

# REVISED LAWS OF MINNESOTA 94

## SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,  
AND OTHER LAWS OF A GENERAL AND  
PERMANENT NATURE, ENACTED  
BY THE LEGISLATURE IN  
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES  
AND FULL AND COMPLETE NOTES OF ALL  
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY  
FRANCIS B. TIFFANY

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president of (the) board of education and the clerk of the board of education. (G. S. 1894, § 3688, as amended by Laws 1905, c. 272, § 1.)

**Historical.**—"An act to amend section thirty-six hundred and eighty-eight of the General Statutes of eighteen hundred and ninety-four, relating to, and regulating, the issuance of bonds by school districts in the state of Minnesota." Approved April 18, 1905.

G. S. 1894, § 3688, was Laws 1877, c. 74, subc. 2, § 8, as amended by Laws 1881, c. 41, § 4, 1885, c. 80, and Laws 1887, c. 21, all of which were repealed by R. L. §§ 5530, 5533, 5536, 5537. So far as Laws 1905, c. 272, is inconsistent with the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

[793—]162. **Certain school district boundaries and bonds legalized.**—Where steps have heretofore been taken or attempted to be taken under the General Laws to change the boundary or boundaries of any school district heretofore organized, and the proper county board has adopted a resolution making such change, or attempting to make the same, and such school district shall have exercised the powers and franchises of a school district over the territory so added thereto for at least six months continuously before the passage of this act, such change or boundary shall be deemed legal; and where such school district shall have under the provisions of chapter 10 of the Revised Laws of 1905, or under said chapter as amended by chapter 272 of the General Laws of 1905, voted to issue the bonds of the district for the purpose of purchasing a school site or sites, or for building, furnishing or equipping a school house or school houses for said district, or any portion thereof, and said proposition to issue bonds shall have received a majority vote in favor thereof of all votes cast upon said proposition at an election held therein for that purpose, the same are hereby declared to be when issued as provided in said chapter 10, or in said chapter as so amended, the legal and binding obligations of said school district. Provided, that this act shall not apply to any suit or action now pending in which the validity of any such proceedings is called in question. ('09 c. 209 § 1)

**Historical.**—"An act legalizing the change of boundaries of certain school districts, and bonds authorized by the legal voters of such districts for the purchase of school site or sites, or building, furnishing or equipping one or more schoolhouses therein." Approved April 17, 1909.

## CHAPTER 11.

### TAXES.

#### GENERAL PROVISIONS.

##### 794. Property subject to taxation.

**Constitutionality.**—See *State v. Nelson*, 119 N. W. 1058, cited in note under section 797.

**Federal property.**—During the time which elapses between the filing of an application for the location of scrip upon certain lands belonging to the United States and the approval of the application by the Commissioner of the General Land Office, the land is not subject to taxation by the state. Where the legal title to lands remains in the United States, the land is subject to taxation by the state only after the full consideration has been paid and a perfect equitable title has vested in the purchaser. *State v. Itasca Lumber Co.*, 100 Minn. 355, 111 N. W. 276.

##### 795. Property exempt.

**Subd. 5.**—Property set apart for a purely public charity, subject to a charge to secure a conditional annuity, held exempt. *State v. Watkins*, 121 N. W. 390.

[796—]1. Mineral, gas, coal, oil, etc.—That whenever any mineral, gas, coal, oil, or other similar interests in real estate are owned separately and apart from and independently of the rights and interests owned in the surface of such real estate, such mineral, gas, coal, oil or other similar interests may be assessed and taxed separately from such surface rights and interests in said real estate and may be sold for taxes in the same manner and with the same effect as other interests in real estate are sold for taxes. ('05 c. 161 § 1)

**Historical.**—"An act to provide for the separate assessment and taxation of mineral, gas, coal, oil, and other similar interests in real estate in certain cases." Approved April 13, 1905.

#### 797. Personal property defined.

**Subd. 7.**—Cited in *State v. Watkins*, 121 N. W. 390.

**Subd. 10.**—R. L. §§ 794, 797, providing for the taxation of all shares of stocks in foreign corporations owned by residents, are constitutional. *State v. Nelson*, 119 N. W. 1058.

**801. Supervisory powers of Tax Commission.**—The Minnesota Tax Commission shall prescribe the form of all blanks and books required under this chapter. It shall hear and determine all matters of grievance relating to taxation. It shall have power to grant such reduction or abatement of assessed valuations or taxes and of any costs, penalties or interest thereon as it may deem just and equitable, and to order the refundment in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. Provided, however, that application therefor shall be submitted to it with a statement of facts in the case and the favorable recommendation of the county board and county auditor of the county wherein such tax was levied or paid. Except that in the case of gross earnings taxes, the application in the premises may be made directly to the tax commission and without the favorable action of the county board and county auditor. But no reduction, abatement or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality. The commission may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and his decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. Upon deciding such case submitted to it the commission shall forward to the county auditor a copy of the order by it made therein. (R. L. § 801, as amended by Laws 1909, c. 96, § 1.)

G. S. 1894, § 1652, cited in *State v. Atwood Lumber Co.*, 96 Minn. 392, 105 N. W. 276.

**Jurisdiction transferred to Tax Commission.**—The duties formerly imposed on the Auditor by R. L. § 801, in the matter of grievances relating to taxation on account of excessive valuation of property, or for other cause, were imposed upon the Tax Commission by Laws 1907, c. 408. *State ex rel. Foley Bros. & Kelly v. Minnesota Tax Commission*, 103 Minn. 485, 115 N. W. 647. See sections [1038—]48, [1038—]49.

### LISTING AND ASSESSMENT.

#### 802. With reference to May 1.

**Real property.**—Real property is required to be assessed on even-numbered years only; the assessment for the succeeding year being based upon the valuation of the prior year. *State v. Atwood Lumber Co.*, 96 Minn. 392, 105 N. W. 276.

#### 803. Omitted property—Uncollected taxes.

Cited in *State v. Nelson*, 119 N. W. 1058.

**804. Assessment books—Real property list—Mortgages—Meeting of assessors.**

See section [804—] 1.

[804—] 1. **Same.**—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, except such as are held and owned by national and state banks, 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 Thursday of April in each year, but such lists shall not include the mortgages or other real estate securities held or owned by any national or state bank or banks. 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 Thursday of April of 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. (G. S. 1894, § 1537, as amended by Laws 1903, c. 246, as amended by Laws 1905, c. 86, § 1.)

**Historical.**—"An act to amend section one thousand five hundred and thirty-seven, of the General Statutes of eighteen hundred and ninety-four, as amended by chapter two hundred forty-six, of the Laws of nineteen hundred and three, relating to taxation." Approved March 30, 1905.

G. S. 1894, § 1537, was Laws 1878, c. 1, § 29, which, with Laws 1903, c. 246, was repealed by R. L. §§ 5531, 5546; the provisions of the amended section being incorporated in section 804. So far as Laws 1905, c. 86, differs from said section 804, it is to be construed by virtue of section 5504, as amendatory or supplementary. It appears that said section 804 is superseded by the amended section above set forth.

**810. Valuation of property.**

**Full value in money.**—That the property of defendant was assessed at approximately its full value, although other personal property, in accordance with the direction of the State Auditor, was assessed at 50 per cent., was no valid objection to the resulting tax. In order that a tax on property should conform to the statute requiring its assessment at its full value in money, the revenue system contemplates an original assessment by the assessor, its correction by the auditor, and its equalization by various boards. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

## LISTING PERSONAL PROPERTY.

**816. By whom listed.**

**Property controlled by agent.**—If the agent fails to list separately and in the name of his principal, there is no provision of statute authorizing the assessor to assess the property as that of the agent in his name. *State v. Northwestern Elevator Co.*, 101 Minn. 192, 112 N. W. 68, 1142.

**821. Capital stock and franchises.**

**Personal property of corporation—Where taxable.**—The personal property of logging railroad companies, incorporated under G. S. 1894, c. 34, tit. 1, but not engaged in business as common carriers, having no income, and hence not subject to the gross earnings system of taxation, but being operated by certain incorporated lumber companies, was taxable in the county in which the

corporations maintained their principal place of business, though actually kept and used in another county." State ex rel. Board of Com'rs of St. Louis County v. Iverson, 97 Minn. 286, 106 N. W. 309.

See note under section 820.

#### 822. Merchants and manufacturers.

**Logs and timber.**—Logs which are cut, banked, and boomed upon the ice of a navigable lake, with the intention of exporting them from the state, do not become articles of interstate commerce in transit until delivered to a common carrier for exportation, nor do they cease to be part of the general mass of property in the state while any substantial part of the work of delivery to the carrier remains to be done. State v. Taber Lumber Co., 101 Minn. 186, 112 N. W. 214, 13 L. R. A. (N. S.) 800.

#### 826. Express companies, etc.

**Transportation companies.**—Logging railroad companies, incorporated under G. S. 1894, c. 34, tit. 1, but not engaged in business as common carriers, and operated by certain incorporated lumber companies, were not "transportation companies." State ex rel. Board of Com'rs of St. Louis County v. Iverson, 97 Minn. 286, 106 N. W. 309.

See note under section 821.

#### 834. Where listed in case of doubt.

G. S. 1894, § 1522, cited in State ex rel. Board of Com'rs of St. Louis County v. Iverson, 97 Minn. 286, 106 N. W. 309.

**835. Forms for listing—Assessor to value.**—The Minnesota tax commission shall prepare suitable forms for the listing of personal property each year. It may arrange and classify the items of such property in such groups and classes, and from time to time change and separate or consolidate the same as it may deem advisable for securing more accurate information concerning and the more perfect listing and valuation of such property. The assessor shall determine and fix the true and full value of all items of personal property included in any such list and enter the same opposite such items respectively, and the same shall be assessed for purposes of taxation according to law, so that when completed such statement shall truly and distinctly set forth the full and true value and also the assessed valuation for taxation of such personal property as required by law. (R. L. § 835, as amended by Laws 1909, c. 266; § 1.)

Section 2 repeals inconsistent acts. Section 3 provides that the act shall take effect October 1, 1909.

#### 836. Deductions for credits.

**Affidavit.**—The person claiming deduction must make affidavit. State v. Nelson, 110 N. W. 1058.

### STATEMENTS BY CORPORATIONS, ETC.

#### 838. Corporations, companies, and associations generally.

Cited in State v. Cudahy Packing Co., 103 Minn. 419, 115 N. W. 645, 1039.

#### 840. Incorporated banks.

See section [840—] 1.

**[840—] 1. Same.**—The stock of every bank and mortgage loan company in this state, organized under the laws of this state or of the United States, shall be assessed and taxed in the town, city or village where such bank or mortgage loan company is located, whether the stockholders of such bank reside in such place or not, and shall be assessed in the name of the bank or mortgage loan company. The cashier, or other officer of the bank or mortgage loan company, shall list all shares of the bank or mortgage loan company for assessment, in the same manner as the general property of the bank or mortgage loan company is listed. To aid the assessor in determining the value of such shares of stock, the accounting officer of every such bank or mortgage loan company shall furnish to the assessor a sworn statement showing the amount and number of the shares of the capital stock, the amount of its surplus

or reserve fund and amount of its legally authorized investments in real estate, which shall be assessed and taxed as other real estate under this chapter. The assessor shall deduct the amount of 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 in the hands of the stockholders, subject to the provisions of the law requiring all property to be assessed at its true and full value. The shares of capital stock of corporate banks not located in this state, held in the state, shall not be required to be listed under this chapter, but shall be listed by and assessed to the owner of such stock. (Laws 1878, c. 1, § 24, as amended by Laws 1905, c. 60, § 1.)

**Historical.**—"An act to amend section fifteen hundred thirty-two, and fifteen hundred thirty-four, of the General Statutes of one thousand eight hundred and ninety-four, relating to the assessment and collection of taxes upon shares of stock and interests in banks, and giving banks authority to pay taxes on its stock or interest held by individuals, and a lien and power of sale to satisfy the amount of taxes paid, and to provide for the assessment and collection of taxes upon shares of stock of mortgage loan companies." Approved March 23, 1905.

Laws 1878, c. 1, §§ 24, 26, were G. S. 1894, §§ 1532, 1534. Laws 1878, c. 1, was repealed by R. L. § 5531; the provisions of sections 24 and 26 thereof being incorporated in R. L. §§ 840, 842. So far as the provisions of Laws 1905, c. 60, differ from said sections 840, 842, this act is to be construed, by virtue of section 5504, as amendatory or supplementary.

#### 842. Taxes on bank stock a lien.

See section [840—]1.

[842—]1. **Same.**—To secure the payment of taxes on mortgage loan company and bank stock or banking capital, every bank and mortgage loan company shall, before declaring any dividend, deduct from the annual earnings of the bank such amount as may be necessary to pay any taxes levied upon the shares of the stock, and such bank or mortgage loan company or officers thereof shall pay the taxes, and shall be authorized to charge the amount of such taxes paid to the expense account of such bank or mortgage loan company. (Laws 1878, c. 1, § 26, as amended by Laws 1905, c. 60, § 1.)

See note under section [840—]1.

### REVIEW AND CORRECTION OF ASSESSMENTS.

#### 847. Board of review—Duties—Complaints.

As to the board of review in certain villages, see section [711—]3, ante.

[850—]1. **Auditor's certificate to assessor.**—Upon the return of the assessment books, as provided for in section eight hundred and fifty of the Revised Laws of Minnesota, one thousand nine hundred and five, the county auditor shall examine such assessment books, and if found in proper form, shall issue his certificate to the assessor, setting forth the fact that such books are conformable to the provisions of said section. ('07 c. 87 § 1)

**Historical.**—"An act requiring the county auditor to issue his certificate to the assessor upon the return of the assessment books, and providing for the filing of such certificate with the town clerk, before payment shall be made by the town board for the services of such assessor." Approved April 3, 1907.

[850—]2. **Same—Assessor to file certificate—Compensation.**—The assessor shall file such certificate with the town clerk of his town, and no compensation shall be allowed such assessor, by the town board, for his services until the provisions of this act shall have been complied with. ('07 c. 87 § 2)

[850—]3. **Borough board of equalization—Review of assessments—Powers and duties—Certificate.**—The borough council of every borough in this state shall constitute and be a borough board of equalization and shall be sworn according to law as such board

and meet in the council room of the borough on the first Monday of July of every year, for the purpose of reviewing the assessment of real and personal property within and for said borough, as the same is assessed and returned by the borough assessor, and shall alter, revise, amend and equalize said assessment as it deems just and proper. A majority of such board shall constitute a quorum to transact business. Such board of equalization is vested with and shall perform all the powers and duties which are or may be vested in or imposed upon either town or county boards of equalization under the general laws of the state so far as applicable, but shall not be restricted by any limitations in respect to reducing aggregate sums of real or personal property as returned by the assessor, and may raise the valuation of any real estate without notice to the owner. Said board of equalization may sit from day to day or adjourn from time to time as it may deem proper, until it shall have completed the equalization of said assessment. It shall complete such equalization on or before the third Monday of July of each year, and shall have power to employ such clerk or clerks as may be necessary to complete the same within said time, and said assessment when so equalized shall be subject to review only by the state board of equalization. Every person aggrieved by an assessment shall have the right to appear before such board and present his grievance for its consideration. When the assessment roll shall have been revised by the board of equalization and the proper corrections made therein, and on or before the third Monday of July, the same shall be returned to the county auditor of the county in which the borough is situated. After such equalization, the borough clerk shall attach to the assessment roll a certificate, duly signed by him, and attested by the borough seal, which may be substantially in the following form:

"I hereby certify that the assessments in the assessment roll to which this certificate is attached have been equalized by the board of equalization of the borough of..... (here insert the name of borough) and appear therein as so equalized by such board.

.....  
Borough Clerk."

And such equalization shall require no further authentication.  
(1907 c. 248 § 1)

**Historical.**—"An act to constitute borough councils, boards of equalization, and to prescribe and define their duties and powers." Approved April 19, 1907. Section 2 repeals inconsistent acts.

### 853. Correcting false lists and returns.

Cited in *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

## EQUALIZATION OF ASSESSMENTS.

### 859. County board of equalization.—\* \* \*

4. *When to be reduced.*—They shall reduce the valuation of each class of personal property enumerated in section 835, which, in their opinion, is returned above its true and full value to such sum as they believe to be the true and full value thereof; and upon complaint of any party aggrieved, being a non-resident of the town or district in which his property is assessed, they shall reduce the aggregate valuation of the personal property of such individual, or of any class of personal property for which he is assessed, which in their opinion has been assessed as too large a sum, to such sum as they believe was the true and full value of his personal property or such class. (R. L. § 859, subd. 4, as amended by Laws 1907, c. 460, § 1.)

**In general.**—The action of the city and state boards of equalization is designed to secure a just demand on the part of the city to be collected by proceedings judicial in their nature. The provisions with reference thereto, and especially with reference to the giving of notice of meetings, are directory, and

not mandatory. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

**Subd. 2. Real property—When to be reduced.**—To render available as a defense in proceedings to obtain judgment for the taxes for the succeeding year, the claim that the valuation was unfair and unequal by reason of the fact that subsequent to the original assessment and prior to the 1st of May the following year timber had been removed, reducing the value of the land, it must appear the original assessment being fair, that the facts were presented to the board and application made for a readjustment of the assessment. The board would have power and it would be its duty to hear and act upon such application. *State v. Atwood Lumber Co.*, 96 Minn. 392, 105 N. W. 276.

**Subd. 3. Personal property—When may be raised.**—The Minneapolis board of equalization, which by the charter has power to revise, amend, and equalize the assessment, and is vested with the powers of county boards of equalization, has power to amend the assessment roll by adding taxable property not included in the assessor's list. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

### 863. State board of equalization—Duties.

See sections [1038—] 49, [1038—] 53, and notes thereunder.

See note under section 859.

## LEVY AND EXTENSION.

### 871. Rate of levy.

**In general.**—The reasonable cost of making repairs upon a courthouse is not unlawful, though the amount thereof, added to other items of current expense, exceeds the statutory limitation of the taxing power of the county. *Upton v. Strommer*, 101 Minn. 97, 111 N. W. 956.

See section [871—] 1.

[871—]1. **Same.**—There shall be levied annually on each dollar of taxable property in the state (other than such as is by law otherwise taxed) as assessed and entered on the tax list for the several purposes enumerated, taxes at the rate 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 of less than one million dollars, 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 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 of less than one hundred thousand dollars, and the rate of such tax last mentioned shall not exceed one-half of one per cent in any township. In addition to the foregoing, in each township such sum as may be voted at the annual town meeting for road and bridge purposes and for the support of the poor, respectively, in and for said township; provided, that the rate of taxation in any town for road and bridge purposes shall not exceed ten mills per dollar, and the tax for poor purposes shall not exceed five mills per dollar. 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 fifteen mills, for the support of the school, or one per cent for the erection of a school house. Provided, that the aforesaid limitation 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, town(ship) 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. (G. S. 1894, § 1558, as amended by Laws 1899, c. 117, and Laws 1907, c. 404, § 1.)

**Historical.**—G. S. 1894, § 1558, as amended by Laws 1899, c. 117, was amended, as above set forth, by section 1 of “an act to amend chapter sixty-nine of the General Laws of the State of Minnesota, for the year 1905, in relation to the rate of taxes for road and bridge purposes in any township of this state,” approved April 24, 1907.

G. S. 1894, § 1558, was Laws 1878, c. 1, § 49. Laws 1878, c. 1, and Laws 1899, c. 117, were repealed by R. L. §§ 5531, 5543; the provisions of said amended section 1558 being incorporated in R. L. § 871. G. S. 1894, § 1558, as amended by Laws 1899, c. 117, was amended by Laws 1905, c. 69, referred to in the title of the present act.

See section next following.

**[871—]2. Rate of levy in certain counties.**—The county board of any county having a taxable valuation of less than two million five hundred thousand dollars and more than one million dollars, may levy, for county purposes, such amount in excess of existing limitations as may be necessary to defray ordinary county expenses, but the total rate for county purposes shall not exceed eight mills. ('09 c. 462 § 1)

**Historical.**—“An act relating to tax levy for county purposes in certain counties.” Approved April 23, 1909.

### COLLECTION BY TREASURER.

**880. Notice of rates.**—On receiving the tax list from the auditor, the treasurer shall, if directed by the county board, give three weeks' published notice specifying the rates of taxation for all general purposes, and the amounts raised for each specific purpose. If so directed by the county board, he shall visit such places in the county as he deems expedient for the purposes of receiving taxes, and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. ('07 c. 400)

**881. Tax receipts—Duplicates.**

G. S. 1894, § 1565, cited in *State ex rel. Fitzgerald v. Foot*, 98 Minn. 467, 108 N. W. 932.

### ACCOUNTING AND DISTRIBUTION OF FUNDS.

**885. When treasurer shall pay funds.**

**Action against treasurer.**—In an action by county commissioners against a treasurer and his bondsmen, the complaint stated a cause of action based upon his failure to account for and pay over the full amount of taxes collected. *Board of County Com'rs of Itasca County v. Miller*, 101 Minn. 294, 112 N. W. 276.

**887. Distribution of interest, penalties and costs.**

See section [887—]1.

**[887—]1. Same.**—All penalties and interest accruing upon any tax levied by special assessment or otherwise, for local purposes, on real estate in any incorporated city, borough or village shall be apportioned to the general revenue fund of the city, borough or village where the real estate is situated, and all other penalties, costs and interest collected on real estate taxes shall be apportioned one-half to the county revenue fund and the other half to school districts of the county in the manner provided for the distribution of other school funds by section 3763 of the General Statutes of 1894 as amended by chapter 49 of the General Laws of 1897. (Laws 1902, c. 2, § 51, as amended by Laws 1903, c. 324, § 1, and Laws 1905, c. 239, § 1.)

**Historical.**—“An act to amend section 51, chapter 2 of the Laws of 1902, as amended by section 1, chapter 324 of the General Laws of 1903, relating to the distribution of penalties, costs and interest on real estate taxes.” Approved April 18, 1905.

Laws 1902, c. 2, and Laws 1903, c. 324, were repealed by R. L. §§ 5545, 5546; the provisions of Laws 1902, c. 2, § 51, as amended being incorporated in sec-

tion 887. So far as the amended section above set forth differs from said section 887, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

### DELINQUENT PERSONAL PROPERTY TAXES.

#### 889. Treasurer to file delinquent list in court—Answer—Trial.

Cited in *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

**Delinquent list.**—In an action to enforce payment of delinquent taxes the list establishes a prima facie case. *State v. Backus-Brooks Co.*, 102 Minn. 50, 112 N. W. 863.

#### 891. Payment under protest.

**In general.**—As to the right of recovery for taxes paid under protest, see *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

See note under section 985.

Cited in *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

#### 893. Citation to delinquents—Service—Default judgment.

Cited in *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

**Service of citation.**—As to the sheriff's fees for service, see note under section 898.

#### 896. Citation prima facie evidence—Defenses.

**Defenses inadmissible by answer or on citation.**—That absolute equality in taxation is not attained is no defense to a proceeding to collect a tax admittedly less than on the basis of the actual value of the property. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

**Defenses admissible.**—Where defendant was the owner of stock, which had never been listed or assessed, the court correctly excluded the omitted stock as a factor in determining the amount of the judgment. *State v. Nelson*, 119 N. W. 1058.

**Formal defects.**—The burden is upon defendant, not only to show errors in the proceedings culminating in the levy of taxes, but also to show that such errors resulted to his prejudice and that such taxes were unfairly or unequally assessed. Irregularities in keeping the records of the proceedings of the state board of equalization did not constitute a defense. *State v. Backus-Brooks Co.*, 102 Minn. 50, 112 N. W. 863.

Failure of the city and state boards of equalization to give notice of meetings is no defense, unless it is shown to have resulted prejudicially, as in an unfair or unequal assessment. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

#### 898. Sheriff's fees.

**In general.**—The sheriff of Ramsey county is entitled, for services rendered in proceedings to enforce the payment of delinquent personal property taxes, to such fees only as are prescribed by this chapter. That he has erroneously charged a fee for serving a citation, which is included in the judgment, does not entitle him to recover the amount from the county. *Miesen v. Ramsey County*, 101 Minn. 516, 112 N. W. 874.

[901—]1. **Interest.**—Whenever a judgment has heretofore been entered and docketed, or shall hereafter be entered and docketed for the recovery of taxes, except in the case of real estate tax judgments provided for in section 919, R. L. 1905, the same shall bear interest until paid at the rate of six per cent per annum. ('09 c. 448 § 1)

**Historical.**—"An act providing for interest upon judgments for the recovery of taxes in certain cases." Approved April 22, 1909.

### DELINQUENT REAL ESTATE TAXES.

#### 904. When delinquent—Penalty.

**Liability of treasurer.**—In an action by county commissioners against a treasurer and his bondsmen, the complaint stated a cause of action with respect to his failure to collect penalties on delinquent taxes. The omission of the auditor to furnish statement including penalties was matter of affirmative defense. *Board of Com'rs of Itasca County v. Miller*, 101 Minn. 294, 112 N. W. 276.

## PROCEEDINGS FOR COLLECTION OF DELINQUENT REAL ESTATE TAXES.

## 905. Delinquent list—Filing—Effect.

**Statement of amount due.**—The test of sufficiency is whether the statement would inform a man of ordinary intelligence with reasonable certainty of the amount. *Salisbury v. Stenmoe*, 96 Minn. 467, 105 N. W. 416.

A statement of the amount of taxes, in which the dollars were separated from the cents by the usual ledger line, was sufficient. *Stein v. Hanson*, 99 Minn. 387, 109 N. W. 821.

**List—What taxes included.**—The exception of parcels bid in by the state and not assigned or redeemed was introduced, in view of the decision in *State v. Camp*, 79 Minn. 343, 82 N. W. 645. *Gates v. Keigher*, 99 Minn. 138, 108 N. W. 860.

## FILING THE LIST.

## 908. Designation of newspaper.

**When board must act.**—Under G. S. 1894, § 1581, the designation might be made at an adjourned meeting. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

**Sufficiency of designation.**—Certified copy of a resolution recommending the acceptance of the bid of the Minneapolis Tribune, and that the contract be awarded to "them," held sufficient. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

## 909. Publication of notice and list.

**Presumptions.**—Where the record sets forth the manner in which service of a summons or other jurisdictional notice was made, and such service is ineffectual to confer jurisdiction, it will not be presumed that a valid service was made in some other way. *Holmes v. Loughren*, 97 Minn. 83, 105 N. W. 558.

## 913. Affidavit of publication.

**Affidavit.**—The omission of the notary's seal renders an affidavit inoperative. *Holmes v. Loughren*, 97 Minn. 83, 105 N. W. 558.

## 914. What defects jurisdictional.

G. S. 1894, § 1582, cited in *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

**Judgment.**—The judgment itself determines and defines the character of the lien. *Gates v. Keigher*, 99 Minn. 138, 108 N. W. 860.

## CONCLUSIVENESS OF THE JUDGMENT.

## 915. Who may answer—Form.

**Defense of unfair, unequal, partial, or excessive assessment.**—To render available as a defense the claim that the valuation was unfair and unequal by reason of the fact that subsequent to the original assessment and prior to the 1st of May a large body of timber had been cut and removed, thereby greatly reducing the value of the land, it must appear, the original assessment being fair and in accordance with the true value of the land, that the facts showing the reduction in its value were presented to the board of equalization and an application made for a readjustment of the assessment. Whether such application would be required, if the assessment were fraudulently excessive, *quære*. *State v. Atwood Lumber Co.*, 96 Minn. 392, 105 N. W. 276.

**When prejudice must be shown.**—Failure of a board of equalization to give notice is no defense, unless it is shown to have resulted prejudicially, as in an unfair or unequal assessment. *State v. Cudahy Packing Co.*, 103 Minn. 419, 115 N. W. 645, 1039.

## 919. Application for judgment—Defenses.

See note under section 914.

## TAX SALES.

## TAX JUDGMENT SALE.

## 929. Certificate of sale—Form—Effect—Record.

**Rights of certificate holder—Prior taxes.**—A title based on a later sale on an earlier tax lien may prevail over a title based on an earlier sale under a later lien. The purchaser of a certificate under G. S. 1894, c. 11, may be required to protect his interest, not only as against subsequent, but also as against prior taxes. G. S. 1894, §§ 1610, 1631, 1697, authorized the state to enforce the

lien of a tax delinquent and unpaid subsequently to a prior sale on a later lien. *State v. Kipp*, 82 N. W. 1114, 80 Minn. 119, followed and extended. The holder of a valid state assignment certificate, based on a sale for the taxes of 1896 made in 1898, which was properly perfected by service of notice to eliminate the right of redemption, acquires a title upon expiration of the time of redemption, subject to being divested by a title based on prior taxes for 1892, resulting in a void judgment in 1894, on which a forfeited sale was made in 1900 under Laws 1899, c. 322. *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

Where lands have been sold for taxes, and the purchaser perfects his title thereunder, the state cannot impeach such title by a resale of the land for taxes due and unpaid for prior years. Following *State v. Camp*, 79 Minn. 343, 82 N. W. 645. Distinguished, as not being a refundment case, from *State v. Kipp*, 80 Minn. 119, 82 N. W. 1114; *Allen v. Ramsey County*, 98 Minn. 341, 108 N. W. 301; *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377; *Gates v. Keigher*, 99 Minn. 141, 108 N. W. 860.

A sale pursuant to Laws 1899, c. 322, does not change the date of the lien of the state for the prior delinquent taxes, where they and the judgments therefor are valid. *Oakland Cemetery Association v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377, distinguished. *Brodie v. State*, 102 Minn. 202, 113 N. W. 2.

Where lands have been sold for taxes, the state cannot impeach the title by a resale of the land for taxes due and unpaid for prior years. *Gates v. Keigher*, 99 Minn. 138, 108 N. W. 860, followed and applied. Where the state undertakes to tack taxes anterior to plaintiff's tax title to a subsequent forfeited sale, the objection should be interposed by answer. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

— **Change in procedure.**—The rule that the rights of parties in tax proceedings are to be determined by the law in force at the time of the tax sale and the issuance of the certificate does not prevent the Legislature from making changes in the manner of enforcing the lien which do not substantially impair any of the obligations of the contract. *State ex rel. National Bond & Security Co. v. Krahmer*, 105 Minn. 422, 117 N. W. 780.

See note under section [956—] 2.

#### RIGHTS OF CERTIFICATE HOLDER.

##### 930. Who may purchase—Owner.

G. S. 1894, § 1599, cited in *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377; *Brodie v. State*, 102 Minn. 202, 113 N. W. 2.

[933—]1. **Record of assignment of certificate or deed on sale for taxes or special assessments.**—The assignee or transferee of a certificate or deed issued upon the sale of land for general taxes or for special assessments for local improvements, shall present the instrument of transfer and a copy thereof to the official custodian of the record of such sale. Such officer shall thereupon certify such copy to be correct and shall file the same in his office and note such transfer upon the record. All such instruments heretofore executed, together with a like copy shall be presented in like manner to such officer within one year from the passage of this act, whereupon such officer shall make a record of such assignment or transfer in the manner above set forth. The record as herein provided of any such instrument shall be taken and deemed notice to parties. Provided, that the recording in the office of the register of deeds of any such assignment or any quitclaim deed transferring any interest in such land shall have the same force and effect as the record above provided. ('09 c. 340 § 1)

**Historical.**—"An act to provide for a record of assignments or transfers of certificates or deeds issued upon tax sale or sale for special assessments and defining the effect of such record and of such instruments not so recorded." Approved April 21, 1909.

[933—]2. **Same—Effect of failure to record.**—Every such assignment or transfer not so recorded shall be void:

First. As against any subsequent purchaser for a valuable consideration who has caused a record of the transfer to him to be made

in the manner above provided, before the recording of the prior transfer.

Second. As against any party claiming under a judgment or decree of a court of competent jurisdiction heretofore entered or hereafter to be entered in an action in which the party appearing to be the owner or holder of such certificate or deed as shown by the record in the office of such official custodian, was made a party and was bound by the judgment or decree. ('09 c. 340 § 2)

**935. Lands bid in for state—Assignment—Certificate.**

G. S. 1894, § 1601, cited in *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

**Certificate of assignment—Several parcels.**—Where a person purchases the interest of the state in several parcels, they may all be included in one certificate, construing G. S. 1894, § 1601. *McLeod v. Matteson*, 99 Minn. 46, 108 N. W. 290.

— **Time of assignment.**—A county auditor has authority, under this section, to execute a state assignment certificate for lands sold at regular delinquent tax sale after more than three years have elapsed from the date of the sale, and before proceedings to sell under R. L. §§ 936, 937, have been initiated in any one year. *State ex rel. Shaw v. Scott*, 105 Minn. 69, 117 N. W. 417.

**CERTIFICATE OF ASSIGNMENT.**

**936. Unredeemed lands—Forfeited sale.**—All parcels of land bid in for the state, and not assigned to purchasers or redeemed within three years from the date of the tax sale at which they are offered, shall be disposed of as provided in this section and section 937. In August of each year the county auditor shall prepare and transmit to the state auditor a list of all such lands in his county then remaining unredeemed, together with a list of all taxes, penalties, interest and costs charged thereon. Such sale shall take place at the county seat on the second Monday of November of each year and shall continue from day to day until completed, and the county auditor shall publish a notice once each week for three successive weeks in such county of the time and place when said lands will be offered for sale. (R. L. § 936, as amended by Laws 1907, c. 430; § 1.)

See an act entitled "An act to provide for the settlement and compromise of certain taxes and assessments in counties of this state having more than 75,000 inhabitants and less than 150,000 inhabitants." Approved April 18, 1905 (Laws 1905, c. 264).

This act provided for the settlement and compromise of taxes on lands forfeited to the state for the year 1890, or for prior years, and not sold or assigned to an actual purchaser before the passage of the act, together with unpaid assessments levied prior to the year 1898 for which the property had not been sold to an actual purchaser. The time within which settlement might be made was limited to six months from the date of passage of the act.

G. S. 1894, § 1616, cited in *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

See note under section 935.

**What law governs.**—Lands were sold for the delinquent taxes of 1896 to 1905, in November, 1906, at forfeited tax sale, for an amount less than authorized by law and not authorized by the State Auditor. After the right of redemption had been eliminated by notice, a Governor's deed was executed. Held, that the sale and subsequent proceedings were governed by R. L. §§ 936-940, and not by Laws 1902, c. 2. *Hage v. St. Paul Land & Mortgage Co.*, 120 N. W. 298.

**Notice of sale.**—Section 936 is a revision and restatement of Laws 1902, c. 2, § 52, and reference to lands forfeited under section 936 in the notice for a forfeited sale is in legal effect a reference to lands forfeited under Laws 1902, c. 2, § 52. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

**Redemption.**—Under sections 936-940, lands bid in to the state and not assigned to purchasers within three years held subject to redemption, and on such redemption the person redeeming must pay the full consideration of the sale, but is entitled to a return from the state of the surplus above the amount due it. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

**Deed under prior laws.**—A tax deed to land bid in for the state at a sale in 1901, which was executed in 1904 to a purchaser, by the county auditor in

accordance with G. S. 1894, §§ 1616, 1617, is not void because it failed to conform with Laws 1902, c. 2, §§ 53, 54. *Stein v. Hanson*, 99 Minn. 387, 109 N. W. 821.

**937. Conduct of sale.**—Such sale shall be conducted by the county auditor in such manner as shall be directed by the state auditor. Each parcel shall be sold to the highest cash bidder therefor, but not for a less sum than the aggregate taxes, penalties, interest and costs charged against it, unless the cash value thereof, fairly determined by the state auditor, shall be less than such aggregate; provided, however, that all parcels bid in for the state for taxes for the year 1901 or prior years may be disposed of for one-half of the total taxes as originally assessed. The purchaser shall forthwith pay the amount of his bid to the county treasurer, and the officer conducting the sale shall give to him a certificate in a form prescribed by the attorney general, in which shall be set forth the name of the purchaser, a description of the land sold, the price paid and the date and place of the sale. The auditor and treasurer of the county shall attend such sale, the former to make a record of all sales thereat, and the latter to receive all moneys paid on account thereof. (R. L. § 937, as amended by Laws 1907, c. 430, § 2.)

See note under section 935.

**Purchaser must pay current taxes.**—Payment of current due taxes was mandatory, when a deed was executed under G. S. 1894, §§ 1616, 1617, and, when omitted, such deed was void. And Laws 1903, c. 360, being an act to legalize such deeds where the current taxes were not included in the amount of the price, is unconstitutional. *Olson v. Cash*, 98 Minn. 4, 107 N. W. 557.

**Time of payment.**—Where bids were made just before close of the day of sale, and the full consideration was paid the day following, there was a compliance with the requirement that the purchaser shall pay "forthwith." *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

**Attendance of treasurer.**—The absence of the treasurer at the time a bid was made was at most an irregularity, not involving the sale. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

### 938. Purchaser to receive deed.

See section [938—]1.

**Validity of deed.**—Under sections 938 and 940, a tax deed to lands forfeited to the state held valid, though the sale was for a less amount than authorized by law or the State Auditor. *Hage v. St. Paul Land & Mortgage Co.*, 120 N. W. 298.

**[938—]1. Same—How and when.**—Any person, or his heirs or assigns, receiving the certificate described in the preceding section, shall be entitled to a deed from the state, and upon presentation of such certificate to the governor he shall be authorized to execute a deed in the name of the state to the person entitled [t]hereto, conveying the lands therein described, and every such deed shall vest the grantee with complete title to such lands, subject to the defenses that the tract or parcel was exempt from taxation, or that the taxes had been paid for which such tract or parcel was sold at the said tax sale. 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 other deeds, and shall be evidence in like manner. But any one having any interest in any such tract or parcel of land shall have the right to redeem said land as provided in title four of this chapter, and no such tax deed shall be issued, nor shall the full period of redemption expire until sixty days shall have elapsed after the filing of proof of service of notice made in the same manner as provided in sections forty-seven and forty-eight of this chapter. (Laws 1902, c. 2, § 55, as amended by Laws 1905, c. 211, § 1.)

**Historical.**—"An act to amend section fifty-five, chapter two of the General Laws of 1902, entitled 'An act relating to the taxation of real estate; providing for penalties relating thereto; the entry of tax judgments, and the sale and

disposition of such delinquent real estate; redemption from such sale, and the payment of taxes upon real estate so delinquent." Approved April 17, 1905.

Section 2 repeals inconsistent acts.

Laws 1902, c. 2, was repealed by R. L. § 5545; the provisions of section 55 thereof in part being incorporated in section 738. So far as the amended section above set forth differs from said section 738, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

**940. Certificate as evidence—Grounds for setting aside—Evidence of payment—County and state, when parties.**

See *Hage v. St. Paul Land & Mortgage Co.*, 120 N. W. 298, cited in note under section 938.

**Form of certificate.**—Form of certificate prescribed by the Attorney General for a forfeited tax sale held valid. *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

SETTING ASIDE SALES.

**941. Action to set aside—Limitation.**

**Necessity of valid tax judgment.**—A statute of limitations is not put in operation in favor of a party claiming under a tax sale, unless there is behind it a valid tax judgment. *Holmes v. Loughren*, 97 Minn. 83, 105 N. W. 558.

Where a certificate is void on its face, the limitations as to an action to test its validity do not apply. *Babcock v. Johnson*, 121 N. W. 909.

**944. Land bid in for state—Rents attached.**

Cited in *State ex rel. Shaw v. Scott*, 105 Minn. 69, 117 N. W. 417.

G. S. 1894, § 1606, cited in *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

REDEMPTION FROM TAX SALES.

**945. By whom—When.**

Cited in *State ex rel. Shaw v. Scott*, 105 Minn. 69, 117 N. W. 417.

**946. Amount payable.**—Any person redeeming any parcel of land shall pay into the treasury of the county, for the use of the funds or person thereto entitled:

1. If such parcel was bid in for the state and its right has not been assigned, the amount for which the same was bid in, with interest at twelve per cent per annum from the date of sale, and the amount of all delinquent taxes, penalties, costs, and interest thereon at said rate from and after the time when such taxes become delinquent.

2. If the right of the state has been assigned pursuant to section 935, the amount paid by the assignee with interest at twelve per cent per annum from the day when so paid, and all unpaid delinquent taxes, interest, costs, and penalties accruing subsequently to such assignment; and if the assignee has paid any delinquent taxes, penalties, costs, or interest accruing subsequently to the assignment, the amount so paid by him, with interest at twelve per cent per annum from the day of such payment.

3. If such parcel was sold to a purchaser, the amount paid by such purchaser, with interest at the rate for which such parcel was sold, and all unpaid delinquent taxes, interests, costs and penalties, accruing subsequently to such sale; and if the purchaser has paid any delinquent taxes, penalties, costs, or interest accruing subsequently to the sale, the amount so paid by him, with interest at the rate of twelve per cent per annum from the date of such payment.

Provided, that if the right of the state has been assigned pursuant to section 935, or if such parcel was sold to a purchaser and the certificate of such assignment or purchase shall be presented to the auditor by the owner thereof for cancellation, the auditor shall cancel such certificate and mark opposite the description of the piece or parcel, described in such certificate upon the judgment book, and tax list for the year or years covered by said certificate,

the words, "Redeemed by cancellation of certificate." (R. L. § 946, as amended by Laws 1909, c. 339, § 1.)

**Land bid in for state and assigned.**—Where a tax sale has been adjudged void, the lien of the state for such taxes, interest, penalties, and costs becomes revived, but does not accrue and become delinquent, within G. S. 1894, § 1602, subd. 2, until the state has taken steps to enforce its lien by including the same in the taxes of the current year, or as provided by law. *Minnesota Debenture Co. v. United Real Estate Corp.*, 99 Minn. 287, 109 N. W. 251.

**Land sold to purchaser.**—Where land is sold to a purchaser, and he again purchases it at a sale for subsequent taxes thereon, the owner, upon redeeming from the first sale, is not bound also to pay the amount which would be necessary to redeem from the later sale. *Brodie v. State*, 102 Minn. 202, 113 N. W. 2.

Cited in *Minnesota Debenture Co. v. Scott*, 106 Minn. 32, 119 N. W. 391.

#### 950. Undivided part.

**In general.**—G. S. 1894, § 1605, permitting the holder of an undivided interest to redeem by paying a proportionate part of the amount required to redeem the whole, does not necessarily remove the inhibition against the assertion of an adverse tax title by one co-tenant against another. *Hoyt v. Lightbody*, 98 Minn. 189, 108 N. W. 843, 116 Am. St. Rep. 358.

#### 956. Notice of expiration of redemption.

Cited in *State ex rel. Shaw v. Scott*, 105 Minn. 69, 117 N. W. 417.

**Notice—What law governs.**—A notice pursuant to the law in force at the time of sale is sufficient. *Stein v. Hanson*, 99 Minn. 387, 109 N. W. 821.

The rule that rights in tax proceedings are governed by the law in force at the time of the sale applied. *Lawton v. Barker*, 105 Minn. 102, 117 N. W. 249.

— **Prerequisites to issue of notice.**—A notice held not invalidated because it did not appear that the holder of the tax certificate presented it under G. S. 1894, § 1654, in order that the notice might issue. In an action to determine the validity of a tax title, it is held that there was no evidence that the holder of the tax certificate presented it to the auditor, in order that notice to eliminate redemption should be issued, does not invalidate the notice. *Slocum v. McLaren*, 106 Minn. 386, 119 N. W. 406.

— **Notice, to whom delivered.**—The notice was not invalidated because there was no proof that the auditor delivered the notice to the holder of the certificate, or that such person ever delivered the notice to the sheriff for service, *Slocum v. McLaren*, 106 Minn. 386, 119 N. W. 406.

— **Form in general.**—The form of notice prescribed by Laws 1902, c. 2, § 47, must in all substantial respects be followed. A notice which omitted to state (1) the year in which the taxes upon which the sale was founded were delinquent and (2) the rate of interest necessary to be paid on the amount required to redeem, the same being contained in the statutory form, held void. *Lawton v. Baker*, 105 Minn. 102, 117 N. W. 249.

— **Statement of amount required to redeem.**—The purchaser or assignee need not insert in the notice the amount of the state's lien arising from a prior tax sale, which has been adjudged void. *Minnesota Debenture Co. v. United Real Estate Corp.*, 99 Minn. 287, 109 N. W. 251.

Where land is sold, and the purchaser again purchases it at a sale for subsequent taxes, it is not necessary to include the amount which would be necessary to redeem from the second sale in a notice of the expiration of the time for redemption from the first sale. *Brodie v. State*, 102 Minn. 202, 113 N. W. 2.

A notice was not insufficient because it stated that the amount required to redeem was a named sum, "with interest on said sum at 12 per cent. [since a named date], exclusive of costs to accrue upon redemption." *Slocum v. McLaren*, 106 Minn. 386, 119 N. W. 406.

— **To whom addressed—Service.**—Lands assessed to "A. et al." are in legal effect assessed to A. and other parties unknown, and when the sheriff receives a notice in which the lands appear to be so assessed, if the lands are vacant and unoccupied, he may serve it on such unknown owners by publication. *Berg v. Van Nest*, 97 Minn. 187, 106 N. W. 255.

That the notice was directed to Hans C. Hanson, while the notice as published was directed to Hans C. Hansen, was a mere irregularity. *Stein v. Hanson*, 99 Minn. 387, 109 N. W. 821.

In an action by the record owner to quiet title to land on which defendant had a tax title, failure to serve notice of expiration of redemption on plaintiff, who, through another, was in actual possession, avoided the notice. *Wallace v. Sache*, 106 Minn. 123, 118 N. W. 360.

— **Return of service.**—That the return was improperly dated did not deprive the notice of its statutory effect. *Stein v. Hanson*, 99 Minn. 387, 109 N. W. 821.

Sufficiency of return. *Slocum v. McLaren*, 106 Minn. 386, 119 N. W. 406.



**[956—]1. Expiration of redemption—Notice.**—The time for redemption from any tax sale, whether made to the state or to a private person, shall not expire until notice of expiration of redemption as provided in section 47, chapter 2, Laws of 1902, shall have been given. ('05 c. 270 § 1)

**Historical.**—"An act for notice of expiration of redemption from all tax sales." Approved April 18, 1905.  
See R. L. § 5504.

**[956—]2. Notice not to issue after six years from sale—Certificates, when void.**—No notice of the expiration of the time of redemption upon any certificate of tax judgment sale issued to an actual purchaser, or upon any state assignment certificate issued under the provisions of section 1601 of the General Statutes of 1894, shall issue or be served under the provisions of section 1654 of the General Statutes of 1894, or any other law in force at the time of the passage of this act, after the expiration of six years from the date of the tax judgment sale described in any such certificate; nor shall any such certificate be recorded in the office of any register of deeds after the expiration of seven years from the date of such sale. All such certificates upon which such notice of expiration of redemption shall not be issued and served, and such certificate recorded in the office of the proper register of deeds within the times limited by this act, shall be void and of no force or effect for any purpose whatever. ('05 c. 271 § 1)

**Historical.**—"An act relating to tax judgment sale certificates and limiting the time within which notices of expiration of redemption may issue or be served upon such certificates, and limiting the time within which such certificates may be recorded, and declaring void all such certificates upon which such notice is not issued and served and such certificate recorded within the times so limited." Approved April 18, 1905.

By section 2, the act took effect January 1, 1906.

**Constitutionality.**—Laws 1905, c. 271, is constitutional. State ex rel. National Bond & Security Co. v. Krahmer, 105 Minn. 422, 117 N. W. 780.

Cited in Babcock v. Johnson, 121 N. W. 909.

**957. Fees for notice.**—For serving such notice the sheriff shall receive that same fees as for the service of summons in a civil action in the district court, except that where more than one notice is served upon one person or corporation at the same time and place the sheriff shall be entitled to charge but one mileage. Such fees and the printer's fees for publishing such notice shall be paid in the first instance by the holder of the tax certificate, and repaid by the party offering to redeem such land before a certificate of redemption shall issue. (R. L. § 957, as amended by Laws 1907, c. 85.)

**960. Interest on purchase money.**

Cited in State v. New England Furniture & Carpet Co., 119 N. W. 427.

**961. Interest when land not in list.**

Cited in State v. New England Furniture & Carpet Co., 119 N. W. 427.

## REFUNDMENT.

**964. In case of exemption.**—When any such parcel of land shall have been sold to a purchaser or bid in for the state, and at the time the taxes were levied the land was exempt from taxation, the money paid on such sale, or on an assignment by the state, with interest thereon at the rate of seven per cent per annum, shall be refunded to such purchaser or assignee, or his assigns or legal representatives. Such refundment shall be made only upon the certificate of the county auditor that the parcel was exempt from taxation at the date of the levy of the taxes, with the approval of the Minnesota tax commission endorsed thereon. Before such certifi-

cate is made the applicant shall present to the county auditor proofs of such exemption: (R. L. § 964, as amended by Laws 1909, c. 160, § 1.)

**965. On judgment—County to be party:**

**Proceedings for refundment—Parties.**—Where a tax judgment had been adjudged void, failure to make the county a party in mandamus to compel the auditor to deliver warrants for payment of the amount of the tax certificates was fatal. *State ex rel. Plondke v. Whitney*, 101 Minn. 539, 111 N. W. 1134.

**Prior laws—Enforcement of tax by state.**—G. S. 1894, § 1610, to the effect that taxes refunded upon a void tax judgment should be included in the next delinquent tax sale, was directory, not mandatory, and such delinquent taxes might be enforced at any time within six years from the refundment. *Allen v. Ramsey County*, 98 Minn. 341, 108 N. W. 301.

Where a sale has been adjudged void, the lien of the state becomes revived, but does not become delinquent until the state has taken steps to enforce its lien by including the same in the taxes of the current year, or as provided by law. *Minnesota Debenture Co. v. United Real Estate Corp.*, 99 Minn. 287, 109 N. W. 251.

See note under section 946.

— **Rights of certificate holder.**—Under Laws 1878, c. 1, § 87, entitling the holder of a certificate which had been adjudged void to refundment of the amount paid at the sale, with interest, to a lien on the land for all taxes, penalties, or interest paid subsequent to the purchase, and to a right to enforce the lien by action, the right to a lien was given for payments of taxes not delinquent, as well as for such as were delinquent when paid. The rights of a purchaser under the statute were not affected by its repeal. The statute of limitations did not begin to run against an action to enforce the lien till the sale was adjudged invalid. The statute was notice that the certificate holder had the right to pay subsequent taxes. *Comstock, Ferre & Co. v. Devlin*, 99 Minn. 68, 108 N. W. 888.

**966. Limitation on right.**

See note under section next preceding.

[968—]1. **Taxes paid by mistake on railroad lands.**—That whenever it shall be made to appear to the board of county commissioners of any county that any person has heretofore by mistake paid taxes on real estate of which he believed at the time of such payment that he was the owner of, which real estate he never owned any right, title or interest therein, and which real estate had never been sold to any person by such railroad company, but was at the time of the assessment and payment of such taxes owned by a railroad company and exempt from taxation, and that such person paid said taxes in good faith believing that he was the owner of such real estate, the said county commissioners shall certify the facts to the state auditor and the latter officer shall, if he is satisfied upon consultation with the attorney general that the facts stated by the petitioner requesting reimbursement are true, authorize the refunding to the person who has paid such taxes the full amount so paid, together with interest thereon from the date of such payment, and thereafter the county auditor shall draw an order for the sum so authorized to be refunded on the county treasurer of said county, to be countersigned and paid as other county orders; the several funds, state, county, town, city and village, school and other shall be charged with their several proportions of the amount so refunded. ('05 c. 308 § 1)

**Historical.**—"An act to provide for reimbursing persons who have by mistake paid taxes on railroad lands which were exempt from taxation." Approved April 19, 1905.

See R. L. § 5504.

## ACTIONS INVOLVING TAX TITLES.

**969. Tax judgment or sale set aside.**

**What law governs.**—This section does not apply to sales made before passage of the law. *Jenks v. Henningsen*, 102 Minn. 352, 113 N. W. 903.

## MISCELLANEOUS PROVISIONS.

**[975—]1. Assessments for local improvements in certain cities—Priority of liens.**—That all assessments upon real property for local improvements made or levied by the proper authorities of any city in the State of Minnesota now or hereafter containing a population of over 50,000, according to the last national or state census, shall be a paramount lien upon the land upon which they are imposed from the date of the warrant issued for the collection thereof, and of equal rank with the lien of the state for taxes which have been or may be levied upon said property under the general laws of the state; and that the general rules of law as to priority of tax liens shall apply equally to the liens of such assessments and to such liens for general taxes, with the same force and effect as though all of the liens aforesaid and all of the taxes and assessments aforesaid, were of the same general character and imposed for the same purpose and by the same authority, without regard to the priority in point of time of the attaching of either of said liens, and a sale or perfecting title under either shall not bar or extinguish the other. ('05 c. 200 § 1)

**Historical.**—"An act regulating the rank and priority of liens for general taxes and assessments for local improvements in cities of more than 50,000 inhabitants." Approved April 15, 1905.

Section 2 repeals inconsistent acts.

See R. L. § 5504.

**[976—]1. Interest on unpaid taxes.**—Whenever any sum becomes due to the State of Minnesota as a tax of any kind whatsoever, and shall remain unpaid for a period of thirty days, it shall draw interest at the rate of 12 per cent per annum from the expiration of said period of thirty days, said interest to be paid and collected with and in like manner as the principal sum. ('07 c. 82 § 1)

**Historical.**—"An act imposing interest on delinquent state taxes." Approved April 3, 1907.

**Interest in general.**—In the absence of statute, delinquent personal property taxes do not bear interest. *State v. New England Furniture & Carpet Co.*, 119 N. W. 427.

**[976—]2. Same—Taxes now due.**—Any and all sums now due to the state as taxes and remaining unpaid for thirty days after the passage hereof, shall draw interest thereafter as provided in section 1[976—1] hereof. ('07 c. 82 § 2)

**[976—]3. Same—Not to apply to certain taxes.**—This act shall not apply to any sum or sums due or to become due to the state as taxes upon which interest or penalties are imposed after they become due or delinquent by any law now in force in this state. ('07 c. 82 § 3)

**980. Right to assess and collect—No limitation.**

**In general.**—Laws 1902, c. 2, § 82, applies to taxes delinquent at the time of its passage, as to which the limitation had not then run. The state was not estopped to enforce the collection of taxes by the fact that, at the time the appellants purchased the land upon which they were assessed, there was an erroneous entry on the list in the auditor's office to the effect that the taxes had been paid, nor by the fact that the auditor indorsed upon their deed a statement that the taxes were paid. *State v. Foster*, 104 Minn. 408, 116 N. W. 826.

**985. Deeds, etc.—Payment before transfer and record—Auditor's certificate—Penalty, etc.**

**Payment before record—Protest.**—One who is unable to place his deed on record, because of taxes legal in their inception, but illegally demanded, may pay such taxes under protest and recover them by action. *Oakland Cemetery Ass'n v. Ramsey County*, 98 Minn. 404, 108 N. W. 857, 109 N. W. 237, 116 Am. St. Rep. 377.

[1900—]1. **Mortgages, etc.—Register to file list.**—It is hereby made the duty of the register of deeds of each county in this state to make out a list of all mortgages or other real estate securities held, owned, or controlled by the residents of this county, showing the names of the owners or agents, alphabetically arranged, and the amount due on each separate instrument. He shall make out such list according to the records of his office and deliver it to the county auditor on or before the last Thursday of April in each year. ('05 c. 61 § 1)

**Historical.**—"An act making it the duty of the register of deeds of each county to make out a list of mortgages and other real estate securities, and fixing his compensation therefor." Approved March 23, 1905.

Section 3 repeals inconsistent acts.

[1900—]2. **Same—Expenses, how paid.**—The expenses of preparing such list in each county shall be paid by the county on allowance by the county commissioners. ('05 c. 61, § 2)

[1002—]1. **Auditor to furnish statement of tax liens, etc.**—The county auditor; upon written application of any person, shall make search of the records of his office, and ascertain the existence of all tax liens, and tax sales as to any lands described in said application, and shall certify the result of such search under his hand and the seal of his office, giving the description of the land and all tax liens and tax sales shown by such records, and the amount thereof, the year of tax covered by such lien, and the date of tax sale and the name of the purchaser at such tax sale. ('07 c. 431 § 1)

**Historical.**—"An act providing for the furnishing of statements of tax liens and tax sales by the county auditor." Approved April 25, 1907.

[1002—]2. **Same—Compensation—Not to apply to certain counties.**—For such service, the county auditor shall receive a compensation of 25 cents for each lot or tract of land described in said certificate, which compensation shall be in addition to any compensation allowed him by law. Any number of contiguous tracts of land not exceeding one section, assessed as broad acres, or adjoining lots in the same block, in the city or village, shall be considered as one lot or parcel within the meaning of this section, provided, that the provisions of this act shall not apply to counties having a population of more than two hundred thousand. ('07 c. 431 § 2)

#### COMPANIES PAYING GROSS EARNINGS TAX.

[1002—]3. **Annual statement.**—On or before Feb. 1st of each year, every company, joint stock association, co-partnership, corporation or individual, required by law to pay taxes to the state upon a gross earnings basis, shall make and furnish an itemized statement to the Minnesota tax commission and a duplicate to the public examiner, in such form as the public examiner, with the approval of the tax commission, may prescribe, containing a true and just return of the gross earnings for and during the year ending Dec. 31st preceding, verified by the person constituting such company, if a person, or by its president, secretary, treasurer, superintendent, or chief officer in this state, if an association or corporation. Such gross earnings shall be computed in accordance with the method prescribed by law. ('09 c. 504 § 1)

**Historical.**—"An act relating to the returns to be made to the Minnesota Tax Commission and the public examiner by companies, joint stock associations, copartnerships, corporations or individuals required by law to pay taxes to the state upon a gross earnings basis; prescribing the time when such report shall be made, providing penalties for failure to make same and authorizing the public examiner, with the approval of the Minnesota Tax Commission, to prescribe

a uniform system of accounting relating to such gross earnings." Approved April 24, 1909.

Section 6 repeals inconsistent acts.

**[1002—]4. Duties of Tax Commission and Auditor.**—The Minnesota tax commission shall certify such returns of gross earnings with a statement of the per cent and amount due thereon, to the state auditor, who shall then make his draft on such company, joint stock association, co-partnership, corporation, or individual, for the amount of taxes due, and place the same in the hands of the state treasurer for collection. ('09 c. 504 § 2)

**[1002—]5. Failure to make return—Notice—Penalty—Duty of Commission—Warrant for collection.**—If any such company, joint stock association, co-partnership, corporation or individual fails to make return of its gross earnings, and the whole thereof, at the time and in the manner in this chapter provided, the Minnesota tax commission shall notify them of such neglect or default; and if the same continues for thirty days after the service of such notice, such company, joint stock association, co-partnership, corporation, or individual shall be subject to a penalty in an amount equal to twenty-five per cent of the tax imposed upon them, to be added to and collected with such tax; and if there be such neglect or default to make such return for thirty days after the service of such notice, the Minnesota tax commission shall fix the amount of such gross earnings and tax, together with such penalty, upon the best evidence they can obtain, and enter the amount of such gross earnings, tax and penalty in the books of their office, and certify a return thereof, including the amount of such gross earnings so fixed, tax and penalty, to the state auditor, who shall proceed as provided in section two [1002—4] hereof. Such entry shall stand in place of the report required by law to be made by such company, joint stock association, copartnership, corporation, or individual, and the same, or a certified copy thereof, shall, in all courts of the state, for all purposes, be prima facie evidence of the correctness and validity of such tax, or percentage, and penalty, and also the liability of the defendant therefor. The certificate of the treasurer that any such tax or percentage of gross earnings is unpaid and due from any such company, joint stock association, co-partnership, corporation, or individual, and of the amount thereof, and of such penalty, shall be sufficient warrant for the collection, by sale or otherwise, of such tax or percentage of gross earnings, or any part thereof; provided, that nothing herein contained shall be held to repeal any law providing for the payment of interest upon any delinquent taxes. ('09 c. 504 § 3)

**[1002—]6. Uniform system of accounting.**—The public examiner, with the approval of the tax commission, shall have authority and power to prescribe a uniform system of accounting for such companies, joint stock associations, co-partnerships, corporations or individuals and the manner and method of keeping the same relating to the various items constituting or forming a part of said gross earnings. Provided, that in case any such person, company, association, co-partnership or corporation shall be required by the interstate commerce commission of the United States government to keep his, their or its books or accounts in a manner prescribed by such interstate commerce commission, then the method of accounting prescribed by said public examiner for such person, company, association, co-partnership or corporation shall conform as nearly as practicable to the method of accounting prescribed by such interstate commerce commission. ('09 c. 504 § 4)

**[1002—]7. Duty of public examiner.**—Any evasions or violations of the law in respect to such gross earnings, which the pub-

lic examiner may discover as a result of his investigations, shall be by him reported to the governor, and a similar notice, which shall also contain a summary of the errors and omissions in such gross earnings tax return, shall be reported by him to the Minnesota tax commission forthwith. ('09 c. 504 § 5)

**[1002—]8. Records, etc., to be kept for six years.**—That every person, company, joint stock association, co-partnership, or corporation, required by law to pay taxes to the state upon a gross earnings basis, shall keep as a permanent file; and in such a manner as to make them easily accessible at all times for inspection by a properly accredited representative of the public examiner's department, or the railroad and warehouse commission, all books, records, documents, papers and statistics relating to such gross earnings, for at least six years subsequent to the date that such gross earnings tax returns have been rendered to the state. ('09 c. 258 § 1)

**Historical.**—"An act requiring the preservation of records of all companies, joint stock associations, copartnerships, corporations, or individuals required by law to pay taxes to the state upon a gross earnings basis, and prescribing a penalty for the destruction or mutilation of such documents." Approved April 19, 1909.

Section 4 repeals inconsistent acts.

**[1002—]9. What may be destroyed.**—Any detached papers sub-ordinant to statements of gross earnings, or reports compiled in the accounting department, the full details of which are included in other statements or reports on file in as perfect a form, and which have been passed upon in a general examination by the special examiners or representatives of the state, but which have not reached the time limit prescribed in section 1 [1002-8], may, upon the recommendations of such special examiner or representatives, and written approval of the public examiner, be destroyed. ('09 c. 258 § 2)

**[1002—]10. Violation a gross misdemeanor.**—Any person who shall wilfully violate the provisions of this act, shall be deemed guilty of a gross misdemeanor. ('09 c. 258 § 3)

## RAILROAD COMPANIES.

### 1003. Gross earnings tax.

Laws 1903, c. 253, entitled "An act providing for the taxation of railroad properties, the collection of such taxes and repealing acts inconsistent therewith" was submitted to the people at the general election for 1904, and adopted. See Laws 1905, p. 5. Its provisions are given below.

**§ 1. Gross earnings tax.**—Every railroad company owning or operating any line of railway situated within, or partly within, this state, shall during the year 1905, and annually thereafter pay into the treasury of this state in lieu of all taxes and assessments upon all property within this state, owned or operated for railway purposes by such company, including equipment, appurtenances, appendages and franchises thereof, a sum of money equal to four per cent. of the gross earnings derived from the operation of such line of railway within this state; and the annual payment of such sum shall be in full and in lieu of all other taxes and assessments upon the property and franchises so taxed. The lands acquired by public grant shall be and remain exempt from taxation until sold or contracted to be sold, or conveyed, as provided in the respective acts whereby such grants were made or recognized.

**§ 2. Gross earnings defined.**—The term "the gross earnings derived from the operation of such line of railway within this state," as used in section 1 of this act is hereby declared and shall be construed to mean, all earnings on business beginning and ending within the state, and a proportion, based upon the proportion of the mileage within the state to the entire mileage over which such business is done, of earnings on all interstate business passing through, into or out of the state.

**§ 3. Certain acts to apply—Inconsistent acts repealed.**—All acts and parts of acts not inconsistent herewith regulating the payment, collection, time of payment, enforcement or reports involving the amount of taxes upon the gross earnings of railroad companies within this state, or providing penalties for the non-payment of such taxes, are hereby made applicable to this act so far

as may be; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

**§ 4. Collection, how enforced.**—Upon failure to pay the amount of such taxes legally due upon the date heretofore provided by law for the payment thereof, in addition to existing remedies, collection may be enforced in a civil action brought in the name of the State of Minnesota in the district court of any county.

**§ 5. Contesting validity of act.**—Before any railroad company shall be heard to contest or continue to contest the validity of this act or any part thereof, such railroad company shall as a condition precedent thereto, pay into the treasury of the State of Minnesota, the amount of taxes due or payable from such railroad company under the existing tax laws of this state applicable to such company.

**To what companies applicable.**—Laws 1903, c. 253, applies to a company which at the time the act was ratified was paying 2 per cent. on its gross earnings, pursuant to Sp. Laws 1873, c. 111. *State v. Duluth & N. M. R. Co.*, 102 Minn. 26, 112 N. W. 897. Followed in *State v. Minnesota & N. W. R. Co.*, 102 Minn. 506, 112 N. W. 899. See, also, *State v. Great Northern Ry. Co.*, 106 Minn. 303, 119 N. W. 202, and *State v. Chicago Great Western Ry. Co.*, 106 Minn. 290, 119 N. W. 211, *supra*.

**Laws 1903, c. 253—Validity and constitutionality.**—Laws 1903, c. 253, was legally submitted to the voters, and is constitutional. *State v. Duluth & N. M. R. Co.*, 102 Minn. 26, 112 N. W. 897. Followed in *State v. Minnesota & N. W. R. Co.*, 102 Minn. 506, 112 N. W. 899.

Laws 1903, c. 253, held valid as to defendant, which had theretofore paid a 3 per cent. tax, and as to all its lines and branches. The statute impairs no contractual or other vested right of defendant, and is not repugnant to either the state or the federal Constitution. *State v. Great Northern Ry. Co.*, 106 Minn. 303, 119 N. W. 202.

*State v. Great Northern Ry. Co.*, *supra*, sustaining the validity of Laws 1903, c. 253, followed and applied. *State v. Chicago Great Western Ry. Co.*, 106 Minn. 290, 119 N. W. 211.

**Gross earnings defined.**—The gross earnings which form the basis of the 3 per cent. tax, under Sp. Laws 1873, c. 111 (G. S. 1894, § 1667), is not limited to earnings derived from the operation of trains, but includes all earnings received by such railway companies while performing work incidental to, or connected with, the business of transportation, and which may reasonably be considered within the scope of their corporate powers. Rule applied. *State v. Minnesota & I. Ry. Co.*, 106 Minn. 176, 118 N. W. 679, 118 N. W. 1007.

Laws 1903, c. 253, cited in *State v. Northwestern Telephone Exch. Co.*, 120 N. W. 534.

**Exemption from special assessments.**—The right of way of a company, paying a gross earnings tax as provided by Sp. Laws 1873, c. 111, is exempt from assessments for special benefits accruing by construction of a public ditch. *Patterson v. Chicago, R. I. & P. Ry. Co.*, 99 Minn. 454, 109 N. W. 993.

[1003—]1. **Railroad companies defined.**—All companies operating railroads or railways in the state of Minnesota, except street railways, shall be deemed railroad companies within the meaning of section 1003, Revised Laws of 1905, and chapter 253, General Laws 1903. ('09 c. 454 § 1)

**Historical.**—"An act providing for the taxation of all railways, except street railways and ordinary commercial steam railroads, and providing for the distribution of the taxes paid by such railways." Approved April 22, 1909.

Section 7 repeals inconsistent acts.

[1003—]2. **Taxes, how apportioned.**—All taxes paid into the state treasury by such railroad companies as defined in section 1 [1003—1] of this act which are not ordinary commercial steam railroads, shall be apportioned and distributed as hereinafter provided. ('09 c. 454 § 2)

[1003—]3. **Annual report—Duty of tax commission—Amount of earnings contributed by cities, etc., how determined.**—Each such railroad company, that is, those not operating an ordinary commercial steam railroad, at the same time that it reports its gross earnings and income, shall report to the Minnesota tax commission the approximate amount of its gross earnings and income derived from the business contributed to such railway by each city, village, town and taxing district in or through which it operates its line, and such commission from such reports and from all evidence, information

and statistics obtainable shall ascertain and determine as nearly as may be the amount of the gross earnings of each line of such railways contributed by or derived from each city, village, town and taxing district in or through which such railway is operated for the calendar year preceding the time of making the report of such gross earnings as required by law. In determining the amount of all gross earnings contributed by or derived from the property and operation of such railways in each such city, village, town or taxing district said tax commission may, among other things, consider the relative use of such railway property in each such city, village, town or taxing district in connection with the entire use of the property of such railway for operating the same, and for all other purposes and also what the proportion of such business arising in each such city, village, town or taxing district is to the entire business of such railway company. The total gross earnings of such railway shall be entered upon the records of such tax commission opposite to the name of each city, village, town or taxing district within which any such railway is operated or any property owned or operated for or in connection with such railway, and there shall also be entered opposite the name of each such municipality the amount of gross earnings which such commission shall ascertain and determine was contributed to the total gross earnings by or derived from the property and use of such railway in such city, village, town or taxing district as above ascertained, and also the amount of the taxes to be paid by such railway company, by reason of the proportion of gross earnings and income derived from each such city, village, town or taxing district. ('09 c. 454 § 3)

**[1003—]4. Tax commission to apportion to each city, etc.**—The said tax commission, as soon as it shall have apportioned such taxes among the several cities, villages, towns and taxing districts contributing to the gross earnings and income of each such railway company, shall make its order apportioning to each city, village or town as aforesaid the proportionate amount of taxes paid by such railway, on account of the business derived from or contributed by each such city, village, town or taxing district. ('09 c. 454 § 4)

**[1003—]5. Apportionment, how certified—Duties of county and state auditors—Taxes, how apportioned.**—The Minnesota tax commission shall make and certify a statement in triplicate of such apportionment and division of the gross earnings and taxes of each such railroad company and file one of such statements with the state auditor, one with the state treasurer and one with the county auditor of each county in which any such railway line or property thereof used for railroad purposes is situated. Each such county auditor shall thereupon report to the state auditor what the per cent of the state tax in each such city, village, town or taxing district is to the entire taxes of such city, village, town or taxing district. The state auditor shall deduct from the total amount apportioned to each such city, village or town the amount due the state as indicated by such statement, and shall draw his warrant upon the state treasury for the balance of the amount of such taxes due to each county and to each of the cities, villages, towns and taxing districts of such county in favor of the treasurer of such county, and shall transmit the same to each county treasurer and shall advise the county auditor of each such county of the payment thereof. Thereupon the county auditor of each such county shall apportion, distribute and give due credit for such money so transmitted to the treasurer, and the county treasurer of each such county shall pay the same to the several taxing districts as they may be entitled thereto, and, in case the same is applicable to several funds, to the particular fund to which the



§ [1003—]6

TAXES.

(Ch. 11)

real estate taxes of such taxing district are apportioned and divided. The taxes on the property of each such railroad company so received shall in all cases be apportioned and divided the same as if paid as a tax upon real estate situated in the respective taxing districts in which such railway line or the property thereof used for railway purposes is situated. ('09 c. 454 § 5)

[1003—]6. **Street railways—Commercial steam railroads.**—Nothing herein contained shall in any manner modify or amend any existing law so far as it applies to the taxation of street railways or ordinary commercial steam railroads, nor in any manner affect or change the apportionment of any of the taxes upon the gross earnings of such ordinary commercial steam railroads. ('09 c. 454 § 6)

[1003—]7. **Certain tax proceedings and taxes against certain electric railways legalized.**—That in every case where any company organized under the laws of this state for the purpose, among other things, of operating electric railways between places in this state, and which has been actually engaged in operating electric railway lines between places in this state, mainly upon private right of way, but partly upon public streets and highways, and whose property, real and personal, has been assessed for taxation and taxes levied and paid upon the advalorem basis at all times since the organization thereof, including taxes for the year 1908, payable in 1909, by the state of Minnesota, and the several counties, cities, towns, villages and taxing districts in which its property is situate, and where such company has also made return of its gross earnings for the purpose of taxation on the gross earnings basis for the year 1908, payable in 1909, for the first time since the organization of such company, all of such taxes heretofore assessed and levied on the advalorem basis and the payments thereof are hereby legalized, ratified and confirmed, and the state and every such county, city, village and taxing district having assessed and levied such taxes is hereby authorized to demand, collect and receive the same in the same manner such taxes have been heretofore collected, and upon the payment of the amount of such taxes in the several counties, cities, villages, towns and taxing districts wherein the property of any such company is situate, in the due course of proceedings for the collection thereof in the manner provided by law, all such payments are hereby authorized, legalized and confirmed as the payment of the taxes of every such company in lieu of the payment of taxes upon such company, or the property thereof, or the gross earnings thereon, for the years such taxes have been so assessed and levied, and for which the same are by this act authorized to be paid upon such advalorem basis. ('09 c. 30 § 1)

**Historical.**—"An act legalizing certain tax proceedings and taxes heretofore assessed and levied on certain property and authorizing and legalizing payment thereof." Approved February 26, 1909.

[1003—]8. **Same—Defenses saved.**—Provided that nothing herein contained shall be held to deprive any such company of any defense to such taxes for the year 1908, which any person or corporation, taxable on the advalorem basis, could lawfully make thereto. ('09 c. 30 § 2)

#### 1004. State treasurer, collector—Deputies.

See sections [1002—] 3 to [1002—] 6, ante.

#### 1009. Penalty for non-payment.

**Complaint—Amendment.**—Where, in an action to recover of a railroad company certain taxes in default, the complaint did not claim the penalty allowed by this section, and the cause has been finally disposed of on appeal, an amendment of the complaint to raise such an issue will not be allowed. *State v. Great Northern Ry. Co.*, 106 Minn. 303, 119 N. W. 202.

## FREIGHT LINE COMPANIES.

1022-1027. [Superseded.]

See note under section [1027—]1.

[1027—]1. **Freight line company defined.**—That any person or persons, joint stock association or corporation, wherever organized or incorporated, engaged in the business of operating cars, not otherwise listed for taxation in Minnesota for the transportation of freight (whether such freight be owned by such company or any other person or company), over any railway line or lines, in whole or in part, within this state, such line or lines not being owned, leased or operated by such company, whether such cars be termed box, flat, coal, ore, tank, stock, gondola, furniture or refrigerator car, or by some other name, shall be deemed a freight line company. ('07 c. 250 § 1)

**Historical.**—"An act to provide for the taxation of freight line companies." Approved April 19, 1907.

Section 6 repeals inconsistent acts.

This act supersedes R. L. §§ 1022-1027.

[1027—]2. **Annual statement.**—Every freight line company, person or persons, joint stock association or corporation engaged in the business of operating cars in this state as defined in section one [1027—1] shall annually, between the first day of January and the first day of March under oath of the person constituting such company, if a person, or under the oath of the president, secretary, treasurer, superintendent or chief officer of such association or corporation, if an association or corporation, make and file with the state auditor of this state a statement showing the total gross earnings received from all sources from the operation of such freight car lines within this state, for the year ending December thirty-first next preceding. (Laws 1907, c. 250, § 2, as amended by Laws 1909, c. 97, § 1.)

**Historical.**—"An act to amend sections 2 and 4 of chapter 250, General Laws, 1907, relating to the taxation of freight line companies." Approved March 24, 1909.

Section 2 amended Laws 1907, c. 250, § 4. See section [1027—]4, post.

[1027—]3. **Gross earnings defined.**—The term "the total gross earnings received from all sources from the operation of such freight car lines within this state," as used in section two [1027—2] of this act is hereby declared and shall be construed to mean all earnings on business beginning and ending within the state, and a proportion, based upon the proportion of mileage over which such business is done, of earnings on all interstate business passing through, or into or out of the state. ('07 c. 250 § 3)

See note under section [1027—]1.

[1027—]4. **Percentage payable, etc.—Duty of auditor.**—All such freight line companies shall on or before the fifteenth of March in each year pay to the state treasurer of the state of Minnesota a sum of money equal to six per centum upon the gross earnings of such company for the year ending the last day of December next preceding, the same to be a tax upon its property during said year, and in lieu of all other taxes upon the same. Said taxes shall be credited to the general revenue fund. Upon failure to pay the same when due, the state auditor shall draw his warrant upon such companies therefor. (Laws 1907, c. 250, § 4, as amended by Laws 1909, c. 473, § 1.)

**Historical.**—"An act to amend section 4 of chapter 250 of the Laws of 1907, being an act for the taxation of freight line companies." Approved April 23, 1909.

This amended section appears to supersede section 4 as amended by Laws 1909, c. 250, § 2. See note under section [1027—]2, ante.

[1027—]5. **Penalty for nonpayment—Distress and sale.**—If any freight line company fails or refuses to pay said tax within thirty days after a demand therefor shall have been made by the state treasurer he shall thereupon add to the tax due a penalty of ten per cent thereon for each subsequent month in which the tax remain unpaid; and if such taxes are not paid within sixty days after demand therefor by the state treasurer he shall distrain sufficient goods and chattels belonging to such company charged with such taxes to be found within the State of Minnesota sufficient to pay the same, together with the penalty accrued thereon. The state treasurer shall immediately proceed to advertise in two newspapers printed in the county of Ramsey, stating the time and place where the property will be sold, and if the taxes for which such property is distrained and the penalties accruing thereon are not paid before the time appointed for such sale, which shall not be less than ten days after the taking of such property, the state treasurer, or his deputy, shall proceed to sell such property at such public vendue or so much thereof as will be sufficient to pay such taxes and penalties and the costs of such distress and sale. ('07 c. 250 § 5)

### SLEEPING CAR COMPANIES.

1029, 1030. [Superseded.]

See note under section [1030—]1.

[1030—]1. **May pay gross earnings tax.**—Every sleeping car company, as defined in section 1028, Revised Laws, 1905, whose cars are run on any railway operated within this state, or partly within this state, may, during the year 1907 and annually thereafter pay into the treasury of this state in lieu of all taxes and assessments upon all property within this state, used by such sleeping car company, a sum of money equal to four (4) per cent of the gross earnings derived from the operation of such sleeping cars, tourist cars and parlor cars within this state. The term gross earnings as used in this section is hereby declared and shall be construed to mean all earnings on business beginning and ending within this state, and a proportion based upon the proportion of the mileage within the state, to the entire mileage over which such business is done, of earnings on all interstate business passing through, into, out of the state. ('07 c. 453 § 1)

**Historical.**—"An act to tax sleeping car companies." Approved April 25, 1907.

Section 7 repeals inconsistent acts.

This act appears to have superseded sections 1029, 1030.

[1030—]2. **Acceptance of method of taxation.**—Any sleeping car company desiring to avail itself of the method of taxation provided in section 1 [1030—1] of this act shall on or before the first day of June next after the passage of this act, file with the state auditor a resolution of its board of directors, attested by its secretary, setting forth its acceptance of such method of taxation. ('07 c. 453 § 2)

[1030—]3. **Companies not accepting, how taxed.**—In case any sleeping car company as defined in section 1 [1030—1] of this act shall not accept the method of taxation provided in said section 1 [1030—1], then its property shall in and for the year 1907 become and thereafter be subject to taxation as hereinafter provided; provided, however, that sleeping cars owned exclusively by railroad companies using the same shall not be affected by this act. ('07 c. 453 § 3)

[1030—]4. **Annual report.**—Every such sleeping car company shall, during the month of June annually, under the oath of its president, secretary, treasurer, or general manager, or of its chief

officer in Minnesota, make a report to the state auditor for the year ending June 30th, preceding, showing:

(a) The total number of its cars of each class used within this state on railroads which run in, into, or through the State of Minnesota, and the average value of the cars of each class.

(b) The total number of miles of railroad track within and without this state over which such cars were used, and the total number of miles of railroad track over which said cars were used within this state. ('07 c. 453 § 4)

**[1030—]5. State board of equalization to assess—Cars subject to taxation—Duties of auditor.**—The state auditor shall lay such report before the state board of equalization, and said board, sitting as a board of assessors, shall annually ascertain and determine the actual number and average value of each class of such cars, and shall assess the same. The cars subject to taxation in this state shall be the same proportion of the cars defined in section 4 [1030—4] of this act as the number of miles of railroad track on which the same were used in this state bears to the number of miles of railroad track on which they were used within and without this state during said year ending June 30th, preceding the assessment. Any such sleeping car company may appear before the board and be heard regarding the assessment of its property. ('07 c. 453 § 5)

**[1030—]6. Proceedings.**—The same proceedings shall be had as to the assessment, taxation, and collection of taxes on the property of companies defined in this act as are set forth in sections 1025, 1026 and 1027, Revised Laws of Minnesota, 1905. ('07 c. 453 § 6)

## TELEGRAPH AND TELEPHONE COMPANIES.

### 1035. Telephone companies—Gross earnings tax.

**Constitutionality.**—Laws 1897, c. 314, was authorized, and valid under the amendment of Const. art. 9, § 17. *State v. Northwestern Telephone Co.*, 84 Minn. 459, 87 N. W. 1131, approved and followed. *State v. Twin City Telephone Co.*, 104 Minn. 270, 116 N. W. 835.

**In general.**—Findings that real estate was not necessarily used in the conduct of defendant's business as a telephone company were sustained by the evidence. *State v. Northwestern Telephone Exch. Co.*, 96 Minn. 389, 104 N. W. 1086.

**Gross earnings.**—A proportionate part of the earnings of telephone companies in interstate business held a part of its "gross earnings," subject to tax under Laws 1897, c. 314. Certain receipts held not a part of the gross earnings. *State v. Northwestern Telephone Exch. Co.*, 120 N. W. 534.

## INHERITANCES, DEVISES, BEQUESTS AND GIFTS.

**[1038—]1. Inheritances, etc. exceeding \$10,000.**—A tax shall be and is hereby imposed upon all inheritances, devises, bequests, legacies and gifts of every kind and description, of any and all persons and corporations, the value of which exceeds ten thousand dollars (\$10,000), and upon such excess only. ('05 c. 288 § 1)

**Historical.**—"An act providing for taxation of and fixing the rate of taxation on inheritances, devises, bequests, legacies and gifts, and providing for the manner of payment as well as the manner of enforcing payment thereof." Approved April 19, 1905.

See R. L. § 5504.

**Constitutionality.**—Laws 1905, c. 288, does not violate Const. art. 9, § 1. *State ex rel. Foot v. Bazille*, 97 Minn. 11, 106 N. W. 93, 6 L. R. A. (N. S.) 732. See note under section [1038—]2.

**Transaction consummated under prior unconstitutional act—Transfer to corporation—Life estate in stock.**—A. organized a corporation and conveyed to it practically all his property in return for all the stock except four shares. His wife joined in the conveyance in consideration of his agreeing to

transfer to her one-third of such stock and to transfer the remainder to their four children on their agreement to lease it to A. for life; and she agreed to transfer her stock to the children on a similar agreement on their part. The transaction was completed in 1903, while an inheritance tax law, since declared unconstitutional, was on the statute books. *Held*, that the transfers must be considered as made when no inheritance law was in existence; that Laws 1905, c. 288, did not apply; that the children became legal owners of the stock; that the leases vested in A. a life estate, with reversion to the children; and that the stock was not inherited by them, and an inheritance tax could not be collected thereon. State ex rel. Tozer v. Probate Court of Washington County, 102 Minn. 268, 113 N. W. 888.

Cited in State ex rel. Hale v. Probate Court, 100 Minn. 192, 110 N. W. 865.

**[1038—]2. Tax, how computed—Rates.**—Such tax shall be computed upon the full and true value of such inheritance, devise, bequest, legacy or gift, above such excess, at the following rates, viz.:

1. When such valuation is over ten thousand dollars and less than fifty thousand dollars, the rate shall be one and one-half per cent thereof.

2. When such valuation is fifty thousand dollars or over and less than one hundred thousand dollars, the rate shall be three per cent thereof.

3. When such valuation is one hundred thousand dollars or over, the rate shall be five per cent thereof. ('05 c. 288 § 2)

**Construction and validity.**—Properly construed, this section lays a tax upon all inheritances and devises in excess of an exemption of \$10,000, and the ambiguous use of "excess" does not render the act inoperative. So construed, this section does not discriminate arbitrarily between persons of the same class. State ex rel. Foot v. Bazille, 97 Minn. 11, 106 N. W. 93, 6 L. R. A. (N. S.) 732.

**Valuation, how determined—Exemption.**—Where the estate descends to two or more legatees or devisees in equal shares, an exemption to each should be allowed.—State ex rel. Basting v. Probate Court of Hennepin County, 101 Minn. 485, 112 N. W. 878.

**— Compensation of trustees.**—Where property is committed to a trustee for a definite period, to be by him managed and controlled for the benefit of those to whom it passes by will, the compensation of the trustee fixed by the will is not a proper item to deduct from the valuation of the estate. State ex rel. Basting v. Probate Court of Hennepin County, 101 Minn. 485, 112 N. W. 878.

**[1038—]3. To take effect on death—When payable—When dependent on contingency.**—All taxes imposed by this act shall take effect at and upon the death of the decedent or donor and shall be due and payable at the expiration of one year from such death, except as otherwise provided in this act; provided, however, that taxes upon any devise, bequest, legacy or gift limited, conditioned, dependent or determinable upon the happening of any contingency or future event by reason of which the full and true value thereof cannot be ascertained at or before the time when the taxes become due and payable as aforesaid, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof. ('05 c. 288 § 3)

**Operation and effect.**—A will gave the residue of the estate to trustees, to invest and to pay semiannually the net income to B. while the estate should remain in their hands, and to pay the corpus to him in four installments, when he should attain the age of 25, 30, 35, and 40 years, respectively. In the event of B.'s death before he should have received the whole or any part of the estate, the will gave the balance remaining in the hands of the trustees to other legatees. *Held*, that a tax on a legacy which vests only upon the happening of some uncertain future event, so that the true value thereof cannot be presently ascertained, accrues and becomes payable only when the beneficiary is entitled to the possession or enjoyment thereof. The transfer of the residue of the estate to the trustees was not taxable, but a tax would be payable from time to time on the income and on the corpus as B. should become entitled to them or any part thereof. State ex rel. Hale v. Probate Court, 100 Minn. 192, 110 N. W. 865.

See, also, State ex rel. Basting v. Probate Court of Hennepin County, 101 Minn. 485, 112 N. W. 478.

See note under section [1038—]1.

[1038—]4. **Duties of administrator, etc.**—Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to the tax thereon as imposed by this act, shall deduct the tax therefrom, and within thirty days thereafter he shall pay over the same to the county treasurer as herein provided. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy or gift upon the appraised value thereof, from the person entitled thereto. He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under this act, to any person until he shall have collected the tax thereon. ('05 c. 288 § 4)

Cited in State ex rel. Hale v. Probate Court, 100 Minn. 192, 110 N. W. 865.

[1038—]5. **Tax, to whom payable—Receipts—How disposed of.**—The tax imposed by this act upon inheritances, devises, bequests or legacies shall be paid to the treasurer of the county in which the probate court having jurisdiction, as herein provided, is located; and the tax so imposed upon gifts shall be payable to the state treasurer, and the treasurer to whom the tax is paid shall give the executor, administrator, trustee or person paying such tax, duplicate receipts therefor, one of which shall be immediately transmitted to the state auditor, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof; and where such tax is paid to the county treasurer he shall seal said receipt with the seal of his office and countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts. No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in the settlement of which a tax may become due under the provisions of this act, until he shall produce a receipt, so sealed and countersigned by the state auditor, or a certified copy of the same. All taxes paid into the county treasury under the provisions of this act shall immediately be paid into the state treasury upon the warrant of the state auditor and shall belong to and be a part of the revenue fund of the state. ('05 c. 288 § 5)

[1038—]6. **Tax to be lien—Personal liability.**—Every tax imposed by this act shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy or gift until paid, and the person to whom such property is transferred and the administrators, executors and trustees of every estate embracing such property shall be personally liable for such tax, until its payment, to the extent of the value of such property. ('05 c. 288 § 6)

Cited in State ex rel. Hale v. Probate Court, 100 Minn. 192, 110 N. W. 865.

[1038—]7. **Interest.**—If such tax is not paid within one year from the accruing thereof, interest shall be charged and collected thereon at the rate of seven per centum per annum from the time the tax is due, unless, by reason of claims upon the estate, necessary litigation or other unavoidable cause of delay, such tax cannot be determined as herein provided; in such case interest at the rate of six per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which seven per centum shall be charged. ('05 c. 288 § 7)

[1038—]8. **Power of sale.**—Every executor, administrator or trustee shall have full power to sell so much of the property embraced in any inheritance, devise, bequest or legacy as will enable him to pay the tax imposed by this act, in the same manner as he might be entitled by law to do for the payment of the debts of a testator or intestate. ('05 c. 288 § 8)

**[1038—]9. Legacy charged on property—Money legacy for limited period.**—If any bequest or legacy shall be charged upon or payable out of any property, the heir or devisee shall deduct such tax therefrom and pay such tax to the administrator, executor or trustee, and the tax shall remain a lien or charge on such property until paid; and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the bequest or legacy might be enforced, or by the county attorney under section 20 [1038—20] of this act. If any bequest or legacy shall be given in money to any person for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount; but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires, of the sum to be paid into his hands by such legatee or beneficiary, and for such further order relative thereto, as the case may require. ('05 c. 288 § 9)

**[1038—]10. Tax erroneously paid—Refundment.**—When any tax imposed by this act shall have been erroneously paid, wholly or in part, the person paying the same shall be entitled to a refundment of the amount so erroneously paid, and the auditor of state shall, upon satisfactory proofs presented to him of the facts relating thereto, draw his warrant upon the state treasurer for the amount thereof, in favor of the person entitled thereto; provided, however, that all applications for such refunding of erroneous taxes shall be made within three years from the payment thereof. ('05 c. 288 § 10)

**[1038—]11. Transfers by foreign executors, etc.**—If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state, standing in the name of the decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof, and no such assignment or transfer shall be valid until such tax is paid. ('05 c. 288 § 11)

**[1038—]12. Transfer of assets to representative—Powers of county treasurer—Notice—Personal liability.**—No safe deposit company, bank or other institution, person or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the county treasurer, personally or by representative, to examine said securities at the time of such delivery or transfer. If upon such examination the county treasurer or his said representatives shall for any cause deem it advisable that such securities or assets should not be immediately delivered or transferred, he may forthwith notify in writing such company, bank, institution or person to defer delivery or transfer thereof for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the party notified to defer such delivery or transfer until the time stated in such notice or until the revocation thereof within such ten days. Failure to serve the notice first above mentioned, or to allow such examination, or to defer the delivery of such securities or assets for the time stated in the second of said notices, shall render said safe deposit company, trust company, bank or other institution, person or persons, liable to the payment of the tax due upon the said security or assets, pursuant to the provisions of this act. ('05 c. 288 § 12)

**[1038—]13. Application for letters testamentary, etc.—Notice—Determination of value of inheritance.**—Upon the presentation of

any petition to any probate court of this state for letters testamentary or of administration, or for ancillary letters, testamentary or of administration, the probate court shall cause a copy of the citation or order for the hearing of such petition to be served upon the county treasurer of his county not less than ten days prior to such hearing. The court shall thereupon, as soon as practicable after the granting of any such letters, proceed to ascertain and determine the value of every inheritance, devise, bequest or legacy embraced in or payable out of the estate in which such letters are granted and the tax due thereon. The county treasurer shall have the same rights to apply for letters of administration as are conferred upon creditors by law. ('05 c. 288 § 13)

**[1038—]14. Appraisers.**—The probate court may, in any matter mentioned in the preceding section, either upon its own motion or upon the application of any interested party, including county treasurers, and as often as and when occasion requires, appoint one or more persons as appraisers to appraise the true and full value of the property embraced in any inheritance, devise, bequest or legacy subject to the payment of any tax imposed by this act. ('05 c. 288 § 14)

See sections [1038—] 23, [1038—] 24.

**[1038—]15. Inheritance, how appraised.**—Every inheritance, devise, bequest, legacy or gift upon which a tax is imposed under this act shall be appraised at its full and true value immediately upon the death of decedent, or as soon thereafter as may be practicable. Provided, however, that when such devise, bequest, legacy or gift shall be of such a nature that its full and true value cannot be ascertained at such time, it shall be appraised in like manner at the time such value first becomes ascertainable. ('05 c. 288 § 15)

Cited and applied in *State ex rel. Hale v. Probate Court*, 100 Minn. 192, 110 N. W. 865.

See note under section [1038—] 3.

**[1038—]16. Notice of appraisal—Powers and duties of appraisers—Compensation and fees.**—The appraiser appointed under the provisions of this act shall forthwith give notice by mail to all persons known to have a claim or interest in the inheritance, devise, bequest, legacy or gift to be appraised, including the county treasurer and such persons as the probate court may by order direct, of the time and place when they will make such appraisal. They shall at such time and place appraise the same at its full and true value, as herein prescribed, and for that purpose the said appraisers are authorized to issue subpoenas and compel the attendance of witnesses before them, and to take evidence of such witnesses, under oath, concerning such property and the value thereof, and they shall make report thereof, and of such value, in writing, to the said probate court, together with the testimony of the witnesses examined and such other facts in relation thereto and to the said matter as said probate court may order or require. Every appraiser shall be entitled to compensation at the rate of three dollars (\$3) per day for each day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and such witnesses and the officer or person serving any such subpoena shall be entitled to the same fees as allowed witnesses or sheriffs for similar service in courts of record. The compensation and fees claimed by any person for services performed under this act shall be approved by the judge of probate, who shall certify the amount thereof, to the auditor of state, who shall examine the same, and, if found correct, he shall draw his warrant upon the state treasury for the amount thereof in favor of the person entitled thereto. ('05 c. 288 § 16)



**[1038—]17. Report—Powers of court.**—The report of the appraisers shall be filed with the probate court, and from such report and other proof relating to any such estate before the probate court the court shall forthwith, as of course, determine the true and full value of all such estate and the amount of tax to which the same are liable; or the probate court may so determine the full and true value of all such estates and the amount of tax to which the same are liable without appointing appraisers. ('05 c. 288 § 17)

**[1038—]18. Notice upon determination.**—The probate court shall immediately give notice, upon the determination of the value of any inheritance, devise, bequest, legacy or gift which is taxable under this act and of the tax to which it is liable, to all parties known to be interested therein, including the state auditor and county treasurer. ('05 c. 288 § 18)

**[1038—]19. Objections—Reassessment.**—Within thirty days after the assessment and determination by the probate court of any tax imposed by this act, the state auditor, county treasurer or any person interested therein, may file with said court objections thereto, in writing, and praying for a reassessment and redetermination of such tax. Upon any objection being so filed, the probate court shall appoint a time for the hearing thereof and cause notice of such hearing to be given the state auditor, county treasurer and all parties interested, at least ten days before the hearing thereof. At the time appointed in such notice the court shall proceed to hear such objections and any evidence which may be offered in support thereof or opposition thereto; and if, after such hearing, said court shall be of the opinion that a reassessment or redetermination of such tax should be made, it shall, by order, set aside the assessment and determination theretofore made and order a reassessment in the same manner as if no assessment had been made. ('05 c. 288 § 19)

**[1038—]20. Nonpayment of tax—Duties of county officers—Hearing in probate court—Action by state.**—If the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act after the refusal or neglect of the persons liable therefor to pay the same, he shall notify, in writing, the county attorney of his county, of such failure or neglect, and such county attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon, shall conform as near as may be to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this act in said probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax, and it shall be the duty of the county attorney of the proper county to sue for in the name of the state and enforce the collection of such tax, and all taxes so collected shall be forthwith paid into the county treasury. It shall be the duty of said county attorney to appear for and represent the county treasurer on the hearing of such citation. ('05 c. 288 § 20)

**[1038—]21. Record book—Entries—Forms—Annual reports by probate judge and register.**—The auditor of state shall furnish to

each probate court a book which shall be a public record, and in which shall be entered by the judge of said court the name of every decedent upon whose estate an application has been made for the issue of letters of administration, or letters testamentary or ancillary letters, the date and place of death of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the estimated value of the property of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent, the names and places of residence of the legatees, devisees and other beneficiaries in any will of any such decedent, the amount of each legacy, and the estimated value of any property devised therein and to whom devised. These entries shall be made from data contained in the papers filed on such application or in any proceeding relating to the estate of the decedent. The judge of probate shall also enter in such book the amount of the property of any such decedent, as shown by the inventory thereof, when made and filed in his office, and the returns made by any appraisers appointed by him under this act, and the value of all inheritances, devises, bequests, legacies and gifts inherited from such decedent, or given by such decedent in his will or otherwise as fixed by the probate court, and the tax assessed thereon, and the amounts of any receipts for payment thereof filed with him. The state auditor shall also furnish forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book. Each judge of probate shall, on the first day of January, April, July and October of each year, make a report in duplicate upon the forms furnished by the state auditor containing all the data and matters required to be entered in such book, one of which shall be immediately delivered to the county treasurer and the other transmitted to the auditor of state. The register of deeds of each county shall, at the same time, make reports in duplicate to the auditor of state, containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of the vendor or vendee, and the description of the property transferred, as shown by such instrument, one of which duplicates shall be immediately delivered to the county treasurer and the other transmitted to the auditor of state. ('05 c. 288 § 21)

**[1038—]22. Acts repealed.**—All acts and parts of acts of this state relating to the taxation of inheritances, devises, bequests, legacies and gifts, so far as the same are inconsistent with the provisions of this act, are hereby repealed. ('05 c. 288 § 22)

**[1038—]23. Failure to serve notice of application for letters, etc.—Curative.**—In all probate proceedings in any of the probate courts in this state where a general inventory of the property belonging to the estate of a deceased person, has heretofore been duly made and filed, and the regular and due appraisal of the property in or belonging to such estate has heretofore been actually made and the appraisers' certificate thereof, duly filed in the proper probate office, and the total value of such property as thus appraised is given as less than ten thousand dollars, all such probate proceedings and all interlocutory and final decrees made therein, and the records of any such decrees, are hereby declared legal and valid and such proceedings, decrees and records shall have full force and effect as evidence in all the courts of this state, as against the objection that no copy of the citation or order for hearing on the petition for letters testamentary, or of administration, or ancillary letters, was served upon the county treasurer of the county in

which such proceedings were had, prior to the time of such hearing. ('07 c. 444 § 1)

**Historical.**—"An act to legalize certain probate proceeding where the probate court has failed to cause a copy of the citation or order for hearing on petition for letters testamentary or of administration, or ancillary letters, to be served upon the county treasurer prior to such hearing." Approved April 25, 1907.

See section [1038—]13.

[1038—]24. **Same—Pending proceedings.**—This act shall not affect or apply to any action or proceeding now pending in any of the courts of this state other than probate courts. ('07 c. 444 § 2).

### MORTGAGES ON REAL PROPERTY.

[1038—]25. **Mortgage defined.**—The words "real property," "real estate" and "land," as used in this act, in addition to the definitions thereof contained in the Revised Laws 1905, shall include all property a conveyance whereof may be recorded or registered by a register of deeds under existing laws; and the words "mortgage," as so used, shall mean any instrument creating or evidencing a lien of any kind on such property, given or taken as security for a debt, notwithstanding such debt may also be secured in part by a lien upon personalty. An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purposes of this act, a mortgage of said land for the unpaid balance of the purchase price. No instrument relating to real estate shall be valid as security for any debt, unless the fact that it is so intended and the amount of such debt are expressed therein. But a mortgage given to correct a misdescription of the mortgaged property, or to include additional security for the same indebtedness, shall not be subject to the tax imposed by this act; nor shall a mortgage securing the same and other indebtedness, additional to that upon which such tax has been paid, be taxable hereunder, except for such added sum. ('07 c. 328 § 1).

**Historical.**—"An act to provide for the taxation of mortgages of real property." Approved April 23, 1907.

**Constitutionality.**—Laws 1907, c. 328, is constitutional. It provides for a proper classification of the subjects of taxation and for a uniform tax upon the subjects of the class. *Mutual Benefit Life Ins. Co. v. Martin County*, 104 Minn. 179, 116 N. W. 572.

**Subject of tax.**—The subject of taxation under this statute is the security—the lien—and not the debt secured. *Mutual Benefit Life Ins. Co. v. Martin*, 104 Minn. 179, 116 N. W. 572.

**Extension or renewal.**—The registry tax must be paid upon the filing for record of an agreement for an extension or renewal of the mortgage. *Mutual Benefit Life Ins. Co. v. Martin*, 104 Minn. 179, 116 N. W. 572.

[1038—]26. **Tax on record or registration—Rate.**—A tax of fifty cents is hereby imposed upon each hundred dollars, or major fraction thereof, of the principal debt or obligation which is, or in any contingency may be, secured by any mortgage of real property situate within the state which mortgage is recorded or registered on or after April 30, 1907; provided, that if any such mortgage shall describe any real estate situate outside of this state, such tax shall be imposed upon such proportion of the whole debt secured thereby as the value of the real estate therein described situate in this state bears to the value of the whole of the real estate described therein, as such value shall be determined by the state auditor upon application of the mortgagee. ('07 c. 328 § 2)

[1038—]27. **Exemption from other taxes—Certain mortgages not included.**—All mortgages upon which such tax has been paid, with the debts or obligations secured thereby and the papers evidencing the same, shall be exempt from all other taxes; but nothing herein shall exempt such property from the operation of the

laws relating to the taxation of gifts and inheritances, or those governing the taxation of banks, savings banks, or trust companies; provided, that this act shall not apply to mortgages taken in good faith by persons or corporations whose personal property is expressly exempted from taxation by law, or is taxed upon the basis of gross earnings, or other methods of commutation in lieu of all other taxes. ('07 c. 328 § 3)

**Foreign insurance company.**—A foreign insurance company, which has paid the 2 per cent. tax required by R. L. § 1625, is not exempt from the payment of the registry tax upon filing for record of a mortgage owned by it.—*Mutual Benefit Life Ins. Co. v. Martin County*, 104 Minn. 179, 116 N. W. 572.

[1038—]28. **Mortgages to secure obligations to be issued—Statement.**—If a mortgage is made to a mortgagee in trust, to secure the payment of bonds or other obligations to be issued thereafter, a statement may be incorporated therein of the amount of such obligations already issued or to be issued forthwith, and the tax to be paid on filing such mortgage for record or registration shall be computed upon the amount so stated. Such statement shall be binding and conclusive upon all persons claiming through or under the mortgage, and no such obligation issued in excess of the aggregate so fixed shall be valid for any purpose unless the additional tax thereon be paid and the receipt of the proper county treasurer therefor be endorsed thereon. ('07 c. 328 § 4)

[1038—]29. **Tax, how payable—Receipts—Exemption, how determined—Lands in more than one county.**—The tax imposed by this act shall be paid to the treasurer of the county in which the mortgaged land or some part thereof is situated, at or before the time of filing the mortgage for record or registration. The treasurer shall endorse his receipt on the mortgage, countersigned by the county auditor, who shall charge the amount to the treasurer, and such receipt shall be recorded with the mortgage, and such receipt of the record thereof shall be conclusive proof that the tax has been paid to the amount therein stated, and shall authorize any register of deeds to record the mortgage. Its form in substance shall be "registration tax hereon of.....dollars paid." If the mortgages be exempt from taxation the endorsement shall be "exempt from registration tax," to be signed in either case by the treasurer as such, and in case of payment to be countersigned by the auditor. In case the treasurer shall be unable to determine whether a claim of exemption should be allowed the tax shall be paid to the clerk of the district court of the county to abide the order of such court made upon motion of the county attorney, or of the claimant upon notice as required by the court. When any such mortgage covers real property situate in more than one county in this state the whole of such tax shall be paid to the county treasurer of the county where the mortgage is first presented for record or registration, and the payment shall be receipted and countersigned as above provided, and such tax shall be divided and paid over by the county treasurer receiving the same on or before the tenth day of each month after receipt thereof to the county or counties entitled thereto in the ratio which the assessed value of the real property covered by the mortgage in each county bears to the assessed value of all the property described in the mortgage. In making such division and payment the county treasurer shall send therewith a statement giving the description of the property described in the mortgage and the assessed value of the part thereof situate in each county. And for the purpose aforesaid the county treasurer of any county may require the county treasurer of any other county to certify to him the assessed valuation of any tract of land in any such mortgage. ('07 c. 328 § 5)

[1038—]30. **Lands not subject to direct tax.**—When any real estate situate in this state and described in any such mortgage is not taxed by direct tax upon the assessed valuation thereof, then the tax herein provided shall be paid to the state treasurer and credited to the general revenue fund. The receipt thereof shall be endorsed upon the mortgage by the state treasurer and countersigned by the state auditor, who shall charge the treasurer therewith, and thereupon such mortgage shall be recorded or registered, as to such real estate in any office in this state, and thereupon such mortgage may be recorded or registered, but as to all real property described in any mortgage taxed upon an assessed valuation the registry tax shall be paid as provided in section 5 [1038—29] hereof. ('07 c. 328 § 6)

[1038—]31. **Prepayment of tax.**—No such mortgage, no papers relating to its foreclosure, nor any assignment or satisfaction thereof shall be recorded or registered after April 30, 1907, unless said tax shall have been paid; nor shall any such document, or any record thereof, be received in evidence in any court, or have any validity as notice or otherwise. ('07 c. 328 § 7)

[1038—]32. **Mortgages recorded, etc., prior to April 30, 1907.**—All mortgages of real estate recorded or registered prior to April 30th, 1907, shall be taxable as provided by law under the provisions of law relating thereto prior to the enactment hereof, provided, that the holder of any such mortgage may pay to the treasurer of the proper county, or the state treasurer, or both, the tax herein prescribed upon the amount of the debt secured by such mortgage at the time of such payment, as stated by the affidavit of the owner of such mortgage, to be filed with the county treasurer, and have the treasurer's receipt countersigned by the auditor endorsed thereon. The register of deeds or secretary of state, as the case may be, on presentation of such receipt, shall note on the margin of the mortgage record the date and amount of such payment. Thereafter such mortgage debt shall not be otherwise taxable. ('07 c. 328 § 8)

[1038—]33. **Taxes, how apportioned, etc.**—All taxes paid to the county treasurers under the provisions of this act shall be apportioned and distributed in the same manner as real estate taxes paid upon the real estate described in the mortgage. ('07 c. 328 § 9)

### GRAIN IN ELEVATORS.

[1038—]34. **Person operating elevator to list.**—Every person, firm or corporation operating a grain elevator or warehouse in this state shall at the time by law provided for the listing of personal property for taxation furnish to the assessor of the assessment district wherein such elevator or warehouse is situate a full and true list or statement of all grain, specifying the respective amounts and different kinds thereof received in or handled by such elevator or warehouse for and during the year immediately preceding March 1st of such year in which such list or statement is so to be made. ('09 c. 466 § 1)

**Historical.**—"An act defining the method of taxation of grain elevators and warehouses, and grain therein." Approved April 23, 1909.  
Section 5 repeals inconsistent acts.

[1038—]35. **Amount of tax.**—Every such person, firm or corporation shall in lieu of all other taxes upon such grain pay thereon one-fourth of one mill per bushel upon all wheat and flax and one-eighth of one mill per bushel upon all other grain received in or

handled by such elevator or warehouse during such preceding year. ('09 c. 466 § 2)

**[1038—]36. How levied, paid and distributed.**—Such tax shall be levied, paid and collected, and distributed in the same manner as other taxes on personal property are levied, paid, collected and distributed in the county wherein such elevator or warehouse is situated. ('09 c. 466 § 3)

**[1038—]37. Refusal to list—Assessment.**—If any such person, firm or corporation fails or refuses to so make such list or statement at the time above provided, the assessor shall deliver a statement in writing showing such failure or refusal to the county board of equalization of such county and thereupon the said county board of equalization shall place upon the assessment rolls such amount of such grain as to them may seem just and proper. ('09 c. 466 § 4)

### MINNESOTA TAX COMMISSION.

**[1038—]38. Commission created.**—There is hereby created a commission, to be designated and known as the Minnesota Tax Commission. ('07 c. 408 § 1)

**Historical.**—"An act to create a permanent tax commission, defining the duties of said commission and making an appropriation therefor, and abolishing the state board of equalization." Approved April 25, 1907.

Section 18 repeals inconsistent acts.

**[1038—]39. How appointed.**—The said Minnesota Tax Commission shall be composed of three members, who shall be appointed by the governor by and with the advice and consent of the senate. The three persons first composing said commission shall be appointed within ten (10) days after the passage of this act and before the adjournment of the present legislature, if practicable. ('07 c. 408 § 2)

**[1038—]40. Terms of commissioners—Removal.**—Of such three persons composing said commission, one shall be appointed and designated for a term ending Jan. 31st, 1909; one for a term ending Jan. 31st, 1911, and one for a term ending Jan. 31st, 1913, each of said periods and terms of office to begin upon the qualification of the person appointed therefor. Upon the expiration of the terms of the three commissioners first to be appointed as aforesaid, each succeeding commissioner shall be appointed and hold office for the term of six years, except in the case of a vacancy as hereinafter provided, and each commissioner shall hold office until his successor shall have been appointed and qualified. The governor shall have power to remove a commissioner for inefficiency, neglect of duty or malfeasance in office, but, before removal, the commissioner shall be furnished with a copy of the charges against him, and have an opportunity to be heard in defense. ('07 c. 408 § 3)

**[1038—]41. Subsequent appointments — Vacancies.**—After the appointment of said first three commissioners, or except when appointed to fill a vacancy, each commissioner shall be appointed on or before the last Monday in January next preceding the commencement of the term for which he shall be appointed. In case of a vacancy it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs. Said appointment to be confirmed by the senate. If such appointment is made when the legislature is not in session, the appointee shall hold office until the first Monday in February during the next succeeding session of the legislature, when, if such appointment is not confirmed, the office shall become vacant, and on or before the last Monday in February in the same month, the governor

by and with the advice and consent of the senate shall appoint a suitable person to fill such vacancy for the remainder of such term. ('07 c. 408 § 4)

**[1038—]42. Qualifications—To be nonpartisan.**—The persons appointed to be members of such commission shall be such as are known to possess knowledge of and training in the subject of taxation and taxing laws, and skilled in matters pertaining thereto. So far as practicable, they shall be nonpartisan and shall be so selected that the commission will not be composed of more than two persons who are members of or affiliated with the same political party or organization. No person appointed a member of said commission shall hold any other office under the laws of this state, nor any office under the government of the United States or any other state. Each commissioner and each employé shall devote his entire time to the duties of the office and shall not hold any position of trust or profit, engage in any occupation or business interfering with or inconsistent with his duties as such commissioner or employé, or serve on or under any committee of any political party or take part either directly or indirectly, in any political campaign in the interest of any political party or organization or candidate for office. ('07 c. 408 § 5)

**[1038—]43. Oath.**—Each commissioner and employé shall, within thirty (30) days after notice of his appointment, and before entering upon the discharge of his duties, take, subscribe and file with the secretary of state the oath of office prescribed by the constitution of this state. ('07 c. 408 § 6)

**[1038—]44. Chairman—Salaries.**—The member of said commission whose term of office expires Jan. 31st, 1909, shall be chairman of said commission during his term of office, and thereafter the member who has the shortest term of service shall be chairman during the remainder of his term. Each of the members of the said commission shall receive an annual salary of four thousand five hundred (\$4,500) dollars in equal monthly installments in the same manner that other state salaries are paid. ('07 c. 408 § 7)

**[1038—]45. Quorum—Sessions.**—The commission first appointed under this act, after having duly qualified, shall, without delay, meet at the capitol in St. Paul. A majority of said commission shall constitute a quorum for the transaction of the business and the performance of the duties of said commission. The said commission shall be in continuous session and open for the transaction of business every day, except Sundays and legal holidays, and the sessions of said commission shall stand and be deemed to be adjourned from day to day without formal entry thereof on its records. The commission may hold session in conducting investigation at any other place than the capitol when deemed necessary to facilitate and render more thorough the performance of its duties. ('07 c. 408 § 8)

**[1038—]46. Secretary and other employés—Salary and expenses—Duty of Secretary—Rules.**—Said commission may appoint a secretary at a salary not to exceed twenty-four hundred dollars per annum, and such other experts, assistants and clerks, one of whom shall be stenographer, as may be necessary. Provided, however, that the total expense for such experts, assistants and clerks, exclusive of said secretary, shall not exceed six thousand dollars per annum. And provided, further, that if it becomes necessary to employ experts, assistants and clerks beyond such as can be obtained for said sum of six thousand dollars, then said commission may, with the approval and consent of the governor, attorney general and state auditor, employ such additional assistants as may be necessary.

The secretary of the commission shall keep full and correct minutes of all the testimony taken, hearings had and the proceedings of said commission, and shall perform such other duties as may be required by said commission. The said commission shall have power to make all necessary or needful rules consistent with the laws of this state for the orderly and successful performance of its duties and for conducting hearings and other proceedings before it. ('07 c. 408 § 9)

[1038—]47. **Office supplies, etc.—Traveling expenses.**—The commission shall be provided with suitable and necessary office furniture, supplies, stationery, books, periodicals, newspapers, maps and financial and commercial reports and all necessary expenses therefor shall be audited and paid as other expenses are audited and paid. The actual necessary expenses of the commission and its secretary, clerks and such experts and assistants as may be employed by said commission while traveling on the business of the commission shall be paid by the state, such expenditures to be sworn to by the party who incurred the expense and approved by the chairman of the commission or a majority thereof. ('07 c. 408 § 10)

[1038—]48. **Powers and duties.**—It shall be the duty of the commission and it shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county and city boards of review and equalization and all other assessing officers in the performance of their duties to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state.

(2) To confer with, advise and give the necessary instructions and directions to local assessors throughout the state as to their duties under the laws of the state, and to that end call meetings of local assessors of each county, to be held at the county seat of such county for the purpose of receiving necessary instruction from the commission as to the laws governing the assessment and taxation of all classes of property.

(3) To direct proceedings, action and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and to cause complaints to be made against local assessors, members of board of equalization, members of boards of review or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty. To require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of the state in respect to the assessment and taxation of property in their respective districts or counties.

(4) To require town, city, village, county and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the commission, in such form and upon such blanks as the commission may prescribe.

(5) To require individuals, co-partnerships, companies, associations and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes as well as all other statements now required by law for taxation purposes.



(6) To summon witnesses to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which the commission may have authority to investigate or determine.

(7) To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil action in the district court in any matter which the commission may have authority to investigate or determine.

(8) One or more members of the commission shall officially visit at least one-half the counties of the state annually, and shall visit every county in the state at least once in two years and inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with this act requiring the assessment of all property not exempt from taxation.

(9) To investigate the tax laws of other states and countries and to formulate and submit to the legislature of the state such legislation as said commission may deem expedient to prevent evasions of assessment and taxing laws, and to secure just and equal taxation and improvement in the system of assessment and taxation in this state.

(10) To consult and confer with the governor of the state upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the commission, and to furnish the governor, from time to time, such assistance and information as he may require relating to tax matters.

(11) To transmit to the governor on or before the third Monday in December of each even numbered year, and to each member of the legislature on or before Jan. 1st, of each odd numbered year, the report of the commission for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form.

(12) To exercise and perform such further powers and duties as may be required or imposed upon the commission by law. ('07 c. 408 § 11)

Cited in *State ex rel. Foley Bros. & Kelly v. Minnesota Tax Commission*, 103 Minn. 485, 115 N. W. 647.

**[1038—]49. To have powers of state board of equalization—Meetings—Other powers and duties.**—The said Minnesota tax commission shall have and exercise all the rights, powers and authority by law vested in the state board of equalization, which said board of equalization is hereby continued, with full power and authority to review, modify and revise, all of the acts and proceedings of said commission in so far as they relate to the equalization and valuation of property assessed for taxation, as prescribed by section 863, Revised Laws of 1905, which state board of equalization shall meet on the second Tuesday in September of each year during its existence. The said Minnesota tax commission shall also have the following powers and duties:

(1) To require the auditor of each county in the state to file with the tax commission, on or before the fourth Monday in August each year, complete abstracts of all real and personal property in the county as equalized by the county board of equalization and itemized by assessment districts, said abstracts to be accompanied by a printed or typewritten copy of the proceedings of said county board of equalization, and it shall be the duty of the county auditor to so report to the tax commission.

(2) To appoint a special assessor and deputies under him and

cause to be made in any year a reassessment of all or any real and personal property or either in any assessment district, when in the judgment of said commission such reassessment is desirable or necessary to the end that any and all property in such district shall be assessed equitably as compared with like property in the county wherein such district is situated.

(3) To require county auditor to carefully place upon the assessment rolls, omitted property which may be discovered to have for any reason escaped assessment and taxation in previous years.

(4) To receive complaints and to carefully examine into all cases where it is alleged that property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed, or the law in any manner evaded or violated, and to cause to be instituted such proceedings as will remedy improper or negligent administration of the taxing of the state.

(5) To raise or lower the assessed valuation of any real or personal property, including the power to raise or lower the assessed valuation of the real or personal property of any individual, co-partnership, company, association or corporation; provided, that before any such assessment against the property of any individual, co-partnership, company, association or corporation is so raised, notice of the intention of the commission to raise such assessed valuation and of the time and place at which a hearing thereon will be held shall be given to such person by mail addressed to him at his place of residence as the same appears upon the assessment book, at least five days before the day of such hearing. (Laws 1907, c. 408, § 12, as amended by Laws 1909, c. 294, §§ 1, 5.)

**Historical.**—Laws 1907, c. 408, § 12, subds. 2, 5, were amended as above set forth, by section 1 of Laws 1909, c. 294, "An act to amend chapter 159 of General Laws of Minnesota for 1909, relating to the powers and duties of the Minnesota tax commission," approved April 20, 1909. This act also amended Laws 1907, c. 408, § 16 (section [1038—]53, post), and enacted two new sections (sections [1038—]54, [1038—]55, post). Section 6 repealed inconsistent acts, and thereby repealed Laws 1909, c. 159, "An act to amend chapter 408, General Laws of Minnesota for 1907, relating to the powers and duties of the Minnesota Tax Commission," approved April 8, 1909.

**Duties in general.**—The duties formerly imposed on the State Auditor by R. L. § 801, in the matter of grievances relating to taxation on account of excessive valuation or for other cause, were imposed upon the commission by Laws 1907, c. 408. *State ex rel. Foley Bros. & Kelly v. Minnesota Tax Commission*, 103 Minn. 485, 115 N. W. 647.

**Abatement of taxes—Recommendation of county officers.**—The favorable recommendation of the county board and auditor of the county in which the property is situated is a general condition precedent to favorable action by the commission on application for abatement of taxes on the ground of excessive valuation. The requirement of approval by the county auditor applies to taxes lowered by the St. Paul board of abatement. *State ex rel. Foley Bros. & Kelly v. Minnesota Tax Commission*, 103 Minn. 485, 115 N. W. 647.

**[1038—]50. Record of proceedings changing assessed valuation—Duty of county auditor.**—A record of all proceedings of the Minnesota tax commission affecting any change in the assessed valuation of any property, as revised by the state board of equalization, shall be kept by the secretary of the commission and a copy thereof duly certified shall be mailed to the county auditor of each county wherein such property is situated. Which record shall specify the amounts or amount, or both, added to or deducted from the valuation of the real property of each of the several towns, villages and cities, and of the real property not in towns, villages or cities, also the per cent or amount of both, added to or deducted from the several classes of personal property in each of the towns, villages and cities, and also the amount added to or deducted from the assessments of individuals, co-partnerships, associations or corporations. The county auditor shall add to or deduct from such tract or lot or portion thereof, of any real property in his county

the required per cent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding in each case a fractional sum of fifty cents or more, and deducting in each case any fractional sum of less than fifty cents, so that no valuation of any separate tract or lot shall contain any fraction of a dollar; and shall also add to or deduct from the several classes of personal property in his county the required per cent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid, any fractional sum, so that no valuation of any separate class of personal property shall contain a fraction of a dollar, and shall also add to or deduct from assessments of individuals, co-partnerships, associations or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the Minnesota tax commission. ('07 c. 408 § 13)

**[1038—]51. County auditor to calculate tax rate.**—The county auditor shall calculate the rate per cent necessary to raise the required amount of the various taxes on the assessed valuation of all property as returned by the Minnesota tax commission. ('07 c. 408 § 14)

**[1038—]52. Witnesses, how sworn—Failure to testify or produce.**—Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by the secretary of the commission or any member thereof. In case any witness shall fail to obey any summons or appear before said commission, or shall refuse to testify or answer any material questions or to produce records, books, papers or documents when required so to do, such failure or refusal shall be reported to the attorney general, who shall thereupon proceed in the proper court to compel obedience to any summons or order of the commission, or to punish witnesses for any such neglect or refusal. ('07 c. 408 § 15)

**[1038—]53. Property omitted or undervalued—Reassessment.**—Whenever it shall be made to appear to the Minnesota tax commission by verified complaint or by the finding of a court or of the legislature or either body of the same, or any committee thereof, that any considerable amount of property has been improperly omitted from the tax list or assessment roll of any district or county for any year, or, if assessed, that the same has been undervalued or overvalued, as compared with like property in the same county or in the state so that the assessment for such year in such district or county is grossly unfair and inequitable, whether or not the same has been equalized by the county board of equalization or the tax commission, the said commission shall examine into the facts in said matter and if satisfied therefrom that it would be for the best interests of the state that a reassessment of such property be made, they shall appoint a special assessor and such deputy assessors as may be necessary and cause a reassessment to be made of all or any of the real and personal property or either in any such district or county as they may deem best to the end that all property in such district or county shall be assessed equitably as compared with like property in such district and county. (Laws 1907, c. 408, § 16, as amended by Laws 1909, c. 294, § 2.)

**Historical.**—See note under section [1038—]49. By Laws 1907, c. 408, § 16, it was provided that the terms of office of the state board of equalization should end January 1, 1909, and that thereupon such board should cease to exist and be discontinued, and all the powers and duties vested in such board should devolve upon and be exercised by the commission.

**[1038—]54. Qualification of assessors—Reassessment, how made—Grievances—Appeals.**—Such special assessors and deputies shall be citizens of the state of Minnesota but need not be residents of

the county or district wherein such reassessment is so made. Every special assessor and deputy appointed under the provisions of this act shall subscribe and file with said commission his oath to faithfully and fairly perform the duties of his office. Such special assessor assisted by his deputies shall thereupon proceed to carefully examine and reassess the property so to be reassessed, and shall prepare duplicate lists of such reassessment in such form as the commission may prescribe, showing the property or person so reassessed, the amount of the original assessment thereof made in such year, and opposite the same the reassessment so made by such special assessor. He shall file both copies of such list with the said commission. The said commission shall thereupon examine, equalize and correct such reassessment so as to substantially conform with the assessment of like property throughout the state; and shall transmit to the county auditor of the county wherein such reassessment was so made one copy of such reassessment by them so corrected and equalized. Such list shall for all purposes supersede and be in place of the original assessment made for such year upon such property, and the county auditor upon receipt thereof shall extend and levy against said property so reassessed the taxes thereon for such year according to such reassessment in the same manner as though such list was the original assessment list of such property. Any person feeling himself aggrieved by an assessment so made against him or upon any property at that time owned by him may appeal therefrom to the district court of the county in which such assessment is made. To render such appeal effective for any purpose, the appellant shall file a notice of such appeal with the county auditor of such county within thirty days after the making of such assessment, which notice shall specify the ground upon which such appeal was taken and no other or different service shall be required to perfect such appeal. Upon the filing of such notice the county auditor shall make and file in the office of the clerk of such district court a certified copy of such notice and of the particular assessment appealed from, and shall also notify the county attorney of such county of the pendency of such appeal. Thereupon the said district court shall be deemed to have acquired jurisdiction of such matter and shall proceed to hear and determine same in like manner as other tax matters are tried and determined in the district courts of this state. The county attorney of said county shall appear for and defend the interests of the state in such matter. ('09 c. 294 § 3)

See note under section [1038—]49.

**[1038—]55. Compensation of special assessors.**—The compensation of each special assessor and of his deputies appointed under the provisions of this act and his expenses as such shall be fixed and determined by the Minnesota tax commission and by them certified to the state auditor and shall be paid out of the general fund in the state treasury. The respective counties shall reimburse the state therefor two years after the same are incurred. The state auditor shall notify the auditor of such county of the amount thereof, whereupon such county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same and when collected the proceeds thereof shall be forthwith paid into the state treasury in the same manner as other state taxes. ('09 c. 294 § 4)

See note under section [1038—]49.

**[1038—]56. Annual appropriation.**—For the purposes of this act there is hereby annually appropriated out of the treasury of the state, not otherwise appropriated, the sum of thirty thousand dollars. ('07 c. 408 § 17)