

together with all taxable costs, to be recovered in a civil action to be prosecuted by the prosecuting attorney of the county in which the neglect or refusal occurs, in the name of the state of Minnesota, which shall be paid over to the county in which such proceedings are had, and shall be a part of the road and bridge fund.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved April 19, 1905.

CHAPTER 288.

H. F. No. 273

An act providing for taxation of and fixing the rate of taxation on inheritances, devises, bequests, legacies and gifts, and providing for the manner of payment as well as the manner of enforcing payment thereof.

Inheritance tax, etc.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. A tax shall be and is hereby imposed upon all inheritances, devises, bequests, legacies and gifts of every kind and description, of any and all persons and corporations, the value of which exceeds ten thousand dollars (\$10,000), and upon such excess only.

Over \$10,000.

SEC. 2. Such tax shall be computed upon the full and true value of such inheritance, devise, bequest, legacy or gift, above such excess, at the following rates, viz.:

How computed.

1. When such valuation is over ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000), the rate shall be one and one-half (1½) per cent thereof.

Over \$10,000 and less than \$50,000 1½%.

2. When such valuation is fifty thousand dollars (\$50,000) or over and less than one hundred thousand dollars (\$100,000), the rate shall be three (3) per cent thereof.

\$50,000 and less than \$100,000 3%.

3. When such valuation is one hundred thousand dollars (\$100,000) or over, the rate shall be five (5) per cent thereof.

\$100,000 and over 5%.

SEC. 3. All taxes imposed by this act shall take effect at and upon the death of the decedent or donor and shall be due and payable at the expiration of one (1) year from such death, except as otherwise provided in this act; provided, however, that taxes upon any devise, bequest, legacy or gift limited, conditioned, dependent or deter-

Due in 1 year.

Exception.

minable upon the happening of any contingency or future event by reason of which the full and true value thereof cannot be ascertained at or before the time when the taxes become due and payable as aforesaid, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof.

SEC. 4. Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to the tax thereon as imposed by this act, shall deduct the tax therefrom, and within thirty days thereafter he shall pay over the same to the county treasurer as herein provided.

If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy or gift upon the appraised value thereof, from the person entitled thereto.

He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under this act, to any person until he shall have collected the tax thereon.

SEC. 5. The tax imposed by this act upon inheritances, devises, bequests or legacies shall be paid to the treasurer of the county in which the probate court having jurisdiction; as herein provided, is located; and the tax so imposed upon gifts shall be payable to the state treasurer, and the treasurer to whom the tax is paid shall give the executor, administrator, trustee or person paying such tax, duplicate receipts therefor, one of which shall be immediately transmitted to the state auditor, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof; and where such tax is paid to the county treasurer he shall seal said receipt with the seal of his office and countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts.

No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in the settlement of which a tax may become due under the provisions of this act, until he shall produce a receipt, so sealed and countersigned by the state auditor, or a certified copy of the same. All taxes paid into the county treasury under the provisions of this act shall immediately be paid into the

Tax to be deducted.

If property not in money, how paid.

Tax to be paid before distribution.

Where paid.

Duties of state treasurer and auditor.

Receipt before final accounting.

state treasury upon the warrant of the state auditor and shall belong to and be a part of the revenue fund of the state.

SEC. 6. Every tax imposed by this act shall be a **Lien.** lien upon the property embraced in any inheritance, devise, bequest, legacy or gift until paid, and the person to whom such property is transferred and the administrators, executors and trustees of every estate embracing such property shall be personally liable for such tax, until its payment, to the extent of the value of such property.

SEC. 7. If such tax is not paid within one year from the accruing thereof, interest shall be charged and collected thereon at the rate of seven (7) per centum per annum from the time the tax is due, unless, by reason of claims upon the estate, necessary litigation or other unavoidable cause of delay, such tax cannot be determined as herein provided; in such case interest at the rate of six per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which seven (7) per centum shall be charged. **Interest.**

SEC. 8. Every executor, administrator or trustee shall have full power to sell so much of the property embraced in any inheritance, devise, bequest or legacy as will enable him to pay the tax imposed by this act, in the same manner as he might be entitled by law to do for the payment of the debts of a testator or intestate. **May sell to pay tax.**

SEC. 9. If any bequest or legacy shall be charged upon or payable out of any property, the heir or devisee shall deduct such tax therefrom and pay such tax to the administrator, executor or trustee, and the tax shall remain a lien or charge on such property until paid; and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the bequest or legacy might be enforced, or by the county attorney under section 20 of this act. If any bequest or legacy shall be given in money to any person for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount; but *if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires, of the sum to be paid into his hands by such legatee or beneficiary,* **Tax upon bequest or legacy payable to administrator, etc.** **Court to apportion.**

and for such further order relative thereto, as the case may require.

Refund of
tax errone-
ously paid.

SEC. 10. When any tax imposed by this act shall have been erroneously paid, wholly or in part, the person paying the same shall be entitled to a refundment of the amount so erroneously paid, and the auditor of state shall, upon satisfactory proofs presented to him of the facts relating thereto, draw his warrant upon the state treasurer for the amount thereof, in favor of the person entitled thereto; *provided, however,* that all applications for such refunding of erroneous taxes shall be made within three years from the payment thereof.

Within 3
years.

Tax to be
paid in
proper coun-
ty by for-
eign execu-
tor.

SEC. 11. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state, standing in the name of the decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof, and no such assignment or transfer shall be valid until such tax is paid.

No transfer
of securities
except upon
notice to
county
treasurer.

SEC. 12. No safe deposit company, bank or other institution, person or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the county treasurer, personally or by representative, to examine said securities at the time of such delivery or transfer. If upon such examination the county treasurer or his said representatives shall for any cause deem it advisable that such securities or assets should not be immediately delivered or transferred, he may forthwith notify in writing such company, bank, institution or person to defer delivery or transfer thereof for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the party notified to defer such delivery or transfer until the time stated in such notice or until the revocation thereof, within such ten days. Failure to serve the notice first above mentioned, or to allow such examination, or to defer the delivery of such securities or assets for the time stated in the second of said notices, shall render said safe deposit company, trust company, bank or other institution, person or persons, liable to the payment of the tax due upon the said security or assets, pursuant to the provisions of this act.

Transfer
deferred.

Failure to
serve
notice.

SEC. 13. Upon the presentation of any petition to any probate court of this state for letters testamentary or of administration, or for ancillary letters, testamentary or of administration, the probate court shall cause a copy of the citation or order for the hearing of such petition to be served upon the county treasurer of his county not less than ten days prior to such hearing. The court shall thereupon, as soon as practicable after the granting of any such letters, proceed to ascertain and determine the value of every inheritance, devise, bequest or legacy embraced in or payable out of the estate in which such letters are granted and the tax due thereon.

Order for hearing petition to be served on Co. treasurer.

The county treasurer shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

Co. treasurer may apply for letters of administration.

SEC. 14. The probate court may, in any matter mentioned in the preceding section, either upon its own motion or upon the application of any interested party, including county treasurers, and as often as and when occasion requires, appoint one or more persons as appraisers to appraise the true and full value of the property embraced in any inheritance, devise, bequest or legacy subject to the payment of any tax imposed by this act.

Appraisers.

SEC. 15. Every inheritance, devise, bequest, legacy or gift upon which a tax is imposed under this act shall be appraised at its full and true value immediately upon the death of decedent, or as soon thereafter as may be practicable.

Full and true value.

Provided, however, that when such devise, bequest, legacy or gift shall be of such a nature that its full and true value cannot be ascertained at such time, it shall be appraised in like manner at the time such value first becomes ascertainable.

SEC. 16. The appraiser appointed under the provisions of this act shall forthwith give notice by mail to all persons known to have a claim or interest in the inheritance, devise, bequest, legacy or gift to be appraised, including the county treasurer and such persons as the probate court may by order direct, of the time and place when they will make such appraisal.

Notice by appraisers.

They shall at such time and place appraise the same at its full and true value, as herein prescribed, and for that purpose the said appraisers are authorized to issue subpoenas and compel the attendance of witnesses before them, and to take evidence of such witnesses, under oath,

Powers and duties.

concerning such property and the value thereof, and they shall make report thereof, and of such value, in writing, to the said probate court, together with the testimony of the witnesses examined and such other facts in relation thereto and to the said matter as said probate court may order or require. Every appraiser shall be entitled to compensation at the rate of three dollars (\$3) per day for each day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and such witnesses and the officer or person serving any such subpoena shall be entitled to the same fees as allowed witnesses or sheriffs for similar service in courts of record. The compensation and fees claimed by any person for services performed under this act shall be approved by the judge of probate, who shall certify the amount thereof, to the auditor of state, who shall examine the same, and, if found correct, he shall draw his warrant upon the state treasury for the amount thereof in favor of the person entitled thereto.

Compensation.

Report.

SEC. 17. The report of the appraisers shall be filed with the probate court, and from such report and other proof relating to any such estate before the probate court the court shall forthwith, as of course, determine the true and full value of all such estate and the amount of tax to which the same are liable; or the probate court may so determine the full and true value of all such estates and the amount of tax to which the same are liable without appointing appraisers.

Probate court to give notice.

SEC. 18. The probate court shall immediately give notice, upon the determination of the value of any inheritance, devise, bequest, legacy or gift which is taxable under this act and of the tax to which it is liable, to all parties known to be interested therein, including the state auditor and county treasurer.

Objections, hearing, re-assessment.

SEC. 19. Within thirty days after the assessment and determination by the probate court of any tax imposed by this act, the state auditor, county treasurer or any person interested therein, may file with said court objections thereto, in writing, and praying for a reassessment and redetermination of such tax. Upon any objection being so filed, the probate court shall appoint a time for the hearing thereof and cause notice of such hearing to be given the state auditor, county treasurer and all parties interested, at least ten days before the hearing thereof. At the time appointed in such notice the court

shall proceed to hear such objections and any evidence which may be offered in support thereof or opposition thereto; and if, after such hearing, said court shall be of the opinion that a reassessment or re-determination of such tax should be made, it shall, by order, set aside the assessment and determination theretofore made and order a reassessment in the same manner as if no assessment had been made.

SEC. 20. If the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act after the refusal or neglect of the persons liable therefor to pay the same, he shall notify, in writing, the county attorney of his county, of such failure or neglect, and such county attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon, shall conform as near as may be to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this act in said probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax, and it shall be the duty of the county attorney of the proper county to sue for in the name of the state and enforce the collection of such tax, and all taxes so collected shall be forthwith paid into the county treasury. It shall be the duty of said county attorney to appear for and represent the county treasurer on the hearing of such citation.

SEC. 21. The auditor of state shall furnish to each probate court a book which shall be a public record, and in which shall be entered by the judge of said court the name of every decedent upon whose estate an application has been made for the issue of letters of administration, or letters testamentary or ancillary letters, the date and place of death of such decedent, names and places of

County attorney to enforce collection of unpaid taxes.

State auditor to furnish probate court with record book.
What to contain.

residence and relationship to decedent of the heirs at law of such decedent, the estimated value of the property of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the names and places of residence of the legatees, devisees and other beneficiaries in any will of any such decedent, the amount of each legacy, and the estimated value of any property devised therein and to whom devised.

These entries shall be made from data contained in the papers filed on such application or in any proceeding relating to the estate of the decedent.

The judge of probate shall also enter in such book the amount of the property of any such decedent, as shown by the inventory thereof, when made and filed in his office, and the returns made by any appraisers appointed by him under this act, and the value of all inheritances, devises, bequests, legacies and gifts inherited from such decedent, or given by such decedent in his will or otherwise as fixed by the probate court, and the tax assessed thereon, and the amounts of any receipts for payment thereof filed with him.

The state auditor shall also furnish forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book.

Each judge of probate shall, on the first day of January, April, July and October of each year, make a report in duplicate upon the forms furnished by the state auditor containing all the data and matters required to be entered in such book, one of which shall be immediately delivered to the county treasurer and the other transmitted to the auditor of state.

The register of deeds of each county shall, at the same time, make reports in duplicate to the auditor of state, containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of the vendor or vendee, and the description of the property transferred, as shown by such instrument, one of which duplicates shall be immediately delivered to the county treasurer and the other transmitted to the auditor of state.

SEC. 22. All acts and parts of acts of this state relating to the taxation of inheritances, devises, bequests,

Probate judge to report in duplicate to Co. treasurer and state auditor.

Register of deeds to report transfers to state auditor and Co. treasurer.

legacies and gifts, so far as the same are inconsistent with the provisions of this act, are hereby repealed.

SEC. 23. This act shall take effect and be in force from and after its passage.

Approved April 19, 1905.

CHAPTER 289.

H. F. No. 268.

An act to legalize sheriffs' certificates, executed, proved or acknowledged and recorded after the expiration of twenty (20) days.

Sheriff's
certificates
legalized.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That no certificate heretofore executed under and by virtue of section eleven (11), chapter eighty-one (81), title one (1), Statutes of Minnesota, being section 6038 General Statutes of 1894, shall be deemed invalid by reason of the same not having been made, executed, proved or acknowledged and recorded within the twenty (20) days mentioned in said section; and the record of all such certificates heretofore executed, proved or acknowledged and recorded after the expiration of the said twenty (20) days is hereby legalized and made valid, and said record shall have the same force and effect as if said certificates had been executed, proved or acknowledged and recorded within the said twenty (20) days; *provided*, that nothing herein contained shall be construed to apply to cases now pending which involve the legality or validity of any such certificate of sale.

When not
recorded
within 20
days.

Not applica-
ble to cases
pending.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved April 19, 1905.

CHAPTER 290.

H. F. No. 621

An act to provide for paying the expenses incurred by the sheriff of any county of this state in executing a death warrant.

Sheriff's
expense in
executing
death
warrant.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. Whenever any person has been convicted of murder in the first degree and sentenced to death, and the warrant has been issued and delivered to the proper