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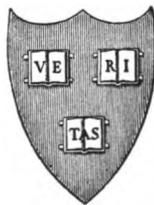
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REPORT

OF THE cf

TAX COMMISSION

CREATED BY

CHAPTER 13, GENERAL LAWS, 1901.

FOR THE PURPOSE OF

FRAMING

A TAX CODE.

ST. PAUL, MINN.:
THE PIONEER PRESS COMPANY,
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*Hon. Samuel R. Van Sant, Governor,
State of Minnesota.*

SIR:—The undersigned have the honor to herewith submit their report made pursuant to the act of the Legislature, entitled: "An act to provide for the appointment of a Tax Commission, to prescribe the duties thereof, and to appropriate money therefor." Approved February 26, 1901.

G. S. IVES,
W. J. HAHN,
H. W. CHILDS,
Tax Commissioners.

Dated: St. Paul, January 10, 1902.

REPORT OF THE TAX COMMISSION

Created by Chapter 13, General Laws, 1901.

FOR THE PURPOSE OF
FRAMING A TAX CODE.

CHAPTER I.

PRELIMINARY WORK.

The act under which the Tax Commission was appointed, so far as it relates to the nature of the task to be performed, provides:

“The duties of said commission shall be to make a tax code for the State of Minnesota. Such code shall include a complete system for the just and equitable taxation of all forms of property, both tangible and intangible, and shall be properly indexed and prepared in the form of a bill or bills for presentation to the legislature. Said code shall include provisions for a permanent tax commission, and shall define its duties, powers and compensation. The commission shall also prepare and report a bill or bills providing for any constitutional amendments which may be necessary for properly carrying out the system of taxation recommended by the commission.

The act further provides that the commission shall “complete its labors and make its report on or before the first day of February, 1902.”

The several members of the Tax Commission received their commission on the eleventh day of April, 1901.

In view of the magnitude of its labors and the shortness of the time allowed for their performance, it was obvious that the work should be commenced speedily and prosecuted with the least interruptions until its completion.

The commission was called upon, not merely to codify the existing laws, a comparatively slight task, but it had to provide also for "a complete system for the just and equitable taxation of all forms of property, both tangible and intangible," a work of extreme importance affecting all classes of citizens and all industries in the state.

To frame a comprehensive revenue system is, under the most favorable circumstances, a difficult task; but the labors of the commission were greatly increased and influenced by the provisions of our constitution which are the subject of discussion in another part of this report.

Whatever the commission's views as to the true policy of the state upon several features of taxation, they had to yield to the mandates of the constitution. The code which it was appointed to frame was to be given form and be effective, if at all, under the existing constitution.

The commission deeply regrets that it was not afforded ample time and means for the accumulation of valuable data relating to taxation in this state. This report would have performed a far more instructive and useful function if the commission had been able to present therein a comprehensive tabulation of the wealth of the state under appropriate classifications. Legislation is most wise which emanates from a fine knowledge of the subject to which it is addressed.

Statistics should be marshalled showing the actual valuation of real property in the several counties of the state; the valuation of personal property in cities and villages and in the rural districts; in tangible and intangible forms; in productive and non-productive uses; in investments in stocks, secured and non-secured loans and bank deposits, engaged in manufacturing, jobbing, mercantile, transportation and other public service enterprises.

There should be a showing of incorporated companies classified with respect to the purposes of organization, disclosing the amount of capital authorized and paid in, volume of earnings and taxes paid.

Such a showing would have been rich in suggestions and an instructive guide both as to present and future tax legislation.

It is obvious that the gathering of such statistics would have required many more months than were allowed the commission in which to complete its labors and a far greater appropriation than that which was placed at its disposal.

VISITS TO OTHER STATES.

In order to advise itself of the efficiency of the tax systems of other states, the commission determined, after consultation with the governor, the state auditor and the attorney general, to visit a few states in which the subject of taxation had received exceptional consideration.

It therefore visited during the month of April the following cities: Chicago, Lansing, Indianapolis Columbus, Albany, Boston and Philadelphia. It held lengthy conferences upon the subject of taxation with public officials and others and was everywhere treated with the utmost courtesy. It is impossible to overestimate the value of the information thus acquired. Had time and means permitted, several other states might have been visited with great, if not equal, profit.

VISITS TO COUNTIES IN THIS STATE.

Early in the history of its work, the commission addressed a circular letter to every county auditor, county attorney and district judge in the state, calling for an expression of his views upon the general subject of taxation and particularly upon many features of our present tax system. It was hoped that by such means many valuable suggestions would be brought to its attention. Few responses to its letters were, however, received.

Failing to thus realize its hopes, it thereupon visited a number of counties which it deemed representative of the various industrial conditions of the state and was thus enabled to meet and exchange views with local officers and taxpayers.

Meetings were held in the following cities: Mankato, Austin, Faribault, Winona, Crookston, Fergus Falls, St. Cloud and Duluth. It is unfortunate that the commission was unable to greatly extend its visits over the state as by no other means could the workings of the existing laws be as thoroughly tested as by personal interviews with county officers, assessors, and taxpayers. Much of the work of the commission, so far as it relates to administration, such as the assessment of property and the collection and enforcement of taxes, has been influenced by the information so obtained.

REGULAR SESSIONS RARELY ATTENDED BY OFFICIALS OR TAXPAYERS.

Shortly following its organization, the commission was assigned a room at the state capitol in which to hold its meetings. With few intervals, it has been in continuous session, from the beginning to the end of its labors. It sought, through the columns of the public press and otherwise, to arouse public interest in its work. While cheerfully acknowledging valuable suggestions made by a few public spirited citizens, it regrets that it has been so infrequently visited and so seldom aided by the members of the bar, officials and taxpayers, to whom the subject is necessarily of the deepest interest. The only explanation of the apparent apathy is the fact, widely recognized, that our existing law is in too confused a state to warrant the suggestion of remedies by any one not having the opportunity for a systematic study of the subject. But work of such magnitude and general interest should have assured the co-operation, during its progress, of many private citizens. It is true that hearings have occurred from time to time at which the representatives of certain interests appeared and were heard upon special features of the subject.

CHAPTER II.

TAXATION OF PERSONAL PROPERTY.

EVILS.

No system of taxation now in force in any of the states of this country is attended with wholly satisfactory results. The principles of equality and uniformity so essential to every just revenue measure are generally unattained. While approximately attainable in the taxation of real property, they have little practical meaning in the taxation of personal property. Nor is the cause obscure. Real property has a fixed situs and is visible; while personal property, in many of its forms, is either invisible or easily concealed. So universally is the evasion of the law in the assessment of personal property practiced and so notorious is the fact that much the greater volume of it is unassessed, that its evasion is often regarded a virtue rather than a vice. In few, if any, states is more than twenty-five per centum of the personal property liable to taxation listed for assessment.

It necessarily results that, in the enforcement of the law with respect to such property, numerous instances of gross injustice occur. So far as it is reached at all, it belongs chiefly to banks, the estates, of decedents, insolvents, minors, persons of small means and the comparatively few who conscientiously list their property.

It has unquestionably given rise to widespread immorality. Men of unquestioned business integrity not only find little difficulty in listing their property far below its real value, but also in making oath to lists which they know to be false.

It is not surprising, then, that there has arisen a class of economists who, like the late Henry George, denounce the taxation of personal property as vicious and advocate its complete abrogation.

SOURCES OF EVILS.

It would not be just to say that the evasion of personal property taxation is wholly due to the dishonesty of the owners of that class of property. While it is frequently effected by a resort to methods which are clearly in violation of law, one of the most fruitful causes of the evil is the widely known fact that but a small percentage of personal property is listed. If listing were the rule and evasion the exception, the volume of personal property assessed would be greatly enhanced by voluntary listing. There is manifestly a widespread and wellfounded sentiment that the law is itself unjust in its attempt to subject certain classes of personal property to taxation. No law can be successfully enforced which is repugnant to a people's sense of justice.

It has long been the policy of this state, as well as of many other states, to tax mortgages and other forms of credit. Long experience has demonstrated that such a law can at best be but imperfectly enforced. Students of taxation, with scarcely an exception, denounce it as fallacious in principle and a fruitful source of immorality. The taxation of a mortgage, when the subject is itself taxed, is a species of double taxation. This is so obvious that in California and one or more other states the attempt has been made to tax the mortgage as real estate and relieve from taxation in an equivalent amount the property by which it is secured. But such a policy, while avoiding the objection of double taxation, neither increases the volume of assessable property nor benefits the mortgagor.

It is the experience of California that the enforcement of the law has been attended with a marked rise in the rates of interest. Not only do rates rise sufficiently to meet the tax, but they rise still higher in order to guard the holder against the extra hazard incident to the operation of the law. It is needless to say that no law can be enacted which will control the owners of money in the selection of a market for it. Like every other commodity, it will seek the most favorable market.

Low rates of interest on mortgage loans can never exist where the loan itself is taxed. The state which seeks to tax the mortgage must expect one of two results to follow: (1) increased rates of interest or (2) evasion. Moreover, the enforcement of such a law results in discrimination against the citizens of the state in which it is enforced. The commission visited cities in this state where the aggregate rate of taxation was five per cent. It would clearly be impossible for a borrower to secure a loan on property in such a town at six per cent if the lender was required to pay upon the loan a tax of five per cent. The fact that mortgage loans are being made on property so situated is a demonstration that the law is as to them inoperative.

When a state begins to tax credits there is no logical halting place until all forms of credit are reached. If the loan secured by mortgage is taxed so must be the one which is not secured. If the loan evidenced by a written promise is to be taxed so must be the one resting only on a verbal promise. As no system of taxation could ever become efficient enough to reach the greater volume of credits, it is clear that its attempted enforcement must always be attended with great injustice.

The commission is, after careful consideration, firmly of the opinion that the early abandonment of the present policy of taxing credits would be wise, as the revenue derived therefrom is, and will remain, too inconsiderable to counterbalance the injustice and immorality incident to such measures. If it be found that public sentiment will not at present sustain so radical a change in the revenue policy of this state, then some method for the taxation of credits, less unjust than the one now existing, should be adopted.

It was proposed at the last session of the legislature of the State of New York to impose upon mortgages a flat rate of five mills on the dollar, and a bill for that purpose was there introduced which, although failing to become a law, received strong support.

Recent advices indicate that the effort to secure such legislation in that state has not yet been abandoned. Gov. Odell has lately called attention to the subject in strong words of approval, and he will undoubtedly endeavor to secure the introduction and passage, at an early day, of a measure similar in terms to the one which was defeated.

While of the opinion that it is unwise for this state to continue the policy of taxing mortgages and similar species of property, the commission was, in view of our constitution, unable to provide for their exemption, either in whole or in part.

No marked reform in the taxation of personal property can be effected until the legislature is afforded greater freedom of action in the matter of legislating upon the subject.

To the objection that by the exemption of credits many of our wealthiest citizens and money lenders would escape taxation, we reply that such a result would not necessarily follow. Every system of taxation is deficient which does not provide for a reasonable income tax. Minnesota would take a proud step forward by wholly abrogating a tax on credits and adopting a progressive income tax. The desirability of taxing incomes is more fully discussed later in the report.

CHAPTER III.

1.

SUBJECTS OF TAXATION.

The constitution of this state contains the following section:

“Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.”

With the exception of the classes of property expressly exempted by the constitution, all property, real and personal, tangible and intangible, is to be taxed by a uniform rule and thus made to contribute to the public revenues.

In effecting the constitutional purpose it is essential that great care be exercised in framing statutory provisions regulating the assessment of property and the collection and enforcement of taxes.

Save for the limitations imposed by the above and other provisions of the constitution, the bill prepared by the commission would have been materially modified so far as it provides for the subjects of taxation. Its views in this respect are elsewhere stated in the report. The provision is too unyielding and restricts the legislature too closely to permit of needed reformation, both as to subjects and methods. It permits neither the taxation of incomes nor occupations and prevents the adoption of forms of taxation appropriate to the subject taxed.

2.

EXEMPTIONS.

The constitution of this state authorizes, if it does not require, the legislature to provide by general laws for the exemption from taxation of personal property to an amount not exceeding two hundred dollars. The consensus of opinion, almost without dissent, expressed to the commission, verbally and by letter, is that the present exemption of one hundred dollars is a fruitful source of evasion.

One of the marked evils incident to such exemption is the practice common throughout the state to list personal property as if owned by the several members of the same family. Stock on the farm and household goods, when so distributed for listing purposes among the members of a numerous family, too frequently are successfully kept off the assessor's books. The exemption is undoubtedly fraught with more evil than good. If its purpose was ever a justification for its existence it is no longer so.

In view of the peculiar language of the constitution it was not clear to the commission that a failure to provide for any exemption would conform to the constitutional requirement. For this reason provision has been made in its bill for an exemption of twenty-five dollars, that being an amount too small to afford opportunity for any substantial evasion of the law.

CHAPTER IV.

ASSESSMENT.

The assessment of property is the ground work of every system of taxation. It should be studiously and impartially made. It should reach all the proper subjects of taxation and impose upon them a "true valuation in money." It is, however, patent that it universally encounters two formidable obstacles, the one, the inefficiency of assessing officers and the other, evasions by taxpayers. The commission has sought to minimize the evils arising from these sources by certain provisions not all of which are known to our present law, and which may be summarized as follows:

1. Requiring assessors to view property assessed.
2. Affording them more time in which to perform their duties.
3. Requiring every taxpayer to list his property under oath, and making it more difficult for him to avoid listing.
4. Requiring statements of personal property assessments to be placed in the hands of taxpayers immediately after assessments are made.
5. Providing for a county supervisor of assessment in every county to supervise assessments with ample time in which to perform his duties.
6. Providing for a state tax commission with jurisdiction over the state and invested with ample powers.
7. Requiring courts to charge grand juries especially with respect to violation of tax laws.
8. Requiring exhaustive reports from certain corporations.
9. Imposing additional duties upon county attorneys.
10. Requiring all property subject to taxation to be assessed according to its true value in money.

While there are undoubtedly many exceptions the assessment of property is very inadequately performed.

REAL ESTATE.

Real property, always visible and its valuation readily ascertainable, is a startling example of the disregard of law by those to whom its administration is entrusted. The assessed valuation of such property throughout the state for the past twenty years is instructive. Selecting for illustration every tenth county as

they appear on page 190 of the report of the auditor of state for the year 1899-1900, lands were assessed per acre in the years 1880, 1892 and 1900 respectively, as follows:

| County. | 1880. | 1892. | 1900. |
|----------------------|--------|--------|--------|
| Aitkin | \$2.58 | \$2.10 | \$1.45 |
| Carver | 11.06 | 14.10 | 12.89 |
| Dodge | 10.79 | 10.92 | 13.12 |
| Houston | 8.61 | 6.57 | 7.18 |
| Lake | 4.96 | 3.93 | 5.03 |
| Morrison | 4.32 | 4.40 | 3.34 |
| Pipestone | 3.90 | 4.93 | 5.04 |
| Rock | 5.08 | 7.41 | 7.82 |
| Traverse | 3.76 | 4.65 | 4.95 |
| Yellow Medicine..... | 4.65 | 7.41 | 6.55 |

Results still more surprising are seen when we select from the lists certain of our oldest and most prosperous counties. We present the following instructive tabulation:

| County. | 1880. | 1892. | 1900. |
|-----------------|--------|--------|--------|
| Brown | \$6.87 | \$7.64 | \$8.07 |
| Faribault | 7.54 | 9.51 | 14.25 |
| Goodhue | 13.91 | 13.10 | 11.67 |
| Nicollet | 9.15 | 10.61 | 10.80 |
| Olmsted | 13.78 | 12.81 | 13.45 |
| Winona | 10.75 | 11.41 | 12.01 |

It is obvious that valuations for purposes of assessment have been but slightly influenced by actual valuations. Comparing assessments generally made in the year 1900 with those made in 1880, 1890 and other years, it is manifest that little, if any, attempt has been made to advance the assessed valuation in accordance with the advance in actual values, which have in many instances been very great.

The injustice is still more apparent when the assessments of real property in one county are compared with those in another county. The same report of the auditor of state shows (p.194) that in 1880 the average valuation of acre property in the state was \$7.80, while in 1899 it was only \$7.02.

These figures leave no room for doubt that the constitutional mandate requiring property to be assessed at its "true value in money" has been more honored in the breach than in the observance in the assessment of real property.

PERSONAL PROPERTY.

Passing to the assessment of personal property we enter a field of "confusion worse confounded." We learn from the same source (report, p. 194) that the assessed valuation of personal property in the state was, for the years given, as follows:

| | |
|------------|--------------|
| 1865 | \$11,383,000 |
| 1875 | 45,162,000 |
| 1885 | 82,720,000 |
| 1895 | 85,114,000 |
| 1899 | 92,808,000 |

The population of the state, as shown by the decennial census reports, was as follows: (Leg. Man. 1901.)

| | |
|------------|-----------|
| 1860 | 172,023 |
| 1870 | 439,706 |
| 1880 | 780,773 |
| 1890 | 1,301,826 |
| 1900 | 1,751,394 |

Our population in 1875 may safely be placed at 660,000.

It thus appears that while the population of the state had increased from that figure in 1875 to 1,751,394 in 1900, or 165 per cent, the wealth of the state in personal property, as shown by the assessment books, had increased during the same period only \$47,646,000, or a little over 105 per cent.

Justice in taxation can never be even approximated as long as assessments are so inefficiently performed. There is but one safe rule for the guidance of the assessor, and that is the one which the constitution has prescribed.

GENERALLY.

In order to secure an enforcement of the constitutional rule the commission's bill begins with the assessor. He is required to actually see and value the property to be assessed. He must go upon every tract of land and report as to its condition. He must require every taxpayer to list his personal property, and is given ample authority to enforce obedience. The taxpayer will find it most difficult either to avoid listing or to effect concealment. The bill provides the machinery for, and contemplates the vigorous prosecution of, neglectful assessing officers and contumacious taxpayers.

The assessor can call to his aid the county supervisor of assessment, the county attorney or the Tax Commission. Moreover,

his work is to be scrutinized by an officer enjoined by the bill to be vigilant. The supervising officer is himself to be subject to the supervision of the Tax Commission, which in turn will be subordinate in many respects to the State Board of Review. Assessments are to have immediate publicity when completed and prior to the meetings of boards of review.

In place of each township assessor adopting a standard of valuation for his own district, both the county supervisor of assessment and the Tax Commission will see to it that his valuations conform to the requirements of law.

The bill thus seeks to guard against the mistakes, prejudices, inefficiency or dishonesty of assessing officers. It creates the closest relationship, a sort of interdependence between officials, so that the opportunity for improper assessments, however arising, will be reduced to the minimum.

The laws of other states have been critically read and their best provisions have, so far as possible under our constitution, been adopted and incorporated in the bill.

LISTING PERSONAL PROPERTY.

Custom, lax methods and defective provisions of law have resulted in great diversity among taxpayers in the listing of their property for taxation. Many of the lists filed are unverified, a few verified with the mental reservation that the falsehood is justifiable, while, in other instances, no listing whatever is made as the taxpayer prefers to be the victim of injustice rather than to consciously commit perjury. It necessarily results from so deplorable a condition of affairs that the listing of property is not performed in accordance with just and proper rules and regulations.

The initial step in the taxation of personal property is the requirement that all the owners thereof whose property is liable to assessment shall list the same upon appropriate blanks, and that the lists so made shall be duly verified. The commission's bill provides that the assessor shall call upon each taxpayer and furnish him with proper blanks for the listing of his property; and thereupon the taxpayer must make a full and correct description of all the property owned by him on the first day of April and of all such property held or controlled by him as executor, trustee or in any other fiduciary capacity. He will be required, for the guidance of the assessor, to affix to each item of property what he

deems the true cash value thereof. The form of personal property list set forth in the bill provides a much more detailed classification of property than the one provided in the existing law. This was deemed necessary as a guide both as to the taxpayer and the assessor in the listing of property.

Whenever a person refuses or neglects to list his property or to take or subscribe to the required oath, or fails to fully list his property, it is made the duty of the assessor to summon such person before the proper court for the purpose of examination touching his assessment.

If a taxpayer absents himself during the period when property is to be listed he will not thus evade his duty, but may thereby incur heavy penalties. Upon his return, sooner or later, he may be summoned to appear before a court or officer for examination. Nothing short of this strictness will suffice. The honest and dishonest must understand that evasion of taxation can no longer result from mere failure to file a sworn statement of property. If evasion is attempted by false swearing, the bill contemplates a criminal prosecution when discovered.

Neither sickness nor absence of the person required to list will defeat the ultimate listing of his property. Upon the recovery or return of the person whose property is not listed he will be notified and required to list. It is made the duty of the assessor when unable to procure the list of any person at the proper time, by reason of illness or absence, to list the property of such person according to his best judgment. Every assessor who wilfully accepts an unverified list will be liable to a penalty of twenty-five dollars.

The bill aims at the enforcement of verified listing by every taxpayer in the state. The commission here emphasizes the importance of the strict enforcement of the law in this respect. In order that the taxpayer may not misunderstand the gravity of the duty thus imposed upon him by law, the district courts are enjoined to charge grand juries upon the subject.

It may here be properly said that if it shall be proven by experience under the bill that the enforcement of its provisions are inadequate to produce results far more satisfactory than any the state has ever yet known, the sooner the taxation of many classes of personal property is abandoned the better.

FULL VALUATIONS.

Allusion has already been made to the necessity for a full valuation of property for assessment purposes. Aside from the requirements of the constitution it is obvious that no other rule can be justly applied. As soon as any other standard is adopted inequality and lack of uniformity will immediately result. It is more just to the owners of property in towns or the country, of real property or chattels, of live stock or bank stock, that all property be given its full value and subjected to a uniform rate.

One of the potent causes for the concealment from the assessor of money and other classes of highly valuable personal property is the fact that whenever listed it is commonly valued by a higher standard than that applied to other classes of property.

The sentiment is no doubt shared by most of our wealthier citizens that they would be willing to list all their property if satisfied that all others would do the same, and that no class or person was to be discriminated against.

The effect of full listing at full value of all the personal property in the state, subject to taxation, would result in two things; it would relieve the overburdened and press more heavily upon the underburdened. It would, in short, equably distribute the burden.

It is obvious that with a given revenue the rate will decrease as the volume and valuation of assessed property increases and *vice versa*. Increased taxes will happen only to those who have not paid their proper proportion of the public revenues.

These self-evident propositions would not have been stated but for the fear that misapprehension may exist in some quarters as to the effect of putting in force the constitutional rule.

In this connection it is proper to repeat what has been elsewhere stated that it is one of the purposes of the bill to vastly increase the volume of assessed personal property. That this may be effected by a proper enforcement of its provisions, the commission is greatly confident. It should be increased many fold, for the amount of such property now upon the tax lists is but a fraction of what may and should be listed. With any thing like a fair listing of personal property, the volume of assessed property throughout the state would be so greatly increased as to have a marked effect in reducing rates of taxation, both state and local.

It should not be overlooked that the great burden of taxation is for local revenue. It is highest in municipalities where expenses for schools, police and fire protection, the improvement of streets and other purposes are heavy. The amount of taxes paid for state purposes by the farmer or other citizen whose property is situated in the rural districts is so slight as to be scarcely felt.

Undoubtedly the small taxpayer, whether the owner of farm or town property, is now paying more than his just proportion of taxes. It is the larger estates, consisting in great measure of personal property, whether tangible or intangible, which are most benefited by the present methods of assessment. Applying the constitutional rule, which requires all property to be taxed at its fair value in money, the result will be that a greater degree of justice will characterize the administration of our revenue laws.

But whatever may be said for or against the rule of assessment above advocated, no discretion rests in either the legislature or the commission. The mandate of the constitution is clear and explicit in requiring the application of that rule and no other. Indeed, any statute enacted by the legislature which prescribed a different rule would be clearly invalid, and the action of any officer in departing from that rule in the assessment of property would be a gross violation of the constitution.

CHANGE OF TIME OF ASSESSMENT OF REAL PROPERTY.

The present law requires the assessment of real property to be made biennially, and such has always been the policy of this state. The bill, however, increases the inter-assessment period to four years.

The entire history of assessments in this state demonstrates that so far as practical results have been attained, the state had been the gainer if the assessment of real property had been made every tenth year. The showing made in the earlier part of this chapter fully justifies the proposition.

For all practical purposes, an assessment once in four years is more wise than as now required. In the older counties, where the agricultural interests are highly developed, values of real property have already reached so high a limit that neither rapid nor great advances can reasonably be expected between assessment years. In some of the newer counties the contrary will doubtless prove true, especially in localities, for a few years in the imme-

diate future; but, even in such cases, the aggregate of advanced valuations will not be so marked as to prove seriously prejudicial to the older sections because of assessments made less frequently than at present. The expense of a real estate assessment throughout the state is so great as to quite counterbalance the benefits of biennial assessments. There are circumstances reasonably to be expected, which will powerfully influence values. Such are the platting of additions to towns, the destruction of buildings, the discovery, development or exhaustion of mines. They present cogent reasons for extra assessments, and the bill accordingly makes provision for them.

The commission has been mindful that the legislature contemplates the enactment of a tax code which should so far as practicable constitute a permanent system of legislation. The wisdom of the policy of assessing real property once in two or four years is, therefore, to be determined with reference to a fixed and permanent rather than a temporary institution.

The conditions which have recently caused general activity in the real estate market with the rapid advance in prices in that class of property in our own state are temporary. Lands in certain portions of the northern half of the state were for years abnormally low. In a few years their value will have risen to their normal level and thenceforth will rise by a more gradual process. They will advance with the general development of the respective regions in which they are situated, and thus repeat the history of the older counties. Assessments in more than one-half of the counties of the state might, with little, if any, injustice, be made, as in Ohio, once in ten years.

The question of changing the time of real estate assessment as indicated in the bill was fully discussed at the meetings held by the commission in the several counties elsewhere referred to, and the proposed change received the hearty endorsement of county officers and taxpayers.

MAILING PERSONAL PROPERTY STATEMENTS TO TAXPAYERS.

The importance of giving early publicity to the assessments of personal property has strongly appealed to the judgment of the commission. Its importance was emphasized by the Chicago board of review on the occasion of the visit of the commission to that city. Such a policy was inaugurated there a few years since, and has resulted in a marked increase both in the volume and the

valuation of assessed property. With a view to effective publicity it is provided in the bill that the assessors shall send in lists of personal property assessments to the county auditor immediately upon completing the same. It is thereupon made the duty of the county auditor, upon receiving such lists, to prepare and cause to be printed a list of the names of the personal property taxpayers in every township and ward of every city in his county, and mail the same to such taxpayers.

Each taxpayer will by this means be early apprised not only as to his own assessment, but also as to the assessments of all the other residents of his township or ward. He will thus be able to make comparisons between the assessment of his own property and that of his neighbors. As the county supervisor of assessment is required to visit each township of his county, he will thus meet many taxpayers and be apprised of many grievances. It will be his duty to make inquiry, and it is unreasonable to believe that any taxpayer of large personal holdings will be able to list unchallenged a grossly inadequate amount of such property. This will be especially true of those engaged in competing enterprises. Every man in business who is properly assessed will naturally insist that his competitor be treated by the same rule.

The objection that the tendency of such a law will be to beget strifes and enmities in communities was duly considered by the commission and deemed of little force. It is far less objectionable in such respect than the present law as now administered. It is an universally admitted fact that the present assessment of personal property is in the highest degree unjust. It is so because it results in the imposition of personal taxes mainly upon those of small holdings, and the escape in great measure of those who are more able to pay them. It is so as between classes and individuals of the same class. It is so because largely influenced by the personal equation of the officer and the taxpayer. It is so because it results in the escape of 75 per cent of personal property liable to taxation.

If a method so thoroughly vicious in its operation is now tolerated by the taxed public, there is little doubt that it will soon welcome a law whose machinery is addressed to exacting from each his due.

The commission does not hope by this or any other feature of the bill to wholly eliminate from taxation the elements of neglect, prejudice, avarice or dishonesty; but it does hope to thereby greatly lessen their evil effects.

When the taxpayer of any community learns that the assessment of his personal property is to be scrutinized by all his neighbors, pride, at least, if not a sense of danger, will prompt him to be more fair in listing his property.

CHAPTER V.

REVIEW AND REDRESS OF GRIEVANCES.

TOWN BOARD OF REVIEW.

The most inefficient body known to the existing tax law is the town board of review. Theoretically capable of subserving a useful function in the assessment of property its actual work demonstrates that it is now the part of wisdom to abolish it. Wheresoever the commission went and from whomsoever it sought information, the almost universal opinion was that the board was practically useless. The examination of assessment books disclosed that the assessor's work was rarely disturbed. The same haste which seriously impaired the assessment of property characterized the labors of this board. A single day, or a few hours in a day, sufficed for the performance of the difficult and important work of reviewing the assessment of all the property in a whole township.

It should be said in justice to those comprising such boards, for they are generally well-meaning gentlemen, that it was stated in explanation to the commission that the services of the boards have been so brief and barren of practical results because, in order to review the assessments of individual taxpayers, the giving of notices would be necessary, which was impracticable.

But whatever may be urged as to the value of the board under the existing law, it would impede rather than advance the work of assessing property under the system which the bill provides. The county supervisor of assessment will perform a far more useful function.

The commission has therefore made no provision for its continuance.

REDRESS OF GRIEVANCES.

A revenue system is incomplete which does not afford a plain, adequate and inexpensive opportunity for the redress of grievances arising from the assessment of property. This the bill seeks

to provide. A taxpayer may, by pursuing the steps provided, secure a hearing by the county board, and, if so disposed, appeal from its action to the Tax Commission. In neither case will personal attendance be necessary, although permissible, as the bill provides forms quite simple in character which any taxpayer of ordinary intelligence can easily follow. In short, he has only to state his grounds of complaint in writing, make affidavit as to the classes and valuation of his property, procure the supporting affidavits of two of his neighbors and mail them to the county auditor prior to the meeting of the county board of review. The statement showing the personal property assessment of himself and neighbors mailed to him by the county auditor will reach him in ample time to permit his having his grievances heard by the county board.

His opportunity for a hearing by the Tax Commission has been also secured and is equally simple and inexpensive.

COUNTY SUPERVISOR OF ASSESSMENT.

The question was long and seriously considered by the commission whether it should provide for the abolishment of the office of township assessor and create in its stead that of county assessor. That such a change would conduce to better assessments was the opinion of all its members. It was feared, however, that so radical a change would not at present meet with general favor.

Following the example of Wisconsin and Indiana, it determined to continue the office of assessor, subjecting him, however, to new and more stringent provisions and create the office of county supervisor of assessment with powers of assessment and supervision.

Among the causes which have heretofore resulted in unjust taxation are the inefficiency of many assessors, the shortness of the time in which their work is to be performed and the press of private affairs. May and June are busy months with our farming communities, and the duties of the farm have, in many instances, sadly interfered with the duties of the office.

In order either to search out property in hiding or to properly assess that which is listed or discovered requires more time than an assessor has been prone to give. The work has been, as a rule, altogether too hurriedly performed in the past.

The assessment of property will assume a new appearance, it is hoped, with the county supervisor of assessment in the field.

Instead of being restricted to the brief period now allowed assessors in which to perform their work, he will be actively engaged in the duties of his office for four or more months. In counties having a population of seventy-five thousand and upwards, he will be continually in office. Instead of dividing his time between his farm, store or shop and his official duties he will be required to give his whole time to the latter. His tenure of office will be four years, thus giving him time in which to become thoroughly familiar with the conditions of his county and the duties of his office. He may, when necessary to a proper assessment of property, visit other counties and states. His compensation will be sufficient to command the services of competent men. He will be in constant touch with the Tax Commission on the one hand and the assessors on the other. If negligent or unfaithful to duty he can be removed from office. His opportunities for preventing unjust taxation will be great. That the office will be one of great responsibility, calling for the appointment of men of integrity and capacity, is apparent. With the office properly filled, the assessments of property will be approximately uniform.

It would have been more consonant with the views of the commission to have provided for the appointment of this officer by the Tax Commission, as it was believed that by appointment the selection of more efficient men would result than by selection by popular vote. But the principle of local government is so strong among the masses that it was deemed the better course, because exciting less local prejudice to leave to the electors of the county the right of electing the officer. Moreover, it is at best a serious question whether under our constitution the people of a county could be deprived of the right of choosing him by public suffrage.

The danger arising from local influences upon such officer will, in the judgment of the commission, be greatly counteracted by the supervisory powers which the bill confers upon the Tax Commission. As soon as it is generally understood in every county and township of the state, as it soon would be under proper administration, that local authority is powerless to depress assessments as a whole as against any portion of the state, the importance of a qualified and impartial supervising officer will be as generally recognized. If property is in fact to be assessed at its true value, either by local or state authority, it will be to the interest of each taxpayer in a given district that all therein be properly assessed. This is all the more obvious when it is remembered

that the great burden of taxation arises for purposes of local rather than state government. Selfish considerations may therefore to some extent be relied on to co-operate in securing the election of an efficient officer.

TAX COMMISSION.

No part of the work performed by the commission is more important than the provisions of the bill relating to a tax commission. Although long known elsewhere, such a body has never had existence in this state.

As contemplated by the bill, the Tax Commission will be composed of three members to be appointed by the governor by and with the consent of the senate. Its jurisdiction will extend throughout the state. It will be given ample powers as to the assessment of property. It will be its duty, generally speaking, to see to it that all the property of the state liable to assessment is assessed according to its true value in money, so far as that is practically attainable.

With that object in view it will be required to confer with, advise and instruct assessors and county boards of review as to their respective duties; to see that the penalties and liabilities provided for the punishment of offenses against the revenue laws of the state are enforced; to make complaints to the governor of negligent and unfaithful officers; to investigate complaints as to the assessment of property; to investigate as to the estates of decedents; to visit all counties in the state for the purpose of hearing complaints, gaining information and correcting erroneous assessments; to inquire into the valuation of the properties of public service corporations; to keep in touch with the revenue laws and systems of other states and countries; to make annual report to the legislature upon the subject of taxation, and to abate taxes whenever it may be found necessary.

The great office of the Tax Commission will be to counteract local tendencies to depress valuation of property. If it properly discharge its duty all classes of property will be assessed and taxed according to an uniform rule. It may, whenever it believes the assessment made in any district is not in whole or in part in substantial compliance with law, direct the reassessment of the same.

Too much importance cannot be ascribed to the work of such a commission, for by that work is to be determined the efficiency of the bill which accompanies this report.

The tenure of office of the respective members of the Tax Commission is made six years, with terms so arranged that an appointment of one member will be necessary every two years. It goes without saying that such a body properly composed, continuously in office, its whole time devoted to the subject of taxation, will exert a powerful influence over the assessment of property and the collection of taxes.

No one cause has contributed more largely to the evasion of taxation than the fact that the existing law makes no adequate provision for detecting evasions and prosecuting offenders. The employment of private persons by county authorities to perform such work is not authorized, as was held by the supreme court of this state in the case of *State ex rel Grannis vs. Board of County Commissioners of Blue Earth County*. Assessors, both from their incompetency and shortness of official tenure, are incapable of acting as ferrets. The Tax Commission supplies the existing defect in our laws in such respect, and will constitute, it is believed, an efficient instrumentality for the discovery of concealed property. The bill gives it the power to take any step necessary to the proper assessment of property whether by the appointment of assistants or otherwise.

The experiences of Indiana, Michigan and other states visited by the present commission leaves no room for doubt as to the wisdom of providing for a permanent tax commission. The late ex-Gov. Pingree, in his farewell message to the legislature of Michigan, Dec. 31, 1900, indulges in strong language commendatory of the measure creating a tax commission in that state. He thus expresses his views upon the subject: "When you are thoroughly familiar with the result of its work I know you will affirm the statements which I have heretofore made in this message that the law creating it is the most important one ever enacted by a Michigan legislature. * * * I submit herewith a table which shows the increase in the assessed valuation of the real and personal property in the state, made as a result of the work of the Tax Commission:

| | 1899. | 1900. |
|--|---------------|-----------------|
| Assessed valuation of real estate..... | \$825,858,711 | \$1,006,453,013 |
| Assessed valuation of personal property... | 142,330,376 | 310,997,015 |

"It will be noticed that the increase of the assessed valuation of the property of the state, as the result of only one year's work of the commission, is nearly \$350,000,000. * * * The increase of

assessments in seventy-eight cities of the state has been \$133,160,000. The assessment of the property of the mines of the upper peninsula has been increased \$80,000,000."

In no state visited are the character of revenue laws and their administration more satisfactory to state authorities, at least, than in the case of Indiana. It is not meant by this that a system of taxation has been evolved in that state freed from those subjects which excite the criticism of political economists and students of taxation, for it must be admitted that provisions for the assessment of the various classes of personal property, more drastic than those of that state, nowhere exist. It is, however, certain that through the exertions of its Tax Commission the laws of Indiana have been so shaped and modified from time to time and enforced with such wisdom and industry that a larger percentage of personal property is there assessed than in any other state.

The office of Tax Commissioner signifies great responsibility and calls for unusual integrity and capacity. Indeed it is impossible to name a public station in which the incumbent can become the author of more good or evil.

The commission entertains no doubt that if properly constituted and authorized tax commissions had long existed in the several states, the deplorable story of the assessment of personal property would have been far less an impeachment, than at present, of the wisdom displayed in tax legislation.

CHAPTER VI.

EQUALIZATION OF PROPERTY.

The equalization of property, both by state and county authority, as provided by the existing law, is in general features continued in the bill. A radical change is made, however, in the composition of both the state and county boards.

1.

STATE BOARD OF REVIEW.

The state board of equalization, as at present constituted, is composed of eighteen members, each judicial district of the state having one representative thereon. Many reasons have influenced the commission in making a radical change in the constitution of

the board. The duties imposed upon the state board by the bill contemplate a body which can be convened when necessary at any time during the year.

The state board of equalization has unconsciously encouraged a disregard of the rule of taxation prescribed by the constitution. Members of the board, naturally solicitous for the welfare of their respective districts, have generally sought to depress rather than to raise valuations in the counties constituting their districts. Local influences have also had their effect upon the respective members. Such a tendency always manifests itself with a body so composed, and is as true of other states as our own.

The name of the board has been changed to "State Board of Review," as it more accurately indicates the character of its duties.

The bill provides for a board composed of the governor, state auditor, secretary of state, attorney general and the three tax commissioners. It will thus be in close touch with the Tax Commission, and reflect in its work the least degree of local influence. The commission entertains no doubt that, under a board so composed and with authority to meet frequently, the assessment of property throughout the state will be more efficiently accomplished than under existing laws.

The board will meet annually on the third Tuesday of September and continue in regular session until its labors are completed. It may adjourn its meetings from time to time, but must conclude its labors in the equalization of property on or before the 15th day of October. The time for holding the session of this board differs from that provided by the existing law for the sessions of the state board of equalization, as it was believed that such a change would permit more latitude on the part of other officers whose duties are affected by its work. In addition to the regular sessions so provided for it will be authorized to hold extra meetings at such other times, and for such periods and purposes as it may deem necessary. The state auditor will be the secretary of the board, and keep a record of its proceedings as he is now required to do with respect to the state board of equalization.

In providing for a state board of review composed of the officers above named the commission has not thus recommended an untried experiment. In several states the equalization of property is performed by boards similarly composed. The following states may be named as instances: Tennessee, Washington, Colorado, Kansas and Nebraska. In Indiana the governor expressed

to the commission his great satisfaction with the law which made him a member of the board.

COUNTY BOARD OF REVIEW.

The name of the county board of equalization, as known to the present law, is changed by the bill to the "County Board of Review." It will be composed of the county auditor, county treasurer, chairman of the board of county commissioners, register of deeds and county supervisor of assessment.

The reasons which influenced the commission in providing for a change in the constitution of the state board of review apply with almost equal force to the county board. The change will minimize, if it does not wholly eliminate, the local influences operating within the county. Frequent meetings of the county board may be held, if necessary, and it should therefore be composed with reference to facility in meeting as occasion may require. Moreover, the character of men usually selected for the county offices above named is a guarantee that the review of property will be carefully performed.

The county board is empowered to redress grievances, and to that end a simple and expeditious means is provided for presenting complaints thereto by taxpayers and for appeal therefrom to the Tax Commission. Its powers have been greatly enlarged by the present bill. It may, when necessary, direct the reassessment of any class or classes of property; it is its duty to consider and act upon recommendations made to it by the county supervisor of assessment, and it may continue in session and adjourn from time to time during a period of four weeks, commencing on the third Monday of July. When an assessment is ordered, it may meet at the expiration of the said four weeks for the purposes of review and equalization.

The bill seeks to provide for close official relationship between the state and county boards, and, if its provisions are faithfully enforced, those boards will exert a new and powerful influence over assessing officers.

CHAPTER VII.

LEVY AND COLLECTION OF TAXES.

TAX LEVY.

The provisions of the existing law as to the levy of taxes has not been essentially changed in character, as no sound reason seemed to require it. It was deemed desirable to restate some of the language employed in the present law in order to make its provisions more explicit. The maximum limitation for which taxes may be levied for county purposes has been modified, as will appear by reference to the second subdivision of section 143 of the bill.

COLLECTION OF TAXES.

The general scheme of the existing law for the collection of taxes is pursued with certain modifications disclosed in the following exposition of the bill relating to personal and real estate taxes.

The time when taxes become due and payable has been changed from January 1st, as provided by the present law, to January 15th. This change became necessary by reason of the change made in the date of the session of the State Board of Review, which, under the bill, will be two weeks later than that fixed by the present law for the session of the state board of equalization. Even under the present law the time elapsing between the date of adjournment of the state board and January 1st, does not afford sufficient opportunity for the auditor of state to prepare the abstracts and the county auditors to make the necessary changes in their assessment books, required by reason of the action of the state board. No public inconvenience will, it is believed, be occasioned by the fixing of a later date for the payment of taxes, while, on the other hand, it will conduce to a more orderly dispatch of public business.

1.

PERSONAL PROPERTY.

Taxes are to become delinquent on personal property on the first day of March, as at present, when a penalty of ten per cent will attach. The county auditor is required to prepare a list of delinquent taxpayers, showing the taxes due from each, which, after

certifying to its correctness, he will deliver to the county treasurer. Upon receiving the list, the treasurer is required to make demand when possible of each delinquent in the list of the amount charged against him. He is given the right to distrain in the enforcement of such taxes. If he is unable to collect any tax due from any person he will make return accordingly. In case he has reason to believe that any delinquent has property beyond his reach he will report the fact to the county attorney, who will then be required to institute proper proceedings for the collection of the tax therefrom. The auditor is forbidden to credit the treasurer with any uncollected taxes until the latter has made proper return relative thereto.

The treasurer is required to return to the auditor on the first Monday of June the said list, with lists thereto attached of the persons from whom taxes have not been collected. The auditor will then place the list before the board of county commissioners, and thereupon the board will proceed to cancel uncollectible taxes. Within ten days after such action by the board the auditor is required to prepare a revised list of the names of those remaining on the delinquent list, and file the same with his certificate thereto attached in the office of the clerk of the district court.

Personal property taxes will be a lien for six years from the day when they became due upon all real estate of the delinquent in the county, and the lien may be enforced against it.

The commission has sought by its bill to correct many of the evils which now characterize the collection of personal property taxes. The existing law has proven a very costly machinery for the collection of such taxes. It authorizes suit against delinquents from which the sheriff has been unable to collect taxes, although armed with a warrant which authorizes him to seize and sell the goods and chattels of the delinquent. The clerk issues a citation, and for issuing the same and perfecting judgment, in cases not contested, receives a fee of \$1.50, while in contested cases he receives the fees allowed in civil actions. The citation is delivered to the sheriff for service. If the latter fails, after diligent inquiry, *to find the delinquent*, the clerk receives an additional fee in every such case of twenty-five cents. The sheriff in turn is allowed fees for serving citation, making collections and for travel. The average cost of each judgment is several dollars. Experience demonstrates that little use is made of the judgments after they are obtained. The cases are extremely rare in which any attempt is made to collect them. In a single county judgments of this na-

ture have been entered to the amount of \$50,000. It goes without saying that provisions afford opportunity for abuses.

The commission has sought to radically reform the present law in such respect. It wholly abrogates the judgment, and casts upon the treasurer duties which he cannot disregard. There certainly will be no costly fee account for services which are little better than useless.

Provisions are made to cover cases of removal of a delinquent taxpayer from one county to another.

2.

REAL ESTATE.

A penalty of ten per cent attaches to real estate for delinquent taxes on the first day of June. The policy of the present law, so far as it permits the payment of one-half the taxes prior to June 1st and the other half prior to November 1st, is pursued. An additional penalty of five per cent accrues on the first Monday in January.

The auditor will still be required to file a delinquent list in the office of the clerk of the district court, which is to be done on or before the first day of February. At the time of filing the same, he will present the clerk with a copy thereof. The filing of the list will have the effect of filing a complaint by the county against each piece or tract. Publication of the list will be required as at present, but will contain new provisions looking to the prevention of errors incident to the publication.

A form of the list is prescribed; also of the form of the resolution to be adopted by the board of county commissioners as to the designation of the paper in which the notice and list are to be published. The list is to be approved by the county attorney, and a republication may be made in case the first publication is for any reason invalid. Every publisher will be required to give a bond to insure faithfulness on his part. Provisions have been adopted designed to eliminate the sources of many of the dangers which now beset judicial proceedings against real property. These will be found in part in section 187.

Answers may be interposed as at present to complaints.

TAX LIENS.

A radical change in the existing law is effected by section 174 of the bill, which makes personal property taxes a lien for a period

of six years upon real property. Any real property owned by a delinquent taxpayer, at any time during such period, will become affected by the lien, and may be proceeded against in the enforcement thereof. Further provision is made for a lien as to real property taxes. Prominent in importance is the provision, elsewhere referred to, which transfers to the certificate holder, whose title may be found invalid, the lien of the state with authority to fully enforce it. This was borrowed from Indiana, where it seems to operate satisfactorily.

CHAPTER VIII.

JUDGMENT AND SALE.

1.

THE TAX JUDGMENT.

This subject is covered by Title X of the bill. Provision is made as at present for the entry of judgment by the clerk against all pieces as to which answers have not been filed. When answer is filed the county attorney is required to appear for the county, as at present, and the proceedings will conform substantially to those authorized by the present law, except as hereinafter pointed out.

The fruitful cause of the invalidity of tax titles is non-compliance by officers and certificate holders with the provisions of law affecting matters subsequent to the levy and assessment. They relate generally to those matters which affect the judgment or redemption. In 1874 this state adopted for the first time as part of its tax system, the policy of obtaining a judgment against delinquent real property. It is a policy which but few other states have ever adopted, and which this state has never applied to personal property. It is the general and perhaps the sounder view that the subject of taxation is from its nature best subserved by summary and non-judicial proceedings. But the commission deemed it unwise to now overthrow the policy as it is undoubtedly supported by strong considerations. The right to one's day in court, whether it be the question of a tax or otherwise, is deeply cherished by the citizen; and the people of this state would, after an experience of more than twenty-five years, be reluctant to surrender it.

2.

TAX JUDGMENT SALE.

Tax sales of lands against which judgment has been rendered will begin on the first Monday in May after notice given, as provided by the bill, which also prescribes the form thereof.

A radical change from the present law has been made as to the manner of bidding. Instead of a tract being sold as at present to the person bidding the highest amount therefor above the amount charged against it, it will be sold to the purchaser who bids the amount so charged at the lowest rate of interest, which rate cannot exceed twelve per cent per annum.

This change in the law was effected to obviate the unnecessary accumulation of moneys in the county treasury, and the many evils which attend the administration of the existing law. A similar measure has been adopted in North Dakota and seems to work advantageously. The question was considered as to its effect upon sales, and the conclusion reached that it would not operate as a deterrent to any appreciable degree upon tax purchasers.

The auditor will bid in for the state all tracts not sold at a tax sale, and may thereafter assign them to purchasers as at present. He will, as at present, issue certificates to purchasers whether the lands are sold at tax sales or subsequently assigned; and when issued they will become prima facie evidence that the proceedings prior to and including the sale were regular. By this means additional security is given to the certificates.

When an action is brought to set aside or cancel a tax sale, either the county or state may be made parties thereto, in which case the county attorney shall appear for and on behalf of the county or state.

Another new feature of the law appears in section 206, which provides for a transfer of the lien of the state to the certificate holder in case the certificate is for certain reasons adjudged void. In such case, the certificate holder may proceed against the tract to enforce his lien. By this means the county will not be called upon to refund to the purchaser, and a great saving to the public revenues will be effected. A similar law is now in force in Indiana.

3.

SALE OF UNREDEEMED LANDS.

The bill provides that all tracts of land bid in by the state and not assigned or redeemed within three years shall become the absolute property of the state.

It is believed that the bill will thus vest the state with absolute title to such property. The present law has been so far modified by amendments adopted from time to time as to practically negative its provisions relating to absolute sales.

Each county auditor is required to transmit to the state auditor in July a list of all unredeemed lands situate within his county. The state auditor will thereupon provide for annual sales thereof. Upon full payment of the purchase price a deed will be executed to the purchaser which will vest him with complete title, subject only to the defense that the tract was exempt from taxation or that the taxes had been paid, defenses which will rarely be interposed.

4.

ACTIONS AFFECTING TAX JUDGMENTS AND SALES.

The bill contains a provision designed to check certain evils and abuses made possible under the provisions of the existing law with respect to actions brought to test the validity of tax judgments and sales. By section 237 of the bill, the court will require in such actions evidence be adduced showing the amount paid at the tax sale in question, and of all subsequent taxes, penalties and costs paid by the certificate holder. If the court shall hold the tax judgment or sale invalid, it will thereupon adjudge and determine the amount of taxes and penalties to which said tract was subject at the time of the entry of judgment, and all subsequent taxes, penalties and costs, if any, paid by the certificate holder. It will thereupon adjudge a lien against the tract in favor of the holder of the certificate ordered for the amount of such taxes and penalties with interest thereon, and will also adjudge and decree that the land subject to such taxes, penalties and interest shall be sold under such decree for the purpose of satisfying the lien of such taxes. The owner may redeem the tract from the sale at any time within one year thereafter.

The bill further authorizes a suit to be brought by a certificate holder at any time after the time of redemption from the tax sale has expired. It also authorizes a similar action by the grantee holding a deed acquired pursuant to the sale of property to which absolute title has been acquired by the state. The purpose of this provision is to enable a certificate holder, if so disposed, not in possession, to bring an action to quiet his title. This obviates the necessity of his being compelled to wait one or more years, during which the title might be deemed somewhat clouded, and to forever put at rest all questions as to the validity of the tax certificate or deed, as the case may be.

CHAPTER IX.

ABATEMENTS AND REFUNDMENTS.

The existing law providing for the abatement of taxes and the refundment of money has given rise to numerous and grave abuses. They arose chiefly from the fact that the law fails to make proper provisions for investigations of the facts upon which the applications for relief is based. It was no doubt considered that in requiring the approval of the auditor of state in certain cases an adequate safeguard against fraud or mistakes would be provided. It is not only manifest, but after long experience a demonstrated fact that that officer has neither the time nor the means for sufficient investigation. He is compelled to rely upon local officers or act arbitrarily. Neither course of action is consonant with the duty imposed, and must necessarily be attended with injustice in many instances, either to the public or to the applicant.

The commission's bill seeks to correct the provisions of the existing law, both as to abatements and refundments. As to the first, they will be allowed only after full investigation by the Tax Commission of all the facts relating thereto, and the favorable recommendation of the board of county commissioners and the county auditor. This will therefore provide a body which will be amply provided with suitable powers of investigation. Refundments will be allowed under the bill in the cases named in the first section of Title XIV., the grounds of which, stated briefly, are (1) when the property was exempt, (2) when taxes had been paid before sale, and (3) when the assessment or levy was void. The

first two grounds will be of ready ascertainment, and will require only slight investigation. The latter will, from the very nature of the case, rarely exist. The bill makes a wide departure from the policy of the existing law as to refundments in cases where tax certificates are found to be void by reason of a jurisdictional defect other than a void assessment or levy. No refundment will be allowed under the bill in any such case. In place of refundment, the certificate holder will have a lien upon the tract which may be enforced against it. It will therefore result that when a tax properly levied against a tract is paid, no redress will be afforded as against the public.

Refundments based upon the first two of the grounds above named will be allowed upon the certificate of the county auditor without judgment, while upon the remaining ground it will be allowed only after judgment.

The pernicious practice which has grown up under the present law of delaying applications for refundments in order to enable the certificate holder to collect a high rate of interest will be effectually checked by the provisions of the bill. It now happens that a certificate holder will remain inactive for ten or more years, when, sometimes by collusion with the owner of the property, he is able to collect the amount paid by him at the tax sale for the entire period at the high rate of interest provided by law. In the meantime the right of the state to reimburse itself out of the property in question has been barred for one or more years by the statute of limitations. As a check upon so glaring an evil, the bill provides that no refundment will be allowed unless the right thereto has been determined or the certificate and appeal obtained and application made within eight years from the date of the tax sale. No interest will be allowed beyond a period of six months after the right of refundment has been determined.

CHAPTER X.

REDEMPTION.

1.

WHEN AND HOW MADE.

Redemption must be made under the bill within three years. So carefully have the provisions of the bill been framed that few, if any, certificates can be successfully assailed after that period.

The object aimed at has been to make a tax title as good as a warranty deed after the expiration of the redemption period. The taxpayer who resorts to delaying tactics, as is common under the present law, or counts on clearing up sales, will in either case find it an unprofitable venture.

The manner in which, and the person by whom, redemption may be made are set forth in Title XII.; and the payment into the treasury of the moneys requisite to redemption will operate in canceling the same. Care has been taken to protect the rights of minors, insane persons and others who from their condition or situation cannot protect themselves. Several provisions have been added relative to redemption of individual interest, shares and the like which are wanting in the present law.

2.

NOTICE.

Many evils attend redemption from tax sales under the present law. The law in this respect should be plain and easy to follow. The requirement that a certificate holder shall give personal notice of the expiration of the exemption period is wholly unnecessary and rarely of practical value. It is not the small land-owner who has most profited by the present law but the large owner.

The bill requires notice to be given by the county auditor by publication and prescribes the form of notice. This is as far as the owner is entitled to protection. But the bill has elsewhere provided for his protection that the auditor shall in every case of payment of taxes charged against a tract previously sold, stamp across such receipt the words "Sold for Taxes." This will be a personal notice to the taxpayer that his tract is in danger and that if he wishes to preserve his rights he must pay his taxes.

CHAPTER XI.

CORPORATIONS.

One of the perplexing problems encountered by the commission is the taxation of corporations. So far as the ordinary business corporation is concerned, there is no valid reason why it should not be taxed by the same methods which are applied in the taxation of the property of ordinary taxpayers. It is, however,

manifest that as to corporations having a quasi public character, such methods would prove very inadequate.

Many corporations, like railroad, telegraph, telephone, express, street car, gas, and other companies, possess franchises and privileges of great value, more or less monopolistic in character and which cannot be measured by their visible property situate within the state. Such property is intangible and cannot be adequately reached by the assessment of tangible property. It is apparent that the valuation of intangible property will always be difficult and unsatisfactory. This arises, not only from the nature of the property itself, but also from the fact that many large and wealthy companies carry on a business extending over a vast territory and embracing several, sometimes many, states. The practical difficulties attending their taxation is witnessed by the great diversity of legislative measures now in operation in the various states of the Union.

While of the opinion that the provisions of the bill are the wisest which are permissible in the present state of public opinion, the commission believes that with the advancement of ideas upon the general subject of taxation a more scientific and, therefore, a more just method of taxing corporate property will be evolved. Not only are the several states frequently wide apart in methods of taxation of such property, but confusion prevails also in the laws of each state upon the subject. Not only so, but the methods in vogue in this country are wide apart from those in force in the most advanced European states relating to like classes of property. Any system of taxation prescribed for transportation or transmission companies which depends in part upon interstate earnings or upon valuations of property situate without the state contributing to such earnings, is at best unsatisfactory, and will continue so until those earnings and valuations are ascertained and apportioned to the several states by federal authority. It is impracticable for a state to ascertain such facts by investigations conducted by its own agents. It therefore depends largely and often wholly upon the reports of the respective companies whose property is to be taxed. Without impugning the accuracy of such reports, it is obvious that no state should be wholly, or to a large extent, dependent upon them. A single instance suffices for purposes of illustration. An express company, engaged in a great variety of business, many features of which are quite distinct from that of expressing commodities, whose operations are extended over a great part of this country and into foreign coun-

tries, presents so complicated a subject that any state which undertakes a thorough investigation for purposes of taxation would incur an expense greatly in excess of any reasonable tax which it might justly impose. The same difficulties, although less marked, would be confronted in similar investigations of other interstate companies. A federal body, like a Department of Commerce, authorized to fully investigate all quasi public companies engaged in interstate business, and prepared to do so by suitable agencies, would be able by annual investigation to furnish all the states without expense to them reliable and sufficient data for taxation purposes. It is a subject of such pressing importance that the legislature of this state and other states should memorialize congress to adopt at the earliest practicable moment the necessary legislation, either of the character above suggested, or otherwise.

We adopted in the early history of the state the policy of taxing railroad companies upon their gross earnings. It is entirely a commendable policy so far as simplicity and expense of administration are concerned; but few will claim for it equality and uniformity either as between the property so employed and the great mass of other property in the state, or between the properties of the several railroad companies. We now refer to it merely to emphasize the impropriety of extending that method of taxation, under existing conditions, to other classes of public service corporations. It is desirable and just that all quasi public companies be taxed by the same rule. Regardless of the question of power, it did not appear to the commission that the reasons urged in support of the demand that certain other companies be taxed by the gross earnings method were adequate.

So far as the commission had power to provide for the taxation of such companies, it has endeavored to apply to them an impartial rule.

In framing the provisions of the bill relative to the classes of companies above named, the commission has been guided to a great extent by those statutes of sister states which have been reviewed and sustained by the Supreme Court of the United States.

As the primary step in the assessment of corporations, exhaustive reports will be exacted by the bill to be enforced by stringent provisions. The various topics, as to which the companies must make report, are industriously set forth in Title 4 of the bill. Furthermore, additional information may be required

of any company by the Tax Commission and other officers whenever the same may be deemed necessary in arriving at the value of its property.

1.

BANKS AND TRUST COMPANIES.

Banks and trust companies are treated by the same provisions, as their business is so closely allied in many respects. The provisions of the existing law, having proved efficient in the taxation of banks, they have been adopted by the commission without material change.

2.

BUILDING AND LOAN ASSOCIATIONS.

Although the commission was strongly urged by prominent citizens to relieve building and loan associations from taxation, save as to a slight extent, it did not feel authorized, under the constitution, to adopt such a course.

However beneficent the local society may be and whatever the relationship between the corporation and the member, the constitution requires, as the courts hold, the taxation of whatever property it may possess, and the bill makes provisions accordingly.

3.

STREET RAILWAY COMPANIES.

Representatives of street railway companies earnestly recommended the taxation of their property by what is known as the gross earnings method. While conceding that such a method would not conform to our present constitution, the commission was urged to make recommendation to the legislature for the submission of a law to the electors of the state, so amending the constitution as to make that method of taxation valid. The commission is not, however, disposed to recommend any changes in the constitution applicable only to a single claim or subject. Its views in this connection will be found quite fully explained in Chapter XV. of this Report.

Street railway companies are to be subject to an ad valorem assessment and taxed accordingly. But for the better guidance

of the assessor, each company is required to make a detailed statement of all its property, real and personal. From the report made and individual investigation, the assessor is to ascertain and fix the value of the tangible personal property and of the franchises of the company.

Where the properties of such a company are wholly within a single taxing district, the statement so required is to be made to the assessor therein; where they are situate in more than one district in a county the statement is to be made to the county auditor; and where they are situate within more than one county, the statement is to be made to the county auditor.

In framing its provisions with reference to street railway companies, the commission took into account the fact that they not only operate their lines within a single city, but are rapidly extending them into suburban territory and even across counties. Provision is therefore made for the ascertainment of the valuation of the entire system of the company and the apportionment upon a mileage basis of that valuation to the taxing districts in which the property is situated. Where the property is situated in more than one taxing district in a county, it is made the duty of the county auditor to apportion the valuation among such districts; but where the property is situated in two or more counties, it is then made the duty of the State Board of Review to make such apportionment.

Upon such apportionment being made, the amount thereof so apportioned will be assessed in the same manner as other property of the same valuation is assessed for state and local purposes. Explicit provision is made for ascertaining the value of the franchises of such companies, which is identical with that provided for other public service corporations as hereinafter explained.

4.

GAS, WATER, ELECTRIC, HEATING POWER, WHARF, AND BOOM COMPANIES.

Under Subdivision 5 of Title 4 are grouped together, for the purposes of the bill, gas, water, electric, heating power, wharf and boom companies. Like other public service companies, these are required to make report appropriate to the nature of the business transacted by them respectively. The valuation of franchises of such companies is ascertained by adding together the value of the capital stock and funded or bonded debt, from which is deducted

the value of any real and personal property which the company has rendered for taxation; and the residue is used as the basis for determining the value of the franchises.

5.

TELEGRAPH, TELEPHONE, EXPRESS, SLEEPING CAR, FREIGHT LINE
AND EQUIPMENT COMPANIES.

In part 6 of Title 4 are grouped together for the purposes of the bill, telegraph, telephone, express, sleeping car, freight line, and equipment companies. These also are required to make report to the state auditor, the nature of which is seen by reference to section 85. The auditor, upon receiving such statement, will deliver the same to the Tax Commission which is to make examination thereof and may, when necessary, call for additional statements or information. The Tax Commission having revised the statement is to place the same before the State Board of Review at its session in September. The State Board of Review is authorized to require the attendance of any officer or agent of any such company before it, with or without books and papers, and furnish it with any further information which it may require. Stringent provisions are made for the enforcement of such reports. It is made the duty of the State Board of Review to assess the property of each of said companies.

The valuation of such property is to be ascertained as provided in section 92 of the bill. In brief, the State Board of Review first ascertains the true cash value of the entire property owned by such company, taking for that purpose the aggregate value of all the shares of capital stock, if such shares have a market value, otherwise taking the actual value of such stock, or of the capital of the company, where it has no shares of stock, and adding thereto the funded or bonded debt, if any. The aggregate amount thus obtained is to be taken as the basis for ascertaining the valuation of the property of the company.

Having obtained such total valuation, a mileage valuation is thereby obtained by a simple arithmetical computation and the valuation of the property is distributed, for accuracy of computation, to the political subdivisions of the state in which the company has mileage; and in proportion thereto. The amount of tax which the company would pay, if subject to ordinary taxation for general or local purposes in the several taxing districts into or through which its mileage extends, is then ascertained, from which

an average rate upon the total valuation of the company is computed.

The company is required to pay into the state treasury taxes computed according to such rate, which will thereupon be in lieu of all other taxes for state and local purposes upon its property, except such as is not properly promotive of its ordinary business. The rate thus obtained will be as nearly accurate as it is possible to be made.

This method of taxation of public service corporations is not only just but has already been tried in other states and is sustained by high authority. That the assessment of the property of that class of companies should not rest alone upon the value of their outstanding stock is demonstrably clear. Their bonded indebtedness is frequently a safer criterion than their stock issues. While it is a notorious fact that the market value of stock is greatly influenced by manipulations and the strife of "bulls" and "bears" in the pit, their normal value is dependent upon the amount of bonded indebtedness which the company has incurred. A company with a property valued at \$10,000,000, a capital stock of 100,000 shares having a par value per share of \$100 could properly be assessed upon the basis of the stock alone if it had no bonded debt. In such a case, the value of the stock would equal the value of its property. But the stock of such a company having a bonded indebtedness of \$5,000,000 would naturally be much less than par. The extent to which it falls below par will depend upon the company's earnings, the dividends declared and its future prospects. Theoretically, the market value of the stock, together with the value of the bonds equals the value of the property. No more scientific or just basis for arriving at the valuation of such property for assessment purposes is conceivable.

So able a writer as Mr. Seligman endorses this method of valuation in "Essays in Taxation" where he says (page 261):

"The logical plan for the immediate future is to tax corporations on their net receipts, or on a valuation equal to the stock and bonds, for state purposes; and to tax them on their real property for local purposes. *This, and this alone*, satisfies the demands of scientific method and of practical policy."

Elsewhere in the same work, the author says (page 104):

"In the United States, for example, it is well known that roads are built mainly on the proceeds of mortgage bonds. To exempt the mortgage debt in the case of these corporations would thus

be inequitable, for only by taxing both capital stock and mortgage debt can the state reach the true faculty of the corporation."

To the same effect is the view of Dr. Walker:

"The real taxable value of a corporation is the tangible property plus the franchise. Where no liability exists, the value of the capital stock will correspond closely with it. But if liabilities exist, they diminish the value of the capital stock, proportionately. If we should add the debts to the capital stock, the actual value of the property would be approximately determined. We may express this idea in an equation: Capital stock plus debts equal tangible property and franchise." *Studies in Hist. Econ. & Pub. Law*, Vol. 5, p. 18, Columbia College.

This method of assessing corporate property has already been adopted by Colorado, Connecticut and other states, and was provided for in the bill creating a Tax Commission, enacted by the legislature of Texas in 1899.

6.

MINING COMPANIES.

In providing for the taxation of the mining interests of the state, the commission was seriously handicapped by the provisions of our constitution. In 1895 Article 9 of the constitution was amended for the purpose of permitting greater freedom on the part of the legislature in the taxation of certain companies and interests, including mining properties. No constitutional provision was ever more unhappily framed than the one in question. So far as it applies to mining properties, its provisions are so extremely vague as to invest with doubt the meaning intended. Although it may be ultimately held that a true construction of the constitution authorizes the imposition of a tonnage tax upon the output of mines, the commission was unwilling to assume, in view of the uncertainty attending the subject that such authority exists. In being thus compelled to refrain from providing for a tonnage tax, it had no alternative than to provide for the taxation of mining properties by the ordinary method. No one regrets such restraint more than the members of the commission, for it is their unanimous opinion that a tonnage tax is the only appropriate means for the taxation of the output of mines. It is unquestionably true that the state has been a great loser in the past from want of a wisely framed measure providing such form of taxation for that class of property.

The experience of Michigan, a state in which mining interests have reached a high degree of development, is instructive in this connection. It has tried both the tonnage and the ad valorem methods of taxation. The report of the Tax Commission of that state for 1900 contains the following:

“By many it has been claimed and is claimed that the truest method and the one subject to the least objection, is that of taxation upon the ores produced. It is known definitely how many tons of ore are mined. Every iron mine worked under a lease or paying royalties must keep an accurate account of the number of tons the mines produce, it being essential in order to pay the proper royalties. Railroads have an accurate account of the tonnage carried from the mines to the boats. Every mine keeps a strict account and this factor is at all times known to every mine, both copper and iron and there is no data so accurate or certain as that of ore tonnage.

“If a mine ceases to operate, taxation ceases. If the mine becomes unproductive, it is considered valueless for operation as well as for taxation. The chief objection to levying a tax upon ore production is that the same tax is levied upon one class of ores as upon another; that the ores from some mines are worth more than double per ton what they are from others and with possibly the same cost of production and that any such system would work an injustice; that to grade the tax upon ores according to value would be somewhat difficult for purposes of assessment.

“It is well known, however, at present, that all iron ores are now graded for use and that such grading is usually done at the mines and places of shipment. If such course were to be pursued, it would not be at all difficult for the state, through its agents or assessors, to make such periodical inspection of ores at the mines as would determine the grade of ores upon which the tax should be fixed. The points are not so numerous but that the state could well afford to employ an agent for such purposes.”

The increased revenue which would be derived from a tonnage tax would be ample warrant for the employment of a suitable number of inspectors and agents to insure the enforcement of the law. The tax should be imposed with reference to the value and grade of ores. A requirement that companies file statements showing in detail the quantity and grade of ores mined during stated periods would, under proper regulation and supervision, afford a reliable method for ascertaining the amount of tax to be exacted.

Although the commission was constrained to provide for the taxation of such properties by the methods applied in the case of ordinary real property, it is confident that under the provisions of the bill, much more satisfactory results will be accomplished than has ever been the case under the existing law.

The inhabitants of every mining district consist largely of those employed directly or indirectly in the operation of mining properties. The influences surrounding a local assessing officer will manifest themselves in favor of the owners of the property assessed. This truth is exemplified by the experience of Michigan. We again quote from the same report of the Tax Commission of that state:

"It is not claimed by local assessing officers having in charge the valuation of mines under the present law that their true or equitable values have been ascertained. In a majority of cases the supervisors are either the managers or principal employes of the mines. This is true not only in the copper but iron country. Various reasons are given for the low assessments that have been made upon them; one assessor claiming that his iron mine and others, were put at a normal figure because they were a blessing to the community and afforded labor, and that without the iron mines the community would be practically worthless."

If the assessments of such properties were to be left wholly to local officials, the experiences of Michigan would be repeated in this state; but the bill contemplates that the Tax Commission, on which ample authority has been conferred, will employ agents to assist it in reaching proper assessments. If the commission's bill becomes a law, the Tax Commission appointed thereunder should early visit the mining districts of the state and by investigation through experts and the examination of the officers and agents of mining companies, procure such reliable data as will enable it to approximately arrive at a true valuation of such properties.

Elsewhere in this report attention is called to the last message of the late ex-Governor Pingree, wherein it appears that the assessment of mining properties in the State of Michigan were, in a single year, by virtue of a newly created Tax Commission, increased \$80,000,000.

The state of the law with respect to the taxation of mining companies furnishes a cogent reason for the amendment of our constitution in accordance with a bill prepared for that purpose and appended to this report. It is unwise to so limit the powers of the legislature that it may not enact appropriate revenue legislation.

7.

RAILROAD COMPANIES.

In view of the long established policy of this state to impose upon railroad companies a commuted system of taxation in the form of a payment into the state treasury of a percentage upon their gross earnings, a system authorized by the constitutional amendment of 1871, the commission determined that it would be beyond the scope of its duties and also injudicious to provide in the bill any provisions designed to regulate the subject. The legislature at its last session and subsequent to the passage of the law by which the commission was created, provided for the submission to the voters of the state at the next general election, the question whether the gross earnings tax imposed upon the railroad companies shall be raised. The measure thus to be submitted contemplates that all of the provisions of the existing law relative to the collection and enforcement of the tax shall remain applicable to the tax as thereby enlarged. Wisdom, therefore, suggests that these provisions should not be changed, otherwise unfortunate and unlooked for consequences might result. The utmost extent to which the commission could prudently go was to incorporate unchanged into its bill the various provisions of the existing law regulating the manner and the enforcement of the payment of such taxes. By reference to the bill it will be found that such course was pursued.

CHAPTER XII.

TAXATION OF INCOMES.

The advisability of taxing incomes is ably supported on either side. The chief objections to such a means of revenue are, (1) that it is a fruitful source of perjury; and (2) that it is too inquisitorial to be tolerated. Neither ground justifies its exclusion from the revenue system of the state. Both objections obtain with equal force to the taxation of all forms of personal property which are capable of easy concealment. The history of taxation in all states demonstrates that perjury and other forms of dishonesty have always characterized the taxation of personal property. So long as such property is deemed a proper subject of taxation, a

state cannot consistently refrain on the ground of immorality from the taxation of incomes.

Furthermore, we have reached a period in our industrial development when incomes as a source of revenue cannot wisely be omitted. Every state has a large class of wealthy citizens who would not otherwise adequately contribute to the public burden.

A sentiment in favor of an income tax is rapidly growing. Fair minded men of the wealthier classes recognize its justice; and the less wealthy and wage-earning classes welcome it as a means for relieving them of a burden which they must otherwise unjustly bear. The higher a people's civilization, the more complex their industrial life and the greater their production of material wealth, the more appropriate becomes an income tax. Dr. Walker states the truth clearly when he says:

"General ability has been declared to be the proper test; and income, not property, the correct measure of ability. It is very clear that the taxation of property does not reach all the persons capable of paying taxes. It may be asserted, also, that neither is income a perfect test. Some property does not yield income. The income tax is, however, the only direct tax which has been declared by almost all economists to be the most just. Viewed from the personal standpoint, all persons owe the state a share of their income. The property tax exempts those vast numbers of persons who live on their incomes and accumulate no property. Its injustice is obvious."—"Studies in Hist. Econ. & Pub. Law," Columbia Coll. Pub., Vol. 5, p. 11.

"Income or revenue may not," says Mr. Seligman, "be an ideal test; for there is no absolute test which can exactly gauge all the varying personal circumstances of each individual. But it is the best workable test that governments can secure, and it is in harmony with the test imposed on the individual by the force of social opinion in regard to his duty to his own family. For this reason modern states are everywhere changing their revenue systems, so that the taxes shall correspond, as nearly as possible, to the revenues of the citizen. This is the last step in the evolution. But precisely because it is a personal tax, rather than a tax on things, it involves administrative difficulties and presupposes a definite stage of social morality and political probity. When this stage has not yet been reached, it may be better to continue the system of taxes on product, which form a very rough approximation to the revenue of the taxpayer, than to attempt a system of income taxes which strives to reach the revenues more closely.

But whatever may be the momentary demand of expediency, the line of development is evident and the ultimate result must necessarily harmonize with the facts of economic and social relations."—"Essays in Taxation," p. 18.

We have not overlooked the views of John Stuart Mill nor attempted to undervalue his objections to an income tax. No writer exceeds him in recognition of the justice of such a tax; for he says that, when fairly assessed, it "would be, in point of justice, the least exceptionable of all taxes." "The objection to it," he further says, "in the present low state of public morality, is the impossibility of ascertaining the real incomes of the contributors."—"Polit. Econ." Vol. 2, Book V., chap. 2, p. 5.

It was the view of that able economist that because the tax will be greatly evaded by the dishonest, it will therefore fall "heaviest on the most conscientious."

But may not the same objection be also urged against the taxation of money and other species of easily concealed personal property?

We remark, in passing, that since the time when the above views were expressed by Mr. Mill, public sentiment has greatly changed upon the subject and that they are not shared by many of the best thinkers of to-day.

A further objection sometimes urged against an income tax is that for any one state, or a few states, to adopt it without general co-operation by the other states, would cause wealthy citizens to remove from the state in which it is adopted. Those who raise such objection unwisely counsel with their fears. It is in the first place sheer speculation. It pre-supposes that taxpayers will be willing to sever business and social relations and abandon fields in which their fortunes have been made to avoid the payment of a tax which at worst would bear an insignificant ratio to their incomes; and, again, that such a tax will necessarily be a grievous burden.

No writer advocates, and no legislature would attempt, the raising of all or the greater part of the public revenues from incomes. Such a tax, like all others, must be wisely laid. It would not necessarily result in more revenues but in a more equitable distribution of the public burden. Few taxpayers would find it to their interest to flee from the state in order to avoid it. Such course would with the great mass of wealthy citizens be more costly than the payment of the tax.

But such consideration is scarcely deserving the attention of the legislature. We shall rarely, if ever, be so unwise as to visit upon any class of our citizens oppressive tax measures. The mistakes of one legislature will be corrected by a following one. The sense of justice is a growing virtue in American communities. But it is urged that it is a tax upon brains and energy. Is not every revenue measure in force in every state of the Union a tax upon them? Two farms, situate side by side, produce incomes varying with the degree of brains and energies of their respective owners. But the more brainy and energetic owner who is able to rear costly buildings upon his farm, to fence and ditch his fields and own a pleasure carriage, and has become rich in flocks and herds and notes and mortgages, is taxed upon his "brains and energy." Like many a farmer of this state, his farm may have been cleared by his own labor from a virgin forest. If he is to be taxed upon his brains and energy, should not the owner of a factory, mill, store, railroad, telegraph or other property be treated by the same rule? Most clearly so, unless we are now prepared to adopt a revenue system based upon land values alone.

While it is not permissible to impose an income tax under the present constitution, the subject is too important to be disregarded in the deliberations of the commission or omitted from this report. It is due the legislature and the people of the state that they be advised of the views of the commission upon the subject. As it is a coming question, its study cannot be too early begun or too thoroughly pursued by our thoughtful citizens.

CHAPTER XIII.

DIVORCEMENT OF STATE FROM LOCAL TAXATION.

The commission was early impressed with the importance of arriving at some method of taxation whereby taxes for state, as distinguished from local purposes, could be raised otherwise than by a general property tax. Many reasons support such divorcement. Chiefly, it is desired because it would permit the relegation to local government of many questions of taxation, and completely eliminate equalization by a state board. It would then be a matter of indifference to one county whether the assessment in another was high or low, or whether a certain class of property was taxed or exempted in such other county.

The history of the State Board of Equalization shows a constant tendency to depress valuations. A sort of local jealousy or zeal for local interests begets a spirit on the part of each member of the board to keep down the valuations of his own district. This influence is largely responsible for the departure from the constitutional rule in the assessment of property, as is more fully shown under the topic "State Board of Review."

It is obvious that such division can be accomplished only by one of two methods.

1. The raising of revenue for state purposes by other means than an ad valorem taxation; or,

2. The distribution upon an equitable basis of the burden of such revenue among the several counties of the state.

Neither of these methods is now available under our present constitution, and hence no attempt has been made in the commission's bill to elaborate provisions suitable therefor. In view of the importance of the subject as bearing upon future legislation, under an amended constitution, it received a careful consideration by the commission.

It may be questionable whether in the present industrial development of the state, the first method is now practicable. It is best adapted to conditions where corporate interests have attained great development and many valuable corporate franchises have been granted. Revenue under such a method would be largely collected from corporate interests, either in the form of excise, license, or franchise exactions. It might be derived also in part from the taxation of inheritances, legacies, bequests, gifts and incomes. It seems clear that if the attempt were to be made to early adopt such a method, the taxation of incomes would be unavoidable. Doubtless, a considerable revenue could be raised by a general license tax imposed on all industrial corporations, if wisely adjusted to their nature and capital; but to now rely greatly upon such sources of income, would not only be oppressive to the interests taxed but repressive in its influences upon the industrial development of the state. Furthermore, it is questionable, at best, whether it is permissible under our present constitution.

The second method is beset with difficulties. What is a proper basis whereby the amount of revenues for state purposes to be contributed by a given county may be ascertained? Neither population nor territorial area would perhaps afford a just basis.

Perhaps the least objectionable one is that which received the endorsement of the Chamber of Commerce of New York and known

as the "Purdy Method." A bill was introduced into the legislature of New York at its last session, whereby it was sought to put that method into actual operation as a part of the revenue system of the state; but the bill failed to become a law.

The Purdy system in brief is this: The whole amount of revenue raised by taxation, aside from assessments for local improvements, is made the denominator and the amount of revenue so raised in any county is made the numerator of a fraction which determines the amount of revenue for state purposes to be contributed by the county. In other words, the total amount of money necessary to be raised for state purposes for a given year is apportioned among the respective counties of the state according to the fractions so obtained.

That system went further and provided that the local governing bodies might declare what property should be free from taxation, or subject to taxation at a reduced rate. That system also contemplates its application to each county as well as to the state. Taxes for state or county purposes may be apportioned to the various municipalities and townships in a manner similar to that provided for the apportionment of the state tax among counties.

It is asserted that from so general an adoption of the system, the friction now existing between counties, with respect to the state tax, and between the political divisions of a county with respect to county taxes, would be wholly eliminated. This would be so, because the amount of the assessment of property in one township would concern no other township in the state. Great stress was placed upon the fact that, under such a measure, the principle of local option in taxation could be applied.

In the report of the committee to the Chamber of Commerce, touching the merits of the Purdy bill, it was, among other things, said: "Local option in taxation has been a satisfactory part of the tax system in New Zealand since 1896, and for a longer time has been enjoyed by British Columbia and the Northwestern Territories of Canada. In New Hampshire, South Carolina, Vermont, and some other states, towns have the power to exempt from taxation new industries for a term of years and this power is freely exercised. In Pennsylvania and New Jersey mortgages are exempt from local taxation in some counties. Local option bills have passed one house in each of the following states: Ohio, Michigan, California, and Colorado. In Washington such a bill passed both houses but failed on reference to the people. Glasgow, in Scotland, and over 266 municipalities in Great Britain have recently

petitioned parliament for local taxing powers. The case in favor of local option was summed up by the late David A. Wells in the following letter written in 1892:

“I am greatly in favor of the local option principle. It is in fact a novel method, practically educating the people in respect to the good and bad method of taxation and not merely the local taxpayers of New York but of the whole country.

“As it is, the taxpayer is bound down to a system to which no elasticity can be given except by knavery or by perjury; it is contrary to the world’s experience and the best judgment of those who have carefully studied the subject, and he has no incentive to reason for himself with a view to obtaining anything better because he feels he can’t get the legislature to pay any attention to his conclusions.

“With permission to experiment on a smaller sphere, as granted by the proposed bill, the taxpayer will take an interest in the subject and results will certainly be achieved to which a legislature will give attention because the argument of mere theory can no longer be urged in opposition.”

Since the attempted enactment of the Purdy bill by the legislature of New York, a measure, substantially of the same character, was enacted at the last session of the legislature of Oregon. Undoubtedly, such a measure would give rise to a spirit of greater economy in local government, inasmuch as the proportionate amount of the state revenue to be paid by a given county would be determined by the ratio of its gross revenue, as above defined, to the aggregate amount of gross revenue raised in all the local subdivisions of the state. As was remarked by the committee of the Chamber of Commerce in the report above referred to: “A system under which taxation will be wisely levied is one thing. A system under which the revenues derived from taxation will be wisely expended is another thing.”

This question is of such supreme importance that the commission feels justified in commending to the legislature and the Tax Commission—if the reported bill becomes a law—its broadest consideration.

CHAPTER XIV.

CONSTITUTIONAL AMENDMENTS.

No fact is more firmly impressed upon the mind of the commission than the necessity for an early amendment of Article 9

of the constitution of this state. Since the adoption of the original constitution, great changes and developments have taken place in the industrial world. Both the subjects and the objects of taxation are, in many respects, different now from what they then were.

Following industriously in the footsteps of other states in the formulation of its organic law, this state adopted the policy of depriving the legislature of powers touching taxation which are essential to the natural growth and development of a revenue system. A state legislature is deemed to have plenary power upon all subjects of legislation save as it has been deprived thereof by constitutional restrictions.

Turning to the constitution of this state, it is seen that until within quite recent years the legislature enjoyed no other power than that of imposing taxes upon all classes of property not specified in section 3. Public interests would undoubtedly be best guarded under a constitution which divests a legislature of the power of entering into a contract with respect to taxation. The United States Supreme Court has never rendered a more unpopular decision than when it held that a state legislature may, unless restricted by a constitution, contract away the sovereign power of taxation. That decision has been adhered to in so many cases that it is not now reasonable to expect that it will ever be overruled by that court.

Every tax system should rest upon the rules of uniformity and equality, and a legislature should not, therefore, be vested with authority to violate them. There are a few classes of property which from their nature should, in the public opinion of today, be wholly exempt from taxation; and the majority of states, including our own, have expressly provided for their exemption. Such are cemeteries, property owned by public authority or employed for educational or charitable purposes; and property devoted to religious worship. Conceding such view to be supported by the weight of public opinion, the dissentients are very numerous and are able to advance strong grounds in their support. Treated as an original proposition, it may well be questioned whether any class of property, save that devoted strictly to public use, should be exempt. Abuses barnacle themselves to the exemption of every other class of property. In some instances they are very great and materially increase the burdens borne by other classes. They offend both the letter and the spirit of the constitution. Experience teaches that in taxation when the

law gives an inch an ell is taken. A more wholesome public sentiment would perhaps be engendered if exemptions were restricted wholly to public property.

Whether the constitution in respect to exemptions should go further than to secure the absolute exemption of public property, is an important question whenever an amendment of the constitution respecting taxation is proposed. In certain other states, the legislature is, as we have seen, left free to act upon the subject. While evils may have attended the exercise of such legislative powers in those states, we are not aware that they have been so general or so marked as to argue against the wisdom of leaving the power with the legislature. There is little danger that any legislature of this state will ever be disposed to exempt any class of property unless its action be fairly sustained by public opinion. So long as the constitution remains prohibitive, as at present, it tends to repress discussion upon the subject, both within the legislature and among our voting population.

But whatever may be said for or against a constitutional enumeration of exempt classes of property, it may be confidently urged that when the constitution seeks to impose further restrictions upon the legislative power, more evil than good will in the end result therefrom.

The raising of revenues is vital to the life of a state and must always be provided for. At no time in modern history has the thought of students of economic subjects been as earnestly directed to the subject of taxation as at present. The judgment is universal that the existing systems of taxation, wherever found in this country, are fraught with many unnecessarily harsh and unjust features. Economists are at present, and will long continue, in sharp conflict as to what constitutes the proper policy of a state in raising revenues. It must necessarily result that much experimental legislation will be enacted within the next twenty-five or fifty years. The legislature of this state should therefore be left unhampered in dealing with the subject according to its wisdom, save as restrained in the manner above expressed.

Without entering into an elaborate discussion of the subject, it may here be properly suggested that we are as yet far from the last act of legislation upon any one of the following subjects:

1. The sources of revenue for state purposes and the manner of raising such revenues.

2. The appropriate method for the taxation of public service corporations, embracing transportation, gas, heat, light, power and other companies.

3. The appropriate method of taxing mining companies.

4. The measure of local option which should be permitted to counties and municipalities in the raising of revenue for local purposes.

5. The taxation of incomes.

Reference has elsewhere been made in this report to the systems of taxation adopted in New Zealand and British colonies. The best thought of the country seems to regard with favor such a policy and it may be that within a briefer period than is now contemplated wisdom will require the adoption by the people of this state of such a policy or of one which shall embody its salient features.

The vast wealth which is being rapidly concentrated in few hands and the appropriation of public utilities by its owners calls for legislation which will impose upon such proprietors taxation commensurate with the value of the exclusive privileges enjoyed by them. It should be left to a large extent to the political subdivisions of the state to determine for themselves the objects for which revenue is to be raised therein and the subjects from which it is to be exacted. The rapidly growing sentiment in favor of an income tax, whether it shall be ultimately adopted or not, suggests a reason for legislative freedom in revenue measures.

It is believed that the bill amendatory of Article 9 of the constitution, framed by the commission and appearing in the appendix, will, without danger to the public welfare, restore to the legislature necessary powers of which it is now unwisely deprived. Its provisions have been adopted after a careful study of the constitutions of many states and nearly every feature has been adopted from one or more of such constitutions. Wisconsin, whose industrial forces are not essentially different from our own, has, during its entire statehood, existed under a constitution whose only provision restrictive of the powers of the legislature is as follows:

“The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall prescribe.”

The constitution of New Jersey imposes no other limitation than the following:

“Property shall be assessed for taxes under general laws and by uniform rules, according to its true value.”

While the commission has given to the subject confided to it much study and thought, it realized far more fully at the close than at the commencement of its labors that the subject presents problems whose solution must be worked out by future thought and experience. It is to a permanent Tax Commission, rather than one whose life was compassed by less than ten months, that the work should be carried on. The legislature should be free to give its sanction by appropriate legislation to those wise reformatory measures which such a body may recommend for its consideration.

FOREST RESERVES.

Gentlemen deeply interested in the subject of Forest Reserves presented with great force and earnestness the importance of immediate action by the state looking to the preservation of our rapidly disappearing forests.

As an efficient means to that end, it was urged that all non-agricultural lands acquired by the state in the enforcement of its revenue laws be reserved for forest purposes.

It did not require argument to convince the commission of the great economic value to the state of forest areas within its borders. But conceding their value and the importance of early and judicious action by the legislature with a view to their preservation, it seemed quite beyond the power of the commission to incorporate within a revenue bill any provisions with respect to forests.

The preservation of forests is a subject wholly foreign to the contemplation of the law by which the commission was created, and could not, therefore, be properly embraced within any measure it might frame. Whatever policy the state may adopt with respect to forests must be expressed in independent legislation.

For the reasons above expressed, the commission was constrained to decline to frame any provisions or make any recommendations upon the subject.

INHERITANCE TAX.

Taxation of estates of decedents has been in vogue in this country for many years. "It is found in almost every country; and the more democratic the country, the more developed is the tax." (Seligman.) Its first appearance on this side the waters was in 1826 when the state of Pennsylvania enacted a law taxing

such estates. Several states have followed with similar laws in more recent years.

The first attempt at that species of taxation by this state was the act of 1885, which was held invalid because the taxes sought to be imposed by it were not equal within the constitutional mandate. Assuming evidently that it was requisite, in order to properly legislate upon the subject, that the constitution must have given express authority, the legislature submitted the amendment which was adopted in 1896, reading as follows:

“And provided further, that there may be by law levied and collected a tax upon all inheritances, devises, bequests, legacies, and gifts of every kind and description above a fixed and specified sum, of any and all natural persons and corporations. Such a tax above such exempted sum may be uniform, or it may be graded or progressive, but shall not exceed a maximum tax of five per cent.”

The framer of the amendment apparently misconceived the power of the legislature as it then existed, and was most unfortunate in the language employed. There can be no doubt that the power to tax the estates or property of decedents then existed, so long as the method adopted conformed to the rule of equality. Strangely enough, the amendment displays on the part of its framer a misconception also of the character of the legislation of other states. With few exceptions the tax is imposed by those states either directly upon the estates of decedents, or upon the transfers of the property of decedents, while the amendment in question requires it to be imposed upon “all inheritances, devises, bequests, legacies and gifts.” The constitution had been more wisely framed if it had simply provided that the legislature might impose a graduated or progressive tax upon the estates of decedents. Under the present form of the constitution, it is impossible to allow an exemption of \$5,000, as at present, and realize adequate revenue from the tax, as the exemption must apply to every inheritance, devise, bequest, legacy and gift. To illustrate: A decedent having an estate of \$25,000 has only to devise and bequeath it to five of his lineal descendants in equal amounts in order to wholly defeat the tax. If, on the other hand, the tax were imposed upon the estate, a single exemption would be permissible and \$20,000 of the estate could be taxed.

The legislature of 1897 attempted to frame a law under the present form of the constitution, but made two grave mistakes: It imposed the tax only upon personal property, when it should

have been imposed also upon real property. It imposed it upon the entire *inheritance, devise, bequest, legacy and gift* of \$5,000, when it should have been upon the excess above that amount. For these reasons the statute was held invalid by the supreme court in the case of *Drew v. Fift*, 79 Minn. 175.

At the last session of the legislature a further attempt was made to legislate upon the subject; but, as yet, the validity of the act has not been adjudged by the courts. Without expressing any opinion as to its compliance with the constitution, the commission deemed it advisable to radically change some of its provisions. The provisions of the bill relating to the subject are embraced within Title XVII. It will be found by comparing those provisions with the act of 1901, that they differ from it in the following particulars:

1. The bill adopts the language of the constitution and imposes the tax upon the inheritance, devise, bequest, legacy or gift.
2. It reduces the amount of exemptions to one thousand dollars, thus insuring a substantial amount of revenue.
3. It provides for the payment of expenses and refundments out of the state treasury instead of the county treasury, inasmuch as the state is to receive the whole tax and should therefore defray the expenses of its collection.
4. It arranges sections in their natural and logical order.
5. It eliminates many provisions which were wholly unnecessary and tend only to confusion and uncertainty.

In reducing the amount of exemptions, the bill is yet more liberal than similar laws of several other states. In Pennsylvania it is \$250, in New York and Maryland, \$500; in Connecticut, \$1,000; in Colorado, \$5,000, but the tax is upon the estate as an entirety.

If it be objected that the exemption should be a higher sum than \$1,000, we reply that when the beneficiary is a father, mother, husband, wife, child, brother, sister, wife or widow of a son, or the husband of a daughter, or an adopted child, the rate of the tax is only one per cent. It is therefore obvious that it will not in any such case prove a heavy burden. It will be most remunerative when applied to other classes of beneficiaries, for then a tax of five per cent will be imposed. No sound reason can be urged for imposing a tax in such cases below the constitutional limit of five per cent. It has been well said that "the extension of intestate succession to collateral relations is, under existing social conditions, defensible only to a very limited extent." Siligman, Ess.

in Tax, 124. The soundest reasons of public policy justify a much heavier tax when estates descend to collateral than when they descend to direct relations.

After pronounced popular approval of this method of taxation and repeated action by the legislature upon the subject, it is now unnecessary to discuss the wisdom of its adoption.

CONCLUDING REMARKS.

It has already been intimated that the bill which accompanies this report is designed to effectuate constitutional purposes rather than to express the views of the commission, uninfluenced by constitutional requirements as to what constitutes the most just and scientific system of taxation for the state. As the constitution is the supreme law with which all legislative measures must comply, the commission has endeavored throughout its labors to frame a bill intended to approximately subject all property, not expressly exempted by the constitution, to taxation as the constitution requires. That many provisions of the bill may properly be termed drastic and will therefore encounter severe criticism and opposition, is undeniable. But the experience of many years has demonstrated beyond peradventure that nothing less exacting will suffice to accomplish the purpose sought. How far such measures will, in practical operation, fulfill the constitutional requirement, will necessarily depend upon the spirit which characterizes its administration. The State Board of Review and the Tax Commission should begin their respective labors impressed with the view that the new law implies a new spirit, or more properly said, a strict observance of the old constitutional spirit. The powers conferred upon those bodies should be fully employed (1) in securing the listing of all property, and (2) the assessment of all property at its true value in money.

All persons and interests should occupy a common level in the enforcement of the law. The bill is pervaded with that spirit and should be so administered. Too much industry cannot be employed in securing a proper listing of property, for that is the very ground-work of the system.

It is not the purpose of the commission, by what has just been said, to counsel any unnecessarily harsh and exasperating course in the enforcement of the law. The attitude of the Tax Commission should not be one of hostility to wealth or business; but of a firm purpose to enforce the law with impartial hand. Much can

be accomplished by an appeal to the patriotic sentiment which is as pronounced among the wealthy as elsewhere in the social world. Approached in the proper spirit, convinced that the law is to be administered without discrimination, and that the endeavor to secure a full listing of property is to be persistent and vigilant, our wealthy citizens may generally be relied on to properly list their taxables. They should understand that the purpose of the law is not pillage, but a just distribution of the burden which a free government implies. Nor should it be overlooked in this connection that the moral influence of a few wealthy men in a proper listing of property would immensely weigh with the tax paying public and accelerate the reformation in taxation which the law intends. Properly viewed, the state is a great corporation whose charter is the constitution. The mutual obligations of its property-holding citizens may be likened to those existing between the stockholders of a private corporation. With the same insistence which would prompt a stockholder in the latter to demand a fair distribution of a corporate assessment upon the stock of all his associates, one tax payer may justly demand that all other taxpayers pay their proper proportion of the taxes imposed by the state. No odium should be allowed to attach to the citizen who aids the assessor in discovering the taxable property which another is endeavoring to conceal. Such conduct is more deserving of approbation than censure. The real culprit is the tax dodger, not the other; for, to whatever extent taxable property is untaxed, the burdens of all others are proportionately increased.

We have emphasized what has already been said that it is not the purpose of the bill to raise more revenue, but to properly distribute the burden among those who should bear it. Increased assessment, we repeat, does not necessarily mean that the taxes of the individual will be increased. They will be increased or diminished according as his assessments have heretofore been too low or too high.

Any one who reads the law to find in it provisions designed to hurt or favor any class or interest will search in vain. If it fail in realizing the hopes of those who framed it, it will be because of want of proper administration on the part of those to whom its administration must be entrusted.

The practical rather than the ideal has been the aim of the commission. It has striven to frame a measure, simple, complete, and explicit in its provisions, and which the layman can read and understand. Following closely the general outlines of the exist-

ing law, and, so far as expedient, preserving its phraseology, the aim has been to characterize the bill by natural arrangement of provisions, and to incorporate therein the best features of the laws of other states so far as they are applicable to our own conditions.

The bill is so framed as to constitute a properly balanced law. Every part is shaped with reference to the measure as a whole. If the legislature deems it desirable to change any of its provisions, great care should be exercised in order that its harmony be not destroyed, or that its other important features be not impaired or made meaningless by the change.

The commission has realized throughout its labors that there had been confided to its judgment one of the most important tasks which any citizen can perform. It has spared neither time nor thought in the performance of that task. Had the commission been differently constituted a bill differing in many respects, and in some respects radically different from the one now presented, might have been framed; but, be that as it may, the commission is confident that it has produced a measure greatly superior to the existing law and which is wisely adapted to the purposes of the constitution.

In conclusion, the amendment of the tax provisions of the constitution, for the reasons urged in this report, should be early effected. In their present form, they are an insuperable obstacle to proper legislation.

Respectfully submitted,

G. S. IVES,

W. J. HAHN,

H. W. CHILDS,

Tax Commission.

Dated January 10, 1902.

APPENDIX
CONTAINING
BILLS FOR TAX CODE
AND
AMENDMENTS
OF THE
CONSTITUTION.

A BILL FOR AN ACT TO PROVIDE FOR THE ASSESSMENT
AND COLLECTION OF TAXES.

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

TITLE I.

PROPERTY SUBJECT TO TAXATION.

Section 1. Property taxable. All real property within this state, and all personal property situated or owned by persons residing within this state, is taxable, unless exempt from taxation by law.

EXEMPTIONS.

Sec. 2. Property exempt. All property described in this section, to the extent herein limited, shall be exempt from taxation; that is to say:

First.—All public hospitals, school houses, academies, colleges, universities and seminaries of learning, with the books and furniture therein, and all moneys and credits appropriated solely to sustaining and belonging exclusively to such institutions, and the grounds attached to such buildings necessary for their proper occupancy, use and enjoyment, and not leased or otherwise used with a view to profit.

Second.—Houses used exclusively for public worship, and the lot or parts of lots upon which such houses are erected.

Third.—All lands used exclusively for public burying grounds or cemeteries.

Fourth.—All property, whether real or personal, belonging exclusively to the state or to the United States.

Fifth.—All public property used exclusively for any public purpose, belonging to any county, city, village, township, borough, town, school district or other public body.

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

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

Eighth.—The personal property of each individual liable to assessment and taxation under the provisions of this act of which such individual is the actual and bona fide owner to an amount not

exceeding twenty-five dollars in value; provided, that each person shall list all of his personal property for taxation, and the county auditor shall deduct the amount of the exemption authorized by this section from the total amount of his assessment and levy taxes upon the remainder.

TITLE II.

DEFINITIONS.

Sec. 3. Land, real estate and real property. The terms land, real estate, and real property, as used in this act, shall be construed to include the land itself, above and under water, all buildings, structures, substructures and superstructures, and improvements erected upon, under or above, or affixed to the same, and all rights and privileges thereto belonging or in anywise appertaining, and all mines, minerals, quarries, fossils and trees in, under or upon the same.

Sec. 4. Personal property defined. Personal property shall, for the purposes of taxation, be construed to include:

1. All moneys.
2. All royalties and annuities, unless the capital of such annuity be taxed within this state; and all franchises.
3. All goods, chattels, credits and effects within this state.
4. All goods, chattels and effects, belonging to inhabitants of this state, situate without this state.
5. All ships, boats and vessels, and their appurtenances, belonging to inhabitants of this state, whether at home or abroad, and all capital invested therein.
6. All credits of every kind belonging to inhabitants of this state, over and above the amounts respectively owned by them.
7. All shares in corporations organized under the laws of this state, when the property of such corporation is not exempt, or is not taxable to the corporation.
8. All shares in banks organized within this state, under the laws of this state or of the United States, and in trust companies at their cash value after deducting the assessed value of real property owned and assessed to such banks or trust companies.
9. All shares in foreign corporations, except national banks owned by citizens of this state.
10. All improvements upon and interests owned by individuals in lands, the fee of which is in the United States, or any city, county, township or school district of this state, and all such improvements upon lands the title to which is still vested in any railroad company or any other corporation whose property is not subject to the same mode and rule of taxation as other property.
11. All nursery stock and trees while growing on any land, or in preparation for re-planting or sale, or in transit.

12. All produce, seeds and grain on hand within this state, whether in granary, mill, warehouse, or otherwise, or in transit.

13. All mains, pipes, conduits or subways laid in any road, street or alley; all tracks, roads and bridges of every street railway company, together with all its poles erected and wires laid or suspended in, upon, or over the same; all poles and wires laid or suspended in, upon, or on any road, street or alley by any other company or person.

14. All personal property not herein enumerated and not expressly exempt by law.

Sec. 5. **Money defined.** The term "money," or "moneys," whenever used in this act, shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same, or holding in trust and residing in this state, is entitled to withdraw in money on demand.

Sec. 6. **Credits defined.** The term "credits," whenever used in this act, shall be held to mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods due, or to become due, and all claims and demands secured by deed, contract, or mortgage due, or to become due.

Sec. 7. **Tract or lot, etc., defined.** The terms "tract," "lot," "piece or parcel of real property," and "piece or parcel of land," whenever used in this act, shall each be held to mean any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same claimant, person or company.

Sec. 8. **Singular and plural number—gender—person.** Every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural number may be applied and limited to the singular number; and every word importing the masculine gender only, may be extended and applied to females as well as males. The term "person" whenever used in this act shall be construed to include firm, company, or corporation.

Sec. 9. **Oath.** Wherever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear" used in this act may be held to mean "affirm."

Sec. 10. **Town or district.** The words "town" or "district," wherever used in this act, shall be construed to mean county, township, village, city or ward, as the case may be.

Sec. 11. **True and full value.** The terms "value," "cash value," "to value," "valuation," or "true and full value," wherever used in this act, shall be held to mean the usual selling price at the place where the property to which the term is applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at forced or auction sale.

Sec. 12. **Consignee.** Any person, firm, company or corporation to whom any personal property of another is consigned, shipped, or otherwise transmitted, or with whom any such property is stored, or by whom it is held for sale, or to be forwarded, shall, for the purposes of this act, be deemed to be a consignee.

Sec. 13. Merchant. Whoever owns or has in his possession, or subject to his control, any personal property within this state, with authority to sell the same, which has been purchased either in or out of this state with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within this state, shall be held to be a merchant.

Sec. 14. Manufacturer. Whoever purchases, receives or holds personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, or rectifying, or by the combination of different materials with a view of making gain or profit by so doing shall be held to be a manufacturer.

Sec. 15. Pawnbroker. Every person or company engaged in the business of receiving property in pledge or as security for money or other thing advanced to pawnor or pledger, shall be held to be a pawnbroker.

TITLE III.

ASSESSMENT OF PROPERTY.

Sec. 16. By whom property is to be assessed. For the purposes of this act the word "assessor" as used therein shall be deemed to include any county, city, village or township assessor whose office is created by any general or special law; and every assessor and deputy assessor may administer any oath authorized or required by this act.

Sec. 17. Property to be assessed at true and full value. All property shall be assessed at its true and full value in money.

1.

OF REAL PROPERTY.

Sec. 18. Time of assessing real property. All real property in this state subject to taxation shall be listed and assessed in the assessment district where situated in the year 1902, and every fourth year thereafter, except as otherwise provided in this act, with reference to its value on the first day of April, and all real estate becoming taxable in any intervening year, shall be listed and assessed with reference to its value on the first day of April of that year.

Sec. 19. Same—County auditor to furnish books and list real property. The county auditor shall, in the year in which real property is to be assessed, provide the necessary real estate assessment books and blanks, at the expense of the county, for and to correspond with each assessment district.

He shall make out in such books complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so state it 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 in any year in which real property is not assessed may be appended to the personal property assessment book.

The real estate assessment books and blanks shall be in readiness for delivery on the third Saturday of March in each year in which real property is to be assessed and shall on that day be delivered to the county supervisor of assessment, by whom they shall be properly distributed among the several assessors of the county, before the first day of April immediately following.

Sec. 20. Assessment of real property when and how made. The assessor shall perform the duties required of him during the months of April, May and June in each year in which real estate is assessed, except in cases otherwise provided, and in the manner following, to-wit:

He shall actually view and determine as nearly as practicable the true and full value in money of each lot or tract of real property listed for taxation, and shall enter the value thereof, including the value of all improvements and structures thereon, opposite each description of property; he shall also note on the assessment books, opposite each description of property, the condition of the surface thereof, using the words "level," "rolling," "broken," "hilly" or "rocky;" also the quality of the soil, using the words "loam," "clay," "sand," "gravel," "stony;" also whether it is prairie, timber, wet or dry; also the number of acres under cultivation.

In determining the value of real property, the assessor shall also consider the advantages and disadvantages of location, quality of soil, quantity and value of standing timber, water power and privileges, mines, minerals, quarries, or other valuable deposits known to be available therein, and their value.

If the assessor discovers any real property subject to taxation which has not been listed to him by the county auditor, he shall list and assess such property.

Sec. 21. Lease-hold estate. When real estate which is exempt from taxation is leased to another whose property is not exempt, and the leasing of which does not make the real estate taxable, the lease-hold estate and the appurtenances shall be listed as the property of the lessee thereof, or his assignee, as real estate.

Sec. 22. Government and other land purchased. Government, university, school and other public lands, purchased prior to the first day of April, shall be taxable for that year, and annually thereafter. All school lands heretofore or hereafter sold shall be taxable from and after the sale thereof.

Sec. 23. Assessor's duties in intervening years. The assessor shall, at the time of assessing personal property, in each year when real property is not assessed, also assess all real property that may have become subject to taxation since the last previous assessment, and all new buildings or other structures of any kind, whether completed or in process of construction, of over one hundred dollars in value, the value of which has not been previously added to or included in the valuation of the land on which such structures have been

erected; and shall make return thereof to the county auditor with his return of personal property, showing the tract or lot of real property on which each structure has been erected and the true value added thereto by the erection thereof; and in case of the injury by fire, flood, or otherwise, to any building or structure of any kind exceeding one hundred dollars in value, which has been erected previous to the last assessment, or the value of which has been added to any former assessment of such land, the assessor shall determine, as near as practicable, the amount of such injury and make return thereof to the county auditor. The county auditor shall, upon receiving any return made pursuant to the provisions of this section, increase or diminish the valuation of the tract of land embraced therein when necessary to the proper assessment thereof. He shall in any such year report to the Tax Commission the discovery of ores or minerals upon any tract of land brought to his attention and not previously known to contain the same, and all such facts as tend to enhance or reduce the valuation of any tract or land previously known to contain ores or minerals.

Sec. 24. Plats of new towns or additions to be presented to auditor. Whenever any person or persons shall lay out or plat any townsite or any addition to any city, village, or borough prior to the first day of April in any year when real estate is not assessed, he or they shall present the plat thereof to the county auditor, who shall append to the proper personal property assessment books descriptions of the several lots and blocks appearing in such plat; whereupon the assessor of the proper assessment district shall assess such lots in the same manner as real estate becoming taxable in intervening years is assessed and return the same to the county auditor; and the assessment of such lots and blocks shall be in lieu of the assessment of the tract so platted.

Sec. 25. Property omitted from taxation. If any real property subject to taxation be omitted in the assessment of any year or years, the county auditor, upon the discovery thereof, shall assess the same for the year or years in which it was omitted, and extend upon the tax lists for the current year all arrearages of taxes properly accruing against the same, with seven per cent interest thereon from the time said taxes would have become delinquent if properly assessed. If any tax on any real property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceeding, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.

Sec. 26. Basis of valuation of real property. In assessing any tract or lot of real property, the value of the land, exclusive of improvements, shall be determined; also, the value of all improvements and structures thereon, and the aggregate value of the property, including all structures and other improvements, excluding the value of crops growing upon cultivated land. In valuing any real property upon which there is a coal or other mine, or stone

or other quarry, the value of the land, exclusive of such mine or quarry shall be determined; also the value of such mine or quarry and the aggregate value of the property including such mine or quarry. Taxable lease-hold estates shall be valued at such a price as they would bring at a fair voluntary sale for cash.

Sec. 27. Exempt property to be valued and assessed. At the time of taking the assessment of real property, the assessor shall enter in a separate list each description of property in the town or district, exempt under the provisions of section two of this act, and value and assess the same in the manner and subject to the same rules as he is required to assess all other property, designating in each case to whom such property belongs and for what purpose used.

Sec. 28. Assessor's return of real property books. Each assessor shall on or before the first Monday of July in the year when real property is assessed, make out and deliver to the county auditor in the books provided therefor, a return of the real property listed for taxation in his township. To such return shall be attached the following oath or affirmation, to be made by himself or his deputy.

I, _____, assessor for _____ township, _____ county, State of Minnesota, do solemnly swear (or affirm) that the return to which this is attached contains a correct description of each parcel of real property within said township, as far as I have been able to ascertain the same; that I have actually viewed and determined the true and full value, as nearly as practicable, of each parcel of such property; that the value attached to each parcel in said return is, as I verily believe, the full and true cash value thereof estimated agreeably to the rules prescribed by law; and that I have not in any way consented to or connived at any violation or evasion of any of the requisites of the law in relation to the valuation of real property.

2.

OF PERSONAL PROPERTY.

WHEN LISTED.

Sec. 29. Listed and assessed in April, May and June. Personal property shall be listed and assessed annually during the months of April, May and June with reference to its value on the first day of April.

Sec. 30. Assessment books. 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.

WHERE LISTED.

Sec. 31. At place of inhabitance. All personal property shall be assessed to the owner in the township, town or city of which he is an inhabitant on the first day of April of the year for which the assessment is made, with the following exceptions:

1. **Capital stock and franchises.** The capital stock and franchises of corporations and persons, except as may be otherwise provided in this act, shall be listed and taxed in the township, town or city where the principal office or place of business of such corporation or person is located in this state; if there be no principal office or place of business in this state, then at the place in this state where any such corporation or person transacts business.

2. **Merchants and manufacturers.** The personal property pertaining to the business of a merchant or manufacturer shall be listed in the township, town or city where his business is carried on.

3. **Bank stock.** The stockholders of every bank located within this state, whether such bank has been organized under the banking laws of this state or of the United States, and of every trust company, shall be assessed and taxed in the township, town or city where such bank, banking association or trust company is located, and not elsewhere, whether such stockholders reside in such place or not.

4. **Express, transportation and stage companies.** The personal property of express, transportation and stage companies shall, except as otherwise provided by law, be listed and assessed in the township, town or city where the same is usually kept.

5. **Steamboats and other vessels.** All persons, companies and corporations owning steamboats, launches, sailing vessels, wharf boats, barges, and other water craft, shall be required to list the same for assessment and taxation in the township, town or city in which the same may belong, or be enrolled, registered, or licensed, or kept when not enrolled, registered or licensed.

6. **Gas and water companies.** The personal property of gas and water companies shall be listed and assessed in the township, town or city where the principal works are located.

7. **Street railroad and other companies.** The personal property of street railroad, plank road, gravel road, turnpike or bridge companies, shall, except as otherwise provided in this act, be listed and assessed in the township, town or city where the principal place of business is located.

8. **Non-resident farm property.** When the owner of live stock, or other personal property connected with a farm, does not reside thereon, the same shall be listed and assessed in the township, town or city where the farm is situated; provided, if the farm is situated in several towns or townships, it shall be listed and assessed in the town or township in which the place of business of such farm is located.

9. **Property not owned by person listing.** Persons required to list property on behalf of others shall list it in the same place in which they are required to list their own, except as otherwise in this act provided; but they shall list it separately from their own, specifying in each case the name of the person, estate, company or corporation to whom it belongs.

10. **Property of non-residents.** Personal property of non-residents of the state shall, except as otherwise provided in this act, be assessed to the owner, or the person having control thereof, in the

township, town or city where the same may be, except that where such property is in transit to some place within the state, it shall be assessed in such place.

11. **Property of estates of deceased persons.** The personal property of estates of deceased persons in the hands of executors, administrators, or other persons, shall be assessed to the person in charge of such property, in the township, town or city where the deceased last dwelt, until such property has been distributed to the heirs or other persons entitled thereto. If such decedent was a non-resident of the state, such property shall be assessed in the township, town or city where situated.

12. **Property of persons under guardianship.** The personal property of minors under guardianship shall be assessed to the guardian in the township, town or city where the guardian resides; and the personal property of every other person under guardianship shall be assessed to the guardian in the township, town or city where the ward resides.

13. **Property under control of trustee or agent.** Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent, except as otherwise in this act provided, in the township, town or city in which such trustee or agent resides.

14. **Property under control of assignee or receiver.** Personal property in the hands or under control of an assignee or receiver shall be assessed to such assignee or receiver in the township, town or city where such property was assessable before the appointment of such assignee or receiver.

15. **Property situate upon public lands.** All improvements mentioned in subdivision ten of section four of this act shall be assessed to the owner or occupant thereof in the township, town or city in which such lands are situate, and such improvements shall be subject to sale for taxes in the same manner as herein provided for personal property; provided, however, it shall not be necessary to remove such buildings for the purpose of sale.

16. **Property moved between April and July.** The owner of personal property removing from one township, town or city to another between the first day of April and the first day of July, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this state from another state, between the first day of April and the first day of July, shall list the property owned by him on the first day of April of such year in the township, town or city in which he resides; provided, if such person has been assessed and can make it appear to the county board of review that he is held for the tax of the current year on the property in another state, said board may abate such assessment.

17. **Grain in elevator, where assessed.** All grain in any elevator belonging to the person owning such elevator, or to a person not residing in this state, shall be assessed against the owner in the assessment district where such elevator is situated.

18. **Place of listing, how decided in case of doubt.** In all cases of doubt that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county supervisor of assessment; and when between different counties or places in different counties, by the Tax Commission, and when fixed in either case shall be as binding as if fixed by this act.

BY WHOM LISTED.

Sec. 32. Duty as to listing. Personal property shall be listed in the following manner:

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

2. He shall also list separately and in the name of his principal all the classes of property named in the first subdivision of this section invested, loaned, or otherwise controlled by him as the agent or attorney or banker, or on account of any other person or persons, company or corporation whatsoever.

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

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

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

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

7. If a person die after the first day of April, in any year, without having listed his property for taxation, his executor or administrator, heir at law, or other person having charge thereof shall list the same as though it had been in his possession on the first day of April of such year.

8. The property of persons or corporations whose assets are in the hands of assignees or receivers, by such receivers.

9. The property of a body corporate, by the proper agent or officer thereof.

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

11. Property held by one as a pawnbroker, by such pawnbroker.

Sec. 33. Listing by consignee. It shall be the duty of every consignee having in his possession on the first day of April any personal property consigned or delivered to him from any place within this state, either for the purpose of being stored, sold or forwarded by him, which he is not required by law to list for taxation, to

make and deliver to the assessor at the time when he is required by law to list his personal property for taxation, a sworn statement of all such consigned property, together with the names and residences of the respective owners, and the class, quantity and value thereof. The making and delivery of such statement by the consignee may be enforced by the same provisions, so far as applicable, as are in this act provided for the enforcement of the listing of personal property for assessment and taxation. Title to all personal property so in the possession of such consignee shall, for the purposes of taxation, be conclusively presumed to be in the person who, by the books and records of such consignee appears to be the owner thereof. Provided, that all personal property in the possession or under the control of a consignee belonging to a person not residing in this state shall be listed in the name of the consignee; and, provided further, that when any consignee fails to make the statement required by this section, or otherwise fails to properly list any property consigned to or controlled by him, the property which he fails to so list or report shall be deemed to be owned by him and be listed in his name.

Sec. 34. Same—Duty of assessor and county supervisor of assessment. It shall be the duty of the assessor receiving a statement, in accordance with section 33 of this act, to immediately proceed to assess the respective owners therein named who reside in his township, town or city for such property therein described which has not already been listed for assessment and taxation, and to forthwith deliver such statement, with a certificate of the persons and property named therein, which had been or was by him so listed, to the county supervisor of assessment, who shall immediately proceed to assess the respective owners therein named who reside in his county for such property therein described which has not already been listed for assessment and taxation; whereupon, it shall be the duty of the last named officer to mail to the county supervisor of assessment of each proper county, immediately upon receipt thereof, a statement containing the names and residences of the persons residing in the county to which such statement is mailed, and the character, class, quantity and value of the said property owned by such persons respectively, as shown by the statement of such consignee. It shall be the duty of the county supervisor of assessment, receiving such statement from another county, to immediately proceed to assess the respective owners therein named for such property therein described, which has not already been listed for assessment and taxation.

HOW LISTED AND ASSESSED.

Sec. 35. Duty of assessor. On the first day of April of each year, or as soon thereafter as practicable, and before the first day of July, the assessor shall call upon each person required by this act to be assessed, and furnish him with the proper assessment blanks; and such person shall make to such assessor a full and

correct description of all the personal property of which he was the owner on the first day of April of the current year, and he shall also at the same time make separate, full and true statements in like manner, in writing, distinctly setting forth in each a correct description of all the personal property held, possessed or controlled by him as executor, administrator, guardian, trustee, receiver, partner, agent, attorney, president or accounting officer of a corporation, consignee, pawnbroker, or in any representative or fiduciary capacity; and he shall affix to each item of property what he deems the true cash value thereof, for the guidance of the assessor, who shall determine the value of each item. The failure of the assessor either to call upon any person or to furnish him with proper blanks, as in this section provided, shall not relieve such person of the duty of listing annually his property for taxation before the first day of July in each year.

Sec. 36. By merchant, manufacturer, pawnbroker. Every merchant shall, when listing his property for taxation, list as goods and merchandise all property held or owned by him appertaining to his business as a merchant. Every manufacturer shall, when listing his property for taxation, list as manufacturer's materials and manufactured articles all articles purchased, received, or held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, including all manufactured articles on hand in actual possession, or elsewhere held for sale. Every pawnbroker shall, when listing his property for taxation, include in his list all property held by him on the first day of April, as a pawnbroker.

Sec. 37. Interrogatories to be answered. The person called upon or required by the assessor to list property, shall answer in writing, under his signature, the following interrogatories, under oath, upon the proper blank form therefor:

Interrogatory 1. Are you, or were you on the first day of April of the present year, the executor of the last will, or the administrator of the estate, of any deceased person; the guardian of the estate of any infant, or person of unsound mind; the trustee of the property of any person; the assignee or receiver of any corporation, association or person or firm; the agent, attorney or banker, investing, loaning, or otherwise controlling, the money or other property of any other person; the president or accounting officer of any corporation, or a partner, consignee or pawnbroker? If yes, designate for whom you were then, or now are, acting in such representative or fiduciary capacity, and if you were, or now are, acting under the authority of any particular court, name the court, and also state to what court you report.

Interrogatory 2. Have you before the first day of April of the present year, either personally or through the agency of others, caused all or any part of your taxable money or other property to be temporarily converted, either by sale, borrowing, exchange, or in any other manner, into bonds or other securities of the United States not taxable, or any other property not taxable, with the

intention to pay back, return, or exchange or sell back such property after you have made out your tax statement, for the purpose of evading the payment of taxes on such property; or have you, on or since the first day of April of the present year, paid back, returned, or re-exchanged or sold back such property, for the purpose aforesaid?

Interrogatory 3. If you have converted any of your money or property, or money or property of any other person, as inquired of you, then state when the same was so converted, and the kind and amount or value thereof.

Sec. 38. **Duty of person listing.** Every person required by this act to make or deliver such statement or schedule, shall set forth an account of the property held or owned by him, as follows:

PERSONAL PROPERTY—CREDITS.

1. All annuities and royalties.
2. All bonds, notes, mortgages, accounts, demands, claims, and other indebtedness owing to such person, whether such indebtedness is owing from individuals, partnerships, or corporations, public or private, and whether such debtors reside within or without the state.
3. All bona fide indebtedness owing by such person.

PERSONAL PROPERTY—CHATELS.

1. All shares in foreign corporations other than banks and their value.
2. All shares in corporations organized under the laws of this state, when the property of such corporation is not exempt by law, or is not taxable to the corporation itself, and the cash value of such shares.
3. All moneys, including circulating notes of national banking associations, and gold, silver and other coin, and every deposit with banks, trust companies, corporations, firms or individuals subject to order, check or draft.
4. The value of all gold and silver plate, watches, diamonds and jewelry.
5. The value of all household furniture and musical instruments.
6. All franchises and their value.
7. All patent rights, shop rights, copyrights and trade marks, describing them and giving the number and value of each.
8. The number and kinds of domestic animals, and their value.
9. All wagons, carriages, sleighs, automobiles and other vehicles, and their value.
10. All mechanical and agricultural implements and tools, and their value.
11. All machinery, engines and boilers not affixed to real property, and their value.

12. All ships, boats and vessels, whether at home or abroad, and their value.

13. All merchandise and stock in trade, and its value.

14. All logs, timber, lumber, posts, ties, cordwood, staves or other felled or cut timber, and the value.

15. All elevators, warehouses and improvements on lands, the title to which is vested in any railroad company or public body, and their value.

16. All other goods, chattels and personal property, including dogs, not heretofore specially mentioned, and their value.

Sec. 39. Deductions from credits. how made—What are not deductions. In making up the amount of credits which any person is required to list for himself or for any other person, company or corporation, he shall be entitled to deduct from the gross amount thereof, the amount of all bona fide indebtedness of himself or of any such person, company or corporation; but no acknowledgment of indebtedness, not founded on actual consideration, believed when received to have been adequate; and no such acknowledgment made for the purpose of being so deducted, shall be considered a debt in the meaning of this section. Nothing in this section shall be so construed as to apply to any bank, banker, company or corporation, exercising banking powers or privileges, or to trust companies, or to authorize any deductions allowed by this section from the value of any other item of taxation than credits. No person, company or corporation shall be entitled to any deduction on account of any bond, note or obligation of any kind given to any mutual insurance company, nor on account of any unpaid subscription to any corporation, institution or society, nor on account of any subscription to or installment payable on the capital stock of any company, whether incorporated or unincorporated.

Sec. 40. Form of property list. Personal property shall be listed on blanks substantially of the following form, to be signed by the party making the same, who shall write the word "none" after each item whenever he has no property to assess as named in such item, and no item shall be passed without being answered:

LIST.

Of all property owned by and listed by.....
of Township, or City, of
County, Minnesota, on the first day of April,

PERSONAL PROPERTY—CREDITS.

| No. | Description of Property. | Valuation by Owner. | Valuation by Assessor. |
|-----|------------------------------------|------------------------|---------------------------|
| 1. | All annuities and royalties..... | \$..... | \$..... |
| 2. | All bonds ..... | ..... | ..... |
| 3. | All notes secured by mortgage..... | ..... | ..... |
| 4. | All other notes ..... | ..... | ..... |

| No. | Description of Property. | No. of | Valuation by Owner. | Valuation by Assessor. |
|-----|---|--|------------------------|---------------------------|
| 11. | Typesetting machines ..... | ..... | ..... | ..... |
| 12. | Cash registers ..... | ..... | ..... | ..... |
| 13. | Steam engines, including boilers..... | ..... | ..... | ..... |
| 14. | Fire and burglar-proof safes..... | ..... | ..... | ..... |
| 15. | Sporting tables { | Billiard ..... | ..... | ..... |
| | | Pool ..... | ..... | ..... |
| | | Pigeon-hole ..... | ..... | ..... |
| | | Bagatelle ..... | ..... | ..... |
| | | Other kinds ..... | ..... | ..... |
| 16. | Scales ..... | ..... | ..... | ..... |
| 17. | Watches and clocks..... | ..... | ..... | ..... |
| 18. | Pianofortes ..... | ..... | ..... | ..... |
| 19. | Musical instruments { | Melodeons ..... | ..... | ..... |
| | | Organs ..... | ..... | ..... |
| | | Others not in 18th item ..... | ..... | ..... |
| 20. | Household furniture and library..... | ..... | ..... | ..... |
| 21. | Tools, books, in- struments and medicines.... { | Mechanical tools .... | ..... | ..... |
| | | Law books ..... | ..... | ..... |
| | | Medical books ..... | ..... | ..... |
| | | Surgical instruments. Medicines ..... | ..... | ..... |
| 22. | Fire arms ..... | ..... | ..... | ..... |
| 23. | Agricultural tools, implements and ma- chinery ..... | ..... | ..... | ..... |
| 24. | Manufacturing tools, implements and machinery other than engines and boilers ..... | ..... | ..... | ..... |
| 25. | Gold and silver plate and plated ware... | ..... | ..... | ..... |
| 26. | Diamonds and jewelry..... | ..... | ..... | ..... |
| 27. | Franchises ..... | ..... | ..... | ..... |
| 28. | Patent rights, shop rights, copy rights, and trade marks..... | ..... | ..... | ..... |
| 29. | Vessels { | a. Steamboats ..... | ..... | ..... |
| | | b. Launches ..... | ..... | ..... |
| | | c. Sailing vessels ..... | ..... | ..... |
| | | d. Wharf boats ..... | ..... | ..... |
| | | e. Barges and other water craft | ..... | ..... |
| 30. | Goods and merchandise on hand..... | ..... | ..... | ..... |
| 31. | Manufacturer's materials and manufac- tured articles on hand..... | ..... | ..... | ..... |
| 32. | Money on hand or on deposit with banks, trust companies, corporations, firms or individuals, or subject to my order, check or draft..... | ..... | ..... | ..... |
| 33. | All money loaned by me, and not already entered on this schedule..... | ..... | ..... | ..... |
| 34. | Property of building and loan associa- tions ..... | ..... | ..... | ..... |
| 35. | Money of banks whose capital is not rep- resented by shares of stock, bankers, brokers or stock-jobbers..... | ..... | ..... | ..... |
| 36. | Property held by pawnbrokers..... | ..... | ..... | ..... |
| 37. | Property of saloons and eating houses.. | ..... | ..... | ..... |
| 38. | Brick, stone, tiling, and other building, paving and sidewalk material..... | ..... | ..... | ..... |
| 39. | Nursery stock ..... | ..... | ..... | ..... |

| No. | Description of Property. | No. of | Valuation by Owner. | Valuation by Assessor. |
|-----|---|--------|---------------------|------------------------|
| 40. | Bushels of grain | } | Wheat | |
| | | | Corn | |
| | | | Oats | |
| | | | Rye | |
| | | | Barley | |
| | | | Flax seed | |
| 41. | Lumber ..... | ..... | ..... |  |
| 42. | Logs and timber ..... | ..... | ..... |  |
| 43. | Tons of iron not listed as goods and merchandise ..... | ..... | ..... |  |
| 44. | Gallons of oil of all kinds in tanks, casks or barrels, not otherwise assessed, not listed as goods and merchandise..... | ..... | ..... |  |
| 45. | All shares of stock in foreign corporations other than banks..... | ..... | ..... |  |
| 46. | All shares of stock in corporations organized under the laws of this state, when the property of such corporations is not exempt by law, or is not taxable to the corporation itself, in this state ..... | ..... | ..... |  |
| 47. | All shares of stock in any corporation formed outside of this state; and also all shares of stock in any corporation formed in this state and conducting its business outside of this state, required to be listed..... | ..... | ..... |  |
| 48. | The value of all elevators, warehouses, and improvements on lands the title of which is vested in any railroad company ..... | ..... | ..... |  |
| 49. | The value of all improvements on lands of the United States or any city, county, township or school district therein ..... | ..... | ..... |  |
| 50. | All dogs over six months of age..... | ..... | ..... |  |
| 51. | All property not specified above and required to be listed..... | ..... | ..... |  |

Sec. 41. **Form of oath.** Each person who is required by this act to list property, shall annually make out and deliver to the assessor, between the first day of April and the first day of July, a statement in the form provided by section 40 of this act, verified by his oath or affirmation, which oath or affirmation shall be printed upon such schedule immediately following the items thereof, and shall be substantially in the following form, to-wit:

“State of Minnesota,)
) ss.
 County of _____)

I, _____, being duly sworn, say: (When person listing affirms, say: solemnly affirm.) That to the best of my knowledge, information and belief, the foregoing statement contains a true, full and complete list of all property held, controlled, or belonging to me on the first day of April, 19—, including all personal property pertaining to merchandising, manufacturing, or otherwise, and that

where I have been unable to exhibit any class of personal property to the assessor, such property has been fully and fairly described, and its true condition and value represented; that I have in no case sought to mislead the assessor as to either quantity, quality or value of property, and that the deductions claimed from credits are bona fide debts for a consideration received, and do not consist in any part in bonds, notes or obligations of any kind, given to any insurance company on account of premiums or policies, nor on account of any unpaid subscriptions to any corporation, institution or society, nor on account of any subscription to or indebtedness payable on capital stock of any company, whether incorporated or unincorporated; that since the first day of April of last year I have not, directly or indirectly, converted or exchanged any of my property temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind; and that I have to the best of my knowledge and judgment, valued said property at its true cash value, by which I mean the usual selling price, being the price which could be obtained for such property at private sale, and not at forced or auction sale.

Subscribed and sworn to before me, this _____ day of _____,
19____.

Assessor.
By _____
Deputy."

Where property is listed by any person for another, the form of oath required by this section in such case shall be substantially in the following form, to-wit:

"State of Minnesota, }
County of _____ } ss.

I, _____, being duly sworn, say: (When person listing affirms, say: solemnly affirm.) That I am the (agent, attorney or otherwise, as the case may be), of _____, residing at _____; that I reside at _____; that I have (in my possession or under my control, as the case may be, as the agent, attorney or otherwise, as the case may be), of the property of the said _____, the property described in the foregoing statement; that to the best of my knowledge, information and belief, the foregoing statement contains a true, full and complete list of all property held or controlled by me as aforesaid, on the first day of April, 19____, including all personal property pertaining to merchandising, manufacturing or otherwise, and that where I have been unable to exhibit any class of personal property to the assessor, such property has been fully and fairly described and its true condition and value represented; that I have in no case

sought to mislead the assessor as to the quantity, quality or value of property and that the deductions claimed from credits are bona fide debts for a consideration received, and do not consist in any part in bonds, notes or obligations of any kind given to any insurance company on account of premiums or policies or on account of unpaid subscriptions to any corporation, institution or society, nor on account of any subscriptions to or indebtedness payable on capital stock of any company, whether incorporated or unincorporated; that since the first day of April of last year I have not (as such attorney, agent or otherwise, as the case may be), directly or indirectly converted or exchanged any of such property temporarily for the purpose of evading the assessment thereof for taxes into non-taxable property or securities of any kind and that I have to the best of my knowledge and judgment valued said property at its true cash value, by which I mean the usual selling price, being the price which could be obtained for such property at private sale and not by forced or auction sale.

Subscribed and sworn to before me this _____ day of _____ 19____.

Assessor.

By _____
Deputy."

Sec. 42. Duty of assessor when person fails to make fair list. Whenever the assessor shall be of the opinion that any person, company or corporation, has not made a full, fair and complete list of personal property which he is required to list for the purposes of taxation, he shall examine such person under oath in regard to the classes and amount of the property he is required to list; and he is required in such case to examine on oath any other person whom he believes to have knowledge of the amount or value of any property owned, held or controlled by such person, company or corporation.

Sec. 43. Same--Where person refuses or neglects to list. Whenever any person, company or corporation, whose duty it is to list personal property for taxation, has refused or neglected to list the same in the manner required by this act, or to take or subscribe to the oath required by law in regard to the truth of his statement of personal property, or any part thereof, or if any person has not, in the opinion of the assessor, made a full, fair and complete list of such property, and shall refuse to be sworn or give evidence in regard to the classes or amount of the property he is required to list; or if any person who shall be required by the assessor to give evidence as provided by section 42 of this act shall refuse to be sworn by the assessor, or shall refuse to testify after having been sworn, the assessor shall enter opposite the name of such person in a proper column the words "refused to list," "refused to swear" or "refused to testify," as the case may be; and it shall be the duty of the assessor in every such case to apply to any clerk of the district court, or any justice of the peace in his county, for a subpoena requiring

such person, or an officer or agent of any such company or corporation, to appear before such assessor or justice of the peace, at a time and place named in said subpoena, to answer any question which shall be put to him touching his ownership, interest in, or knowledge of, any property belonging to any of the classes enumerated in said list, and the failure of any person on whom such subpoena has been served to appear and answer under oath to any such question, at the time and place named in such subpoena, shall be a contempt of court, and may be punished by a fine of not more than one hundred dollars, or by imprisonment not exceeding thirty days.

Sec. 44. Sickness or absence of owner—duty of assessor. If any person required by this act to list property shall be sick or absent when the assessor calls upon him for a list of his property, the assessor shall leave at his residence, or the office or usual place of business of such person, a written or printed notice, requiring such person to make out and leave at the place named by said assessor, on or before some convenient day named therein, the list required by this act. The date of leaving such notice and the name of the person required to list the property shall be noted by the assessor in his assessment book. The notice herein provided may be printed on the back, or elsewhere, of the blank or schedule, and shall be substantially in the following form:

“To _____:

You are hereby required to make out and deliver to me, at my office, or at _____, within _____ days from the date hereof, upon the within blank, or one similar thereto, a full and correct description of all the personal property which you are required by law to list for the purpose of taxation, and to verify the same before some officer authorized to administer oaths. Dated _____, 19____.

Assessor.”

When any person upon whom such notice has been so served fails to comply therewith, it shall be the duty of the assessor to enforce obedience thereto by causing a subpoena to be issued and served upon him, as in section 43 of this act provided, and all the provisions of said section so far as necessary shall be deemed to apply in every such case.

Sec. 45. Same—duty of assessor where person recovers or returns. If the sickness or absence of any person upon whom the notice provided for in section 44 of this act has been served, as in said section specified, shall continue beyond the time named in such notice; or if for any reason the assessor is unable to so serve such notice within the time allowed such assessor for assessing property, it shall be the duty of the assessor, or of the county supervisor of assessment, upon the recovery or return of such person, or as soon as practicable, to so serve a similar notice upon such person, and to enforce obedience thereto in the same manner and with like penalties as provided in said section 43 of this act.

Sec. 46. Fees and costs when subpoena issued—how paid. When any subpoena is issued pursuant to sections 43, 44 or 45 of this act, the same may be served by the assessor or any sheriff or constable, and the same fees shall be allowed and paid by the county for the issuance of such subpoena, and the service thereof, as are allowed for the issuance and service of a subpoena in a criminal action. The officer entitled to any such fees shall prepare and file in the office of the county auditor a statement containing the name of the person for whose attendance the subpoena was issued, and when the claim is for compensation for the service of the subpoena, the statement shall also contain the number of miles actually traveled by the officer in serving the subpoena. In all cases where personal property taxes are extended against any person for whom a subpoena is so issued, the fees and costs for the issuance and service thereof shall be added to and collected with such taxes.

Sec. 47. Failure to make statement by reason of sickness or absence. When any person shall have been prevented from making and verifying his statement by reason of sickness or absence from the county during the months of April, May and June, it shall be the duty of such person immediately upon his recovery or return to make out and verify the list provided for in section 40 of this act, and to forthwith deliver or mail the same to the county supervisor of assessment of his county, whose duty it shall be to file the same with the county auditor. If a person making such list shall add to the ordinary affidavit a statement to the effect that his failure to give the assessor such statement was occasioned by his sickness or absence, and if from absence, that such absence was without design to avoid the listing of his property, it shall be the duty of the auditor, on the filing of such list, to make the necessary correction of the assessment of such person to the end that his property be assessed at its true value in money.

Sec. 48. Assessor to make return of increased assessment of sick or absent person. If it shall appear by any list obtained under the provisions of section 45 or from any examination had under said section or from any list made pursuant to section 47, that the amount of property or valuation thereof as appearing in either of said lists is less than the amount or valuation of the property of the person listing subject to taxation under the provisions of this act, the excess thereof, both as to such property and valuation, shall be added to the amount of such property or the valuation thereof, as already assessed against such person, and the requisite tax thereon extended on the assessment books of the county by the county auditor.

Sec. 49. False statement—penalty. If any person or corporation shall give a false or fraudulent list, or shall wilfully fail or refuse to deliver to the assessor a list duly verified of the taxable property which he or it is required to list under this act, or shall temporarily convert any part of his property into property not taxable, or do any other act for the fraudulent purpose of preventing such property from being listed or of evading the payment of taxes

thereon, he or it shall be guilty of a misdemeanor, and, on conviction thereof, be punished by a fine of not less than fifty dollars nor more than five thousand dollars, to be paid into the county treasury for the benefit of the county, and shall be committed to the county jail until such fine is paid, not exceeding a period of six months. Every assessor shall forthwith notify the county attorney of every such offense, who shall thereupon cause criminal complaint to be made against such offender before any magistrate, either upon the complaint of the assessor, or other person having knowledge of the facts thereof, and shall bring the same to the attention of the grand jury, to the end that such offender be properly prosecuted and punished therefor.

The judges of the several district courts are required to give this section in special charge to the grand jury of the several counties in their districts.

Sec. 50. Valuation by assessor. In every case where the assessor by reason of the sickness or absence of the party required to list, or for any cause is unable to obtain from any person subject to assessment under the provisions of this act, the verified list required by section 40 of this act, he may list the property of such person according to his best judgment and information and for this purpose he may examine on oath any person or persons whom he may suppose to have knowledge thereof, and such assessor shall make a note of such inability to procure such list in a column opposite the person's name.

Sec. 51. Neglect to require oath—penalty. If any assessor, deputy assessor, or county supervisor of assessment, shall accept any list of personal property not sworn to, or answers made, as required by law, he shall for every such acceptance be liable to a penalty of twenty-five dollars, to be recovered by an action in the name of the state, before any justice of the peace of the county, together with the costs of such action. It shall be the duty of the county auditor to notify the county attorney of any such acceptance of an unsworn list by any such officer when brought to his attention, and thereupon it shall be the duty of the county attorney to immediately institute an action for the recovery of the sum for which such officer is so liable. Any such acceptance of an unsworn list by an assessor, deputy assessor, or county supervisor of assessment, shall be sufficient cause for his removal from office.

Sec. 52. Assessor to report property discovered after April, May and June. It shall be the duty of every assessor to report to the county auditor all personal property liable to taxation, and the owner thereof, the discovery whereof has been made by him or brought to his attention subsequent to the 30th day of June in any year or subsequent to his return of his assessment books and statements to the county auditor.

Sec. 53. Number of school district to be given. It shall be the duty of the assessor when assessing personal property to designate the number of the school district in which each person assessed

is liable for tax, which designation shall be made by writing the number of the district opposite each assessment in a column provided for that purpose in the assessment book. When the personal property of any person is assessable in several school districts, the amount in each shall be assessed separately and the name of the owner placed opposite each amount.

Sec. 54. Assessor to return statement of personal property assessment to county auditor. Immediately upon completing the assessment of personal property in any year, it shall be the duty of the assessor forthwith to make out and transmit by mail to the county auditor, on blanks to be furnished him therefor by the county auditor, a statement showing the names and post-office addresses of all persons owning personal property subject to taxation in his township or assessment district, and the amount for which each of said taxpayers has been assessed by him. Provided, however, that in all cities divided into wards, blanks shall be provided for such wards, respectively, and in counties not having township assessors, for each township respectively.

Sec. 55. County auditor to mail statement to taxpayer. It shall be the duty of the county auditor, immediately upon receipt from any assessor of the statement or statements provided for in section 54 of this act, to cause the list of each township, ward or other assessment district to be separately printed, and to mail to each person named in each of such lists, at his place of residence, if known, a copy of the list of his township, ward or other assessment district. Neither failure on the part of the assessor to make out and transmit such statement to the county auditor, nor failure of the latter to cause the same to be printed or mailed to any person named therein, shall have the effect of impairing or affecting the assessment of the personal property of any such person.

Sec. 56. Assessor to follow instructions. The assessors in the execution of their duties shall use the forms and follow the instructions which shall from time to time be prescribed and furnished them in pursuance of law.

Sec. 57. Assessor's statement and return. The assessor shall on or before the first day of July, annually, make out and deliver to the county auditor his assessment books, in which he shall make, under appropriate headings, a tabular statement in alphabetical order, containing a list or lists of the persons, companies or corporations in whose names personal property has been listed, and wherein shall be entered separately, in proper columns opposite each name, the aggregate value of the species of personal property required to be listed, as determined by the assessor; also showing the footings of the several columns upon each page; and he shall add up and set down under the respective headings the total amounts of the several columns.

On or before the day when such books are delivered to the auditor, the assessor shall also deliver to him the several lists and statements of all persons assessed; and all of which lists shall be filed and preserved in the office of the county auditor for the period of

three years from and after the first day of July of the year in which they are so delivered; and the county auditor is hereby authorized to destroy the said lists at the expiration of said period.

There shall be attached to the books so returned to the county auditor an oath or affirmation, to be made by the assessor or his deputy, substantially in the following form:

“State of Minnesota, }
County _____ } ss.

I, _____, Assessor of _____, do solemnly swear (or affirm) that the book to which this is attached contains a correct and full list of all property subject to taxation in _____, so far as I have been able to ascertain the same; that the value of all personal property, moneys, credits, or otherwise, of which a statement has been made and attested by oath or affirmation of the person required by law to list the same, is truly returned as set forth in such statement; that in every case where by law I have been required to ascertain the amount and value of personal property of any person, company, or corporation, I have diligently, and by the best means in my power endeavored to ascertain the true amount and value of such personal property, and that as I verily believe the full value thereof so ascertained by me, and estimated by the rule prescribed by law, is set forth in the annexed return; that in no case have I knowingly omitted to demand a statement of the description and value of the personal property, or the amount of moneys and credits, or of the amount and value of stocks or bonds, or otherwise, which any person is required by law to list; nor have I in any way connived at any violation or evasion of any of the requirements of law in relation to listing or valuing the personal property, moneys, credits, stocks, or other property, for taxation.

Assessor.

Subscribed and sworn to before me, this _____ day of _____, 19—.

”

Sec. 58. Bond and oath of assessor. Every person elected or appointed to the office of assessor shall within ten days after he is notified of his election or appointment, file with the county auditor his bond payable to the State of Minnesota with at least one surety to be approved by the said auditor, in the penal sum of five hundred dollars, conditioned that he will diligently, faithfully and impartially perform the duties enjoined on him by law; and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties of his office; and if any person so elected or appointed fails to give such bond, or take the oath required, within the time prescribed, such failure

shall be deemed a refusal to serve; provided, that in cities having a population of over fifty thousand inhabitants, the assessor shall give a bond in the penal sum of five thousand dollars; in cities of fifty and not less than twenty thousand inhabitants, he shall give a bond in the penal sum of three thousand dollars; in cities having a population of twenty and not less than ten thousand inhabitants, he shall give a bond in the penal sum of two thousand dollars; and in cities having a population of ten thousand inhabitants or less, he shall give a bond in the penal sum of one thousand dollars.

Sec. 59. Appointment of deputy assessor. Any assessor who deems it necessary to enable him to complete the listing and valuation of the property of his town or district within the time prescribed by law may, unless otherwise provided by law, with the approbation of the county supervisor of assessment, appoint in writing some well qualified citizen of his town or district to act as his deputy, and assign to him such portion of his district as he thinks proper; and such deputy shall give the bond and take the oath required of an assessor, and shall thereupon perform under the direction of the assessor, all the duties enjoined upon, vested in or imposed upon assessors. Such appointment shall be filed and preserved in the office of the county auditor.

Sec. 60. Auditor to correct false lists and returns. The county auditor, if he has reason to believe or is informed that any person has given to the assessor a false statement of his personal property, or that the assessor has not returned the full amount of all property required to be listed in his township or district, or has omitted or made an erroneous return of any property which is by law subject to taxation, shall, if such fact is discovered prior to or during the meeting of the county board of review, report it to such board; but if it is discovered after said board has completed its labor, he shall immediately proceed to correct the return of the assessor and to charge the owners of such property on the tax lists with the proper amount of taxes; and in the performance of the duties aforesaid he is hereby authorized and empowered to issue compulsory process, and to require the attendance of any person whom he may believe to have knowledge of the existence, location, or value of such property, and to examine such person on oath in relation to such statement or return; and the auditor in all such cases shall notify every such person before making the entry on the tax list, that he may have an opportunity of showing that his statement or the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts or evidence upon which he made such corrections; but he shall in no case reduce the amount returned by the assessor, without the written consent of the tax commission, on a statement of the case submitted by the county auditor or the party aggrieved.

Sec. 61. Property escaping tax, tax to be added to tax for current year. If any personal property subject to taxation be omitted in the assessment of any year or years, the county auditor shall assess the same and extend upon the tax lists for the current year all arrear-

ages of taxes properly accruing against said property, with seven per cent interest thereon from the time said taxes would have become delinquent if properly assessed. If any tax on any personal property liable to taxation is prevented from being collected for any year or years by the reason of any erroneous proceedings or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.

Sec. 62. Tax on tract when deed by state void. In case the deed to any tract or parcel of land issued under Title XIII. of this act shall be adjudged void, said tract or parcel shall thereupon be deemed to be and shall be subject to taxation during the period the same was held by the state in like manner as if it had not been conveyed to or held by the state, and the taxes for such period shall be levied and assessed upon said tract or parcel and collected in like manner as provided in the preceding section.

TITLE IV.

CORPORATIONS, COMPANIES AND ASSOCIATIONS.

Sec. 63. Corporations generally. The property of every corporation, joint stock association, partnership or company (except railway and insurance companies), save as otherwise provided in this title, shall be listed and assessed in the manner provided in Title III. of this act.

1.

INCORPORATED BANKS AND TRUST COMPANIES.

Sec. 64. Bank and trust company stock —valuation—listing. The stockholders of every bank located within this state, whether such bank has been organized under the banking laws of this state or of the United States, and every trust company organized under the laws of this state, shall be assessed and taxed on the value of their shares of stock therein. Such shares shall be listed and assessed annually with regard to the ownership and value thereof on the first day of April in each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every such bank or trust company shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of the capital stock of such bank or trust company, the amount of its surplus or reserve fund, and the amount of its legally authorized investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investment in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the

stockholders, subject to the provisions of law requiring all property to be assessed at its true and full value. The shares of capital stock of national banks not located in this state, held in this state, shall not be required to be listed under this act.

Sec. 65. Bank and trust companies to keep and furnish lists of stockholders. In every bank and banking office and trust company office there shall be kept at all times a full and correct list of the names and residences of the stockholders, owners or parties interested therein, showing the number of shares and the amount held, owned or controlled by each party in interest, which list shall be subject to the inspection of the officers authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution or trust company to furnish the assessor with a duplicate copy of such list, verified by oath, which shall be returned to the county auditor, and filed in his office.

Sec. 66. Taxes on bank and trust company stock to be a lien on dividends. To secure the payment of taxes on bank stock or banking capital and on stock of trust companies, it shall be the duty of every bank or trust company or the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or trust company, or its officers, that such taxes have been paid; and any officer of any such bank or trust company who shall pay over or authorize the paying over of any such dividend or dividends, or any portion thereof, contrary to the provisions of this section, shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer, where said bank or trust company is located, shall sell such share or shares, or interest, to pay the same, like other personal property; and in case of sale, the provisions of law in regard to the transfer of stock when sold on execution, shall apply to such sale.

2.

UNINCORPORATED BANKS, BROKERS AND STOCK-JOBBER.

Sec. 67. Property of bankers, brokers, and stock-jobbers—listing. The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker, or stock-jobber, shall make out and deliver to the assessor, when required to list personal property, a statement, which he shall verify by oath, showing—

1. The amount of money on hand or in transit.
2. The amount of funds in the hands of other banks, brokers, or others, subject to draft.
3. The amount of checks or cash items, the amount thereof not being included in either of the preceding items.

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

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

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

7. The amount of all deposits made with them by other parties.

8. The amount of all accounts payable other than current deposit accounts.

In cases other than savings banks, the aggregate amounts of the seventh and eighth items shall be deducted from the aggregate amounts of the first, second, third and fourth items, and the remainder, if any, shall be listed as money, under subdivision thirty-five of section 40 of this act. The amount of the fifth item shall be listed as bonds or stock in the appropriate subdivisions under said section 40, and the sixth item shall be listed the same as other similar personal property is listed under this act. In case of savings banks organized under the general laws of this state, the amount of the seventh and eighth items above enumerated shall be deducted from the aggregate amount of the first, second, third, fourth, fifth and sixth items, also above enumerated, and the remainder, if any, shall be listed under subdivision thirty-five of said section 40.

3.

BUILDING AND LOAN ASSOCIATIONS.

Sec. 68. Report—how assessed. The president, secretary, treasurer, or other officer of every building and loan association or company of similar nature, shall annually make out and deliver to the assessor, when required to list personal property, a statement in writing, which he shall verify by oath, showing:

1. The amount of money on hand or in bank.
2. The amount of funds in the hands of the agents of such company.
3. The amount of bills receivable and mortgages owned by such company.
4. The amount of bonds and stocks of every kind (except United States bonds) owned by such company, if any.
5. All other property belonging to said company, except real estate, which real estate shall be listed and assessed as other real estate is listed and assessed under this act.
6. The amount of all accounts payable.

The aggregate amount of the sixth item shall be deducted from the aggregate amount of the first, second and third items, and the remainder, if any, shall be listed under sub-division thirty-three of section 40 of this act. The amount of the fourth item shall be listed as bonds and stocks in the appropriate sub-divisions under such section 40, and the fifth item shall be listed as other similar personal property is listed under this act.

4.

STREET RAILWAY COMPANIES.

Sec. 69. Defined. Every corporation, association, company, or person not being a railway company, engaged in the business mainly of operating cars propelled by animals or other power within streets or highways or partly within and partly without streets and highways, wholly within or partly within and partly without a city or village, on, below, or above the surface of such streets or highways, on fixed tracks, as common carriers of passengers only, shall, for the purposes of this act, be deemed a street railway company.

Sec. 70. To make report. Every street railway company shall annually, by its president, managing agent, or other officer, between the thirtieth day of March and the first day of June, make a statement in writing with reference to the first day of April, and if the line or lines of such company shall be operated wholly within a single township, city, or village, it shall deliver the same to the assessor of such township, city or village; or if such company operates a line or lines extending into more than one township, city, or village in any one county, then it shall deliver such statement to the county auditor of such county; or if such company operates a line or lines extending into more than one county, then it shall deliver such statement to the state auditor, showing:

1. The name of the company.
2. The nature of the company, whether a person, partnership, joint stock association or corporation; if a joint stock association or corporation, under the laws of what state or country organized.
3. The location of its principal office.
4. The name and postoffice address of the president, secretary, treasurer and general manager.
5. The name and postoffice address of the chief officer or managing agent in this state.
6. The number of shares of its capital stock.
7. The par value and the market value, or, if there be no market value, the actual value of its shares of stock.
8. The amount of the funded or bonded debt and the value thereof.
9. The amount of dividends, if any, paid upon each share of its stock during the twelve months immediately preceding the first day of April.

10. A classification of its cars with reference to the style and form thereof; the valuation of the cars in each class to be set opposite thereto.

11. The number of miles of track constructed or used within each township, town or city in, into, or over which its lines extends.

12. The number and value of its motors and electrical appliances attached to its cars.

13. The length, description and value of wire stretched or laid by it for the operation of its cars.

14. The number, character, age and value of all poles erected by it, either for holding wires or otherwise.

15. The number, character, age and value of all the engines, machinery, belts and appliances used at each of its power houses or elsewhere.

16. The number per mile, character, age and value of all ties used in track or in store owned by it.

17. The weight of iron or steel rails per yard, the description of such rails used in its main or side tracks, or in store, and the value thereof.

18. The number, character, and value of all joints or chairs and switching devices used in track or kept in store.

19. The location, character and description of all buildings and other improvements owned by it, not listed as real property, and the value thereof.

20. All other personal property owned, used or controlled by it, not listed under any of the preceding heads, and the value thereof.

21. Total value of all of its personal property.

22. The value of its franchises and a statement of the condition, obligation or burden imposed upon any franchise owned or under which the same is enjoyed.

23. A description of all real estate owned by such company.

24. Such other and additional facts and statements which may be required by the Tax Commission, State Board of Review, County Board of Review, county supervisor of assessment or assessor.

Sec. 71. Failure or refusal to make report. In case of the failure or refusal of any such company to make or deliver the statement required by section 70 of this act, it shall forfeit one hundred dollars for each additional day such report is delayed beyond the first day of June, and in case of the failure or refusal of any such company to make or deliver any additional statement which may be called for in writing under subdivision twenty-fourth of said section 70 within such reasonable time as may be fixed in the demand therefor, it shall forfeit one hundred dollars for every additional day such additional statement is delayed beyond such reasonable time, to be recovered in either case by suit, in any proper form of action in the name of the State of Minnesota brought by the county attorney or attorney general; and when such statement is required to be delivered to the assessor or

county auditor, such sum shall be paid into the county treasury, and when the same is required to be delivered to the state auditor, into the state treasury.

In every case of such failure or refusal, it shall be the duty of the officer to whom such statement is required to be made to cause the president, managing agent, or other officer of such company to appear before him with its books and papers and make disclosure of each and all of the matters required to be included in such statement, and the same may be enforced in the same manner and with like penalties for refusal as are provided in section 43 of this act.

Sec. 72. Street railway company—how assessed. The real estate belonging to any such company shall be assessed as other real estate. In all cases where the statement required by section 70 of this act is to be delivered to the assessor, it shall be the duty of the assessor, after examining such report and after ascertaining the value of the personal property and franchises belonging to any such company, therefrom and from all the information that he may have or obtain to enter in his assessment books under the head of "personal property" the total valuation of the personal property belonging to such company so ascertained and fixed by him; and under the head of "franchise" he shall enter the value of the franchises belonging to any such company as ascertained and fixed by him. The sum of the items under the heads of "personal property" and "franchises" shall be and constitute the assessable and assessed valuation of the property of such company other than its real estate.

Sec. 73. Same—when railway extends into more than one district in county. In all cases where the statement required by section 70 of this act is to be delivered to the county auditor, it shall be the duty of such auditor annually, on the meeting of the County Board of Review, to lay before said board said statement with such information as shall have been furnished him, and it shall be the duty of said board, after examining such statement, to ascertain and determine the value of the personal property and franchises belonging to any such company, therefrom and from such other information as they may have or obtain, and assess the true cash value of such personal property and franchises. The said County Board of Review shall thereupon ascertain the value per mile of said personal property and franchises respectively, by dividing the total value of each as above ascertained by the number of miles of railway operated by any such company within its county, and the result shall be deemed and held as the value per mile of the property and franchises respectively of such company. Said County Board of Review shall thereupon, for the purpose of determining what amount shall be assessed by it to said company in each township, town, city or school district in its county, in, into, or over which the line of railway of said company extends, multiply the value per mile of the personal property and franchises respectively as above ascertained, by the number of miles in each such township, town, city, or school

district, and the amount so ascertained shall be and constitute the assessable and assessed valuation of the property and franchises of such company, other than its real estate, in each of such townships, towns, cities or school districts, and the county auditor shall thereupon enter such respective amounts in the tax books of such township, town, city, or school district, under the heads of "personal property" and "franchises," respectively.

Sec. 74. Same—when railway extends into more than one county. In all cases where the statement required by section 70 of this act is to be delivered to the state auditor, it shall be the duty of the state auditor, annually, upon the meeting of the State Board of Review in September, to lay before said board said statement with such information as may have been furnished him, and it shall be the duty of said board, after examining such statement, to ascertain and determine therefrom, and from such other information as it may have or obtain, the value of the personal property and franchises, respectively, belonging to any such company, and assess such personal property and franchises respectively at the true value thereof in money. The State Board of Review shall thereupon ascertain the value per mile of said personal property and franchises, respectively by dividing the total value of each as above ascertained by the number of miles of railway operated by any such company, and the result shall be deemed and held as the value per mile of the property and franchises respectively of such company.

Said State Board of Review shall thereupon, for the purpose of determining what amount shall be assessed by it to said company in each county, in, into, or over which the line of railway of said company extends, multiply the value per mile of the personal property and franchises respectively as above ascertained, by the number of miles in each such county, and the result shall be and constitute the assessable and assessed valuation of the property and franchises of such company, other than its real estate, in such county. The said board shall thereupon certify to the state auditor the amount of personal property and franchises, respectively, so assessed by it in each county, in, into, or over which the lines of said company extend, together with the number of miles of the line of any such company in each and every township, town or city in each county.

The state auditor shall thereupon certify the respective amounts so apportioned to the auditors of said counties, and such auditors shall apportion the amount so certified among the several townships, towns, cities and school districts, in, into, or over which such lines extend in his county, in proportion to the length of lines in such township, town, city or school district, and shall enter the amount so apportioned in the tax books of such township, town or city under the heads of "personal property" and "franchises," respectively.

5.

OTHER PUBLIC SERVICE COMPANIES.

Sec. 75. Gas, water, electric, heating, power, wharf or boom companies. Every corporation, association, company or person, enjoying the right, privilege or franchise of occupying any public stream or waters, highway, street or alley, upon, above or below the surface thereof, for the purpose of engaging in and engaged in the business of manufacturing, generating, developing, producing, furnishing, or supplying for others gas or electricity or electric energy for heating, lighting, power, transportation or manufacturing purposes; or water or steam power to the public for any of said purposes; or water or steam for others; and every corporation, association, company or person, which owns or maintains a boom for the assorting, holding, storing, booming, brailing, sluicing or driving of logs, ties, poles, lumber or timber of any kind or description for others; or which owns or maintains a wharf, pier, dock, or slips, on the shore of any lake, bay, harbor or river, for the use of others; shall be deemed a public service company within the meaning of this act.

Sec. 76. To report to the assessor. It shall be the duty of the president, secretary, or managing agent of every company named in section 75 of this act to annually make out and deliver to the assessor of the county, city or township in which the principal office of such company is located, between the thirty-first day of March and the first day of June, a statement with reference to the first day of April, setting forth therein all the facts and information required by the first nine and the twenty-first, twenty-second and twenty-third subdivisions of section 70 of this act, and such additional facts or statements as may be required by any board or officer named in the twenty-fourth subdivision of said section 70.

Section 71 of this act shall be applicable to all corporations, associations, companies or persons named in section 75 of this act.

Sec. 77. Electric companies. Every such company engaged in the business of generating and distributing electricity or energy for heat, light or power purposes, shall set forth in such statement, in addition to what is required by section 76 of this act, the following classes of property owned or controlled by it:

1. The location and description of each building or structure in which electricity is generated.

2. The number, location and description of all dynamos used for generating electricity and the machinery used in connection therewith, and the value thereof.

3. The number, location and description of all storage batteries, or other devices, for the storage of electricity, and the value thereof.

4. The number, description, age and value of all poles for supporting wires.

5. The length, location and value of all conduits or subways for the use or extension of wire or other purposes.

6. The length, kind, weight and value of all wires for the transmission of electricity or energy for heat, light, or power purposes.

7. The number and value of all insulating appliances, owned or controlled by it, whether attached to poles or otherwise.

8. The number, description and value of all arc, incandescent, or other lighting devices.

9. The number and value of all meters, by whatever name known, for measuring electricity.

10. The number, description and value of all automobiles, or other vehicles, propelled by electricity.

11. A list of all other personal property, not listed under any of the foregoing items, and the value thereof.

Sec. 78. Gas companies. Every gas company shall also set forth in such statement, in addition to what is required by section 76 of this act, the following classes of property owned or controlled by it:

1. Each building or structure wherein gas is manufactured or produced by it, and the location and value thereof.

2. The number, description and value of the boilers, engines and machinery in such building or structure.

3. The location, capacity and value of each tank used for the storage or distribution of gas.

4. The length, character, description and value of all mains for the distribution of gas.

5. The number and value of all gas meters and similar appliances.

6. A list of all property on hand designed for future use and the value thereof.

7. The number, description and value of all stoves and other heating devices on hand for sale or otherwise.

8. A list of its office furniture, and the value thereof.

9. If engaged in supplying heat to others, then a description of its heating plant, including engines, boilers, mains, pipes and other appliances used in connection therewith, and the value thereof.

10. All other personal property owned or controlled by it and not covered by any of the foregoing items and the value thereof.

Sec. 79. Water companies. Every water or water power company shall also set forth in such statement, in addition to what is required in section 76 of this act, the following classes of property owned or controlled by it:

1. The location, dimensions and description of every dam or water power and the value thereof.

2. A description of all water wheels, machinery, mains, tubing, pipes or other devices or instrumentalities for developing, utilizing or supplying water or water power, together with the length and diameter of all such mains, tubing and pipes; and also a list and description of all shafts, chains, wires, poles, or other machinery or appliances used in obtaining or transmitting water power or power developed or generated thereby and the value thereof.

3. All other personal property not embraced within any of the foregoing items and the value thereof.

Sec. 80. Heating and power companies. Every heating and power company, not required to list its property as a gas, water, or electric company, shall set forth in such statement, in addition to what is required to be stated in section 76 of this act, the following classes of property owned or controlled by it:

1. The location and description of every building or structure in or at which heat or power is generated or developed.

2. A description of all engines, boilers, furnaces and machinery used in immediate connection therewith for the production of heat or power and the value thereof.

3. A description and location of all conduits, subways, mains, or pipes used for the transmission of heat or power and the value thereof.

4. The number and value of all poles erected by it for the support of wires, ropes and cables.

5. The amount and value of all wires, ropes and cables.

6. A list of all other personal property not listed under any of the foregoing items and the value thereof.

Sec. 81. Wharf companies. Every wharf company shall set forth in such statement, in addition to what is required to be stated in section 76 of this act, the following classes of property owned and controlled by it:

1. The location of its wharf.

2. The size of each pier or dock respectively, showing the lineal feet of water line of the same.

3. Its wharf or dock improvements and the value thereof.

4. A list of all its personal property and the value thereof.

Sec. 82. Boom companies. Every boom company shall also set forth in such statement, in addition to what is required in section 76 of this act, the following:

1. The date of the organization of such company and the general or special law under which it is organized or does business.

2. The location, dimensions and description of all dams, booms and sluiceways, locks, or other structures owned or controlled by it and used in carrying on its business of assorting, holding, storing, booming, brailing, sluicing or driving logs, ties, poles, lumber or timber of any kind or description whatever and the value thereof.

3. The lineal feet of shore line owned by such company or in or to which it has an easement on any river, stream, lake or other body of water, and the extent to which such company has the right to raise the water in such river, stream, lake or other body of water above its natural level, and the value thereof.

4. A description of all personal property owned by such company, and the value thereof.

Sec. 83. Value of franchises; how ascertained. (a) The real estate of any company named in section 75 shall be assessed as other real estate.

It shall be the duty of the assessor after examining the statement returned by any such company, and after ascertaining the value of the personal property and franchises belonging to any such company, to enter in his assessment books under the head of "personal property" the total valuation of the personal property belonging to the said company so ascertained, and under the head of "franchises" the value of the franchises belonging to any such company as so ascertained. The sum of said items shall be and constitute the assessable and assessed valuation of the property of said company other than its real estate.

(b) In ascertaining the value of any franchise subject to taxation under subdivisions IV and V of Title IV of this act, the assessor or assessing board shall add together the value of the capital stock and funded or bonded debt of any such person or company as determined by him or it, and shall deduct therefrom the value of the real and personal property rendered for taxation by such person or company, and the residue shall be used as the basis for ascertaining the value of the franchise owned by such person or company, and the amount so ascertained shall be deemed the value of the franchise, which shall be subject to taxation in that amount as such.

VI.

TELEGRAPH, TELEPHONE, EXPRESS, SLEEPING CAR, FREIGHT LINE AND EQUIPMENT COMPANIES.

Sec. 84. Companies defined. Every corporation, association, company or person, whether incorporated or unincorporated, engaged in the business of transmitting, wholly within this state, or partly within and partly without this state, telegraphic messages shall be deemed a telegraph company.

Every corporation, association, company or person, whether incorporated or unincorporated, owning, operating or conducting telephones and telephone lines, wholly within this state, or partly within and partly without this state, shall be deemed a telephone company.

Every corporation, association, company or person, whether incorporated or unincorporated, engaged in the business of operating cars, not otherwise listed for taxation in this state, for the transportation of freight over any railway line or lines situate wholly within this state or partly within and partly without this state, such line or lines not being owned, leased or operated by such corporation, association, company or person, whether such cars be termed box, flat, coal, ore, tank, stock, gondola, furniture or refrigerator, shall be deemed a freight line company.

Every corporation, association, company or person, the same not being a railroad, equipment or freight line company, whether incorporated or unincorporated, engaged in the business of conveying upon or over railroads wholly within this state, or partly

within and partly without this state, personal property of any kind, shall be deemed an express company.

Every corporation, association, company or person, not a railroad company, whether incorporated or unincorporated, engaged in the business of conveying, wholly within this state, or partly within and partly without this state, passengers in palace, drawing room, sleeping, dining or chair cars, drawn or operated upon railroads, shall be deemed a sleeping car company.

Any corporation, association, company or person, whether incorporated or unincorporated, engaged in the business of furnishing or leasing cars, of whatsoever kind or description, used wholly within this state, or partly within and partly without this state, in the operation of any line or lines of railway not operated by it, shall be deemed an equipment company.

Sec. 85. Annual statement. Every company, as defined in section eighty-four of this act, shall, by an officer or agent thereof, annually make and deliver to the state auditor between the first day of April and the first day of July a statement with reference to the first day of April immediately preceding, verified by the oath of the officer or agent making the same, showing:

1. The name of the company.
2. The nature of the company, whether a person, partnership, joint stock association or corporation; if a joint stock association or corporation, under the laws of what state or country organized.
3. The location of its principal office.
4. The name and postoffice address of the president, secretary, treasurer and general manager.
5. The name and postoffice address of the chief officer or managing agent in this state.
6. The number of shares of its capital stock.
7. The par value and the market value, or, if there be no market value, the actual value of its shares of stock.
8. The amount of the funded or bonded debt and the value thereof.
9. The amount of dividends, if any, paid upon each share of its stock during the twelve months immediately preceding the first day of April.
10. A detailed statement of the real estate owned by it situate within this state, where situate and the value thereof.
11. The total value of its real estate situate without this state.
12. A detailed statement of its personal property situate within this state, classified and valued so far as may be according to the statement provided for in section 40 of this act, new and appropriate classification to be made when necessary, and the total value of its personal property situate within this state.
13. The total value of the personal property owned by the company and situate outside of this state.
14. A statement showing its gross receipts arising (1) from business done wholly within this state, (2) from business done part-

ly within and partly without this state, and (3) from business done wholly without this state.

15. In case of an express company, the total length of the lines and routes over which it transports personal property of any kind (1) within this state, (2) without this state, and (3) within each of the counties, townships and cities within this state.

16. In case of telegraph and telephone companies, the statement shall also show the total length of their respective lines (1) within this state, (2) without this state, and (3) within each of the counties, townships and cities within this state.

17. In the case of sleeping car, freight line and equipment companies, the statement shall also show the total length of the lines of railroad over which they respectively do business or operate their cars (1) within this state, (2) without this state, and (3) within each of the counties, townships and cities within this state, naming the lines and the respective companies owning the same.

18. Every company, as defined in section 84 of this act, shall also furnish such other facts and information as the state auditor, Tax Commission, or State Board of Review may require.

Sec. 86. Penalty for failure to make statement. In case any company required to file a statement under the provisions of section 85 of this act fails to make and file such statement before the first day of July, such company shall be subject to a penalty of two hundred dollars, and for each day's omission after the first day of July to file such statement an additional penalty of fifty dollars, to be recovered by action in the name of the state, and when collected the same shall be paid into the state treasury to the credit of the general revenue fund.

The attorney general, on request of the state auditor, shall institute such action against any company so delinquent in the district court of any county in this state in which such company does business.

Sec. 87. State auditor to deliver statements to tax commission. As soon as practicable after receiving the statements from the companies or persons named in section 84 of this act, the state auditor shall deliver the same to the Tax Commission, who, on receiving the same, shall examine them, and if it shall deem any of them insufficient, or in case it shall decide that any other information is requisite or necessary in the premises, it shall thereupon require any officer or agent of any such company, or any person doing business as aforesaid, or his agent, to furnish it with such other and further statements or information as it may call for.

Sec. 88. Tax Commission to lay statements before State Board of Review. At the time of the meeting of the State Board of Review in the month of September in each year, the said Tax Commission shall lay before it all statements and other papers relating thereto which shall have been received from any of the companies or persons named in section 84 of this act, together with such other information relating thereto as may have been furnished to

or secured by it. The State Board of Review may require any officer or agent of any of said companies or persons to appear before it with such books and papers and to furnish such other and further information, documentary or otherwise, as it may require; and when any book, paper or information is required of any such officer or person, either by said board of review or by the Tax Commission, as stated in the preceding section, it shall be his duty to furnish the same within the time and in the manner so required.

Sec. 89. Penalty for refusal to appear before board. Any officer, employe or agent of any such company who shall refuse to attend before the State Board of Review when required to do so, or shall refuse to bring with him and submit for the inspection of the board any book or paper of such company in his possession, or custody, or under his control, or shall refuse to answer any question put to him by the board, or any member thereof, touching the organization, business or property of any such company, shall, on conviction thereof, before any court of competent jurisdiction, be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

Sec. 90. State Board of Review to assess. The State Board of Review shall, after hearing all parties interested who may have appeared before it, and considering the matters contained in all statements and reports presented to it, together with such other evidence as shall have been presented to it or procured by it touching the nature, character, location and value of the properties of each of the companies mentioned in section 84 of this act, proceed to assess such property situated within this state in the manner and in accordance with the rules hereinafter provided.

Sec. 91. Duty of board when company fails to make statement. In case any company named in section 84 of this act fails or refuses to make the statement required by section 85, or furnish the State Board of Review any information requested by it, the board shall inform itself as best it may on the matters necessary to be known, in order to discharge its duties with respect to the assessment of the property of such company. At any time during the meeting of said board and before the assessment of the property is determined, any person or company interested shall have the right, upon application, to appear before it and be heard in the matter of the valuation of his or its property, or the fixing of any rate with respect thereto for the purpose of taxation.

Sec. 92. Value; how ascertained. The State Board of Review shall first ascertain the true cash value of the entire property owned by said company or person from such statements or otherwise, taking for that purpose the aggregate value of all the shares of capital stock, in case such shares have a market value, otherwise taking the actual value of such stock, or of the capital of said company or person, in whatever manner the same is divided, in case no shares of capital stock have been issued, and adding thereto

the funded or bonded debt, if any, of such company, and the aggregate amount thereof shall be taken as the basis for ascertaining the true cash value of such property.

Sec. 93. Value; how assessed. The State Board of Review shall ascertain and assess the true cash value of the property of such company or person within the State of Minnesota, and where the lines or routes thereof extend outside the state, shall ascertain and assess such value within this state by taking the proportion of the aggregate value of each company or person as finally ascertained by it, as aforesaid, which the length of the lines or routes of said company or person within this state bears to the total length of lines or routes thereof, and by such other evidence and rules as will enable said board to determine fairly and equitably the true value in money of the entire property of said companies or persons within this state. Provided, that the State Board of Review in assessing the property of any such company or person whose lines or routes extend into other states or territories, shall have power to make such deductions of property of such company or person situate outside the state not connected directly with the business thereof, as aforesaid, as may be just, to the end that the fair proportion of the property of such company or person in this state may be ascertained.

From the entire value of the property of each of said companies or persons within the state, so ascertained, there shall be deducted by said board the assessed value for taxation of all the real estate of the same within this state and subject to taxation in the assessment districts where located, and the residue of such property so ascertained shall be by said board assessed to said company or person.

Sec. 94. To ascertain value per mile. The State Board of Review shall thereupon ascertain the value per mile of the property of such company or person in this state by dividing the total value in this state, as ascertained and assessed by it, by the number of miles within the state, and the result shall be deemed and held as the value per mile of the property of such company or person within this state.

Sec. 95. Rate of tax how determined. Having determined the amount and value of such property in each case and the value per mile, as in this act provided, the said Board of Review shall certify the result to the state auditor, who shall, thereupon, and prior to the first day of February ascertain and determine the rate of tax to be levied and collected by the state upon such assessment, which rate shall be, as near as practicable, the average rate of taxation, state and local, in the counties, cities, townships, schools and other taxing districts, into, through, over, or across which such lines or routes extend, not including assessments for local improvements, apportioning to each tax district for the purpose of such computation, such proportion of said aggregate assessment as the number of miles of such line or route in such district bears to the whole number of miles thereof in said state, and by the rate so

ascertained determine the amount of tax due upon such assessment, and levy the same; which tax, so assessed and levied, shall be in lieu of all other taxation, state and local, excepting the taxes on real property, as aforesaid, and assessments for local improvements.

Every county auditor shall furnish the state auditor such information and assistance as he may require to enable him to make the computation aforesaid.

Sec. 96. Taxes when due and payable. All taxes so levied upon the property and franchises of the several classes of companies named in section 84 of this act shall be due and payable on the first day of February of the year immediately following the levy thereof, and shall be paid into the state treasury within thirty days thereafter and be credited to the general revenue fund. Any company failing to pay its said tax within the time so prescribed shall be subject to a penalty of five per cent on the amount thereof for each day thereafter on which such tax remains unpaid.

Sec. 97. Enforcement of tax-duty of state treasurer. If any of said companies shall fail to pay its taxes when due, it shall be the duty of the state treasurer to enforce the payment thereof, either by action or distraint, or both.

Sec. 98. Action to enforce tax. The attorney general shall, when requested by the state treasurer, commence an action in the name of the state against any company in default for the non-payment of taxes for such taxes and penalty. Such action may be brought and maintained in any county in which the defendant does business, and the service of the summons therein may be served upon any officer or agent of the defendant in the same manner as provided by law for the service of a summons in a civil action, and the action may be brought on for trial after issue joined by either party upon eight days' notice at any regular term of court, or at a term at which the court will be in session at the time named in said notice.

Sec. 99. Enforcement of tax by distraint. The state treasurer is authorized to distrain sufficient goods, chattels, or other movable property of any company named in section 84 of this act, found within this state, to pay the tax due from and the penalties incurred by any such company, together with his costs and expenses incident to the collection of said tax and penalties.

Whenever the state treasurer shall have distrained any such property in such a proceeding, he shall immediately publish a notice of at least ten days in at least two of the newspapers printed and published at the capital of the state of the time and place when and where the property so distrained will be sold by him.

Sec. 100. Same—Sale. If the taxes and penalties for which such property may be distrained, together with the said costs and expenses, shall not be paid before the day named in said notice for such sale, the state treasurer, or his deputy shall proceed to sell at public vendue the property so distrained, or so much thereof as may be sufficient to pay such tax, penalties, costs and expenses.

Sec. 101. Disposition of moneys collected. Any excess received at such sale over and above the sum requisite to pay in full the said

tax, penalties, costs and expenses, shall be paid by the treasurer to the said company. The treasurer shall immediately pay into the state treasury all other moneys so received by him after paying all the said costs and expenses.

Sec. 102. **Bond of company in case of distraint.** Any such company, as defined in section 84 of this act, whose property shall be distrained by the state treasurer in the enforcement of the payment of any tax or penalties, pursuant to the provisions of this act, may at any time before the day of the sale thereof execute to the State of Minnesota a bond in double the amount of the taxes and penalties for which the property of the company was distrained, with two or more sureties, to be approved by any judge of the supreme or district court, conditioned that if an action shall be commenced by the state within one year thereafter, such company will pay the judgment which may be recovered therein, together with all costs incurred by the state at and prior to the release of such property, and upon delivery of such bond, with such approval endorsed thereon, to the state treasurer, such distraint shall be released, and the property distrained shall be surrendered to the said company.

TITLE V.

REVIEW OF ASSESSMENTS.

1.

BY COUNTY BOARD OF REVIEW.

Sec. 103. **How composed—Compensation.** The county auditor, county treasurer, chairman of the board of county commissioners, register of deeds and county supervisor of assessment, shall constitute a board for the review and equalization of the assessment of property and be known as the County Board of Review, anything in any special law or charter of any city to the contrary notwithstanding. The chairman of the board of county commissioners shall be the chairman, and the county auditor the secretary of said board. A majority thereof shall constitute a quorum. In the absence of the president or secretary, the members present may elect one of their number to act in his place during such absence. Each member of the board shall receive as compensation as such member three dollars for each day on which he is in attendance at the sessions of the board, to be paid upon the warrant of the county auditor; such compensation to be paid out of the general revenue fund of the county. The attendance of each member shall be certified by the chairman, and the attendance of the chairman shall be certified by the secretary.

Sec. 104. **Date of meeting.** The County Board of Review shall meet annually on the third Monday of July at the office of the county auditor, and shall organize as a board by each member

taking an oath to fairly and impartially perform his duties as a member thereof.

Sec. 105. Redress of grievances. Any taxpayer who shall deem himself aggrieved by his assessment may appear before the county board of review in person, or by his authorized agent or attorney, and present evidence to it showing that his assessment is in any respect excessive, or he may present to said board, in lieu of such appearance, a written statement of his grievances, sworn to by him, by filing the same in the office of the county auditor at any time prior to the second Monday of July in the year in which the property is assessed, setting forth particularly a description of the real estate and the item or items, class or classes of personal property which he claims to be excessively or improperly assessed, and the true and full value thereof; and if he complains of the assessment of his personal property, he shall also state that the cash value of all the personal property owned by him on the first day of April in the year in which the assessment was made, listed and unlisted, subject to taxation, does not equal the aggregate assessment of his personal property as made by the assessor. He shall accompany such sworn statement with the affidavit of one or more disinterested taxpayers residing in his township, village or city, reciting in effect that the affiant has made personal examination of the property claimed to be excessively assessed; that he knows the value thereof, and shall state the same. The statement and any accompanying affidavit shall be substantially in the following forms:

FORM OF STATEMENT.

"In the matter of the assessment of _____

State of Minnesota,

ss.

County of _____

_____, being by me duly sworn, deposes and says:

That the following descriptions of real estate and items or classes of personal property owned by affiant are assessed at the values set opposite each description or item respectively, namely:

(Here set forth property described.)

That the full and true value of such descriptions or items or classes of property is as follows:

(Here set forth the several descriptions or items with the respective values set opposite.)

(If complaining of personal property assessment he shall further depose as follows):

Affiant further says that the aggregate value of all his personal property owned by him on the first day of April of the present year, listed and unlisted, not exempt from taxation, was _____ dollars, and that the same did not equal the aggregate valuation of his personal property as fixed by the assessor.

Subscribed and sworn to before me this _____ day of _____, 19____."

ATTENDING AFFIDAVIT OF TAXPAYER.

"In the matter of the assessment of _____

State of Minnesota,

ss.

County of _____

_____, being by me first duly sworn, deposes and says:

That he is a taxpayer in and resident of the township, city or village (as the case may be) of _____; that he has been acquainted with _____ of said township, city or village, for _____ years; that affiant is engaged in the business of _____ at _____; that he has read the affidavit of said _____, and has carefully viewed and examined the following descriptions of real property and items or classes of personal property referred to therein and knows the full and true value thereof, and that the same, according to affiant's best knowledge, information and belief, is as follows:

(Here set forth each description of real property and item or class of personal property and the value as fixed by affiant, written opposite thereto.)

Affiant further says that he has no interest in said property and is not related to or engaged in business with the said _____.

Subscribed and sworn to before me this _____ day of _____, 19____."

Sec. 106. Complaint of taxpayer of assessment of property of any other person. Any taxpayer may complain in writing to the county board of review of the assessment of the property of any other person believed by him to be improperly assessed. A taxpayer so complaining shall file in the office of the county auditor, on or before the third Monday in July, his complaint, stating therein the name of the person whose property is claimed to be improperly assessed, together with a description and valuation of such property. Such complainant shall have the right to be heard in person or by attorney by the said board and may appeal from the action of the board with respect to his complaint to the Tax Com-

mission, and when so appealing he shall have the same rights and be subject to the same conditions as are prescribed in section 108 of this act.

Sec. 107. Duty of County Board of Review as to complaint. It shall be the duty of the County Board of Review, when complaint is presented to it by any taxpayer, to carefully inquire into the merits thereof, and, in so doing, it may, if deemed necessary, procure additional evidence in the form of affidavits, or otherwise, touching the same, and shall thereupon assess the property at its full and fair value, either by adopting the valuation fixed by the assessor or by raising or reducing the same.

Sec. 108. Appeal—Notice. Any taxpayer may appeal from the action of the County Board of Review to the Tax Commission from any action or decision made by said board relative to the assessment of property by serving upon the county auditor, within five days after the adjournment of said board, a notice substantially in the following form:

To the County Board of Review for _____ county:

The undersigned hereby appeals from the action of the County Board of Review in the matter of the assessment of (his property or that of any other person as the case may be), and claims that such assessment is erroneous in this:

(Here state descriptions of real property and items or classes of personal property claimed to be erroneously assessed and in what respect the assessment is deemed erroneous.)

If the appeal is by a person who appeared before the County Board of Review personally or by his agent or attorney, he shall accompany his notice of appeal by a written statement and one or more accompanying affidavits similar in character to those provided in section 105 of this act.

If, however, he made complaint to said board by the written statement and accompanying affidavits as provided in section 105, his appeal shall be deemed perfected on filing the said notice of appeal.

Sec. 109. Duty of County Auditor. Book of Complaints. It shall be the duty of the county auditor to provide himself with an appropriate book, to be called "Record of Tax Complaints," in which every complaint, as provided in sections 105 and 106 of this act, shall be properly entered and indexed when received by him. He shall also note therein the action of said County Board of Review with reference to each complaint and the date of filing and transmission of any notice of appeal with accompanying papers to the State Board of Review and the action of said State Board therein. He shall, immediately upon receiving any notice of appeal in any such matter, transmit the same and all other papers on file in such matter in his office by mail to the Tax Commission at the City of St. Paul.

ASSESSMENT AND EQUALIZATION BY THE BOARD.

Sec. 110. Duty of board, as to assessments. It shall be the duty of the County Board of Review at its annual meeting to inquire into

the valuation of the various classes of property in the respective townships and other tax districts of the county and to make such changes in the assessment of property as shall be necessary in order to secure an assessment of property according to its true and full value in money, and in so doing it shall be governed by the following rules, except as otherwise provided in this act:

First—Valuation of real property, when to be raised. It shall raise the valuation of each tract or lot of real property which in its opinion is returned below its true and full value to such price or sum as it believes to be the true and full value thereof.

Second—Same—When to be reduced. It shall reduce the valuation of each tract or lot which in its opinion is returned above its true and full value to such price or sum as it believes to be the true and full value thereof.

Third—Valuation of personal property, when to be raised. It shall raise the valuation of any item of personal property of any individual which in its opinion is returned below its true and full value to such price or sum as it believes to be the true and full value thereof; and it shall reduce the valuation of each item of personal property of each individual which in its opinion is returned above its real and true value to such price or sum as it believes to be the full and true value thereof.

Fourth—To hear complaints. It shall have power to hear complaints of any owner or person and to correct any list or valuation as it may deem proper.

Fifth—Duty of board as to equalization. It shall have the power to equalize the valuation made by the assessors, either by adding to or deducting from the valuation of any class or classes of property such percentage as may be necessary in order to make a just and equitable equalization between the respective townships and districts of the county and secure the assessment of property at the true and full value thereof.

Sixth—Notice. In all cases where it shall deem it necessary to add omitted property or to increase the valuation of property, as returned by the assessor, except where the valuation of a class is raised for the purpose of equalization, the county auditor shall, when directed by the board, mail or cause to be mailed a written notice to the person to be affected thereby, at his last known post-office address, stating in substance that it is proposed to revise or correct his list; but such notice need not specify the particulars in which it is proposed to revise or correct the same. The board may, when it deems it advisable, cause such notices to be given by a personal service thereof, and when so given the same may be served by any person whom the county auditor shall designate and the service thereof shall be made at least three days before the date fixed for the hearing of the matter referred to in said notice.

Seventh—Re-assessment. If the board shall find that the assessment in one or more townships or other assessment districts is too grossly high or low, or is generally so grossly unequal as to make it impracticable to equalize the same, it may set aside the assessment in such townships or other assessment districts of the county

and order a reassessment therein; and it shall thereupon direct such reassessment to be made, either by the proper assessor or assessors or by the county supervisor of assessment, as it shall determine.

Eighth—County board to order re-assessment—when. Whenever it shall be made to appear to the County Board of Review from the report of the county supervisor of assessment, or otherwise, that the assessment of any township or assessment district or of any class or classes of property in any assessment district is not in substantial compliance with law, the said board shall by resolution direct the proper assessor or assessors or the county supervisor of assessment to reassess the property belonging to such class or classes and make return thereof not later than September 10th to said board at an adjourned session thereof, to be fixed in said resolution. The said board shall at such adjourned session, upon receipt of such return, review, determine and equalize the property so reassessed to the end that the same shall be assessed at the full and fair value in money. When the action of said board in respect to such return shall be concluded, it shall be the duty of the county auditor, after making the necessary changes in the reassessment lists in accordance with the determination of the said board, to make duplicate abstracts of such property, one copy whereof he shall file in his office, and the other thereof he shall immediately forward to the state auditor.

Ninth—Recommendations—Correction of errors. It shall consider and act upon all recommendations made by the county supervisor of assessment, and shall also, either upon its own motion, or upon cause shown by any taxpayer, add to the assessment lists the name of any person, or the description of any omitted property, real or personal, subject to taxation. It shall correct all errors whether as to names of persons or the description or valuation of property, and do or cause to be done whatever may be necessary to secure an assessment of the property of the county subject to taxation in compliance with law. Whenever the valuation of property as made by any assessor is either raised or lowered by the board, the valuation as fixed by it shall be made to appear in a separate column; otherwise the assessment of any assessor shall be deemed approved and adopted by act of the board, except as otherwise expressly indicated by its resolution.

Sec. 111. Auditor to publish record—Length of session. The county auditor shall keep an accurate record of the proceedings of the county board of review, and such record shall be published and compensation therefor allowed and paid in the same manner as is provided for the publication of the proceedings of the board of county commissioners, and a copy of such published proceedings shall be transmitted to the auditor of state with the abstract of assessment hereinafter required. The County Board of Review may continue in session and adjourn from time to time, during four weeks, commencing on the said third Monday of July; but, after final adjournment, it shall not have power to change the assessed valuation of

the property of any person or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, except that when a reassessment has been ordered by it, a session may be appointed for the purpose of reviewing, revising and equalizing the same, which session shall not continue later than September 15th, nor occupy more than three days.

Sec. 112. County auditor to submit papers, books, etc., to board. The county auditor shall submit to the County Board of Review at the first day of its meeting in July the several assessment lists returned to him by assessors, reports of the county supervisor of assessment, complaints by taxpayers and all other papers and books returned to, filed with him, or in his custody, relating to the assessment of property in his county.

Sec. 113. Power to administer oaths and send for persons and papers. Any member of said board may administer an oath to or examine any person touching the valuation of the property of himself, or any other person. The board is authorized to send for persons and papers and require the attendance of witnesses or the production of books or papers before it, and to that end the said board may, through its chairman, secretary, or other member selected by it, apply to the clerk of the district court of said county for the issuance of a subpoena to any person to appear before it as a witness, or to produce before it any book or paper which the board may require; and it shall be the duty of any clerk of court when such application is made to him, to forthwith issue such subpoena. The failure of any witness upon whom any such subpoena has been served, to appear before such board at the time named in such subpoena shall be deemed a contempt of court. Service of any subpoena or other paper caused to be issued or directed by the board to be served, shall be served by any sheriff or constable with whom the same is left for service, or may be served by any person whom the board shall select therefor. Any expenses necessarily incurred by the board, or by any officer or person pursuant to this section, shall, when approved by the board, be paid out of the county treasury upon the order of the county auditor. Compensation for the attendance and travel of witnesses and the service of subpoenas shall be such reasonable sum as the board shall determine.

Sec. 114. Corrected lists. Abstract for state auditor. The county auditor shall calculate the changes of assessment lists determined by the County Board of Review, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office, and one copy he shall forward to the auditor of state, on or before the fourth Monday of August. The auditor of state shall at the annual meeting of the State Board of Review lay such abstract before it.

2.

BY THE STATE BOARD OF REVIEW.

Sec. 115.—Board—how composed—officers—quorum—sessions. The governor, state auditor, secretary of state, attorney general, and the three state tax commissioners to be appointed pursuant to this act, shall constitute a board to be known as the "State Board of Review." The governor shall be the president and the state auditor the secretary of said board. In the absence of the governor, the board shall elect a temporary chairman from the members thereof, and in the absence of the state auditor, the deputy state auditor, or in his absence, one of the clerks in the office of the state auditor, to be designated by the board, shall act as secretary thereof. The board may employ such clerical assistance as may be deemed necessary to facilitate its labors. Four members of said board shall constitute a quorum.

The said board shall meet annually on the third Tuesday of September, at the office of the auditor of state, and, each member having taken the oath prescribed by law, it shall proceed to perform and discharge the duties imposed upon it by this act.

The said board shall continue in regular session until it has completed its duties during which it may adjourn its meetings from time to time as it shall determine, and conclude its labors not later than October 15th.

It may hold such extra meetings at such other times and for such periods and purposes as it may deem necessary, or the governor shall appoint.

Sec. 116. General powers and duties. The State Board of Review shall have all the powers conferred upon county boards of review so far as applicable, and such other powers as are in this act provided. It shall not be bound by any reports or assessments of property as returned to the county auditors, the state auditor or otherwise, but shall appraise and assess all property coming before it for assessment, directly or indirectly, at its true and full value in money. It shall have power to send for persons, books or papers and examine records and witnesses. Any member of said board shall have power to issue subpoenas or subpoenas duces tecum, and any clerk of the district court or justice of the peace shall, upon the application of said board, or any member thereof, issue a subpoena or subpoena duces tecum, requiring the attendance of any person, or the production of any book, paper or record before said board, or any member thereof, and any failure of any such person to attend before said board, or any member thereof, when the subpoena is issued by a clerk of the district court or by a justice of the peace, and is duly served upon him, is a contempt of the court, and the court in such case may issue an attachment to bring such witness before it to answer to the contempt, and also to appear before said board, or any member thereof, to testify

as a witness, or produce such book, record or paper before said board, or any member thereof. Any member of said board shall have power to administer an oath to and examine any witness relative to any matter in controversy before it or himself. Any order, notice, subpoena, or subpoena duces tecum issued by or at the instance or direction of the board, or any member thereof, may be served by any person or officer, and the person or officer serving the same shall receive therefor such reasonable compensation as it shall determine. Witnesses attending before it, or any member thereof, shall be entitled to such reasonable compensation for the expenses of travel and attendance incurred by them as may be allowed by the board.

All the necessary costs and expenses of the board, when allowed by it, shall be paid out of the state treasury, upon warrants drawn by the state auditor.

Sec. 117. Equalization of property. The State Board of Review shall equalize the assessment of property in the state, so that all the taxable property therein shall be assessed at its true and full value in money. In the performance of its duties in the equalization of property, it shall be governed by the following rules:

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

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

Third.—If it believes that the valuation of the real property of any town, city, village, borough or district in any county should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, it may, in every case, add to or take from the valuation of any one or more of such towns, villages, boroughs or cities such per centum as it believes will raise or reduce the same to its true and full value in money.

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

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

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

Sec. 118. State auditor to keep and publish record of proceedings. Duty of county auditor. The secretary of the State Board of Review shall keep a record of the proceedings of the board, which shall be published in the annual report of the state auditor, and upon the final adjournment of the board, he shall transmit an abstract of such proceedings to each county auditor, so far as the same affects the assessment of property in his county, and the county auditor shall, upon receipt of such abstract, proceed to correct his assessment books and tax lists in accordance therewith, and in so doing he may, when the valuation contains a fractional part of a dollar, add any major fraction or deduct any minor fraction.

TITLE VI.

COUNTY SUPERVISOR OF ASSESSMENT.

Sec. 119. Appointment—qualification. The board of county commissioners in each county of this state shall, at a session to be held in the month of March in the year 1902, appoint some suitable elector of the county as county supervisor of assessment, and the person so appointed shall, upon qualifying in the manner hereinafter provided, hold his said office until the first Monday in January following the general election first held thereafter in said county and until his successor is elected and qualified. At the general election held in each county in this state in the year 1902, and every fourth year thereafter, there shall be elected a county supervisor of assessment whose term of office shall be four years from and after the first Monday in January immediately following his election and until his successor is elected and qualified. Every person elected or appointed to such office shall, before entering upon the discharge of the duties thereof, qualify therefor by giving a bond to the State of Minnesota, with one or more sureties, freeholders, or, in their stead, a surety or fidelity corporation, in the sum of five thousand dollars, conditioned for the faithful discharge of his duties, to be approved by the board of county commissioners of his county and taking and subscribing to an oath or affirmation to support the constitution of the United States and of this state, and to faithfully and impartially discharge the duties of his office. The said bond and oath shall thereupon be immediately filed and preserved in the office of the county auditor and recorded at length in a book suitable therefor. Any vacancy occurring in said office shall be filled by appointment by the board of county commissioners, and the person so appointed shall hold his office until the first Monday in January immediately following the election of his successor, and who shall be elected at the first general election held in the county more than thirty days after such vacancy shall have occurred, and who shall hold his office for the unexpired period of the term in which the vacancy occurred.

Sec. 120. Removal from office. The Governor may remove from office any county supervisor of assessment whenever it is made to appear to him, by competent evidence, that such officer has been guilty of malfeasance or nonfeasance in office; but no such officer shall be removed until he has been served with a copy of the charges preferred against him and afforded a reasonable opportunity to be heard in his defense to such charges.

The Governor may suspend any such officer against whom charges have been preferred for either of the causes named in this section, pending his investigation of such charges, whenever in his opinion the public interest may require.

Sec. 121. Powers—to advise assessors. The county supervisor of assessment shall, subject to the advice and instruction of the Tax Commission, have full and complete supervision and direction of the work of assessors in his county, and is required to advise and instruct them as to their duties.

Sec. 122. To visit places in county—access to records. The county supervisor of assessment shall annually, and as often as may be necessary during each year, personally visit each town, city and village in his county. He shall have access to all public records, books and papers of officers throughout the county, and shall make a full and complete examination of the same and all matters and subjects relative to the assessment and taxation of property to the end that he may secure accurate knowledge and full information of the assessment of property in the several assessment districts of his county.

Sec. 123. May make assessment—Default on part of assessors. The county supervisor of assessment shall examine and test the work of assessors during the progress of the assessments, and shall have the power to personally value and assess different kinds and classes of property previously assessed by the assessor, so that he may ascertain whether such assessor is assessing property at full value or is omitting property subject to taxation from the roll. He shall have all the rights and powers of an assessor for the examination of persons and property, and for the discovery and assessment of property subject to taxation, and he shall make such assessments or re-assessments of property as shall be required of him by the Tax Commission or the County Board of Review. If such officer shall ascertain prior to the return of the assessment books to the county auditor that any property is omitted from assessment, or not assessed according to law, he shall, when practicable, bring the same to the attention of the assessor of the proper district; and if such assessor shall neglect or refuse to correct the assessment to conform to law, or, if impracticable to so notify the assessor, or if such discovery has been made after such return and before the meeting of the County Board of Review, the said county supervisor of assessment shall report the facts in writing to the county auditor at or before the meeting of the said board, and the county auditor shall thereupon lay the same before the said board for its action. It shall also be the duty of the county supervisor of as-

assessment to report to the county auditor at any time during the year any omitted property that he may discover subject to taxation, together with the value thereof, and the auditor shall thereupon assess the same for the proper year or years.

Sec. 124. Visiting other counties and states. Whenever any supervisor of assessment shall have information that leads him to believe that any resident of his county has omitted or sequestered any of his property and not properly returned the same for taxation, and that evidence thereof exists in another county or state, he shall with a view to a proper investigation and the examination of records in such other county or state, communicate such information to the board of county commissioners of his county, and thereupon the said board may, if satisfied that the expense thereof is warranted, direct him to visit such other county or state and there make proper examination of records and otherwise, and shall allow him such reasonable sum, payable out of the general revenues of the county, to defray his necessary expenses of travel and examinations, as it shall deem proper.

Sec. 125. Complaints against assessors. The county supervisor of assessment shall, whenever he ascertains or has good reason to believe that any assessor is guilty of a violation of any of the provisions of this act, make complaint thereof to the governor, stating therein in what respect such assessor is guilty of such violation.

Sec. 126. Report of county supervisor of assessment. The county supervisor of assessment shall make out a report in duplicate showing in detail the work of assessors in each of the several districts in his county, the failure, if any, of assessors or property owners to comply with the law, the relative assessed and true value of property in each assessment district, and all such other information and statistics which he may have obtained that will be of assistance in determining the relative value of all taxable property in each town, city and village in the county, one copy of which report he shall file with the county auditor on or before the session of the County Board of Review held in the month of July, and the other thereof he shall forthwith transmit to the Tax Commission at the capital of the state.

Sec. 127. Compensation of county supervisor of assessment. The compensation of the county supervisor of assessment, including all of his expenses, shall be four dollars per day for the time actually employed by him in the discharge of the duties of his office, not exceeding in any one year one hundred and twenty days, except as otherwise provided in section 128 of this act, or such further period, not exceeding thirty days, as the board of county commissioners may, by resolution, direct. Before such officer shall be entitled to any compensation for his services, he shall prepare and present to the board of county commissioners at a session thereof an itemized statement, duly verified, showing the time in which he was actually engaged in the discharge of his duties and the general nature of the services performed by him. Whereupon the said board shall determine the number of days for which compensation has been

earned, and the county auditor shall thereupon draw his warrant in favor of such officer for the amount so found to be due him, and the same shall be paid by the county treasurer out of the revenue funds of the county.

Sec. 128. Counties having population of seventy-five thousand and over. In counties having a population of more than seventy-five thousand, the county supervisor of assessment shall devote his entire time to the duties of his office, and shall receive an annual salary of not less than eighteen hundred dollars, nor more than three thousand dollars, to be paid in equal monthly installments out of the county revenue fund, as the salaries of other salaried county officers are paid. Such salary shall be fixed by the board of county commissioners at a session thereof to be held in the month of March, 1902, and thereafter at the January session of said board immediately following the election of any such officer.

TITLE VII.

THE TAX COMMISSION.

Sec. 129. Appointment. It shall be the duty of the governor within ten days after the passage of this act to appoint, by and with the advice and consent of the senate, three qualified electors of this state as tax commissioners, one for a term to expire on the first Monday of January, 1904, one for a term to expire on the first Monday of January, 1906, and the other for a term to expire on the first Monday of January, 1908, and until their successors in office shall respectively be appointed and qualified. At the expiration of the term of each of the persons so appointed, and every sixth year thereafter, a successor in office shall in like manner be appointed for the term of six years and until his successor is appointed and qualified.

Sec. 130. Qualifications—vacancies. Every person appointed to the office of tax commissioner shall, before assuming the duties thereof, qualify by taking the oath of office required to be taken by state officers elected by the people of this state, and execute a bond in favor of the State of Minnesota, in the penal sum of ten thousand dollars, with two or more responsible individual sureties, or, in their stead, one or more fidelity or surety companies, to be approved by the governor, state auditor and attorney general, and conditioned that the principal therein named shall well and faithfully perform all the duties required of him by law. Such bond shall, when approved, be filed and recorded in the office of the secretary of state. In case a vacancy occur in the office of a tax commissioner by death, resignation, removal from office or the state, or other cause, such vacancy shall be filled by appointment in the manner above provided; and such appointee shall hold his office until the expiration of the term in which the vacancy occurred and until his successor is appointed and qualified. The governor may make any such appointment when the legislature is not in session, but, when so made, the same shall be subject to the approval or

rejection of the senate when next thereafter in session; and any person appointed to such office when the legislature is not in session shall have all the powers and be subject to all the duties and obligations of a tax commissioner appointed by the governor by and with the advice and consent of the senate, until his appointment is rejected by the senate.

The three tax commissioners shall be styled The Tax Commission, and the member thereof whose term will expire in January, 1904, shall be chairman during his term, and thereafter the member who has the shortest term to serve shall be chairman during the remainder of his term.

Sec. 131. Salary. Each tax commissioner shall receive an annual salary of three thousand dollars, to be paid monthly, in equal installments out of the state treasury, as the salaries of state officers are paid; and he shall devote his whole time to the discharge of the duties of his office. The commissioners shall also be allowed necessary expenses in the performance of the duties imposed by this act, the same to be approved by the State Board of Review.

Sec. 132. Office at State Capitol—assistants. An office shall be provided for the Tax Commission in some suitable room at the state capitol. The Tax Commission may appoint some suitable person who is a competent stenographer as secretary, whose duties shall be prescribed by the commission, and whose salary shall be fixed by the Tax Commission, and shall not exceed twelve hundred dollars a year. Whenever it shall be made to appear to the State Board of Review that the Tax Commission reasonably requires additional clerical or other assistants continuously, or for stated periods, it may by resolution authorize the Tax Commission to appoint one or more additional clerks or assistants continuously, or for a stated period, as the case may be, at such compensation as the board shall prescribe.

Sec. 133. Sessions. The Tax Commission shall hold regular sessions at the capitol on the first Tuesday of April, July, August, and continuously during the month of September until the third Tuesday thereof in each year, and may hold such adjourned sessions as it may deem necessary. The chairman may call special sessions to be held at such times and places in the state as he may deem advisable; and he shall call special sessions at such times and places in the state as may be jointly requested in writing by the other members of the commission.

Sec. 134. Power of Commission to examine persons, etc. The Tax Commission, and each member thereof, shall have access to all books, papers, documents, statements or accounts, on file or of record in any of the departments of the state. It shall have like access to all books, papers, documents, statements and accounts on file or of record, in counties, towns, cities, villages and assessment districts, and the officers thereof shall in the form prescribed by the Tax Commission make returns to it of all information which it may call for. The Tax Commission or any member thereof, shall have the power by a subpoena signed by any one of its members

and served in like manner as a subpoena issued from the district court, or by a justice of the peace, to compel witnesses to attend and give evidence, or produce any book, document or paper before it, or before any member thereof. Any member of the Tax Commission and the secretary thereof, are respectively authorized to administer oaths to witnesses. The attendance of any witness or the production of any book, document or paper, may be compelled by attachment issued by any district court, or by a justice of the peace, upon proper showing that said witness has been duly subpoenaed and has refused to appear before the commission, or any member thereof; and the attorney general or any county attorney shall, upon the application of the commission, or any member thereof, institute proceedings in the proper court to compel such witness to attend and testify or to produce any such book, document or paper, and to punish such witness for such contempt. The person serving such subpoena shall receive the same compensation as is allowed by law for serving subpoenas, or such other compensation, not in excess of such statutory fee, as may be agreed upon by the commission, or any member thereof, with the person serving such subpoena. Every witness duly complying with the requirements of a subpoena served upon him shall receive reasonable compensation therefor, to be fixed by the Tax Commission, not exceeding the amount of travel and attendance fees allowed by law to a witness in the district court. The compensation to which any person is entitled for serving such subpoena or appearing as such witness, shall, after being approved by the chairman of the commission, be audited by the state auditor and paid upon his warrant out of the appropriation in this act provided.

Sec. 135. Specific duties and powers as to the assessment of property and otherwise. The Tax Commission is hereby authorized and required:

1. As to Rules of State Board of Review.

To comply with the rules and regulations of the State Board of Review, not inconsistent with the provisions of this act relative to the assessment of property.

2. General Supervision.

To have and exercise general supervision over the supervisors of assessment and other assessing officers and county boards of review of this state, and to take such measures as will secure the enforcement of the provisions of this act to the end that all the property of this state liable to assessment for taxation shall be placed upon the assessment rolls and assessed at its actual cash value.

3. To Investigate and Report as to Inheritances.

To investigate as to the existence of any inheritance, devise, bequest, legacy, or gift subject to taxation and report the same to the state auditor.

4. To Change Assessed Valuation of Lands Containing Minerals.

To reduce in any year when real estate is not assessed the assessed valuation of any tract of land containing ores or minerals

when such assessment was made in view of the existence of such ores or minerals, and the valuation has been materially decreased by the mining or production of such ores and minerals therefrom since such assessment; and to increase when necessary the assessed valuation of any tract of land when such valuation has been materially increased since the last assessment thereof, either by reason of the discovery of ores or minerals thereon, or by reason of the development of any mine or mines situate thereon.

5. To Prescribe Forms of Assessment Books and Blanks.

To prescribe such forms of books and blanks as may be necessary to secure the objects and purposes of this act, and not inconsistent with the provisions thereof.

6. Conference with Assessing Officers.

To confer with, advise and instruct assessing officers and county boards of review as to their duties under this act, and to institute proper proceedings to enforce the penalties and liabilities provided by law for the punishment of public officers, officers of corporations and individuals failing to comply with the provisions of this act.

7. Complaints Against Assessing Officers.

To file charges with the governor, or other proper authority, against any supervisor of assessment, assessor, or other public officer, who shall violate or fail to perform any duty prescribed by this act; and to lay before county attorneys all evidence acquired by it of such violations or failure of duty, to the end that the provisions of this act may be properly enforced.

8. Investigation of Irregular Assessments.

To receive complaints as to property liable to taxation that has not been assessed, or has been fraudulently or improperly assessed, and to investigate the same and to take such proceedings as will correct the irregularity complained of, if found to exist.

9. To Visit Counties.

To see that each county in the state be visited by at least one member of the commission as often as once in each year, to the end that all complaints concerning the law be heard, that information concerning its workings be collected, that all assessing and taxing officers comply with the law, that all violations thereof be punished and that all proper suggestions as to amendments and changes be made.

10. As to Valuation of Properties of Certain Corporations.

To inquire into and ascertain the valuation of the properties of all telegraph, telephone, express, sleeping car, freight line, equipment, street railway, gas, water, electric, heating, power, wharf, boom, or other public service company, except such railroad companies as pay taxes upon gross earnings, doing business in this state; and to also ascertain the gross annual receipts of all such

companies, railroad companies not excepted, all such information to be reduced to permanent form under proper classification and tabulation and preserved in the office of the commission, to the end that it may be known whether any such company, not a railway company taxed as aforesaid, is being properly taxed, or whether any such company, railway companies not excepted, is properly reporting its gross earnings for purposes of taxation; but nothing in this section contained shall be deemed to relieve any officer or board of any duty otherwise provided by law with respect to the taxation of railway or other companies.

11. Enquiry as to Revenue Systems of Other States.

To make diligent investigation and inquiry concerning the revenue laws and systems of other states and countries, so far as the same are made known by published reports and statistics and can be ascertained by correspondence with officers thereof.

12. Report as to Taxes Collected, Sources, Loss, Etc.

To report to the legislature at each regular session thereof, or at such other times as the legislatures may direct, the whole amount of taxes collected in the state for all purposes, classified as to state, county, township and municipal purposes, with the sources thereof, the amount lost, the cause of the loss, the proceedings of the commission, and formulate and recommend such legislation as may be found necessary to prevent the evasion of just and equal taxation, and for the improvement of the system of taxation in this state; and such other matters of information concerning the public revenues as it may deem of public interest.

13. Abatement of Taxes.

To abate taxes whenever for any reason the same may be necessary; but no abatement shall be allowed except after full investigation by the tax commission of all the facts relating thereto and after the favorable recommendation of the board of county commissioners and the county auditor of the county in which the property is situated. Every application for abatement shall be entered of record in a proper book to be provided therefor, and the grounds on which an abatement is allowed shall be fully stated in such record. Immediately after the determination of any such application, the Tax Commission shall certify the same to the auditor of state and thereupon he shall forward the same to the county auditor of the proper county, and whenever an abatement is allowed the grounds thereof shall be stated in such certification.

14. Report to County and State Boards.

To place before the county board of review and the state board of review such matters brought to its attention relative to the assessment of property as may be necessary to the proper assessment thereof.

15. Record.

To make and preserve a record of its official acts and of each member thereof, so far as practicable, and of all its expenditures

and of each member thereof in proper books which shall always be open to public inspection.

Sec. 136. The Tax Commission may order re-assessment. The Tax Commission, whenever it believes the assessment made in any assessment district is not in whole or in part in substantial compliance with law, may direct the county supervisor of assessment to reassess all or any part of the taxable property in such district, and report the same to it on or before the date prescribed therefor in the order directing such reassessment, and upon receiving such direction the county supervisor of assessment shall reassess such property and report the reassessment thereof to the Tax Commission within the time so prescribed.

Sec. 137. Disposition of appeals—correction of assessments. The Tax Commission shall at its regular annual sessions in September proceed to the disposition of all appeals which may have been taken to it from county boards of review, and the correction of the assessment of the property of individuals which has either been omitted from the tax lists or improperly assessed in whatever manner such omissions or improper assessments have been brought to its attention.

Sec. 138. To report to state board of review. The Tax Commission shall submit to the state board of review at its annual session a statement showing in detail the re-assessment of property made pursuant to Section 136 of this act and its disposition of appeals from the action of county boards of review and its action in all other matters affecting the assessment of property. The state auditor shall thereupon note upon the abstracts of the proper counties all changes in the assessment of property as shown by the said statement, which statement shall be spread upon the record of the proceedings of said board as a part thereof.

Sec. 139. Duty of persons to report to the Tax Commission. It shall be the duty of every person, co-partnership, association, company, or corporation, doing business in this state, to make such reports to the tax commission relative to his or its property as the commission shall require, and to permit the commission, or any member thereof, or any person appointed therefor by the commission, to inspect his or its books, accounts, papers and property.

Sec. 140. Re-assessment of undervalued or omitted property. When ever it shall be made to appear to the tax commission that for any reason any considerable amount of property in any county has for any year or years been improperly omitted from the tax lists or, if assessed, that the same has for any such year or years been greatly undervalued, whether or not such valuation has been reviewed or equalized, it may direct the county supervisor of assessment, or such person as it may appoint for that purpose, to ascertain the character, location, value and ownership of such omitted or undervalued property, who shall thereupon forthwith proceed to examine and prepare a list or lists of such property in duplicate, showing therein the character, location, ownership and valuation thereof, with the year or years in which the same or any part

thereof has been omitted or undervalued; said list or lists shall also show therein opposite each tract or parcel of land or item of personal property, so omitted or undervalued, the year or years in which the same was so omitted or undervalued and, if assessed, the amount of such assessment, the actual or true value thereof at the time and for which the same was subject to and should have been assessed, together with the difference between the assessed and the actual value thereof as so found by him; thereupon he shall file on or before the first day of January following his appointment, one of the said duplicate reports or lists with the county auditor of such county and the other with the state auditor.

Sec. 141. County auditor—duties as to undervalued or omitted property. The county auditor, upon the receipt of any list or lists filed in his office pursuant to Section 140 of this act, shall assess the property therein described and enter the same in the real and personal assessment books as provided in Section 51 of this act.

Sec. 142. Meeting of county supervisors with state tax commissioners. The Tax Commission shall call a meeting of the county supervisors of assessment at the capitol, at such time in each year as the commission may appoint, for a conference upon the subject of taxation, the administration of the laws and for the instruction of such officers in their duties. The actual expenses of each officer in attending such annual meeting shall be approved by the Tax Commission and, when so approved, the county auditor shall draw his warrant in favor of such officer and the same shall be paid by the county treasurer out of the revenue funds of the county.

TITLE VIII.

TAX LEVY.

Sec. 143. Taxes to be levied in specific amounts. All taxes shall be levied or voted in specific amounts, and the rates per centum shall be determined from the amount of property as equalized by the state board of review each year, except such general tax as may be definitely fixed by law.

Sec. 144. State tax. The state tax shall be levied by the legislature, and the rate of such tax shall be certified by the auditor of state to each county auditor on or before the first day of November annually.

Sec. 145. County taxes. The county taxes shall be levied by the board of county commissioners at the time of its meeting in July of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of the said board; and no greater levy of county tax shall be made upon the taxable property of any county than will be equal to the amount of such expenses, with an excess of five per cent of the same; provided, however, that in all counties of this state having a population of two hundred thousand inhabitants or over, it shall be the duty of

the said board to make in said statement appropriate titles indicating the purpose for which the money is to be used and also specifying the amounts necessary for each purpose; and the amount so determined to be raised shall be apportioned by the county auditor into different funds in the proportion and for the purposes so designated; and the money raised by such levy shall be expended for the particular purposes so designated and no other.

One of the funds herein provided for may be designated "Emergency Fund;" but no money shall be expended from the emergency fund, except in cases of actual emergency arising from unforeseen demands upon some other designated fund which has become exhausted, and then only upon the unanimous vote of all the members of the board of county commissioners.

Sec. 146. Cities, villages, townships and school districts. The tax voted or levied by incorporated cities, villages, townships and school districts shall be certified by the proper authorities to the county auditor, on or before the first day of November in each year.

Sec. 147. County auditor to fix rates. The rate per centum of all taxes, except the state tax, and such other taxes the rates of which may be fixed by law, shall be calculated and fixed by the county auditor subject to the limitations prescribed in Section 148 of this act. If any county, city, town or school district shall return a greater amount than that which the authorized rates will raise, he shall only extend such amount of tax as the limited rate will produce.

Sec. 148. Rate of tax levied for state, county, and other purposes. There shall be levied annually on each dollar of taxable property in the state (other than such as by law is otherwise taxed), as assessed and entered on the tax lists for the several purposes enumerated, taxes at the rates specified as follows:

First. For state purposes, such amount as may be levied by the legislature.

Second. For county purposes, such an amount as may be levied by the board of county commissioners, which amount in any county having a taxable valuation of one hundred million dollars or more shall not exceed four hundred and fifty thousand dollars, and the rate of levy in such counties shall not exceed three mills on the dollar; and which amount in any county having a taxable valuation of fifty million dollars or more, and less than one hundred million dollars, shall not exceed three hundred thousand dollars, and the rate of levy in such counties shall not exceed three and one-half mills on the dollar; and which amount in any county having a taxable valuation of twenty million dollars or more, and less than fifty million dollars, shall not exceed one hundred and seventy-five thousand dollars, and the rate of levy in such counties shall not exceed four mills on the dollar; and which amount in any county having a taxable valuation of one million dollars or more, and less than twenty million dollars, shall not exceed eighty thousand dollars, and the rate of levy in such counties shall not exceed five mills on the dollar; and which amount in any county having a taxable valu-

ation of less than one million dollars, shall not exceed five thousand dollars, and the rate of levy in such counties shall not exceed one per cent.

Third. For city purposes, such amount as is authorized by law.

Fourth. For township purposes, such sum as may be voted at any legal town meeting, the rate of which shall not exceed, exclusive of such sums as may be voted at the annual town meeting for road and bridge purposes, and for the support of the poor, two mills in any township having a taxable valuation of one hundred thousand dollars or more; and the amount of which shall not exceed one hundred and fifty dollars in any township having a taxable valuation less than one hundred thousand dollars; and the rate of such tax shall not exceed one-half of one per cent in any township.

Fifth. The rate of the tax for road and bridge purposes in any town shall not exceed five mills per dollar, and the tax for poor purposes shall not exceed two mills per dollar.

Sixth. For school purposes:

1. In common school districts, such sum in addition to the general tax of one mill 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.

2. In independent school districts, such sum as is authorized by the law under which the same are organized.

3. In special school districts, such sum as is authorized by law.

Nothing in this section shall be construed as prohibiting assessments on property for 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 nothing in this section shall be construed to prevent the county commissioners, township supervisors, or corporate authorities of any city, town, village or school district, from levying any additional tax which by any general or special law they may be authorized to levy.

Sec. 149. Tax list to be made out by county auditor—Form of tax books. The county auditor shall make out the tax lists according to the prescribed form and to correspond with the assessment districts of the county. They shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation, and for the various items of tax included in the total amount of all taxes set down opposite each description of property. The amount of all special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate per centum of each tax at the head of the proper columns, without extending the same; in which case a schedule of the rates per centum of such taxes shall be made on the first page of each tax list. The rate per centum necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the state board of review; but in calculating such rates, no rate shall be used resulting in any fraction other than a decimal fraction, or less

than one-tenth of a mill; and in extending any tax, whenever it amounts to the fractional part of a cent, it shall be made one cent.

Sec. 150. **Abstracts of tax lists to be sent to state auditor—when.** The county auditor shall, on or before the fifteenth day of January in each year, make out and transmit to the state auditor in such form as may be prescribed, a complete abstract of the tax lists of the county, showing the number of acres of land assessed, the value of such land, including the mines, quarries and structures thereon, the value of town and city lots including structures, the total value of all taxable personal property in the several assessment districts of the county, the aggregate amount of all taxable property in the county, and the total amount of taxes levied in the county for state, county, town, and all other purposes for that year.

Sec. 151. **Certificate of county auditor to tax book.** It shall be the duty of the county auditor to make, in each tax book or list, a certificate substantially in the following form, viz.:

“I, _____, auditor of _____ county, and State of Minnesota, do hereby certify that the following is a correct list of the taxes levied on the real and personal property in the (town or district, as the case may be) of _____, in the county of _____, for the year one thousand nine hundred and _____.

Witness my hand and official seal this _____ day of _____, A. D. 19_____.

_____, County Auditor.”

Sec. 152. **Auditor to complete lists.** The county auditor shall complete the lists of the several districts of the county on or before the fifteenth day of January in each year, showing the total amount of taxes due upon the said lists, and the certificate of the county auditor based upon such lists so completed and filed in the office of the county auditor shall be full and sufficient authority for the county treasurer to receive and collect the taxes therein levied.

TITLE IX.

COLLECTION OF TAXES.

Sec. 153. **Taxes when due—County treasurer to be collector of.** All taxes shall become due and payable on the fifteenth day of January following the levy thereof. The county treasurer shall be the receiver and collector of all the taxes extended upon the tax list of the county, whether levied for state, county, city, town, school, poor, bridge, road or other purposes, anything in the charter of any city or town, or in any other act of the legislature heretofore passed, to the contrary notwithstanding; and also of all fines, forfeitures or penalties received under the provisions of this act by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of his county.

Sec. 154. Tax receipts—contents—in duplicate. Every receipt for money paid into the county treasury in payment of taxes and redemption from tax sales, shall be based upon a statement in duplicate of the county auditor, and shall contain, in substance, a copy of the tax duplicate affecting the description referred to in the statement, and indicate all interests and penalties which may have accrued upon the property or against the person affected. Such statements shall be issued and certified by the county auditor on request of the payor, his agent or attorney, and shall be accompanied by a receipt having the same number and contents, signed by the county auditor and prepared for the signature of the county treasurer.

In case any tract embraced in any such statement and receipt has been sold for taxes, either to a purchaser or to the state and the time for redemption from such sale has not expired, it shall be the duty of the county auditor to write or stamp across the face of such statement and receipt the words "Sold for taxes." The failure of the auditor to so stamp such statement and receipt shall not affect any such sale or extend the period of redemption therefrom, but the auditor and his bondsmen shall be liable for the damages, if any, which may result from such failure.

Sec. 155. Same—Mode of paying taxes. Any person desiring to pay any tax charged against him or redeem any property from tax sale, shall personally, or by his agent or attorney, apply therefor to the county auditor, who shall thereupon prepare in duplicate the statements and receipt as provided in the preceding section, and having countersigned the same, the county auditor shall present said statements and receipt to the county treasurer. Upon being so presented with said statements and receipt, the county treasurer shall upon receipt of the money necessary for the payment of the taxes, interest and penalties, or for redemption, as the case may be, sign such statements and receipt, and deliver the receipt having thereon the original signature of the auditor to the payor. The statements so presented to him shall be retained by him and he shall enter the statement by number, name and amount, upon his register of collections. At the close of each business day, one of such statements shall be returned to the auditor who shall charge the treasurer with the amount received and enter the same upon his register of collections by number, name, amount and fund; and shall write on the tax duplicate opposite the amount of each tax so receipted the words, "paid in full," or "one-half paid," as the case may be, and the number of the treasurer's receipt or receipts, given in discharge thereof. All such statements and receipts shall be numbered consecutively by the auditor, and also be numbered in one consecutive series by the treasurer. If payment of any tax or redemption money is not made after the statements and receipt have been presented to the treasurer, he shall return the same to the county auditor at the close of the day on which they were presented to him, and the county auditor shall thereupon cancel the same. In all cases

where payments have been made pursuant to this section, the county auditor shall durably attach the said statement, or, if payment has not been made, the statements and receipts so returned to him, to the stubs from which the same were taken.

Sec. 156. Payment of personal property tax under protest. Any taxpayer may pay under protest any personal property tax charged against him by filing at the time of such payment in the office of the county auditor a writing, signed by him, in which shall be stated the grounds of such protest; and such auditor shall file such protest and note the fact thereof on the tax duplicate and also on the statements and receipt prepared by him as provided in section 154 of this act. Any person paying any such tax under protest as provided in this section may, within thirty days thereafter and not afterwards, sue the county for the amount of the tax so paid; and if it is made to appear that such tax or any part thereof is illegal for any reason specified in such protest, he shall be entitled to recover in such action the amount of such illegal tax. Any tax so paid under protest shall not be distributed by the county auditor until the expiration of said thirty days, or in case a suit is brought as authorized by this section, until the determination of such suit.

DELINQUENT TAXES.

I.

PERSONAL PROPERTY.

Sec. 157. When delinquent—penalty—collection. All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due, and thereupon a penalty of ten per cent shall attach and be charged upon all such taxes.

Sec. 158. County auditor to prepare and certify to the delinquent list. On or before the tenth day of March, annually, the county auditor shall make or cause to be made, a list of the names of all delinquent personal property taxpayers of his county, whereon shall appear a separate column headed "Return," setting opposite each name thereon the amount of the tax and penalty for which such person is delinquent. He shall, upon completing such list, endorse thereon his certificate that it is full, complete and true, and thereupon he shall immediately deliver it to the county treasurer. The list, when so certified, shall have the same force and effect as an execution, and shall be sufficient warrant for the treasurer to collect the taxes therein listed. The certificate required by this section shall be substantially in the following form:

“State of Minnesota, }
 County of _____ } ss.

I, _____, county auditor of the county of _____, hereby certify that the within list is a full, complete, and true list of the names of all delinquent personal property taxpayers of the county of _____, remaining delinquent on the _____ day of _____, 19____, and the respective amounts of such delinquencies.

 County Auditor.”

Sec. 159. Treasurer to call upon taxpayers and demand payment. Upon receiving the list so certified from the county auditor, as provided in the preceding section, the county treasurer shall, either in person or by deputy, call upon every person named in such list residing in his county and demand of him the payment of the amount of the delinquent taxes charged against him in said list, and the penalties accrued thereon, together with fees as provided in section 162 of this act. If the treasurer is unable to find in his county any person named in such list, he shall leave such demand in writing at the residence or usual place of business of such person, if known.

Sec. 160. Treasurer may distrain. If delinquent personal taxes are not paid upon demand, as provided in the preceding section, or if the county treasurer is unable to make such demand by reason of non-residence or otherwise, he shall immediately proceed to distrain sufficient personal property of the delinquent to pay such taxes, penalty, fees, costs and expenses of sale and sell the same in the manner in section one hundred and sixty-one of this act provided.

Sec. 161. Sale by distress. Whenever the county treasurer shall distrain personal property for the collection of the tax of any person he shall immediately proceed to advertise the same in three public places in the town or district where such property is taken, stating the time when and the place where such property will be sold; and if the taxes for which such property is distrained and the penalties, fees and costs which accrue thereon are not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer, or his deputy, shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes, penalty, fees, costs and expenses of such distress and sale.

Sec. 162. Fees to be charged by the treasurer. When any delinquent personal property taxes and the penalties thereon accrued are paid upon demand and without distraint, the county treasurer shall charge and receive, in addition to such tax and penalty, a fee of one per centum upon the amount collected, but which shall not in any case be less than twenty-five cents, to be paid by the de-

linquent. When such tax is not paid upon demand and property is distrained, such officer shall charge and receive, in addition to his other costs and expenses paid or incurred, a fee of twenty-five cents and five per centum of the amount collected, to be paid by the delinquent.

Sec. 163. Duty when distraint cannot be made. Whenever the county treasurer is unable to find, after diligent search therefor, any personal property of the delinquent taxpayer within his county to distraint, he shall mark opposite the name of the delinquent in his list in the column headed "Return," a special return, stating therein that he has made diligent but ineffectual search for personal property of the delinquent.

Sec. 164. Report to county attorney—when. Whenever the county treasurer has reason to believe that any delinquent personal property taxpayer has money, or other personal property, beyond the reach of such treasurer, he shall communicate such fact and the sources and extent of his information to the county attorney, who shall thereupon commence an action or proceeding in any proper court in the name of the state against the delinquent for the recovery of the taxes and penalties charged against him; and such taxes and penalties, or any part thereof, shall, for the purposes of such action or proceeding, be deemed a debt due and owing to the state and recoverable by any proper and ordinary civil action or proceeding. He shall also have the same powers and be governed by the same rules in distraining the personal property of any person reported to him by the county treasurer as are conferred and enjoined by law upon the county treasurer in similar proceedings. The county attorney shall be entitled to the same attorney's fees, and the same costs may be taxed against the defendant, as are allowable in a civil action. He shall also receive as compensation for his services ten per cent upon the amount of taxes and penalty collected by him, to be deducted from the amount collected. He shall forthwith pay into the county treasury all moneys collected by him except such attorney's fees and the compensation above allowed, and shall accompany such payment with a verified statement showing the name of the delinquent taxpayer, the amount of the original tax and penalty sued for, the amount recovered, costs and expenses paid and the date when the same were paid. All costs and expenses necessarily incurred by the county attorney in any such action or proceeding shall be a charge against the county and paid out of its general revenue fund.

Sec. 165. Satisfaction of judgment. Upon payment to the county treasurer of any personal property tax judgment, the treasurer shall deliver a certificate of the fact of such payment to the person paying the same, and upon filing such certificate and the payment of a fee of ten cents the judgment shall be satisfied upon the margin of the record thereof.

Sec. 166. Auditor not to credit treasurer—when. Every county treasurer shall be deemed charged with the full amount of taxes

appearing in the list of delinquent taxpayers delivered to him by the county auditor, and it shall be unlawful for the county auditor to credit such treasurer with any uncollected delinquent taxes for which the treasurer claims credit, unless he shall show by proper returns, duly verified, as in section one hundred and sixty-seven of this act provided, that he made diligent search for and was unable to find any personal property from which to collect such taxes or to collect the part thereof remaining unpaid.

Sec. 167. Treasurer to return list to auditor—when. If the county treasurer has been unable to collect by distress or otherwise the taxes, or any part thereof, appearing in the delinquent list received by him from the county auditor, he shall file the said list with the county auditor on the first secular day in the month of June following, having attached thereto a list or lists of the names of those from whom taxes have not been collected, and each of said last named lists shall be verified by himself, or the deputy entrusted with the collection of such taxes, in substantially the following form:

“State of Minnesota, }
County of } ss.

..... being by me first duly sworn, deposes and says that he is the treasurer of county; that he has faithfully and diligently sought for and has been unable to discover any personal property from which to collect the taxes, or any part thereof, due from any person named in the foregoing list; that he has truthfully made in the column headed “Return” in the list furnished the county treasurer by the county auditor a special return as required by law as to each person from whom taxes have not been collected in whole or in part; that he has communicated to the county attorney of his county the names of all persons whom he had reason to believe had property out of which such taxes could be collected, wholly or in part; and that the names so reported to the county attorney are as follows:

Subscribed and sworn before me this day of, 19....”

Sec. 168. Penalty for neglect of treasurer or deputy. If any county treasurer shall refuse or neglect to collect any tax assessed upon personal property when the same is collectible, or to return the list of delinquent taxpayers and affidavit, or affidavits, as in this act provided, he shall for such refusal or neglect be liable for the amount of such tax, and for any refusal or neglect to properly return said list he shall be liable for all the taxes therein specified not properly accounted for by him. For any liability incurred by the treasurer or his deputy under this section, the amount thereof shall be deducted by the auditor from the future salary or fees of such treasurer, and the amount so deducted shall be applied to the several funds for which the taxes were levied.

Sec. 169. Auditor to place list before board of county commissioners. Upon receiving the list as provided in section one hundred and sixty-seven the county auditor shall deliver the same, together with the accompanying affidavits to the board of county commissioners at their first session thereafter, and the said board shall thereupon proceed to cancel such taxes appearing thereon as delinquent as it is satisfied cannot be collected.

Sec. 170. Auditor to file revised list with clerk of court. Within ten days after the adjournment of the board of county commissioners, it shall be the duty of the county auditor to make a revised list of delinquent taxpayers, in alphabetical order, setting opposite the name of each person appearing thereon the amount of his personal tax and penalty, from which shall be omitted the names of all persons who have paid their personal property taxes or whose names have been stricken from the original list of delinquents by the board of county commissioners. Upon completing the revised list, the auditor shall attach thereto his certificate that the same is a true and complete list of the names of delinquent personal property taxpayers of the county, as shown by the records of his office, which said certificate shall be substantially in the following form:

"I,, county auditor of county, hereby certify that the foregoing is a full and complete list, as shown by the records of my office, of the names of all the personal taxpayers in said county who became delinquent on the first day of March, 19...., and whose taxes have not subsequently been paid, or whose names have not been stricken from the list, and that there is due from each of said persons as taxes, penalties and fees, the sums set opposite their respective names.

[Signed.]

.....

County Auditor."

Dated:

He shall file the list so certified in the office of the clerk of the district court forthwith upon the completion of the same, and within ten days after the adjournment of the said board. The auditor shall at the same time file a copy of such list with the county treasurer. Such taxes shall bear interest at the rate of twelve per centum per annum from and after the date of the filing of such list.

Sec. 171. Clerk to file list and docket names. It shall be the duty of every clerk of the district court to receive, file and preserve in his office every list of delinquent personal taxpayers delivered to him pursuant to the preceding section. He shall immediately provide himself, at the expense of the county, with a docket book, to be known as the Delinquent Personal Tax Docket, to be so ruled, arranged and paged, as to contain columns headed respectively, names, taxes, penalty, fee, year, total, remarks. He shall immediately enter in such tax docket, in alphabetical order, so as to be of ready reference, in appropriate columns, the names of every person appearing upon the delinquent list so received by

him, and opposite to such name, the tax delinquent, penalty, docket fee and year, and the total amount of such tax, penalty and fee. The clerk shall for all services required by this section receive a fee of ten cents for each name docketed, to be paid out of the general revenue fund of the county.

Sec. 172. Clerk to certify as to taxes. Every clerk of the district court shall, when requested so to do, make examination of his records as to the existence of personal taxes and penalties affecting the person named in such request and certify as to any such taxes and penalties. The clerk shall be entitled to compensation for such services as follows:

For a certified transcript of a docket entry, fifteen cents.

For certificate that no personal taxes and penalties appear upon his records against any person named in such request, twenty-five cents.

He may refuse to deliver any certificate so made by him until the fee as provided in this section shall have been paid.

Sec. 173. Enforcement of taxes embraced in list filed with clerk. In case the county treasurer shall, at any time, learn of any personal property belonging to any delinquent personal property taxpayer, named in any list filed with the clerk of the district court, as in this act provided, he shall immediately proceed to distraint such property or so much thereof as may be necessary to satisfy the taxes for any year or years embraced in such list or lists, and sell the same in the manner provided in section one hundred and sixty-one of this act. If, for any reason, he is unable to make such distress, he shall notify the county attorney, who shall proceed to enforce such taxes in the manner provided in section one hundred and sixty-four of this act.

Sec. 174. Personal taxes a lien upon real estate. All personal property taxes, penalties, interest and costs charged to any person, shall for a period of six years from and including the day when the same became due and payable, be and remain a lien upon every tract or lot of real estate owned by him during any part of said period and situate in the county in which such tax is payable. Such lien shall not be discharged by the partial payment of any such taxes, penalties, interest and costs, or by the transfer of such property.

In case the county auditor or county treasurer shall, at any time within said six years, discover any real property belonging to any delinquent personal property taxpayer named in any list filed with the clerk of the district court, as provided in section one hundred and seventy of this act, he shall immediately notify the county attorney of his county of the discovery of such property, together with a description thereof; and it shall thereupon be the duty of such county attorney to immediately proceed to institute an action for the recovery of the taxes of any year or years and the foreclosure of the lien therefor on such property and to prosecute such action to final judgment.

Such judgment may be enforced, as far as practicable, in the same manner as a decree on foreclosure of mortgages by action, but there shall be no redemption from any sale made in pursuance of this section.

In case there are no bids at any sale held under such judgment to the amount of taxes, penalties and costs embraced therein, the county auditor may bid in the property covered thereby in the name of the state for such sum, not exceeding the amount of such judgment, as in his opinion said property is reasonably worth. In case any property is so bid in, in the name of the state, the same shall be disposed of in the same manner as provided in Title XIII. of this act for sale of unredeemed lands.

Sec. 175. **Removal of delinquent taxpayer.** Whenever the county auditor is informed that any delinquent personal property taxpayer has removed to another county in this state, he shall immediately make out and forward to the auditor of the county to which such taxpayer has removed a statement of the delinquent personal property taxes, penalties and costs due from the person so named, specifying the value of the property on which such taxes were levied; and he shall, if such person removed from the county after such taxes become due, add to such taxes and penalties, an amount equal to twenty-five per centum of the same. Any county auditor receiving any such statement from another county, shall immediately deliver the same to the officer who at the time of the receipt thereof is charged with the collection of delinquent personal taxes in his county; and the officer to whom such statement is delivered shall immediately proceed to collect the same of the person so charged with said taxes, penalties and per centum in the same manner and with like powers and compensation as provided for the collection of personal property taxes in his county; and all such taxes, penalties and per centum, when collected, shall be by him remitted to the treasurer of the county to which the same belong; and, at the same time, he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remain unpaid, the reason why such taxes could not be collected, certifying in his official capacity to the same, and thereupon the auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel said taxes from the list.

II.

REAL ESTATE.

Sec. 176. **When penalty attaches.** On the first day of June of each year a penalty of ten per cent shall immediately accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county auditor; and any county auditor who shall make out and deliver or countersign any re-

ceipt for such taxes without including such penalty therein, shall be liable to the county for the amount of such penalty; provided, that when the taxes charged against any tract or lot exceed one dollar, one-half thereof may be paid prior to the said first day of June, whereupon no penalty shall attach to the one-half so paid; and thereupon the remaining one-half may be paid on or subsequent to the said first day of June and prior to the first day of November following, whereupon no penalty shall attach to such remaining one-half.

Sec. 177. County auditor to compare tax lists—Five per cent penalty. On the first Monday in January of each year the county auditor shall compare the several tax lists in his hands with the statements received for by the county treasurer, and on file in the auditor's office, and each tract or lot of real property against which the taxes or any part thereof remain unpaid shall be deemed delinquent, and thereupon an additional penalty of five per cent on the amount of the original tax remaining unpaid shall immediately accrue and thereafter be charged upon all such delinquent taxes; and any auditor who shall make out and deliver any statement of delinquent taxes without including the penalties imposed by this section therein, and any treasurer who shall receive payment of such taxes without including in such payment all items as shown on the auditor's statement, shall be liable to the county for the amount of any items omitted.

Sec. 178. Filing and effect of delinquent tax list. On or before the first day of February in each year the county auditor shall file in the office of the clerk of the district court of the county, or if it be attached for judicial purposes to some other county, then in the office of the clerk of such court in that county, a list of the delinquent taxes upon real estate within his county, which list shall contain a description of each piece or parcel of land on which such taxes shall be so delinquent, except such pieces or parcels of land as shall have theretofore been bid in by the state and not assigned by it or redeemed, with the name of the owner, if known, and if unknown, so stated, appearing on the delinquent list, and the total amount of taxes and penalty or penalties, with the year or years for which the same are delinquent set opposite such description, and shall verify such list by his affidavit that the same is a correct list of taxes delinquent for the year or years therein appearing upon real estate in said county. The filing of such list shall have the force and effect of filing a complaint in an action by the county against each piece or parcel of land therein described, to enforce payment of the taxes and penalties therein appearing against it, and shall be deemed the institution of such action; and the same shall operate as notice of the pendency of such action. The affidavit required by this section shall be substantially in the following form:

State of Minnesota, }
 County of } ss.

..... being by me first duly sworn, deposes and says that he is the county auditor of the county of; that he has examined the foregoing list and knows the contents thereof, and that the same is a correct list of taxes delinquent for the year (or years therein appearing) upon real estate in said county.

Subscribed and sworn to before me this day of 19....

Sec. 179. Copy of list to be prepared for publication—Notice. At the time of filing the list as provided in section 178 of this act, the county auditor shall also deliver a copy thereof to the clerk of the district court, and thereupon and within five days thereafter, the clerk shall return the same to the auditor with a notice prepared and signed by him and attached thereto, which notice may be substantially in the following form:

State of Minnesota, } District Court,
 County of } ss. Judicial District.

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

The list of taxes and penalties on real property for the county of, remaining delinquent on the first Monday in January,, has been filed in the office of the clerk of the district court of the county of, of which that hereto attached is a copy. Therefore you, and each of you, are hereby required to file in the office of said clerk, on or before the twentieth day after the publication of this notice and list, your answer in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any piece or parcel of land described in said list, in, to, or on which you have or claim any estate, right, title, interest, claim or lien, and in default thereof judgment will be entered against such piece or parcel of land for the taxes on said list appearing against it, and for all penalties, interest and costs.

[Signed]
 Clerk of the District Court of the County of
 (Here insert list.)

The list referred to in said notice shall be made out in substantially the following form:

List of Real Property for the County of....., on which Taxes remained Delinquent on the First Monday in January, 19...

Town of (Fairfield),

Township (Forty), Range (Twenty).

| Name of Owner. | Subdivision of Section. | Section. | Total Tax and Penalty. | |
|--|-------------------------|----------|------------------------|-------|
| | | | \$ | cts. |
| (John Jones, se $\frac{1}{4}$ of sw $\frac{1}{4}$ | | 10 | | 2.20) |
| (James Smith, Und. half of se $\frac{1}{4}$ | | 20 | | 4.40) |
| (Amos Brown, beg. at —; thence in n. e. dir. 40 rds. to —; thence e. dir. 10 rds. to —; thence s. w. dir. 40 rds. to —; thence n. 10 rds. to place of beg | | | | 3.15) |

As to platted property, the form of heading shall conform to circumstances and be in substantially the following form:

(City, Village or Borough of Smithtown),

(Brown's Addition, or Subdivision.)

| Name of Owner. | Lot. | Block. | Tax and Penalty. | |
|--------------------|---------|--------|------------------|-------|
| | | | \$ | cts. |
| (John Jones | 15 | 9 | | 2.20) |
| (James Smith | 12 | 9 | | 1.20) |
| (Amos Brown | 2, 3, 4 | 10 | | 4.40) |

The words, letters and figures employed in parentheses in the above forms are merely for purposes of illustration.

The name of the town, township, range, city, village or borough and addition or subdivision, as the case may be, shall be repeated at the head of each column of the printed list as brought forward from the preceding column.

Sec. 180. **Character of paper in which notice and list may be published.** Any newspaper, having been printed and published in the county in the English language for a period of at least one year immediately preceding designation, and having had general circulation in the county during such period, shall be deemed eligible to be designated for the publication of the notice and list of delinquent real property, as provided in section 179 of this act.

Sec. 181. **Filing of bids for publishing.** Any publisher or proprietor of a newspaper eligible to be designated, as provided by the preceding section, may, prior to the day on which the board of county commissioners designate a newspaper for the publication of the notice and list of delinquent real property, file in the office of the county auditor an offer to publish such notice and list in

such paper, stating in such offer the rate at which he will make such publication, which shall not exceed fifteen cents for each description. The board may, in its discretion, receive offers presented to it at any time prior to the time when designation is made.

Sec. 182. Designation of newspaper by resolution. The board of county commissioners shall, at their annual meeting in January, and prior to designation, open, examine and consider all offers for publication filed in the office of the county auditor, or presented to them, as provided in the preceding section, and shall thereupon award the publication of the notice and list of delinquent real property to the publisher or proprietor of a newspaper as defined in section 180 of this act, whose offer is found to be the lowest and does not exceed fifteen cents for each description. Provided, however, that in the designation of any paper under the provisions of this section, the character and value thereof as a medium for getting the notice and list to be published therein before the taxpayers of the county may be taken into consideration by the board. The board shall not be bound by any such offer, but may reject any or all offers so filed or presented, if in its judgment, the public interest so requires, and may thereupon make designation of a paper without regard to any rejected offer or offers. In any county in which no newspaper as defined in section 180 of this act is printed, the board shall designate any such newspaper printed in the judicial district in which the county is situated and circulating in the county. Every such designation shall be by resolution, which shall be substantially in the following form:

Resolved, that (here state the name of the paper designated) be and the same is hereby designated by the board of county commissioners of the county of as the newspaper in which the notice and list of real estate remaining delinquent on the first Monday of January, 19... shall be published.

A copy of the resolution, certified by the county auditor, shall be filed in the office of the clerk of the district court.

The designation of a newspaper made in January, 1902, shall be deemed a valid designation for said year for the purposes of this act.

If, for any reason, the board shall fail to make designation of a newspaper for the publication of such notice and list, or the proprietor of the paper designated fails to give the bond prescribed by section 185 of this act, the county auditor shall thereupon designate the same in writing, which writing he shall immediately file in his office, and he shall also file a certified copy thereof in the office of the clerk of the district court.

Sec. 183. Publication of notice and list. The county auditor shall cause the notice and list of delinquent real property to be published once in each of two consecutive weeks in the newspaper designated, as provided in the preceding section, the first publication of which notice and list shall be made on or before the twentieth day of February, immediately following the filing of such list with the clerk of the district court.

Sec.184. Form of notice and list to be approved by county attorney. Every such publisher shall, immediately after having prepared his forms for printing such notice and list, and at least five days before the first day for the publication thereof, furnish proof of the proposed publication to the county auditor, who shall thereupon immediately present the same to the county attorney of his county for his approval as to the sufficiency of the form thereof.

The county attorney shall, upon receiving such copy, immediately examine the same and make such corrections therein as to form as may be necessary in order that the notice may be published in accordance with law. He shall thereupon return the same to the county auditor from whom received, advising him in writing of the necessary corrections to be made therein.

When such copy shall have been returned to the county auditor and corrections made therein in accordance with the directions of the county attorney, the county auditor shall deliver the same to the printer for publication, who shall proceed to publish it as so corrected. On the first day on which said notice and list are published the publisher shall mail a copy of the paper containing the same to the county attorney, and another copy to the county auditor. If it shall be discovered by either the county attorney or the county auditor during the publication of said notice and list, or within ten days after the last publication thereof has been made, that such publication is, for any reason, invalid, the county auditor shall immediately upon being informed thereof, direct the publisher to republish the same, as corrected, for an additional period of two weeks. If such republication is necessary by reason of the neglect of the publisher, he shall receive no further compensation for such republication; but if caused by the mistake or inadvertence of either the county attorney or the county auditor, the publisher shall be entitled to the same compensation as is allowed by law for the publication of such notice and list.

Sec. 185. Publisher to give bond—Liability. The owner or manager of the newspaper in which the said notice and list are to be published shall, within ten days after the designation thereof, execute to the state a good and sufficient bond with two or more responsible individual sureties, or in their stead one or more fidelity or surety companies, in the sum of not less than two thousand (2,000) dollars, the amount whereof shall be fixed by the board of county commissioners at the session in which the said newspaper is designated, the form and sureties thereof to be approved by the county auditor, conditioned that he will publish said notice and list in such paper, in strict compliance with law; that he will pay to the county all expenses and losses incurred by it from his neglect or refusal to so publish the said notice and list; that he will comply with all lawful directions of the county auditor with respect thereto, and that he will, when directed by the county auditor, republish the said notice and list without further expense to the county when the original publication thereof is, by reason of his own fault, insufficient.

Sec. 186. Certificate of county attorney required before payment for publication. No such publisher shall be entitled to or receive the fees for publishing such notice and list until he shall have obtained from the county attorney a certificate that the publication thereof was made according to law, which certificate shall be filed by such publisher in the office of the county auditor; and any county auditor paying for such publication without such certificate being so filed, shall be liable to the county for the amount so paid; provided, however, that if there be no county attorney of the county, or if such county attorney shall, upon application, refuse to give any such certificate, such publisher may apply to the attorney general on five days' notice to the county auditor and to the county attorney, if there be one, of such application. The attorney general shall, if of the opinion that such publication was made according to law, so certify and on filing his certificate with the county auditor, a warrant may issue for the payment of such fees. It shall be the duty of the county attorney and the attorney general, upon application being made to them, respectively, by any such publisher, to examine the publication of such notice and list, and if satisfied that such publication was made according to law to forthwith give the certificate herein provided for.

Sec. 187. Jurisdiction of court, not affected by what. When the last publication shall have been made the notice shall be deemed to have been served and the court to have acquired full and complete jurisdiction to enforce against each piece or parcel of land in said published list described the taxes, accrued penalties and costs upon it then delinquent, so as to bind every estate, right, title, interest, claim or lien, in law or equity, in, to, or on such piece or parcel of land, of every person, company or corporation; and such jurisdiction shall not be in any way affected by any error in making the list filed with the clerk nor by any error, irregularity, or omission in the assessment or levy of the taxes, or in any other proceedings prior to filing the said list; nor by any mistake in copying the list for publication; nor by any mistake in publishing such list; nor in the designation of the newspaper wherein such list is published; nor by reason of the failure of the publisher of such newspaper to give the bond required by this act; nor by reason of the taxes having been charged in any other name than that of the rightful owner; nor by any mistake in the amount of tax in such published list appearing against any piece or parcel of land therein described; *provided*, that any judgment rendered in such proceedings shall be void upon satisfactory proof made at any time that such real estate was exempt from taxation, or that such taxes were paid before judgment was rendered.

Sec. 188. Affidavit of publication to be filed. The owner, publisher, manager or foreman in the printing office of the newspaper in which such notice and list shall have been published, shall, immediately thereafter, make and file with the clerk an affidavit of such publication, stating the days in which such publication was made, and shall also file with the clerk three copies of each num-

ber of the paper and supplement, if any, in which the notice and list shall have appeared. The publication may be made in such newspaper, or partly in such newspaper and partly in a supplement issued therewith.

The affidavit required by this section to be made and filed shall be substantially in the following form:

State of Minnesota, }
County of } ss.

..... being first duly sworn, deposes and says that he is the (here state whether affiant is owner, publisher, manager or foreman) of (here state name of newspaper) in which was printed the notice and list of real estate remaining delinquent in county on the first Monday of January, 19....; that the said notice and list were duly printed and published in said newspaper on each of the following days: On (day of week) the day of, 19...., and (day of week) the day of, 19....; that each of the said days on which said notice and list were so published was the usual and regular day of the issuance and publication of said paper.

Subscribed and sworn to before me this day of 19....

.....
Notary Public.

Sec. 189. **Who may appear and answer.** Any person, company, or corporation having any estate, right, title or interest in, or lien upon, any piece or parcel of land embraced in said list as published, may, within twenty days after the last publication of said notice, file in the office of the said clerk an answer, verified as pleadings in civil actions, setting forth his defense or objection to the tax or penalty against such piece or parcel of land, which answer need not be in any particular form, but shall clearly refer to the piece or parcel of land intended, and set forth in ordinary and concise language the facts constituting the defense or objection to such tax or penalty; and if the list shall embrace the taxes for two or more years, the defense or objections may be to the taxes or penalty for one or more of such years. Such answer may embrace his defense or objections to any number of parcels of land embraced in said list as published, to which he has any estate, right, title, interest in or lien upon.

TITLE X.

TAX JUDGMENT.

Sec. 190. **Where no answer is filed—form—entry.** The clerk of the district court shall, upon the expiration of twenty days from the publication of the notice and list as hereinbefore provided, the

affidavit of publication being filed, proceed to enter judgment against each and every of such pieces or parcels as to which no answer shall have been filed, which judgment shall include all of such pieces or parcels, and shall be substantially in the following form:

State of Minnesota, County of, District Court.

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent on the first Monday in January, 19. . . . , for the county of, State of Minnesota.

A list of taxes on real property, delinquent on the first Monday in January, 19. . . . , for said county of, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published, as required by law, and more than twenty days having elapsed since the last publication of said notice and list, and no answer having been filed by any person, company or corporation to the taxes upon any of the pieces or parcels of land hereinafter described, it is hereby adjudged and decreed that each piece or parcel of land hereinafter described is liable for taxes, penalties and costs, to the amount set opposite the same, as follows, to-wit:

Description. Amount.

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

Dated this day of, 19. . . .

(Signed)

Clerk of the District Court, County of

Such judgment shall be entered by the clerk in a book to be kept by him to be called the "Real Estate Tax Judgment Book." and shall be signed by the clerk. The judgment shall be written out on the left hand pages of such book, leaving the right hand pages blank for the entries as hereinafter provided; and the same presumption in favor of the regularity and validity of the said judgment shall be deemed to exist as in respect to judgments in civil actions in said court, except in cases where taxes have been paid before the entry of such judgment, or where the land was exempt from taxation, in which cases such judgment shall be prima facie evidence only of its regularity and validity.

Sec. 191. Proceedings when answer is filed. If answers shall be filed within the time hereinbefore prescribed, such answers shall stand for trial at any general term of the district court in the county where such proceedings are pending, in session at the time when the time to file answers as aforesaid shall expire, or if the court

be not then in session, then at the next general or special term appointed to be held in said county; and if no general or special term shall be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten days' notice.

It shall be the duty of the county attorney of the county in which said taxes are levied, if there be one, and, if there be none, then of the county in which such proceedings are instituted, to take charge of and prosecute such proceedings; but the county commissioners of the county in which such taxes are levied may employ any other attorney to assist such county attorney therein.

At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay and summarily hear and determine the objections or defenses made by the several answers, and shall dispose of all such answers and direct judgment accordingly, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits.

Sec. 192. Proceedings after hearing—judgment. If, after a hearing, the court shall sustain the taxes and penalties in whole or in part against any piece or parcel of land, judgment shall be rendered against all such pieces or parcels for the amount as to which such taxes and penalties shall be sustained against such pieces or parcels respectively, with costs and disbursements, and interest at one per cent per month from and after the expiration of the twenty days named in the published notice hereinbefore provided for, unless the court otherwise direct; which judgment may be substantially in the form prescribed in section 190 of this act, except that it shall, in addition, state that the same was rendered after answer and trial; and, after the description of each piece or parcel, shall be stated the name of the person, company or corporation answering as to such piece or parcel.

If the court sustain the defense or objections to the taxes and penalties as to any piece or parcel of land, the judgment shall discharge such piece or parcel from the taxes in said list charged against it, or from such portion of such taxes as to which the defense or objection is sustained, and from all penalties. If such defense or objection is not sustained for the entire amount of taxes charged against any such piece or parcel, judgment shall be rendered against such piece or parcel for the amount as to which the defense or objection is not sustained. The court may, in its discretion, award disbursements for or against either party to the action.

Sec. 193. Judgment for taxes—What defense may be made. If all the provisions of law in relation to the assessment and levy of taxes shall have been complied with, of which the list so filed with the clerk shall be prima facie evidence, then judgment shall be rendered for such taxes and the penalties and costs.

But no omission of any of the things by law provided in relation to such assessments and levy, or of anything required by any officer or officers to be done prior to the filing of the list with the clerk, shall be a defense or objection to the taxes appearing upon any piece or parcel of land, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that the taxes against such piece or parcel of land have been partially, unfairly or unequally assessed; and in such case, but no other, the court may reduce the amount of taxes upon such piece or parcel, and give judgment accordingly.

It shall always be a defense in such proceedings, when made to appear by answer and proofs, that the taxes have been paid, or that the property was not subject to taxation.

Sec. 194. Judgment—Effect—Reviewed by supreme court—Proceedings. The judgment which the court shall render shall be final, except that, upon application of the county or other party against whom the court shall have decided the point raised by any defense or objection, the court may, if in its opinion the point is of great public importance or likely to arise frequently, make a brief statement of the facts established bearing on the point and of its decision, and forthwith transmit the same to the clerk of the supreme court, who shall enter the same as a cause pending in said court, and place the same on the term calendar of said court for the term then in session, or for the first term thereafter; and the same shall be entitled to a preference over all other business before said court, and shall be decided by said court at the term for which it shall be entered in the calendar.

As soon as it shall be decided, the clerk of the supreme court shall enter the proper order and forthwith transmit a certified copy of such order to the clerk of the proper district court; provided, that such proceeding shall in no case prevent the entry of judgment in the district court, nor prevent the sale of any piece or parcel of land pursuant to the judgment of the district court, unless, at the time of applying for such statement, an undertaking with at least two sureties, and in an amount to be approved by the judge of the district court, conditioned for the payment of the amount for which judgment shall be rendered in the district court, and the penalties and costs allowed by law, if the decision of the district court shall be affirmed, shall be filed with the clerk of the district court; provided, further, that the court wherein any tax judgment is entered shall have power, in its discretion, and for good cause shown by any person interested to open such judgment at any time before the expiration of the period of redemption, and may allow any defense to be interposed in such case that might have been interposed before the entry of such judgment, and may at any time, upon satisfactory proof, vacate and set aside such judgment on the ground that the tax in question was paid before judgment was rendered, or that the real estate in question was not subject to taxation.

Application to open such judgment may be summary upon such notice to the purchaser and county auditor of the proper county as the court may direct, and, in case a defense is allowed to be interposed, the case shall proceed in all respects as in defended cases under this act.

Sec. 195. Filing of papers by clerk. The clerk of the district court shall attach together and keep on file in his office the list, notice, affidavit of publication, one copy of the newspaper and supplement, if any, in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings.

Sec. 196. Proceedings after judgment. When any real estate tax judgment shall be entered, the clerk shall forthwith deliver to the county auditor, in a book to be provided by said auditor, a certified copy of such judgment, which shall be written on the left hand pages of such book, leaving the right hand pages blank.

Sec. 197. Payment before entry of judgment and before sale. Any person may, before sale, pay the amount adjudged against any piece or parcel of land, and, in such case, payment shall be made in the manner provided in section 155 of this act.

If payment is made before the entry of judgment, and the delinquent lists have been filed with the clerk of the court, the county auditor shall immediately certify to such payment to the clerk who shall note the same on the delinquent list on file in his office; and all proceedings pending against such piece or parcel of land shall thereupon be discontinued.

If payment is made after judgment is entered and before sale, the county auditor shall certify such payment to the clerk, who shall upon production of such certificate and the payment of a fee of ten cents to him, enter on the right hand page of the real estate tax judgment book and opposite the description of such piece or parcel, satisfaction of the judgment against the same.

The county auditor shall make proper entries in the books of his office of all payments made under the provisions of this section.

TITLE XI.

TAX JUDGMENT SALE.

Sec. 198. Annual tax judgment sale—Notice. On the second Monday in May in each year the county auditor shall sell all pieces or parcels of land against which judgment has been rendered for the taxes of the preceding year or years and remains unsatisfied.

Before making such sale he shall give notice thereof by posting such notices, one copy in the office of the clerk of the court where the judgment shall have been entered, one copy in the office of the county treasurer, and one copy at some conspicuous place at the

county seat of said county, at least ten days before the day of sale; and by publishing such notice once in each of two successive weeks, the first publication to be at least fifteen days before the day of sale, in some daily or weekly newspaper eligible to be designated for the publication of the notice and list of delinquent real property, if there be one printed in the county; if there be no such newspaper printed in the county, then in one printed in the county in which the judgment shall have been entered; or if there be none in either, then in one published in some county in the judicial district; provided, that in all cases where answer has been filed as provided by law, or when a republication of the notice and list of delinquent taxes has been made pursuant to the provisions of this act, and judgment shall have been entered, the county auditor shall give the required notice by publication and otherwise, and within thirty days after judgment has been entered he shall proceed to sell all property against which taxes stand charged in such judgment.

The notice herein required may be substantially in the following form:

TAX JUDGMENT SALE.

Pursuant to a real estate tax judgment of the district court in the county of, State of Minnesota, entered the day of, in proceedings for enforcing payment of taxes and penalties upon real estate in the county of remaining delinquent on the first Monday in January, 19...., and of the statutes in such case made and provided, I shall on the day of, at ten o'clock in the forenoon, at in the town or city of and county of, sell the lands which are charged with taxes, penalties and costs in said judgment, and on which taxes shall not have been previously paid.

.....,

Auditor of County.

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

If, for any reason, any tract or parcel of land against which a judgment has been entered shall be omitted from the tax judgment sale or sales of the year in which the same was entered, such judgment shall bear interest at one per cent per month from and after the date thereof, and the county auditor may include such tract or parcel in the next annual tax judgment sale.

Sec. 199. Sale at public vendue—Procedure. The auditor shall sell by public vendue each piece or parcel of land separately, in the order in which they are described in the judgment and by the description therein; but if the sum bid for any piece or parcel shall

not be paid on the day of the sale thereof, he shall again offer such piece or parcel for sale.

In offering the land for sale, he shall state the amount for which each piece or parcel is to be sold and shall then sell the same to the person who shall offer to pay the amount for which the same is to be sold, at the lowest annual rate of interest on such amount; provided, that no bid shall be accepted when the proposed rate of interest exceeds twelve per centum per annum; and, provided, further, that all bids for any fractional part of one per cent shall be a decimal part thereof and not less than one-tenth of one per cent.

If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, at a rate of interest not exceeding twelve per centum per annum, then the auditor shall bid in the same for the state at such an amount. The county treasurer shall attend the sale, and receive all moneys paid thereon.

Sec. 200. Certificate of sale for each parcel—Title. The auditor shall execute to the purchaser of any piece or parcel of land a certificate, which may be substantially in the following form:

I,, auditor of the county of, State of Minnesota, do hereby certify that at the sale of lands, pursuant to the real estate tax judgment entered in the district court in the county of, on the day of 19...., in proceedings to enforce the payment of taxes delinquent upon real estate for the years, for the county of, which sale was held at, in said county of, on the day of, the following described piece or parcel of land, situate in said county of, State of Minnesota, to-wit (insert description) was offered for sale to the bidder who offered to pay the amount for which the same was to be sold at the lowest annual rate of interest on such amount; and at said sale I did sell the said piece or parcel of land to, for the sum of, with interest at per cent per annum on such amount, that being the sum for which the same was to be sold, and such rate of interest being the lowest rate per cent per annum bid on such sum; and he having paid said sum, I do therefore, in consideration thereof, and pursuant to the statute in such case made and provided, convey the said piece or parcel of land, in fee simple, to said, his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand and official seal, this day of, 19....

(L. S.)

County Auditor.

Such certificate, in case the land shall not be redeemed as in this act provided, shall pass to the purchaser an estate therein in fee simple without any other act or deed whatever. Such certificate may be recorded, after the time for redemption shall have expired, as other deeds of real estate, and the record thereof shall

have the same force and effect in all respects as the record of such deeds and shall be evidence in like manner.

If any purchaser shall at said sale purchase more than one piece or parcel, the auditor shall issue to the purchaser a certificate for each piece or parcel so purchased.

Sec. 201. Who may purchase. Any person, except county auditors, county treasurers, clerks of district court, and each of their deputies or clerks, may become the purchaser at such sale. If the owner purchase, the sale shall have the effect to pass to him (subject to redemption as herein provided) every right, title and interest of any and every person, company or corporation, free from any claim, lien or incumbrance, except such right, title, interest, lien or incumbrance as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made; provided, that nothing herein contained shall be so construed as to prevent any such officer or his deputy or clerk from becoming the purchaser, at such sale, of any lands of which he may be the owner, or upon which he may have a lien; provided, further, that no county auditor, county treasurer, clerk of district court, their deputies or clerks, shall act as agent or attorney for the purchasers at such sale.

Sec. 202. Entry in judgment book of disposition of property at sale. The county auditor shall, immediately after such sale, set out in the copy judgment book what disposition was made at said sale of each piece or parcel of land; if sold to an actual purchaser, to whom and for what amount, and for what rate of interest; and if bid in for the state, then so stating; and, upon any assignment or redemption he shall make a note thereof in said copy judgment book, opposite the piece or parcel assigned or redeemed. After he shall have set out in the copy judgment book what disposition was made at the sale of the several pieces or parcels of land, he shall deliver the same to the clerk of the court, who shall forthwith enter on the right hand page of the real estate tax judgment book, opposite the description of each piece or parcel sold, the words, "satisfied by sale;" and opposite each piece or parcel bid in for the state, the words "bid in for the state;" and he shall thereupon re-deliver said copy judgment book to the auditor.

Sec. 203. Taxes for subsequent years on property sold at tax sale. The taxes for subsequent years shall be levied on property so sold or assigned by the state as hereinafter provided; or, if bid in for the state and not assigned, until title thereto shall have become fully vested in the state, in the same manner as though the sale had not been made; and the purchaser or assignee of the state may pay the amount of such taxes, at any time after they become delinquent, and upon paying the same the amount thereof, together with interest at the rate of twelve per centum per annum from the date of payment after they shall have become delinquent, shall be added to and be a part of the money necessary to be paid for redemption from sale. Any such purchaser or assignee paying such taxes shall at the time of the payment thereof, present to the county auditor his tax certificate, and such auditor shall enter the

fact of such payment and the amount thereof with the year or years for which payment is made on his copy of tax judgment book, opposite the tract or parcel embraced in such certificate.

Sec. 204. Property bid in for state—Assignment—Form—Record—Evidence. At any time after any piece or parcel of land shall have been bid in for the state, and before the expiration of the period of redemption, the same not having been redeemed, the county auditor shall assign and convey the same, and all the right of the state in any such piece or parcel of land acquired at such sale, to any person except the county auditor, county treasurer, clerk of district court, and their deputies or clerks, who shall pay the amount for which the same shall have been bid in, with interest at the rate of twelve per cent per annum and the amount of all subsequent delinquent taxes, penalties, costs, and interest at said rate upon the same from and after the time when such taxes became delinquent; and he shall execute to such persons a certificate or conveyance for each piece or parcel, which may be substantially in the following form:

I, _____, auditor of the county of _____, State of Minnesota, do hereby certify that at the sale of lands pursuant to the real estate tax judgment, entered in the district court in the county of _____, on the _____ day of _____, 19—, in proceedings to enforce the payment of taxes delinquent upon real estate for the years _____ for the county of _____, which sale was held at _____, in said county of _____, on the _____ day of _____, the following described piece or parcel of land, situate in said county of _____, State of Minnesota, to-wit, (insert description), was duly offered for sale; and, no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the same was then bid in for the state at such amount, being the sum of _____, and the same still remaining unredeemed, and on this day _____ having paid into the treasury of said county the amount for which the same was so bid in, and all subsequent delinquent taxes, penalties, costs, and interest, amounting in all to _____ dollars; therefore, in consideration thereof, and pursuant to the statute in such cases made and provided, I do hereby assign and convey the said piece or parcel of land in fee simple, with all the right, title, and interest of said state acquired therein at said sale, to the said _____, his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand and official seal this _____ day of _____, 19—.

(L. S.)

County Auditor.

Such certificate, in case the land shall not be redeemed as in this act provided, shall pass to the purchaser or assignee an estate therein in fee simple without any other act or deed whatever.

Such certificate or conveyance may be recorded after the time of redemption shall have expired, as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the records of such deeds; and the same, or the record

thereof, shall be evidence in like manner, and have the same force and effect in all respects as the records of such deeds.

Sec. 205. Certificates as evidence —Ground of avoiding sale—New sale. The certificates issued pursuant to sections 200 and 204 of this act, or the record thereof, shall in all cases be prima facie evidence that the tract or parcel described therein was subject to taxation for the year or years therein stated; that the taxes were not paid at any time before the sale; that the tract or parcel described therein had not been redeemed from the sale; that the tract or parcel described therein had been listed and assessed at the time and in the manner required by law; that the taxes were levied according to law; that the tax judgment, pursuant to which the sale was made, was duly entered and that the court had jurisdiction to enter the same; that all the requirements of law with respect to the sale had been duly complied with and of title in the grantee therein after the time for redemption has expired. Provided, however, that when any certificate issued pursuant to either of said sections embraces university, school or other state lands, the title whereof is in the state, no other or greater interest shall be held to be thereby conveyed than that acquired under the certificate of the land commissioner.

No sale shall be set aside or held invalid by reason of any misrecitals in said certificates, nor unless the party objecting to the same shall prove either that the taxes were paid before judgment was rendered; or that the real estate was exempt from taxation; or that the court rendering the judgment pursuant to which the sale was made had not jurisdiction to render the judgment; or that, after the judgment and before the sale, such judgment had been satisfied; or that notice of sale, as required by this act, was not given, or that the piece or parcel of land was not offered at said sale to the bidder who would pay the amount for which the piece or parcel was to be sold, at the lowest rate of interest as provided in this act; or unless the action in which the validity of the sale shall be called in question be brought, or the defense alleging its invalidity be interposed, within three years after the date of the sale; provided, that every judgment rendered against any tract or parcel of land for a tax which has been paid before the entry thereof, or where the land was exempt from taxation, shall be void; and all sales made under any such judgment, or under a judgment which has been paid, shall be void, and no title or interest in any tract or parcel of land sold under such judgment shall pass or be conveyed to any purchaser at such sale.

In any action brought to set aside or cancel such sale, or in any action in which the validity of such sale may arise, the tax receipt, or the duplicate stub thereof, or any other record of the payment of such tax in the office of the county auditor or county treasurer, shall be prima facie evidence of the payment of such tax; but such payment shall not be established by parol testimony only. In such action the county in which the land is situated, or the state, if the county or state claim any interest in the land sold

under such judgment, may be made parties defendant, in which case the county attorney shall appear for and on behalf of such county or state, or both. An action to set aside and cancel such sale on the ground that the tract or parcel of land was exempt or that the tax was paid before judgment or sale may be commenced at any time.

Sec. 206. If sale invalid—State's lien to pass to purchaser. If any certificate executed by the county auditor to an actual purchaser, pursuant to sections 200 and 204 of this act, shall prove to be invalid for any other cause than that the land on which the taxes for which the sale was made was not subject to taxation, or that such taxes had been paid prior to such sale, or that the assessment or levy was void, the lien of the state on the tract or parcel of land sold, as provided in section 244 of this act shall, without any act whatever, be transferred to and vested in the holder of such certificate, his personal representatives, heirs or assigns. Such certificate holder, or his personal representatives, heirs, or assigns, may collect out of the property covered by such lien by sale thereof by foreclosure, or other proper action or proceeding, the amount of taxes, penalties and interest due thereon at the time of such sale, with interest thereon at the rate of twelve per cent per annum, together with the amount of all subsequent taxes paid, with interest thereon at said rate, and the costs and expenses of his action.

Sec. 207. Wrong name not to affect sale. No sale of any tract or parcel of real property for taxes shall be affected or deemed invalid on account of the use of another name than that of the true owner in describing the ownership of any such tract or parcel in any tax proceeding.

Sec. 208. Endorsement on certificates for record. Before any certificate or assignment provided for in this act shall be recorded, the holder thereof shall present the same to the county auditor, who shall certify thereon that the property therein described still remains unredeemed, and that the period of redemption has expired; and no such certificate or assignment shall be recorded by the register of deeds unless such endorsement is made.

TITLE XII.

REDEMPTION.

Sec. 209. Time within which lands may be redeemed. Any person claiming an interest in any piece or parcel of land sold for taxes at any tax sale, or bid in by the state at any such sale, and held, or assigned by it subsequent to such sale, may redeem the same in the manner in this act provided at any time within three years after the date of such sale.

Sec. 210. Redemption—how made. Any person redeeming any tract or parcel of land from any tax sale shall pay into the treas-

ury of the county, for the use of the funds or person thereto intitled:

First—When right of state not assigned. If such piece or parcel shall have been bid in for the state and the right of the state shall not have been assigned, the amount for which the same was bid in, with interest at twelve per centum per annum and the amount of all delinquent taxes, penalties, costs, and interest thereon at said rate from and after the time when such taxes became delinquent.

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

Third—When sold to a purchaser. If the same shall have been sold to a purchaser, the amount paid by such purchaser with interest at the rate for which such tract or parcel was sold; and, if he shall have paid any delinquent taxes, penalties, costs, or interest accruing subsequent to the sale, the amount so paid by him with interest at the rate of twelve per centum per annum from the day of paying the same, and all unpaid delinquent taxes, interest, costs and penalties accruing subsequent to such sale.

Sec. 211. Payment for redemption same as for current taxes—Duty and liability of auditor. Receipts of money into the county treasury made pursuant to the preceding section shall be governed by the provisions of this act regulating the payment of current taxes, and any such payment shall have the effect to annul the sale. On redemption being made, the county auditor shall enter upon the copy of the tax judgment book and opposite the description of the tract or lot redeemed the word "Redeemed."

If the amount received in payment for the purposes of redemption be less than that required by law, it shall not invalidate the redemption, but the auditor shall be liable for the deficiency to the person entitled thereto.

Sec. 212. By minors—When to be made. Minors, insane persons, idiots, or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within one year after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose brought against the party holding the title under the sale.

Sec. 213. Redemption when owner dies after sale. Whenever the lands of any person shall be sold for taxes, and the owner of such lands dies after such sale and before the expiration of the period of redemption, the executor or administrator of such owner, or any person interested in his estate as heir, devisee, legatee or

creditor, may redeem such lands from any such sale at any time within three years and six months from the date thereof. If such redemption be made by a creditor, the amount paid to effect such redemption, with interest thereon at the rate of seven per cent per annum, shall constitute a valid claim against the estate of the deceased.

Sec. 214. Same—When made by executor, etc. If redemption, as provided in the preceding section, be made by an executor or administrator, he shall at the time of the making thereof produce his letters testamentary or of administration to the county auditor. If made by any other person, he shall make and file with such auditor an affidavit stating under what right or claim such redemption is made.

Sec. 215. Same—Certificate to be given by auditor. Upon redemption being made as provided in section 213, the county auditor shall make and deliver to the person making such redemption a certificate containing the name of the person redeeming, a statement of the claim or right upon which such redemption was made, the amount paid to redeem, a description of the lands redeemed, the date of the sale of such lands, and the year in which the taxes were levied for which such sale was made; which certificate shall have the effect to annul any such sale, and such certificate may be recorded as other deeds of real estate, and with the like effect as evidence or otherwise.

Sec. 216. Redemption undivided part. Any person claiming an undivided part of any tract or parcel of land sold for taxes may redeem the same on paying such proportion of the amount required for redemption by section 210 as the part so claimed by him bears to the whole.

Sec. 217. Redemption undivided share. Any person claiming an undivided share in any tract or parcel of land, out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying such proportion of the amount required for redemption by section 210 as the undivided share claimed by him bears to such undivided part.

Sec. 218. Redemption specific part. Any person claiming a specific part of any tract or parcel of land sold for taxes may redeem his specific part by paying such proportion of the amount required for redemption by section 210 as the value of such specific part bears to the whole.

Sec. 219. Redemption of specific part of undivided part. Any person claiming a specific part of any tract or parcel of land out of which an undivided part shall have been sold for taxes charged on the whole tract or parcel, may redeem his specific part by paying such proportion of the amount required for redemption by section 210 as the value of such specific part bears to the value of the whole of such tract or parcel.

Sec. 220. Auditor to determine proportion to be paid by redeemer. In every case where a partial redemption is asked for pursuant to either of the last two preceding sections, the county au-

ditor, upon application of the redemptioner, after notice to all parties interested, shall determine the proportion to be paid by the party applying to redeem, and his decision shall be final thereon. When personal notice cannot be given to any of such parties, the same may be given by leaving a written notice at his known residence or usual place of business in the county; but if he has no such known residence or place of business in the county and cannot be found in the county, of which facts or either of them the affidavit of the person appointed by the auditor to give the said notice shall be evidence, the auditor shall cause such notice to be published once in each of two consecutive weeks, on the same day in each week, in a legal newspaper, printed and published in the county in which the land is situated, or, if there is no such newspaper printed and published in the county, then the same shall be published in a legal newspaper printed and published in an adjoining county. When notice is given by publication, the last day thereof shall not be less than ten days prior to the day fixed by the auditor for the determination of such matter.

The county auditor shall not be required to proceed under this section until the applicant for redemption shall have paid to the auditor such sum as shall be reasonably sufficient to re-imburse him for expenses necessarily to be incurred by him in giving or publishing said notice and a fee of fifty cents as compensation for his services in connection therewith.

Sec. 221. Redeeming land held jointly. Whenever the land of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion, the person whose lands shall be sold may redeem the same by paying the amount required to redeem; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption money so paid, with lawful interest from the time of such redemption; and such just proportion and interest shall be and remain a lien upon the land of such other person so sold and the same may be collected out of such land by sale thereof by foreclosure or other proper action or proceeding; but no suit shall be brought for the recovery of such proportion or the foreclosure of such lien until after the expiration of the time allowed for redemption.

Sec. 222. County auditor to publish notice of redemption—Forms. Each county auditor shall, at least three months before the expiration of the time for redeeming lands sold for taxes, cause to be published in a legal newspaper, selected by him with reference to its circulation so as fairly to give notice to parties interested, published in his county, if there be such a newspaper, and if there be none, then in such a newspaper printed in an adjoining county, once a week for three successive weeks, a list of all unredeemed lands so sold, specifying each tract or lot, the name of the owner, if known, and if unknown, so stated, and the amount required to redeem the same calculated to the last day of redemption, due on each parcel, lot or tract of land, together with a notice giving the date on which the time for redemption will expire.

The notice so required to be published shall be in substantially the following form:

NOTICE OF EXPIRATION OF PERIOD OF REDEMPTION OF REAL PROPERTY SOLD FOR TAXES.

Notice is hereby given that the period for the redemption of real estate sold for taxes at a tax sale held in the county of _____ in this state, on the _____ day of _____, 19—, will expire on the _____ day of _____, 19—. All the several pieces and parcels of real property, situate in this county, sold at said sale and remaining unredeemed, as appears by the records of my office, are set forth in the following list:

LIST OF UNREDEEMED REAL PROPERTY.

.....

Town of (Smithfield),

Township (Forty), Range (Thirty).

.....

| Name of Owner. | Subdivision of Section. | Section. | Amount Required to Redeem. |
|------------------|--------------------------------------|----------|----------------------------|
| John Jones..... | SE $\frac{1}{4}$ of SW $\frac{1}{4}$ | 10 | \$ cts. 7.15 |
| James Smith..... | Un. half SE $\frac{1}{4}$ | 20 | 6.25 |

As to platted property, the form of heading shall conform to circumstances and be in substantially the following form:

City, Village or Borough of (Fair Haven).

Brown's Addition or Subdivision.

.....

| Name of Owner. | Lot. | Block. | Amount Required to Redeem. |
|-----------------|------|--------|----------------------------|
| John Smith..... | 5 | 6 | \$ cts. 7.15 |

.....

County Auditor.

The same abbreviations may be used, so far as applicable, as provided in section 248 of this act. No error or omission in the publication of said notice and list or failure to make such publication shall extend the period of redemption as to any tract or lot. If, for any reason, the notice is not published at the time above provided, it shall be thereafter published at the earliest opportunity therefor prior to the expiration of the redemption period. Any county auditor who shall fail to cause publication thereof to be made as first above provided, shall forfeit to the county the sum of twenty-five dollars, to be deducted by the county treasurer from the salary of such auditor. Upon failure of the treasurer to make such deduction the county attorney shall commence a suit upon the official bond of the county auditor to recover the same.

Sec. 223. **Publisher's fees.** The publisher of the paper in which the notice and list are published, as provided in section 222 of this act, shall receive for such publication the sum of twenty cents for each description so published, to be paid by the county and charged to each tract or lot of land described in said list.

Sec. 224. **Interest on purchase money.** The amount for which any piece or parcel shall be sold, or bid in for the state, shall bear interest from the date of the sale until redemption at the rate of one per cent per month; and the amount paid by any assignee for the right of the state shall bear interest at the same rate until redemption; provided, that when the land is sold with interest at a rate less than one per centum per month, it shall bear interest until redemption at the same rate. The amount paid by any purchaser or assignee of the state for taxes, penalties, costs, and interest accruing subsequent to the sale or assignment, shall bear interest at the rate of one per centum per month until redemption.

Sec. 225. **Interest when land not embraced in list filed with clerk.** In all cases where any tract or parcel of land upon which taxes are delinquent shall have been omitted for any reason for any year or years from the list filed by the county auditor with the clerk of the district court, as provided in this act, such delinquent taxes shall bear interest at the rate of twelve per centum per annum from and after the first day of April in the year in which the taxes became delinquent.

Sec. 226. **Distribution of interest—Penalties and costs.** All costs accruing on lands sold, and all interest accruing on lands bid in for the state, before redemption or assignment, shall be apportioned to the county revenue fund. All penalties accruing on lands sold at tax sales and on lands bid in for the state shall be apportioned to the several funds respectively, except that of the state, in such proportion as the tax enrollment of each municipality bears to the whole amount of taxes except those for state purposes, any provision in any general or special law heretofore enacted to the contrary notwithstanding.

TITLE XIII.

SALE OF UNREDEEMED LANDS.

Sec. 227. Unredeemed lands the property of the state—county auditor to prepare lists of same. All pieces or parcels of real property bill in for the state under the provisions of this act, and not assigned to purchasers, and not redeemed within three years from the date of the tax sale at which the same were offered for sale, shall become the absolute property of the state, and shall be disposed of in the manner as provided in sections 228 and 229 of this act.

It shall be the duty of the county auditor to annually prepare and transmit to the state auditor, in the month of July, a list of all such lands in his county appearing by the records of his office to which the right of redemption has expired.

Sec. 228. Sale of unredeemed lands. The state auditor shall annually cause a notice to be published in each county in a newspaper printed and published therein, naming one or more days on which he will offer for sale at the county seat of such county all tracts and parcels of lands sold for taxes to which the state has acquired title.

Sec. 229. Same—By whom conducted—terms. The sale provided for in the preceding section shall be conducted by the state auditor, or, if he so directs, by his deputy, or the county auditor. Every tract or parcel shall be sold for cash to the person bidding the highest price offered therefor, which shall not be less than the amount of taxes, penalties, interest and costs charged against it, unless the value thereof, as fairly ascertained, and fixed by the state auditor, shall be less than such amount. The purchaser shall make immediate payment to the county treasurer of the whole amount for which any tract or parcel is sold. The officer conducting such sale shall give to each purchaser at such sale a certificate, in such form as the attorney general shall prescribe, in which shall be set forth the name of the purchaser, the description of the land sold, the purchase price thereof, and the date of sale. The county auditor shall attend such sale and make a record of all sales thereat.

Sec. 230. Purchaser to receive deed—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 thereto, 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 deeds, and shall be evidence in like manner.

Sec. 231. Proceeds of sale—how distributed. The proceeds of the sale of any tract or parcel of land made pursuant to sections 228 and 229 of this act, shall, to the amount of taxes, penalties, interest and costs charged against said tract or parcel, be distributed as provided by this act for the distribution of delinquent taxes, penalties, interest and costs; and the excess, if any, shall be paid into the state treasury for the benefit of the state. If any tract or lot shall be sold for any sum less than the amount of delinquent taxes, penalties, interest and costs, the state taxes shall first be paid and the remainder, if any, shall be divided pro rata between the different funds for which such taxes are levied.

Sec. 232. County treasurer to attend sales and receive moneys. The county treasurer shall attend every sale held pursuant to sections 228 and 229 of this act, and receive all moneys paid on account of any and all sales of lands; and all moneys received shall be disposed of in the manner following: The portion thereof due the state shall be paid to the state treasurer upon the warrant of the state auditor, and the remainder thereof shall be distributed to the funds entitled thereto.

TITLE XIV.

REFUNDMENTS.

Sec. 233. When allowed. Refundment of moneys paid by any purchaser of a tract or parcel of land at a tax sale, or upon assignment of any such tract or parcel bid in for the state at such sale, shall be allowed only in the following cases:

1. When it shall be made to appear that such tract or parcel was exempt from taxation.
2. When it shall be made to appear that the taxes for which the tract or parcel was sold had been paid before sale.
3. When it shall be made to appear that the assessment of the property or the levy of the tax is void.

Sec. 234. When refunded in non-judicial proceedings. When any tract or lot of land shall have been sold for taxes which at the time said taxes were levied was exempt from taxation, the money paid on such sale, with interest thereon at the rate of seven per centum per annum, shall be refunded to the tax purchaser, or his assigns or legal representatives. Such refundment shall be made only upon the certificate of the county auditor that the tract or lot was exempt from taxation at the date of the levy of the taxes, with the approval of the state auditor endorsed thereon. Before such certificate is made, the applicant shall present to the county auditor requisite proofs showing the fact of such exemption. The

amount of such refundment shall be paid out of the county treasury on the order of the county auditor.

Sec. 235. When refunded in judicial proceedings. When any tax sale is declared void by judgment of court, such judgment shall state for what reason such sale is annulled; and in all cases where any sale has been, or hereafter shall be so set aside for either of the grounds stated in section 233 of this act, the money paid by the purchaser at the sale, or by the assignee of the state on taking the assignment certificate, shall, with interest at the rate of seven per centum per annum from the date of such payment, be returned to the purchaser or assignee, or the party holding his right, out of the county treasury, on the order of the county auditor.

Sec. 236. Limitation on right to refund. No refundment shall be allowed unless the right thereto has been determined or the certificate and approval obtained and application therefor has been made within eight years from the date of the tax sale, on account of which such refundment is claimed; provided, however, that no interest shall be allowed on any refundment beyond a period of six months after the right thereto has been determined.

TITLE XV.

ACTIONS AFFECTING TAX JUDGMENTS AND SALES.

Sec. 237. Court to adjudge taxes a lien—when. When in any action or proceeding brought or pending in any court, any tax judgment or tax sale shall be adjudged void for any cause occurring subsequent to the levy of the taxes embraced in such judgment or sale, except in cases where such taxes have been paid, or the property is exempt from taxation, said court shall require proper evidence to be adduced showing the amount paid at the tax sale of the tract or lot in controversy by the holder of the tax certificate or deed, or his assignors, and of all subsequent taxes, penalties, and costs paid by him or them, if any, and shall in its decree or judgment adjudge and determine the amount of taxes and penalties to which said real estate was subject at the time of the entry of such tax judgment, and all subsequent taxes, penalties and costs, if any, that may have been paid thereon by the holder of the tax certificate or his assignors; and shall adjudge and decree a lien against said real estate in favor of the holder of the certificate or deed, for the amount of such taxes and penalties, with interest thereon at the rate of twelve per centum per annum from and after the date of such judgment, sale, or payment, and shall also adjudge and decree that the land so subject to such taxes, penalties and interest, shall be sold under such decree for the purpose of satisfying the lien of such taxes, penalties and interest, together with the costs of such judgment and sale by the sheriff of said county, in the same manner and with like effect as is provided by law for the sale of land on execution.

Provided, however, the court may, notwithstanding any omission of any of the things by law provided in relation to the assessment and levy of the tax embraced in any such tax judgment or sale, decree a sale of the land in controversy, as in this section provided, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that the taxes against such piece or parcel of land have been partially, unfairly or unequally assessed.

Provided, further, that in case the tax judgment or tax sale shall be declared void by reason of the invalidity of the assessment or levy of the taxes embraced therein, and the holder of the tax certificate or deed, or his assignors, shall have paid any subsequent taxes, penalties, or costs, the court shall determine the amount of such taxes, penalties, and costs, so paid, and shall adjudge and decree a lien therefor and a sale under such decree, as in this section provided.

The holder of any tax certificate or tax deed issued upon such tax judgment or tax sale may appear at any such sale and purchase the land embraced therein, and the sheriff shall immediately after said sale execute and deliver to the purchaser a sheriff's certificate of sale, which certificate shall, within twenty days thereafter, be recorded in the office of the register of deeds of said county. Such certificate shall contain:

1. A description of the decree under which such sale was made.
2. A description of the real property sold.
3. The price paid.
4. The date of the sale and the name of the purchaser.
5. The time allowed by law for redemption.

Sec. 238. Redemption by owner from judgment sale. The owner or any person interested in any tract or parcel of real estate sold pursuant to the preceding section, may redeem the same at any time within one year from and after the date of such sale, by paying to the purchaser, or the clerk of the district court for him, the amount for which the same was sold, together with interest thereon at the rate of twelve per centum per annum from and after the date of such sale. On any such redemption being made, it shall be the duty of the purchaser, or of the clerk of the district court, to execute to such redemptioner a certificate of such redemption. In case there is no redemption from such sale within the time aforesaid, title to such real estate shall thereupon become absolutely vested in the purchaser.

Sec. 239. Suit to quiet title. Any person holding a tax certificate issued under sections 200 or 204 of this act, at any time after the time of redemption from the tax sale on which said certificate was issued has expired; and any person holding a deed of unredeemed lands issued pursuant to Title XIII. of this act, may commence a suit in the district court of the county where the lands embraced in any such certificate or deed are situate, to quiet his title thereto, without taking possession of such lands; and any person who claims to have or appears of record to have any inter-

est in or lien upon the same or any part thereof, may be made defendant in such action.

The plaintiff shall at the time of the commencement of such action file a notice of *lis pendens* in the office of the register of deeds of such county, as provided by law. If it shall appear in such action that plaintiff's title is invalid for any cause other than one which renders the taxes embraced in such certificate or deed void, or that such taxes have been paid, or the property was exempt from taxation, such action shall not be dismissed by the court, but the court shall ascertain the amount due the plaintiff for all taxes, interest and penalties embraced in such certificate or deed, and all subsequent taxes, penalties and costs paid by him or his assignors, if any, with interest thereon at the rate of twelve per centum per annum from and after the date of such certificate, deed or payment, and decree a lien against such lands in favor of the holder of such certificate or deed for the amount so ascertained and a sale of such lands for the purpose of satisfying such lien together with the costs of such judgment and sale. All the provisions of section 237 relating to the sales therein provided for shall be applicable to sales authorized by this section; and redemptions from such sales shall be allowed and made as provided in section 238 of this act.

Sec. 240. Plaintiff to pay taxes when bringing action to set aside tax judgment or sale. In any action or proceeding brought to vacate or set aside any tax judgment or tax certificate or to remove a cloud upon any title created by any tax certificate, or to determine an adverse claim based upon any such certificate, when land has been sold to an actual purchaser or the right of the state has been assigned pursuant to the provisions of this act, the plaintiff shall at the time of the commencement of such action or proceeding, except in cases where the sole claim made in the complaint is that the taxes for which the certificate was issued had been paid before sale or that the land described therein was exempt, pay into court for the benefit of the party holding such certificate or assignment the amount for which such land was sold or paid by such party or his assignors for such assignment, and the amount of all subsequent taxes, penalties and costs paid by him or them, if any, with interest on all such amounts at the rate of twelve per centum per annum from the time of such sale or payment until the said money be so paid into court.

If the judgment in any such action or proceeding shall be in favor of the plaintiff, the court shall direct the payment of the money so paid in to be paid to the person holding such certificate or assignment; if in favor of the defendant, it shall direct the return of said money to the plaintiff.

Sec. 241. Action to be dismissed as to minors. If any defendant in any action mentioned in this title was the owner of any of the lands involved in any such action at the time the same was sold for nonpayment of taxes thereon and was a minor, an insane per-

son, an idiot, or person in captivity, or in any country with which the United States is at war and the time of redemption from such sale by such person has not expired, the court shall dismiss such action as to such persons.

TITLE XVI.

MISCELLANEOUS PROVISIONS.

Sec. 242. Taxes paid by mortgagees, or others having liens. Any person who has a lien, by mortgage or note secured thereby, or otherwise, upon any real property on which the taxes have not been paid, may pay such taxes before or after the same become delinquent and the interest, penalty and costs, if any, thereon; and the money so paid shall constitute an additional lien on such land; and with the interest thereon at the rate specified in the mortgage or other instrument shall be collectible with, as a part of, and in the same manner as, the amount secured by the original lien.

Sec. 243. Taxes paid by occupant or tenant. When any tax on any real estate is paid by, or collected of, any occupant or tenant, or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor, or other party in interest, such occupant, tenant, or other person, may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of twelve per centum per annum; or he may retain the same from any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid. Any such person making such payment may file in the office of the register of deeds of the proper county a notice stating therein the amount and date of such payment, and whether paid as occupant, tenant, or otherwise, together with a description of the real estate against which the taxes were charged; and the same shall thereupon be and remain a lien upon such real estate in favor of the person paying the same from and after the filing of said notice until the same is paid. The register of deeds shall record such notice in his book of "Miscellaneous Records." Upon the payment of any such lien, the person filing such notice shall satisfy the same of record.

Sec. 244. Lien of taxes—grantor and grantee. The taxes assessed upon real property shall be a perpetual lien thereon and on all structures and standing timber thereon, and on all minerals therein, from and including the first day of April in the year in which they are levied, until the same are paid; but as between grantor and grantee such lien shall not attach until the first day of January of the next year thereafter.

Sec. 245. Deed not to be recorded without auditor's certificate—exceptions. When any deed or other instrument conveying any real property or plat of any town site or addition thereto, is presented to the county auditor for transfer, he shall ascertain from the books

and records in his office if there be taxes due upon the land described therein, or if it has been sold for taxes; and if there are taxes due, he shall certify to the same; and upon the payment of such taxes, or in case no taxes are due, he shall transfer the same upon the books of his office and note upon every deed of real property so transferred, over his official signature, the words "taxes paid and transfer entered;" or, if the land described has been sold or assigned to an actual purchaser for taxes, the words "paid by sale of land described within;" and unless such statement is made upon such deed or other instrument, the register of deeds shall refuse to receive or record the same. The auditor shall be entitled to a fee of ten cents for every such transfer to be paid by the person presenting such instrument.

A violation of the provisions of this section by the register of deeds shall be deemed a misdemeanor, and, upon conviction thereof, he shall be punished by a fine of not less than one hundred dollars, nor exceeding one thousand dollars, and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; *provided*, that sheriffs' or referees' certificates of sales on executions, decrees of court, or foreclosures of mortgages, and a copy of any town or village plat, in case the original plat of such town or village, filed in the office of the register of deeds, shall have been lost or destroyed, may be recorded by the register of deeds without any such certificate from the county auditor.

Sec. 246. Division of valuation where part of a tract is transferred.

When the transfer of any land or town lot, or any part thereof, becomes necessary by reason of sale or a conveyance by deed, and such conveyance is of less than the whole tract or lot, or part thereof, as charged in the tax lists, said county auditor shall transfer the same whenever the seller and purchaser agree in a writing, signed by them, or personally appear before the auditor, and agree upon the amount of the assessed valuation to be transferred therewith; but if the seller and purchaser do not agree as to the amount of such valuation to be transferred, the auditor shall make such division of the assessed valuation as may appear to him just.

If the county auditor is satisfied that the proportion of the valuation agreed by the parties in interest to be transferred, is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudulently to evade the payment of any taxes which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and when any such transfer has already been procured by fraudulent agreement, the same shall be canceled by the auditor, and the land or lot so transferred shall be charged with taxes in the same manner as though said transfer had not been made.

Sec. 247. Irregular tracts of lands to be platted into lots, if required. In all cases when any tract or lot of land is divided in parcels of irregular shape that cannot be described except by metes

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

Sec. 248. Abbreviations in describing lands, etc. It shall be sufficient to describe lands, in all proceedings relative to assessing, advertising, or selling the same for taxes, by initial letters, abbreviations and figures, to designate the township, range, sections or parts of a section, lots or parts of a lot, and also the number of the lots and blocks, and dollars and cents; but the abbreviation "do" or the characters (") commonly known as ditto marks, shall not be used.

Sec. 249. Debts of municipalities void—when. It shall be unlawful for the corporate authorities of any county, township, city, town or village, or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt, or incur any pecuniary liability for the payment of either the principal or interest for which, during the current year or any subsequent year, it will be necessary to levy on the taxable property of such county, township, city, town, village, or school district, a higher rate of tax than the maximum rate prescribed by this act; and every contract made in contravention of the provisions of this section shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to be made; but every commissioner, officer, agent, supervisor, or member of any municipal corporation, that makes or participates in making, or authorizes the making of any such contract, shall be held individually liable for its performance; and every commissioner, supervisor, director, or member of any city, town or village council, or other officer or agent of any such municipal corporation, present when any such unlawful contract was made or authorized to be made, shall be deemed to have made, participated in making, or to have authorized the making of the

same, as the case may be, unless, if present, he dissented therefrom, and entered or caused to be entered such dissent on the records of such municipal corporation, or of its councils, supervisors, or other office.

Sec. 250. Neglect of duty by officers, or connivance at evasion of law—penalty—removal. Every officer who is charged with the performance of any duty under the provisions of this act, who in any case, where punishment is not otherwise expressly provided for in this act, refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted or omitted, or the valuation thereof is entered on the tax list at less than its true value, shall, for every such neglect, refusal, consent or connivance, be guilty of a misdemeanor, and on conviction thereof shall be subject to a fine of not less than two hundred, nor more than one thousand, dollars; and in addition thereto he shall be subject to suspension and removal by the governor, in the manner provided by law for the suspension and removal of county officers.

Sec. 251. Disposition of fines and penalties. All moneys collected for any fines or penalties imposed under the provisions of this act, shall, except as otherwise provided therein, be paid into the county revenue fund.

Sec. 252. Duty of county attorney. It shall be the duty of the county attorney in every county in this state, to advise county and township officers and the County Board of Review upon every question submitted to him relating to their duties in the assessment of property or the levy or collection of taxes. He shall, when called upon, assist them in any and all proceedings to compel the attendance of taxpayers, or witnesses, before any court, board or officer, in the matter of the assessment of property or the collection of taxes. He shall commence and prosecute such actions or proceedings in his county as may be necessary to the proper enforcement of the provisions of this act; and to that end he shall appear for and defend the state in any action wherein an assessment of property, or levy of taxes, or the validity of a tax judgment is brought in question, relating to property situate or assessed within his county; but nothing herein contained shall be construed to restrict the right of the attorney general to appear in any such action whenever he may deem the public interest to require it.

Sec. 253. Railroad lands—liability to taxation. Whenever any railroad company, to which lands have been granted to aid in the building of its line of road in the territory or State of Minnesota, and which lands have been by law exempted from taxation until leased, contracted, or sold by said company, has sold, assigned, transferred, or disposed of, or shall sell, assign, transfer, or dispose of, any estate, right, title, or interest therein or thereto, the right, title, estate, or interest of such purchaser, assignee, or hold-

er, by whatsoever mode or in whatsoever form such sale, transfer, or assignment is or may have been made, shall become and be taxable, and shall be assessed and taxed as other real property in this state; and the taxes of such right, title, interest, or estate shall be collected and enforced as taxes on other real property; and the purchaser at any such tax sale of such right, title, interest, or estate, or the successor in interest of such purchaser, shall acquire, take, hold, or be subrogated to all the right, title, interest, or estate of the person holding the same under or from the railroad company; and said purchaser at such sale, or his successor in interest, shall have the right to do any and every act or thing which the said person holding such right, title, interest, or estate under such railroad company might, could, or should do or have done in order to be entitled to a perfect title or deed of such lands; and, on performance, the purchaser at such tax sale, or his successor in interest, shall, after expiration of time of redemption, be entitled to a deed of such lands from the railroad company holding the legal title thereto; provided, always, that the right of redemption from such tax sale shall exist as in other cases of the purchase of real property at tax sales; and provided, further, that the purchaser of any such lands, or of such right, title, interest, or estate in such lands sold for delinquent taxes, or as forfeited to the state, shall acquire, and shall only acquire, by virtue of such purchase, such rights and interests as belong to the person holding or claiming under the railroad company, as aforesaid, and the right to be substituted in the place of such holder or claimant under the railroad company, and as the assignee of all his interests and rights to all intents and purposes.

And upon the production to the proper officer of such railroad company, of the tax certificate obtained on the purchase at such tax sale, in case such lands have not been redeemed, such purchaser at such tax sale, or his successor in interest, shall have the right to make any payment of principal or interest due or to grow due, if any, upon or on account of such lands to said railroad company as the assignee of the rights of the person purchasing, holding, or claiming under the said railroad company prior to the redemption of such lands. In case the holder under the railroad company shall fail to redeem such lands within the time allowed by law, and at the same time also pay to the treasurer of the county in which such lands lie, for the use of the holder of such tax certificate, all payments of principal and interest, if any, by him made to said railroad company on account of said lands, with interest from the time they were so made, at twelve per cent per annum, then the holder or owner of such tax certificate, upon the receipt of his tax deed thereupon duly given, and the filing of a certified copy of the same with the land commissioner or proper officer of such railroad company, shall be entitled to receive, and the said land commissioner or proper officer of such railroad company shall execute to him, such a deed or contract, on such evidence of sale or right to said lands as was issued to the original purchaser, hold-

er, or claimant under the railroad company, or as such original claimant would be entitled to, and with the like force and effect as such original contract or evidence of sale or right to such lands, and in lieu of such original contract, certificate, or evidence of sale.

Sec. 254. Same—Where stock, etc., represents interest in lands. Whenever any special stock or land stock, or any other writing or instrument whatever, is or has been issued by any railroad company to any person or persons, with a view or intention to thereby grant or transfer or secure to the person to whom such stock or instrument is issued or delivered, any interest, right, title, or estate in or to any lands held by such railroad company, the right, title, interest, or estate of such person holding such special stock, stock bond, writing, or instrument in or to the lands to which such stock or writing is applicable or refers, shall be held and considered within the purview of this act subject to taxation, and shall be taxable and taxed as aforesaid.

Sec. 255. Purchaser can recover amount paid, when. In case the tax title of the purchaser at any tax sale of any such lands or interest on lands as are referred to in section 253 of this act, or of his successor in interest, shall be held or adjudged invalid for any reason, then, in such case, the holder of such tax certificate shall be entitled to recover from the treasurer of the county to which such taxes were paid the amount of such taxes so paid, with interest thereon at the rate of seven per cent per annum.

Sec. 256. Assessment of such lands—burden of proof—duty of objecter—perjury. In the assessment or taxation of lands referred to in section 253 of this act, or of any interest or estate in such lands, or in any of the proceedings to collect or enforce such tax, it shall not be necessary to state the name or names of the owner or owners of such lands of such interest so assessed, but it shall in all such proceedings be sufficient to describe or refer to such owner or owners as "unknown," and in all such proceedings to assess or tax or to enforce any tax on or against such lands or interest, the burden of proof shall be on the person claiming or alleging that such tax is invalid, or who sets up any defense against the same, to allege in his answer, and to show on trial the particular facts establishing such invalidity or illegality. And if it is alleged that such lands or interests are exempt from taxation for any reason, it shall be incumbent on and necessary for the person attempting to establish such defense to allege and to affirmatively prove the same; and if there be any facts within the knowledge of the person setting up such defense, showing, or tending to show, or which might show, that such lands, or any estate or interest therein, have been bargained, sold, or transferred to any person whose property is not by the laws of this state exempt from taxation, it shall be incumbent on such person to set up and prove such facts particularly. The answer in every such case shall be duly verified, and if any person verifying such answer shall willfully misstate any matter or facts in the verification, he shall be guilty of the crime of perjury, and the judge or court before

whom such action or proceeding is tried shall have the power to require the answer or verification to be made more full and particular, and in default thereof to strike out the same. On any such trial the burden shall be on any person claiming that such lands or interest are exempt from taxation to show that the railroad company, to which they were granted, had not sold or transferred such lands, or any estate or interest therein, at or prior to the time when such tax was levied or assessed. The assessment or levy of such tax shall be prima facie evidence of its legality, and that the lands or interests taxed were subject to taxation at the time such tax was levied.

Sec. 257. Duty of county officers pending litigation. It shall be proper for the proper assessing officer or officers of any county or sub-division of the state in which any of the lands referred to in section 253 of this act lie, for the year one thousand nine hundred and two, and any subsequent year during which the question of the taxability of such lands or interests may be in litigation, in fixing the rate for assessment or taxation in such county or sub-division of the state, to fix such rates so as to raise the sum required to be raised for any general or special purpose, as if the lands or interests referred to in said section were not taxed for such year, and so that the tax or sum levied on the other property of such county or sub-division of the state shall be sufficient to meet all sums to be raised by tax for that year; provided, that the lands or interests in said section referred to shall be assessed and taxed as other property in such county or sub-division of the state, and shall be collected as such taxes.

Sec. 258. Railroad companies—report to state auditor. If any railroad company shall issue any land stock or special stock, bond, or any certificate, contract, or writing, conveying, granting, or giving to the holder thereof any interest, estate, right, or title in or to any lands held by said company, and exempted from taxation, as aforesaid, and shall fail within sixty days after the issuance of such certificate, stock, contract, or writing, to report the same to the land commissioner or auditor of this state, or if having heretofore issued such contract, special stock, bond, certificate, or writing, shall fail to report the same within sixty days after the passage of this act, the failure so to report shall be held to be and to operate as a forfeiture by said company of its corporate franchises and privileges, and the attorney general of the state shall at once proceed against said company to have its charter and franchises declared forfeited.

Sec. 259. Duty of attorney general. The attorney general shall decide any question submitted to him that may arise in reference to the construction of this act, and such decision shall govern and control the action of every executive or administrative officer or body charged with any duty under this act in the matter so submitted, until such question is otherwise determined by the judgment or decree of a court of competent jurisdiction.

Sec. 260. Registry of municipal debts—copy for state auditor. Whenever any county, city, village or township, shall have incurred or created a debt, or shall hereafter incur or create a debt, under the provisions of any law of this state, to aid in the construction of any railway or railways, the county, city, village or township clerk, or other proper officer, upon the issuing of the bonds in payment of said debt, shall make a registration thereof in a book to be kept for that purpose, showing the date, amount, number, maturity and rate of interest of each of said bonds, and to what railroad the same was given, and shall immediately transmit a true and correct copy of such registration so made to the office of the state auditor, to be by him entered in a book to be kept for that purpose; and each of said officers shall receive a fee of fifty cents from the holder of such bond for so registering the same.

Sec. 261. Municipal bonds—tax to pay interest. When the bonds of any county, city, village, or township shall be so registered, the state auditor shall annually ascertain the amount of interest for the current year due and accrued and to accrue upon such bonds, and shall make a certificate showing such amount, and transmit the same to the county auditor at the same time with other taxes to be levied for that year, and the county auditor, from the basis of the valuation of property in such county, city, village or township, shall estimate and determine the rate per centum on the valuation of property within said county, city, village, or township voting bonds, requisite to meet and satisfy the amount of interest due and to become due for that year, together with the ordinary cost to the state of collection and disbursement of the same, and the amount so certified by the state auditor, and the cost of collecting the same, shall thereupon be deemed added to and a part of the per centum or amount which is or may be levied as provided by law for purposes of state revenue, and shall be so treated by any and all officers or authority in determining levies and making estimates, duplicates, and books for the collection of taxes, and the said tax shall be collected with the state revenue, and all law relating to the collection of state revenue shall apply thereto, except as herein otherwise provided.

Sec. 262. State not liable for such debts. Nothing herein contained shall be construed to create any liability on the part of the state for the payment of any part of the principal or interest on any of said bonds.

Sec. 263. Coupons—payment. The taxes so collected shall be paid by the county treasurer upon the warrant of the county auditor, issued to the person or persons presenting coupons therefor, if authorized to receive the same. Each coupon so redeemed shall be effectually canceled by the said county auditor, and by him transmitted to the city, village, township, or other organization issuing the same, and the proper officer of such organization shall return to said auditor his proper receipt for the amount of the coupons so remitted, which receipt said auditor shall file in his

office as his sufficient authority for auditing the claim and issuing his said warrant.

Sec. 264. Public and railroad lands to be certified for taxation. On or before the first day of March in each year the auditor of state shall obtain lists of all government, state and railroad lands becoming taxable, and he shall compile from such lists, and from the records of sales of state land, complete lists of the same, and on or before the fifteenth day of March in each year he shall certify the same for taxation to the auditors of the counties in which said lands may be situated. He shall also at the same time obtain lists of lands reverting to the railroad companies each year, by reason of the forfeiture of contracts, and certify the same to the respective county auditors for cancellation of taxes; and it shall be the duty of the railroad companies to report such sales and forfeitures on or before the first day of March in each year to the auditor of state; provided, that all forfeited lands not so reported shall be held for all taxes accruing thereon.

Sec. 265. Tax not invalid for want of form. No assessment of property for the purposes of taxation and no general or special tax authorized by law, levied upon any property in this state, by any officer or board authorized to make and levy the same, shall be held invalid for want of any matter of form in any proceeding not affecting the merits of the case and which does not prejudice the rights of the party objecting thereto. And all such assessments and levies shall be presumed to be legal until the contrary is affirmatively shown and no sale of real estate for the nonpayment of taxes thereon shall be rendered invalid by showing that any certificate, return, affidavit or other paper required to be made and filed in any office is not found in such office, but until the contrary is shown, the presumption shall be in all cases, that such certificate, return, affidavit or other paper was properly made and filed in the proper office.

Sec. 266. Auditor to distribute funds. The county auditor shall, on the last day of February, May and October in each year make distribution of all undistributed funds remaining in the treasury, apportioning the same, as provided by law and placing the same to the credit of the state, town, city or school district, and each county fund; and the county auditor shall, within twenty days after such distribution is completed, make report to the state auditor of such distribution on such form as the state auditor may prescribe; and the county auditor shall issue his warrant for the payment of any moneys remaining in the county treasury to the credit of the state, town, city, village or school districts on application of the persons entitled to receive the same; provided, that the county auditor may, at intervals between the dates above named, make a partial distribution of such undistributed funds when any such distribution is required for the interest of the county, town, city or school district.

Sec. 267. Auditor to keep accounts with state and other political bodies. The county auditor shall keep accounts with the State of

Minnesota, the county, and each of the funds of said county, and each township, city, incorporated village and school district in the county; and with the county treasurer, making daily entries of all charges and credits to said county treasurer; and immediately after each distribution of taxes, he shall credit the collections to the proper funds; and upon application of any town, city, village or school district treasurer, the auditor shall give a warrant on the county treasurer for the amount due such township, city, village or school district; and shall charge them respectively with the amount of such warrant; provided, the person applying for such warrant shall deposit with the county auditor a certificate from the clerk or recorder of the township, city, village or school district, stating that such person is treasurer of such township, city, village or school district, duly elected or appointed, and that he has given bond according to law.

Sec. 268. Re-payment of refundment and other moneys. Whenever it shall be made to appear to the county auditor that the taxes upon any tract or parcel of land have been twice paid to the county treasurer, and in all cases where any tax purchaser is entitled under the provisions of this act to refundment or to any money paid into the county treasury for redemption from any tax sale, the county auditor is hereby authorized to draw his warrant upon the county treasurer in favor of the party entitled to any such moneys for the amount to which such party is so entitled. All moneys so paid shall be charged to the proper fund or funds.

Sec. 269. Structures, timber or minerals not to be removed—when, authority of state auditor. No structures, standing timber or minerals on which a lien for taxes is attached shall be removed from any tract of land until all the taxes assessed against such tract and due and payable shall have been fully paid and discharged; and whenever the state auditor has reason to believe that any structure, timber or minerals to which such lien is attached, will be removed from such tract before the taxes which have been assessed against the same, and which are due and payable shall have been paid, he may direct the county attorney of the county in which such tract is situated to bring suit in the name of the state to enjoin any and all persons from removing any such structure, timber or minerals therefrom, as the case may be, until such taxes are paid. No bond or undertaking shall be required of the state or county in any such injunction suit.

Sec. 270. Seizure of structures, timber and minerals. Any structure, timber or minerals removed from any parcel of land subject to a lien for taxes as provided in section 244 of this act, or so much thereof as may be necessary, may be seized by the state auditor, or by any person authorized by him in writing, and sold in the manner provided for the sale of personal property in satisfaction of taxes. All moneys received from any such sale in excess of the amount necessary to satisfy such taxes, and the costs and expenses incurred in making such seizure and sale shall be returned to the owner of the structure, timber or minerals so seized and sold, if

known, and if unknown, the same shall be deposited in the county treasury subject to the right of the owner thereof.

Sec. 271. Penalty for removal of structures, timber or minerals. Any person who shall remove or attempt to remove any structure, timber or minerals from any parcel of land, subject to a lien for taxes, as in this act provided, after such taxes become due and payable, and before the same have been fully paid and discharged, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 272. Auditor to examine assessment books and have return corrected. The county auditor shall carefully examine the assessment books when returned to him by the assessors, and if he discovers that the assessment of any property has been omitted, he shall enter the same upon the proper list and forthwith notify the assessor making such omission, who shall immediately proceed to ascertain the value thereof and correct his original return; in case of the inability or neglect of the assessor to perform this duty, the auditor shall ascertain the value of such property and make the necessary corrections.

Sec. 273. Statute of limitations not to apply. The right to assess omitted property for any year or years or to reassess taxes upon property prevented from being collected for any year or years, either as authorized and directed by section 61 of this act, or otherwise, shall not be defeated by reason of any limitation contained in any statute of this state; but, except as otherwise provided in this act, there shall be no limitation of time upon the right of the state to provide for and enforce the assessment and collection of taxes upon all property subject to taxation.

Sec. 274. Lien of tax judgment, how long. Every tax judgment entered under the provisions of this act shall be a lien, and shall operate to continue the lien of the taxes embraced therein, upon the tract or parcel of land covered or intended to be covered thereby, until such judgment and taxes are paid in full, anything in any other statute of this state to the contrary notwithstanding.

Sec. 275. Assessing officers may enter dwellings and buildings. Any officer authorized by this act to assess property for the purposes of taxation may, whenever necessary to the proper performance of the duties enjoined upon him in assessing property, enter any dwelling house, building or structure and view the same and the property therein.

Sec. 276. Expenses of re-assessment, how paid. Whenever a re-assessment is made pursuant to the provisions of this act, the expenses thereof shall be audited and allowed by the board by whom such reassessment was ordered and paid out of the county treasury of the proper county upon the warrant of the county auditor. In case the aggregate valuation of taxable property as determined by such reassessment shall be ten per centum or more in excess of the aggregate valuation thereof as fixed by the original assessment,

the compensation so paid by the county to the officer or officers by whom such reassessment is made shall be charged to the county, city, or township, as the case may be, in which such reassessment is made and be deducted by the county auditor from the next moneys coming into the county treasury apportionable to such county, city, or township.

Sec. 277. Suspension and removal from office. The governor may remove from office any tax commissioner, county supervisor of assessment, or assessor when it is made to appear to him by competent evidence that either of such officers has been guilty of malfeasance or nonfeasance in the performance of his official duties, first giving to such officer a copy of the charges against him and an opportunity to be heard in his defense. He may suspend any such officer against whom such charges have been preferred pending his investigation thereof when, in his opinion, the public interest may require. The provisions of law applicable to the removal from office of a county auditor in force at the time when such charges are preferred shall apply to and govern removals from office under this section.

TITLE XVII.

INHERITANCES, DEVISES, BEQUESTS, LEGACIES AND GIFTS.

Sec. 278. Subject to tax. A tax shall be and is hereby imposed upon all inheritances, devises, bequests, legacies and gifts of every kind and description, the value whereof exceeds one thousand dollars, and upon such excess only.

Sec. 279. Rates of tax. When such inheritance, devise, bequest, legacy or gift is for the use or benefit of a father, mother, husband, wife, child, brother, sister, wife or widow of a son, or the husband of a daughter, or any child, adopted as such in conformity with the laws of this state, of the decedent or donor, or to any person to whom such decedent or donor for not less than ten years prior to the taking effect of such inheritance, devise, bequest, legacy, or gift, stood in the mutually acknowledged relation of parent, or to any lineal descendant of such decedent or donor born in lawful wedlock, then such tax shall be at the rate of one per centum, and in all other cases at the rate of five per centum upon the full and true value of such inheritance, devise, bequest, legacy or gift, to be computed upon the valuation thereof in excess of one thousand dollars.

Sec. 280. Tax, when due. All taxes imposed by this title shall take effect at and upon the death of the decedent or donor and shall be due and payable at the expiration of six months from such death except as otherwise provided in this title; 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.

Sec. 281. Payment, when made—duty of administrator. 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 title, 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 title, to any person until he shall have collected the tax thereon.

Sec. 282. Tax, to whom paid—duplicate receipts—duty of state auditor. The tax imposed by this title 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 title, unless 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 title, 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.

Sec. 283. Tax a lien. Every tax imposed by this title 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.

Sec. 284. Interest. If such tax is not paid within six months 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.

Sec. 285. Power to sell. 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 title, in the same manner as he might be entitled by law to do for the payment of the debts of a testator or intestate.

Sec. 286. Duty of heir or devisee when legacy payable out of property—legacy for limited period, duty of administrator. 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 297 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.

Sec. 287. Erroneous payment—refundment. When any tax imposed by this title 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.

Sec. 288. Tax when foreign executor assigns stock, 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.

Sec. 289. Depositories of securities not to deliver same until notice given to county treasurer—penalty. 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 at least five days prior to the said transfer. And it shall be lawful for the said 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 representative 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 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 said security or assets, pursuant to the provisions of this title.

Sec. 290. Duty of probate court—notice to treasurer. 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, and 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.

Sec. 291. Appointment of 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 title.

Sec. 292. Immediate appraisal—when. Every inheritance, devise, bequest, legacy or gift upon which a tax is imposed under this title shall be appraised at its full and true value immediately upon the death of the 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 when such value first becomes ascertainable.

Sec. 293. Appraisers to give notice—witnesses. The appraiser appointed under the provisions of this title 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 to 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 to 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 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 those allowed witnesses or sheriffs for similar services in courts of record. The compensation and fees claimed by any person for services performed under this title shall be approved by the judge of probate, who shall certify the amount thereof, as so approved, 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.

Sec. 294. Report of appraisers to be filed—where. 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 full and true value of all such estates 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.

Sec. 295. Probate court to give notice—when. 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 title and of the tax to which it is liable, to all parties known to be interested therein, including the state auditor and county treasurer.

Sec. 296. Re-appraisal—when. Within thirty days after the assessment and determination by the probate court of any tax imposed by this title, the state auditor, county treasurer, or any person interested therein, may file with the 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 objection 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.

Sec. 297. Tax due and unpaid—duty of treasurer—citation. If the treasurer of any county shall have reason to believe that any tax is due and unpaid under this title, after the refusal or neglect of the persons liable therefor to pay the same, he shall notify the county attorney of his county in writing 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 the 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 title 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 title in said probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax, and it shall be the duty of the county attorney of the proper county to sue for in the name of the state and enforce the collection of such tax, and all taxes so collected shall be forthwith paid into the county treasury. It shall be the duty of said county attorney to appear for and represent the county treasurer on the hearing of such citation.

Sec. 298. State auditor to furnish books and forms of reports—entries by court. 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, 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 the data contained in the

papers filed on any 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 title, 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 to each probate court forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book.

Sec. 299. Reports by judge of probate and register of deeds. 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.

TITLE XVIII.

REPEALING, SAVING, APPROPRIATION AND SPECIAL PROVISIONS.

Sec. 300. Appropriation applicable to inheritances, etc. For the purpose of providing for the refundment of any moneys or the payment of any expenses of the auditor of state authorized by Title XVII. of this act, there is hereby annually appropriated out of the general revenue fund in the state treasury the sum of two thousand dollars.

Sec. 301. Appropriation for Tax Commission and State Board of Review. For the payment of the salaries of the three members of the Tax Commission and the salaries of the secretary, clerks, assistants and necessary and lawful expenses of the Tax Commission; and for the payment of the necessary and lawful expenses of the State Board of Review, there is hereby annually appropriated out of the revenue fund in the state treasury the sum

of sixteen thousand dollars; and the appropriation hereby made shall be and become available immediately upon the organization of the Tax Commission; and for the payment of such necessary and lawful expenses of the Tax Commission as may be necessary and allowed by the State Board of Review in order that this act be properly enforced, there is hereby further appropriated out of the same fund for the fiscal year beginning August first, 1902, the sum of five thousand dollars.

Sec. 302. Taxes becoming delinquent in 1902. All proceedings for the enforcement of taxes charged against any piece or parcel of land and becoming delinquent in 1902 shall, prior to and including the entry of judgment against such piece or parcel, be governed by the law in force at and prior to the time when this act takes effect; and subsequent to the entry of such judgment this act shall apply to such taxes.

Sec. 303. Collection of delinquent personal property taxes in 1902. On or before the tenth day of March, 1902, the county treasurer shall make or cause to be made a list of the names of all delinquent personal property taxpayers of his county becoming delinquent in 1902, in the manner provided in section 158 of this act; and such list shall have the same force and effect as if made by the county auditor; and all the provisions of this act applicable to the collection of delinquent personal property taxes subsequent to the making of the list as provided in the said section, shall apply to said taxes and the collection thereof. The list so made shall be certified to by the treasurer substantially in the form as provided in said section, and a return thereof shall be made to the auditor as is provided in section 167.

Sec. 304. Taxes levied in the year 1901. All taxes levied in the year 1901 shall become delinquent at the time prescribed in this act, and all proceedings to enforce the payment or collection thereof shall be had under the provisions of this act, except as otherwise provided in this title.

Sec. 305. Auditor to have additional clerks in 1902. The board of county commissioners in any county in this state may authorize the county auditor to employ such additional clerical assistants during the year 1902 as may be necessary to enable him to perform the additional duties imposed upon him by this act. The compensation of such assistants shall be fixed by the said board at a session thereof, and shall be paid by the county in the same manner as is provided by law for the payment of the salary of county auditors.

Sec. 306. When this act shall take effect in the payment of taxes. Until on and after the first day of August, 1902, the payment of taxes shall be governed by the law in force at the time when this law takes effect. At the close of business on the 31st day of July 1902, the county treasurer shall return to the county auditor the several tax lists in his hands for the year 1901, having compared the same with his duplicate receipts on file in the auditor's office and written opposite the amount of each tax as received for, the

words "paid" or "one half paid" as the case may be, and the number of the treasurer's receipt given in discharge of such tax, and thereafter all such taxes so remaining unpaid upon said lists shall be paid and receipted for in accordance with the provisions of this act.

Sec. 307. Repeal. Chapter one of the general laws of one thousand eight hundred and seventy-eight, and all acts amendatory thereof; also sections 1,508 to 1,697, both inclusive, of General Statutes, 1894, except sections 1,644 to 1,650, both inclusive, and sections 1,667 to 1,681, both inclusive, and all acts amendatory of said sections 1,508 to 1,697, both inclusive, saving the sections above excepted therefrom; chapter two hundred twenty-four of the General Laws of one thousand eight hundred ninety-five; chapters one hundred thirty-four, one hundred fifty-nine, one hundred sixty, two hundred twenty, three hundred nine, and three hundred fourteen of the General Laws of one thousand eight hundred ninety-seven; chapters one hundred ninety, one hundred thirty-five, and two hundred thirty-five of the General Laws of one thousand eight hundred ninety-nine; and chapter two hundred fifty-five of the General Laws of one thousand nine hundred and one, and all acts amendatory of each of said chapters; and all acts inconsistent with the provisions of this act, are hereby severally repealed, except that nothing in this act contained shall be deemed or held to affect any right accrued, duty imposed, or liability, penalty, forfeiture or obligation incurred under any law existing at and prior to the time when this act shall take effect, but such last named law is hereby continued in force as to every such right, liability, penalty, forfeiture or obligation with the same effect as if this act shall not have been passed; provided, however, nothing in this act contained shall be deemed to repeal chapter thirty-one of the General Laws of one thousand eight hundred ninety-nine, or chapters one hundred eighty-seven and two hundred sixty-four of the General Laws of one thousand nine hundred and one, or chapter one hundred seventy-five of the General Laws of one thousand eight hundred ninety-five, or chapter one hundred fifty of the General Laws of one thousand nine hundred and one.

Sec. 308. When to take effect. This act shall take effect and be in force from and after its passage.

CONSTITUTIONAL AMENDMENT.

A Bill for an Act proposing amendments to sections one (1), two (2), three (3) and four (4) of article nine (9) of the Constitution of the State of Minnesota, relating to taxation.

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

Section 1. The following amendments to sections one (1), two (2), three (3) and four (4) of article nine (9) of the Constitution of the State of Minnesota are hereby severally proposed to the people of the state for their approval or rejection, that is to say:

That section one (1) of said article nine (9) be so amended that the same shall read as follows:

“Sec. 1. The power of taxation shall never be surrendered or suspended.”

That section two (2) of said article nine (9) be so amended that the same shall read as follows:

“Sec. 2. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the taxes; and shall be levied and collected under general laws for public purposes.”

That section three (3) of said article nine (9) be so amended that the same shall read as follows:

“Sec. 3. The legislature may by general laws provide for the apportionment to counties, of the amount of revenue to be raised therein for state purposes, and may in any law providing for such apportionment authorize counties to select the subjects upon which revenue is to be raised therein for state or county purposes, and to apportion such revenue among the cities, villages and townships of the county.”

That section four (4) of said article (9) be so amended that the same shall read as follows:

“Sec. 4. The legislature may by a general law or special act authorize municipal corporations to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, or both, without regard to a cash valuation, and in such manner as the legislature may prescribe.”

Sec. 2. Each of the amendments proposed in section one (1) of this act shall be submitted to the people for their approval or rejection at the general election for the year one thousand nine hundred and two, and the qualified voters of the state in their respect-

ive districts may at such election vote for or against each of said amendments by ballot, and the returns as to each thereof shall be made and certified within the time, and such votes canvassed, and the result thereof declared, in the manner provided by law with reference to the election of state officers, and if it shall appear thereupon that a majority of all the voters voting at such election for or against any one of the said proposed amendments to the Constitution, as provided in the next section, have voted in favor of the same, then the governor shall make proclamation thereof, and such amendment shall take effect and be in force as a part of the Constitution.

Sec. 3. The ballots used at said election on the first of said proposed amendments shall have printed thereon: "Amendment to section one (1) of article nine (9) of the Constitution. Yes—No."

The ballots used at said election on the second of said proposed amendments shall have printed thereon: "Amendment to section two (2) of article nine (9) of the Constitution. Yes—No."

The ballots used at said election on the third of said proposed amendments shall have printed thereon: "Amendment to section three (3) of article nine (9) of the Constitution. Yes—No."

The ballots used at said election on the fourth of said proposed amendments shall have printed thereon: "Amendment to section four (4) of article nine (9) of the Constitution. Yes—No."

And each elector voting on any one of said proposed amendments shall place a cross-mark thus (X) in a space to be left opposite either the word "Yes" or the word "No," and shall be counted for or against the proposition, in accordance with the expressed will of the elector, as provided by the election laws of this state.

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

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