

REVENUE.

CHAPTER 24.

An Act in Relation to Territorial and County Revenue.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

Section 1. That no territorial or county warrant, issued for the payment of any debt contracted prior to the first of January, 1865, shall be paid in whole or in part, out of the territorial or county revenue created under the provisions of this act; and a sufficient amount of the first territorial tax received under this act, shall be applied by the territorial treasurer to the purchase of suitable blank books for the Territory, not to exceed fifty dollars in value.

Payment of
debts contracted
prior to
Jan. 1, 1865.

Blank books
to be purchased.

Sec. 2. That the board of county commissioners of each county in this Territory, shall annually, as hereinafter provided levy the following taxes upon the assessed value of taxable property in the Territory :

Taxes to be
levied, for
what purpose.

1. For territorial purposes the tax shall be one mill on the dollar when no rate is fixed by the governor, secretary and auditor, as hereinafter specified, and in no case shall a tax for territorial purposes exceed two mills on the dollar ;

Rate of tax.

2. For county revenue, including the support of the poor, the property-tax shall not exceed four mills on the dollar, and a poll tax of one dollar for county school purposes ;

3. For repairing roads and bridges under direction of the county commissioners, the tax shall not exceed one mill on the dollar ; and the aggregate tax for territorial and county purposes shall in no case exceed three fourths of one per cent per annum.

PROPERTY EXEMPT.

Sec. 3. The following described property is hereby exempt from taxation :

Property
exempt from
taxation.

1. The property of the United States and that of this terri-

tory ; the property of any county, township, incorporated town or school district, when devoted entirely to public use ; public grounds, by whomsoever devoted to the public, including all places for the burial of the dead ;

2. Fire engines and implements used for extinguishing fires, with the grounds used exclusively for the buildings of a fire company ;

3. All grounds and buildings of literary or scientific institutions, incorporated under the laws of this territory ; also the grounds and buildings of benevolent, agricultural and religious institutions, and societies devoted solely to the appropriate objects of these institutions ;

4. The books, papers and apparatus belonging to the above institutions, and used for the purpose above contemplated, and the like property of students in any such institutions ; moneys and credits belonging to said institutions, not exceeding in amount the sum prescribed in their charter ;

5. One dog and all other animals not specified in the next section, the wool shorn from twenty sheep belonging to the person giving the list. The provisions for any family, sufficient for the sustenance of the family for one year ; private libraries, not exceeding one hundred dollars in value ; family pictures, libraries of clergymen ; household furniture, not exceeding one hundred dollars in value ; the wearing apparel of every person ;

6. The polls of persons who, by reason of age or infirmity, may, in the judgment of the assessor, be unable to contribute to the public revenue ;

7. The farming utensils of any person who makes his livelihood by farming, and the tools of any mechanic, not in either case to exceed one hundred dollars in value.

TAXABLE PROPERTY.

Property
subject to
taxation.

Sec. 4. All other property, real and personal, within this territory, is subject to taxation in the manner herein directed. This section is intended to embrace lands and lots in towns, including lands bought from the United States, ferries, franchises and toll-bridges, which for the purpose of this act, are considered real property—horses, cattle, mules, asses, sheep and swine and money, whether on deposit or in possession, and

including bank-bills, money or property, due from solvent debtors, on contract, or judgment, property situated in this territory belonging to any bank or company, incorporated or otherwise, public stocks or loans, household furniture, including gold and silver plate, private libraries exceeding one hundred dollars in value, carriages, stages, hacks, wagons, farming utensils, machines and machinery, and mechanic's tools, for their value over one hundred dollars, boats and vessels of every description, wherever registered or licensed, and whether navigating the waters of the territory or not, if owned wholly or in part by persons who are inhabitants of this territory, annuities, but not including pensions from the United States, nor salaries or payment expected for services to be rendered.

Sec. 5. Every inhabitant of this territory, of full age and sound mind, shall assist the assessor in listing all property subject to taxation in this territory of which he is the owner or has the control or management, in the manner hereinafter described. The property of a ward is to be listed by his guardian; of a minor by his father if living, if not, then by his mother if living, and if not, then by the persons having the property in charge; if a married woman, by herself or husband; if a beneficiary for whom property is held in trust, by the trustee; and the personal property of a decedent, by the executor; of a body corporate, company, society, or partnership by its principal accounting officer, agent, or partner. Property under mortgage or lease is to be listed by and taxed to the mortgagor or lessor, unless it be listed by the mortga-

Owner of
property to
assist assessor.

Who may list
property.

Mortgagor and
lessor.

Sec. 6. Commission merchants and all persons trading on commission and assignees authorized to sell, when the owner of the goods does not reside in the county, are for the purposes of taxation to be deemed the owners of the property in their possession and shall list the average monthly amount of capital in trade, since the last assessment.

Commission
merchants and
assignees.

Sec. 7. Any person authorized as agent or attorney, to list property belonging to another, shall list it in the same county in which he would be required to if it were his own (except as herein otherwise directed;) but he shall list it separately from his own, giving the assessor the name of the person or estate

Duty of agent
or attorney in
listing property.

to whom it belongs ; but the individual property of a person deceased, belonging to his heirs, may be listed as belonging to heirs without enumerating them.

Persons doing
business in one
or more counties

Sec. 8. When a person is doing business in more than one county, the property and credits existing in any one of the counties, shall be listed and taxed in that county, and the credits not existing in or pertaining especially to the business in any one county, shall be listed and taxed in that where the principal place of business may be. Any individual of a partnership is liable for the taxes due from the firm.

Partners.

Insurance com-
panies and
agents,

Sec. 9. Insurance companies of every description, existing in other territories and states, and operating in this territory shall be taxed for county and territorial purposes, upon the amount of the premiums taken by them during the year previous to the listing in the county where the agent conducts that business, and the agent shall render the list and shall be personally liable for the tax ; and if he refuses to render the list or to swear as herein required, the amount may be assessed according to the best knowledge and discretion of the assessor.

Property to be
listed in name
of owner.

When owner
lives out of
county.

To be assessed
according to
value.

Sec. 10. All real and personal property shall be listed, assessed, and taxed in the name of the owner thereof ; but if the owner resides out of the county, it shall be listed by the agent or person having charge of the same. All real property shall be assessed according to its true cash value, having regard to its quality, location, natural advantages and the general improvement in the vicinity.

Bank notes,
stocks, &c.

Sec. 11. Bank-notes, and the stocks of corporations and companies shall be assessed at their cash value ; credits shall be listed at such sum as the person listing them believes will be received or can be collected thereon, and annuities at the value which the person listing believes them to be worth in money.

What owner
entitled to
deduct.

Exception.

Sec. 12. In making up the amount of money and credits which any person is required to list or have listed and assessed, he will be entitled to deduct from the gross amount all bona fide debts owing by him, but no acknowledgment of indebtedness not founded on actual consideration, and no such acknowledgment made for the purpose of being so deducted, shall be

considered a debt within the intention of this section, and so much only of any liability of such person as security for another shall be deducted, as the person making the list believes he is equitable or legally bound to pay, and so much only as he believes he will be compelled to pay on account of the inability of the principal debtor, and if there are other sureties able to contribute, then so much only as he in whose name the list is made, will be bound to contribute; but no person will be entitled to any deduction on account of any obligation of any kind given to any insurance company for the premiums of insurance, nor on account of any unpaid subscription to any institution, society, corporation, or company.

Sec. 13. Any person owning or having in his possession or under his control within this territory, with authority to sell the same, any personal property purchased either in or out of this territory, with a view of its being sold at an advanced price or profit, or which has been assigned to him from any place out of this territory, for the purpose of being sold within the same, shall be listed for taxation, and in estimating the value thereof, the merchant shall take the average monthly value of such property in his possession or under his control during the last year, previous to the time of assessing, and if he has not been engaged in the business one year, then he shall take the average monthly value for the number of months he shall have been engaged, and he shall be assessed for the average amount of capital in trade for one month, but if he be commencing, he shall take the value of the property at the assessment.

How certain property to be assessed in certain cases.

Sec. 14. The sheriff of each county shall be *ex-officio* assessor and collector, and shall be allowed three dollars for each day he shall have been faithfully employed in discharging the duties of assessor, to be paid out of the county treasury.

Sheriff ex-officio assessor. compensation.

TIME AND MANNER OF ASSESSING.

Sec. 15. On or before the first Monday of January in each year, the board of county commissioners shall furnish each assessor with suitable books in duplicate, properly ruled and headed, in which to enter the following items:

Time of assessing.

Duplicate books furnished to assessor.

1. The name of the individual, corporation, company, society, partnership, or firm, to whom any property shall be taxable;

What to contain

2. His or their lands by township, range, section, or part of section, and when such part is not a legal division or subdivision, some other description sufficient to identify it, and town lots, naming the town in which they are situated and their proper description by number and block, or otherwise, according to the system of numbering in the town ;

3. Personal property as follows: number of cattle, horses, mules, sheep, swine, carriages, capital employed in trade or manufacture, amount of money and credits, amount of taxable furniture, amount of stock in any corporation, amount of taxable farming utensils, mechanics tools, amount of all other personal property, and the number of polls, and a column for remarks. Whenever the owner of any real property is "unknown," this fact shall be noted, in the proper column, and the property assessed as other real estate in the same county.

When assessor
to enter on
duties.

What he shall
enter in books.

To assess all
property in
county.

Penalty for
refusing to
assist assessor.

Duty of assessor
in such cases.

Sec. 16. Each assessor shall enter upon the discharge of the duties of his office, as soon as furnished with the assessment roll by the county commissioners, and shall, with the assistance of each person assessed, or who may be required by law to list property belonging to another, enter in the books furnished him for that purpose in the several items specified in the preceding section, entering the names of the persons assessed, in alphabetical order, so far as practicable, by allotting to each letter its requisite number of pages in each of said books. He shall also enter in a separate column the number of adult persons male and female, and the number of children male and female, under the age of twenty-one years in his county.

Sec. 17. It shall be the duty of the assessor to list each and every person in his county, and to assess all the property, real and personal, therein, and any person who shall refuse to assist in making out a list of his property or of any property of which he is required by law to assist in listing, or refuse to make the oath or affirmation required by this act, shall forfeit the sum of one hundred dollars, to be recovered in the name of the county for the use of common schools therein ; and when any person refuses to make out a list of his property which, by law, he is required to do, the assessor shall assess such person according to the best information he can get, as to the amount of taxable property which such person has.

Sec. 18. The assessor is hereby required to administer an oath or affirmation to each person assessed, to the effect that he has given in a full and correct inventory of all the taxable property owned by him, and all property held by him as agent, guardian, or otherwise, which he is required by law to list to the best of his knowledge and belief; and in case any one refuses to take such oath, the assessor shall note the fact in the column of remarks opposite to such person's name, and should it afterwards appear that such person has not given a full list of his property or that under his control, any property so omitted shall be entered on the book at double the ordinary assessable value, and taxed accordingly.

To administer
oath.

When full
amount of
property not
given.

Sec. 19. Each assessor shall, on or before the first Monday of February of each year, return the assessment book, properly footed up, to the clerk of the board of county commissioners, and to assist him in the discharge of his duties, he may appoint one or more deputies, for whose acts he shall be officially responsible.

When to return
assessment
book.

May appoint
deputies.

Sec. 20. If any assessor shall fail or neglect to perform any of the duties required of him by this act at the time and in the manner specified, he shall be liable to a fine not less than twenty nor more than five hundred dollars, to be recovered in an action brought in the district court by the board of county commissioners; the judgment shall be against him and his bondsmen, and the proceeds of such fine shall go to the school fund of the county.

Assessor failing
to perform
duties.

Penalty.

EQUALIZATION OF TAXES.

Sec. 21. The board of county commissioners of each county shall constitute a board for the equalization of the assessment of the several persons in the county substantially in the same manner as is required by the territorial board of equalization to equalize among the several counties of the territory, and they shall hold a special meeting on the first Monday of February in each year, and at such meeting they shall add to said assessment any taxable property in the county not included in the assessment as returned by the assessor, and shall assess the value thereof.

County board
of equalization.

Special meeting.

Sec. 22. Any person who may feel aggrieved at anything in the assessment of his property, may appear before the board of equalization, either in person or by agent, at the time men-

Person aggrieved
may appear be-
fore board, when

tioned in the preceding section, and have the same corrected in such manner as to said board shall seem just and equitable.

**Duty of clerk of
county commis-
sioners.**

Sec. 23. Each clerk of the board of the county commissioners shall, on or before the second Monday of February of each year, make out and transmit to the secretary of the territory, by mail or otherwise, an abstract of the real property in his county, in which he shall set forth ;

1. The number of acres of land in his county and the aggregate value of the same, exclusive of town lots returned by the assessors as corrected by the county commissioners ;

2. The aggregate value of real property in each town in the county, according to the valuation of the board of county commissioners ;

3. The aggregate value of personal property in his county.

**Territorial
board of equal-
ization.**

**When to meet
and their duties**

Sec. 24. The governor, secretary, and auditor of the territory shall constitute a board of equalization, and shall, on or before the third Monday of February in each year and as soon thereafter as the abstract from any one county is received equalize the valuation of real property among the several counties and towns in the territory in the following manner ;

1. They shall add to the aggregate valuation of real property, of each county, which they shall believe to be valued below its proper valuation, such per centum in each case as will raise the same to its proper valuation ;

2. They shall deduct from the aggregate valuation of real property of each county which they shall believe to be valued above its proper valuation, such per centum in each case as will reduce the same to its valuation.

Same.

Sec. 25. Said governor, secretary and auditor, shall keep a full record of their doings of such meeting and immediately after which the secretary of the territory shall transmit to the clerk of the county commissioners of each county a statement of the per centum to be added to or deducted from the valuation of real property in his county. The clerk of the county commissioners shall add to or deduct from the valuation of each tract or parcel of real property in his county the required per centum on the same, and in each year the governor, secretary and auditor shall determine the rate of tax to be levied and collected, which shall not exceed two mills on the dollar, and

the secretary of the territory shall notify the clerks of the county commissioners of the several counties of the rate of such tax, and the said clerk shall immediately deliver the equalized assessment roll with his warrant attached thereto to the sheriff of the county for collection.

Clerk to deliver roll to sheriff.

Sec. 26. If any clerk of the county commissioners shall neglect or refuse to transmit to the secretary of the territory the abstract of the assessment of the real property in the county, or to add or deduct the per centum fixed by the territorial board of equalization as required by this act, such clerk shall be deemed guilty of a misdemeanor for which he shall be prosecuted in the district court by indictment, and if found guilty, shall be fined in any sum, not more than one thousand dollars, and shall also be liable on his official bond to any person who may have suffered damage thereby.

Clerk failing to transmit to secretary or add or deduct per centum.

Penalty.

COLLECTION OF TAXES.

Sec. 27. The sheriff immediately upon the receipt of the equalized assessment roll, shall proceed to collect the taxes, and the list and warrant of the clerk shall be his authority and justification, and he is required to call upon every tax payer in his county before the last Monday in March following, and he is also authorized and required to collect so far as practicable the taxes unpaid on the tax books of previous years.

Sheriff to collect tax.

Sec. 28. It shall be the duty of every person subject to taxation at some time before the time mentioned in the previous section of this act, to pay his or her taxes, and if any one neglects to pay them before the said last Monday of March following the levy of the tax, the collector is directed to make the same by distress and sale of his or her personal property excepting such as is exempt from taxation, and the tax list alone shall be a sufficient warrant for such distress.

Persons failing to pay taxes at certain time.

Distress,

Sec. 29. When the collector distrains goods, he may keep them at the expense of the owner, and shall give notice of the time and place of their sale within five days after the taking, in the manner usually required to give notice of the sale of personal property under execution, and the time of sale shall not be more than ten days from the day of the taking; but he may adjourn the day of sale from time to time, not exceeding five

Proceedings after distraining

days, and shall adjourn at least once when there are no bidders; and in case of adjournment he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges of keeping, and fees of sale, shall be returned to the owner, and the collector shall, on demand, render an account in writing of the sale and charges.

When unpaid taxes to draw interest.

Liens.

Sec. 30. On the first Monday of April the unpaid taxes for the year shall draw interest as hereinafter provided; and taxes upon real property are hereby made a perpetual lien thereon against all persons; and taxes due from any person on personal property shall be a lien on any real property owned by such person.

Collector to receive taxes until collected by distress.

Penalty for non payment.

Receipt for taxes paid, what to state.

To receive full amount when tendered.

When collector to make final settlement.

Compensation.

Delinquent taxes afterward to whom paid.

Erroneous taxes

Sec. 31. The collector shall continue to receive taxes after they have become delinquent, on the last Monday of March until collected by distress, but if they are not paid before the first Monday of April he shall collect as a penalty for non-payment, from each tax payer so delinquent, one per cent. of the amount of his tax additional and if not paid before the first of May, he shall collect another one per cent. additional, and so on for each full month which shall expire before the tax shall have been paid. The collector shall in all cases make out and deliver to the tax payer a receipt for taxes paid, stating the time of payment, the description of the land, the amount of any kind of tax, the interest on each, and costs, if any, and shall make the proper entries of such payment in the books of his office; *Provided*, That it shall be the duty of each county collector to receive the full amount of any county, territorial, or school tax, whenever the same shall be tendered, and give a separate receipt therefor.

Sec. 32. On the first Monday of September the county collector shall make a final settlement with the county treasurer, and shall return a list of all unpaid taxes, and the taxes collected, after deducting four per cent. thereof, for his services in collecting the same; and thereafter all delinquent taxes shall be payable to the county treasurer, together with interest at the rate of one per cent. a month until paid.

Sec. 33. In all cases where any person shall pay any tax or any portion thereof that shall thereafter be found to be erroneous or illegal, whether the same be owing to clerical or other

errors, the board of county commissioners shall direct the treasurer to refund the same to the tax payer, or in case any real property, subject to taxation, shall be sold for the payment of such erroneous tax, the error in tax may at any time be corrected as above provided, and shall not affect the validity of the sale.

DELINQUENT TAXES.

Sec. 34. On the first Monday in January, in each year, the county treasurer is required to offer at public sale at the court house, or if there is no court house, at the office of the county treasurer, all lands on which taxes of any description for the preceding year shall have been delinquent and remain due, and such sale shall be made for and in payment of the total amount of taxes, interest, and cost, due and unpaid on such real property.

Treasurer offer
delinquent lands
for sale,
When-

Sec. 35. The county treasurer is required to give notice of the sale by publishing an advertisement thereof in some newspaper printed in his county if any such there be, and if there be no such paper printed in his county, then in the newspaper printed in this territory nearest the county seat, and by posting a copy of said notice on the door of the court house in said county, but if there is no court house, then upon the door of the county treasurer's office, at least four weeks before the day of the sale. Such advertisement shall state the time and place of sale, and contain a description of the several parcels of real property to be sold, as the same are recorded on the tax list, the amount of tax, interest, and costs due on each tract, and the names of owners when known, to whom taxed. The treasurer is directed to charge and collect, in addition to the taxes and interest the sum of twenty cents, on each tract of land advertised for sale, when the same is included in one line of such single column width of the paper in which the publication is made, but if the description occupies more than one line of such single column width, then the same shall be thirty cents for each, which sum shall go into the county treasury.

How treasurer
to give notice.

What to state.

What treasurer
to collect.

Sec. 36. The county treasurer shall attend at the court house or at his own office as herein provided, on the day of sale, and then and there, at the hour of ten o'clock in the forenoon, proceed to offer for sale separately, each tract or parcel of

Treasurer offer
land for sale.

real property advertised for sale, on which taxes and costs have not been paid.

Who considered purchaser.

Homestead.

Sale continued not more than fifteen days.

Purchaser to pay taxes and costs.

Failure to do so

Informality in advertisement not affect sale.

Certificate of publisher, when filed.

Certain officers not to be concerned in purchase.

Penalty.

When portion of property remains unsold.

Sec. 37. The purchaser who offers to pay the amount of taxes due on any parcel of land for the smallest portion of the same, is to be considered the purchaser. The homestead is liable to be sold for no tax, save that which is due on itself exclusively, and to that end the quantity of land bid may be obtained by drawing the division line in any direction so as to avoid the homestead.

Sec. 38. The treasurer shall continue the sale from day to day as long as there are any bidders, or until the taxes are paid, but in no case shall the sale be kept open for more than fifteen days.

Sec. 39. The person purchasing any lot or parcel of land shall forthwith pay to the treasurer the amount of taxes and costs on said lot or parcel of land, and on failure to do so, said land shall at once be sold again in the same manner as if no sale had been made.

Sec. 40. No irregularity or informality in the advertisements shall affect in any manner the legality of the sale or the title to any real property conveyed by the treasurer's deed under this act, but in all cases the provisions of this act shall be deemed sufficient notice to the owners, of the sale of their property.

Sec. 41. The treasurer shall file in the office of the clerk of county commissioners the certificate of the publisher.

Sec. 42. If any county treasurer, or clerk, or collector, shall be hereafter, either directly or indirectly, concerned in the purchase of any real property sold for the payment of any tax, he shall be liable to a penalty of not more than one thousand dollars, to be recovered by an action in the district court, brought by the board of county commissioners; the judgment shall be against such treasurer or collector, as the case may be, and his bondsmen, and the proceeds shall go to the school fund, and such sale shall be void.

Sec. 43. When all the parcels of real property advertised for sale, shall have been offered for sale as provided for in this act, and a portion thereof shall remain unsold for the want of

bidders on the fifteenth day of the sale, it shall be the duty of the treasurer to adjourn the sale to the first Monday of January of the next ensuing year.

Sec. 44. The county treasurer shall make out, sign and deliver to the purchaser of any real property sold for the payment of taxes as aforesaid, a certificate of purchase, describing the property on which the taxes and costs were paid by the purchaser as the same are described in the record of sales, and also how much and what of each lot was sold. If any person shall become the purchaser of more than one parcel of land, he may have the whole put in one certificate. For each certificate the purchaser shall pay a fee of fifty cents to the treasurer.

Treasurer to make out certificate of purchase

Fee therefor.

Sec. 45. Such certificate shall be assignable by indorsement.

Certificate assignable.

Sec. 46. Real property sold under this act may be redeemed at any time before the expiration of three years from the date of the sale, by the payment to the treasurer, to be held by him subject to the order of the purchaser, the amount for which the same was sold together with twenty per cent. of the amount in addition thereto, and ten per cent. interest per annum on the whole amount from the last day of sale, and the amount of all taxes accruing on the same property after such sale with ten per cent. interest per annum on such subsequent taxes, unless such subsequent taxes have been paid by the person for whose benefit the redemption was made; *Provided*, That if real property of any minor, married woman, or lunatic, be sold for taxes, the same may be redeemed at any time within one year after such disability be removed, upon the terms specified in this section, which redemption may be made by the guardian or legal representatives.

Redemption of real property.

Proviso.

Sec. 47. The county treasurer shall, upon application of any party to redeem any real property sold under the provisions of this act, and being satisfied that such party has a right to redeem the same, and upon the payment of the proper amount, issue to such party a certificate of redemption, setting forth the facts of the sale substantially as contained in the certificate of sale, the date of the redemption, the amount paid, and by whom redeemed; and he shall make the proper entries in the book of sales in his office, and shall immediately give notice of such redemption to the person holding the certificate of purchase.

When treasurer to issue certificate of redemption.

What to contain

Shall make entries and give notice to purchaser.

When treasurer
makes out deeds.

Sec. 48. Immediately after the expiration of the term of three years from date of the sale of any land for taxes under the provisions of this act, which has not been redeemed, the treasurer then in office shall make out a deed for each lot of land sold and remaining unredeemed, and deliver the same to the purchaser upon the return of the certificate of purchase.

Compensation.

Sec. 49. The treasurer is authorized to demand fifteen cents for each folio in each deed made by him on such sales, but any number of parcels of land bought by any person may be included in one deed, as may be desired by the purchaser.

When deed
prima facie evi-
dence of certain
facts

Sec. 50. The deed, when duly executed, acknowledged and recorded, shall be prima facie evidence in all courts of this territory of the following facts :

1. That the real property conveyed was subject to taxation for the year or years stated in the deed ;

2. That the taxes were not paid at any time before the sale ;

3. That the property conveyed had not been redeemed from the sale at the date of the deed ; and in all suits involving the title to property claimed by virtue of a deed executed substantially as aforesaid by the treasurer, the person claiming title adverse shall be required to prove, in order to defeat the said title, either that the said property was not subject to taxation for the year or years named in the deed, that the taxes had been paid before the sale, or that the property had been redeemed from the sale according to the provisions of this act, and that such redemption was made for the use of persons having the right of redemption under the laws of this territory ; but no person shall be permitted to question the title acquired by a treasurer's deed, without first showing that he or she, or the person under whom he or she claims title, had title to the property at the time of the sale, or that the title was obtained from the United States after the sale ; but in any case where any person had paid his taxes, and by any mistake of the treasurer such payment does not appear upon his books, and the land upon which the taxes were paid was afterwards sold, the treasurer's deed shall not convey the title ; *Provided*, That in all cases where the owner of lands sold for taxes shall resist the validity of such tax title, he may show fraud committed by the officer selling the same, or in the purchase, to defeat the same ; and if fraud is so established such sale shall be void.

Relative to
suits involving
title claimed
under deed.

Sec. 51. When, by mistake or unlawful act of the treasurer, land has been sold on which no tax was due at the time, or whenever land is sold unlawfully in consequence of any other mistake or irregularity rendering the sale void, the county shall hold the purchaser harmless by paying him the amount of the principal and interest and costs to which he would have been entitled had the land been rightfully sold, and the treasurer and his sureties will be liable to the county for the amount of his official bond; *Provided*, That the treasurer or his sureties shall be liable only for his own or his deputy's acts.

When land sold by mistake or unlawful act of treasurer.

Liability in such cases.

Sec. 52. The books and records belonging to the offices of the clerk of the board of county commissioners and the county treasurer, or copies thereof duly certified, shall be deemed sufficient evidence to prove the sale of any real property for taxes, the redemption thereof, or the payment of taxes thereon.

Books, &c., of treasurer sufficient evidence of what.

Sec. 53. No action for the recovery of real property sold for non-payment of taxes shall be [maintained] unless the same be brought within six years after the date of the sale for taxes aforesaid.

Actions to be brought within six years.

Sec. 54. Each county is responsible to the Territory for the amount of tax levied for Territorial purposes, excepting such amounts as are certified to be unavoidable, double, or erroneous assessments.

What amounts counties responsible for to Territory.

Sec. 55. If any county treasurer prove to be a defaulter for Territorial revenue, such amount shall be made up to the Territory within the next three years, in such manner as the county commissioners may direct; in such cases, the county can have recourse to the official bond of the treasurer for indemnity.

When treasurer proves defaulter

Sec. 56. If any county treasurer shall loan out or in any way use county funds for private purposes, he shall be liable to a fine not exceeding one thousand dollars, for the benefit of common schools of the county, to be procured as other fines.

Treasurer not to use county funds
Penalty.

Sec. 57. The county treasurer shall in January of each year make a full and complete settlement with the county commissioners and immediately thereafter, the county treasurer shall make a full and complete settlement with the Territorial treasurer [for the] preceding year; in which settlement he shall be

When treasurer to make settlement and what allowed to deduct.

allowed to deduct four per cent. of the territorial and county tax collected by him for his services [as county treasurer.]

When treasurer goes out of office.

Sec. 58. When any treasurer goes out of office, he shall make a full and complete settlement with the county commissioners, and shall deliver all books, papers, moneys, and all other property appertaining to his office, to his successor, taking his receipt therefor.

Officer failing to comply with this act.

Sec. 59. Any officer neglecting or refusing to comply with this act, for whose negligence no other penalty is provided by this act, shall be liable to a fine not exceeding one thousand dollars, to be prosecuted by the district attorney for the benefit of common schools.

Penalty.

Sec. 60. All acts inconsistent with this act are hereby repealed.

Sec. 61. This act shall take effect and be in force from and after its passage and approval.

Dates mentioned in act extended three months.

Sec. 60. That for the purpose of bringing this act into immediate practical operation for the present year, the dates herein specified for the performance of any duty by the proper officers shall be extended, each, three months throughout the year 1866.

Acts repealed.

Sec. 61. All acts and parts of acts in conflict with this act, are hereby repealed.

When to take effect.

Sec. 62. This act shall take effect and be in force from and after its passage and approval.

Approved, January 12th, 1866.

ROAD SUPERVISORS.

CHAPTER 25.

An Act to Provide for the Appointment of Road Supervisors, and to Prescribe the Duties of the Same.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Commissioners to apportion counties into road districts.

Section 1. That at the annual meeting of the county commissioners in **January** or as soon thereafter as practicable, it