

act any business, unless the rector, if there be one, and at least one of the church-wardens and a majority of the vestrymen be present; and such rector, if there be one, and if not, then the church-warden present, or if both the church-wardens be present, then the church-warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board, and have the casting vote.

SECT. 26. This act shall be in force from and after its passage, and approval by the governor. Take effect, when.

Approved May 13, 1862.

W. JAYNE, *Governor.*

## REVENUE.

### CHAPTER 69.

#### AN ACT IN RELATION TO REVENUE.

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

SECTION 1. 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 the taxable property in the territory. The governor and secretary of the territory are hereby authorized to fix the amount of territorial tax for each year, according to the provisions of this act: 1. For territorial purposes, the tax shall be three fourths of a mill on the dollar, when no rate is fixed by the governor and secretary of the territory; but in no case shall a levy for territorial purposes exceed one and one half mill on a dollar. 2. The [For] county revenue, including the support of the poor, not more than two mills on the dollar, and a poll-tax of one dollar. 3. For making and repairing roads and bridges, not more than one mill on the dollar. County commissioners levy, and governor and secretary fix tax.

Property exempt from taxation.

SECT. 2. The following described property is hereby exempt from taxation: 1. The property of the United States and that of this territory; 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, not exceeding six hundred and forty acres in extent. 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. Animals not specified in the next section, the wool shorn from 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 two hundred dollars in value; the wearing apparel of every person. 6. The polls or estates or both 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. 8. Government lands shall not be taxed for the year in which the entry, location, or purchase is made.

Taxed property embraces, what.

SECT. 3. 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, term [ferry] franchises and toll-bridges, which for the purpose of this act, are considered real property, horses, cattle, mules, asses, 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 mechanics' 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.

SECT. 4. 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 mortgagee or lessee.

SECT. 5. 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.

SECT. 6. Any person required 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 to whom it belongs; but the individual property of a person deceased, belonging to his heirs, may be listed as belonging to his heirs without enumerating them.

If business in more than one county — of partnership taxes.

SECT. 7. 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.

Insurance companies, how taxed.

SECT. 8. Insurance companies of every description, existing in other territories and states and operating in this, shall be taxed one per cent. for county purposes, and one per cent. for 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.

Of personal property.

SECT. 9. All personal property shall be listed, assessed, and taxed in the name of the owner thereof, on the first day of January of the then current year, and each owner shall be required to pay taxes thereon; but if the owner resides out of the county, it shall be listed by the agent or person having charge of the same.

Taxed every year — listed, how often.

SECT. 10. All taxable property shall be taxed each year, and personal property shall be listed and assessed each year; real property shall be listed and valued in the year 1863, and in each second year thereafter, and shall be assessed at its true cash value, having regard to its quality, location, natural advantages, the general improvement in the vicinity, and in each year in which real estate is not regularly assessed, it shall be the duty of the assessor to list and value any real property not included in the previous assessment.

Bank-notes, stocks, credits, &c., how listed.

SECT. 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.

Debts of party listing may be deducted, when.

SECT. 12. In making up the amount of money and credits which any person is required to list or have listed and as-

sessed, 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 intent 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 equitably 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.

SECT. 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 value of such property in his possession or under his control during the next year, previous to the time of assessing, and if he has not been engaged in the business so long, then he shall take the average during such time as he shall have been so engaged, and if he be commencing, he shall take the value of the property at the time of the assessment.

Of the salable property of merchants. How listed.

SECT. 14. There shall be elected, at the general election in each year, by the qualified voters of each county in this territory, one county assessor, who shall hold his office for one year, and until his successor is elected and qualified.

County assessor elected.

SECT. 15. Each assessor, before entering upon the duties of his office, shall give a bond, with two or more sureties, to be approved by the county commissioners, in the sum of five hundred dollars, payable to said commissioners, conditioned for the faithful discharge of the duties of his office, which

Assessor give bond.

bond shall be filed and preserved by the clerk of said commissioners.

If he fail to give bond and take oath.

SECT. 16. If any assessor shall fail to give the bond and surety as required in the preceding section, or shall fail to take the oath of office, as hereinafter required, on or before the Tuesday after the first Monday of January following his election, the office shall be considered vacant, and in all cases of vacancies in such office, the county commissioners shall appoint some suitable person to fill the vacancy, which appointee shall hold said office until the next succeeding election, and until his successor is elected and qualified.

Take oath.

SECT. 17. Any person elected or appointed an assessor, as herein provided, shall take and subscribe on his bond an oath for the faithful and impartial discharge of his duty.

His compensation.

SECT. 18. The assessor shall be allowed two dollars for each day he shall have been faithfully employed in discharging the duties of his office, to be paid out of the county treasury.

Assessors to meet, when and where.

SECT. 19. The several assessors shall meet at the office of the secretary of the territory, on the second Monday of January of each year, and classify the several descriptions of property to be assessed for the purpose of equalizing such assessment.

County commissioners to furnish what books.

SECT. 20. On or before the second 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: 1. The name of the individual, corporation, company, society, partnership, or firm, to whom any property shall be taxable. 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, swine, carriages, capital employed in 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.

SECT. 21. Each assessor shall enter upon the discharge of the duties of his office within six days after the second Monday of January of each year, 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.

Assessor's duties, and when commenced.

SECT. 22. It shall be the duty of the assessor to list each and every person in his county, and to assess all the property personal and real 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 the 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.

If person refuses to assist in listing his property, &c.

SECT. 23. 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.

Oath administered to person assessed.

SECT. 24. Each assessor shall, on or before the first Monday of May of each year, return the assessment book, properly footed up, to the clerk of the board of county commissioners.

Assessor's returns, to whom and when made.

SECT. 25. When the name of the owner of any real estate is unknown, and the assessor finds it impracticable to

When name of owner unknown.

obtain the same, it shall be proper to assess such real estate without connecting therewith any name, but inserting at the head of the page the words "owner unknown," and such property shall be listed as other like property.

If assessor fails to perform duty.

SECT. 26. 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 of 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.

Board of equalization of the county.

SECT. 27. The board of county commissioners of each county shall constitute a board for the equalization of the assessment, and shall have power to equalize the assessment of the several persons and townships in the county substantially in the same manner as is required of the territorial board of equalization to equalize among the several counties of the territory, at their first regular meeting after the general election in each year, and at such meetings 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.

If person aggrieved.

SECT. 28. Any person who may feel aggrieved at any thing in the assessment of his property, may appear before the board of equalization, either in person or by agent, at the time mentioned in the preceding section, and have the same corrected in such manner as to said board shall seem just and equitable.

Clerk of county make what return to secretary of territory.

SECT. 29. Each clerk of the county commissioners shall, on or before the first day of July 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.

SECT. 30. The governor and secretary of the territory

constitute a board of equalization, and shall, on or before the first day of August in each year in which real estate is assessed, 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.

Territorial board of equalization, and its duties.

SECT. 31. Said governor and secretary shall keep a full record of their doings, 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 and secretary shall determine the rate of tax to be levied and collected, which shall not exceed one and one half 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.

Same, and equalization, how effected.

SECT. 32. 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.

If county clerk fails in stated duties.

SECT. 33. The treasurer, on receiving the text-book for each year, shall enter upon the same in separate columns opposite each parcel of real property, or person's name, on which, or against whom, any tax remains unpaid for either of the preceding years, the year or years for which such delin-

Duties of treasurer.

quent tax so remains due and unpaid. The treasurer, after making the above entry, shall proceed to collect the taxes, and the list and warrant shall be his authority and justification against any illegality in the proceedings prior to receiving the list, and he is required to attend at his office from the second Monday of November to the first Monday in January following, and he is also authorized and required to collect so far as practicable the taxes unpaid on the tax books of previous years.

No demand for taxes necessary.

SECT. 34. No demand of taxes shall be necessary, but it is the duty of every person subject to taxation to attend at the office of the treasurer (unless otherwise provided) at some time during the time mentioned in a previous section of this act, and pay his or her taxes, and if any one neglects to pay them before the first day of February following the levy of the tax, the treasurer 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.

When he distrains goods.

SECT. 35. When the treasurer 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 twenty days from the day of the taking; but he may adjourn the day of sale from time to time, not exceeding five 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 treasurer shall, on demand, render an account in writing of the sale and charges.

Taxes draw interest, when — of lien for taxes.

SECT. 36. On the first day of February, the unpaid taxes for the preceding 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.

Penalty for non-payment of taxes.

SECT. 37. The treasurer shall continue to receive taxes after they have become delinquent, until collected by distress

and sale, but if they are not paid before the first day of March, 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 day of April, 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 treasurer 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, giving a separate receipt for each year, 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 treasurer to receive the full amount of any county, state, or school tax, whenever the same shall be tendered, and give a separate receipt therefor.

Treasurer to give receipt.

Proviso.

SECT. 38. 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 the tax may at any time be corrected as above provided, and shall not affect the validity of the sale.

Of errors in payment of taxes.

SECT. 39. On the first Monday in October, 1864, and in each year thereafter, 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 or years 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.

Sale of lands for taxes, when.

SECT. 40. 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

Notice of same how given, and how paid for.

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 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.

Treasurer to attend sale.

SECT. 41. 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 real property advertised for sale, on which taxes and costs have not been paid.

Who shall be purchaser.

SECT. 42. 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.

Sale continued.

SECT. 43. The treasurer shall continue the sale from day to day as long as there are bidders, or until the taxes are paid.

Purchaser to pay taxes forthwith.

SECT. 44. 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.

Of informality in advertisement.

SECT. 45. 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.

Certificate of publication.

SECT. 46. The treasurer shall file in the office of the clerk of county commissioners the certificate of the publisher

of the newspaper in which the advertisement shall have been published, substantially in the following form :

I, A—— B——, publisher of the ——, a —— newspaper, printed and published in county of ——, and Territory of Dakota, do hereby certify that the foregoing notice and list were published in the said newspaper once in each week for three successive weeks, the last of which publication was made prior to the first —— of ——, A. D. 18——, and that copies of each number of said paper in which said notice and list were published, were delivered by carriers or transmitted by mail to each of the subscribers to said paper, according to the accustomed mode of business in this office.

A—— B——,  
 Publisher of the ——.

THE TERRITORY OF DAKOTA, } ss.  
 —— county, }

The above certificate of publication, subscribed and sworn to before me, by the above-named A—— B——, who is personally known to be the person, described in the above certificate, on the —— day of ——, A. D. 18——.

C—— D——,  
 Clerk of the board of county commissioners  
 of —— county, Territory of Dakota.

SECT. 47. If any county treasurer or clerk 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 clerk as the case may be, and his bondsmen, and the proceeds shall go to the school fund, and such sale shall be void.

If treasurer or clerk interested in purchase. Penalty.

SECT. 48. 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; it shall be the duty of the treasurer to adjourn the sale to some day, not exceeding two months from the time of the adjournment, due notice of which day shall be given at the time of adjournment, and also by keeping a notice thereof posted in a conspicuous place in the treasurer's

When part of property unsold.

office. The same proceedings shall be had as provided for the original sale.

If treasurer or deputy fails to attend.

SECT. 49. If any treasurer shall fail to attend any sale of lands as required by this act, either in person or by a competent deputy, he shall be liable to a fine not less than fifty nor more than three hundred dollars, to be recovered by an action in the district court by the board of county commissioners. The judgment shall be against the treasurer and his bondsmen, and the proceeds go to the school fund.

Certificate of purchase to be given.

SECT. 50. 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 part 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 twenty cents to the treasurer.

Certificate assignable.

SECT. 51. Such certificate shall be assignable by indorsement.

Real property sold, how redeemed.

SECT. 52. 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 in specie to the clerk of the board of county commissioners, to be held by him subject to the order of [the] purchaser, the amount for which the same was sold and twenty per cent. on the same, with ten per cent. interest per annum on the whole amount from the day of sale, and the amount of all taxes accruing 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.

Proviso.

Duty of clerk in case of redemption.

SECT. 53. The county treasurer [clerk] 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 county treasurer.

SECT. 54. Immediately after the expiration of the term of three years from the date of the sale of any land for taxes under the provisions of this act, 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.

Deed to purchaser, when given.

SECT. 55. The treasurer is required to demand twenty-five cents for 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.

Fee for deed.

SECT. 56. Deed executed by the treasurer shall be substantially as follows:

Style of deed executed by treasurer to purchaser.

Know all men by these presents, that whereas the following described real property (here follows the description) situated in the county of —, and Territory of Dakota, now [was] subject to taxation for the year (or years) A. D. —, and whereas, the taxes assessed upon said real property for the year (or years) aforesaid, remained due and unpaid at the date of the sale hereinafter named; and whereas, the treasurer of the said county did, on the — day of —, A. D. 18—, by virtue of the authority in him vested by law, at the sale begun and publicly held on the first Monday of —, A. D. 18—, expose to public sale, at the court house, or office of the county treasurer in the county aforesaid, in substantial conformity with all the requisitions of the statute in such case made and provided, the real property above described, for the payment of the taxes, interest, and costs, then due and remaining unpaid on said property; and whereas, at the time and place aforesaid, A B, of the county of —, and state of —, having offered to pay the sum of — dollars and — cents, being the whole amount of taxes, interest, and costs then due and remaining unpaid on said property for (here follows the description of the property sold), which

Style of deed  
executed by  
treasurer to pur-  
chaser.

was the least quantity bid for; and payment of said sum having been by him made to the treasurer, the said property was stricken off to him at the time; and whereas, the said A B did, on the — day of —, A. D. 18—, duly assign the certificate of the sale of the property to E F, of the county of —, and —, of —; and whereas, the three years have elapsed since the date of said sale, and the said property has not been redeemed therefrom, as provided for by law.

Now, therefore, I, C D, treasurer of the county aforesaid, for and in consideration of the said sum to the treasurer paid as aforesaid, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said A B, his heirs and assigns, the real property last hereinbefore described, to have and to hold unto him the said A B, his heirs and assigns, forever; subject, however, to all the rights of redemption provided by law. In witness whereof I, C D, treasurer as aforesaid, by virtue of the authority aforesaid, [have] hereunto subscribed my name on this — day of —, 18—. (Name.)

THE TERRITORY OF DAKOTA, }  
— county, } ss.

I hereby certify that before —, in and for said county, personally appeared the above-named C D, treasurer of said county, personally known to me to be the treasurer of said county, at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to, and who executed the above conveyance as treasurer of said county, and who acknowledged the execution of the same to be his voluntary act and deed as treasurer of said county, for the purposes therein expressed.

Given under my hand and seal this — day of —, A. D. 18—. — —.

Deed prima facie  
evidence of what.

SECT. 57. 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 the 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.

Of suits involving title by such deed.

Proviso.

SECT. 58. 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 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 is sold unlawfully.

Proviso.

SECT. 59. 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 prop-

Books and records evidence.

erty for taxes, the redemption thereof, or the payment of taxes thereon.

Action for recovery brought, when.

SECT. 60. No action for the recovery of real property sold for non-payment of taxes shall be, unless the same be brought within six years after the date of the sale for taxes aforesaid.

Counties responsible to territory for tax levied.

SECT. 61. Each county is responsible to the state [territory] for the amount of tax levied for territorial purposes, excepting such amounts as are certified to be unavoidable, double, or erroneous assessments, as hereinafter provided.

If treasurer defaulter.

SECT. 62. 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.

If treasurer loan out or use county funds.

SECT. 63. 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 to make yearly settlement.

SECT. 64. The county commissioners shall in January and June of each year make a full and complete settlement with the county treasurer.

When treasurer goes out of office.

SECT. 65. 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 neglecting or refusing to comply with this act.

SECT. 66. 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.

Approved May 15, 1862.

W. JAYNE, *Governor.*