

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
GEORGE B. YOUNG.

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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS  
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

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FOURTH EDITION.

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WITH SUPPLEMENTS,  
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF  
THE LEGISLATIVE SESSION OF 1883.

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SAINT PAUL:  
WEST PUBLISHING COMPANY.  
1883.

made and returned shall become a lien upon said lots and parcels, as in case of town, county and state taxes. (1875, c. 139, § 19.)

\*§ 223. Appropriations limited. No greater sum of money than five hundred dollars shall be appropriated for any one purpose by the council, unless it is expressly authorized by a vote of the legal voters of said village at an annual or special meeting. (Id. § 20.)

\*§ 224. Election district. The territory comprised within the prescribed limits of the village, shall constitute one election district only for the election of village officers. (Id. § 21, as amended 1878, c. 35, § 1.)

\*§ 225. Power to carry out this act. Any village incorporated under this act is vested with all the powers necessary to carry into full force, virtue and effect all and every part of this charter, and shall have power to pass and ordain all and every ordinance necessary to carry out fully the meaning and intent thereof. (Id. § 22.)

(See, also, note to VILLAGES, 1883 Sup't., p. 16.)  
 See 1883 Sup't., pp. 21 to 32, incl.  
 And \*§§ 223 to 261, incl.  
 See 1881 Sup't., pp. 21, 22, 23.  
 See 1881 Sup't., pp. 229, 230, and 231.  
 §§ 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

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\*An act to provide for the assessment and collection of taxes. Approved March 11, 1878. (Laws 1878, c. 1.)

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\*§ 1. **Property subject to taxation.** All real and personal property in this state, and all personal property of persons residing therein, the property of corporations now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created, and of all bankers, except such as is hereinafter expressly excepted, is subject to taxation, and such property, or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed by this act: *provided*, that railroad, insurance and telegraph companies, shall be taxed in such manner as now is or may be hereafter fixed by law. (1878, c. 1, § 1.)

\*§ 2. **Real property defined.** Real property, for the purposes of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements, trees or other fixtures, of whatsoever kind thereon, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, quarries and fossils in and under the same. (*Id.* § 2.)

\*§ 3. **Personal property defined.** Personal property shall, for the purposes of taxation, be construed to include all goods, chattels, moneys, credits and effects, wheresoever they may be; all ships, boats and vessels belonging to inhabitants of this state, whether at home or abroad, and all capital invested therein; all moneys at interest either within or without this state due the person to be taxed, more than he pays interest for, and all other debts due such persons more than their indebtedness; all public stocks and securities, all stock in turnpikes, railroads, canals and other corporations (except national banks) out of the state, owned by inhabitants of this state; all personal estate of moneyed corporations, whether the owners thereof reside in or out of this state; and the income of any annuity, unless the capital of such annuity be taxed within the state; all shares of stock in any bank organized or that may be organized under any law of the United States, or of this state; and all improvements made by persons upon lands held by them under the laws of the United States, the fee of which lands is still vested in the United States; and all such improvements upon lands the title to which is still vested in any railroad company, or any other corporation whose property is not subject to the same mode and rule of taxation as other property. (*Id.* § 3.)

\*§ 4. **Definition of terms used in this act.** The term "money" or "moneys," wherever used in this act, shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same, or holding in trust and residing in this state, is entitled to withdraw in money on demand. The term "credits," wherever used in this act, shall be held to mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become

due. The terms "tract" or "lot," and "piece or parcel of real property," and "piece or parcel of lands," wherever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same claimant, person or company. Every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural number may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males. Wherever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear" in this act may be held to mean affirm. The words "town" or "district," wherever used in this act, shall be construed to mean township, village, city or ward, as the case may be. The term "true and full value," wherever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale. The term "person," whenever used in this act, shall be construed to include firm, company or corporation. (1878, c. 1, § 4.)

\*§ 5. **Property exempt from taxation.** All property described in this section, to the extent herein limited, shall be exempt from taxation, that is to say:

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

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

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

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

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

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

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

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

*Ninth.* All public libraries, and real and personal property belonging to or connected with the same.

*Tenth.* The personal property of each individual liable to assessment and taxation under the provisions of this act, of which such individual is the actual and *bona fide* owner, to an amount not exceeding one hundred dollars in

value: *provided*, that each person shall list all of his personal property for taxation, and the county auditor shall deduct the amount of the exemption authorized by this section, from the total amount of his assessment, and levy taxes upon the remainder. (1878, c. 1, § 5.)

\*§ 6. **Listing of real and personal property.** All real property in this state, subject to taxation, shall be listed and assessed every even-numbered year, with reference to its value on the first day of May preceding the assessment; and all real estate becoming taxable any intervening year shall be listed and assessed with reference to its value on the first day of May of that year. Personal property shall be listed and assessed annually, with reference to its value on the first day of May. (*Id.* § 6.)

\*§ 7. **Manner of listing personal property.** Personal property shall be listed in the manner following:

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

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

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

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

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

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

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

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

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

*Tenth.* The property of manufacturers and others in the hands of an agent, by such agent in the name of his principal, as merchandise. (*Id.* § 7.)

\*§ 8. **Place of listing personal property.** Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county, town or district where the owner or agent resides. The capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed and taxed in the county, town or district where the principal office or place of business of such corporation or person is located in this state; if there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or district where his business is carried on. (1878, c. 1, § 8.)

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\*§ 9. **Property of transportation companies, etc., where to be listed.** The personal property of express, transportation and stage companies shall be listed and assessed in the county, town or district where the same is usually kept. All persons, companies and corporations in this state, owning steamboats, sailing vessels,

wharf-boats, barges, and other water-craft, shall be required to list the same for assessment and taxation, in the county, town or district in which the same may belong, or be enrolled, registered or licensed, or kept when not enrolled, registered or licensed. (1878, c. 1, § 9.)

\*§ 10. **Of gas and water companies, where listed.** The personal property of gas and water companies shall be listed and assessed in the town or district where the principal works are located. Gas and water mains and pipes, laid in roads, streets or alleys, shall be held to be personal property. (*Id.* § 10.)

\*§ 11. **Of street railroad companies, where listed, etc.** The personal property of street-railroad, plank-road, gravel-road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the principal place of business is located; and the track, road or bridge shall be held to be personal property. (*Id.* § 11.)

\*§ 12. **Non-residents' farm property, where listed.** When the owner of live stock, or other personal property connected with a farm does not reside thereon, the same shall be listed and assessed in the town or district where the farm is situated; *provided*, if the farm is situated in several towns or districts, it shall be listed and assessed in the town or district in which the principal place of business of such farm may be located. (*Id.* § 12.)

\*§ 13. **Personal property moved between May and July, where listed.** The owner of personal property removing from one county, town or district to another, between the first day of May and the first day of July, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state, between the first day of May and the first day of July, shall list the property owned by him on the first day of May of such year in the county, town or district in which he resides; *provided*, if such person has been assessed, and can make it appear to the assessor that he is held, for tax of the current year on the property in another state, county, town or district, he shall not be again assessed for such year. (*Id.* § 13.)

\*§ 14. **Place of listing, how decided in case of doubt.** In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties or places in different counties, by the auditor of state; and when fixed in either case, shall be as binding as if fixed by this act. (*Id.* § 14.)

§ 15. **Lists of personal property to be made under oath.** Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the personal property in his possession or under his control, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent or factor; but no person shall be required to include in his statement any share or portion of the capital stock or property of any company or corporation which such company is required to list or return as its capital and property for taxation in this state. (*Id.* § 15.)

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

*First.*—The number of horses under three years old, and three years old and over, and the value thereof.

*Second.*—The number of cattle under two years old; the number of cows two years old and over; the number of all other cattle two years old and over; and the value thereof.

*Third.*—The number of mules and asses of all ages, and the value thereof.

*Fourth.*—The number of sheep of all ages, and the value thereof.

*Fifth.*—The number of hogs of all ages, and the value thereof.

*Sixth.*—The number of wagons and carriages of whatever kind, and the value thereof.

*Seventh.*—The number of sewing and knitting machines, and the value thereof.

*Eighth.*—The number of watches and clocks, and the value thereof.

*Ninth.* The number of melodeons and organs, and the value thereof.

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

*Eleventh.* The value of household and office furniture.

*Twelfth.* The value of agricultural tools, implements and machinery.

*Thirteenth.* The value of gold and silver plate and plated ware.

*Fourteenth.* The value of diamonds and jewelry.

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

*Sixteenth.* The value of every steamboat, sailing vessel, wharf-boat, barge, or other water-craft.

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

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

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

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

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

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

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

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

*Twenty-fifth.* The amount and value of shares of bank stock.

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

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

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

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

*Thirtieth.* The value of all improvements on lands held under law of the United States. (1878, c. 1, § 16.)

\*§ 17. **Examination under oath by assessor—refusal to answer.** Whenever the assessor shall be of opinion that the person listing property for himself, or for any other person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath, in regard to the amount of the property he is required to list; and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person or his principal, according to his best judgment and information. (*Id.* § 17.)

\*§ 18. **Deductions from credits, how made.** In making up the amount of credits which any person is required to list for himself or for any other person, company or corporation, he shall be entitled to deduct from the gross amount thereof, the

amount of all *bona fide* indebtedness of himself or of any such person, company or corporation; but no acknowledgment of indebtedness, not founded on actual consideration, believed when received to have been adequate, and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt in the meaning of this section. Nothing in this section shall be so construed as to apply to any bank, banker, company or corporation, exercising banking powers or privileges, or to authorize any deductions allowed by this section from the value of any other item of taxation than credits: *provided*, that grain, to the amount of three hundred dollars in value, held for sale by the producer of the same, may be included with credits in the deductions herein authorized. (1878, c. 1, § 18.)

\*§ 19. **What are not proper deductions—verification of deductions.** No person, company, or corporation shall be entitled to any deduction on account of any bond, note or obligation of any kind given to any mutual insurance company, nor on account of any unpaid subscription to any religious, scientific or charitable institution or society, nor on account of any subscription to, or instalment payable on, the capital stock of any company, whether incorporated or unincorporated; and in all cases where deductions are claimed from credits, the assessor shall require that such deductions be verified by the oath of the person, officer or agent claiming the same; and any such person, officer or agent knowingly or wilfully making a fraudulent statement of such deductions claimed, so verified by affidavit, shall be liable to a fine of not less than one hundred dollars, nor more than one thousand dollars, in addition to all damages sustained by the state, county, or other local corporations, to be recovered in any proper form of action, in any court of competent jurisdiction in the name of the State of Minnesota. (*Id.* § 19.)

\*§ 20. **Who are deemed to be merchants—property consigned—nursery stock.** Whoever owns or has in his possession, or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property, within this state, with authority to sell the same, which has been purchased either in or out of this state with a view to being sold at an advanced price or profit, or which has been consigned to him, from any place out of this state, for the purpose of being sold at any place within this state, shall be held to be a merchant; and when he is by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property pertaining to his business as a merchant. No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded, if he has no interest in such property, nor any profit to be derived from its sale. The stock of nurserymen, growing or otherwise shall be listed and assessed as merchandise. (*Id.* § 20.)

14 M. 252.

\*§ 21. **Who are deemed to be manufacturers—what to be listed.** Every person who purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making gain or profit by so doing, shall be held to be a manufacturer; and he shall, when required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the value of all articles purchased, received, or otherwise held, for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list, as part of his manufacturer's stock, the value of all engines and machinery of every description, used or designed to be used in any process of refining or manufacturing, except such fixtures as have been considered as part of any parcel of real prop-



erty, including all tools and implements of every kind used or designed to be used for the aforesaid purpose. (1878, c. 1, § 21.)

\*§ 22. **Property of companies or associations, how and by whom listed.** The president, secretary, or principal accounting officer of any company or association, whether incorporated or unincorporated, except railroad, insurance, or telegraph companies, and banking corporations, whose taxation is specifically provided for in this act, shall make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

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

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

*Third.*—The amount of capital stock paid up.

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

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

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

*Seventh.*—The value of its personal property.

The aggregate amount of the fifth, sixth and seventh items shall be deducted from the total amount of the fourth item, and the remainder, if any, shall be listed as "bonds or stocks," under subdivision twenty-four of section sixteen of this act. The real and personal property of such company or association shall be listed and assessed the same as other personal property. In all cases of failure or refusal of any person, officer, company or association, to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain. (1878, c. 1, § 22.)

\*§ 23. **Bankers, brokers, and stock-jobbers, how and what they shall list.** The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock-jobber, shall make out and deliver to the assessor, when required to list personal property, a statement which he shall verify by oath, showing:

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

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

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

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

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

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

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

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

The amount of the seventh item shall be deducted from the aggregate amount of the first, second and third items, and the remainder, if any, shall be listed as money, under subdivision twenty of section sixteen of this act. The amount of the eighth item shall be deducted from the amount of the fourth item, and the remainder, if any, shall be listed as credits, according to the provisions of said section sixteen. The amount of the fifth item shall be listed

\* See 1881 Stat., p. 23, 24.

as bonds and stocks, under the said section sixteen, and the sixth item shall be listed the same as other similar personal property is listed under this act. (1878, c. 1, § 23.)

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

23 M. 280.

\*§ 25. **Bank to keep and furnish lists of stockholders.** In every bank and banking office there shall be kept at all times a full and correct list of the names and residence of the stockholders, owners or parties interested therein, showing the number of shares and the amount held, owned or controlled by each party in interest, which statement or list shall be subject to the inspection of the officers authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution, to furnish the assessor with a duplicate copy of such assessment, verified by oath, which shall be returned to the county auditor, and filed in his office. (*Id.* § 25.)

\*§ 26. **Taxes on bank stock to be a lien on dividends.** To secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or its officers, that such taxes have been paid; and any officer of any such bank who shall pay over, or authorize the paying over, of any such dividend or dividends, or any portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer where said bank is located shall sell such share or shares, or interest, to pay the same, like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock when sold on execution, shall apply to such sale. (*Id.* § 26.)

\*§ 27. **Certain property held to belong to lessee or equitable owner.** Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to the state, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or other corporation whose property is not taxed in the same manner as other property, and school or other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. (*Id.* § 27.)

\*§ 28. All property to be assessed at full value—value, how determined. All property shall be assessed at its true and full value in money. In determining the true and full value of real or personal property, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation; nor shall he adopt, as a criterion of value, the price for which the said property would sell at auction, or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money at the time such assessment is made. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also, the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon which there is a coal or other mine, or stone or other quarry, the same shall be valued at such a price, as such property, including the mine or quarry, would sell at a fair voluntary sale for cash. Taxable leasehold estates shall be valued at such a price as they would bring at a fair, voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the full price of the same so payable; if for a specific article, or for a specified number or quantity of any article of property, or for a certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or for such labor or services, at the place where payable. (1878, c. 1, § 28.)

\*§ 29. County auditor to furnish books, etc.—list of real property—of mortgages—meeting of assessors. The county auditor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out, in the real property assessment book, complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated opposite each tract or lot, the number of acres, and the lots or parts of lots or blocks, included in each description of property. The list of real property becoming subject to assessment and taxation every odd-numbered year may be appended to the personal property assessment book. There shall be appended to each personal property assessment book a list of all mortgages, or other real estate securities, held, owned or controlled by the residents of the town or district, showing the names of the owners or agents alphabetically arranged, and the amount due on each separate instrument. It is hereby made the duty of the register of deeds to make out such lists according to the records of his office, and deliver them to the county auditor on or before the last Saturday of April in each year. The expenses of such lists shall be paid by the county, on allowance by the county commissioners. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of April in each year, and the assessors shall meet on that day, at the office of the county auditor, for the purpose of receiving such books and blanks, and for conference with the auditor in reference to the performance of their duties. (*Id.* § 29.)

\*§ 30. Bond and oath of assessors. Every person elected or appointed to the office of assessor shall, at or before the time of receiving the assessment books, file with the county auditor his bond payable to the state of Minnesota, with at least one good freehold surety to be approved by the said auditor, in the penal sum of five hundred dollars, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially

See 1881 sup. p. 21

perform all the duties enjoined on him by this act; and if any person so elected or appointed fails to give bond, or fails to take the oath required, within the time prescribed, such failure shall be deemed a refusal to serve, (1878, c. 1, § 30.)

\*§ 31. **Appointment of deputy assessors.** Any assessor who deems it necessary, to enable him to complete the listing and valuation of the property of his town or district, within the time prescribed by law, may, with the approbation of the county auditor, appoint some well qualified citizen of his town or district to act as his assistant or deputy, and assign to him such portion of his district as he thinks proper; and each assistant so appointed shall, under the direction of the assessor, after giving bond and taking the required oath, perform all the duties enjoined upon, vested in, or imposed upon assessors by the provisions of this act. (*Id.* § 31.)

\*§ 32. **Assessor's duties in odd-numbered years.** The assessor shall, every odd-numbered year, at the time of taking a list of personal property, also assess all real property situated in his town or district that may have become subject to taxation since the last previous assessment of property therein, and of all new buildings or other structures, whether completed or in process of construction, of any kind, of over one hundred dollars in value, the value of which has not been previously added to or included in the valuation of the land on which such structures have been erected; and shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot of real property on which each structure has been erected, and the true value added to such parcel of real property by the erection thereof; and in case of the destruction by fire, flood, or otherwise, of any building or structure of any kind, over one hundred dollars in value, which has been erected previous to the last valuation of the land on which the same stood, or the value of which has been added to any former valuation of such land, the assessor shall determine, as near as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make return thereof to the county auditor. (*Id.* § 32.)

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

\*§ 34. **Statement of personal property to be made by owner.** The assessor shall call at the office, place of doing business or residence of each person required by this act to list property, and list his name, and shall require such person to make a correct statement of his taxable property in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property, in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property, and delivered to the

assessor, who shall thereupon assess the value of such property, and enter the same in his books: *provided*, if any property is listed or assessed on or after the fourth Monday of June, and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time. (1878, c. 1, § 34.)

\*§ 35. **Sickness or absence of owner—duty of assessor.** If any person required by this act to list property shall be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office, or usual place of residence or business of such person, a written or printed notice requiring such person to make out and leave, at the place named by said assessor, on or before some convenient day named therein, the statement or list required by this act. The date of leaving such notice, and the name of the person required to list the property, shall be noted by the assessor in his assessment book. (*Id.* § 35.)

\*§ 36. **Refusal to list or swear to statement—duty of assessor—oath.** In every case where any person whose duty it is to list personal property for taxation has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused to list," or, "refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent, or unable from sickness to list the same, the assessor shall enter opposite the name of such person, in an appropriate column, the words "absent," or "sick."

The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case, and he may examine, upon oath, any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property. (*Id.* § 36.)

15 M. 295.

\*§ 37. **Number of school district to be given where property is assessed.** It shall be the duty of assessors, when assessing personal property, to designate the number of the school district in which each person assessed is liable for tax, which designation shall be made by writing the number of the district opposite each assessment, in a column provided for that purpose in the assessment book. When the personal property of any person is assessable in several school districts, the amount in each shall be assessed separately, and the name of the owner placed opposite each amount. (*Id.* § 37.)

\*§ 38. **Failure to obtain statement. Duty of Assessor.** In all cases of a failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor, when requested, shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. (*Id.* § 38.)

15 M. 412.

\*§ 39. **Town board of review—duties, complaints and grievances.** The board of supervisor of each town, the assessor, recorder and president of each incorporated village, and the assessor, recorder and mayor of each city, (except cities whose charters provide for a board of equalization,) shall meet on the fourth Monday of June, at the office of the town clerk or recorder, for the purpose of reviewing the assessment of property in such town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list, and duly valued by the assessor; and in case any property, real or personal, shall have been omitted

by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property, and each article, parcel or class of personal property, shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intent of the board so to do. And on the application of any person considering himself aggrieved, they shall review the assessment, and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board: *provided*, that the complaints of non-residents in reference to the assessment of any property real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board. (1878, c. 1, § 39.)

\*§ 40. **Notice of meeting of board of review to be posted.** The assessor shall cause at least ten days previous notice of the time and place of the meeting of the town board of review, by posting notices in at least three public places in his town or district; but the failure to give such notice, or hold such meeting, shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied. (*Id.* § 40.)

\*§ 40. See 1881 Stat., p. 25.

\*§ 41. **Assessor's statements and return to auditor.** The assessor shall add up and note the amount of each column in his assessment books; he shall also make in each book, under proper headings, a tabular statement, showing the footings of the several columns upon each page, and shall add up and set down, under the respective headings, the total amounts of the several columns; and on or before the first Monday of July, he shall make return to the county auditor of his assessment books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such return shall be verified by his affidavit, substantially in the following form:

STATE OF MINNESOTA, }  
 \_\_\_\_\_ County. } ss.

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

\_\_\_\_\_, Assessor.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

[L. s.] \_\_\_\_\_, Auditor of \_\_\_\_\_ county. (*Id.* § 41.)

\*§ 42. **List given to auditor for person sick or absent.** If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property, may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the auditor shall, in such case, make an entry thereof, and correct the corresponding item or items in the return made by the

assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor, as provided herein; nor from any person, unless he makes and files with the county auditor an affidavit that he was absent from his town or district without design to avoid the listing of his property, or was prevented by sickness from giving to the assessor the required statement when called on for that purpose. (1878, c. 1. § 42.)

\*§ 43. Auditor to examine assessment books and have return corrected. The county auditor shall carefully examine the assessment books when returned to him by the assessors, and if he discovers that the assessment of any property has been omitted, he shall enter the same upon the proper list, and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform this duty, the auditor shall ascertain the value of such property and make the necessary corrections. (*Id.* § 43.)

\*§ 44. County board of equalization—meetings—duties. The county commissioners, or a majority of them, with the county auditor, shall form a board for the equalization of the assessment of the property of the county. They shall meet for this purpose annually, on the third Monday in July, at the office of the auditor; and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns of the assessment of property of the several towns or districts of the county, and proceed to equalize the same, so that each tract or lot of real property, and each article or class of personal property, shall be entered on the assessment list at its true and full value, subject to the following rules:

22 M. 356.

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

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

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

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

*Fifth.* Aggregate value not to be reduced, but may be increased. They shall not reduce the aggregate value of the real property, or the aggregate value of the personal property, of their county, below the aggregate value thereof as returned by the assessors, with the additions made thereto by the auditor, as herein before required; but they may raise the aggregate valuation of such real property, and of each class of personal property of said county, or any town or

district thereof, whenever they believe the same is below the true and full value of said property, or class of property, to such aggregate amount as they believe to be the true and full value thereof.

**Auditor to publish record—length of session.** The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, showing the facts and evidence upon which their action is based, and the said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of state with the abstract of assessment hereinafter required. The county board of equalization may continue in session, and adjourn from time to time, during four weeks, commencing on the said third Monday of July; but, after final adjournment, the county commissioners shall not have power to change the assessed valuation of the property of any person, or to reduce the aggregate amount of the assessed valuation of the taxable property of the county. (1878, c. 1, § 44.)

\*§ 45. **Corrected lists—abstract for state auditor.** The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state, on or before the fourth Monday of August following each county equalization. (*Id.* § 45.)

\*§ 46. **State board of equalization, how constituted—meetings—rules for equalizing.** The governor, auditor of state, and the attorney general, with one qualified elector from each judicial district of the state, to be appointed by the governor with the advice and consent of the senate, shall constitute the state board of equalization. The members from the odd-numbered districts shall be appointed every even-numbered year, and those from the even-numbered districts shall be appointed every odd-numbered year, and their term of office shall be two years. The governor shall fill all vacancies that may occur in said board by special appointment. The governor shall be *ex officio* president of said board, and the auditor of state shall act as secretary. The board may adjourn from day to day, and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The members of said board shall receive the same per diem and mileage as may be allowed by law to members of the legislature. The said board shall meet annually, on the first Tuesday of September, at the office of the auditor of state, and, each member having taken the oath prescribed by law, they shall examine and compare the returns of the assessment of the property in the several counties of the state, and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and full value. In the performance of their duties, they shall be governed by the following rules:

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

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

*Third.* If they believe that the valuation of the real property of any town or district, in any county, or of the real property of any county not in towns, villages or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may, in every such case, add to or take from the val-



uation of any one or more of such towns, villages or cities, or of the property not in towns, villages or cities, such per centum as they believe will raise or reduce the same to its true and full value in money.

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

*Fifth.* They shall take from the aggregate valuation of any class of personal property in any county, town, township, village or city, which they believe to be valued above the true and full value thereof, such per centum as will reduce the same to its true and full value in money.

*Sixth.* They shall not reduce the aggregate valuation of all the property in the state, as returned by the several county auditors, more than one per centum on the whole valuation thereof.

*Seventh.* The secretary shall keep a full record of the proceedings of the board, and the same shall be published in the annual report of the auditor of state. (1878, c. 1, § 46.)

\*§ 47. **Transcripts of proceedings to be forwarded to county auditors—duty of auditors.** When the state board complete their equalization, the auditor of state shall transmit to each county auditor a transcript of the proceedings of the board, specifying the per centum added to or deducted from the valuation of the real property of each of the several towns, townships, villages and cities, and of the real property not in towns, villages or cities, in case an equal per centum has not been added to or deducted from each and specifying also the per centum added to or deducted from the several classes of personal property in each of the towns, townships, villages and cities in the state; and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that the value of any separate tract or lot shall contain no fraction of a dollar; and shall also add to or deduct from such class of personal property in his county, the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting in manner as aforesaid any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar. (*Id.* § 47.)

\*§ 48. **Taxes to be levied in specific amounts—by different authorities—limitation of rates.** All taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property, as equalized by the state board of equalization each year, except such general taxes as may be definitely fixed by law. The state tax shall be levied by the legislature, and the rate of such tax shall be certified by the auditor of state to each county auditor on or before the first day of October annually. The county taxes shall be levied by the county commissioners at the time of their meeting in July of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board, and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five per cent. of the same. The taxes voted by incorporated cities, villages, townships and school districts, shall be certified by the proper authorities to the county auditor, on or before the tenth day of October in each year. The rate per centum of all taxes, except the state tax and such other taxes the rates of which may be fixed by

law, shall be calculated and fixed by the county auditor according to the limitations hereinafter prescribed: *provided*, that if any county, city, town or school district shall return a greater amount than the prescribed rates will raise, then the county auditor shall only extend such amount of tax as the limited rate will produce. (1878, c. 1, § 48.)

\*§ 49. **Tax levy—rate per cent. for state, county and other purposes.** There shall be levied annually on each dollar of taxable property in the state, (other than such as by law is otherwise taxed,) as assessed and entered on the tax lists for the several purposes enumerated, taxes at the rates specified as follows: For state purposes, such amount as may be levied by the legislature. For county purposes, such amount as may be levied by the county commissioners, the rate of which shall not exceed five mills in any county having a taxable valuation of one million dollars or more, and the amount of which shall not exceed five thousand dollars in counties having a taxable valuation less than one million dollars, and the rate of such tax shall not exceed one per cent. in any county. For township purposes, such sum as may be voted at any legal town meeting, the rate of which shall not exceed, exclusive of such sums as may be voted at the annual town meeting for road and bridge purposes, and for the support of the poor, two mills in any township having a taxable valuation of one hundred thousand dollars or more, and the amount of which shall not exceed one hundred and fifty dollars in any township having a taxable valuation less than one hundred thousand dollars, and the rate of such tax shall not exceed one-half of one per cent. in any township. The rate of tax for road and bridge purposes in any town shall not exceed five mills per dollar, and the tax for poor purposes shall not exceed two mills. For school district purposes, in addition to the general tax of one mill, such sum as may be voted at any legal meeting of the qualified voters of the district, the rate of which shall not exceed nine mills for the support of the school, or one per cent. for the erection of a school-house: *provided*, that the aforesaid limitations shall not be construed as prohibiting assessments on property adjacent to local improvements made in any city or incorporated town or village, for the purpose of paying the cost thereof and the damages occasioned thereby; and that nothing in this section shall be construed to prevent the county commissioners, township supervisors, or corporate authorities of any city, town, village or school district, from levying any tax which by any special law they may be authorized to levy. (*Id.* § 49.)

14 M. 252. 22 M. 356.

\*§ 50. **Tax list to be made out by county auditor—form of tax books.** The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts of the county. The rate per cent. necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the state board of equalization; but in calculating such rates, no rate shall be used resulting in any fraction other than a decimal fraction, or less than one-tenth of a mill; and in extending any tax, whenever it amounts to the fractional part of a cent, it shall be made one cent. The tax list shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation, and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of all special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate per cent. of each tax at the head of the proper columns, without extending the same, in which case a schedule of the rates per cent. of such taxes shall be made on the first page of each tax list. (*Id.* § 50.)

\*§ 51. **Abstract of tax lists to be forwarded to state auditor.** The county auditor shall, on or before the first day of December in each year, make out and transmit to the auditor of state, in such form as may be prescribed, a complete abstract of the

tax lists of the county, showing the number of acres of land assessed, the value of such land, including the structures thereon, the value of town and city lots including structures, the total value of all taxable personal property in the several assessment districts of the county, the aggregate amount of all taxable property in the county, and the total amount of taxes levied in the county for state, county, town and all other purposes for that year. (1878, c. 1, § 51.)

\*§ 52. **Certificate of county auditor to tax book.** It shall be the duty of the county auditor to make, in each tax book or list, a certificate in the following form, viz.:

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

—— ———County Auditor.

(*Id.* § 52.)

\*§ 53. **Tax lists, when to be delivered to treasurer.** The county auditor shall deliver the lists of the several districts of the county to the county treasurer, on or before the first day of December in each year, taking his receipt therefor, showing the total amount of taxes due upon the said lists; and such lists shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied. (*Id.* § 53.)

\*§ 54. **County treasurer to be collector of taxes.** The county treasurer shall be the receiver and collector of all the taxes extended upon the tax list of the county, whether levied for state, county, city, town, school, poor, bridge, road or other purposes, anything in the charter of any city or town, or in any other act of the legislature heretofore passed, to the contrary notwithstanding; and also of all fines, forfeitures or penalties received by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds; but this provision shall not be so construed as to include any fines and penalties accruing to any municipal corporation for the violation of its ordinances, and which were recovered before any city justice. (*Id.* § 54.)

4 M. 64 (104).

\*§ 55. **Notice of rates of taxation, and time for payment—deputy treasurers.** On receiving the tax lists from the county auditor, the treasurer shall, if directed by the county commissioners, give notice by publication in some newspaper having general circulation in the county, once in each of three successive weeks, and by posting the same in three public places in each town or district in the county, one of which shall be the usual place of holding elections, specifying particularly in said notice the rates of taxation for all general purposes, and the amounts raised for each specific purpose, also designating a day on which he or his deputy will attend at the place of holding elections, or at some other convenient place in each town or district, which day shall not be prior to the first day of January in each year, for the purpose of receiving such taxes; and the treasurer or his deputy shall attend, for the purpose aforesaid, on the day and at the place named in said notice. The county treasurer shall, if directed by the county commissioners, have duplicate tax lists made, at the expense of the county, for his use while collecting taxes away from the county seat; and he may appoint one or more deputies to assist him in the collection of taxes, and may take such bond as security from the person so appointed as he deems necessary for his indemnity, and shall in all cases be liable and accountable for the proceedings and misconduct of his deputies in office. (*Id.* § 55.)

\*§ 56. **Tax receipts—what they shall specify—duplicate stubs.** The county treasurer, upon the payment of any tax, shall give to the person paying the same a receipt therefor, specifying therein the land, town or city lot, or other property, on

which said tax was levied, according to its description on the tax list, or in some other sufficient manner, and the year or years for which the tax was levied. The said receipt shall have a duplicate stub, showing the name of the person, description of property, and the amount and date of payment; and the county treasurer shall return all such duplicate stubs made by himself or deputies, to the county auditor, at the end of each month, who shall file and preserve them in his office, charging the treasurer with the amount thereof. (1878, c. 1, § 56.)

\*§ 57. **What orders received for taxes.** The county treasurer shall receive, in payment of taxes, orders on the several funds for which taxes may be levied, to the amount of the tax for such fund, without regard to priority of the numbers of such orders, except when otherwise provided by law; and he shall write or stamp, across the face of all such orders, the date of their receipt, and the name of the person from whom received. (*Id.* § 57.)

\*§ 58. **Delinquent personal property tax—penalty—distress.** All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due; and thereupon a penalty of five per cent. shall attach and be charged upon all such taxes. After the first day of March, the county treasurer shall immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of five per cent., and all accruing costs, and shall immediately proceed to advertise the same in three public places in the town or district where such property is taken, stating the time when, and the place where, such property will be sold; and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes, and the costs of such distress and sale. (*Id.* § 58.)

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

\*§ 60. **Suit and judgment for delinquent tax—proceedings.** Within ten days after the adjournment of the board of commissioners, the auditor shall file a copy of such revised list with the clerk of the district court of the county; and within ten days after the filing of such copy, the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time reside or be, for service, a citation to each delinquent named on said list, stating the amount of tax and penalty, and requiring such delinquent to appear on the first day of the next general term of the district court in the county, and show cause, if any there be, why he should not pay said tax and

penalty; and if he fails to pay said tax, penalty and costs to the sheriff before the first day of the term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty and costs. (1878, c. 1, § 60.)

\*§ 61. **Clerk's fees for judgment—executions.** The clerk shall receive, as fees for issuing such citation and perfecting judgment, one dollar and fifty cents in cases not contested, and in contested cases such fees as are allowed by law in civil actions. Executions shall be issued upon such judgment at the request of the county attorney, and shall state that the judgment was obtained for delinquent taxes, and no property shall be exempt from seizure thereon. (*Id.* § 61.)

\*§ 62. **Penalty for neglect or refusal of treasurer.** If any county treasurer shall refuse or neglect to collect any tax assessed upon personal property, where the same is collectible, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected; and the same shall be deducted from his salary or fees, and applied to the several funds for which they were levied. (*Id.* § 62.)

\*§ 63. **Removal of delinquent tax payer to another county—duty of auditor.** The county auditor, within thirty days after receiving the delinquent list of personal property taxes, shall make out and forward to the treasurer of any county in this state to which any delinquent tax-payer may have removed, a statement or account of such delinquent taxes, specifying the value of property on which said taxes were levied, and the amount of taxes levied thereon, to which he shall add an amount equal to the sum of twenty-five per centum on the taxes levied, if said delinquent tax-payer left the county in which said taxes were levied after the time required by law for the county auditor to deliver the tax-list to the county treasurer; but if he left the county previous to the time required by law for the delivery of said tax list to the county treasurer, then the said county auditor shall not add the twenty-five per centum. (*Id.* § 63.)

\*§ 64. **Manner of collecting from such person.** On receipt of any such statement or account the county treasurer shall immediately proceed to collect the same of the person so charged with said taxes and per centum, for which service he shall be allowed the same fees that county treasurers shall be allowed by law for collecting delinquent taxes by process, to be collected of the person against whom said taxes are charged; and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and, at the same time, he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remain unpaid, the reason why said taxes could not be collected, certifying in his official capacity to the same. (*Id.* § 64.)

\*§ 65. **Treasurer's fees for making distress and sale.** The county treasurer or his deputy shall be allowed the same fees for making distress and sale of goods and chattels, for the payment of taxes, as are allowed by law to constables for making levy and sale of property on execution; travelling fees to be computed from the place of holding elections of any town or district, to the place of making the distress, unless such distress is made by his deputy, in which case the same shall be computed from the residence of such deputy. (*Id.* § 65.)

\*§ 66. **Settlement between treasurer and auditor.** On the last days of February, May and September respectively, of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes from the date of the last settlement up to and including each day mentioned, and the county auditor shall, within twenty days after each settlement, send an abstract of the same to the auditor of state, in such form as the said auditor may prescribe. At the February and May settlements, the treasurer

shall make complete returns of his collections on the current tax list, showing the amount collected on account of the several funds included in said list. (1878, c. 1, § 66.)

\*§ 67. **Accounts to be kept by auditor with each township, etc.** The county auditor shall keep accounts with the state, county, and with each township, city, incorporated village and school district in the county, and immediately after each settlement with the county treasurer, he shall credit the collections to the proper funds; and upon application of any town, city, village or school district treasurer, the auditor shall give him an order on the county treasurer for the amount due such township, city, village or school district, and shall charge them respectively with the amount of such order: *provided*, that the person so applying for such order shall deposit with the auditor a certificate from the clerk of the township, city, village or school district, stating that such person is treasurer of such township, city, village, or school district, duly elected or appointed, and that he has given bond according to law. (*Id.* § 67.)

\*§ 68. **When treasurer shall pay over the funds collected.** The county treasurer shall, immediately after each settlement in February, May and September, pay over to the treasurer of state, or of any municipal corporation, or organized township, or other body politic, on the order of the proper officers, all moneys received by him, arising from taxes levied and collected, belonging to the state, or to such municipal corporation, organized township or school district, and deliver up all orders and other evidence of indebtedness of such municipal corporation or other body politic, taking duplicate receipts therefor, one of which shall be filed in the office of the county auditor. (*Id.* § 68.)

\*§ 69. **Return of tax lists to county auditor on June 1st—ten per cent. penalty.** On the first day of June, of each year, the county treasurer shall return to the county auditor the several tax lists in his hands, having compared the same with his duplicate receipts on file in the auditor's office, and written opposite the amount of each tax so receipted for, the word "paid," and the number of the treasurer's receipt given in discharge of such tax; and each tract or lot of real property against which the taxes remain unpaid shall be deemed delinquent. And thereupon a penalty of ten per cent. shall immediately accrue, and thereafter be charged, upon all such delinquent taxes; and any auditor who shall make out and deliver any statement of delinquent taxes, without including such penalty therein, and any treasurer who shall receive payment of such tax without including such penalty, shall be liable to the county for the amount of such penalty. (*Id.* § 69.)

\*§ 70. **List of delinquent taxes to be filed with clerk of court by June 15.** On or before the fifteenth day of June, the county auditor shall file in the office of the clerk of the district court of the county, or, if it be attached for judicial purposes to some other county, then in the office of the clerk of such court in that county, a list of the delinquent taxes upon real estate within his county, which list shall contain a description of each piece or parcel of land on which such taxes shall be so delinquent, with the name of the owner if known, and if unknown, so stated, appearing on the delinquent list, and the amount of tax delinquent and penalty for each year opposite such description, and shall verify such list by his affidavit that the same is a correct list of taxes delinquent, for the year or years therein appearing, upon real estate in said county. The filing of such list shall have the force and effect of filing a complaint in an action by the county against each piece or parcel of land therein described, to enforce payment of the taxes and penalties therein appearing against it, and shall be deemed the institution of such action; and the same shall operate as notice of the pendency of such action. (*Id.* § 70.)

\*§ 71. **Copy of list for auditor, with notice for publication.** The clerk shall, within fifteen days thereafter, make and deliver to the county auditor a copy of the list so

filed, and attach thereto a notice which may be substantially in the following form:

State of Minnesota, County of \_\_\_\_\_ ss.  
District Court, \_\_\_\_\_ Judicial District.

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

The list of taxes and penalties on real estate for the county, remaining delinquent on the first day of June, has been filed in the office of the clerk of the district court of the county of \_\_\_\_\_, of which that hereto attached is a copy. Therefore you and each of you are hereby required to file in the office of said clerk, within twenty days after the last publication of this notice, your answer, in writing, setting forth any objection or defence you may have to the taxes and penalties, or any part thereof, upon any piece or parcel of land described in said list, in, to, or on which you have or claim any estate, right, title, interest, claim or lien.

And in default thereof, judgment will be entered against such piece or parcel of land for the taxes on said list appearing against it, and for all penalties, interest and cost.

(Signed.)

Clerk of the district court in said county of \_\_\_\_\_

(Here insert list.)

(1878, c. 1, § 71.)

\*§ 72. Time and manner of publishing notice and list. The county auditor shall cause said notice and list to be published once in each of two consecutive weeks, in some newspaper of general circulation, printed in the English language, and which has been regularly published for at least three months previously, in the county in which said real estate is situate, if there be one, or in the county where the proceedings are instituted, or, if there be no such newspaper published in either county, then in some newspaper published within the judicial district, the first publication of which list shall be made within ten days after the delivery thereof to the auditor as provided in the preceding section. The newspaper in which such publication shall be made shall be designated by resolution of the board of county commissioners of the county in which the taxes are levied, at their annual meeting in January, or at the meeting of said board in March, a copy of which resolution, certified by the county auditor, shall be filed in the office of the clerk of the court: *provided*, that if the county commissioners shall fail to designate such paper, then it shall be designated by the county auditor. (*Id.* § 72.)

\*§ 72, 74. See 1881 Suppl. p. 27.

\*§ 73. Jurisdiction of court, not affected by errors, etc. When the last publication shall have been made, the notice shall be deemed to have been served, and the court to have acquired full and complete jurisdiction to enforce against each piece or parcel of land in said published list described, the taxes, accrued penalties and costs upon it then delinquent, so as to bind every estate, right, title, interest, claim or lien, in law or equity, in, to or on such piece or parcel of land, of every person, company or corporation. And such jurisdiction shall not be in any way affected by any error in making the list filed with the clerk, nor by any error, irregularity or omission in the assessment or levy of the taxes, or in any other proceedings prior to filing the said list, nor by any mistake in copying the list for publication, nor by any mistake in publishing such list, nor by any mistake in the amount of tax in such published list appearing against any piece or parcel of land therein described. (*Id.* § 73.)

<sup>22 M. 178.</sup>

\*§ 74. Affidavit of publication to be filed. The owner, publisher, manager or foreman in the printing office of the newspaper in which such notice and list shall be published, shall make and file with the clerk an affidavit of such publication, stating

the days in which such publication was made, and shall also file with the clerk three copies of each number of the paper and supplement, if any, in which the notice and list shall have appeared. The publication may be made in such newspaper, or partly in such newspaper and partly in a supplement issued therewith. (1878, c. 1, § 74.)

\*§ 75. **Owner may appear and answer.** Any person, company or corporation, having any estate, right, title or interest in, or lien upon any or parcel of land embraced in said list as published, may, within twenty days after the last publication of said notice, file in the office of the said clerk, an answer, verified as pleadings in civil actions, setting forth his defence or objection to the tax or penalty against such piece or parcel of land, which answer need not be in any particular form, but shall clearly refer to the piece or parcel of land intended, and set forth, in ordinary and concise language, the facts constituting the defence or objection to such tax or penalty; and if the list shall embrace the taxes for two or more years, the defence or objections may be to the taxes or penalty for one or more of such years. (*Id.* § 75.)

\*§ 76. **Judgment where no answer is made—form—entry.** Upon the expiration of twenty days from the last publication of said notice and list, the said clerk shall, the affidavit of publication being filed, enter judgment against each and every of such pieces or parcels as to which no answer shall have been filed, which judgment shall include all of such pieces or parcels, and shall be substantially in the following form:

State of Minnesota, County of \_\_\_\_\_, District Court.

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent on the first day of June, 18—, for the county of \_\_\_\_\_, State of Minnesota.

A list of taxes on real property, delinquent on the first day of June, 18—, for said county of \_\_\_\_\_, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published as required by law, and no answer having been filed by any person, company or corporation, to the taxes upon any of the pieces or parcels of land hereinafter described, and more than twenty days having elapsed since the last publication of said notice and list,—it is hereby adjudged and decreed that each piece or parcel of land hereinafter described as liable for taxes, penalties and costs, to the amount set opposite the same, as follows, to-wit:

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

Signed,

\_\_\_\_\_  
Clerk of the District Court, County of \_\_\_\_\_.

Such judgment shall be entered by the clerk in a book to be kept by him, to be called the "real estate tax judgment book," and shall be dated and signed by the clerk. The judgment shall be written out on the left hand pages of such book, leaving the right hand pages blank for the entries hereinafter provided; and the same presumption in favor of the regularity and validity of the said judgment shall be deemed to exist as in respect to judgments in civil actions in said court. (*Id.* § 76.)

\*§ 77. **Proceedings when answer is filed.** If answers shall be filed within the time hereinbefore prescribed as to the taxes or penalties upon any pieces or parcels of land embraced in said list as published, such answers shall stand for trial at



any general term of the district court in the county where such proceedings are pending, in session at the time when the time to file answers as aforesaid shall expire, or at the next general or special term appointed to be held in said county; and if no general or special term shall be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten day's notice. It shall be the duty of the county attorney of the county in which said taxes are levied, if there be one, and, if there be none, then of the county in which such proceedings are instituted, to take charge of and prosecute such proceedings; but the county commissioners of the county in which such taxes are levied may employ any other attorney to assist such county attorney therein. At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay, and summarily hear and determine the objections or defences made by the several answers, and shall dispose of all such answers, and direct judgment accordingly, at the same term, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits. (1878, c. 1, § 77.)

\*§ 78. *Proceedings after hearing—judgment.* If, after a hearing, the court shall sustain the taxes and penalties in whole or in part against any piece or parcel of land, judgment shall be rendered against all such pieces or parcels for the amount as to which such taxes and penalties shall be sustained against such pieces or parcels respectively, with penalties and disbursements, unless the court otherwise direct; which judgment may be substantially in the form prescribed in section seventy-six of this act, except that it shall, in addition, state that the same was rendered after answer and trial; and, after the description of each piece or parcel, shall be stated the name of the person, company or corporation answering as to such piece or parcel. If the court sustain the defence or objections to the taxes and penalties as to any piece or parcel of land, the judgment shall, after the description of the lands against which judgment is given, state that all other pieces or parcels not embraced in that or the prior judgment of the court, and which are described in the list as published, are discharged from the taxes in said list set down against such other pieces or parcels, and from all penalties; and the court may, in its discretion, award disbursements against the county levying such taxes, and in favor of the party answering to the pieces or parcels so discharged. (*Id.* § 78.)

\*§ 79. *Judgment for taxes—what defence may be made.* If all the provisions of law in relation to the assessment and levy of taxes shall have been complied with, of which the list so filed with the clerk shall be *prima facie* evidence, then judgment shall be rendered for such taxes, and the penalties and costs. But no omission of any of the things by law provided in relation to such assessments and levy, or of anything required by any officer or officers to be done prior to the filing of the list with the clerk, shall be a defence or objection to the taxes appearing upon any piece or parcel of land, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that the taxes against such piece or parcel of land have been partially, unfairly, or unequally assessed; and in such case, but no other, the court may reduce the amount of taxes upon such piece or parcel, and give judgment accordingly. It shall always be a defence in such proceedings, when made to appear by answer and proofs, that the taxes have been paid, or that the property is not subject to taxation. (*Id.* § 79.)

22 M. 356, 552.

\*§ 80. *Effect of judgment—report to supreme court—proceedings.* The judgment which the court shall render shall be final, except that, upon application of the county or other party against whom the court shall have decided the point raised by any defence or objection, the court may, if in its opinion the point is of great

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

\*§ 81. Proceedings after judgment—payment before sale—redemption—payment before judgment. When any real estate tax judgment shall be entered, the clerk shall forthwith deliver to the county auditor, in a book to be provided by said auditor, a certified copy of such judgment, which shall be written on the left hand pages of such book, leaving the right hand pages blank; and if, before sale, any person wishes to pay the amount adjudged against any piece or parcel of land, the auditor shall give him a statement showing the amount so adjudged against such piece or parcel, and the amount of accrued penalty and costs; and such person may present the same to the treasurer, and pay to him such amount, and the treasurer shall thereupon give duplicate receipts for such payment, one of which shall be filed with the county auditor; and on such duplicate receipt being produced to the clerk, he shall enter on the right hand page of the real estate tax judgment book, and opposite the description of such piece or parcel, satisfaction of the judgment against the same. If, after a sale, any person shall desire to redem. the auditor shall give him a statement showing how much is required to be paid upon such redemption; and after lands are returned delinquent by the county treasurer, and before judgment is entered, if any person shall desire to pay the taxes, penalty and costs due thereon, the auditor shall certify to the amount due, and the treasurer shall receive and receipt for the same, and he shall immediately file a duplicate of such receipt with the county auditor, who shall enter such payment on the books of his office; and if the delinquent lists have been filed with the clerk of the court, he shall immediately certify to such payment, to said clerk, who shall note the same on the delinquent list on file in his office; and all proceedings pending against such piece or parcel of land shall thereupon be discontinued. (*Id.* § 81.)

\*§ 82. **Annual sale on judgments. Notice to be published.** On the third Monday in September in each year, the county auditor shall sell all pieces or parcels of land against which judgment has been rendered for the taxes of the preceding year or years. Before making such sale, he shall give notice thereof, by posting such notice, one copy in the office of the clerk of the court where the judgment shall have been entered, one copy in the office of the county treasurer, and one copy at some conspicuous place at the county seat of said county, at least ten days before the day of sale, and by publishing such notice once in each of two successive weeks, the first publication to be at least fifteen days before the day of sale, in some daily or weekly newspaper printed in the English language, published in the county where such lands are situated, if there be one; if there be none, then in one published in the county in which the judgment shall have been entered; or if there be none in either, then in one published in some county in the judicial district: *provided*, that in all cases where answer has been filed as provided by law, and judgment shall have been entered, the county auditor shall give the required notice by publication and otherwise, and within thirty days after judgment has been entered, proceed to sell all property against which taxes stand charged in such judgment. The notice herein required may be substantially in the following form:

#### TAX JUDGMENT SALE.

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

Auditor of — county.

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

\*§ 83. **Auditor to sell at public vendue.** The auditor shall sell by public vendue each piece or parcel of land separately, in the order in which they are described in the judgment, and by the description therein; but if the sum bid for any piece or parcel shall not be paid for before the sale closes, he shall again offer such piece or parcel for sale. In offering the land for sale, he shall state the amount for which each piece or parcel is to be sold, and shall then offer the same in fee to the highest bidder who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the state at such an amount. The county treasurer shall attend at the sale, and receive all moneys paid thereon. (*Id.* § 83.)

\*§ 84. **Certificate of sale for each parcel—what title passes.** The auditor shall execute to the purchaser of any piece or parcel of land, a certificate, which may be substantially in the following form:

I, —, auditor of the county of —, state of Minnesota, do hereby certify, that at the sale of lands, pursuant to the real estate tax judgment entered in the district court in the county of —, on the — day of —, 18—, in proceedings to enforce the payment of taxes delinquent upon real estate for the years —, for the county of —, which sale was held at —, in said county of —, on the — day of —, the following

described piece or parcel of land, situate in said county of \_\_\_\_\_, State of Minnesota, to wit: (insert description) was offered for sale to the highest bidder above the amount for which the same was subject to be sold, and at said sale I did sell the said piece or parcel of land to \_\_\_\_\_ for the sum of \_\_\_\_\_, that being the highest sum bid therefor; and he having paid said sum, I do, therefore, in consideration thereof, and pursuant to the statute in such case made and provided, convey the said piece or parcel of land, in fee simple, to said \_\_\_\_\_, his heirs and assigns, forever, subject to redemption as provided by law.

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

[L. s.]

County Auditor.

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

<sup>15 M. 245.</sup>

\*§ 85. **Certificate as evidence. Grounds for avoiding sale.** Such certificate, or the record thereof, shall in all cases be *prima facie* evidence that all the requirements of the law with respect to the sale have been duly complied with, and of title in the grantee therein, after the time for redemption has expired; and no sale shall be set aside or held invalid unless the party objecting to the same shall prove, either that the court rendering the judgment pursuant to which the sale was made had not jurisdiction to render the judgment, or that, after the judgment and before the sale, such judgment had been satisfied; or that notice of sale as required by this act was not given; or that the piece or parcel of land was not offered at said sale to the bidder who would pay the amount for which the piece or parcel was to be sold; nor unless the action in which the validity of the sale shall be called in question be brought, or the defence alleging its invalidity be interposed, within three years after the date of the sale; and if any sale shall be set aside by reason of any defect in the proceedings subsequent to the entry of the judgment, the court so setting aside the sale shall have power in such case to order a new sale to be made, as near as may be in accordance with the provisions of this act, (*Id.* § 85.)

\*§ 86. **Entry in judgment book of disposition of property at sale.** The county auditor shall, immediately after such sale, set out in the copy judgment book what disposition was made at said sale of each piece or parcel of land; if sold to an actual purchaser, to whom and for what amount; and if bid in for the state, then so stating; and, upon any assignment or redemption, he shall make a note thereof in said copy judgment book, opposite the piece or parcel assigned or redeemed. After he shall have set out in the copy judgment book what disposition was made at the sale of the several pieces or parcels of land, he shall deliver the same to the clerk of the court, who shall forthwith enter, on the right hand page of the real estate tax judgment book, opposite the description of each piece or parcel sold, the words, "satisfied by sale," and opposite each piece or parcel bid in for the state, the words, "bid in for the state"; and he shall thereupon re-deliver said copy judgment book to the auditor. (*Id.* § 86.)

\*§ 87. **Who may not purchase—effect of purchase by owner.** Any person, except county auditors, county treasurers, and each of their deputies or clerks, may become the purchaser at such sale. If the owner purchase, the sale shall have the

\*As to giving notice when time of redemption will expire, see *post*, § 121.

effect to pass to him (subject to redemption as herein provided) every right, title, and interest of any and every person, company or corporation, free from any claim, lien or incumbrance, except such right, title, interest, lien or incumbrance as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made; and no such sale of real estate for taxes shall be considered invalid on account of the same having been charged in any other name than that of the rightful owner: *provided*, that nothing herein contained shall be so construed as to prevent any such officer or his deputy or clerk from becoming the purchaser, at such sale, of any lands of which he may be the owner, or upon which he may have a lien: *provided*, that no county auditor, county treasurer, their deputies or clerks, shall act as agent or attorney for the purchasers at such sale. (1878, c. 1, § 87.)

\*§ 88. **Taxes for subsequent years on property sold at tax sale.** The taxes for subsequent years shall be levied on property so sold or bid in for the state, in the same manner as though the sale had not been made; and if the purchaser or assignee of the state shall pay such taxes, the amount thereof, with interest from the date of payment after they shall have become delinquent, at the same rate as is provided upon the amount bid on the sale, shall be added to and be a part of the money necessary to be paid for redemption from sale. (*Id.* § 88.)

\*§ 89. **Property bid in for the state, to whom assigned—form of assignment.** At any time after any piece or parcel of land shall have been bid in for the state, and before such piece or parcel of land shall have become forfeited to the state, and while such tract or parcel of land shall remain unredeemed, the county auditor shall assign and convey the same, and all the right of the state in any such piece or parcel of land acquired at such sale, to any person, except the county auditor, county treasurer and their deputies or clerks, who shall pay the amount for which the same shall have been bid in, with interest, and the amount of all subsequent delinquent taxes, penalties, costs and interest upon the same; and shall execute to such persons a certificate or conveyance for each piece or parcel, which may be substantially in the following form:

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

Witness my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

[L. s.]

\_\_\_\_\_  
County Auditor.

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

\*§ 90. **Redemption within two years from sale.** If, at said sale, any piece or parcel of land shall be sold to a purchaser, or the piece or parcel bid in for the state, the same may be redeemed, at any time within two years from the date of sale, by any person having an interest therein, who shall pay into the treasury of the county, for the use of the person thereto entitled:

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

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

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

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

\*§ 91. **Redemption by minors, etc.** When to be made. Minors, insane persons, idiots, or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within two years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.\* (*Id.* § 91.)

\*§ 92. **Undivided estates, how redeemed.** Any person who has or claims an interest in or lien upon any undivided estate in any piece or parcel of land sold, may redeem such undivided estate, by paying into the treasury a proportionate part of the amount required to redeem the whole; and in such case the certificate shall express the estate or interest redeemed. (*Id.* § 92.)

\*§ 93. **Warrants to be drawn for money due owners.** Upon application of the party entitled thereto, the auditor shall give to such party his warrant upon the treasurer for any money paid into the treasury on the sale of any piece or parcel of land in excess of the amount due upon such piece or parcel at the time of the sale, or for any money paid in for redemption, which may be due to the purchaser at the sale, or other person appearing from his copy judgment book to hold the right derived at the sale. (*Id.* § 93.)

\*94. **When land is bid in by the state, if rented, the rents may be attached.** When any piece or parcel shall be bid in by the state, the sale shall not, until the right of the state be assigned as hereinbefore provided, or the piece or parcel be

\*As to redemption by executors, etc., where owner has died after sale, see *post*, §§ 122-124.

redeemed, operate as a payment of the amount for which the same is sold; but, at any time after such sale, the county auditor may make and file in the office of the clerk where the judgment is entered, an affidavit, stating the amount for which such piece or parcel shall have been bid in for the state, that the right of the state has not been assigned, the date of the sale, that there has been no redemption, that the piece or parcel is rented, producing rent, and giving the name or names of the parties in possession, paying rent for the whole or some part thereof. Upon such affidavit being presented to the judge of the court, or court commissioner for the county, he shall endorse thereon an order directing an attachment to issue to attach the rents and profits of said piece or parcel of land. The clerk of the court shall thereupon issue a writ of attachment to the sheriff of the county, directing him to attach the rents accruing for such piece or parcel of land from any person, and collect therefrom the amount for which the same was bid in for by the state, (stating such amount and the date of sale,) with interest accruing thereon, and his fees, and one dollar, the costs of the affidavit and attachment. The sheriff shall serve such writ by serving a copy thereof on each tenant, or person in possession paying rent for such piece or parcel, or any part thereof; and upon such service the same shall operate as an attachment of all rents accruing after such service from the person upon whom service is made. And as they become due, the sheriff shall receive such rents, and may bring suit in his own name, and collect the same in any court having jurisdiction, and shall pay into the treasury of the county the amount by him received or collected; and no payment of rents by any person so served, after such service or prior thereto, for the purpose of defeating such attachment, shall be valid against such attachment. (1878, c. 1, § 94.)

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

\*§ 96. **Rights of purchaser when land is not redeemed.** The purchaser of any piece or parcel of land shall, if there be no redemption, be entitled to the possession, rents and profits at the end of two years from the date of sale; and if, on demand of such purchaser to the party or parties in possession, such party or parties refuse or neglect to render such possession, such party or parties may be proceeded against as persons holding over after the determination of his or their estate, which proceedings may be instituted and prosecuted pursuant to the provisions of law in such cases made and provided. (*Id.* § 96.)

\*§ 97. **Void sales—repayment of money to purchaser, how made.** When a sale of lands, as provided in this act, is declared void by judgment of court, the judgment declaring it void shall state for what reason such sale is declared void. In all cases where any sale has been or hereinafter shall be so declared void, the money paid by the purchaser at the sale, or by the assignee of the state upon taking the assignment, shall, with interest at the rate of twelve per cent. per annum from the date of such payment, be returned to the purchaser or assignee, or the party holding his right, out of the county treasury, on the order of the county auditor; and so much of said money as has been paid into the state treasury shall be charged to the state by the county auditor, and deducted from the next money due the state on account of taxes: *provided*, that if such purchaser or assignee, or party holding his right, shall, after such purchase or assignment from the state, have paid taxes, penalties or interest upon such piece or parcel of land, he shall have a lien on such piece or parcel for the amount of such taxes, penalties and interest so paid, with interest thereon from the time of payment thereof, at the rate in this section provided, and may enforce such lien by action; or, if he be in possession of such piece or parcel, shall not be ejected therefrom until such amount and interest shall be paid. (1878, c. 1, § 97.)

23 M. 231.

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

\*§ 97. See 1881 (sup't), p. 83.

\*§ 99. **Filing of papers by clerk.** The clerk shall attach together, and keep on file in his office, the list, notice, affidavit of publication, one copy of the newspaper and supplement, if any, in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings. (*Id.* § 99.)

\*§ 100. **Endorsement on certificates for record.** Before any certificate, assignment or conveyance provided for herein shall be recorded, the holder thereof shall present the same to the county auditor, who shall certify thereon that the property therein described still remains unredeemed; and no such certificate, assignment or conveyance shall be recorded by the register of deeds unless such endorsement is made. (*Id.* § 100.)

\*§ 101. **Sale of property bid in for the state.** All pieces or parcels of real property bid in for the state under the provisions of this act, and not redeemed within two years from the date of sale, shall become the absolute property of the state, and may be disposed of by the county auditor, at public or private sale as the auditor of state may direct, subject to such rules and restrictions as he may prescribe. All tracts or lots becoming so forfeited to the state shall be stricken from the tax lists, and shall not be assessed or taxed until sold to an actual purchaser. The county auditor shall, when required by the auditor of state, make out and transmit to him a list of all forfeited lands and lots, showing the



date of forfeiture, assessed valuation, amount of taxes, penalties, interest and costs, due on each description of property; and no tract or lot shall be sold for less than the amount so shown to be due thereon, unless such amount exceeds the actual value of the property, in which case it may be sold for such sum as it will bring at public or private sale. Any person having an interest in or lien upon any piece or parcel of forfeited land may redeem the same, at any time after forfeiture, and before sale thereof, by paying the amount due thereon. (*1878, c. 1, § 101.*)

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

\*§ 103. **Taxes paid by occupant or tenant.** When any tax on any real estate is paid by or collected of any occupant or tenant or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor or other party in interest, such occupant, tenant or other person may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of twelve per cent. per annum, or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real estate. (*Id. § 103.*)

S M. 294 (334); 3 M. 410 (461); 19 M. 67.

\*§ 104. **Taxes paid by mortgagees, or others having liens.** Any person who has a lien, by mortgage or otherwise, upon any real property on which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon; and the receipt of the county treasurer shall constitute an additional lien on such land, to the amount therein stated; and the amount so paid and the interest thereon at the rate specified in the mortgage or other instrument, shall be collectible with, as a part of, and in the same manner as, the amount secured by the original lien. (*Id. § 104.*)

19 M. 67; 20 M. 268; 23 M. 337.

\*§ 105. **Lien of taxes—between grantor and grantee—on personal property.** The taxes assessed upon real property shall be a lien thereon from and including the first day of May, in the year in which they are levied, until the same are paid; but, as between grantor and grantee, such lien shall not attach until the first day of December of said year: The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed, from and after the time the tax books are received by the county treasurer. (*Id. § 105.*)

\*§ 106. **Deeds not to be recorded without auditor's certificate of taxes paid, etc.** When any deeds, plat of any town site, or instrument affecting the same, or any other conveyance of real estate, is presented to the county auditor for transfer, he shall ascertain from the books and records in his office if there be delinquent

taxes due upon the land described therein, or if it has been sold for taxes; and if there are delinquent taxes due, he shall certify to the same; and upon the payment of such delinquent or other taxes that may be in the hands of the county treasurer for collection, he shall transfer the same, and note upon every deed of real property so transferred, over his official signature, "taxes paid and transfer entered;" or if the land described has been sold or assigned to an actual purchaser for taxes, "paid by sale of land described within;" and unless such statement is made upon such deed or other instrument, the register of deeds shall refuse to receive or record the same. A violation of the provisions of this section by the register of deeds shall be deemed a misdemeanor, and, upon conviction thereof, he shall be punished by a fine not less than one hundred dollars, nor exceeding one thousand dollars, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained: *provided*, that sheriffs' or referees' certificates of sales on executions, decrees, or foreclosures of mortgages, may be recorded by the register of deeds without any such certificate from the county auditor. (1878, c. 1, § 106.)

\*§ 107. *Division of valuation where part of a tract is transferred.* When the transfer of any land or town lot, or any part thereof, becomes necessary by reason of sale or a conveyance by deed, and in case such conveyance is of less than the whole tract or lot, or part thereof, as charged in the tax list, said county auditor shall transfer the same whenever the seller and purchaser agree thereto in writing signed by them, or personally appear before the auditor, and agree upon the amount of valuation to be transferred therewith; but if the seller and purchaser do not agree as to the amount of valuation to be transferred, the auditor shall make such division of the valuation as may appear to him just. If the county auditor is satisfied that the proportion of the valuation agreed by the parties in interest to be transferred, is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudulently to evade the payment of any taxes which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and when any such transfer has already been procured by fraudulent agreement, the same shall be cancelled by the auditor, and the land or lot so transferred be charged with taxes in the same manner as though said transfer had not been made. (*Id.* § 107.)

\*§ 108. *Irregular tracts of lands, to be platted into lots, if required.* In all cases when any tract or lot of land is divided in parcels of irregular shape that cannot be described except by metes and bounds, it shall be the duty of the owners of such tracts, upon request of the county auditor, to have such land platted into lots—if such plat cannot be made without an actual survey of the land, then they shall have the same surveyed—and the plat thereof recorded. If the owners of any such tract shall refuse or neglect to cause such plat and survey when necessary, to be made and recorded within thirty days after such request, the county surveyor, upon request of the county auditor, shall make out such plat from the records of the register of deeds, if practicable; but if it cannot be made from such records, then he shall make the necessary survey and the plat thereof, and the said auditor shall have the same recorded. Such plats being duly certified and recorded, the description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the county, upon allowance by the county commissioners, and the amount thereof shall be added to the tax upon such tracts or lots the next ensuing year, which tax, when collected, shall be credited to the county revenue fund. (*Id.* § 108.)

\*§ 109. **Abbreviations in describing lands, etc.** It shall be sufficient to describe lands in all proceedings relative to assessing, advertising, or selling the same for taxes, by initial letters, abbreviations and figures to designate the township, range, sections or parts of a section, and also the number of the lots and blocks. Whenever the abbreviations "do" or characters " , " or any similar abbreviations or characters, shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial, letter or letters, abbreviations, figure or figures, as the last preceding such "do," " , " or other similar characters. (1878, c. 1, § 109.)

\*§ 110. **Letting of publication of tax list.** The county commissioners shall let the advertising of the delinquent tax list, to the publisher or proprietor of a newspaper who will offer to do the same in some daily or weekly newspaper having not less than four pages of five columns to the page, each column to be not less than two inches in width, nor less than seventeen inches in length, printed in the English language, and of general circulation, which shall have been published and circulated for at least three months prior to the time of letting, for the lowest sum, not to exceed twelve cents for each description, and who shall give a bond to the county, with at least two sureties, freeholders of the county, to be approved and in an amount to be fixed by the county commissioners, conditioned for the correct and faithful performance of such advertising. (*Id.* § 110.)

\*§ 111. **Printer's errors in advertised lists.** In all cases where there is an error in the advertised lists, the fault thereof being the printer's, which prevents judgment from being obtained against any tracts or lots, or against all of said delinquent lists at the time stated in the advertisement that judgment will be applied for, the printer shall lose the compensation allowed by this act, for such erroneously advertised tracts or lots, or entire lists, as the case may be. (*Id.* § 111.)

\*§ 112. **Auditor to correct false lists and returns.** The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all property required to be listed in his township or district, or has omitted or made an erroneous return of any property which is by law subject to taxation, shall proceed, at any time before the final settlement with the county treasurer, to correct the return of the assessor, and to charge the owners of such property on the tax lists with the proper amount of taxes; to enable him to do which he is hereby authorized and empowered to issue compulsory process, and to require the attendance of any person whom he may suppose to have a knowledge of the articles or value of the property, and to examine such person on oath in relation to such statement or return; and the auditor in all such cases shall notify every such person before making the entry on the tax list, that he may have an opportunity of showing that his statement or the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts or evidence upon which he made such corrections; but he shall in no case reduce the amount returned by the assessor, without the written consent of the auditor of state, on a statement of the case submitted by the county auditor, or the party aggrieved. (*Id.* § 112.)

\*§ 113. **Tax not collected to be added to the next year's tax.** If any tax on any property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the next succeeding year. (*Id.* § 113.)

\*§ 114. **Debts of municipalities void if entailing taxation beyond the rate fixed by law.** It shall be unlawful for the corporate authorities of any county, township, city, town or village, or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt, or incur any pecuniary liability, for the payment of either the principal or interest for which, during

the current year or any subsequent year, it will be necessary to levy on the taxable property of such county, township, city, town village or school district, a higher rate of tax than the maximum rate prescribed by this act; and every contract made in contravention of the provisions of this section shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to be made; but every commissioner, officer, agent, supervisor, or member of any municipal corporation, that makes, or participates in making, or authorizes the making of any such contract, shall be held individually liable for its performance; and every commissioner, supervisor, director, or member of any city, town or village council, or other officer or agent of any such municipal corporation, present when any such unlawful contract was made or authorized to be made, shall be deemed to have or to have participated in making, or to have authorized the making of the same, as the case may be, unless, if present, he dissented therefrom, and entered or caused to be entered such dissent on the records of such municipal corporation, or of its councils, supervisors, or other office. (1878, c. 1, § 114.)

\*§ 115. **Exempt property to be valued and assessed.** At the time of taking the assessment of real property every even-numbered year, the assessor shall enter, in a separate list, each description of property in the town or district exempt under the provisions of section five of this act, and value and assess the same in the manner, and subject to the same rules as he is required to assess all other property, designating in each case to whom such property belongs, and for what purpose used. (*Id.* § 115.)

\*§ 116. **Neglect of duty by officers, or connivance at evasion of law.** Every county auditor, and every district and township assessor, who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true value, shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction. (*Id.* § 116.)

\*§ 117. **Suits against officers defended at expense of county.** Whenever a civil action is commenced against any person holding the office of county treasurer, county auditor, or any town or district office, for performing or attempting to perform any duty authorized or directed by any statute of this state for the collection of the public revenue, such treasurer, auditor, or other officer, may, in the discretion of the court before whom such action is brought, by an order made by such court and entered in the minutes thereof, be allowed, and paid, out of the county treasury, reasonable fees of counsel, and other expenses for defending such action, and the amount of any damages and costs adjudged against him, which said fees, expenses, damages and costs shall be paid from the county revenue fund. (*Id.* § 117.)

\*§ 118. **Public and railroad lands sold, to be certified for taxation.** The auditor of state shall, on or before the first day of April of each year, obtain from the local land offices in the state, and from the several land grant railroad companies, lists of lands sold or contracted to be sold during the previous year, and certify them for taxation, together with the various classes of state lands sold during the same year, to the auditors of the various counties in which such lands may be situated. He shall also at the same time obtain lists of lands reverting to the railroad companies each year by reason of the forfeiture of contracts, and certify the same to the respective county auditors for cancellation of taxes; and it shall be the duty of the railroad companies to report such sales and for-

feitures on or before the first day of April each year to the auditor of state: *provided*, that all forfeited lands not so reported shall be held for all taxes accruing thereon. (1878, c. 1, § 118.)

\*§ 119. State auditor to prescribe form of blanks—to hear grievances, and construe this act. The auditor of state shall prescribe the form of all blanks and books required under the provisions of this act. He shall hear and determine all matters of grievance relating to taxation on account of excessive valuation of property, or for other cause, when submitted to him with a statement of facts in the case, and favorable recommendation of the commissioners and auditor of the county in which the property is situated. He shall keep a record of all cases so referred, and of all decisions rendered, and, upon deciding any case, he shall forward a certified copy of such decision to the county auditor, who shall file the same and correct his books accordingly. He shall decide all questions that may arise in reference to the true construction of this act, in accordance with the advice and opinion of the attorney general, and such decision shall have force and effect until annulled by the judgment or decree of a court of competent jurisdiction. (*Id.* § 119.)

\*§ 120. Repeal of former acts, reserving rights. Chapter seventy-nine of the general laws of one thousand, eight hundred and seventy-seven, and all other acts and parts of acts inconsistent with this act, are hereby repealed, except that all rights heretofore acquired under any act hereby repealed shall not be affected hereby; and all rights heretofore acquired under chapter eleven of the General Statutes, or any other act repealed by chapter one of the general laws of one thousand, eight hundred and seventy-four, are hereby revived and continued in force to the same extent as when such rights were acquired; and the payment and collection of all taxes heretofore assessed and levied shall be enforced in accordance with the provisions of this act. (*Id.* § 120.)

\*§ 121. Notice when time for redemption will expire—duties of certificate-holders and auditor. Every person holding a tax certificate shall, at least ninety days before the expiration of the time for the redemption of the lands therein described, present such certificate to the county auditor and thereupon the auditor shall prepare, under his hand and official seal, a notice to the person in whose name such lands are assessed, specifying the description of such lands, the amount for which the same were sold, the amount required to redeem such lands from such sale, exclusive of the costs to accrue upon such notice, and the time when the redemption period will expire, which notice the auditor shall deliver to the sheriff of the proper county for service and return. The sheriff shall, within twenty days after the receipt by him of said notice, serve and return the same to the auditor. Such service shall be made in the manner prescribed for the service of a summons in a civil action in the district court. If the person in such notice named cannot be found in the county, and there be any person in the actual possession of the land in such notice described, the same shall in like manner be served upon him. If the person named in such notice cannot be found in the county, and there be no person in the actual possession of said land, of both which facts the return of the sheriff shall be *prima facie* evidence, the auditor shall cause such notice to be published, once in each week for three successive weeks, in some newspaper printed and published in the county where such lands are situate, if there be one; if there be none, then in some newspaper printed and published at the capital of the state. For his services in serving such notice, the sheriff shall be entitled to the same fees that now are or hereafter may be allowed him for the service of summons in a civil action in the district court. The fees of the sheriff for serving, and the printer's fees for publishing such notice, shall be added to the amount required to redeem such land, and shall be paid by the party offering to redeem such land before any certificate of redemption shall issue. In case of failure

on the part of the holder of any tax certificate to present the same to the auditor at the time hereinbefore provided, the same may be so presented at any time thereafter; and thereupon such notice shall be issued and served as hereinbefore provided, and the time for the redemption of such lands shall expire sixty days after the service of such notice: *provided*, that the county shall not become liable for any expenses incurred under the provisions of this section. (1877, c. 6, § 37.)

\*§ 122. **Redemption when owner dies after sale.** That whenever the lands of any person heretofore have been or hereafter shall be sold for taxes, and the owner of such lands, after such sale, and before the expiration of the period of redemption, heretofore has deceased, or hereafter shall decease, the executor or administrator of such owner, or any person interested in his estate as heir, devisee or creditor, may redeem such lands from any such sale at any time within four years from the date thereof. If such redemption be made by a creditor, the amount paid to effect such redemption, with interest thereon at the rate of seven per cent. per annum, shall constitute a valid claim against the estate of the deceased. (1877, c. 84, § 1.)

\*§ 123. **Same—when made by executor, etc.** If such redemption be made by an executor or administrator, he shall at the time of the making thereof produce his letters testametary or of administration to the county auditor. If made by any other person, he shall make and file with such auditor an affidavit stating under what right or claim such redemption is made. (*Id.* § 2.)

\*§ 124. **Same—certificate to be given by auditor.** Upon any such redemption being made, the county auditor shall make and deliver to the person making such redemption a certificate containing the name of the person redeeming, a statement of the claim or right upon which such redemption was made, the amount paid to redeem, a description of the lands redeemed, the date of the sale of such lands, and the year in which the taxes were levied for which such sale was made, which certificate shall have the effect to annul any such sale; and such certificate may be recorded as other deeds of real estate, and with the like effect as evidence or otherwise. (*Id.* § 3.)

\*§ 125. **Taxes to be levied in unorganized counties.** That hereafter taxes shall be levied and collected in all unorganized counties in this state, by the counties to which they may be attached for judicial and record purposes, only for state purposes, for the payment of the principal and interest of any legal indebtedness of such unorganized counties, and a reasonable sum per annum as compensation for the county to which such unorganized counties are attached: *provided*, that such annual compensation for the levy and collection of taxes, and for all other expenses, shall not exceed the aggregate sum of ten mills per acre of land subject to taxation in such unorganized counties, the amount of said compensation to be extended uniformly upon the taxable property of such counties according to the assessed valuation thereof. (1876, c. 6, § 1.)

\*§ 126. **County auditor to furnish towns with abstract of real estate assessment.** Each county auditor shall, on or before the first Tuesday of April, A. D., one thousand eight hundred and sixty-nine, and biennially thereafter, make out and transmit to the town clerk of each town in his county, a certified copy or abstract of the real estate assessment roll of said town, as equalized by county and state boards of equalization. (1868, c. 37, § 1.)

\*§ 127. **To make statement to town clerk.** The county auditor of each county shall, on or before the fifteenth day of March, A. D. one thousand eight hundred and sixty-eight, and annually thereafter, make and transmit to the town clerk of each town in his county, a certified statement showing the debt and credit existing between said town and county, under the several distinct and appropriate heads of taxation. And all moneys that the auditor shall receive as fees for services outside of his salary, he shall return to the county treasurer under oath. (*Id.* § 2.)

\*§ 128. The St. Paul, Stillwater & Taylor's Falls R. R. Co. may pay percentage of gross earnings in lieu of all other taxes. In consideration of an annual payment of a percentum, as provided in this section, by the St. Paul, Stillwater and Taylor's Falls Railroad Company, the railroad, its appurtenances and appendages, and all other property, estate and effects of said corporation, held or used for, in or about the construction, equipment, renewal, repair, maintaining or operating its railroad, including the lands granted to said company to aid in the construction of said railroad, as also the stock and capital of said company, shall be and hereby are forever exempt from all taxation and from all assessments; and in consideration of the grants made to and the privileges conferred upon the said company, and the exemption contained in this section, the said company shall, during the first three years from and after January 1, 1872, on or before the first day March of each and every year, pay into the treasury of this state one per cent. on the gross earnings of said railroad, the first payment to be made on the first day of March, one thousand eight hundred and seventy-three, or within fifteen days after the passage of this act; and shall, during the seven years next ensuing after the expiration of the three years aforesaid, pay into the treasury of the state, on or before the first day of March of each year and every year, two per cent. on the gross earnings of said railroad; and shall from and after the expiration of ten years from the said first day of January, one thousand eight hundred and seventy two, on or before the first day of March of each and every year, pay into the treasury of this state three per cent. of the gross earnings of said railroad; and the payment of such per centum annually as aforesaid shall be and is in full of all taxation and assessment whatever. And for the purpose of ascertaining the gross earnings aforesaid, an accurate account of such earnings shall be kept by said company, an abstract whereof shall be furnished by said company to the treasurer of this state on or before the first day of February in each year, the truth of which abstract shall be verified by affidavits of the treasurer and secretary of said company; and for the purpose of ascertaining the truth of such affidavits, and the correctness of such abstract, full power is hereby vested in the governor of this state, or any other person appointed by law prescribed to examine, under oath, the officers and employees of said company or other persons; and if any person so examined by the governor or other authorized person shall knowingly or wilfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for securing to the state the payment of aforesaid per centums, it is hereby declared that the state shall have a lien upon the railroad of said company, and upon all the property, estate and effects of said company whatever, real, personal or mixed, and the lien hereby secured to the state shall have and take precedence of all demands, decrees and judgments against said company: *provided*, that the lands of said company shall be subject to taxation as soon as sold, leased, or contracted to be sold or leased. (*Sp. Laws 1873, c. 111, § 1.*)

\*§ 129. Same—Other railroad companies may make same commutation. Any railroad company owning or operating, or which may hereafter own or operate, any line or lines of railroad in this state, may, by resolution of its board of directors, attested by its secretary and filed with the secretary of state, accept and become subject to the provisions of this act; and in such case the payment of such percentage in lieu of taxes, in accordance therewith, shall commence from and after the first day of March next after the completion of thirty miles of such line hereafter built, or of the entire line, if the same shall be less than thirty miles in length. (*Id. § 2.*)

\*§ 130. Tax on telegraphs per mile of route. The owners of any telegraph line constructed and in operation within the limits of this state, shall pay to the state an annual tax of forty cents per mile for every mile of route occupied in lieu of all other taxes, which shall be paid in January of every year to the state treasurer. (*1867, c. 22, § 5.*)

\*§ 131. **Same—state to have lien.** This state shall have a lien upon any line constructed and in use as aforesaid, and all its appurtenances, for all taxes which may accrue to the state by virtue of the foregoing section; and in case the tax, in whole or in part, shall not be paid by the first day of February of every year, it shall be the duty of the state treasurer to advertise such line for sale for the amount of such tax remaining unpaid, in some newspaper published at the seat of government, by giving three weeks' previous notice, and to sell the same accordingly for the amount of tax and interest, and charges of sale, provided, the same shall not be paid before the time of sale; and the surplus money, if any, shall be paid to the owner or owners of said line, after deducting the expenses of advertising and selling the same. (1867, c. 22, § 6.)

\*§ 132. **State treasurer to collect taxes from railroad companies.** The state treasurer shall be the collector of all taxes due from railroad corporations which pay a percentage of gross earnings in lieu of other taxes. (1873, c. 104, § 1.)

\*§ 133. **May appoint deputies.** The state treasurer may appoint one or more deputies to assist him in the collection of the taxes due from railroad corporations, and may take such bond and security from the person so appointed as he deems necessary for his indemnity, and shall in all cases be liable and accountable for the proceedings and misconduct of his deputies in office: *provided*, that the deputies appointed by the provisions of this act shall in no case be entitled to or receive from the state any fee, charge or salary (*Id.* § 2.)

\*§ 134. **Distraint for taxes—proceedings therein.** As any time subsequent to the first day of March of each year, when any such tax or per centum of gross earnings is due from any railroad or railway corporation or company, the state treasurer or his deputy shall distrain sufficient goods, chattels, or other movable property, if found within this state, to pay the taxes or per centum due from such railroad or railway corporation or company, and the costs that may accrue, and shall immediately proceed to advertise the same in three newspapers published in the state, stating the time when and the place where such property will be sold; and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than three weeks from the taking of such property, the state treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as shall be sufficient to pay said taxes and the costs of such distress and sale, and penalty, as herein provided. (*Id.* § 3.)

\*§ 135. **Penalty for non-payment of taxes when due.** If any such railroad or railway corporation or company fail to pay the taxes or per centum of gross earnings as provided in their charter, by the first day of March when the same becomes due, then the said company or corporation may pay the same to the state treasurer at any time before property shall have been distrained: *provided*, that the said company or corporation shall in every instance, when the said tax or per centum of gross earnings shall not be paid when due, pay to the state treasurer the additional sum of five per centum on said tax as a penalty. (*Id.* § 4.)

\*§ 136. **Property which may be distrained, etc.** All steam engines and cars, of every kind and description, shall be deemed and declared to be chattels and movable property for the purposes of this act and the enforcement of the tax. Whenever any steam engine or car shall be levied on by virtue of the provisions of this act, the state treasurer or his deputy making such distress or levy, shall have full and complete power and authority to move the said property so distrained or levied upon, on and over any road, track or side-track within this state, and to any town or city within this state; and the state treasurer or his deputy making said levy shall have full power and authority to seize and take immediate and exclusive possession of any side-tracks, round-houses or engine-houses, depot or warehouses, buildings of the company or corporation in default, for the payment of the said tax or per centum of the gross earnings and to move any and all property so distrained or levied upon, into said build-



ngs, houses, or upon said side-tracks, and to keep and maintain such possession so long as in the opinion of said treasurer may be necessary for the collection of said tax. Any person or persons, without authority from the treasurer or his deputy, interfering with or molesting the property so levied upon, or the side-tracks upon which said property shall be, or the houses in which the same shall be placed, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the state prison for not less than one year. (1873, c. 104, § 5.)

\*§ 137. **Failure to make return of gross earnings—tax and penalty to be fixed by treasurer—semi-annual payment.** If any railroad company in this state shall fail to make a return of its gross earnings, and the whole thereof, at the time and in the manner provided by law, it shall be the duty of the railroad commissioner to notify the treasurer or accounting officer of such neglect or default; and if the same shall continue for thirty days after serving such notice, such company shall be subject to a penalty in an amount equal to twenty-five per cent. of the tax imposed upon such company, to be added to and collected with such tax; and in case such railroad company shall fail, within thirty days after such notice, to make such return of its gross earnings, and the whole thereof, at the time and in the manner provided by law, then in that case it shall be the duty of the state treasurer to fix the amount of such gross earnings and tax, together with such penalty, basing his actions upon the best evidence he can obtain without expense to the state, and make an entry of the amount of such gross earnings and tax and penalty in the books of his office, which said entry, when so made, shall stand in the place of the report required by law to be made by said company, and shall, in all courts of this state, and for all purposes, be conclusive evidence of the facts therein stated. The certificate of the state treasurer that any such tax or per centum of gross earnings, or any part thereof, is unpaid and due from any railroad or corporation, and stating the amount thereof, together with such penalty, shall be full and complete and sufficient warrant for the collection, by sale or otherwise, of the said tax or per centum of gross earnings, or any part thereof: *provided*, that any railroad company may elect to pay its taxes semi-annually on the first days of August and February for the preceding six months of each year, commencing January first and July first, respectively, and file with the railroad commissioner its written assent to the provisions of this act; and in such case the taxes of such roads for the year one thousand eight hundred and seventy-three shall be due and payable on the first day of July, one thousand eight hundred and seventy-four, and thereafter on the first days of February and August of each year, and shall be enforced under the provisions of this act and such laws as may be hereafter passed. (*Id.* § 6, as amended 1874, c. 4, § 1.)

\*§ 138. **Fees and allowances for services under this act.** The state treasurer or his deputy shall be allowed the [same] fees, costs and disbursements for making distress and sale of property under the provisions of this act, which are allowed by law to sheriffs for making levy and sale of property on execution; traveling fees to be computed from the state capitol to the place of making the distress: *provided*, that the state treasurer or his deputy shall receive no fees or costs from the state for making such distress or sale. (*Id.* § 7.)

\*§ 139. **Gross earnings of railroads—when to be reported.** Each railroad corporation owning or operating a railroad in this state shall, on or before the first day of February in each year, make to the state railroad commissioner a true and just return of the gross earnings of its road or roads within this state, for and during the year ending the last day of December next preceding, which returns shall be verified by the oath of the officer making the same: *provided*, that where any railroad company pays its tax on gross earnings semi-annually, the said returns shall be made in the manner provided, on or before the twentieth day of January, for the six months ending the last of December prece-

ding, and on the twentieth day of July for the six months ending the last of June preceding. (1877. c. 105, § 1.)

\*§ 140. To be certified to the state auditor. The state railroad commissioner shall certify the said returns of gross earnings to the state auditor, together with a statement of the per centum and amount of tax due thereon. The state auditor shall then make his draft on the railroad corporation for the amount of tax due, and place the same in the hands of the state treasurer for collection. (*Id.* § 2.)

\*§ 141. List of lands sold during the year to be returned to the railroad commissioner. That on or before the first day of April in each year, each and every railroad corporation that has received lands from the state or United States, to aid in the construction of its line of railroad, shall make a return to the state railroad commissioner of full and complete lists of all lands sold or contracted to be sold during the year ending the last of December next preceding, the correctness of which list shall be verified under oath by the land commissioner or other proper officer of the railroad corporation. All trustees or other persons to whom any of the lands granted in aid of any railroad have been conveyed, or by whom such lands are held in trust or otherwise, shall be subject to the foregoing provisions in regard to returns of lists of lands sold. (*Id.* § 3.)

\*§ 142. Existing laws not affected. This act shall not be construed to repeal or invalidate existing laws for the collection of taxes from railroad corporations. It shall take effect and be in force from and after the first day of March, one thousand eight hundred and seventy-seven. (*Id.* § 4.)

\*§ 143. Registry of municipal debts—copy for state auditor. That whenever any county, city, village or township, shall have incurred or created a debt, or shall hereafter incur or create a debt, under the provisions of any law of this state, to aid in the construction of any railway or railways, the county, city, village or township clerk, or other proper officer, upon the issuing of the bonds in payment of said debt, shall make a registration thereof in a book to be kept for that purpose, showing the date, amount, number, maturity and rate of interest of each of said bonds, and to what railroad the same were given, and shall immediately transmit a true and correct copy of such registration so made to the office of the state auditor, to be by him entered in a book to be kept for that purpose; and each of said officers shall receive a fee of fifty cents from the holder of such bond for so registering the same. (1871. c. 17, § 1.)

\*§ 144. Previous issues of bonds to be registered. All bonds heretofore issued and still unpaid shall be registered by the holder thereof at the office of the state auditor, in a book to be kept for that purpose. Such registration shall show the date, amount, number, maturity and rate of interest of each of said bonds, and to what railway or railways the same was given, under what act, and by what county, city, village or township the same were issued; and the state auditor shall, under his seal of office, certify upon such bond the fact of such registration, for which registration and certificate he shall be entitled to a fee of one dollar from the holder of each bond. (*Id.* § 2.)

22 M. 356.

\*§ 145. Tax to pay interest, how levied and collected. When the bonds of any county, city, village or township shall be so registered, the state auditor shall annually ascertain the amount of interest for the current year due and accrued, and to accrue upon such bonds, and shall make a certificate showing such amount, and transmit the same to the county auditor, at the same time with other taxes to be levied for that year; and the county auditor, from the basis of the valuation of property in such county, city, village or township, shall estimate and determine the rate per centum on the valuation of property within said county, city, village or township voting bonds, requisite to meet and satisfy the amount of interest due and to become due for that year, together with the ordinary cost to the state of collection and disbursement of the same. And the amount

so certified by the state auditor and the cost of collecting the same shall thereupon be deemed added to and a part of the per centum or amount which is or may be levied, as provided by law, for purposes of state revenue, and shall be so treated by any and all officers or authority in determining levies and making estimates, duplicates, and books for collection of taxes; and the said tax shall be collected with the state revenue, and all law relating to the collection of state revenue shall apply thereto except as herein otherwise provided. (1871, c. 17, § 3.)

\*§ 146. State not liable for such debts. Nothing herein contained shall be construed to create any liability on the part of the state for the payment of any part of the principal or interest on any of said bonds. (Id. § 4.)

\*§ 147. Taxes, how applied. The taxes so collected shall be paid over by the county treasurer to the person or persons presenting coupons therefor, if authorized to receive the same; and each coupon so redeemed shall be cancelled by said county treasurer, and transmitted to the city, village, township or other organization from which the same was issued. (Id. § 5. as amended 1875, c. 115, § 1.)

CHAPTER XII.

MILITIA\*

SECTION.

- 1-2. Who liable to military duty—enrollment.
- 3. Active militia—officers—companies—exemptions—term of service.
- 4. Powers of commander-in-chief.
- 5-7. Adjutant general—general duties—seal—to act as claim agent.
- 8. Military store-keeper.

SECTION.

- 9. Disbandment of companies.
- 10. Issue of arms—security for return.
- 11-12. Boards of survey—sale of condemned arms—disposition of proceeds.
- 13-14. Adjutant general to certify vouchers and prepare blanks, etc.
- 15. Penalty for abstracting arms, etc.

\*§ 1. Who are liable to military duty. All able-bodied male persons residing in the state of Minnesota, between the ages of eighteen and forty-five years, shall constitute the militia of this state, and be liable to perform military duty in case of war, invasion, rebellion, or to maintain the public peace and enforce the laws, excepting—

*First.* All persons who shall make and file with the clerk of the district court of their respective counties an affidavit that they are members of any religious society or organization by whose creed or discipline the bearing of arms is forbidden, and which affidavits shall be renewed every five years.

*Second.* Indians not taxed, idiots, lunatics, and persons who have been convicted of infamous crimes. (1870, c. 22, § 1. as amended 1877, c. 16, § 1.)

\*§ 2. Enrolment—duty of assessors and county auditors. It shall be the duty of all assessors of personal property for taxation, in the year one thousand eight hundred and seventy, and every second year thereafter, in their respective districts of townships, villages, or cities, to enroll all persons in their respective districts liable to do military duty, according to the provisions of this act, which enrollment shall be made according to the forms to be prescribed by the adjutant general, and return the same under oath to the county auditor, at the same time the return of personal property in his district is made; and no pay or com-

\* NOTE. Chapter 12 of the General Statutes, entitled "Militia" was rejected by the legislature.

Ch. XI. \*§§ 147, 148, 149. See Supp. 1881, p. 30, 31. And ch. XI. \*§§ 147, 151, 152, 153. See ISS Supp. 1, p. 33. And ch. XII. \*§§ 140, 43, incl. See note to MILITARY CONF. 1883 Supp. 1, p. 38.