other county officials, whether such valuation and assessment has or has not been reviewed or acted upon by the county board of equalization of any such county, he shall forthwith appoint in writing some competent citizen of this state, not a resident of such county, to ascertain the character, location, value, and ownership of the real and personal property in any such county so omitted, underassessed or undervalued, who shall forthwith proceed to examine and report upon the subject and prepare a list or lists thereof in duplicate, showing therein the character, location, ownership and valuation of all such property, with the year or years for which the same or any part thereof has been omitted or undervalued; said list shall also show therein opposite each tract, piece or parcel of land or personal property undervalued or underassessed for any year or years thereupon in which the same was undervalued or underassessed, with the amount of such assessment, the actual and true value thereof at the time and for which the same was subject to and should have been assessed, together with the difference between the assessed and actual value thereof as so found. One of which duplicate reports or lists shall be by him filed with the county auditor of such county on or before the first day of January in the year in which any such assessment is to be made, and the other of said lists shall be by him filed within the same time with the state auditor.

All of said lists shall be verified substantially as follows:

State of Minnesota, }
 County of _____ } ss.

I, _____, do solemnly swear (or affirm) that I have personally examined the real and personal property of the foregoing list described, and that said list contains a correct and full list of all the real and personal property subject to taxation so far as I have been able to ascertain the same, and that the character, location, ownership and valuation thereof as set down in the proper column, opposite the several kinds and pieces of property, are just and true to the best of my knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 18—.

(1893, c. 151, § 1.0)

§ 1633. Assessment of such property at true value.

The county auditor upon the receipt of any such list or lists shall enter the property therein described in the real and personal property assessment books as provided in section twenty-nine, chapter eleven, compiled statutes of 1878, and upon receiving the said books from the county auditor as in said section provided said assessor or assessors shall assess the property so entered by said auditor, from said lists, at its true value as shown by the lists aforesaid, copies of which lists shall be furnished the assessor, together with the assessment books of his district, and he shall also make the necessary corrections in any assessment in any roll therefor made so as to make such assessment to correspond with the true value of said property as so returned in the list furnished him, and correct his returns accordingly; and the county auditor shall proceed therein as provided by sections one hundred and twelve and one hundred and thirteen of chapter eleven of the general statutes of eighteen hundred and seventy-eight: Whenever the county auditor shall find from any such list that any property has been omitted from or undervalued in the tax lists or assessment rolls of any prior year or years, he shall forthwith enter the same on the assessment and tax books for the

⁶An act to provide for the assessment of property which has been or which may hereafter be unlawfully omitted in the assessment of property in the county in which it is situated and for a reassessment where there has been a gross undervaluation of such property. Approved April 14, 1893.

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year or years in which the same was omitted or undervalued, and he shall assess such omitted and underassessed or undervalued property at the valuation and amounts so shown to have been omitted or undervalued and extend the arrearages of taxes on such property accruing against the same, and such arrearages shall be extended against such property upon the tax list, for the current year, and collected as other taxes are by law collected.

(Id. § 2.)

§ 1634. Taxes so assessed a lien on all real property of owner in the county.

The taxes upon all property named in any such list and found to have been omitted from or underassessed or undervalued in the tax list for any year or years shall be and become a lien upon all the real property owned in any such county by any person or corporation named in such list as the owner thereof, from the time, and whenever said list shall be delivered to the county auditor as provided by section one of this act, and shall be and remain a lien thereon until the same are paid, and may be satisfied out of the sale of any property in such county owned by any person or corporation so assessed.

(Id. § 3.)

§ 1635. Examiner may appoint deputies, when.

The person appointed as provided by section one of this act shall, when found to be necessary to enable him to properly perform the duties required of him by this act, within the time prescribed by law, deputize, with the approval of the governor, one or more well qualified citizens of this state to assist him in the performance of his duties, and the person or persons so selected or deputized shall perform such duties as shall be assigned them by the persons by whom they shall have been appointed; and the persons so deputized shall, before entering upon their duties, respectively take an oath to faithfully perform the duties required by the provisions of this act.

(Id. § 4.)

§ 1636. Compensation of examiner and deputies.

The person appointed by the governor as provided by section one of this act shall receive for his services three dollars per day, and each of his deputies two dollars per day for every day in which they are necessarily employed in the performance of their respective duties under this act, together with their necessary expenses while so employed, if such expenditure be found by the governor just.

(Id. § 5.)

§ 1637 Same — Advanced by the state — Paid by the county.

The several amounts of such compensation and expenses shall be paid out of the general fund in the state treasury on the warrant of the state auditor upon the approval of the governor. Any county within which the assessment of the property is made pursuant to the provisions of this act shall reimburse the state of Minnesota for the compensation and expense thus incurred two years after the making of the same, and the state auditor shall notify the auditor of such county of the amount thereof, whereupon it shall become the duty of such county auditor to levy a tax on the taxable property in this county sufficient to pay the same, and when such tax is collected the proceeds thereof shall be forthwith reported and paid into the state treasury in the same manner as other state taxes.

(Id. § 6.)

§ 1638. Penalty for neglect or refusal to act.

Any assessor or county auditor who shall neglect or refuse to do or perform any of the duties required by this act shall be immediately suspended and removed from such office by the governor of this state and shall be deemed guilty of a misdemeanor, and in addition to the usual penalty shall be liable on his official bond for all taxes on any and on all property named in any list provided for by this act.

(Id. § 7.)

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§ 1639. Debts of municipalities void, when.

It shall be unlawful for the corporate authorities of any county, township, city, town or village, or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt, or incur any pecuniary liability, for the payment of either the principal or interest for which, during the current year or any subsequent year, it will be necessary to levy on the taxable property of such county, township, city, town village or school district, a higher rate of tax than the maximum rate prescribed by this act; and every contract made in contravention of the provisions of this section shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to be made; but every commissioner, officer, agent, supervisor, or member of any municipal corporation, that makes, or participates in making, or authorizes the making of any such contract, shall be held individually liable for its performance; and every commissioner, supervisor, director, or member of any city, town or village council, or other officer or agent of any such municipal corporation, present when any such unlawful contract was made or authorized to be made, shall be deemed to have or to have participated in making, or to have authorized the making of the same, as the case may be, unless, if present, he dissented therefrom, and entered or caused to be entered such dissent on the records of such municipal corporation, or of its councils, supervisors, or other office.

(1878, c. 1, § 114; G. S. 1878, c. 11, § 114.)

See *Rogers v. Board of Com'rs*, (Minn.) 59 N. W. Rep. 488.

§ 1640. Exempt property to be valued and assessed.

At the time of taking the assessment of real property every even-numbered year, the assessor shall enter, in a separate list, each description of property in the town or district exempt under the provisions of section five of this act, and value and assess the same in the manner, and subject to the same rules as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used.

(1878, c. 1, § 115; G. S. 1878, c. 11, § 115.)

§ 1641. Neglect of duty by officers, or connivance at evasion of law.

Every county auditor, and every district and township assessor, who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true value, shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction.

(1878, c. 1, § 116; G. S. 1878, c. 11, § 116.)

§ 1642. Suits against officers defended at expense of county.

Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor, or any town or district office, for performing or attempting to perform any duty authorized or directed by any statute of this state for the collection of the public revenue, such treasurer, auditor, or other officer, may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed, and paid, out of the county treasury, reasonable fees of counsel, and other expenses for defending such action, and the amount of any damages and costs adjudged against him, which said fees, expenses, damages and costs shall be paid from the county revenue fund.

(1878, c. 1, § 117; G. S. 1878, c. 11, § 117.)

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§ 1643. 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; G. S. 1878, c. 11, § 118; as amended 1881, c. 10, § 20.)

See County of Martin v. Drake, 40 Minn. 137, 139, 41 N. W. Rep. 942.

§ 1644. Railroad lands—Liability to taxation.

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; G. S. 1878, v. 2, c. 11, § 118a.)

§ 1645. Same — Where stock, etc., represents interest in lands.

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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; G. S. 1878, v. 2, c. 11, § 118b.)

§ 1646. Purchaser can recover amount paid, when.

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.

(1887, c. 128, § 3; G. S. 1878, v. 2, c. 11, § 118c.)

§ 1647. Assessment of such lands — Burden of proof — Duty of objector—Perjury.

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

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¹An 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.

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.

(1887, c. 128, § 4; G. S. 1878, v. 2, c. 11, § 118d.)

§ 1648. Duty of county officers pending litigation.

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 interests 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.

(1887, c. 128, § 5; G. S. 1878, v. 2, c. 11, § 118e.)

§ 1649. 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.

(1887, c. 128, § 6; G. S. 1878, v. 2, c. 11, § 118f.)

§ 1650. 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.⁸

(1887, c. 128, § 7; G. S. 1878, v. 2, c. 11, § 118g.)

⁸Laws 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 (458)

§ 1651. Abatement of taxes on certain railroad lands.

In all cases where railroad lands situated and being in the counties of Martin, Jackson, Cottonwood and Murray have been purchased by an actual bona fide purchaser prior to January first, one thousand eight hundred and ninety-one, from any railroad company, has been assessed and taxed for taxes for years prior to the date of such purchase, and such taxes remain unpaid, the state auditor is hereby authorized, and he shall, upon the application of the owner of said land, duly countersigned by the auditor of the county in which such land is situated, abate the same, and direct that all such taxes be stricken from the tax books of such county, and the land be discharged from the lien thereof; Provided, however, That such application shall be made under oath, and shall contain the date of the purchase of such land, the amount of such taxes, and the year or years for which the same were assessed and extended against such land; and Provided further, That the provisions of this act shall not apply to any purchaser of any such land who, at the date thereof, was in any manner connected with the company owning such land, either as an officer, stockholder or director thereof. (1891, c. 7, § 1.9)

§ 1652. Duties of state auditor—Construction of act of 1878.

The auditor of state shall prescribe the form of all blanks and books required under the provisions of this act. He shall hear and determine all matters of grievance relating to taxation on account of excessive valuation of property, or for other cause, when submitted to him with a statement of facts in the case, and favorable recommendation of the commissioners and auditor of the county in which the property is situated. He shall keep a record of all cases so referred, and of all decisions rendered, and, upon deciding any case, he shall forward a certified copy of such decision to the county auditor, who shall file the same and correct his books accordingly. He shall decide all questions that may arise in reference to the true construction of this act, in accordance with the advice and opinion of the attorney general, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction.

(1878, c. 1, § 119; G. S. 1878, c. 11, § 119.)

See *Clarke v. County of Stearns*, 47 Minn. 552, 555, 50 N. W. Rep. 615.

§ 1653. Repeal of former acts, reserving rights.

Chapter seventy-nine of the general laws of one thousand eight hundred and seventy-seven, and all other acts and parts of acts inconsistent with this act, are hereby repealed, except that all rights heretofore acquired under any act hereby repealed shall not be affected hereby; and all rights heretofore acquired under chapter eleven of the General Statutes, or any other act

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.

⁹An act to authorize the abatement of taxes in certain cases. Approved April 14, 1891.

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repealed by chapter one of the general laws of one thousand, eight hundred and seventy-four, are hereby revived and continued in force to the same extent as when such rights were acquired; and the payment and collection of all taxes heretofore assessed and levied shall be enforced in accordance with the provisions of this act.

(1878, c. 1, § 120; G. S. 1878, c. 11, § 120.)

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. 860, 363, 17 N. W. Rep. 957.

See *Scott Co. v. Hinds*, 50 Minn. 204, 52 N. W. Rep. 523.

§ 1654. Notice when time for redemption will expire, how given—Title to forfeited property not to vest until purchaser gives notice.

Every person holding a tax certificate shall, after the expiration of the time for the redemption of the lands therein described, as provided by section ninety, chapter eleven of the general statutes of eighteen hundred and seventy-eight, or any act amendatory thereof, present such certificate to the county auditor, and thereupon the auditor shall prepare, under his hand and official seal, a notice to the person in whose name such lands are assessed, specifying the description of such lands, the amount for which the same were sold, the amount required to redeem such land from such sale, exclusive of the costs to accrue upon such notice, and the time when the redemption period will expire, which notice the auditor shall deliver to the party applying therefor, who shall deliver the same to the sheriff of the proper county for service and return. The sheriff shall within twenty days after the receipt by him of said notice, serve and make a return of the same to the auditor. Such service shall be made in the manner prescribed for the service of a summons in a civil action in the district court. If the person named in such notice cannot be found in the county and there be any person in the actual possession of the land in such notice described, the same shall in like manner be served upon him. If there be no person in the actual possession of the said land, of both of which facts the return of the sheriff shall be prima facie evidence, the service of the said notice shall be made thereafter by the county auditor by publication once in each week for three successive weeks in some newspaper printed and published in the county where such lands are situated, if there be one; if there be none, then in some newspaper printed and published at the capital of the state, proof of which publication shall be filed with the county auditor. For his services in serving such notice the sheriff shall be entitled to the same fees that now are or hereafter may be allowed him for the service of summons in a civil action in the district court. No transfer of the lands described in such certificate shall be made on the books of the county auditor to the certificate holder, and no certificate shall be entitled to record, nor shall the full period of redemption expire until sixty days shall have elapsed after the service of such notice and proof thereof has been filed. The fees of the sheriff for serving and the printer's fees for publishing such notice shall be paid, in the first instance, by the person holding the tax certificate, and shall be repaid by the party offering to redeem such land before any certificate of redemption shall issue. Provided, that the title to all lands sold to purchasers under and by virtue of the provisions of section one hundred and one, chapter eleven, general statutes of eighteen hundred and seventy-eight, shall not vest in the purchaser, and the time for redemption shall not expire until the notice contemplated by this act shall have been given by said purchaser.

(1877, c. 6, § 37; G. S. 1878, c. 11, § 121; as amended 1889, c. 198, § 1.)

By § 2 all inconsistent acts are repealed.

The attempted repeal of Laws 1877, c. 6, § 37, by § 22, c. 10, Laws 1881, was held unconstitutional, the subject of the enactment not being expressed in the title. *State v. Smith*, 35 Minn. 257, 28 N. W. Rep. 241.

See, also, *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 865.

This provision does not apply to cases where, at the time of its passage, the title

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75-NW 736
75-NW 753
75-NW 760
77-NW 957

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73-M - 35
75-M - 1
75-M - 248
77-M - 10
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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 § 1593, and the certificate of assignment provided for in § 1601, *Nelson v. Central Land Co.*, 35 Minn. 498, 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*, 37 Minn. 415, 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, 23 N. W. Rep. 614.

The auditor's certificate that the time for redemption has expired is not of itself sufficient to prove giving notice. *Jewell v. Truhn*, 33 Minn. 433, 33 N. W. Rep. 106.

The notice should issue though the tax certificate is held by the person in whose name the land is assessed. *Wakefield v. Day*, 41 Minn. 344, 43 N. W. Rep. 71; *Mitchell v. McFarland*, 47 Minn. 535, 50 N. W. Rep. 610.

It is not necessary that the notice should state in whose name the property is assessed. *Sperry v. Goodwin*, 44 Minn. 207, 46 N. W. Rep. 323.

A notice which states that the time for redemption will expire 60 days after service of the notice is sufficient. *Parker v. Branch*, 42 Minn. 155, 43 N. W. Rep. 907.

Proof of publication of the notice is inadmissible without first proving that it is addressed to the party in whose name the land was assessed, that it was delivered to the sheriff for service, and that he had made return thereon to the auditor. *Mueller v. Jackson*, 39 Minn. 431, 40 N. W. Rep. 565.

See, also, *Eide v. Clarke* (Minn.) 59 N. W. Rep. 434.

Service on the person in whose name the lands are assessed, whether he be the owner or not, is sufficient. *Western Land Ass'n v. McComber*, 41 Minn. 20, 42 N. W. Rep. 543.

A trifling inaccuracy as to the amount will not avoid the notice. *Id.*; *Robert v. Western Land Ass'n*, 43 Minn. 3, 44 N. W. Rep. 663.

As to the sufficiency of the description in the notice. *Sperry v. Goodwin*, supra; *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 865.

Where the property is assigned under § 1601, the sum paid by the purchaser is "the amount for which the same were sold." *Sperry v. Goodwin*, supra.

As to the sufficiency of the return. *Reimer v. Newel*, supra.

A notice may issue, though the sale certificate has been destroyed. *Hinkel v. Krueger*, 47 Minn. 497, 50 N. W. Rep. 639.

As to constitutionality of Laws 1889, c. 193, § 1. *State v. Bigelow*, cited in note to Const. art. 4, § 27.

As to the sufficiency of the description to identify the sale and judgment. *Eide v. Clarke* (Minn.) 59 N. W. Rep. 434.

See *Frawley v. Hoverter*, 36 Minn. 379, 31 N. W. Rep. 356; *McLellan v. Omodt*, 37 Minn. 157, 159, 33 N. W. Rep. 326.

§ 1655. Expiration of period of redemption—List and 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; 10 G. S. 1878, v. 2, c. 11, § 121a.)

§ 1656. Same—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

¹⁰ An act requiring publication of notice of expiration of time for redemption of lands from tax sale. Approved March 7, 1885.

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twenty-five cents for each description so published, to be paid by the county and charged to each description of land so published.

(1885, c. 194, § 2; G. S. 1878, v. 2, c. 11, § 121b.)

§ 1657. Same—Designation of person to receive notice.

That any person or corporation having any right, title or interest in or to any land or real property in this state may file or cause to be filed in the office of the county auditor of the county in which such land or real property is situated a statement in writing containing, first, the name of the person or corporation having such right, title or interest; second, a description of the land or real property in which such right, title or interest is had; and third, the designation of some person who is a resident of such county or of some corporation which has an office or place of business within such county upon whom or upon which a personal service may be made of notices of the expiration of the period of redemption of land or real property from tax sales. Each such statement shall be signed by the person or corporation having such right, title or interest, or by any agent or attorney of such person or corporation, but need not specify the nature of such right, title or interest.

(1893, c. 58, § 1.11)

§ 1658. Same—Statements numbered and recorded—Fees.

Each such statement so filed in the office of any county auditor in this state shall be immediately numbered and filed in his office by such county auditor consecutively in the order in which it is received, and such county auditor shall, at the same time, enter consecutively in the order in which such statement is received, in a book to be kept by him for that purpose, first, the file number of such statement; second, the date when such statement is received and filed by him; third, the name of the person or corporation named in such statement as having some right, title or interest in land or real property, with the postoffice address of such person or corporation, if given in such statement; and fourth, the name of the person or corporation named in such statement as the one upon whom or upon which a personal service of notices may be made. And at the same time such county auditor shall enter the file number of such statement in his real estate transfer book or books under each piece or parcel of land described in such statement. For the duties required of the county auditor by this act the county treasurer shall be paid for the use of the county by the person presenting such statement to be filed a fee of five cents for each piece or parcel of land described in such statement. The county treasurer shall certify on each statement before it is filed his receipt of this fee. Each such statement shall cease to be valid and effectual as such for any and all the purposes of this act at the expiration of five years from the date of its filing, or when the person named therein as the one upon whom a personal service of notices may be made dies or ceases to be a resident of such county, or when the corporation named therein as the one upon which a personal service of notices may be made ceases to have an office or place of business within such county. Provided, however, that the person or corporation named in a statement filed under the provisions of this act as having such right, title or interest may file in the same office in which such statement is filed an instrument releasing any particular piece or parcel of land or real property described in such statement from the effect of such statement, such releasing instrument to be executed with the same formalities as are necessary to entitle conveyances of real estate to record. Such releasing instrument shall be by the said county auditor immediately attached to and filed with such statement affected thereby. Every person or corporation filing such releasing instrument shall before such releasing instrument is filed pay to said county treasurer for the use of the county a fee of ten cents for each such releasing instrument. The county treasurer shall certify on each such releasing instrument before it is filed his receipt of this fee. From the time when such releas-

¹¹ An act to provide that a personal service of notices must be made before the right to redeem land or real property from tax sales can be extinguished. Approved April 17, 1893.

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ing instrument is so filed such statement affected thereby shall cease to be valid and effectual as to such particular piece or parcel of land or real property so released, but shall nevertheless be and remain valid and effectual as such for any and all the purposes of this act as to each and every other piece or parcel of land or real property therein described.

(Id. § 2.)

§ 1659. Same—Personal notice to registered owner, how served—Time of redemption extended for sixty days.

Whenever any land or real property in this state has been or shall be sold for taxes at any tax judgment sale or under or by virtue of the provisions of any law of this state relating to the sale of land or real property for taxes, every person or corporation holding a tax certificate shall, after the expiration of the time for the redemption of the land or real property therein described as provided by any law of this state now existing or hereafter to be enacted, present such tax certificate to the county auditor of the county in which such land or real property is situated, and thereupon such county auditor shall prepare, under his hand and official seal, a separate notice to each person or corporation having any right, title or interest in or to the land or real property described in such tax certificate, or in or to any part of such land or real property, as indicated by any and all valid and effectual statements which have been or shall be filed in the office of such county auditor under the provisions of this act. Each such notice shall be addressed to the person or corporation named in his or its particular statement filed under the provisions of this act as having some right, title or interest in such land or real property, and such notice shall also give the postoffice address of such person or corporation if such postoffice address is given in such statement. Such notice shall also give the name of the person or corporation designated in such statement as the one upon whom or upon which a personal service of notices may be made. Such notice shall specify the description of such land or real property, the amount for which the same was sold, the amount required to redeem such land or real property from such sale, exclusive of the costs to accrue upon such notices, and the time when the redemption period will expire. These notices such county auditor shall deliver to the party applying therefor, who shall deliver the same to the sheriff of the proper county for service, mailing and return. Such sheriff shall, with all reasonable expedition after the receipt by him of said notices, serve the same and make a return thereof and of his fees therefor to the said county auditor, which return of service and fees shall be filed in said county auditor's office. Each such notice shall be by said sheriff served personally and directly upon the person or corporation designated therein as the one upon whom or upon which a personal service of notices may be made. Such service shall be made in the manner prescribed for the service of a summons in a civil action in the district court, except that the service shall in all cases be personal and directly upon such person or corporation required to be served as above. Said sheriff shall, at or before the service of each such notice, mail a true and correct copy thereof, with letter postage fully prepaid, plainly addressed to the person or corporation named in such notice as having some right, title or interest in such land or real property, and plainly addressed to the said postoffice address of such person or corporation, if such postoffice address is given in such notice. Proof of the mailing of such copy and of his fees therefor shall be returned to said county auditor by said sheriff and filed in the said county auditor's office.

The time for the redemption of any land or real property in this state from any such sale for taxes shall not expire, as to any person or corporation concerned, until sixty days after the service and mailing of all the notices and copies thereof as required by the provisions of this act or by the provisions of any other law of this state, nor until sixty days after the filing of the proofs thereof and of the sheriff's fees therefor in the office of the proper county auditor, as required by this act. For his services in serving such notices and in mailing such copies thereof, the sheriff shall be entitled to the same fees that are now or hereafter may be allowed him for the service of summons in a civil action in the district court. The fees of

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the sheriff for serving all such notices and for mailing all such copies thereof shall be paid, in the first instance, by the person or corporation holding the tax certificate, and shall be repaid by the party offering to redeem such land or real property, before any certificate of redemption shall issue. No transfer of the land or real property described in any tax certificate shall be made to the holder of such tax certificate on the books of said county auditor, nor shall any such tax certificate be entitled to record until sixty days shall have elapsed after the service of all such notices, the mailing of all copies thereof, and of the filings of the proofs thereof, and of the sheriff's fees therefor in the office of the said county auditor, as required by this act.

(Id. § 3.)

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84-NW 329

§ 1660. Act applies to land bid in by state.

When any land or real property in this state has been or shall be bid in for the state at any tax judgment sale or under or by virtue of the provisions of any law of this state relating to the sale of land or real property for taxes, and when the right of the state in such land or real property has been or shall be at any time thereafter assigned or conveyed in any manner, whether under and by virtue of section one hundred and one of chapter eleven of the general statutes of 1878, or under and by virtue of the provisions of any act amendatory thereof, or otherwise, the instrument of such assignment or conveyance shall, for all the purposes of this act, be deemed and considered to be a tax certificate, and each and all the provisions of this act relating to tax certificates shall apply to such instrument of assignment or conveyance and to each and all the holders thereof, and the same notices shall be prepared and served and copies thereof mailed in the same manner as required in the case of tax certificates by the provisions of this act. And the time for the redemption of any land or real property in this state from any such bidding in or sale for taxes shall not expire as to the state, nor as to any person or corporation to whom the right of the state has been or shall be in any manner or at any time assigned or conveyed nor as to any person or corporation concerned, until sixty days after the service and mailing of all the notices and copies thereof as required in the case of tax certificates by the provisions of this act or by the provisions of any other law of this state, nor until sixty days after the filing of the proofs thereof and of the sheriff's fees thereof in the office of the proper county auditor, as required by this act in the case of tax certificates. No transfer of any such land or real property shall be made on the books of the county auditor to the state nor to any person or corporation to whom the right of the state in or to such land or real property has been or shall be in any manner or at any time assigned or conveyed as above, and no assignment, conveyance, certificate, or other evidence of any right, title or interest in or to any such land or real property under or by virtue of any such bidding in or sale for taxes shall be entitled to record, until sixty days shall have elapsed after the service of all such notices, the mailing of all copies thereof, and the filing of the proofs thereof and of the sheriff's fees therefor in the office of the proper county auditor, as required by this act.

(Id. § 4.)

§ 1661. Other notices not superseded by this act.

The service and mailing of notices required by the provisions of this act shall not supersede or take the place of the notices required by any other law of this state to be served or published, but shall be additional thereto.

(Id. § 5.)

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§ 1662. Redemption when owner dies after sale.

That whenever the lands of any person heretofore have been or hereafter shall be sold for taxes, and the owner of such lands, after such sale, and before the expiration of the period of redemption, heretofore has deceased, or hereafter shall de cease, the executor or administrator of such owner, or any person interested in his estate as heir, devisee or creditor, may redeem such lands from any such sale at any time within four years from the date thereof. If such redemption be made by a creditor, the amount paid to effect such redemption, with interest thereon at the rate of seven per cent. per annum, shall constitute a valid claim against the estate of the deceased.

(1877, c. 84, § 1; G. S. 1878, c. 11, § 122.)

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§ 1663. Same—When made by executor, etc.

If such redemption be made by an executor or administrator, he shall at the time of the making thereof produce his letters testamentary or of administration to the county auditor. If made by any other person, he shall make and file with such auditor an affidavit stating under what right or claim such redemption is made.

(1877, c. 84, § 2; G. S. 1878, c. 11, § 123.)

§ 1664. Same—Certificate to be given by auditor.

Upon any such redemption being made, the county auditor shall make and deliver to the person making such redemption a certificate containing the name of the person redeeming, a statement of the claim or right upon which such redemption was made, the amount paid to redeem, a description of the lands redeemed, the date of the sale of such lands, and the year in which the taxes were levied for which such sale was made, which certificate shall have the effect to annul any such sale; and such certificate may be recorded as other deeds of real estate, and with the like effect as evidence or otherwise.

(1877, c. 84, § 3; G. S. 1878, c. 11, § 124.)

§ 1665. Taxes to be levied in unorganized counties.

That hereafter taxes shall be levied and collected in all unorganized counties in this state, by the counties to which they may be attached for judicial and record purposes, only for state purposes, for the payment of the principal and interest of any legal indebtedness of such unorganized counties, and a reasonable sum per annum as compensation for the county to which such unorganized counties are attached: provided, that such annual compensation for the levy and collection of taxes, and for all other expenses, shall not exceed the aggregate sum of ten mills per acre of land subject to taxation in such unorganized counties, the amount of said compensation to be extended uniformly upon the taxable property of such counties according to the assessed valuation thereof.

(1876, c. 6, § 1; G. S. 1878, c. 11, § 125.)

§ 1666. County auditor to furnish towns with abstract of real estate assessment.

Each county auditor shall, on or before the first Tuesday of April, A. D. one thousand eight hundred and sixty-nine, and biennially thereafter, make out and transmit to the town clerk of each town in his county, a certified copy or abstract of the real estate assessment roll of said town, as equalized by county and state boards of equalization.

(1868, c. 37, § 1; G. S. 1878, c. 11, § 126.)

§ 1667. St. Paul, etc., R. R. Co. may pay percentage of gross earnings in lieu of all other taxes.

In consideration of an annual payment of a percentum, as provided in this section, by the St. Paul, Stillwater and Taylor's Falls Railroad Company, the railroad, its appurtenances and appendages, and all other property, estate and effects of said corporation, held or used for, in or about the construction, equipment, renewal, repair, maintaining or operating its railroad, including the lands granted to said company to aid in the construction of said railroad, as also the stock and capital of said company, shall be and hereby are forever exempt from all taxation and from all assessments; and in consideration of the grants made to and the privileges conferred upon the said company, and the exemption contained in this section, the said company shall, during the first three years from and after January 1, 1872, on or before the first day of March of each and every year, pay into the treasury of this state one per cent. on the gross earnings of said railroad, the first payment to be made on the first day of March, one thousand eight hundred and seventy-three, or within fifteen days after the passage of this act; and shall, during the seven years next ensuing after the expiration of the three years aforesaid, pay into the treasury of the state, on or before the first day of March of each year and every year, two per cent. on the gross earnings of said railroad; and shall

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from and after the expiration of ten years from the said first day of January, one thousand eight hundred and seventy-two, on or before the first day of March of each and every year, pay into the treasury of this state three per cent. of the gross earnings of said railroad; and the payment of such per centum annually as aforesaid shall be and is in full of all taxation and assessment whatever. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this state on or before the first day of February in each year, the truth of which abstract shall be verified by affidavits of the treasurer and secretary of said company; and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstract, full power is hereby vested in the governor of this state, or any other person appointed by law prescribed to examine, under oath, the officers and employees of said company or other persons; and if any person so examined by the governor or other authorized person shall knowingly or wilfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for securing to the state the payment of aforesaid percentums, it is hereby declared that the state shall have a lien upon the railroad of said company, and upon all the property, estate and effects of said company whatever, real, personal or mixed, and the lien hereby secured to the state shall have and take precedence of all demands, decrees and judgments against said company: provided, that the lands of said company shall be subject to taxation as soon as sold, leased, or contracted to be sold or leased.

(Sp. Laws 1873, c. 111, § 1; G. S. 1878, c. 11, § 128.)

§ 1668. Same—Other railroad companies may make same commutation.

Any railroad company owning or operating, or which may hereafter own or operate, any line or lines of railroad in this state, may, by resolution of its board of directors, attested by its secretary and filed with the secretary of state, accept and become subject to the provisions of this act; and in such case the payment of such percentage in lieu of taxes, in accordance therewith, shall commence from and after the first day of March next after the completion of thirty miles of such line hereafter built, or of the entire line, if the same shall be less than thirty miles in length.

(Sp. Laws 1873, c. 111, § 2; G. S. 1878, c. 11, § 129.)

This section and § 1667 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.

A similar exemption from taxation held not to extend to timber lands purchased to supply ties, etc. *County of Todd v. St. Paul, M. & M. Ry. Co.*, 38 Minn. 163, 38 N. W. Rep. 109.

Writ of error dismissed. 142 U. S. 282, 12 Sup. Ct. Rep. 281.

See, also, *State v. Northern Pac. R. Co.*, 39 Minn. 25, 33 N. W. Rep. 635.

Under a similar exemption held that property bought and used in view of its probable future use is not exempt. *City of St. Paul v. St. Paul, M. & M. Ry. Co.*, 39 Minn. 112, 38 N. W. Rep. 925.

An hotel held not exempt. *County of Hennepin v. St. Paul, M. & M. Ry. Co.*, 42 Minn. 233, 44 N. W. Rep. 63.

A wharf leased to a coal company held not exempt. *County of St. Louis v. St. Paul & D. R. Co.*, 45 Minn. 510, 48 N. W. Rep. 334.

Payment by the companies owning all the stock in a union depot company of a percentage of their gross earnings renders the depot company not liable to pay a percentage on its earnings. *State v. St. Paul Union Depot Co.*, 42 Minn. 142, 43 N. W. Rep. 840.

See *Minnesota Cent. Ry. Co. v. Donaldson*, 38 Minn. 115, 35 N. W. Rep. 725.

§ 1669. Railroad companies shall pay percentage of gross earnings.

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-

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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; ¹² G. S. 1878, v. 2, c. 11, § 129a.)

A railroad company organized for, and doing business only as, an ordinary railroad, held subject to taxation only in accordance with this section, though but three miles in extent, the cars being operated by a steam locomotive over two miles, and by cable one mile. *State v. District Court*, 54 Minn. 34, 55 N. W. Rep. 816.

§ 1670. 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.

(1887, c. 11, § 2; G. S. 1878, v. 2, c. 11, § 129b.)

§ 1671. State treasurer collector of railroad taxes.

The state treasurer shall be the collector of all taxes due from railroad corporations which pay a percentage of gross earnings in lieu of other taxes.

(1873, c. 104, § 1; G. S. 1878, c. 11, § 132.)

§ 1672. May appoint deputies.

The state treasurer may appoint one or more deputies to assist him in the collection of the taxes due from railroad corporations, and may take such bond and security from the person so appointed as he deems necessary for his indemnity, and shall in all cases be liable and accountable for the proceedings and misconduct of his deputies in office: provided, that the deputies appointed by the provisions of this act shall in no case be entitled to or receive from the state any fee, charge or salary.

(1873, c. 104, § 2; G. S. 1878, c. 11, § 133.)

§ 1673. Distraint for taxes—Proceedings therein.

At any time subsequent to the first day of March of each year, when any such tax or per centum of gross earnings is due from any railroad or railway corporation or company, the state treasurer or his deputy shall distraint sufficient goods, chattels, or other movable property, if found within this state, to pay the taxes or per centum due from such railroad or railway corporation or company, and the costs that may accrue, and shall immediately proceed to advertise the same in three newspapers published in the state, 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 three weeks from the taking of such property, the state treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as shall be sufficient to pay said taxes and the costs of such distress and sale, and penalty, as herein provided.

(1873, c. 104, § 3; G. S. 1878, c. 11, § 134.)

§ 1674. Penalty for non-payment of taxes when due.

If any such railroad or railway corporation or company fail to pay the taxes or per centum of gross earnings as provided in their charter, by the first day of March when the same becomes due, then the said company or corporation may pay the same to the state treasurer at any time before property shall have been distrained: provided, that the said company or corporation shall in every instance, when the said tax or per centum of gross

¹² An act for the taxation of railroad companies. Approved March 7, 1887.

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earnings shall not be paid when due, pay to the state treasurer the additional sum of five per centum on said tax as a penalty.

(1873, c. 104, § 4; G. S. 1878, c. 11, § 135.)

§ 1675. Property which may be distrained, etc.

All steam engines and cars, of every kind and description, shall be deemed and declared to be chattels and movable property for the purposes of this act and the enforcement of the tax. Whenever any steam engine or car shall be levied on by virtue of the provisions of this act, the state treasurer or his deputy making such distress or levy, shall have full and complete power and authority to move the said property so distrained or levied upon, on and over any road, track or side-track within this state, and to any town or city within this state; and the state treasurer or his deputy making said levy shall have full power and authority to seize and take immediate and exclusive possession of any side-tracks, round-houses or engine-houses, depot or warehouses, buildings of the company or corporation in default, for the payment of the said tax or per centum of the gross earnings and to move any and all property so distrained or levied upon, into said buildings, houses, or upon said side-tracks, and to keep and maintain such possession so long as in the opinion of said treasurer may be necessary for the collection of said tax. Any person or persons, without authority from the treasurer or his deputy, interfering with or molesting the property so levied upon, or the side-tracks upon which said property shall be, or the houses in which the same shall be placed, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the state prison for not less than one year.

(1873, c. 104, § 5; G. S. 1878, e. 11, § 136.)

§ 1676. Failure to make return of gross earnings—Tax and penalty to be fixed by treasurer—Semi-annual payment.

If any railroad company in this state shall fail to make a return of its gross earnings, and the whole thereof, at the time and in the manner provided by law, it shall be the duty of the railroad commissioner to notify the treasurer or accounting officer of such neglect or default; and if the same shall continue for thirty days after serving such notice, such company shall be subject to a penalty in an amount equal to twenty-five per cent. of the tax imposed upon such company, to be added to and collected with such tax; and in case such railroad company shall fail, within thirty days after such notice, to make such return of its gross earnings, and the whole thereof, at the time and in the manner provided by law, then in that case it shall be the duty of the state treasurer to fix the amount of such gross earnings and tax, together with such penalty, basing his actions upon the best evidence he can obtain without expense to the state, and make an entry of the amount of such gross earnings and tax and penalty in the books of his office, which said entry, when so made, shall stand in the place of the report required by law to be made by said company, and shall, in all courts of this state, and for all purposes, be conclusive evidence of the facts therein stated. The certificate of the state treasurer that any such tax or per centum of gross earnings, or any part thereof, is unpaid and due from any railroad or corporation, and stating the amount thereof, together with such penalty, shall be full and complete and sufficient warrant for the collection, by sale or otherwise, of the said tax or per centum of gross earnings, or any part thereof: provided, that any railroad company may elect to pay its taxes semi-annually on the first days of August and February for the preceding six months of each year, commencing January first and July first, respectively, and file with the railroad commissioner its written assent to the provisions of this act; and in such case the taxes of such roads for the year one thousand eight hundred and seventy-three shall be due and payable on the first day of July, one thousand eight hundred and seventy-four, and thereafter on the first days of February and August of each year, and shall be enforced under the provisions of this act and such laws as may be hereafter passed.

(1873, c. 104, § 6, as amended 1874, c. 4, § 1; G. S. 1878, c. 11, § 137.)

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§ 1377. Fees and allowances for services under this act.

The state treasurer or his deputy shall be allowed the [same] fees, costs and disbursements for making distress and sale of property under the provisions of this act, which are allowed by law to sheriffs for making levy and sale of property on execution; traveling fees to be computed from the state capitol to the place of making the distress: provided, that the state treasurer or his deputy shall receive no fees or costs from the state for making such distress or sale.

(1873, c. 104, § 7; G. S. 1878, c. 11, § 138.)

§ 1678. Gross earnings of railroads—When to be reported.

Each railroad corporation owning or operating a railroad in this state shall, on or before the first day of February in each year, make to the state railroad commissioner a true and just return of the gross earnings of its road or roads within this state, for and during the year ending the last day of December next preceding, which returns shall be verified by the oath of the officer making the same: provided, that where any railroad company pays its tax on gross earnings semi-annually, the said returns shall be made in the manner provided, on or before the twentieth day of January, for the six months ending the last of December preceding, and on the twentieth day of July for the six months ending the last of June preceding.

(1877, c. 105, § 1; G. S. 1878, c. 11, § 139.)

§ 1679. To be certified to the state auditor.

The state railroad commissioner shall certify the said returns of gross earnings to the state auditor, together with a statement of the per centum and amount of tax due thereon. The state auditor shall then make his draft on the railroad corporation for the amount of tax due, and place the same in the hands of the state treasurer for collection.

(1877, c. 105, § 2; G. S. 1878, c. 11, § 140.)

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§ 1680. Lands sold during the year to be reported.

That on or before the first day of April in each year, each and every railroad corporation that has received lands from the state or United States, to aid in the construction of its line of railroad, shall make a return to the state railroad commissioner of full and complete lists of all lands sold or contracted to be sold during the year ending the last of December next preceding, the correctness of which list shall be verified under oath by the land commissioner or other proper officer of the railroad corporation. All trustees or other persons to whom any of the lands granted in aid of any railroad have been conveyed, or by whom such lands are held in trust or otherwise, shall be subject to the foregoing provisions in regard to returns of lists of lands sold.

(1877, c. 105, § 3; G. S. 1878, c. 11, § 141.)

See County of Martin v. Drake, 40 Minn. 137, 139, 41 N. W. Rep. 942.

§ 1681. Existing laws not affected.

This act shall not be construed to repeal or invalidate existing laws for the collection of taxes from railroad corporations. It shall take effect and be in force from and after the first day of March, one thousand eight hundred and seventy-seven.

(1877, c. 105, § 4; G. S. 1878, c. 11, § 142.)

§ 1682. Telegraph and telephone lines.

That all telegraph and telephone lines heretofore or hereafter built and operated within this state shall be subject to taxation as hereinafter required.

(1891, c. 8, § 1.13)

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§ 1683. Same—Annual report to state auditor.

That it shall be the duty of the president, vice president, manager or superintendent of every corporation, association, partnership or person owning or operating any telegraph or telephone line within this state, the rate and

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¹³An act to provide for the assessment, taxation and collection of taxes of telegraph and telephone lines within the state of Minnesota. Approved April 11, 1891.

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manner of taxation of which for any purpose has not been fixed and prescribed by special charter granting such franchise, or by laws providing for taxation on gross earnings of railroads, to furnish the state auditor, on or before the first Monday in July, eighteen hundred and ninety-one, and each year thereafter, on or before the first Monday in July, 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.

(Id. § 2.)

§ 1684. Duty of state board of equalization.

That 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.

(Id. § 3.)

§ 1685. Same—Rate of tax.

That 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.

(Id. § 4.)

§ 1686. Tax payable first day of January.

The taxes levied as provided by this chapter shall become due and payable at the state treasury on the first day of January 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.

(Id. § 5.)

§ 1687. Penalty for failure to report.

If the officers of any such company fail to make and file the report required in section two of this act, such neglect shall not release its line from taxation, but the state board shall proceed to assess the line notwithstanding, adding thereto thirty per centum on the assessable value thereof as penalty.

(Id. § 6.)

§ 1688. Repeal of former laws.

That Chapter sixty-eight of the General Laws of the extra session of eighteen hundred and eighty-one, Chapter one hundred and thirty-eight of the General Laws of eighteen hundred and eighty-seven, Chapter one hundred and thirty-nine of the General Laws of eighteen hundred and eighty-seven, and all acts and parts of acts inconsistent herewith, be and the same are hereby repealed.

(Id. § 7.)

§ 1689. Mining corporations—Tax on product in lieu of all other taxes.

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 min-

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ing 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. S. c. 54, § 1;¹⁴ G. S. 1878, v. 2, c. 11, § 149.)

§ 1690. 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.

(1881, Ex. S. c. 54, § 2; G. S. 1878, v. 2, c. 11, § 150.)

§ 1691. 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.

(1881, Ex. S. c. 54, § 3; G. S. 1878, v. 2, c. 11, § 151.)

§ 1692. Registry of municipal debts—Copy for state auditor.

That whenever any county, city, village or township, shall have incurred or created a debt, or shall hereafter incur or create a debt, under the provisions of any law of this state, to aid in the construction of any railway or railways, the county, city, village or township clerk, or other proper officer, upon the issuing of the bonds in payment of said debt, shall make a registration thereof in a book to be kept for that purpose, showing the date, amount, number, maturity and rate of interest of each of said bonds, and to what railroad the same were given, and shall immediately transmit a true and correct copy of such registration so made to the office of the state auditor, to be by him entered in a book to be kept for that purpose; and each of said officers shall receive a fee of fifty cents from the holder of such bond for so registering the same.

(1871, c. 17, § 1; G. S. 1878, c. 11, § 143.)

§ 1693. Previous issues of bonds to be registered.

All bonds heretofore issued and still unpaid shall be registered by the holder thereof at the office of the state auditor, in a book to be kept for that purpose. Such registration shall show the date, amount, number, maturity and rate of interest of each of said bonds, and to what railway or railways the

¹⁴ 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.

same was given, under what act, and by what county, city, village or township the same were issued; and the state auditor shall, under his seal of office, certify upon such bond the fact of such registration, for which registration and certificate he shall be entitled to a fee of one dollar from the holder of each bond.

(1871, c. 17, § 2; G. S. 1878, c. 11, § 144.)

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.

§ 1694. 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; G. S. 1878, c. 11, § 145; as amended 1881, c. 16, § 1; Id. Ex. S. c. 15, § 1.)

§ 1695. State not liable for such debts.

Nothing herein contained shall be construed to create any liability on the part of the state for the payment of any part of the principal or interest on any of said bonds.

(1871, c. 17, § 4; G. S. 1878, c. 11, § 146.)

§ 1696. 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; G. S. 1878, c. 11, § 147; 1881, c. 16, § 2; Id. Ex. S. c. 15, § 2; 1885, c. 59.)

§ 2 repeals all inconsistent acts and parts of acts.

§ 1697. Tax certificate—Holder can obtain amount paid, when.

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,

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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.

(1881, c. 10. § 21; G. S. 1878, v. 2, c. 11, § 148.)

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*, 38 Minn. 90, 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.*

Where an information, on which is based an application for an alternative writ of mandamus to compel a board of county commissioners to make the certificate prescribed in this section, fails to state that the board has inquired into the truth of the facts alleged in the petition, or the result of such inquiry, or that the board has refused to make the inquiry, the application must be denied. *State v. Olson* (Minn.) 56 N. W. Rep. 585.

As the commissioners are not the real parties in interest, their admissions as to the facts alleged do not bind the state. *Id.*

This section is constitutional. *State v. Olson* (Minn.) 59 N. W. Rep. 634.

The remedy is not barred where less than six years have elapsed since the right to the remedy accrued. *Id.*

Where, on a proper application, the commissioners are satisfied that the facts are fairly and fully stated, they can be required by mandamus to sign the certificate. *Id.*

Where § 1616 applies, the petition must negative the facts specified in that section affecting the right to refundment. *Id.*

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