CHAPTER 279

DELINQUENT REAL ESTATE TAXES

279.01 PENALTY AND INTEREST ON REAL ESTATE TAXES.

HISTORY. Ex. 1902 c. 2 s. 1; R.L. 1905 s. 903; G.S. 1913 s. 2092; 1923 c. 324; 1925 c. 155 s. 1; G.S. 1923 s. 2104; M.S. 1927 s. 2104; 1931 c. 316 s. 1; 1933 c. 121 s. 1.

Where a tax has been levied upon real estate based upon an overvaluation of property, the first half of the tax paid without protest, the second half allowed to become delinquent, and the amount of the excess tax determined in a proceeding under the statute, the excess may be deducted from the tax remaining unpaid. In re Delinquent Taxes, 155 M 258, 193 NW 459.

Laws 1929, Chapter 117, amended by Laws 1929, Chapter 415, Section 4, Mason's Section 2104-1, continued only and including Dec. 31, 1929, and thereafter of no force or effect. See as to penalty and interest on taxes payable in 1926, 1927, and 1928. State ex rel v Erskine, 178 M 404, 227 NW 209.

Laws 1933, Chapter 414, Section 1, is a statute allowing a remission to a delinquent taxpayer, and not merely a statute permitting the state to satisfy at a discount and on a public sale a claim represented by a judgment which it holds for delinquent taxes or permitting the state to sell property which has been forfeited to it. State ex rel v Luecke, 194 M 246, 260 NW 206.

There is involved in this case no constitutional question. In this state there is no constitutional right belonging to the citizen to redeem from tax sales, nor any right to any notice of expiration of redemption from such sale. One must look to the statutes for such rights. State v. Aitkin County Land, 204 M 502, 284 NW 63.

Payment by check does not pay the tax unless check is honored at bank, and where the check is not paid it is the duty of the auditor to put back on the tax rolls item marked paid. OAG July 5, 1935 (21f).

When Memorial Day falls on Sunday, custom of observing following day as Memorial Day does not warrant treasurer in accepting payment of first half of taxes without penalty on June 1st. OAG May 26, 1937 (376f).

1936 taxes are not included in composite judgment but under Laws 1937, Chapter 486, must be paid in full at the time of filing the offer to confess judgment. It is not possible to confess judgment on the 1935 taxes when there are no prior delinquent taxes. When taxes for two or more years have gone to sale, they must be redeemed as a whole and not separately. 1938 OAG 405, Nov. 10, 1937 (412a-10).

As to notice of expiration of redemption. 1938 OAG 415, July 15, 1938 (423c).

Where land is bid in for the state at the annual May sale for delinquent taxes for 1932 and subsequent years and is subsequently assigned, the interest is figured at eight per cent instead of 12 per cent, and is figured on the amount of the original tax from the first day of March following the year in which taxes became due. 1940 OAG 338, March 6, 1939 (412a-9).

279.02 DUTIES OF COUNTY AUDITOR AND TREASURER.

HISTORY. Ex. 1902 c. 2 s. 2; R.L. 1905 s. 904; G.S. 1913 s. 2093; G.S. 1923 s. 2105; M.S. 1927 s. 2105; 1931 c. 316 s. 2; 1933 c. 121 s. 2; 1943 c. 281 s. 1.

Delinquency of Real Estate Taxes

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Delinquency of real estate taxes

1. Delinquency defined

Under Ex. Laws 1864, Chapter 18, Section 1, a list returned by the city clerk is insufficient to authorize a sale by the auditor. Until a personal demand or publication, the taxes were not delinquent. St. Anthony v Greely, 11 M 321 (225).

To constitute a legal delinquent tax on land three things are necessary: (1) That the land is subject to taxation; (2) that a tax authorized by law has been levied on it in the manner provided by law; (3) that the tax remains unpaid after the time appointed by law for its payment. Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

The expression "delinquent taxes" means all taxes that are overdue and unpaid in fact. Delinquent taxes do not lose their identity as such from the fact that the land against which they are assessed was regularly sold at a tax sale, and, for want of a purchaser, bid in by the state. Jensvold v Minnesota Canal Co. 93 M 382, 101 NW 603.

2. Jurisdictional limits

Delinquency is so far jurisdictional that a judgment may be collaterally attacked by evidence that the taxes were not in fact delinquent at the time of its entry (modified by statute). Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

3. When tax is due

The six-years limitation of actions "upon a liability created by statute" does not commence to run against proceedings to enforce payment of taxes until the expiration of the time allowed for the filing of such list with the clerk of the district court. State v Sage, 75 M 448, 78 NW 14.

Following Security v Von Hegderstadt, 64 M 409, and distinguishing London v Gibson, 77 M 394, the provision requiring the payment of current taxes upon lands forfeited to the state at a tax sale under that section, is mandatory and the issuance of a tax deed conveying title by the state through the county auditor without the payment of taxes due, transfers no title to the purchaser. Hoyt v Chapin, 85 M 524, 89 NW 850.

Real estate taxes become due on the first Monday in January next after their assessment when the auditor delivers the tax list to the treasurer. State v Sage, 75 M 448, 78 NW 14; Hoyt v Chapin, 85 M 524, 89 NW 850.

4. When delinquent

Prior to the enactment of Ex. Laws 1902, Chapter 2, real estate taxes became delinquent the first day of June. County v Barber, 31 M 256, 17 NW 473; State v Baldwin, 62 M 518, 65 NW 80.

Real estate taxes now become delinquent on the first Monday in January next after they become due. State v Sage, 75 M 448, 78 NW 14; Falvey v. Board, 76 M 257, 79 NW 302; Hoyt v Chapin, 85 M 524, 89 NW 850.

5. Penalties for non-payment

Penalties for failure to pay taxes are collected in the same manner as the taxes. Baker v Kelley, 11 M 480 (358).

Penalties for the non-payment of taxes cannot be imposed when the owner has had no opportunity to pay them as where the legislature enacted a law exempting certain property from taxation which law the court declared unconstitutional. County v Winona & St. Peter, 39 M 380, 40 NW 166; 40 M 512, 41 NW 465, 42 NW 473.

Penalties apply to special assessments in the same manner as to taxes. State v Norton, 63 M 497, 65 NW 935; City of Fergus Falls v Board, 88 M 346, 93 NW 126.

They may be imposed upon omitted property if the owner has had an opportunity to pay the taxes. State v Sage, 75 M 448, 78 NW 14.

Laws 1933, Chapter 414, Section 1, in classifying taxpayers into two classes, those who pay promptly and those who do not, and in allowing a remission or discount to the latter, violates Minnesota Constitution, Article 9, Section 1, which requires taxes to be uniform upon the same class of subjects. State ex rel v Luecke, 194 M 246, 260 NW 206.

The three per cent additional penalty was abolished by Laws 1933, Chapter 121. 1934 OAG 822, Nov. 27, 1933 (421a-5).

Property being sold for four-fifths of the 1900 to 1934 taxes, a person redeeming is required to pay interest at ten per cent on fourth-fifths of the 1930, 1931 taxes from June 30, 1936, and at eight per cent on four-fifths of the 1932, 1933, and 1934 taxes from June 30, 1936. 1938 OAG 426, April 4, 1938 (425b-2).

Proceedings for collection of delinquent real estate taxes

1. How far judicial

While the proceeding is an action it is not an ordinary action; and the parties are not entitled to a trial by jury of any issue, except the issue that the tax has been paid, or that the property is exempt from taxation. Board v Morrison, 22 M 178.

The fact that the land against which a tax is sought to be enforced is exempted from taxation, does not affect the jurisdiction of the court to try and determine the legality of the tax. County v St. Paul & Duluth, 27 M 109, 6 NW 454.

The collection of taxes is essentially an administrative proceeding, but at certain steps the assistance of the court is invoked as a matter of expediency. City of Duluth v Dibblee, 62 M 18, 63 NW 1117.

Prior to 1874 proceedings for the collection of taxes were in pais, but now are judicial in the nature of an action in court. The judgment thus rendered is final and conclusive, except upon the questions whether the taxes had been paid before judgment or whether the land was exempt. Falvey v Board, 76 M 257, 79 NW 302.

2. A proceeding in rem; constructive seizure sufficient

Proceedings for the collection of delinquent real estate taxes are in rem. Board v Morrison, 22 M 178; Chauncey v Wass, 39 M 1, 25 NW 457, 30 NW 826; McQuade v Jaffray, 47 M 326, 50 NW 233.

No seizure of the property is required other than such constructive seizure as may be involved in the institution of proceedings against the property in the manner provided by statute. Chauncey v Wass, 39 M 1, 25 NW 457, 30 NW 826; City of Duluth v Dibblee, 62 M 18, 63 NW 1117.

Real estate taxes create no personal liability. They are assessed against the land and not against the owner. They are not a lien on other land of the owner. State v Dresall, 38 M 90, 35 NW 580; Falvey v Board, 76 M 257, 79 NW 307; Vossen v Eberhard, 90 M 120, 95 NW 1115.

3. Right to notice; constructive notice

Where a tax is based upon valuation of property the owner at some stage of the proceedings has a constitutional right to notice and must be given an opportunity to be heard on the validity and amount of the tax. Notice of judgment provided by statute is sufficient. Constructive notice satisfies the constitutional requirement. Chauncey v Wass, 39 M 1, 25 NW 457, 30 NW 826; County v Winona

& St. Peter, 40 M 512, 41 NW 465, 42 NW 473; Win. & St. Peter v Minnesota, 159 US 526, 16 SC 83.

4. Pertinent laws of other states

Decisions relating to tax sales in other states, and in Minnesota prior to 1874, are seldom of value because they relate to proceedings in pais while our proceedings are now judicial. St. Anthony v Greely, 11 M 321 (225); County v Barber, 31 M 256, 17 NW 473; Taylor v Win. & St. Peter, 45 M 66, 47 NW 453; McNamara v Fink, 71 M 66, 73 NW 649; Falvey v Board, 76 M 257, 79 NW 302.

Liability of treasurer

1. Actions

In an action by a county against a treasurer and his bondsmen, the complaint stated a cause of action with respect to his failure to collect penalties. The omission of the auditor to furnish statement including penalties was matter of affirmative defense. Board v Miller, 101 M 294, 112 NW 276.

279.03 INTEREST ON DELINQUENT REAL ESTATE TAXES.

HISTORY. 1931 c. 315; 1933 c. 121 s. 3; M. Supp. s. 2105-1; 1943 c. 281 ss. 2, 3.

A state assignment certificate which actually included the delinquent taxes for 1922 to 1932, but which recited it was issued "pursuant to the real estate tax judgment for the year 1926", is fatally defective. Bratrud v Security State, 203 M 463, 281 NW 809.

The provision as to interest in Laws 1933, Chapter 121, is not applicable to 1930 real estate taxes. 1934 OAG 412, Dec. 27, 1933, (425b-2).

Interest is not to be included in the amount of taxes published in the delinquent tax list of 1932 taxes from March 1, 1934, it being required that the list be published prior to that date. 1934 OAG 823, Jan. 19, 1934 (412a-9).

Eight per cent rate prescribed by Laws 1933, Chapter 121, is applicable only to taxes for 1932 and subsequent years. OAG May 31, 1934 (412a-9).

279.04 APPLICATION.

HISTORY. 1933 c. 121 s. 4; M. Supp. s. 2105-2.

Form suggested for notice of expiration of redemption. 1938 OAG 415, July 15, 1938 (423c).

279.05 DELINQUENT LIST; FILING; EFFECT.

HISTORY. Ex. 1902 c. 2 s. 3; R.L. 1905 s. 905; G.S. 1913 s. 2094; G.S. 1923 s. 2106; M.S. 1927 s. 2106.

Delinquent list

1. **Auditor to prepare**
2. **Taxes included**
2. **Lands bid in by state not included**
4. **Statement of amount**
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Description of real estate

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5. Description, aid of tabular forms
6. Exactness required
7. Extrinsic evidence, when admissible
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12. Held insufficient

Filing of list

1. Effect of as commencement of action
2. Jurisdictional
3. Date of filing
4. Filing, what constitutes

Delinquent list

1. Auditor to prepare

The auditor, during January, prepares the list from the records in his office. State v Sage, 75 M 448, 78 NW 14.

2. Taxes included

The list includes only the taxes becoming delinquent in that year. Taxes delinquent in prior years may be inserted when authorized by statute. County v Barber, 31 M 256, 17 NW 473; County of Win. & St. Peter, 38 M 397, 37 NW 949.

Parol evidence admissible to show that "band fund" was equivalent to "musical entertainment" to sustain the tax levy. State v Keyes, 188 M 79, 246 NW 547.

Where judgment has been entered for 1932 delinquent real estate taxes, delinquent taxes for subsequent years were properly attached to the tax judgment and omitted from subsequent tax lists. Singer v Village of Goodridge, 210 M 324, 298 NW 35.

Necessity of including lands in which 1932 taxes are delinquent. 1934 OAG 784, Jan. 17, 1934 (412a-13).

1931 taxes are not to be included in delinquent tax list where judgment has been secured. OAG Jan. 22, 1934.

Sales under tax judgments against one tract to enforce payment of taxes against several parcels, are void. 1936 OAG 418, Sept. 25, 1936 (425b-3).

Where judgment is declared invalid by a court for failure to comply with provisions of law. 1938 OAG 406, April 29, 1938 (412a-23).

Validity of "tax bargain" statutes. 18 MLR 854.

Form of notice of expiration of redemption period required to be given to owner. 23 MLR 993.

Grouping of contiguous parcels of land in delinquency proceedings. 23 MLR 993.

Exemption of educational institutions. 26 MLR 763.

3. Lands bid in by state not included

Lands bid in for the state at tax sales and not assigned or redeemed are not placed on the delinquent tax list; but prior to the decision in State v Camp, 79 M 343, 82 NW 645, it was optional with the state to place such lands on the list and re-sell them. Burglund v Graves, 72 M 148, 75 NW 118; Countryman v Wasson, 78 M 244, 80 NW 973; State v Camp, 79 M 343, 82 NW 645.

When lands have been sold for taxes, and the purchaser thereafter perfects his title thereunder, the state cannot impeach such title by re-sale of the land for

taxes due and unpaid for prior years. State v Camp, 79 M 343, 82 NW 645; Gates v Keigher, 99 M 138, 108 NW 860.

When land has been bid in for the state upon a delinquent tax judgment sale, such land as long as it has not been assigned by the state or redeemed, is not to be placed on the delinquent tax list for judgment and sale for subsequent delinquent taxes. Forbes v Stream, 117 M 484, 136 NW 304.

4. Statement of amount

An error in the amount of tax against land included in the published list, and in the judgment, did not affect the judgment of the court, nor render the judgment void. An error in the statement or an unauthorized inclusion of taxes for certain years is not jurisdictional and is waived if objection is not taken by answer. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Stewart v Colter, 31 M 385, 18 NW 98; Coffin v Estes, 32 M 367, 20 NW 357; Wass v Smith, 34 M 304, 25 NW 606.

It is sufficient to state the amount in a column with a space between the numerals representing dollars and cents if there is a dollar mark at the head of the column. Stewart v Colter, 31 M 385, 18 NW 98; Collins v Welch, 38 M 62, 35 NW 566.

The same strictness as to definiteness and certainty is not required in the statement of the amount of tax against a tract of land in the published list, a mere notice to the landowner, as is required in the judgment, the final determination of the law as to the amount to be enforced against the land. Collins v Welch, 38 M 62, 35 NW 566; Bonham v Weymouth, 39 M 92, 38 NW 805.

A statement of the amount due, at least in the published list, is jurisdictional. Bonham v Weymouth, 39 M 92, 38 NW 805.

The placing of two figures opposite the description in a column headed "Amount" is insufficient unless there is also a dollar mark or equivalent indicated. Bonham v Weymouth, 39 M 92, 38 NW 805.

Prior to the statutory form, and in a column headed "Amount" the placing of figures with a space between the numerals, thus "7 03" was held sufficient. Chouteau v Hunt, 44 M 173, 46 NW 341.

The delinquent list while composed of different sheets is in fact one list; and under Laws 1881, Chapter 135, it was sufficient to state the amount due for several years in gross. Whitney v Wegler, 54 M 235, 55 NW 927.

Under the general law such a statement is a mere irregularity which is waived if objection is not made by answer. State v Baldwin, 62 M 18, 65 NW 80.

The blank on which a certain record was written had a column headed "Dollars" and another headed "Cts." A red line separated these two columns, and the words "Cts" was erased with a pen. "560" and "1860" were written with the last figure of each number to the right of the red line and other figures to the left of it. These numbers should be read $560.00 and $1,860, respectively, and not $56.00 and $186.00. State v Hunt, 74 M 496, 77 NW 301; Mahlum v Thayer, 93 M 471, 101 NW 653; Stein v Hanson, 96 M 387, 109 NW 821.

Where refunded taxes which were sought to be recovered by inclusion in the tax list for a subsequent year were not lumped with current taxes, but were separately stated, year by year, so as to set forth correctly the name of the owner, the description of the premises, and the amount charged against each tract and year, the list as published and as entered in the judgment book was valid upon collateral attack. Obst v Board, 95 M 123, 103 NW 893.

The test of sufficiency in relation to descriptions of real estate in tax proceedings is whether a man with ordinary intelligence would, with reasonable certainty, identify the land described. Salisbury v Stenmoe, 96 M 467, 105 NW 416.

5. Errors

Laws 1874, Chapter 1, is so broad and general as to show clearly the intention of the legislature that where a list of taxes is actually filed by the auditor, and the publication prescribed by the act is made, no mistake or error in the proceedings shall affect the jurisdiction of the court. A mistake in the name of the owner is not jurisdictional. The term "error" as used in the statute relates to

matters of form. Board v Morrison, 22 M 178; Bennett v Blatz, 44 M 56, 46 NW 319; State v Baldwin, 62 M 518, 65 NW 80; Cook v Schroeder, 85 M 374, 88 NW 971.

Time for redemption from tax sale, under Laws 1913, Chapter 543, does not expire until service of a notice and end of 60 days thereupon. Defect in publisher's affidavit defeats notice of expiration of redemption. Burbridge v Warren, 139 M 346, 166 NW 403.

Tax paid before filing delinquent tax list with the clerk of the district court is required, renders the judgment void. State v Keyes, 147 M 453, 180 NW 544.

Remedy as to illegal tax is in tax proceeding itself. Wall v Borgen, 152 M 108, 188 NW 160; Braddock v Erskine, 155 M 70, 192 NW 193.

The land was assessed as 16 forty-acre tracts, all owned by the same person and the delinquent tax list described the tract as "all of section 27," which description was followed in the judgment and sale. The court held this clerical error was not subject to collateral attack; but see attorney general's opinion Sept. 23, 1936 (425b-3). State v Aitkin Co. Land Co. 204 M 495, 284 NW 63.

6. Evidential value

The list filed with the clerk is, not only as to taxes become delinquent in the current year, but as to all authorized to be placed upon it, prima facie evidence of the validity of the tax; but where there are on it taxes for prior years, the facts authorizing their insertion in the list must be proved. County v Barber, 31 M 256, 17 NW 473.

7. Verification

The verification is not a jurisdictional prerequisite; need not be published; and where the list is made up of several sheets a single verification attached to the last sheet is sufficient. Board v Morrison, 22 M 178; Bennett v Blatz, 44 M 56, 46 NW 319; Chouteau v Hunt, 44 M 173, 46 NW 341; Whitney v Wegler, 54 M 235, 55 NW 927; Cook v Schroeder, 85 M 374, 88 NW 971.

Description of real estate

1. Test of sufficiency

It would never do to hold that judgments of domestic tribunals may be explained by experts, or by proof of the local meaning of the language. The language used must be according to common usage. Keith v Hayden, 26 M 212, 2 NW 495.

Any description of real property is sufficient which points it out in such a way as to leave the public no room for doubt as to what property is intended, though it is not literally the description in the records of title. Evidence of intrinsic facts may be admissible. Stewart v Colter, 31 M 385, 18 NW 98; Nat'l Bond v Board, 91 M 63, 97 NW 413.

The test of sufficiency is whether a man of ordinary intelligence would identify the land described with reasonable certainty. Collins v Welch, 38 M 62, 35 NW 566; Chouteau v Hunt, 44 M 173, 46 NW 341; Sperry v Goodwin, 44 M 207, 46 NW 328; Godfrey v Valentine, 45 M 502, 48 NW 325; McQuade v Jaffray, 47 M 326, 50 NW 233; Security Trust v Heyderstaedt, 64 M 409, 67 NW 219; Mpls. Ry. v Minnesota Debenture, 81 M 66, 83 NW 485; Doherty v Real Estate Title, 85 M 518, 89 NW 853; Mahlum v Thayer, 93 M 471, 101 NW 653; Kampfer v East Side Syndicate, 95 M 309, 104 NW 290.

An erroneous published description, which is calculated to mislead, is sufficient to constitute notice, and no jurisdiction is thereby acquired to enter judgment. Knight v Alexander, 38 M 384, 37 NW 799.

The test is not that someone has been or might be misled, but whether a person of ordinary intelligence might reasonably be misled. Chouteau v Hunt, 44 M 173, 46 NW 341; Cook v Schroeder, 85 M 374, 88 NW 971; Doherty v Real Estate Title, 85 M 518, 89 NW 853; Mahlum v Thayer, 93 M 471, 101 NW 653.

A description must be construed as a whole. Chouteau v Hunt, 44 M 173, 46 NW 341; Doherty v Real Estate Title, 85 M 518, 89 NW 853; Mahlum v Thayer, 93 M 471, 101 NW 653.

A construction which would lead to an impossible description of a single tract is to be avoided. Cook v Schroeder, 85 M 374, 88 NW 971.

The land must be described with sufficient certainty to enable all parties who are invited to buy to identify the property and to know what is being sold. Bell v MacLaren, 89 M 24, 93 NW 515.

A mistake in a part of a description is not fatal if the remainder is sufficient in itself. National Bond v Board, 91 M 63, 97 NW 413.

2. Description according to common repute

A description according to common repute is sufficient. Whether a description is according to common repute is a question of fact. Stewart v Colter, 31 M 385, 18 NW 98; Gilfillan v Hobart, 34 M 67, 24 NW 342; Chouteau v Hunt, 44 M 173, 46 NW 341; Godfrey v Valentine, 45 M 502, 48 NW 325; Reimer v Newel, 47 M 237, 49 NW 965; Mpls. Ry. v Minnesota Debenture, 81 M 66, 83 NW 485.

3. Description according to plats

If the plat is defective, or if it fails to describe the land with reasonable certainty, reference to it has no effect and the description is faulty. Williams v Central Land Co. 32 M 440, 21 NW 550.

The plat in the instant case was not so defective in description that it could not, with competent extrinsic evidence, be located on the ground. Smith v City of St. Paul, 72 M 472, 75 NW 708.

Generally a description according to a recorded plat is sufficient. Chouteau v Hunt, 44 M 173, 46 NW 341; Sperry v Goodwin, 44 M 207, 46 NW 328; Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485; Doherty v Real Estate Title, 85 M 518, 89 NW 853.

4. Description according to government survey

A description according to government survey is of unquestioned sufficiency; but a fraction of a government subdivision cannot be described by an integer, nor by a fractional number unless it is clear of what larger subdivision it is a fraction. McQuade v Jaffray, 47 M 326, 50 NW 233.

5. Description; aid of tabular forms

Prior to Laws 1895, Chapter 77, it was permissible to describe a section or lot in a column under the general headings "Sec. or Lot" and "Township or Block," but such alternative headings are no longer permissible. Bower v O'Donnall, 29 M 135, 12 NW 352; Chouteau v Hunt, 44 M 173, 46 NW 341; Godfrey v Valentine, 45 M 502, 48 NW 325; McQuade v Jaffray, 47 M 326, 50 NW 233; Cook v Schroeder, 85 M 374, 88 NW 971.

The use of tabular forms to aid in describing property is now a statutory requirement, but prior to the enactment of the mandatory statute, forms were universally used and had the sanction of the supreme court. To be sufficient there must be no real uncertainty as to the heading or cross-line to which the particular description is related. Kipp v Fernhold, 37 M 132, 33 NW 697; Oliver v Gurney, 43 M 69, 44 NW 887; Chouteau v Hunt, 44 M 173, 46 NW 341; McQuade v Jaffray, 47 M 326, 50 NW 233; Security Trust v Heyderstaedt, 64 M 409, 67 NW 219; Doherty v Real Estate Title, 85 M 518, 89 NW 853; Mahlum v Thayer, 93 M 471, 101 NW 653.

A description of a subdivision of a section cannot be placed under the heading "Lot or Block." Kipp v Fernhold, 37 M 132, 33 NW 697; Davis v How, 52 M 157, 53 NW 1139.

The land in the tax judgment was described as "S. W. ¼ of N.W. ¼ lot 2 and 3" of a named section, town and range. This was sufficient description of the

southwest quarter of the northwest quarter and lots two and three of the section. Cook v Schroeder, 85 M 374, 88 NW 971.

A list of delinquent taxes filed by the county auditor in the office of the clerk of the court consisted of 165 pages. The auditor, in order to make printed forms appropriate, crossed out certain printed headings and wrote in the proper words. He overlooked changing one sheet, being the one on which land in question was listed. The description was held to be sufficient. Mahlum v Thayer, 93 M 471, 101 NW 653.

6. Exactness required

A greater exactness in description is required in tax matters than in a private deed because in case of a deed intent may be inferred from certain circumstances, while in case of a tax there is no intent. Knight v Alexander, 38 M 384, 37 NW 799; Connecticut Mutual v Jacobson, 75 M 429, 78 NW 10; Bell v MacLaren, 89 M 34, 93 NW 515.

7. Extrinsic evidence; when admissible

The judgment roll is admissible. Flint v Webb, 25 M 93.

A description cannot be explained by experts or by local usage. Keith v Hayden, 26 M 212.

Where there is a variance between a description in tax proceedings and the record description, evidence that the two refer to the same land must be free from reasonable doubt. Stewart v Colter, 31 M 385, 18 NW 98.

Extrinsic evidence to identify property which is the subject of tax proceedings is admissible, as it is for the purpose of identifying the subject of legal proceedings in general. Stewart v Colter, 31 M 385, 18 NW 98; Gribble v Livermore, 72 M 517, 75 NW 710; Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485; Nat'l Bond v Board, 91 M 63, 97 NW 413.

Evidence that the description is according to common repute is admissible. Stewart v Colter, 31 M 385, 18 NW 98; Gilfillan v Hobart, 34 M 67, 24 NW 342; Chouteau v Hunt, 44 M 173, 46 NW 341; Godfrey v Valentine, 45 M 502, 48 NW 325; Reimer v Newal, 47 M 237, 49 NW 865; Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485.

The description intended to cover 160 acres would, if read as it is, only cover 31/100 of an acre. The word "of" cannot be interpolated so as to clarify the description. Knight v Alexander, 38 M 384, 37 NW 799.

An inherently insufficient description cannot be made sufficient by proof of facts tending to show what it was intended to include. Kern v Clarke, 59 M 70, 60 NW 809; Bell v MacLaren, 89 M 24, 93 NW 515.

Descriptions have frequently been held insufficient which would have been upheld if proper extrinsic evidence had been introduced. Gribble v Livermore, 72 M 517, 75 NW 710.

8. Amendment of description

After the tax sale of the premises, the trial court had no authority to permit an amendment of the tax judgment by permitting the insertion therein of the correct description. Kern v Clarke, 59 M 70, 60 NW 809.

9. Variance

A tax deed which does not purport to convey the property described in the judgment on which it is based, is void. Flint v Webb, 25 M 93.

To maintain an action to remove a cloud from title to real estate, the alleged cloud must be prima facie substantial, and if the facts which are relied upon to constitute the cloud are not such as per se to confer some apparent right, title, or interest in the property, but require to give them this apparent effect the support of extrinsic facts which have no real or apparent existence, there is no cloud. Gilman v Van Brunt, 29 M 271, 13 NW 125.

A tax judgment is void if there is a material variance between the description in the judgment and in the published list. Feller v Clark, 36 M 338, 31 NW 175.

10. Stages of proceedings

The same strictness as to definiteness and certainty is not required in the statement of the amount of tax in the published list as is required in the judgment. Collins v Welch, 38 M 62, 35 NW 556.

Equal certainty and definiteness is required in the list as filed and in the published list. Mahlum v Thayer, 93 M 471, 101 NW 653.

11. Held sufficient

The following descriptions have been held sufficient: "S.½ of lots 9 and 10, block 49 Shakopee City," St. Peter's v Board, 12 M 395 (280); "S. 60 rods W. ½ SE.¼", Bower v O'Donnall, 29 M 135, 12 NW 352; "'lot four' or 'lot five' (as the case may be), 'Scribners and Crittenden's subdivision of lots eight and thirteen, of Smith & Lott's addition of outlots to St. Paul.'." Stewart v Colter, 31 M 385, 18 NW 98.

"Bathineau's addition," because that was a common designation for "Northrup's addition to St. Anthony." Gilfillan v Hobart, 34 M 67, 24 NW 342.

"Second ward, Town of St. Anthony" because that was a common designation for plat recorded as "Town of St. Anthony." The range was omitted. Chouteau v Hunt, 44 M 173, 46 NW 341.

County and state omitted in description of a city lot. Sperry v Goodwin, 44 M 207, 46 NW 328.

"Hoyt's outlots" a common designation, but not named in any recorded plat. Godfrey v Valentine, 45 M 502, 48 NW 325.

"Lot 8, block 4, of Penniman's addition" without naming the state, county or city, but stating that the land was sold pursuant to a tax judgment, etc., identified on trial by parol. Reimer v Newel, 47 M 237, 49 NW 865.

Township and range stated in headlines or cross lines instead of opposite each description. McQuade v Jaffray, 47 M 326, 50 NW 233.

Under the heading "addition" the words "St. Anthony Park North," and then to the right in another column, and under the words "Lot" and "Block," figures indicating the proper lots and block. Security Trust v Heyderstaedt, 64 M 409, 67 NW 219.

"The easterly 146 feet of that part of" certain government sections "except Prior avenue, being in St. Paul, Minnesota." State ex rel v District Court, 68 M 242, 71 NW 27.

"SW¼" "S.W.¼." Banning v McManus, 51 M 289, 53 NW 635.

"Lot 1, block 5, in Bazille & Roberts' Addition to (or in) St. Paul," land being in Bazille & Roberts' Addition to West St. Paul in the city of St. Paul. Merchants' v City of St. Paul, 77 M 343, 79 NW 1040.

"Lot 1 in Auditor's Subdivision No. 32" being a common designation for a plat made by the auditor under General Statutes 1894, Section 1626. Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485.

Cross-line held to break connection with preceding headings; use of symbols; reference to plat. Doherty v Real Estate Title, 85 M 518, 89 NW 853.

"NE¼, NW¼, Section 1, Township 29, Range 24, except R.R. and Sts." (Wrong range). National Bond v Board, 91 M 63, 97 NW 413.

A description under a heading not technically proper but not misleading. Mahlum v Thayer, 93 M 471, 101 NW 653.

12. Held insufficient

"Roberts' and Randall's Addition, Lot 11, Block 20, Lot 12, Block 20" without anything to show what county or place. Bidwell v Webb, 10 M 59 (41).

"Two-thirds of block four, Bass' outlots." Bidwell v Coleman, 11 M 78 (45).

"S2, N.E.4 and N.W.4 S.E.4." Keith v Hayden, 26 M 212, 2 NW 495; Murphy v Burke, 47 M 99, 49 NW 387.

Description by numerals in columns without any heading to the columns to indicate what they referred to. Knudson v Curley, 30 M 433, 15 NW 873.

"Lot No. 2 of subdivision of N.W.¼ of N.W.¼, Section 24, Township 130, Range 42," plat made under General Statutes 1894, Section 1626. Williams v Central Land Co. 32 M 440, 25 NW 550.

Uncertainty as to whether numbers in columns referred to lots or sections; cross-line held not to separate descriptions. Kipp v Fernhold, 37 M 132, 33 NW 697; Davis v How, 52 M 157, 53 NW 1139.

"N½ NE¼ SE¼ NE¼ NE¼ of NW¼, 23, 114, 30, 160; the figures "23", "114", "30", "160", being under columns headed so as to indicate that they referred to section, township, range, and number of acres. Knight v Alexander, 38 M 384, 37 NW 799.

Town and range omitted; cross-line insufficient. Olivier v Gurney, 43 M 69, 44 NW 887.

"Lot" used in the heading to a column in place of "Sec." Davis v How, 52 M 157, 53 NW 1139.

"S.E.4, N.E.4, and N.E.4, S.E.4." Kern v Clarke, 59 M 70, 60 NW 809.

"Misinger's Addition" without stating to what city, and no evidence to identify it. Gribble v Livermore, 72 M 517, 75 NW 710.

"Front 31 ft. of rear 82½ ft. lots 6 and 7, block 187, in town of Minneapolis." Connecticut Mut. v Jacobson, 75 M 429, 78 NW 10.

"That strip of land lying within the north and south lines of block 111, West St. Paul proper, produced to State Street, in the city of St. Paul. Bell v MacLaren, 89 M 24, 93 NW 515.

Filing of list

1. Effect of as commencement of action

The only mode in which the state can assert a right to tax lands, so that the claim of right can be judicially determined, is by the filing of the list. That is equivalent to the commencement of an action for the determination of such claim of right in which the county appears as plaintiff, asserting the rightfulness of the tax as set out in the list, and all persons interested in the land appear as defendants. It is the policy of the statute that every objection to the enforcement of the taxes appearing on the list shall be litigated in the proceeding commenced by the filing of the list and that the judgment entered therein shall be final and conclusive of every fact which might or ought to have been litigated except the facts of payment and exemptions. County v St. P. & Duluth, 27 M 109, 6 NW 454; State v Sage, 75 M 448, 78 NW 14; Obst v Board, 95 M 123, 103 NW 893.

The filing of the list is the institution of an action against each tract of land described in it. The list is a complaint against each tract and tenders an issue as to the validity of the taxes appearing on it as effectually as though it contained formal allegations of every fact necessary to make such taxes valid. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826; County v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; State v Baldwin, 62 M 518, 65 NW 80; Kipp v Fitch, 73 M 65, 75 NW 752; Mahlum v Thayer, 93 M 471, 101 NW 653.

The list and notice are in the nature of a summons. Bonham v Weymouth, 39 M 92, 38 NW 805.

The cause of action accrues and the statute of limitations begins to run from the date of filing. State v Sage, 75 M 448, 78 NW 14.

2. Jurisdictional

The filing of the list is a jurisdictional prerequisite of a valid judgment; and the court has no jurisdiction to enforce delinquent taxes on real estate except as to lands described in filed and published delinquent list. Board v Morrison, 22 M 178; Bonham v Weymouth, 39 M 92, 38 NW 805; State v Sage, 75 M 448, 78 NW

14; Cook v Schroeder, 85 M 374, 88 NW 971; Mahlum v Thayer, 93 M 471, 101 NW 653; State v Keyes, 188 M 79, 246 NW 547.

3. Date of filing

Under the present law the list is filed on or before February 1 (Ex. Laws 1902, Chapter 2, Section 3). At one time it was filed on or before January 20 (Laws 1885, Chapter 2, Section 16). At one time it was filed on or before June 15 (General Statutes 1878, Chapter 11, Section 70).

Acts relating to the time of filing are to be construed with reference to the last day upon which the list may be filed. State ex rel v Holden, 75 M 512, 78 NW 16.

4. Filing; what constitutes

As to filing routine. Cook v Schroeder, 85 M 374, 88 NW 971.

Effect of soldiers and sailors relief act of 1940 as amended on real estate taxes, and in confession of judgment cases. 1942 OAG 300, Nov. 2, 1942 (310).

279.06 COPY OF LIST AND NOTICE.

HISTORY. Ex. 1902 c. 2 s. 4; R.L. 1905 s. 906; G.S. 1913 s. 2095; G.S. 1923 s. 2107; M.S. 1927 s. 2107.

Objection to the sufficiency of the notice of judgment must be taken by a special appearance. Board v Jessup, 22 M 552; Board v Smith, 25 M 131; Chauncey v Wass, 35 M 1, 15, 25 NW 457; State v Thompson, 51 M 401, 53 NW 714.

An error as to time in which to answer is fatal. Board v Smith, 25 M 131; West v Northern Pacific, 40 M 189, 41 NW 1031.

"May" in the statute is mandatory. It is the equivalent of "shall." The notice of judgment must conform substantially to the form provided by statute. Flint v Webb, 25 M 93; Board v Smith, 25 M 131; Gilfillan v Hobart, 35 M 185, 28 NW 222.

The list and notice are in the nature of a summons. Bonham v Weymouth, 39 M 92, 38 NW 805.

It is not necessary that the original of the notice be kept on file in the clerk's office. Bennett v Blatz, 44 M 56, 46 NW 319.

It is immaterial whether the notice precedes or follows the list. Chouteau v Hunt, 44 M 173, 46 NW 341.

The notice is attached to and made a part of the list. Godfrey v Valentine, 45 M 502, 48 NW 325.

Where under the 1885 law, March 20 fell on Sunday, it was held proper to state in the notice that answer should be filed on or before March 21. Kipp v Fitch, 73 M 65, 75 NW 752.

An error or omission which would not reasonably mislead a person of ordinary intelligence is not fatal. Sterling v Urquhart, 88 M 495, 93 NW 898.

Laws 1933, Chapter 414, Section 1, classifying taxpayers into two classes, and allowing a discount or remission to one of them violates Minnesota Constitution, Article 9, Section 1. State ex rel v Luecke, 194 M 246, 260 NW 206.

Where the notice required to be published and attached to the delinquent real estate taxes for 1932 included the paragraph provided by Laws 1927, Chapter 119, Section 3, such notice did not vitiate the district court's jurisdiction, notwithstanding the provisions of Laws 1933, Chapter 366, Section 1. Singer v Village of Goodridge, 210 M 324, 298 NW 35.

279.07 BIDS FOR PUBLICATION.

HISTORY. Ex. 1902 c. 2 ss. 5, 6; R.L. 1905 s. 907; G.S. 1913 s. 2096; G.S. 1923 s. 2108; M.S. 1927 s. 2108; 1941 c. 400.

The publisher cannot recover extra compensation for "tabular matter" contained in public printing, even where such extra compensation is within the maximum charge fixed by statute, when work is done under an express contract binding the publisher to print the documents in question at stated prices, lower than those fixed by statute. Transcript v County of Morrison, 157 M 435, 196 NW 485.

The letting of the contract for the publication of the proceedings of a county board to the highest bidder, who agreed to have the publication made in seven other newspapers of the county, is not a violation of that portion of the statute authorizing the rejection of any offer if, in the judgment of the county board, the interests of the public so require, and requiring them to designate "a paper" without regard to any rejected offer. Cain v County of Wabasha, 164 M 142, 204 NW 916.

"Each description" means as assessed for which a tax is due even though covering more than one division of a section. 1934 OAG 782, March 21, 1933 (412a-13); OAG April 17, 1939 (412a-23).

Necessity for bids and awarding of contracts for printing and publication to the lowest bidder are not abrogated by the NRA code. 1934 OAG 189, Dec. 31, 1934 (707a-9).

Notices which by the provisions of Laws 1935, Chapter 386, Section 2, are required to be published "in the official newspaper of the county" should be published in the newspaper designated by the county board pursuant to section 375.12.

The city of Detroit Lakes has authority, by its charter, to fix a maximum rate on official city printing or publications which may be less than the maximum provided by statute. 1942 OAG 231, March 14, 1941 (277A-11).

The county board may choose between equal bidders. Their choice once formally made cannot be rescinded. OAG Jan. 26, 1945 (277c-1).

279.08 DESIGNATION OF NEWSPAPER.

HISTORY. Ex. 1902 c. 2 s. 7; R.L. 1905 s. 908; 1911 c. 5 s. 1; G.S. 1913 s. 2097; G.S. 1923 s. 2109; M.S. 1927 s. 2109; 1941 c. 400.

1. Jurisdictional

A proper designation is jurisdictional; and a publication in a newspaper other than the one designated is a nullity. Eastman v Linn, 26 M 215, 2 NW 693; Coffin v Estes, 32 M 367, 20 NW 357; Russell v Gilson, 36 M 366, 31 NW 692; Brown v Corbin, 40 M 508, 42 NW 481; Murphy v Burke, 47 M 99, 49 NW 387; Foster v Gage, 117 M 499, 136 NW 299.

2. To show want of designation

Want of designation is sufficiently proved by evidence that there is no record on file in the office of the county auditor or clerk of court of any such designation. Brown v Corbin, 40 M 508, 42 NW 481.

Evidence dehors the record is inadmissible to show the want of a proper designation. Brown v Corbin, 40 M 508, 42 NW 481.

3. Object of designation

The object of the designation is to determine how the notice and list is to be served, and the resolution itself is intended as a notice to the owner so that by examining it he may be able to ascertain with certainty in what newspaper to look to see whether any proceedings have been commenced against his land. Russell v Gilson, 36 M 366, 31 NW 692; Merriman v Knight, 43 M 493, 45 NW 1098; Fairchild v City of St. Paul, 46 M 540, 49 NW 325; Finnegan v Gronerud, 63 M 53, 65 NW 128, 348.

The designation of the newspaper in which is to be published the delinquent tax list is valid under General Statutes 1894, Section 1581, though made at an adjourned meeting. Banning v McManus, 51 M 289, 53 NW 635; Minn. Debenture v Scott, 106 M 32, 119 NW 391.

4. Time of board action

The statutory requirement as to when the board must act is mandatory, and it must act within the time prescribed. Hall v County of Ramsey, 30 M 68, 14 NW 263; Finnegan v Gronerud, 63 M 53, 65 NW 128, 348.

Under Ex. Laws 1877, Chapter 205, the meeting of the county commissioners of Hennepin county held on the first Monday in January is the proper meeting for this purpose. Reimer v Newel, 47 M 237, 49 NW 865.

The board may act at an adjourned meeting. Banning v McManus, 51 M 289, 53 NW 635.

5. Sufficiency of designation

It is insufficient to designate the editor or owner. The resolution must designate the newspaper by name. Eastman v Linn, 26 M 215, 2 NW 693; Hall v County of Ramsey, 30 M 68, 14 NW 263; Russell v Gilson, 36 M 366, 31 NW 692.

Resolutions have been upheld although not clear as to the year the list is to be published. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 18; Reimer v Newel, 47 M 237, 49 NW 865.

An error in the name of a newspaper which would not mislead a person of ordinary intelligence is not fatal. Russell v Gilson, 36 M 366, 31 NW 692; Knight v Alexander, 38 M 384, 37 NW 799; Fairchild v City of St. Paul, 46 M 540, 49 NW 325; Reimer v Newel, 47 M 237, 49 NW 865.

As Laws 1874, Chapter 1, Section 111, provided that the notice be attached to the delinquent list, and as both notice and list are published in the same paper, it is not necessary that the resolution adopted by the board should specially mention the publication of the notice. This was prior to the designation of a statutory form. Godfrey v Valentine, 45 M 502, 48 NW 325.

Certified copy of resolution "recommending" acceptance of bid of Minneapolis Tribune and that contract be awarded to "them" held sufficient. Minn. Debenture v Scott, 106 M 32, 119 NW 391.

The letting to the highest bidder, who agreed to have publication made in seven other newspapers in the county, is not a violation of the statute prescribing the board to designate "a paper". Gain v County of Wabasha, 164 M 142, 204 NW 916.

6. Filing certified copy of designating resolution

In the absence of a finding in the lower court a party cannot question the filing on appeal. Coffin v Estes, 32 M 367, 20 NW 357; Smith v Kipp, 49 M 119, 51 NW 656; Foster v Brick, 121 M 173, 141 NW 101; Foster v Berg, 123 M 180, 143 NW 354.

A proper filing is jurisdictional. Merriman v Knight, 43 M 493, 45 NW 1098; State v Crosley Park, 63 M 205, 65 NW 268; Chadburne v Hartz, 93 M 233, 101 NW 68.

It is not necessary to file a copy of the proceedings or indicate the vote by which it was passed nor the validity of the passage of the resolution. A copy of the resolution only need be filed. Reimer v Newel, 47 M 237, 49 NW 865.

The certificate need not state that the copy has been compared with the original, distinguishing Merriman v Knight, 43 M 493, 45 NW 1098. Kipp v Dawson, 59 M 82, 60 NW 845.

The filing of an instrument consists, not in the endorsement or certificate of the officer but in its being delivered to and accepted by him for the purpose of being placed and kept in his office as a permanent record or file. It is therefore the fact of filing and not the clerk's certificate of the fact that constitutes the jurisdictional prerequisite to the publication of the delinquent list. If the clerk

makes a mistake in his endorsement as to the date of the filing, it is a mere clerical error and amenable. State v Crosley Park, 63 M 205, 65 NW 268.

A copy of a resolution merely attested is insufficient. To certify means to testify to a thing in writing. Chadburne v Hartz, 93 M 233, 101 NW 68.

Plaintiff entered into an agreement with all the other papers in the county whereby plaintiff was to submit the only bid to the county board for the county printing. The bid was at the highest legal rate and was accepted. The members of the board were aware of the agreement between the several papers. The plaintiff may recover for work done under the contract. Brainerd v County of Crow Wing, 196 M 194, 264 NW 779.

The county board or other county officials are not subject to the NRA federal code. 1934 OAG 189, Dec. 31, 1934 (707a-9).

In Hennepin county, sections 279.07 and 279.08 refer to the designation of a paper for publication of the delinquent tax list; section 375.17 to the paper to publish the financial statement; and section 375.12 the paper in which official proceedings of the council are published. The notices required by Laws 1935, Chapter 386, Section 2, should be published under the provisions of section 375.12. 1938 OAG 408, Jan. 5, 1938 (277a-10).

When judgment is declared invalid for failure to comply with the provisions of section 279.08, the taxpayer may not confess judgment pursuant to section 281.47, and the taxes should be included in the delinquent tax list filed pursuant to section 279.05. 1938 OAG 406, April 29, 1938 (412a-23).

7. Presumptions

A proper designation cannot be supplied by intendment or presumption. Eastman v Linn, 26 M 215, 2 NW 693.

When the auditor designates the newspaper the presumption is that the paper designated has the required qualifications. Kipp v Collins, 33 M 394, 23 NW 554.

A proper filing of the resolution is presumed. Where a resolution is found in the judgment roll it is presumed that it is the one filed with the auditor. Chadburne v Hartz, 93 M 233, 101 NW 68.

8. Objections

Objections to the deficiency of the designation must be taken by special appearance. Board v Jessup, 22 M 552.

9. Contract for publishing list, lowest bidder

There can be no valid contract based on an invalid designation. The letting of a contract for publishing and the designation should concur and be one act. Hall v County of Ramsey, 30 M 68, 14 NW 263.

Under Laws 1874, Chapter 1, Section 136, it was the duty of the board to award the contract to the lowest qualified bidder. All the bids being equal, the board may choose one. Godfrey v Valentine, 45 M 502, 48 NW 325.

Where all the newspapers of the county agree that there be only one bid, and the bid was submitted at the maximum legal rate, and the members of the board were aware of the agreement, and the publication was made in form of a supplement and distributed by each paper, the bidder was entitled to recover on his contract. Brainerd v Crow Wing, 196 M 194, 264 NW 779.

279.09 PUBLICATION OF NOTICE AND LIST.

HISTORY. Ex. 1902 c. 2 s. 8; R.L. 1905 s. 909; G.S. 1913 s. 2098; G.S. 1923 s. 2110; M.S. 1927 s. 2110.

1. Jurisdictional

2. Publication

3. Presumptions

1. Jurisdictional

Constructive service or notice prescribed by law satisfies the constitutional requirements of due process of law. Dousman v City of St. Paul, 23 M 394; Co. of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; State v Weyerhaeuser, 68 M 353, 71 NW 265; 72 M 519, 75 NW 718; Win. & St. Peter v Minnesota, 159 US 526, 16 SC 83; Weyerhaeuser v Minnesota, 176 US 550, 20 SC 485.

It is not until the last publication that the court is deemed to have acquired jurisdiction. Board v Smith, 25 M 131; Eastman v Linn, 26 M 215, 2 NW 693.

The publication of the notice and list in strict conformity to the statute is jurisdictional. Board v Smith, 25 M 131; Eastman v Linn, 26 M 215, 2 NW 693; Feller v Clark, 36 M 338, 31 NW 175; Russell v Gilson, 36 M 366, 31 NW 692; Bonham v Weymouth, 39 M 92, 38 NW 805; Bennett v Blatz, 44 M 56, 46 NW 319; Hoyt v Clark, 64 M 139, 66 NW 262.

The publication operates as a constructive service of the notice and list on the party whose property is to be affected by the proceedings and, to be effectual for any purpose, the mode of making it pointed out by the statute must be strictly complied with. Eastman v Linn, 26 M 215, 2 NW 693; Russell v Gilson, 36 M 366, 31 NW 692; Merriman v Knight, 43 M 493, 45 NW 1098.

Error in numbering of pages of newspaper does not invalidate the publication. OAG March 9, 1935 (314b-22).

Question of the validity of tax judgments against one tract to enforce payment of taxes against several parcels. 1936 OAG 418, Sept. 20, 1936 (425b-3).

There is a question as to the effect of the words "published as news only". It might be a jurisdictional defect. OAG April 4, 1939 (412a-13).

Where the first publication was made on February 13, 1941, and omitted on February 20, and instead published February 27, if it were not for the provisions of section 279.14, the publication would be invalid. As it is, it is of doubtful validity. OAG April 15, 1941 (412A-13).

2. Publication

The statutory requirement as to the date of publication is directory; but as to the length of publication, mandatory. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Kipp v Collins, 33 M 394, 23 NW 554.

The published list must conform to the list as filed, and a material departure is fatal. Bonham v Weymouth, 39 M 92, 38 NW 805; Olivier v Gurney, 43 M 69, 44 NW 887.

3. Presumptions

A tax certificate is prima facie evidence of due publication. There is a presumption that the publication was in a competent newspaper. Kipp v Collins, 33 M 394, 23 NW 554; Godfrey v Valentine, 45 M 502, 48 NW 325.

A tax judgment is presumed to be valid and is therefore presumptive evidence that the list and notice were duly published. Hoyt v Clark, 64 M 139, 66 NW 262.

Where the record sets forth the manner in which service of any jurisdictional notice was made, and such service is ineffectual to confer jurisdiction, it will not be presumed that valid service was made in some other way. Holmes v Laughren, 97 M 83, 105 NW 558.

Where a tax can be enforced only in the manner and by the procedure provided by the general tax laws, such laws afford an adequate remedy if the tax be illegal, and a suit in equity to enjoin the taxing officers from levying it cannot be maintained. Wall v Borgen, 152 M 106, 188 NW 159.

When a tax has been levied upon real estate, based upon an overvaluation of property, the first half of the tax paid without protest, the second half allowed to become delinquent, and the amount of the excess tax determined in a proceeding under the statute, the excess may be deducted from the tax remaining unpaid. In re Taxes for Year 1920, 155 M 258, 193 NW 459.

Error in publication probably invalidates proceedings. See discussion. 1942 OAG 303, April 15, 1941 (413-A-13).

279.10 PUBLICATION CORRECTED.

HISTORY. Ex. 1902 c. 2 s. 9; R.L. 1905 s. 910; G.S. 1913 s. 2099; G.S. 1923 s. 2111; M.S. 1927 s. 2111.

279.11 PUBLISHER'S BOND.

HISTORY. Ex. 1902 c. 2 s. 10; R.L. 1905 s. 911; G.S. 1913 s. 2100; G.S. 1923 s. 2112; M.S. 1927 s. 2112.

279.12 CERTIFICATE BEFORE PAYMENT.

HISTORY. Ex. 1902 c. 2 s. 11; R.L. 1905 s. 912; G.S. 1913 s. 2101; G.S. 1923 s. 2113; M.S. 1927 s. 2113.

Errors made in numbering the pages of the newspaper (two pages 9) containing the published delinquent tax list will not invalidate. 1936 OAG 392, March 9, 1935 (314b-22).

279.13 AFFIDAVIT OF PUBLICATION.

HISTORY. Ex. 1902 c. 2 s. 13; R.L. 1905 s. 913; G.S. 1913 s. 2102; G.S. 1923 s. 2114; M.S. 1927 s. 2114.

The filing of an affidavit is not jurisdictional. It is the fact of publication and not the proof thereof which is essential and this latter may be supplied at any time. Board v Morrison, 22 M 178; Bennett v Blatz, 44 M 56, 46 NW 319; Hoyt v Clark, 64 M 139, 66 NW 262.

Laws 1902, Chapter 2, Section 13, prescribed the first statutory form. Of the sufficiency of affidavits. Bennett v Blatz, 44 M 56, 46 NW 319; Sperry v Goodwin, 44 M 207, 46 NW 328; Irwin v Pierro, 44 M 490; 47 NW 154.

The affidavit need not be published. Hoyt v Clark, 64 M 139, 66 NW 262.

Omission of notary's seal renders affidavit inoperative. Holmes v Laughren, 97 M 83, 105 NW 558.

279.14 WHAT DEFECTS JURISDICTIONAL.

HISTORY. Ex. 1902 c. 2 s. 12; R.L. 1905 s. 914; G.S. 1913 s. 2103; G.S. 1923 s. 2115; M.S. 1927 s. 2115.

1. General statement
2. Presumption in favor of
3. Presumption of jurisdiction
4. Evidence to show want of jurisdiction
5. Collateral attack, general statement
6. Collateral attack, list of grounds for
7. Collateral attack, list of defects not ground for

1. General statement

Note decisions relating to the law prior to the passage of the 1874 tax statute. St. Anthony v Greeley, 11 M 321 (225).

A tax judgment is not subject to collateral attack except for jurisdictional defects and for payment and exemption. The judgment is thus conclusive, not only as between the state and the owner of the land but as to all parties whenever or however the question may arise. Board v Morrison, 22 M 178.

The judgment is conclusive of everything essential to the right to sell the land for the amount specified. Board v Morrison, 22 M 178; County of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

The judgment is conclusive as to the legality of the tax, the legality of the levy and assessment. County of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454;

Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826; Davis v Board, 75 M 59, 77 NW 548; Falvey v Board, 76 M 257, 79 NW 302.

The judgment is conclusive of the amount due. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96.

If the court acquires jurisdiction the judgment is final and conclusive, except that it may always be shown that the taxes were paid prior to the judgment, or that the land was exempt. Falvey v Board, 76 M 257, 79 NW 302; Obst v Board, 95 M 123, 103 NW 893.

Action for recovery of taxes alleged paid under duress, effect of General Statutes 1894, Section 1582. Oakland Cemetery v County of Ramsey, 98 M 404, 108 NW 857, 109 NW 237.

The character of the lien is determined and defined by the judgment itself. Gates v Kriegher, 99 M 138, 108 NW 860.

Tax judgments against one tract to enforce payment of taxes against several parcels are generally held to be invalid. 1936 OAG 418, Sept. 25, 1936 (425b-3).

Insertion of the words "published as news only" may be an incurable jurisdictional defect. OAG April 4, 1939 (412a-13).

First publication February 13, 1941, second publication February 27, skipping February 20. Probably invalid. 1942 OAG 303, April 15, 1941 (412a-13).

Where taxes had been paid, but a tax judgment nevertheless erroneously entered, the judgment may be vacated on motion of the county attorney and affidavit of the county auditor, the land not being forfeited to the state. OAG Dec. 15, 1944 (412a-10).

Form of notice of expiration of redemption period required to be given to owner. Grouping of contiguous parcels of land in delinquency proceedings. 23 MLR 993.

2. Presumption in favor of

Every tax judgment is presumed regular and valid when not invalid on its face. Bower v O'Donnall, 29 M 135, 12 NW 352; Kipp v Collins, 33 M 394, 23 NW 554; Gilfillan v Hobart, 34 M 67, 24 NW 342; Hoyt v Clark, 64 M 139, 66 NW 262.

A tax judgment enjoys the same presumption of regularity and validity as a judgment of the district court in an ordinary civil action except as to payment and exemption. Chadbourne v Hartz, 93 M 233, 101 NW 68.

3. Presumption of jurisdiction

The court is presumed to have jurisdiction to render the judgment. Kipp v Collins, 33 M 394, 23 NW 554; Hoyt v Clark, 64 M 139, 66 NW 262.

The presumption is not overcome by the omission in the judgment of the statutory recitals of default. Kipp v Collins, 33 M 394, 23 NW 554; Gilfillan v Hobart, 34 M 67, 24 NW 342.

Want of jurisdiction of the court to render a tax judgment may be shown dehors the record. A tax judgment in the instant case was held void for want of jurisdiction because no newspaper had been designated in which to publish the delinquent list. Brown v Corbin, 40 M 508, 42 NW 481.

Where a judgment in proceedings to enforce taxes on real estate is in form required by statute, the same presumption in favor of its regularity and validity exists as in respect to judgments in civil actions, but such presumption is not conclusive. It may be shown, by evidence dehors the record, that the court had not jurisdiction to render the judgment; as, for example, by showing that the delinquent list was not in fact published. Hoyt v Clark, 64 M 139, 66 NW 262.

Designation in substantial compliance with the statute is a jurisdictional prerequisite of a valid judgment. Foster v Golden Valley, 123 M 273, 143 NW 786.

4. Evidence to show want of jurisdiction

Want of jurisdiction may be proved by any competent evidence dehors the record. Eastman v Linn, 26 M 215, 2 NW 693; Kipp v Collins, 33 M 394, 23 NW

554; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826; Russell v Gilson, 36 M 366, 31 NW 692; Brown v Corbin, 40 M 508, 42 NW 481; Hoyt v Clark, 64 M 139, 66 NW 262.

The description in the assessment book was so indefinite and uncertain as not to describe the land. Foster v McClure, 121 M 409, 141 NW 797.

Statutes relating to subsequent collection of tax and intended for protection of property rights, are mandatory. State v Minn. & Ontario, 121 M 421, 141 NW 839.

5. Collateral attack, general statement

A tax judgment, like any other judgment, may always be attacked collaterally for want of jurisdiction in the court over the subject matter. In tax proceedings the jurisdiction of the court is special and statutory. It acts only by virtue of a statutory power which must be strictly followed. If the court acquires any jurisdiction in a particular case, it is solely by virtue of the existence of the particular facts and conditions upon which its exercise is made to depend by the statutes conferring it; and if these are wanting, the proceedings are coram non judice, and it is competent at any time to show want of jurisdiction for the purpose of impeaching the judgment and sale thereunder. Eastman v Linn, 26 M 215, 2 NW 693; Bonham v Weymouth, 39 M 92, 38 NW 805.

If the court has jurisdiction, the judgment is conclusive as to the legality of the tax, the legality of the levy and assessment, and the amount due; in other words, it is conclusive of everything essential to the right to sell the land for the amount specified, barring the statutory exceptions as to payment and exemption. State v Aitkin Co. Land Co. 204 M 495, 284 NW 63.

The power of taxation is inherent in sovereignty and under our system reposes in the legislature, except as limited by constitutional prohibition. Constitutional provisions are not a grant of, but a limitation upon, this power. Whatever right the taxpayer has in the way of redemption from a tax sale rests entirely on statutory authority. State v Aitkin Co. Land, 204 M 495, 284 NW 63.

6. Collateral attack, list of grounds for

A tax judgment may be collaterally attacked on the ground that the land was exempt. County of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454; Wheeler v Merriman, 30 M 372, 15 NW 665; Sanborn v City of Minneapolis, 35 M 314, 29 NW 126.

Pertinent but overruled by statute. Smith v City of St. Paul, 72 M 472, 75 NW 708; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

A tax judgment may be collaterally attacked on the ground that the statute on which it is based is unconstitutional. Kipp v Elwell, 65 M 525, 68 NW 105; Duluth v Koon, 87 M 486, 84 NW 6; Folsom v Whitney, 95 M 322, 104 NW 140.

An action brought by the owner of land, years after the entry of a tax judgment, to have a part thereof declared void, and the amount of the same reduced, on the ground that a portion of the levy and assessment was unauthorized and illegal, cannot be maintained. Davis v Board, 75 M 59, 77 NW 548.

In proceeding under Laws 1899, Chapter 322, a judgment is void on its face which fails to state that the list of lands filed and published was a list of taxes delinquent in the year 1897, and prior years, not barred by the statute of limitations. Stanton v Davidson, 109 M 510, 124 NW 244.

The failure to designate a newspaper was not cured or remedied by Laws 1902, Chapter 2, Section 12. Foster v Gage, 117 M 499, 136 NW 299.

A judgment in a proceeding to enforce delinquent taxes on real estate is void where it is made to appear that, after the tax on a particular tract became delinquent and before the delinquent list was published, it was paid. State ex rel v Erickson, 147 M 453, 180 NW 544.

7. Collateral attack, list of defects not grounds for

No defect in the affidavit verifying the list filed with the clerk of court affects the jurisdiction of the court over the proceedings. Board v Morrison, 22 M 178.

The fact that the land is exempted from taxation does not affect the jurisdiction of the court to try and determine the legality of the tax. Co. of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454.

A tax judgment cannot be collaterally attacked because of illegality of tax or of its levy or assessment. Chauncey v Wass, 35 M 1, 25 M 457, 30 NW 826; Davis v Board, 75 M 59, 77 NW 548; Falvey v Board, 76 M 257, 79 NW 302.

Cannot be collaterally attacked because clerk entered judgment without an order of court. Hennessy v City of St. Paul, 54 M 219, 55 NW 1123.

Cannot be collaterally atacked because of erroneous entries in judgment after rendition by the court. Gribble v Livermore, 64 M 396, 67 NW 213.

Not attacked because two tracts were treated as one. Easton v Schofield, 66 M 425, 69 NW 326.

Not attacked because of error, irregularity, or omission in the assessment or levy of taxes. McNamara v Fink, 71 M 66, 73 NW 649; Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485.

While this section provides that jurisdiction shall not be affected by certain irregularities, errors and mistakes, nor by a mistake in not designating the newspaper, it does not cure the jurisdictional defect arising from failure to file the certified copy prior to the first publication. Foster v Berg, 123 M 80, 143 NW 354.

Where a tax has been levied upon real estate, based upon an overvaluation of the property, the first half of the tax paid without protest, the second half allowed to become delinquent, and the amount of the excess tax determined in a proceeding under the statute, the excess may be deducted from the tax remaining unpaid. In re Delinquent Taxes, Ramsey County, 155 M 258, 193 NW 459.

279.15 WHO MAY ANSWER; FORM.

HISTORY. Ex. 1902 c. 2 s. 14; R.L. 1905 s. 915; G.S. 1913 s. 2104; G.S. 1923 s. 2116; M.S. 1927 s. 2116.

1. Form of answer; verification
2. Demurrer
3. Who may appear and answer
4. Special appearance; waiver of general appearance
5. Burden of proof
6. No right of jury trial
7. Waiver of defenses by failure to answer
8. General statement as to defenses admissible
9. Partial defenses
10. Defense of unfair, unequal, partial or excessive assessment
11. When prejudice must be shown
12. List of admissible defenses
13. List of inadmissible defenses

1. Form of answer; verification

The answer should refer specifically to the tax or penalty to which objection is made. Chauncey v Wass, 35 M 1, 11, 25 NW 457, 30 NW 826.

While the objection must be specific, the strict rules of pleading in an ordinary action do not apply. State ex rel v District Court, 47 M 406, 50 NW 476; State ex rel v District Court, 51 M 401, 53 NW 714.

The provision as to the time of trial is directory. State v Baldwin, 62 M 518, 65 NW 80; State v Meehan, 92 M 283, 100 NW 6.

In the trial the court is required to "disregard all technicalities and matters of form not affecting the substantial merits." State v West Dul. Land, 75 M 456, 78 NW 115.

The verification may be added at the trial with leave of court. State v Ward, 79 M 362, 82 NW 686.

Relief accorded taxpayers as to taxes illegally assessed or collected. 15 MLR 692.

2. Demurrer

The statute does not seem to contemplate a demurrer to the answer. The better practice is for the county to raise objection to the sufficiency of the answer by motion for judgment on the trial, but a demurrer is sometimes interposed and it has been held that, if the answer contains several defenses, any one of which is good, a general demurrer is properly overruled. Board v Jessup, 22 M 552.

3. Who may appear and answer

Any person, such as a mortgagee, interested in any tract of land against which tax proceedings are instituted, may file an answer. Davis v Board, 75 M 59, 77 NW 548; Morey v City of Duluth, 75 M 221. 77 NW 829.

4. Special appearance; waiver of general appearance

If a party wishes to object to the sufficiency of the notice of judgment or of any of the proceedings relating thereto, he must appear specially for that purpose. Board v Jessup, 22 M 552; Board v Smith, 25 M 131.

Proper practice requires objection to the notice and objections to the merits to be presented in separate papers. Objection to the sufficiency of the notice is not waived by answering to the merits after such objection has been overruled. Board v Smith, 25 M 131.

A party who appears generally does not waive jurisdictional prerequisites other than those designed to give him notice. Chauncey v Wass, 35 M 1, 11, 25 NW 453, 30 NW 826.

When a party appears generally and interposes an answer to the merits, he waives all objections to the prior proceedings designed to give him notice. State ex rel v District Court, 51 M 401, 53 NW 714.

5. Burden of proof

The state makes out a prima facie case by introducing the delinquent list; but the cases in which taxes delinquent in prior years are required to be entered on the list being exceptional, the authority to enter them must be shown by the state as part of its case. County of Olmsted v Barber, 31 M 256, 17 NW 473.

A party interposing a defense has the burden of proving the facts on which the defense is based. State ex rel v District Court, 33 M 164, 22 NW 295; State v Deering, 56 M 24, 57 NW 313; State v Union Tank Line, 94 M 320, 102 NW 721.

As there is a strong presumption in favor of the legality and regularity of the proceedings attacked, a party interposing a defense must state the facts of his defense affirmatively and unequivocally. State ex rel v District Court, 80 M 293, 83 NW 183.

6. No right to jury trial

Under Laws 1874, Chapter 1, a taxpayer was not entitled to a jury trial of any issue, except the issue that the tax has been paid, or that the property is exempt from taxation. Board v Morrison, 22 M 178.

Since General Statutes 1878, Chapter 11, Section 92, was amended by Laws 1889, Chapter 185, the remedy of a taxpayer is by a "summary application" to the court or judge, and it may be heard at a special term of the court. There is no right to a jury trial on such application. Wade v Drexell, 60 M 164, 62 NW 261.

7. Waiver of defenses by failure to answer

By failure to answer, a party waives all objections which might have been interposed by answer, except such as go to the jurisdiction of the court. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Wass v Smith, 34 M 304, 25 NW 605;

State v Baldwin, 62 M 518, 65 NW 80; McNamara v Fink, 71 M 66, 73 NW 649; Davis v Board, 75 M 59, 77 NW 548.

Landowners petitioning for cancelation of certain ditch assessments under Laws 1935, Chapter 300, who did not file their petition prior to June 1st of the year in which the assessments became payable, failed to comply with a material condition of the act. Repetition for Cancelation, 213 M 70, 5 NW(2d) 64.

8. General statement as to defenses admissible

Any objection to the validity of the taxes or any part of them, including their levy and assessment, or to the validity of any of the procedings prior to the application for judgment, may be interposed on such application by answer or motion based on a special appearance. County of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454; County v Barber, 31 M 256, 17 NW 473; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826; County of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473.

The statutory enumeration of defenses is not exclusive. County v Winona & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; County of Otter Tail v Batchelder, 47 M 512, 50 NW 536.

The statutes in some instances show an intent that the objection be raised at a stage prior to the application for judgment. State v Lakeside, 71 M 283, 73 NW 970; State v West Duluth, 75 M 456, 78 NW 115; State v Willard, 77 M 190, 79 NW 829.

Defendant had the right under section 279.15 to attack the levies making up the tax involved, and is not confined to the remedy given by section 275.26. State v Keyes, 188 M 79, 246 NW 547.

9. Partial defenses

A partial defense is admissible; and section 279.01 expressly provides that if the list shall embrace the taxes for two or more years the defense or objection may be to taxes or penalty for one or more years. St. Anthony v Greely, 11 M 321 (225); Board v Jessup, 22 M 552; Co. of Redwood v Winona & St. Peter, 40 M 512, 41 NW 465, 42 NW 473.

10. Defense of unfair, unequal, partial or excessive assessment

The defenses that taxes have been partially, unfairly, or unequally assessed may be set up by answer regardless as to whether or not there have been prejudicial irregularities or omissions in the prior proceedings. Co. of Redwood v Winona & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; County of Otter Tail v Batchelder, 47 M 512, 50 NW 536; McNamara v Fink, 71 M 66, 73 NW 649.

The operation of the provisions of this section may be limited by the courts as far as may be. Co. of Otter Tail v Batchelder, 47 M 512, 50 NW 536.

It may always be shown that the requirement of a bona fide assessment has been intentionally disregarded by the assessor, or that the error is so gross that it cannot be accounted for on any ground of mere misjudgment of value, but must have resulted, if not from fraud, from demonstrable mistake of fact. Co. of Otter-Tail v Batchelder, 47 M 512, 50 NW 536; State v Weyerhaeuser, 68 M 353, 71 NW 265; State v Deering, 56 M 24, 57 NW 313; State v London & Northwest, 80 M 277, 83 NW 339.

Independently of this section, it is no defense that an assessment is too large, unless it is so palpably excessive as to make it certain that the assessor failed to exercise an honest judgment or acted on a demonstrable mistake of fact. Co. of Redwood v Batchelder, 47 M 512, 50 NW 536; State v Weyerhaeuser, 68 M 353, 71 NW 265; State v West Duluth Land Co. 75 M 456, 78 NW 115.

A party cannot object to a valuation in which, however erroneous it may be, charges him only with a just proportion of the tax. It is not a defense which may be interposed by answer that all property in the district, including that of the objector, was systematically assessed at one-third of its value. State v Thayer, 69 M 170, 71 NW 931; In re Delinquent Taxes, Roseau County, 212 M 562, 4 NW(2d) 783.

Whether an application to the board of equalization for an abatement is a condition precedent to the right to set up the defense of inequality, unfairness or partiality of assessment by answer, is an open question. State v Lakeside Land, 71 M 283, 73 NW 970.

The partiality, unfairness, or inequality of an assessment which may be interposed as a defense is only a partiality, unfairness, or inequality in the assessment of the objector's land as compared with the general average assessment of other land in the same district, the correction of which will result in equality among all taxpayers of the district. If an assessment is impartial, equal and fair compared with the average valuation of other lands in the same taxing district, the fact that certain tracts in such district have been intentionally and wilfully omitted from the tax lists, or intentionally or wilfully undervalued, is no defense, either partial or total, which may be set up by answer. State v Lakeside Land, 71 M 283, 73 NW 970; State v West Duluth Land, 75 M 456, 78 NW 115.

To render available as a defense the claim that the valuation was unfair and unequal by reason of the fact that after the original assessment and prior to May 1st, timber had been cut and removed, reducing the value of the land, it must appear, the original assessment being fair, and in accordance with the true value of the land, that the facts showing the reduction were presented to the board of equalization and application made for readjustment. State v Atwood Lumber, 96 M 392, 105 NW 276.

11. When prejudice must be shown

The statute excluding certain defenses relates only to matters of form. Board v Nettleton, 22 M 356; Co. of Redwood v Win. & St. Peter, 40 M 519, 41 NW 465, 42 NW 473; Co. of Otter Tail v Batchelder, 47 M 512, 50 NW 536; In re Cloquet Lumber Co. 61 M 233, 63 NW 628.

Statute not applicable to the objection that there was no valid levy. Board v Nettleton, 22 M 356; Co. of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; In re Cloquet Lumber Co. 61 M 233, 63 NW 628.

It is applicable to formal defects in the assessment or levy. Board v Nettleton, 22 M 356; Co. of Olmsted v Barber, 31 M 256, 17 NW 473; Co. of Redwood v Win. & St. Peter, 40 M 519, 41 NW 465, 42 NW 473; Scott County v Hinds, 50 M 204, 52 NW 523.

The statute excludes certain defenses except on a showing of prejudice and partiality, unfairness, or inequality in the assessment (section 279.07). Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

Its meaning is "that no mere omission of statutory requirements shall constitute a defense, unless it be shown that it resulted to the prejudice of the party objecting, and that the taxes against which he seeks to defend have been partially, unfairly or unequally assessed, in which case, but not otherwise, the court may reduce the amount of taxes upon such piece or parcel of land, and give judgment accordingly. Co. of Otter Tail v Batchelder, 47 M 512, 50 NW 536.

Or that the taxes were partially, unfairly or unequally assessed. Co. of Otter Tail v Batchelder, 47 M 512, 50 NW 536; In re Cloquet Lumber Co. 61 M 233, 63 NW 628.

This provision was intended to prevent the success of technical defenses and prevent success of meritorious defenses to any greater extent than their merits demand; and was not intended to destroy other important safeguards found in the revenue law. In re Cloquet Lumber Co. 61 M 233, 63 NW 624.

If the failure to state the amount of taxes for each year separately was an omission or irregularity, it was not one which went to the jurisdiction of the court, and it was waived by the failure of the landowner to set it up in his answer as a defense or objection to the taxes. Minnesota v Baldwin, 62 M 518, 65 NW 80.

The provision applies to the certification of the amount of a school district levy. State v West Dul. Land, 75 M 456, 78 NW 115.

The provision applies to various formal defects in the delinquent list. Cook v Schroeder, 85 M 374, 88 NW 971.

Unless prejudice is shown, failure of the board of equalization to give notice is not vital. State v Cudahy, 103 M 419, 115 NW 645, 1039.

12. List of admissible defenses

The following objections raised by answer have been sustained:

That the levy was illegal. Board v Nettleton, 22 M 356; County of Olmsted v Barber, 31 M 256, 17 NW 473; County of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; In re Cloquet Lbr. Co. 61 M 233, 63 NW 624; Davis v Board, 75 M 59, 77 NW 548; Wall v Borgen, 152 M 106, 188 NW 159; Braddock v Erskine, 155 M 70, 192 NW 193.

That the county commissioners failed as required by Laws 1875, Chapter 10, to remit a certain portion of the taxes. Board v Jessup, 22 M 552.

That the property is personal and not real estate. State v Minneapolis Mill, 26 M 229, 2 NW 839.

That the land was exempt. County of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454.

That the taxes have been paid. Co. of Olmsted v Barber, 31 M 256, 17 NW 473; Chauncey v Wass, 35 M 1, 25 NW 457, 30 NW 826.

That there was prejudicial error or omission in the proceedings prior to the filing of the list, coupled with partiality, unfairness or inequality in the assessment, or resulting in an over-valuation. Co. of Olmsted v Barber, 31 M 256, 17 NW 473; Co. of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; Minnesota v Weyerhaeuser, 68 M 353, 71 NW 265.

That the assessment was illegal. County of Olmsted v Barber, 31 M 256, 17 NW 473; McNamara v Fink, 71 M 66, 73 NW 649; Mpls. Ry. v Minn. Debenture, 81 M 66, 83 NW 485.

That there is a mistake in the amount of the taxes. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Proceedings in re Delinquent Taxes, 155 M 258, 193 NW 459.

That taxes for certain years are included without authority. Kipp v Dawson, 31 M 373, 17 NW 961, 18 NW 96; Wass v Smith, 34 M 304, 25 NW 605.

That the law under which the proceedings were had is unconstitutional. Co. of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473; State v Wiswell, 61 M 465, 63 NW 1103; Minnesota v Weyerhaeuser, 68 M 353, 71 NW 265.

That interest and penalties were unlawfully added. Co. of Redwood v Win. & St. Peter, 40 M 512, 41 NW 465, 42 NW 473.

That the taxes are barred by the statute of limitations. Pine Co. v Lambert, 57 M 203, 58 NW 990; Kipp v Elwell, 65 M 525, 68 NW 105.

That the state board of equalization illegally raised the assessment. Falvey v Board, 76 M 257, 79 NW 302.

That part of the tract is exempt. State v C. & R. I. Ry. 141 M 472, 170 NW 613.

That the property is used in operating a railroad. State v Gt. N. Ry. 142 M 173, 171 NW 317.

An assessment for ditch repairs by a county board under section 106.48, authorizing a county board to levy an annual assessment for ditch repairs at a rate not exceeding 30 mills of the assessed benefits as confirmed in the original proceedings, is void where the board fails to determine a definite rate. Sauxhaug v Co. of Jackson, 215 M 490, 10 NW(2d) 722.

13. List of inadmissible defenses

The provisions of Special Laws 1885, Chapter 30, an act amendatory of the charter of the village of Wadena, Special Laws 1881, Chapter 46, whereby additional territory was taken into the village are not repugnant to Minnesota Constitution, Article 4, Section 33, Subds. 7 and 9, as amended in 1881. Minnesota v Wiswell, 61 M 465, 63 NW 1103.

It cannot be objected to by answer:

That the county organization is illegal. State v Honerud, 66 M 32, 68 NW 323.

That the funds raised by the tax are to be used for an illegal purpose. State v Thayer, 69 M 170, 71 NW 931.

That an omission or irregularity has occurred in any of the prior proceedings designed to give the landowner notice; or that all the property in the taxing dis-

trict was assessed at less than its actual value. State v Thayer, 69 M 170, 71 NW 931.

That certain tracts in the same taxing district were intentionally and wilfully omitted or undervalued if the objector's land was not improperly assessed. State v Lakeside Land Co. 71 M 283, 73 NW 970; State v West Duluth Land, 75 M 456, 78 NW 115.

That the objector is entitled to deductions from credits on account of indebtedness. State v Willard, 77 M 190, 79 NW 829.

279.16 JUDGMENT WHEN NO ANSWER; FORM; ENTRY.

HISTORY. Ex. 1902 c. 2 s. 15; R.L. 1905 s. 916; G.S. 1913 s. 2105; G.S. 1923 s. 2117; M.S. 1927 s. 2117.

1. **Statutory form**
2. **Recitals as to default**
3. **Entries only on left-hand page**
4. **Date**
5. **Must follow delinquent list**
6. **Description of land**
7. **Statement of amount due**
8. **Continuity of entry; signature of clerk**
9. **Premature entry**
10. **Interest**
11. **Amendment**
12. **Effect as a lien**

1. Statutory form must be followed

Recitals on the truth or falsity of which the judgment does not depend for its validity are not matters of substance. Kipp v Collins, 33 M 394, 23 NW 554.

It is sufficient if the statutory form is followed substantially. Security Trust v Heyderstaedt, 64 M 409, 67 NW 219.

In proceedings under Laws 1899, Chapter 322, a judgment is void on its face which fails to state that the list of lands filed and published was a list of taxes delinquent in the year 1897, and prior years, not barred by the statute of limitation. Stanton v Davidson, 109 M 510, 124 NW 244.

In a ditch assessment proceeding defendant appeared in defense, which the court sustained. The clerk endorsed on the original statement of defense "judgment is hereby entered in accordance with the foregoing." No formal judgment was entered. This did not constitute a valid judgment within the requirements of the statute; and did not preclude the right of the court, after the expiration of the time for appeal, from granting an application for amended findings. State v Lindberg, 120 M 147, 139 NW 286.

2. Recitals as to default

The omission in a default judgment of the statutory recitals that no answer has been filed and that more than 20 days have elapsed since the last publication of the list and notice, is not fatal. Kipp v Collins, 33 M 394, 23 NW 554; Gilfillan v Hobart, 34 M 67, 24 NW 342.

3. Entries only on left-hand page

The provision that the judgment shall be entered only on the left-hand page is directory. Countryman v Wasson, 78 M 244, 80 NW 973, 81 NW 213.

4. Date

That the date was entered after the rendition of the judgment is not a ground for collateral attack. Gribble v Livermore, 64 M 396, 67 NW 213.

Under an early statute the provision requiring that the judgment be dated was mandatory. Security Investment v Buckler, 72 M 251, 75 NW 107.

5. Must follow delinquent list

A judgment charging land not described in the delinquent list is void. Feller v Clark, 36 M 338, 31 NW 175.

6. Description of land

The land must be described so that a man of ordinary intelligence can identify it with reasonable certainty. Collins v Welch, 38 M 62, 35 NW 566; Chouteau v Hunt, 44 M 173, 46 NW 341; Sperry v Goodwin, 44 M 207, 46 NW 328; Godfrey v Valentine, 45 M 502, 48 NW 325; McQuade v Jaffray, 47 M 326, 50 NW 223; Security Trust v Heyderstaedt, 64 M 409, 67 NW 219; Mpls Ry. v Minn. Debenture, 81 M 66, 83 NW 485; Doherty v Real Estate Title, 85 M 518, 89 NW 853.

7. Statement of amount due

The amount due on each tract must be stated with a definiteness and certainty susceptible of no reasonable doubt. Tidd v Rines, 26 M 201, 2 NW 497; Collins v Welch, 38 M 62, 35 NW 566.

When the amount is only expressed in numerals, without indicating in any way what they represent, whether dollars or cents, the judgment is void. Tidd v Rines, 26 M 201, 2 NW 497; Stewart v Colter, 31 M 385, 18 NW 98; Bonham v Weymouth, 39 M 92, 38 NW 805.

But it is sufficient to state the amount in a column headed: "Total amount of judgment," with a perpendicular line, or decimal point, to separate the numerals representing dollars and cents. Tidd v Rines, 26 M 201, 2 NW 497; Gutzweiler v Crowe, 32 M 70, 19 NW 344.

Greater certainty is required in judgments than in the delinquent list. Collins v Welch, 38 M 62, 35 NW 566; Mahlum v Thayer, 93 M 471, 101 NW 653.

8. Continuity of entry; signature of clerk

Where a judgment covers more than one page it is not necessary for the clerk to sign each page, although there is a printed blank for that purpose but it is sufficient if he signs the last page, providing the preceding pages are so continuous that there is no reasonable doubt that they were intended as a single judgment. German-American Bank v White, 38 M 471, 38 NW 361; Gribble v Livermore, 64 M 396, 67 NW 213; Somerville v Thrift, 69 M 474, 72 NW 706.

9. Premature entry

A default judgment prematurely entered is not void nor subject to collateral attack, but may be set aside on proper application. Chouteau v Hunt, 44 M 173, 46 NW 341.

10. Interest

A tax judgment does not include interest on the taxes for which it is rendered. State v Baldwin, 62 M 518, 65 NW 80; Wheeler v Board, 87 M 243, 91 NW 890.

11. Amendment

A judgment cannot be amended so as to validate a void sale had thereon. Tidd v Rines, 26 M 201, 2 NW 497.

If the description of the land is insufficient, the judgment is void and cannot be validated by an amendment, at least after a sale thereon. Kern v Clarke, 59 M 70, 60 NW 809.

12. Effect as a lien

The judgment operates as a perpetual lien, until paid, on the particular tract, cutting off all prior liens whether public or private. State v Bellin, 79 M 131, 81 NW 763; State v Camp, 79 M 343, 82 NW 645.

Where a tax has been levied upon real estate, based upon an overvaluation of the property, the first half of the tax paid without protest, the second half allowed to become delinquent, and the amount of the excess tax determined under the statute, the excess may be deducted from the tax remaining unpaid. Delinquent Real Estate Taxes, Ramsey County, 155 M 258, 193 NW 459.

A tax title is a new and original grant from the state as sovereign of title in fee, which is paramount as against the world and which supersedes and bars all other titles, claims and equities, including claims by adverse possession. Hacklander v Parker, 204 M 260, 283 NW 406.

279.17 PROCEEDINGS ON ANSWER.

HISTORY. Ex. 1902 c. 2 s. 16; R.L. 1905 s. 917; G.S. 1913 s. 2106; G.S. 1923 s. 2118; M.S. 1927 s. 2118.

The collection of general taxes is not a function of the city or of city officers. Under our tax system, county officers are charged with that duty. Board v Clapp, 83 M 512, 86 NW 775; Thwing v City of International Falls, 148 M 37, 180 NW 1017.

Where a tax can be enforced only in the manner and by the procedure provided by the general tax laws, such laws afford an adequate remedy if the tax be illegal, and a suit in equity to enjoin the taxing officers from levying it cannot be maintained. Wall v Borgen, 152 M 106, 188 NW 159; Braddock v Erskine, 155 M 70, 192 NW 193.

A town may not employ an attorney to appear in proceedings to enforce payment of a delinquent tax wherein taxpayers are seeking a reduction. OAG Oct. 1, 1930.

279.18 JUDGMENT.

HISTORY. Ex. 1902 c. 2 s. 17; R.L. 1905 s. 918; G.S. 1913 s. 2107; G.S. 1923 s. 2119; M.S. 1927 s. 2119.

Collection of taxes from a receiver in supplementary proceedings. 23 MLR 861.

279.19 APPLICATION FOR JUDGMENT.

HISTORY. Ex. 1902 c. 2 s. 18; R.L. 1905 s. 919; G.S. 1913 s. 2108; G.S. 1923 s. 2120; M.S. 1927 s. 2120.

Under Laws 1901, Chapter 258, as amended by Ex. Laws 1902, Chapter 38, one whose lands are included in proceedings to establish a county ditch may (1) appeal upon the statutory grounds; (2) by certiorari bring up for review any order affecting a substantial right; (3) resist the application for judgment upon any ground allowed by section 279.19. State v Johnson, 111 M 255, 126 NW 1074; State v Tuck, 112 M 493, 128 NW 823; Jacobson v County of Lac qui Parle, 119 M 14, 137 NW 419; State v Fritch, 175 M 206, 220 NW 608.

On application for judgment in tax proceedings, the property owner may, by answer, interpose a defense or objection which asserts on the merits the validity of the assessment. Certiorari will lie to review the quasi-judicial proceedings of municipal boards only when there is no right of appeal and no other adequate remedy. State ex rel v Board, 134 M 204, 158 NW 977.

The action of the commissioner of taxation in refusing to reduce an alleged excessive valuation of real estate for taxation purposes is not reviewable by certiorari. State ex rel v Minn. Tax Comm., 135 M 282, 160 NW 665.

To disturb findings upon the question as to whether certain lands were assessed at more than their real and actual value, it must appear that they are clearly and manifestly against the evidence. State v So. St. Paul Syndicate, 140 M 359, 168 NW 95.

Where a single assessment is made against an entire tract, and part of the tract is exempt, the whole assessment cannot stand against the property not exempt.

Objection in such case may be raised by answer in proceedings to enforce delinquent taxes. State v C. & R. I. Ry. 141 M 472, 170 NW 613.

The trial court did not err in denying the motion of a landowner to vacate a tax judgment and for leave to answer made over five years after its entry, the owner having had knowledge of the facts for a considerable time. In re Delinquent Taxes, Beltrami County, 145 M 117, 176 NW 183.

The provisions of this section, granting to the property owner the defense of overvaluation in real estate tax assessments are not unconstitutional as a delegation of legislative or administrative duties to the courts. Nor because the same defense was not extended to personal property. State v Koochiching, 146 M 87, 177 NW 940.

Where a tax has been levied upon real estate, based upon an overvaluation of property, the first half of the tax paid without protest, the second half allowed to become delinquent, the amount of the excess tax determined in the proceedings under the statute may be deducted from tax remaining unpaid. In re Delinquent Real Estate Tax, 155 M 258, 193 NW 459.

To ascertain value of real estate it is proper to consider the location, the revenue derived, and the cost of duplication of the improvements. In re Delinquent Real Estate Taxes, 160 M 209, 199 NW 968; State v Trask, 167 M 304, 209 NW 18.

A delinquent tax list in proceedings to enforce real estate taxes makes a prima facie case for the state, and on the defendant is shown the burden of showing the assessment invalid. State v Meck, 161 M 334, 201 NW 536.

A reduction may be ordered in a clear case of overvaluation. State v Oliver Iron Mining Co. 198 M 385, 270 NW 609.

As affecting the value of bank stock for the purposes of taxation, the entity of the bank was not destroyed by the appointment of a federal conservator, but the taxpayer's claim of overvaluation is sustained. Freeborn Co. v. First Nat'l Bank, 199 M 29, 270 NW 908.

The federal reserve bank of Minneapolis was not unlawfully or inequitably assessed. State v Fed. Reserve Bank, 25 F. Supp. 14.

279.20 PAPERS FILED BY CLERK.

HISTORY. Ex. 1902 c. 2 s. 20; R.L. 1905 s. 920; G.S. 1913 s. 2109; G.S. 1923 s. 2121; M.S. 1927 s. 2121.

Omissions in the judgment roll are not fatal to the judgment; but papers improperly in the roll are not admissible to explain the judgment. Flint v Webb, 25 M 93.

The object of the statute is to preserve a judgment roll as in ordinary civil actions. It is not necessary that the roll should contain the original notice attached by the clerk to the copy of the delinquent list to be published. Bennett v Blatz, 44 M 56, 46 NW 319.

There were no file marks on the delinquent list, but at the time of the trial the list was found in the clerk's office in a wrapper upon which were endorsed: "Judgment roll, delinquent tax list, Lake county, for year 1894. Filed in my office 21st March, 1896." This was signed by the clerk. The tax judgment recited that the list had been filed. Held, the endorsement does not prove that the list was not duly filed, nor rebut the recitals of the judgment that it was. Cook v Schroeder, 85 M 374, 88 NW 971.

279.21 APPEAL TO SUPREME COURT.

HISTORY. Ex. 1902 c. 2 s. 19; R.L. 1905 s. 921; G.S. 1913 s. 2110; G.S. 1923 s. 2122; M.S. 1927 s. 2122.

Notice of appeal to the supreme court, from an order of the district court, refusing to set aside a tax judgment, must be served upon the county attorney. Board v Sutton, 23 M 299.

The statute providing for certifying tax cases to the supreme court was repealed by Ex. Laws 1902, Chapter 2, Sections 19, 88. An appeal now lies from a tax judgment as from a judgment in an ordinary civil action. State v Lockhart,

89 M 121, 94 NW 168; State v Griffith, 92 M 1, 98 NW 1023; State ex rel v District Court, 93 M 177, 100 NW 889.

On appeal in tax cases the findings of the trial court have the same force as in ordinary civil actions and will not be reversed unless manifestly contrary to the evidence. State v Union Tank Line, 94 M 320, 102 NW 721.

The provision limiting the time to appeal from the judgment, which the home rule charter of the city of St. Paul prescribes shall be entered in assessments for local improvements, is valid. In re Assessment for Paving. 170 M 403, 212 NW 811.

279.22 OPENING AND VACATING OF TAX JUDGMENTS.

HISTORY. Ex. 1902 c. 2 s. 19; R.L. 1905 s. 922; G.S. 1913 s. 2111; G.S. 1923 s. 2123; M.S. 1927 s. 2123; 1939 c. 311.

1. **Opening default**
2. **Vacating and setting aside**

1. Opening default

The application is addressed to the discretion of the trial court. The action of the trial court is rarely reversed on appeal. Dousman v City of St. Paul, 23 M 394; Co. of Washington v Germ. Amer. Bank, 28 M 360, 10 NW 21; Falvey v Board, 76 M 257, 79 NW 302.

The application must be made promptly on hearing of the judgment. Dousman v City of St. Paul, 23 M 394; Co. of Washington v Germ. Amer. Bank, 28 M 360, 10 NW 21; Hennessy v City of St. Paul, 54 M 219, 55 NW 1123; Martin v Curley, 70 M 489, 73 NW 405.

Notice of an appeal to the supreme court from an order of the district court refusing to set aside a tax judgment, must be served upon the county attorney. Board v Sutton, 23 M 299.

Where the application shows only that the petitioner had an interest in real estate and that it was exempt from taxation, the court might refuse the application to set aside the judgment. Commissioners v Morrison, 25 M 295; Co. of Washington v Germ. Amer. Bank, 28 M 360, 10 NW 21.

In proceedings to enforce payment of taxes, the fact that the land against which the tax is sought to be enforced is exempted from taxation does not affect the jurisdiction of the court in which the proceedings are brought, to try and determine the legality of the tax. Co. of Chisago v St. P. & Duluth, 27 M 109, 6 NW 454.

Great liberality is shown in opening judgments between individuals to enable the owner to defend against a tax title. Martin v Curley, 70 M 489, 73 NW 405.

It is proper to open a judgment to let in the defense that the assessment was illegal. McNamara v Fink, 71 M 66, 73 NW 649.

It is not necessary to entitle the property owner to interpose a defense of overvaluation that he first apply to the board of equalization. State v Koochiching, 146 M 87, 117 NW 940.

2. Vacating and setting aside

The instant case arose because of an irregular entry of judgment, liable to be set aside upon proper and seasonable application, but the judgment was not void, nor vulnerable to collateral attack. Chouteau v Hunt, 44 M 173, 46 NW 341.

A judgment in a proceeding to enforce delinquent taxes on real estate is void where it is made to appear that, after the tax upon a particular tract of land therein described became delinquent, and before the list was published, it was paid. Keyes v Erickson, 147 M 453, 180 NW 544.

279.23 COPY OF JUDGMENT TO COUNTY AUDITOR.

HISTORY. Ex. 1902 c. 2 s. 21; R.L. 1905 s. 923; G.S. 1913 s. 2112; G.S. 1923 s. 2124; M.S. 1927 s. 2124.

NOTE: When the holder of a certificate pays subsequent taxes the auditor is required to make an entry of the fact in the copy of the judgment book prescribed by section 279.24.

The certified copy of the judgment to be entered in the copy judgment book is designed for the convenience of the auditor in making any certificate that it may be his duty to make, and also that there may be kept in his office a record of the sales and subsequent acts affecting the same. It is not essential to the authority of the auditor to sell. Kipp v Collins, 33 M 394, 23 NW 554.

When land is bid in for the state at the annual delinquent sale, the state acquires no title which it can subsequently convey unless the auditor makes an entry in the copy judgment book to the effect that the land was bid in for the state. Gilfillan v Chatterton, 38 M 335, 37 NW 583; Mulvey v Tozer, 40 M 384, 42 NW 387; Pine County v Lambert, 57 M 203, 58 NW 990; State v Kipp, 70 M 286, 73 NW 164.

Where there is a discrepancy as to the date of sale between the certificate of sale issued by the auditor and the entry made by him in the copy judgment book, in the absence of any other evidence as to which is correct, the certificate controls; at least, when no question is involved as to when the right of redemption expires. McQuade v Jaffray, 47 M 326, 50 NW 233.

The requirement that the judgment be entered only on the left-hand page is directory. It was not intended for the protection of the taxpayer, but merely to promote an orderly and convenient style of keeping the tax judgment books, so that there might be ample room on the right-hand pages for making subsequent entries. Countryman v Wasson, 78 M 244, 80 NW 973, 81 NW 213.

279.24 CLERK'S FEES.

HISTORY. 1878 c. 1 s. 93; G.S. 1878 c. 11 s. 95; 1885 c. 2 s. 19; G.S. 1894 s. 1608; R.L. 1905 s. 924; G.S. 1913 s. 2113; G.S. 1923 s. 2125; M.S. 1927 s. 2125.

Where not fixed by special law, the clerk of the district court is entitled to a fee of 15 cents per description for entering real estate tax judgments. OAG June 4, 1935 (144b-15).

A clerk of court who draws a salary, and who under Laws 1919, Chapter 229, which specifically exempts real estate tax proceedings is entitled to the fees prescribed in section 279.24. OAG July 1, 1936 (144b-15).

279.25 PAYMENT BEFORE JUDGMENT.

HISTORY. Ex. 1902 s. 22; R.L. 1905 s. 925; G.S. 1913 s. 2114; G.S. 1923 s. 2126; M.S. 1927 s. 2126.

A judgment in a proceeding to enforce delinquent taxes on real estate is void where it is made to appear that, after the tax upon a particular tract of land therein described became delinquent and before the delinquent list was published, it was paid. Keyes v Erickson, 147 M 453, 180 NW 544.

279.32 DELINQUENT TAXES; ENTRY ON JUDGMENT IN CERTAIN CASES.

HISTORY. 1939 c. 310; M. Supp. s. 2164-4c; 1943 c. 240 s. 1.

279.33. CANCELATION OF CERTIFICATES OF FORFEITURE FOR LANDS WHICH WERE EXEMPT.

HISTORY. 1939 c. 312 s. 1; M. Supp. s. 2164-12a; 1941 c. 441 s. 1.

279.34 APPLICATION BY OWNER.

HISTORY. 1939 c. 312 s. 2; M. Supp. s. 2164-12b; 1941 c. 441 s. 1.

279.35 DEFAULTED CONFESSIONS REINSTATED.

HISTORY. 1943 c. 333.

279.36 CONFESSION OF JUDGMENT FOR DELINQUENT TAXES FOR 1940 AND PRIOR YEARS.

HISTORY. 1943 c. 163.

The "emergency", "moratory", or "tax bargain" laws fall into three classes: (1) repurchase act (section 282.35), the base act being Laws 1933, Chapter 407; (2) redemption of forfeited lands (section 281.16 to 281.27), the base act being Laws 1935, Chapter 278; and (3) confession of judgment acts (section 279.36), the base being Ex. Laws 1936, Chapter 72.

The base act, Ex. Laws 1936, Chapter 72, was amended by Laws 1937, Chapter 486, and followed by Laws 1939, Chapter 91, Laws 1941, Chapter 17, and Laws 1943, Chapter 163. Each enactment is distinct, and each applies to different periods. For laws relating to confession of judgment for delinquent taxes upon parcels of real estate for 1940 and prior years, see Minnesota Statutes 1945, Section 279.36; for 1938 and prior years, see Laws 1941, Chapter 17; for 1936 and prior years, see Laws 1939, Chapter 91; 1934 and prior years see Laws 1937, Chapter 486, and for 1933 and prior years see Ex. Laws 1936, Chapter 72.