

also be published within ten days thereafter in any official newspaper of said county; *Provided*, That where one of the official newspapers of a county publishes both a daily and a weekly edition, such statements shall be published in said paper; *Provided*, The expense of publishing said statements in both editions of said newspaper shall be no greater than if published in a single edition only."

Approved March 20, 1890.

REVENUE AND TAXATION.

CHAPTER 132.

[H. F. 14.]

ASSESSMENT, LEVY AND COLLECTION OF TAXES.

AN ACT Entitled "An Act Prescribing the Mode of Making Assessment, and the Levy and Collection of Taxes, and for Other Purposes Relative Thereto."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITIONS OF TERMS USED IN THIS ACT.] The word "money" or "monies" wherever used in this act shall be held to mean gold and silver coin, treasury notes, bank notes, and every deposit which any person owning the same or holding in trust and residing in this State is entitled to withdraw on money or demand; the term "credits," wherever used in this act, shall be held to mean and include every claim and demand for money or other valuable things, and every annuity or sum of money receivable at stated periods, due, or to become due and all claims and demands secured by deeds, or mortgage due or to become due. The terms "tract" or "lot" and piece or parcel of real property, and "piece or parcel of land," wherever used in this act shall each be held to mean any contiguous quantity of land in the possession, owned by, or recorded as the property of the same claimant, person or company; every word importing the singular number only may be extended to and embrace the plural number; and every word importing the plural may be applied and limited to the singular number; and every word importing the masculine gender only may be extended and applied to females as well as males; wherever the word "oath" is used in this act, it may be held to mean affirmation; and the word "swear" in this act may be held to mean affirm;

the words "town" or "district" wherever used in this act, shall be construed to mean township, village, city or ward, as the case may be. The term "true and full value," wherever used in this act, shall be construed to mean the usual selling price at the place where the property to which the term is applied shall be at the time of the assessment, being the price at which it could be obtained therefor at private sale, and not at forced auction or sale. The term "person," wherever used in this act, shall be construed to include firm, company or corporation.

§ 2. PROPERTY SUBJECT TO TAXATION.] All real and personal property in this State, and all personal property of persons residing therein, and the property of corporations, now existing or hereafter created, and the property of all banks or banking companies now existing or hereafter created, except such as is hereinafter expressly excepted is subject to taxation; and such property, or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed by this act; *Provided*, That railroad companies shall be taxed in such manner as now is, or may be hereafter, fixed by law.

§ 3. REAL PROPERTY DEFINED.] Real property, for the purpose of taxation, shall be construed to include the land itself, whether laid out in town lots or otherwise, and all buildings, structures and improvements (except plowing, trees or other fixtures of whatsoever kind thereon) and all rights and privileges thereto belonging or in any wise appertaining, and all mines, minerals, quarries in and under the same.

§ 4. PERSONAL PROPERTY DEFINED.] Personal property shall, for the purpose of taxation, be construed to include all goods, chattels, monies, credits and effects, wheresoever they may be; all ships, boats and vessels belonging to the inhabitants of this State, whether at home or abroad, and all capital invested therein; all monies at interest, whether within or without this State, due the person to be taxed, and all other debts due such persons; all public stocks and securities; all stock in turnpikes, railroads, canals and other corporations, except national banks out of the State, owned by the inhabitants of this State; all personal estate of moneyed corporations, whether the owners thereof reside in or out of the State, and the income of any annuity, unless the capital of such annuity be taxed within the State; all shares of stock in any bank organized, or that may be organized, under any law of the United States or of this State; and all improvements made by persons upon lands held by them under the laws of the United States, and all such improvements upon lands, the title of 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.

§ 5. PROPERTY EXEMPT FROM TAXATION.] All property described in this section to the extent herein limited shall be exempt from taxation, that is to say:

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

Second. All lands used exclusively for burying grounds or cemeteries.

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

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

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

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

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

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

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

§ 6. LISTING OF REAL AND PERSONAL PROPERTY.] All real property in this State subject to taxation shall be listed and assessed every even numbered year, with reference to its value, on the first day of May preceding the assessment, and all real estate becoming taxable any intervening year shall be listed and assessed with reference to its value on the first day of May of that year.

§ 7. MANNER OF LISTING PROPERTY.] Personal property shall be listed in the manner following:

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

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

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

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

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

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

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

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

Ninth. The property of manufacturers and others in the care of an agent, by such agent in the name of his principal, as merchandise. Personal property shall be listed and assessed annually with reference to its value, on the first day of May.

§ 8. PLACE OF LISTING PERSONAL PROPERTY.] Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county, town or district where the owner or agent resides; the capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed in the county, town or district where the principal office or place of business of such corporation or person is located in this State; if there be no principal office or place of business in this State where any such corporation or persons transact business, then personal property pertaining to the business of a merchant or manufacturer shall be listed in the town or district where his business is carried on.

§ 9. PROPERTY OF TRANSPORTATION COMPANIES, ETC.—WHERE TO BE LISTED.] The personal property of express, transportation and stage companies shall be listed and assessed in the county, town or district where the same is usually kept. All persons, companies and corporations in this State owning steamboats, sailing vessels, wharf boats, barges and other water crafts shall be required to list the same for assessment and taxation in the county, town or district in which the same may belong, or be enrolled, registered or licensed, or kept not enrolled, registered or licensed.

§ 10. OF GAS AND WATER, TELEGRAPH AND TELEPHONE COMPANIES—WHERE LISTED.] The personal property of gas and water companies shall be listed in the town where the principal works are located; gas and water mains and pipes laid in roads, streets

or alleys shall be held to be personal property. All personal property of telegraph and telephone companies, including poles, wires, instruments, office fixtures, and all other apparatus used in conducting their business shall be listed and assessed in the county, town or district in which the same is situated.

§ 11. OF STREET RAILWAY COMPANIES—WHERE LISTED, ETC.] The personal property of street railroad, plank road, gravel road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the principal place of business is located; and the track, road or bridge shall be held to be personal property.

§ 12. NON-RESIDENT'S FARM PROPERTY—WHERE LISTED.] Where the owner of live stock or other personal property connected with a farm does not reside thereon, the same shall be listed and assessed in the town or district where the farm is situated.

§ 13. PERSONAL PROPERTY MOVED BETWEEN MAY AND JULY—WHERE LISTED.] The owner of personal property moving from one county, town or district to another, between the first day of May and the first day of July, shall be assessed in either in which he is first called upon by the assessor. The owner of personal property moving into this State from another state or territory between the first day of May and the first day of July, shall list the property owned by him on the first day of May of such year, in the county, town or district in which he resides; *Provided*, If such person has been assessed and can make it appear to the assessor that he is held for tax of the current year on the property in another territory or state, county, town or district, he shall not be again assessed for such year.

§ 14. PLACE OF LISTING—HOW DECIDED AND IN CASE OF DOUBT.] In all questions that may arise under this act as to the proper place to list personal property, or where the same cannot be listed as stated in this act, if between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and when between different counties, or places in different counties, by the Auditor of the State; and when fixed in either case shall be binding as if fixed by this act.

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

§ 16. VALUATION TO BE FIXED BY ASSESSOR—ITEM OF LIST.] It shall be the duty of the assessor to determine and fix the true and full value of all items of personal property included in such statement, and enter the same opposite such items respectively, so that, when completed, such statement shall truly and distinctly set forth:

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

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

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

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

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

Sixth. The number of wagons and carriages of whatsoever kind and value thereof.

Seventh. The number of melodeons and organs, and the value thereof.

Eighth. The number of pianofortes, and value thereof.

Ninth. The value of household furniture.

Tenth. The value of agricultural tools, implements and machinery.

Eleventh. The value of gold and silver plate and plated ware.

Twelfth. The value of diamonds and jewelry.

Thirteenth. The value and description of every franchise, annuity, royalty and patent right.

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

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

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

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

Eighteenth. The amount of monies of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Nineteenth. The amount of credits of banks (other than those whose capital is represented by shares of stock), bankers, brokers or stock jobbers.

Twentieth. The amount of monies other than of banks, bankers, brokers, or stock jobbers.

Twenty-first. The amount of credits other than of banks, bankers, brokers and stock jobbers.

Twenty-second. The amount and value of bonds and stocks, other than bank stock.

Twenty-third. The amount and value of shares of bank stock.

Twenty-fourth. The amount and value of shares of capital stock of companies and associations not incorporated by the laws of the State.

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

Twenty-sixth. The value of all other articles of personal property, not included in the preceding twenty-five items.

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

Twenty-eighth. The value of all improvements, except plowing, on lands held under the law of the United States.

§ 17. EXAMINATION UNDER OATH BY ASSESSOR—REFUSAL TO ANSWER.] Whenever the assessor shall be of opinion that the person listing property for himself or for another person, company or corporation, has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of property he is required to list; and if such person shall refuse to answer under oath and a full discovery make, the assessor may list the property of such person or his principal, according to his best judgment and information.

§ 18. CREDITS, HOW LISTED AND ASSESSED.] Any person who is required to list credits, either for himself or for any other person, firm or corporation, may deduct from the gross amount thereof the amount of all *bona fide* indebtedness of himself or of any such person, firm or corporation; but no acknowledgement of indebtedness not founded on actual consideration to the full amount of such acknowledgement at the time when the same was given, and no acknowledgement made for the purpose of being so deducted, shall be considered a debt in the meaning of this section, and every person so claiming any deductions shall furnish the assessor with a list containing: First. The amount of all book accounts. Second. The amount of all notes due to him, and also a list of the amount of all book accounts owing by him, and of the amount of all notes owing by him and he shall be required to verify the same by oath administered by the assessor. Nothing in this section shall be so construed as to apply to any bank, banker or corporation exercising banking powers or privileges; *Provided, however,* That any person, company or corporation in making up the amount of personal property required to be listed for himself, company or corporations shall be allowed to deduct from the gross amount thereof any indebtedness of himself, company or corporation, if the same be owned or held within this State; *Provided, further,* That grain held by the producer of the same, actually sold or contracted to be sold, but not delivered, shall be classed as credits.

§ 19. WHAT ARE PROPER DEDUCTIONS—VERIFICATIONS OF DEDUCTIONS.] No person, company or corporation shall be entitled to any deductions 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 or installment payable on the capital stock of any company, whether incorporated or unincorporated; and in all cases where deductions are claimed from credits, the assessor shall require that such deductions be verified by oath of the person, officer or agent claiming the same; and any such person officer or agent knowingly or willfully making a fraudulent statement of such deductions claimed, so verified by affidavit, shall be liable to a fine of not less than one hundred (100) dollars nor more than \$1,000 in addition to all damages sustained by the State, county or other local corporation, to be recovered in any proper form of action in any court of competent jurisdiction, in the name of the State of North Dakota.

§ 20. WHO ARE DEEMED TO BE MERCHANTS—PROPERTY CON-SIGNED—NURSERY STOCK.] Whoever owns or has in his possession or subject to his control, any goods, merchandise, grain or produce of any kind, or other personal property, within this State, with authority to sell the same which has been purchased either in or out of the State with a view to being sold at an advanced price or profit, or which has been consigned to him out of this State, for the purpose of being sold at any place within this State shall be held to be a merchant, and when he is by this act required to make out and deliver to the assessor a statement of his personal property, he shall state the value of such property pertaining to his business as a merchant.

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

§ 22. PROPERTY OF COMPANIES OR ASSOCIATIONS, HOW AND BY WHOM LISTED.] The president, secretary or principal accounting officer of any company or association, whether incorporated or unincorporated, except railroad companies and banking corporations whose taxation is specifically provided for in this act, shall

make out and deliver to the assessor a sworn statement of the amount of its capital stock, setting forth particularly:

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

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

Third. The amount of capital stock paid up.

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

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

Sixth. The value of all real property, if any.

Seventh. The value of its personal property. The aggregate amount of the fifth, sixth and seventh items shall be deducted from the total amount of the fourth, and the remainder, if any, shall be listed as "bonds or stocks," under subdivision 24 of Section 16 of this act; the real and personal property of each company or association shall be listed and assessed the same as other personal property; in all cases of failure or refusal of any person, officer, company or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he can obtain.

§ 23. BANKERS, BROKERS AND STOCK JOBBERS, HOW AND WHAT THEY SHALL LIST.] The accounting officer of every bank whose capital is not represented by shares of stock, and every private banker, broker or stock jobber, shall make out and deliver to the assessor, when required to list personal property, a statement which he shall verify by oath, showing:

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

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

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

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

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

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

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

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

The amount of the seventh 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 18 of Section 16 of this act. According to the provisions of said Section 16, the amount of the fifth item shall be listed as bonds and stocks under the said Section 16, and the said sixth item shall be listed the same as other similar personal property is listed under this act, except that in the case of savings banks organized under the 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 as credits according to the provisions of Section 16.

§ 24. BANK STOCK—WHERE AND AT WHAT VALUATION TO BE LISTED.] The stockholders of every bank located in this State, whether such bank has been organized under the banking laws of this State, or of the United States, shall be assessed and taxed on the value of their shares of stock therein in the county, town, district, city or village where such bank or banking association is located, and not elsewhere, whether such stockholders reside in such places or not; such shares shall be listed and assessed annually, with regard to the ownership and value thereof, on the first day of May of each year. To aid the assessor in determining the value of such shares of stock, the accounting officer of every bank shall furnish a statement to the assessor, verified by oath, showing the amount and number of such shares of capital stock of such bank, the amount of its surplus or reserve fund, and the amount of its legal investments in real estate, which real estate shall be assessed and taxed as other real estate is assessed and taxed under this act. The assessor shall deduct the amount of such investments in real estate from the aggregate amount of such capital and surplus fund, and the remainder shall be taken as a basis for the valuation of such shares of stock in the hands of the stockholders, subject to 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.

§ 25. BANK TO KEEP AND FURNISH LIST OF STOCKHOLDERS.] In every bank and banking 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 amount held, owned or controlled by each party in interest, which statement or list shall be subject to the inspection of the officer authorized to assess property for taxation; and it shall be the duty of the accounting officer or cashier of each bank or banking institution to furnish the assessor with a duplicate copy of such statement, verified by oath, which shall be returned to the county auditor and filed in his office.

§ 26. TAXES ON BANK STOCK TO BE A LIEN ON DIVIDENDS.] To

secure the payment of taxes on bank stock or banking capital, it shall be the duty of every bank, or managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholders or owners as shall be necessary to pay any taxes levied upon their shares of stock or interest, respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid; and any officer, or any such bank who shall pay over or authorize the paying over of any such dividend or a portion thereof, contrary to the provisions of this section shall thereby become liable for such tax; and if the said tax shall not be paid, the county treasurer where said bank is located shall sell such 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.

§ 27. CERTAIN PROPERTY HELD TO BELONG TO LESSEE OR EQUITABLE OWNER.] Property held under a lease for a term of three or more years, or a contract for the purchase thereof, belonging to the State, or to any religious, scientific or benevolent society or institution, whether incorporated or unincorporated, or to any railroad company or corporation whose property is not taxed in the same manner as other property, shall be considered for all purposes of taxation as the property of the person so holding the same.

§ 28. ALL PROPERTY TO BE ASSESSED AT FULL VALUE—VALUE, HOW DETERMINED.] All property shall be assessed at its true and full value in money. In determining the true and full value of real and personal property, the assessor shall not adopt a lower or different standard of value, because the same is to serve as a basis of taxation; nor shall he adopt as a criterion of value, the price for which said property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money. 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 lands. In valuing any real property upon which there is a coal or other mine or stone or other quarry, the same shall be valued at such a price as such property, including the mine or quarry, would sell at a fair voluntary sale for cash. Money, whether in possession or on deposit, shall be entered in the statement at the full amount thereof. Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the full price of the same so payable; if for a specific article or a specific number or quantity of any article of property, or for a certain amount of labor, or for services of any

kind, it shall be valued at the current price of such property, or for such labor or services at the place where payable.

§ 29. COUNTY AUDITOR TO FURNISH BOOKS, ETC.—LIST OF REAL PROPERTY—OF MORTGAGES—MEETING OF ASSESSORS.] The county auditor shall annually provide the necessary assessment books and blanks, at the expense of the county, for and to correspond with each assessment district or township. He shall make out in the real property assessment book complete lists of all lands or lots subject to taxation (showing the names of owners, if to him known, and, if unknown, so state it) the number of acres, and the lots, or parts of lots or blocks, included in each description of property. There shall be appended to each personal property assessment book a list of all mortgages or other real estate securities, held owned or controlled by the residents of the town or district, showing the names of the owners or agents, alphabetically arranged, and the amount due on each separate instrument. It is hereby made the duty of the register of deeds to make out such lists according to the records of his office, and deliver them to the county auditor on or before the last Saturday of March in each year. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of March in each year; and the assessors shall meet on that day, at the office of the county auditor, for the purpose of receiving such books and blanks, and for conference with the auditor and county commissioners in reference to the performance of their duties, and the commissioners shall meet upon that day for that purpose.

§ 30. ASSESSOR DISTRICTS, BOUNDARIES OF—VACANCIES, HOW FILLED—FEES—ELIGIBILITY.] All counties or parts of counties in this State not organized into civil townships shall be divided into assessor districts, which shall be the same as the commissioner districts of said county, excluding, organized civil townships, and the assessor thereof shall be elected at the same time that State officers are elected; *Provided*, That any vacancy may be filled by appointment by the county commissioners. Each organized civil township in this State shall constitute an assessor district, and there shall be one assessor elected for each one of said districts annually at the time that other town officers are elected; *Provided*, Any vacancy in township assessor may be filled by appointment by the board of supervisors of said township where vacancy exists; *Provided*, That cities organized under the General Laws of this State shall not be included in the district provided for in this section, but assessors of such cities shall act with the board of county assessors in any of their meetings. All assessors of this State shall receive three (3) dollars per day and no more, for the time actually employed in making and completing said assessment. But not to exceed sixty (60) dollars for assessing any one civil township; *Provided, further*, That no person shall be eligible to be assessor unless he is a voter in the district or township for which he is to be assessor.

§ 31. BOND AND OATH OF ASSESSOR.] Every person elected or appointed to the office of assessor shall, at or before the time of receiving the assessment books, file with the county auditor his bond, payable to the State of North Dakota, with at least two good freeholder sureties, to be approved by the board of township supervisors in counties organized into civil townships and in counties not so organized by the board of county commissioners, in the penal sum of five hundred (500) 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 enjoined on him by this act, and if any person so elected or appointed fails to give bond, or fails to take the oath required within the time prescribed, such failure shall be deemed a refusal to serve.

§ 32. ASSESSMENTS — WHEN AND HOW MADE.] The assessor shall perform the duties required of him during the months of May and June of each year, except in cases otherwise provided, and in the following manner, to-wit: He shall actually view, when practicable, and determine the true and full value of each tract or lot of real property listed for taxation, and shall enter the value thereof in one column and the value of all improvements and structures thereon in another column, opposite each description of property, also the total value of the same including improvements and structures. He shall make an alphabetical list of the names of all persons in his town or district liable to assessment of personal property, and require each person to make a correct list and statement of such property according to the prescribed form, which statement and list shall be subscribed and sworn to by the person listing the property; and the assessor shall thereupon determine the value of the property included in such statement, and enter the same in his assessment books opposite the name of the party assessed; and in making such entry in his assessment books he shall give the name and the postoffice address of the party listing the property, and if the party resides in a city, the assessor shall give the street and number, or other brief description of the residence or place of business; *Provided*, That personal property shall be assessed upon view by the assessor at any time within the limits prescribed by the provisions of this act, at its then actual value regardless of any change of ownership prior to the date of such assessment; but if the owner, factor or agent can show by duly authenticated certificate that the property has been lawfully assessed in any other town, city, village or district in this State for that year, then such property shall not be assessed.

§ 33. ASSESSMENT OF REAL PROPERTY MADE EVERY ODD NUMBERED YEAR—IMPROVEMENTS, HOW LISTED.] The assessor shall every odd numbered year, at the time of taking a list of personal

property, also assess all real property situated in his town or district, that may have become subject to taxation since the last previous assessment of property therein, and all new buildings or structures, whether completed or in process of construction, of any kind, of over one hundred (100) dollars in value, the value of which has not been previously added to, or included in the value of the land, on which such structure has been erected, and shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot of real property on which each structure has been erected, and the true value added to such parcel of real property by the erection thereof; and in case of the destruction by fire, flood or otherwise of any building or structure of any kind over one hundred (100) dollars in value, the value of which has been included in the last preceding valuation of land upon which such building or structure stood, the assessor shall determine as near as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make a return thereof to the county auditor.

§ 34. STATEMENT OF PERSONAL PROPERTY TO BE MADE BY OWNERS.] The assessor shall call at the office, place of doing business or residence of each person required by this act to list property and list his name, and shall require such person to make a correct statement of his property in accordance with the provisions of this act; and every person so required shall enter a true and correct statement of such property in the form prescribed, which statement shall be signed and verified by the oath of the person listing the property and delivered to the assessor, who shall thereupon assess the value of such property and enter the same in his books; *Provided*, If any property is listed or assessed on or after the fourth Monday in June and before the return of the assessor's books, the same shall be as legal and binding as if listed and assessed before that time.

§ 35. SICKNESS AND ABSENCE OF OWNER—DUTY OF ASSESSOR.] If any person required by this act to list property be sick or absent when the assessor calls for a list of his property, the assessor shall leave at the office or usual place of business of such person a written or printed notice, requiring such person to make out and leave at the place named by such assessor, on or before some convenient day named therein, the statement or list required by this act, the date of leaving such notice, and the person required to list the property shall be noted by the assessor in his assessment book.

§ 36. REFUSAL TO LIST OR SWEAR TO STATEMENT, DUTY OF ASSESSOR—OATH.] In any case where any person whose duty it is to list personal property for taxation, has refused or neglected to list the same when called on by the assessor for that purpose, or to take and subscribe an oath in regard to the truth of his statement of personal property, or any part thereof when required by the assessor the assessor shall enter opposite the name of such

person in an appropriate column the words: "Refused to list," or "Refused to swear," as the case may be; and in every case where any person required to list property for taxation has been absent or unable by sickness to list the same, the assessor shall enter opposite the name of such person in an appropriate column the words: "Absent" or "sick." The assessor is hereby authorized to administer oaths to all persons who by the provisions of this act are required to swear, or whom he may require to testify in any case; and he may examine, upon oath, any person whom he may suppose to have knowledge of the amount or value of the personal property of any person refusing to list or to verify his list of personal property.

§ 37. NUMBER OR NAME OF SCHOOL DISTRICT TO BE GIVEN WHERE PROPERTY IS ASSESSED.] It shall be the duty of assessors, when assessing personal property, to designate the number or name of the school district in which each person assessed is liable for tax, which designation shall be made by writing the number or name 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.

§ 38. FAILURE TO OBTAIN ASSESSMENT—DUTY OF ASSESSOR.] In all cases of failure to obtain a statement of personal property, from any cause, it shall be the duty of the assessor to ascertain the amount and value of such property, and assess the same at such amount as he believes to be the true value thereof. The assessor when requested shall deliver to the person assessed a copy of the statement of property hereinbefore required, showing the valuation of the property so listed, which copy shall be signed by the assessor. The assessor of each district shall, on or before the fourth Monday in June of each year, file with the town or city clerk of each organized town or city, the assessment list or roll for such town or city, where it shall remain subject to the inspection of the residents or property owners of such town or city until the Saturday following.

§ 39. TOWN BOARD OF REVIEW—DUTIES, COMPLAINTS AND GRIEVANCES.] The board of supervisors of each town, the recorder and president of each incorporated village, and the assessor, recorder and mayor of each city (except cities whose charters provide for a board of equalization) shall meet on the fourth Monday of June at the office of the town clerk or recorder, for the purpose of reviewing the assessment of property in each town or district, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertance or otherwise, it shall be the duty of the said board to place the same upon the list with the true value thereof, and

proceed to correct the assessment, so that each tract or lot of real property, and each article, parcel or class of personal property shall be entered on the assessment list at the true value thereof; but the assessment of the property of any person shall not be raised, until each person shall have been duly notified of the intent of the board so to do, and on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just; any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day; *Provided*, That they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of personal property, shall be heard and decided by the town board; *Provided*, That the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board.

§ 40. NOTICE OF MEETING OF BOARD OF REVIEW TO BE POSTED.] The assessor shall cause, at least ten days previous, notice of the time and place of the meeting of the town board of review, by posting notice in at least three public places in each town or district; but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

§ 41. ASSESSOR'S STATEMENT AND RETURN TO AUDITOR.] The assessors shall add up and note the amount of each column in their assessment books after making the corrections made by the town board of review. They shall also make in each book, under proper headings, a tabular statement showing the footings of the several columns upon the page, and shall add up and set down, under the respective headings, the total amount of the several columns; and on or before the first Monday of July or within two days thereafter, he shall make return to the county auditor of his assessment books, and deliver therewith the lists and statements of all persons assessed, all of which shall be filed and preserved in the office of the county auditor. Such returns shall be verified by his affidavit, and substantially in the following form:

STATE OF NORTH DAKOTA, }
COUNTY, } ss.

I,assessor ofdo solemnly swear that the book to which this is attached contains a full list of all the real property (or personal property, as the case may be) subject to taxation inso far as I have been able to ascertain the same, and that the assessed value set down in the proper column opposite the several kinds and descriptions of property is in each case the true and full value of such property,

to the best of my knowledge and belief, (where the assessment has been corrected by the town board, except as corrected by the town board), and that the footings of the several columns in said book and the tabular statement returned herewith is correct, as I verily believe.

.....
Assessor.

Subscribed and sworn to before me this.....day of
.....18....

[L. s.] Auditor of.....County.

§ 42. LIST GIVEN TO AUDITOR FOR PERSONS SICK OR ABSENT.]

If any person required to list property for taxation is prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property may, at any time before the extension of taxes thereon by the county auditor, make out and deliver to the county auditor a statement of the same as required by this act, and the county auditor in such case shall make an entry thereof and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who refused or neglected to make oath to his statement when required by the assessor, as provided herein; nor from any person, unless he makes and files with the county auditor an affidavit that he was absent from his town and district without design to avoid the listing of his property, or was prevented by sickness from giving the assessor the required statement when called upon for that purpose.

§ 43. AUDITOR TO EXAMINE ASSESSMENT BOOKS AND HAVE RETURNS 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 of such property and make the necessary corrections.

§ 44. COUNTY BOARD OF EQUALIZATION—MEETINGS—DUTIES.] The county commissioners, or a majority of them, with the county auditor, shall form a board for the equalization of the assessment of the property of the county; they shall meet for this purpose annually, on the second Monday in July, at the office of the auditor; and, having each taken an oath fairly and impartially to perform their duties as members of such board, they shall examine and compare the returns and assessment of the property of the several cities whether organized under general law or special charter, towns or districts of the county, and proceed to equalize the same, so that each tract or lot of real property shall be entered on the assessment list at its true and full value, subject to the following rules:

First. VALUATION OF REAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each tract or lot of real property which in their opinion is returned below its true full value to such price and sum as they believe to be the true and full value thereof.

Second. SAME—WHEN TO BE REDUCED.] They shall reduce the valuation of each tract or lot which in their opinion is returned above its true and full value to such price and sum as they believe to be the true and full value thereof.

Third. VALUATION OF PERSONAL PROPERTY—WHEN TO BE RAISED.] They shall raise the valuation of each class or article of personal property which in their opinion is returned below its true and full value to such price and sum as they believe to be the true and full value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate valuation is less than the valuation of the taxable personal property of such individual to such amount as they believe was the true and full value thereof.

Fourth. SAME—WHEN TO BE REDUCED.] They shall, upon complaint of any party aggrieved, being a non-resident of the town or district in which his property is assessed, reduce the valuation of each class of personal property enumerated in Section 16 aforesaid, which, in their opinion, is returned above its true and full value, to such price and sum as they believe to be the true and full value thereof; upon like complaint they shall reduce the aggregate valuation of the personal property of such individual, who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and full value of the personal property.

Fifth. AGGREGATE VALUATION NOT TO BE REDUCED, BUT MAY BE INCREASED.] They shall not reduce the aggregate value of the real property, or the aggregate value of the personal property of their county below the aggregate value thereof, as returned by the assessors, except as it may be necessary to make the valuation in the different townships equal with the additions made thereto by the auditor as hereinbefore required, but they may raise the aggregate valuation of such real property and of each class of personal property of said county or any town or district thereof, whenever they believe the sum is below the true and full value of said property or class of property, to such aggregate amount as they believe to be the true and full value thereof.

Sixth. AUDITOR TO PUBLISH RECORD—LENGTH OF TIME.] The county auditor shall keep an accurate journal or record of the proceedings and orders of said board, showing the facts and evidence upon which their action is based; and said record shall be published the same as other proceedings of county commissioners, and a copy of such published proceedings shall be transmitted to the Auditor of the State, with the abstract of assessment hereinafter required. The county board of equalization may continue in ses-

sion, and adjourn from day to day not exceeding ten days, commencing on the said second Monday of July; the county commissioners on completion of equalization, must proceed to make the levy for taxes for the current fiscal year.

§ 45. CORRECTED LISTS—ABSTRACTS FOR STATE AUDITOR.] The county auditor shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly. Having made such corrections of the real or personal lists, or both, as the case may be, he shall make duplicate abstracts of the same, one copy of which he shall file in his office and one copy he shall forward to the Auditor of the State, on or before the fourth day of August following each county equalization.

§ 46. STATE BOARD OF EQUALIZATION—HOW CONSTITUTED—MEETINGS—RULES FOR EQUALIZING.] The Governor, State Auditor and Attorney General, with one qualified elector, not a member of any county board of equalization, from each judicial district of the State, to be appointed by the Governor, with the advice and consent of the Senate, shall constitute the State Board of Equalization. The persons so appointed shall hold their office for the term of two years from the first day of March succeeding their appointment, except that the term of office of the members of said board appointed for the year 1890 shall expire March 1, 1891. The Governor shall fill all vacancies that may occur in said board by special appointment. The Governor shall be *ex-officio* president of said board, and the State Auditor shall act as secretary. The board may adjourn from day to day, and may employ such clerical assistance as may be deemed necessary to facilitate its labors. The members of said board shall receive the same *per diem* and mileage as may be allowed to members of the Legislative Assembly. The said board shall meet annually on the third Tuesday in August at the office of the State Auditor, and each member having taken the oath prescribed by law, they shall examine and compare the returns of the assessment of the property in the several counties of the State, and proceed to equalize the same, so that all the taxable property in the State shall be assessed equally and at its true and full value. In the performance of their duties they shall be governed by the following rules:

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

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

Third. They shall not reduce the aggregate valuation of all the property in the State, as returned by the several county auditors, more than 1 per centum on the whole valuation thereof.

§ 47. RECORD OF PROCEEDINGS TO BE PUBLISHED—SYNOPSIS TO BE SENT TO COUNTY AUDITORS—DUTY OF COUNTY AUDITOR AFTER EQUALIZATION.] The secretary shall keep a record of the proceedings of the board, which shall be published in the annual report of the State Auditor, and upon final adjournment he shall transmit to each county auditor an abstract of such proceedings specifying the per centum added to or deducted from the valuation of the real property of each of the several towns, villages or cities, and of the real property not in towns, villages and cities, in case an equal per centum has not been added to or deducted from each, and specifying also the per centum added to or deducted from the several classes of personal property, in each of the towns, townships, villages and cities in the State; and the county auditor shall add to or deduct from each tract or lot of real property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding in each case any fractional sum of fifty (50) cents or more, and deducting in each case any fractional sum of less than fifty (50) cents, so that the value of any separate tract or lot shall contain no fraction of a dollar, and shall also add to or deduct from such class of personal property in his county the required per centum on the valuation thereof, as it stands after the same has been equalized by the county board of equalization, adding or deducting in manner as aforesaid, any fractional sum, so that the value of any separate class of personal property shall contain no fraction of a dollar.

§ 48. TAXES TO BE LEVIED IN SPECIFIC AMOUNTS—RATE, HOW DETERMINED.] All county, township, town, city and school district taxes, except special taxes for local improvement in cities or villages, or unless specially provided for by law, shall be levied or voted in specific amounts and the rate per centum shall be determined from the amount of property as equalized by the State Board of Equalization each year. The State tax shall be levied by the Legislative Assembly and the rate of such tax shall be certified by the State Auditor to each county auditor on or before the fifteenth day of September annually. The county taxes shall be levied by the county commissioners at the time of their meeting in July of each year. Such taxes shall be based upon an itemized statement of the county expenses for the ensuing year, which statement shall be included in the published proceedings of 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 5 per cent. of the same. The taxes voted by incorporated cities, villages, townships or school districts, shall be certified by the proper authorities to the county auditor on or before the twentieth day of July in each year. The rate per centum of all taxes except the State tax and such other taxes the rates of which may be fixed by law, shall be calculated and fixed by the county auditor, according to the

limitations hereinafter prescribed; *Provided*, That if any county, city, town or school district shall return a greater amount than the prescribed rate will raise, then the county auditor shall only extend such amount of tax as the limited rate will produce.

§ 49. TAX LIST TO BE MADE OUT BY COUNTY AUDITOR—FORM OF THE BOOKS.] The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts of the county. The rate per cent. necessary to raise the required amount of the various taxes shall be calculated on the assessed valuation of property as determined by the State Board of Equalization; but in calculating such rates, no rates shall be used resulting in any fraction, or less than one-tenth of a mill; and in extending any tax whenever it amounts to the fractional part of a cent it shall be made one cent. The tax list shall also be made out to correspond with the assessment book, 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 special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate per cent. of each tax at the head of the proper columns without extending the same, in which case a schedule of the rates per cent. of such taxes shall be made on the first page of each tax list; such lists shall also show in a separate column the years for which any piece or parcel has been sold for taxes, if the same has not been redeemed, or deeded for such taxes. The county auditor shall on or before the first day of December in each year, make and transmit to the State Auditor, in such form as the State Auditor may prescribe a complete abstract of the tax list of his county.

§ 50. CERTIFICATE OF COUNTY AUDITOR TO TAX BOOK.] It shall be the duty of the county auditor to make in each tax book or list a certificate in the following form, viz.:

STATE OF NORTH DAKOTA, {
.....COUNTY. }

I.....auditor [of].....
county, State of North Dakota, hereby certify that the following
is a correct list of the taxes levied on the real and personal prop-
erty in the town (or district, as the case may be) of.....
.....for the year one thousand eight hundred and....

Witness my hand and official seal this.....day of
.....18....

.....
County Auditor.

§ 51. TAX LISTS—WHEN TO BE DELIVERED TO TREASURER.] The county auditor shall deliver the lists of the several districts of the county to the county treasurer, on or before the first day of December in each year, taking his receipt therefor; and such lists

shall be full and sufficient authority for the county treasurer to receive and collect taxes therein levied.

§ 52. COUNTY TREASURER TO BE COLLECTOR OF TAXES.] The county treasurer shall be the receiver and collector of all 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 Legislative Assembly of the Territory of Dakota heretofore passed to the contrary notwithstanding; except the special taxes for local improvements provided for in Article 15, Chapter 73, Laws of 1887, and also of all fines, forfeitures or penalties recieved by any person or officer for the use of his county; and he shall proceed to collect the same according to law, and place the same, when collected, to the credit of the proper funds; but this provision shall not be construed so as to include any fines or penalties accruing to any municipal corporation for the violation of its ordinances and which were recovered before any city justice.

§ 53. THE RECEIPTS—WHAT THEY SHALL SPECIFY—DUPLICATE STUBS.] The county treasurer upon the payment of any tax, shall give to the person paying the same a receipt thereof, specifying therein the land, town or city lot, or what other property, on which said tax was levied, according to its description on the tax list or in some other sufficient manner and the year or years for which the tax was levied, and each year's tax shall be on a separate receipt, and the receipts for each year shall be numbered from one upwards, until the tax list is returned to the auditor. Each receipt shall also specify the years for which any of the real estate described therein has been sold for taxes and not redeemed. The said receipt shall have a duplicate stub, showing the name of the person, description of property and the amount and date of payment; and the county treasurer shall return all such duplicate stubs made by himself or deputies, to the auditor at the end of each day, who shall file and preserve them in his office, charging the treasurer with the amount thereof.

§ 54. WHAT ORDERS RECEIVED FOR TAXES.] The county treasurer shall receive State warrants for State taxes and county warrants on the several county funds for which taxes may be levied, to the amount of the tax for such fund, without regard to priority of number; and he shall write or stamp across the face of all such county warrants the date of their receipt, and the name of the person from whom received.

§ 55. DELINQUENT PERSONAL PROPERTY TAX—PENALTY—DISTRESS.] All unpaid personal property taxes shall be deemed delinquent on the first day of March next after they become due, and thereupon a penalty of 5 per cent. shall attach and be charged upon all such taxes. After the first day of March in each and every year, the county treasurer shall immediately proceed to collect all delinquent personal property taxes, and if such taxes are not paid on demand, he shall distrain sufficient goods and chattels

belonging to the person charged with such taxes, if found within the county, to pay the same, with the said penalty of 5 per cent. and all accruing costs, and shall immediately proceed to advertise the same in three public places in the town or district where such property is taken and in one official newspaper, if there is one in the county; *Provided*, The amount of said taxes to be collected by distress will not be less than fifteen (15) dollars, stating the time when and the place where such property will be sold, and if the taxes for which such property is distrained, and the costs which accrue thereon, are not paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer or his deputy shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes and costs of such distress and sale.

§ 56. LIST OF UNCOLLECTED TAXES TO BE FILED WITH THE AUDITOR—CANCELLATION BY COMMISSIONERS.] If the county treasurer is unable for want of goods or chattels whereupon to levy, to collect, by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver or accounting officer, agent or factor, such treasurer shall file with the county auditor, on the first day of June following, a list of such taxes with an affidavit of himself or the deputy treasurer entrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes and was unable to make or collect the same; he shall note on the margin of such list the place to which any delinquent tax payer may have removed, with the date of his removal, if he is able to ascertain such fact. The county auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they shall cancel such taxes as they are satisfied can not be collected.

§ 57. SUIT AND JUDGMENT FOR DELINQUENT TAX PROCEEDINGS.] Within ten days after the adjournment of the board of county commissioners, the auditor shall file a copy of such revised list with the clerk of the district court of the county and within ten days after the filing of such copy, the clerk shall issue and deliver to the sheriff of the county where the person against whom such tax is claimed may at the time reside or be, for service, a citation to each delinquent named on said list, stating the amount of tax and penalty, and requiring such delinquent to appear on the first day of the next general term of the district court in the county and show cause if any there be, why he should not pay said tax and penalty; and if he fails to pay said tax, penalty and costs to the sheriff before the first day of the term, or on said day to show cause as aforesaid, the court shall direct the clerk to enter a judgment against such delinquent for the amount of such tax, penalty and costs, and such taxes shall from the date of docketing of such judgment, and not before, become a lien upon any real estate in

the county which the judgment debtor shall own or the title to which he may subsequently acquire; *Provided, however,* That whenever the sheriff has for any reason been unable to serve any citation, heretofore issued in such proceeding in any year or years, or whenever the court has or hereafter may for any reason decide that the service of any such citation heretofore made or attempted to be made, or that the issuance thereof by the clerk was illegal, the clerk of said court shall in every such case issue another citation of the character aforesaid, and requiring such delinquent to appear on the first day of the next general term of said district court, held in said county, to show cause as aforesaid, and if he fails to pay the tax, penalty and costs to the sheriff before said first day of said term, or to show cause as aforesaid, the court shall direct the clerk to enter judgment as aforesaid; *Provided, further,* That all citations other than the first, shall only be issued upon the request of the state's attorney for said county; and, *Provided, further,* The citation herein provided for shall be *prima facie* evidence that all the provisions of law in relation to the assessment and levy of taxes have been complied with, and no omission of any of the things by law provided in relation to such assessment or levy, or of anything required by any officer or officers to be done prior to the issuance of such citation, shall be a defense or objection to such taxes, unless it be made to appear that such omission has resulted to the prejudice of the party objecting, and that such taxes have been unfairly or unequally assessed, and in such case, but in no other, the court may reduce the amount of such taxes and give judgment accordingly. It shall, however, always be a defense to such taxes, that the same have been paid, or that the property upon which the same were assessed, was not subject to taxation.

§ 58. CLERK'S FEES FOR JUDGMENT—EXECUTION.] The clerk shall receive as fees for issuing such citation and perfecting judgments one dollar and fifty cents (\$1.50) in case not contested; and in contested cases, such fees as are allowed by law in civil actions. Executions shall be issued upon such judgment at the request of the state's attorney, and shall state that the judgment was obtained for delinquent taxes, and no property shall be exempt from seizure thereon.

§ 59. PENALTY FOR NEGLECT FOR REFUSAL OF TREASURER.] If any county treasurer shall refuse or neglect to collect any tax assessed upon personal property where the same is collectable, or to file the delinquent list and affidavit, as herein provided, he shall be held, in his next settlement with the auditor, liable for the whole amount of such taxes uncollected, and the same shall be deducted from his salary or fees and applied to the several funds for which they were levied.

§ 60. REMOVAL OF DELINQUENT TAXPAYER TO ANOTHER COUNTY—DUTY OF THE AUDITOR.] The county auditor, within thirty days after receiving the delinquent list of personal property taxes,

shall make out and forward to the clerk of the court of any county in this State to which any delinquent tax-payer may have removed, a statement or account of such delinquent taxes, specifying the value of property on which said taxes were levied thereon, to which he shall add an amount equal to the sum of 25 per centum on the taxes levied, if said delinquent tax-payer left the county in which said taxes were levied after the time required by law for the county auditor to deliver the tax list to the county treasurer; but if he left the county previous to the time required by law for the delivery of the list to the county treasurer, then the said county auditor shall not add 25 per centum.

§ 61. MANNER OF COLLECTING FROM SUCH PERSON.] On receipt of any such statement or account, the clerk of the court receiving the same shall issue his warrant to the sheriff of his county, and the sheriff shall immediately proceed to collect the same of the person so charged with said taxes and per centum, together with a fee of twenty-five (25) cents for each warrant so issued; which sum when collected shall be paid to the clerk as his fee for issuing the same and all taxes thus collected shall be by him remitted to the treasurer of the county to which said taxes belong; and at the same time he shall return the original statement or account to the auditor of the county from which it was received, stating the amount of his collections, and, if any taxes remained unpaid the reason why said taxes could not be collected, certifying in his official capacity to the same; and the auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel said taxes from the list; *Provided*, That in case of all delinquent taxes collected by the sheriff receipts shall be issued to him and payment shall be made in the manner provided in Section 53 of this act.

§ 62. THE TREASURER'S FEES FOR MAKING DISTRESS AND SALE.] The county treasurer or his deputy shall be allowed the same fees for making distress and sale of goods and chattels, for the payment of taxes, as are allowed by law for constables for making levy and sale of property on execution; traveling fees to be computed from the place of holding elections of any town or district to the place of making the distress, unless such distress is made by his deputy, in which case the same shall be computed from the residence of such deputy; which fee shall be added to the tax and collected by the treasurer. Upon payment to the county treasurer of any personal property tax for which judgment has been obtained, the treasurer shall deliver a certificate of the fact of such payment, to the clerk of the court, who shall satisfy the judgment upon the margin of the record thereof, by stating the date of payment, and number of the receipt given therefor, and file such certificate.

§ 63. SETTLEMENT BETWEEN TREASURER AND AUDITOR.] On the first day of each month (except the month of February) of each year, the county treasurer shall make a full settlement with

the county auditor of his receipts and disbursements since the last settlement, and turn over to the auditor county warrants paid by him and all auditor's warrants paid, taking the receipt of the auditor for such vouchers, and the auditor and the treasurer shall distribute and credit to the proper funds all sums received since the last settlement.

§ 64. ACCOUNTS TO BE KEPT BY AUDITOR WITH TOWNSHIP, ETC.] The county auditor shall keep accounts with the State, county, and with each township, city, incorporated village and school district in the county; and immediately after each settlement with the county treasurer, he shall credit the collections to the proper funds; and upon application of any town, city, village or school district treasurer, the auditor shall give him an order on the county treasurer for the amount due such township, city, village or school district, and shall charge them respectively with the amount of such order; *Provided*, That the person so applying for such order shall deposit with the auditor a certificate from the clerk of the township, city, village, or school district, stating that such person is treasurer of such township, city, village or school district, duly elected or appointed, and that he has given bond according to law.

§ 65. WHEN TREASURER SHALL PAY OVER THE FUNDS COLLECTED.] The county treasurer shall immediately after each settlement pay over to the treasurer of the State, or of any municipal corporation or organized township, or any body politic, on the order of the county auditor, all monies received by him, arising from taxes levied and collected, belonging to the State, or to such municipal corporation or organized township, or school district, taking duplicate receipts therefor, one of which shall be filed in the office of the county auditor forthwith.

§ 66. RETURN OF TAX LISTS TO COUNTY AUDITOR ON JUNE FIRST—FIVE PER CENT. PENALTY.] On the first day of June of each year the county treasurer shall exhibit to the county auditor the several tax lists in his hands, having compared the same with his duplicate receipts, on file in the auditor's office and written opposite the amount of each tax so receipted for, the word "paid," and the number of the treasurer's receipt given in discharge of such tax; and each tract or lot of real property against which the taxes remain unpaid shall be deemed delinquent, and thereupon a penalty of 5 per cent. shall immediately accrue and thereafter be charged upon all such delinquent taxes without including such penalty therein, and any treasurer who shall receive payment of such taxes without including such penalty shall be liable to the county for the amount of such penalty.

§ 67. At the settlement on the first day of October in each year, the treasurer shall return the tax list to the auditor, and any person desiring to pay delinquent taxes contained in said list, shall receive from the auditor a statement of the amount due, and shall pay the said amount to the treasurer, taking his receipt

therefor, and said receipt when countersigned by the auditor, shall be a full discharge of such tax. On the first day of October an additional 5 per cent. shall accrue and be charged on all real estate taxes due and unpaid, to be computed upon the original tax and included in the statement provided for above.

§ 68. AUDITOR'S NOTICE OF SALE—FARM LANDS TO BE FIRST OFFERED FOR SALE IN BULK.] The county auditor, under the direction of the board of county commissioners, or a majority thereof, shall give notice of the sale of real property by the publication thereof, once a week, for three consecutive weeks, commencing the first week in November preceding the sale, in such newspaper as may be designated for that purpose of the county, if there be one, and if there be no paper published in his county, shall give notice by a written or printed notice posted on the door of the court house or building in which courts are commonly held, or the usual place of meeting of the county commissioners, for three weeks previous to the sale. Such notice shall contain a notice that all lands on which the taxes of the preceding year (mentioning it) remain unpaid will be sold and the time and place of sale; which time shall be the first Tuesday in the December following, and said notice must contain a list of the lands to be sold and the amount of taxes and penalty due. The auditor shall add to each description of land so advertised the sum of twenty (20) cents for each description other than town lots, and for each town lot the sum of ten (10) cents to defray the expenses of advertising, which amount shall be paid by the county commissioners at the expiration of the sale upon the affidavit of the publisher; *Provided*, That in no case shall the property so advertised be charged for such advertising an amount exceeding the sum paid for the same as provided for in Section 84 of this act; *Provided*, That before making said sale of lands on which the tax has not been paid, the county auditor shall offer all lands so advertised for sale (not including town lots) for sale in bulk, and also all town lots subject to sale in bulk, and in case any person, persons or corporation shall bid the full amount of taxes, penalty, interest and cost, due on all of such lands or town lots, then such auditor shall sell to the person, persons or corporations so purchasing such lands or town lots as aforesaid all of said lands or lots in bulk, and shall issue certificates of sale therefor to the person, persons or corporations so purchasing, in the same manner as is in this act provided for individuals purchasing by separate tracts; but the rate of interest shall not exceed the rate of interest specified in said bid, and the persons bidding on said lands or town lots offering to take the same at the lowest rate of interest shall be considered the lowest bidder; *Provided, further*, No higher rate of interest shall be allowed under the foregoing provisions than 10 per cent.

§ 69. PENALTY AND INTEREST—DISPOSITION OF.] All penalty and interest collected on delinquent taxes prior to the sale or assign-

ment thereof for such delinquent taxes, shall be kept as a separate fund for the payment of the salaries of the treasurer and auditor, and necessary clerk hire for said offices; *Provided*, That if the amount collected in any one year shall exceed the expenses of said offices for that year, the remainder shall be credited to the county revenue fund, and no commissions or percentage for the collection of any taxes levied after the year 1889 shall be allowed or deducted therefrom, but the full amount collected for each fund shall be credited to said fund, and paid out as provided by law.

§ 70. AUDITOR TO SELL AT PUBLIC VENDUE.] The auditor shall sell by public vendue each piece or parcel of land separately in the order in which they are described in the delinquent list returned and by the description therein; but if the sum bid for any piece or parcel shall not be paid before the sale closes, he shall again offer such piece or parcel for sale; he shall state the amount for which each piece or parcel is to be sold, and shall then offer the same in fee to the highest bidder, who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the State at such an amount. The county treasurer shall attend the sale and receive all monies paid thereon.

§ 71. CERTIFICATE OF SALE OF EACH PARCEL—WHAT TITLE PASSES.] The auditor shall execute to the purchaser of any piece or parcel of land a certificate, which may be substantially in the following form:

COUNTY CERTIFICATE OF TAX SALE.

STATE OF NORTH DAKOTA, }
.....COUNTY. } ss.

I,.....auditor of the county of.....
in the State of North Dakota, do hereby certify that the following
described real estate in said county and State, to-wit: (describing
same) was on the.....day of.....18....duly sold
by me in manner provided by law for the delinquent taxes of the
year 18....thereon, amounting to.....dollars, including
interest and penalty thereon and the costs allowed by law to
.....for the sum of.....dollars, he being
the highest bidder for the same.

And I further certify that unless redemption is made of said
real estate in the manner provided by law, the said.....
or assigns, will be entitled to a deed therefor on and after the
.....day of.....A. D. 18...., on the surrender of
the certificate.

In witness whereof I have hereunto set my hand this
day of.....A. D. 18....

.....
Auditor.

§ 72. CERTIFICATE AS EVIDENCE—GROUNDS FOR AVOIDING SALE.] Such certificate shall in all cases be *prima facie* evidence that all the requirements of the law with respect to the sale have been duly complied with, and that the grantee named therein is entitled to a deed therefor after the time of redemption has expired. And no sale shall be set aside or held invalid, unless the party objecting to the same shall prove, either that the taxes were paid prior to such sale or that notice of such sale as required by law 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, or that the original tax levied was in excess of the amount allowed by law to be levied; and it shall be lawful for any person having or claiming title to any land, whether in his possession or whether it is vacant or unoccupied, or in the possession of any other person, to commence and maintain at any time an action against any person who claims any title or interest in said land or lien upon the same adversely to him by or through any tax certificate or tax deed heretofore or hereafter made to test the validity of the tax sale under which the sale was made to quiet his title to said land as against such claims of such adverse claimant, and to remove a cloud from his title arising from such tax certificate or tax deed, and it shall also be lawful for any person having or claiming title to any land to interpose and maintain at any time a defense to any action in law and equity concerning said land which may be brought against him by any person so claiming title adversely under such tax certificate or tax deed, and to test in such defense the validity of the tax sale upon which such certificate or deed was made to remove the clouds upon his title arising therefrom, and to quiet his title against such person so claiming title adversely thereunder, notwithstanding any and all laws heretofore passed which limited the time within which such action might be commenced or defense interposed.

§ 73. TAX SALE RECORD.] The county auditor shall make a record of the sale of real estate for delinquent taxes in a book kept for that purpose, which shall show the name of the owner (if known), the description of each piece or parcel of property as contained in the tax list, the amount of tax, penalty and costs, the amount sold for, date of sale, to whom sold, number of the certificate, to whom assigned, date and amount of redemption (if redeemed), and by whom redeemed; if bid in for State the record shall so state.

§ 74. FEES FOR DEED AND CERTIFICATE.] The auditor is authorized to demand twenty-five (25) cents for each deed or certificate made by him on such sale, and the fee of the notary public or other officer acknowledging the deed; but only one number of parcels of land bought by any one person shall be included in one deed or certificate; and whenever the auditor makes a deed of any land sold for taxes, he shall enter an account thereof in the sale book opposite the description of the land conveyed.

§ 75. WHO MAY NOT PURCHASE—EFFECT OF PURCHASE BY OWNER.] Any person except county auditors, county treasurers, and each of their deputies or clerks, may become the purchaser at such sale. If the owner purchase, the sale shall have the 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 encumbrance, [except such right, title, interest, lien or encumbrance] as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made; and no such sale of real estate for taxes shall be considered invalid on account of the same having been charged in any other name than that of the rightful owner; *Provided*, That nothing herein contained shall be so construed as to prevent any officer or his deputy or clerk from becoming the purchaser at such sale of any lands, of which he may be the owner, or upon which he may have a lien; *Provided*, That no county auditor, county treasurer, their deputies or clerks shall act as agent or attorney for the purchasers at such sale.

§ 76. TAXES FOR SUBSEQUENT YEARS ON PROPERTY SOLD AT TAX SALE.] The taxes for subsequent years shall be levied on property so sold or bid in for the State, in the same manner as though the sale had not been made; and if the purchaser or assignee of the State shall pay such taxes, the amount thereof with interest from the date of payment, after they shall have become delinquent, at the same rate as is provided upon the amount bid at the sale, shall be added to and be a part of the money necessary to be paid for redemption from sale.

§ 77. PROPERTY BID IN FOR THE STATE—TO WHOM ASSIGNED—FORM OF ASSIGNMENT.] At any time after any piece or parcel of land shall have been bid in for the State, and before such piece or parcel of land shall become forfeited to the State, and while such tract or parcel of land shall remain unredeemed, the county auditor shall assign and convey the same and all the right of the State in any such piece or parcel of land acquired at such sale, to any person, except the county auditor, county treasurer and their deputies and clerks, who shall pay the amount for which the same shall have been bid in, and the amount of all subsequent delinquent taxes, penalties, costs and interest upon the same; and shall execute to such person 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 North Dakota, do hereby certify that at the sale of real estate for the delinquent taxes thereon for the county of..... and State aforesaid, which sale was held at the..... in said county of.....on the.....day of..... A. D. 18.., for the taxes of the year.....the following described piece or parcel of land situate in said county of....., State of North Dakota, to-wit: (insert description) was offered

for sale to the highest bidder above the amount for which the same was subject to be sold; and no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the same was then bid in for the State at such amount, being the sum of.....and the same still remaining unredeemed, and, on this day.....having paid into the treasury of said county the amount for which the same was so bid in, and all subsequent taxes, penalties, costs and interest, amounting in all to.....dollars; therefore, in consideration thereof, and pursuant to law, I do hereby assign and convey all the right, title and interest of said State to said piece or parcel of land, acquired therein at said sale to the said.....his heirs and assigns, subject to redemption as provided by law.

And I further certify that unless redemption is made of said real estate in the manner provided by law, the said.....or assigns will be entitled to a deed therefor, on and after the expiration of the time for redemption, as provided by law, and upon the surrender of this certificate. In witness whereof I have hereunto set my hand and seal this.....day of.....18....

.....
County Auditor.

§ 78. REDEMPTION WITHIN THREE YEARS FROM SALE.] If at said sale any piece or parcel of land, shall be sold to a purchaser, or bid in for the State, the same may be redeemed at any time within three years from the date of sale by any person having an interest therein, who shall pay into the treasury of the county for the use of the person thereto entitled:

First. WHEN RIGHT OF STATE NOT ASSIGNED.] If such piece or parcel shall have been bid in for the State, and the right of the State shall not have been assigned, the amount for which the same was bid in, together with a penalty of 5 per cent. to be added immediately at the close of the sale on the amount sold for, with interest at the rate of 15 per cent. per annum, and all subsequent delinquent taxes, penalties, costs and interest thereon.

Second. WHEN RIGHT HAS BEEN ASSIGNED.] If the right of the State shall have been assigned, the amount paid by the assignee, with interest from the day when so paid, and all unpaid delinquent taxes, interests, 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 the rate of 15 per cent. 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, and penalty at the rate above provided, and if he shall have paid any subsequent delinquent taxes, penalties, costs or interest accruing subsequent to the sale, the amount so paid by him with interest from the date of paying the same, at the rate of 15

per cent. per annum, and all unpaid delinquent taxes, penalties, interest and costs accruing subsequent to the sale; *Provided*, That, when the property is bid in for the State the 5 per cent. penalty collected under the provisions of this section shall go to the salary fund, and in case of sale to a purchaser at the sale, the said penalty shall go to said purchaser.

§ 79. CERTIFICATE OF AUDITOR—RECEIPT BY TREASURER.] The county auditor shall certify to the amount due upon such redemption, and on payment of the same to the county treasurer, he shall make duplicate receipts for the certified amount, describing the property redeemed, one of which shall be filed with the county auditor, which shall have the effect to annul the sale. If the amount so paid for the purpose of redemption be less than required by law, it shall not invalidate such redemption, but the auditor shall be liable for the deficiency to the persons entitled thereto.

§ 80. REDEMPTION BY MINORS, ETC.—WHEN TO BE MADE.] Minors, insane persons, idiots or persons in captivity, or in any country with which the United States are at war, having an estate in or lien on lands sold for taxes, may redeem the same within five years after such disability shall cease; but in such case the right to redeem must be established in a suit for that purpose, brought against the party holding the title under the sale.

§ 81. UNDIVIDED ESTATES—HOW REDEEMED.] Any person who has, or claims an interest in, or lien upon any undivided estate in any piece or parcel of land sold, may redeem such undivided estate by paying into the treasury a proportionate amount required to redeem the whole; and in such case the certificate shall express the estate or interest redeemed.

§ 82.] WARRANTS TO BE DRAWN FOR MONEY DUE OWNERS.] Upon application of the party entitled thereto, the auditor shall give to such party his warrant upon the treasurer for any money paid into the treasury on the sale of any piece or parcel of land in excess of the amount due upon such piece or parcel at the time of sale, or for any money paid in for redemption which may be due to the purchaser at the sale, or his assignee; *Provided*, That the certificate of sale shall be surrendered and cancelled at the time of such payment, or if the redemption is for a part, or undivided interest in such piece or parcel, the amount of such redemption and the proportion redeemed shall be endorsed thereon, which shall be a cancellation of such part of the certificate.

§ 83. RIGHTS OF PURCHASER WHEN LAND IS NOT REDEEMED.] The purchaser of any piece or parcel of land shall, if there be no redemption, be entitled to the possession, rents and profits at the end of three years from the date of sale; and if, on demand of such purchaser to the party or parties in possession, such party or parties refuse or neglect to render such possession, such party or parties may be proceeded against as persons holding over after the determination of his or their estate, which proceedings may

be instituted and prosecuted pursuant to the provisions of law in such case made and provided.

§ 84. VOID SALES—REPAYMENT OF MONEY TO PURCHASER.] When a sale of land as provided in this act is declared void by judgment of court, the judgment declaring it void shall state for what reason such sale is declared void. In all cases where any such sale has been or hereinafter shall be so declared void, or any certificate or deed issued under such sale shall be set aside or cancelled for any reason, or in case of mistake, or wrongful act of the treasurer or auditor, land has been sold upon which no tax was due at the time, the money paid by the purchaser at the sale, or by the assignee of the State upon taking the assignment, and all subsequent taxes, penalties and costs paid by such purchaser or assignee, shall, with interest at the rate of 10 per cent. per annum from the date of such payment, be returned to the purchaser or assignee, or the party holding his right, out of the county treasury on the order of the county auditor, and so much of said money as has been paid into the State Treasury shall be charged to the State by the county auditor and deducted from the next money due the State on account of taxes. The county treasurer or auditor shall be liable on their bond for any loss occasioned by any such wrongful act. Whenever any sale of land, or certificate, or deed, made or given under this act is declared void by judgment of court, unless the judgment declared the tax to be illegal, said tax and subsequent taxes, returned to the purchaser or assignee as provided in this section, shall remain a lien upon the land sold, and the county auditor shall advertise the same at the next succeeding annual sale, for the full amount of taxes, penalties and costs due on said piece or parcel of land.

§ 85. INDORSEMENT ON CERTIFICATE OF RECORD.] Before any certificate, assignment or conveyance provided for herein shall be recorded, the holder thereof shall present the same to the county auditor, who shall certify thereon that the property therein described still remains unredeemed, and no such certificate, assignment or conveyance shall be recorded by the register of deeds, unless such endorsement is made, for which the auditor shall be entitled to a fee of twenty-five (25) cents for each certificate.

§ 86. SALE OF PROPERTY BID IN FOR THE STATE.] All pieces or parcels of real property bid in for the State under the provisions of this act, and not redeemed or assigned within three years from the date of sale shall become the absolute property of the State, and may be disposed of by the county auditor at public or private sale, as the State Auditor may direct, subject to such rules and restrictions as he may prescribe. All tracts or lots becoming so forfeited to the State shall be stricken from the tax lists, and shall not be assessed or taxed until sold to an actual purchaser. The county Auditor shall, when required by the State Auditor, make out and transmit to him a list of all forfeited lands and lots, showing the date of forfeiture, assessed valuation, amount of taxes,

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

§ 87. DEED TO BE GIVEN ON SALE OF FORFEITED PROPERTY.] Upon the sale of any tract or lot of forfeited real property, the county auditor shall execute to the purchaser thereof a deed in fee simple of the property so purchased, which shall pass to such purchaser absolute title therein described, without any act or deed whatsoever and, when so sold, such land or lots shall be again listed for taxation. If the former owner of the forfeited property becomes the purchaser, such deed shall pass to him any and all rights of any action which may have arisen, or may exist, for any trespass committed upon such property prior to the execution of the deed. Such deed may be recorded as other deeds of real estate, and the record thereof shall have the same force and effect in all respects as the record of such deeds, and shall be evidence in like manner. The proceeds of lands or lots sold at such sale for a sum equal to or exceeding the amount of taxes thereon, shall be distributed the same as other collections of taxes, but if any tract or lot shall be sold for any sum less than such amount the State shall first be paid, and the remainder, if any, shall be divided equally between the county revenue and the general school funds.

§ 88. 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 12 per cent. per annum, or may retain the same for any rent due or accruing from him to such owner or lessor for real estate on which such tax is so paid, and the same shall, until paid, constitute a lien upon said real estate.

§ 89. TAXES PAID BY MORTGAGEES OR OTHERS HAVING LIENS.] Any person who has a lien by mortgage or otherwise upon any real property on which the taxes have not been paid, may pay such taxes and the interest, penalty and costs thereon, and the receipt of the county treasurer shall constitute an additional lien on such land to the amount therein stated, and the amount so paid and the interest thereon at the rate specified in the mortgage or other instrument, shall be collected with, a part of and in the same manner, as the amount secured by the original lien.

§ 90. LIEN OF TAXES BETWEEN GRANTEE AND GRANTOR; ON PERSONAL PROPERTY.] The taxes assessed upon real property shall be a lien from and including the first day of May in the year in

which they are levied, until the same are paid; but between grantor and grantee, such a lien shall not attach until the first day of December of said year. The taxes assessed upon personal property shall be a lien upon the personal property of the person assessed from and after the time the tax books are received by the county treasurer.

§ 91. DEED NOT TO BE RECORDED WITHOUT AUDITOR'S CERTIFICATE OF TAXES PAID, ETC.] When any deeds, plat of townsite or instrument effecting the same, or any other conveyance of real estate is presented to the county auditor for transfer, he shall ascertain from the books and records in his office, and if there be delinquent taxes due, he shall certify to the same, and upon payment of such delinquent or other taxes that may be in the hands of the county treasurer for collection, he shall transfer the same, and note upon every deed of real property so transferred, over his official signature, "taxes paid," or if the land described has been sold or assigned to an actual purchaser, for taxes, "paid by sale of lands within;" and unless such statement is made upon such deed or other instrument, the register of deeds shall refuse to receive or record the same. A violation of the provisions of this section, by the register of deeds, shall be deemed a misdemeanor, and, upon conviction thereof, he shall be punished by a fine of not less than one hundred (100) dollars, nor not exceeding \$1,000; and he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained; *Provided*, That the sheriffs' or referees' certificates of sale on execution, decrees or foreclosures of mortgages may be recorded by the register of deeds without any such certificate from the county auditor and said auditor shall keep a record of such transfers in a book kept for that purpose, showing the names of the grantor and grantee, a description of the property, and the date of transfer, and shall receive twenty-five (25) cents for each certificate from the person or persons presenting the same for certification, and shall retain said amount for services.

§ 92. DIVISIONS 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 a sale or conveyance is of less value than the whole tract or lot, or part thereof as charged in the tax list, said county auditor shall transfer the same whenever the seller and purchaser agree thereto in writing, signed by them or personally appear before the auditor, and agree upon the amount of valuation to be transferred therewith; but if the seller and purchaser do not agree as to the amount of valuation to be transferred, the auditor shall make such divisions of the valuation as may appear to him just. If the county auditor is satisfied that the proportion of 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 fraudu-

lently 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 been procured by fraudulent agreement, the same shall be cancelled by the auditor, and the land or lot so transferred be charged with taxes in the same manner as though said transfer had not been made.

§ 93. IRREGULARITIES OF LAND TO BE PLATTED INTO LOTS IF REQUIRED.] In all cases when any tract or lot of said land is divided into irregular shapes that can not be described except by meets and bounds, it shall be the duty of the owner of such tracts, upon the request of the county auditor, to have such land platted into lots; if such plat can not be made without 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 the request of the county auditor, shall make out such plat from the record of the register of deeds, if practicable; but if it can not be made from such records, then he shall make the necessary survey and the plat thereof, and the said auditor shall have the same recorded; such plats being duly certified and recorded, the description of the property in accordance with the number and description set forth in such plat shall be deemed a good and valid description of the lots or parcels of land so described. When the owners of such land fail to comply with the provisions of this section, the costs of surveying, platting and recording shall be paid by the county, upon allowance by the county commissioners, and the amount thereof shall be added to the tax upon such tracts or lots the next ensuing year, which tax, when collected, shall be credited to the county fund.

§ 94. ABBREVIATIONS IN DESCRIBING LAND, ETC.] It shall be sufficient to describe land 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 sections, and also the number of the lots and blocks. Whenever the abbreviation "do" or characters "„" or any similar abbreviations or characters shall be used in any such proceedings, they shall respectively be construed and held as meaning and being the same name, word, initial letter or letters, abbreviations, figure or figures, as the last preceding such "do," or "„" or other similar characters.

§ 95. LETTING OF PUBLICATION OF TAX LIST.] The county commissioners shall let the advertising of the delinquent tax list to the publisher or proprietor of a newspaper having not less than four pages of five columns to the page, each column to be not less than two inches wide, and not less than seventeen inches long, printed or partly printed in the English language, and of general circulation; *Provided*, There are two or more such newspapers published in the county, which shall have been published and cir-

culated not less than three months prior to the time of letting, for the lowest sum—not to exceed eight cents for each description—and who shall give a bond to the county with at least two sureties, freeholders of the county, to be approved and in amount to be fixed by said county commissioners, conditioned for the correct and faithful performance of such advertising.

§ 96. 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 personal property required to be listed in his township or district, or has omitted or made an erroneous return of any property which is by law subject to taxation, shall proceed at any time before the final settlement with the county treasurer, to correct the return of the assessor and to charge the owners of such property, on the tax lists, with the proper amount of taxes; to enable him to do which, he is hereby authorized and empowered to issue compulsory process and to require the attendance of any person which he may suppose to have a knowledge of the articles or value of the property and 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 on the return of the assessor is correct; and the county auditor shall, in all cases, file in his office a statement of the facts of evidence upon which he made such corrections.

§ 97. TAX NOT COLLECTED TO BE ADDED TO THE NEXT YEAR'S TAX.] If any tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, the amount of such tax, which such property should have paid, shall be added to the tax on such property for the next succeeding year.

§ 98. DEBTS OF MUNICIPALITIES VOID IF ENTAILING TAXATION BEYOND THE RATES FIXED BY LAW.] It shall be unlawful for the corporate authorities of any county, township, city, town or village or the authorities of any school district, unless specially and expressly authorized by law, to contract any debt or incur any pecuniary liability, for the payment of either the principal or interest, for which, during the current year or any subsequent year, it shall be necessary to levy on the taxable property of such county, township, city, town or village or school district, a higher rate of tax than the maximum rate prescribed by law; 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 com-

missioner, 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 or to have participated in making, or to have authorized the making of the same, as the case may be, unless, if present, he dissented therefrom and entered or caused to be entered such dissent on the records of such municipal corporation, or of its council, supervisors or other office.

§ 99. EXEMPT PROPERTY TO BE VALUED AND ASSESSED.] At the time of taking the assessment of real property the assessor shall enter on a separate list, each description of property in the town or district exempt under the provisions of Section 5 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.

§ 100. NEGLECT OF DUTY BY OFFICERS.] Every county auditor and every district or township assessor who in any case refuses or knowingly neglects to perform any duty enjoined on him by this act, or who consents to or connives at any evasion of its provisions whereby any proceeding required by this act is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax list at less than its true value shall for every such neglect, refusal, consent or connivance, forfeit and pay to the State not less than two hundred^d (200) dollars nor more than \$1,000 at the discretion of the court, to be recovered before any court of competent jurisdiction.

§ 101. SUITS AGAINST OFFICERS DEFENDED AT EXPENSE OF COUNTY.] Whenever civil action is brought against any person holding the office of county treasurer, county auditor, or any town or district officer for performing or attempting to perform any duty authorized or decreed by any statute of this State for the collection of the public revenue, such treasurer, auditor or other officer, may, in the discretion of the court before whom such action is brought, by an order made by said court and entered in the minutes thereof, be allowed and paid out of the county treasury, reasonable fees of counsel and other expenses for defending such action.

§ 102. WHEN AUDITOR TO FORWARD LIST OF NEW TAXABLE LANDS.] A list of lands becoming taxable for the first time in each county of the State shall be procured by the State Auditor from the proper land officers at the best prices for the State, and a list of the lands becoming so taxable in each of the several counties shall be forwarded by the State Auditor to the auditor or county clerk of each county on or before the thirtieth day of March of each year.

§ 103. NOTICE WHEN TIME FOR REDEMPTION WILL EXPIRE—DUTIES OF CERTIFICATE HOLDERS AND AUDITORS.] Every person holding a tax certificate shall, at least ninety days before expiration of the time for the redemption of the lands therein described, present such certificate to the county auditor, and thereupon the auditor shall prepare, under his hand and official seal, a notice to the persons in whose name such lands are assessed, specifying the description of such lands, the amount for which the same were sold, the amount required to redeem such lands from sale, exclusive of the cost to accrue upon such notice, and the time when the redemption period will expire, which notice the auditor shall cause to be published once in each week for three consecutive weeks in some newspaper printed and published in the county where such lands are situated, if there be one; if none, then in some newspaper printed and published at the capital of the State. The fees of the sheriff for serving and the printer's fees for publishing such notice shall be added to the amount required to redeem such land, and shall be paid by the party offering to redeem such land before any certificate of redemption shall be issued. In case of failure on the part of the holder of any tax certificate to present the same to the auditor at the time hereinbefore provided, the same may be so presented at any time thereafter; and thereupon such notice shall be issued and served as hereinbefore provided, and the time for redemption of such lands shall expire sixty days after such notice; *Provided*, That the county shall not become liable for any expenses incurred under the provisions of this section.

§ 104. REDEMPTION WHEN OWNER DIES AFTER SALE.] That whenever the lands of any person heretofore have been or hereafter shall be sold for taxes, and the owner of such lands, after such sale and before the expiration of the period of redemption, heretofore has deceased or hereafter shall decease, the executor or administrator of such owner or any person interested in his estate as heir, or advisor, or creditor may redeem such lands from any such sale at any time within four years from the date thereof. If such redemption be made by a creditor, the amount paid to effect such redemption, with interest thereon at the rate of 7 per cent. per annum, shall constitute a valid claim against the estate of the deceased.

§ 105. SAME, WHEN MADE BY EXECUTOR, ETC.] If such redemption be made by an executor or administrator he shall at the time of making thereof produce his letters testamentary, or of administration to the county auditor; if made by another person he shall make and file with such auditor an affidavit stating under what right or claim such redemption is made.

§ 106. SAME—CERTIFICATE TO BE GIVEN BY AUDITOR.] Upon any such redemption being made, the county auditor shall make and deliver to the person making such redemption a certificate, containing the name of the person redeeming, a statement of the claim or right upon which such redemption was made, the amount

paid to redeem, a description of the land 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.

§ 107. ACTS REPEALED.] All acts and parts of acts in any manner in conflict with this act or repugnant thereto are hereby repealed.

§ 108. EXISTING LAWS NOT AFFECTED.] This act shall not be construed to repeal or invalidate existing laws for collection of taxes from railroad corporations.

§ 109. EMERGENCY.] Whereas, an emergency exists in that this act provides for an assessment of real property only in even numbered years, and also that no provision has been made for a State Board of Equalization, and it is necessary that this act should become a law before the first day of July; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1890.

CHAPTER 133.

[S. F. 226.]

EXTENDING TIME FOR DELIVERY OF ASSESSMENT BOOKS BY COUNTY AUDITORS.

(Amendment to preceding chapter.)

AN ACT to Amend Section 29 and Section 70 of an Act Entitled "An Act Prescribing the Mode of Making Assessments and the Levy and Collection of Taxes and for Other Purposes Relative Thereto," Approved March 12, 1890

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 29 of an act entitled "An act prescribing the mode of making assessment and the levy and collection of taxes and for other purposes relative thereto," approved March 12, 1890, be amended so as to read as follows:

"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 or township. He shall make out in the real property assessment book complete lists of all lands or lots subject to taxation (showing the names of owners, if to him known, and if unknown so state it), the number of

acres and the lots or parts of lots or block included in each description of property. There shall be appended to each personal property assessment book a list of all mortgages held, owned or controlled by the residents of the town or district, showing the names of the owners or agents alphabetically arranged, and the amount due on each separate instrument. It is hereby made the duty of the register of deeds to make out such lists according to the records of his office and deliver them to the county auditor on or before the last Saturday of March in each year. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Saturday of April in each year, and the assessors shall meet on that day at the office of the county auditor for the purpose of receiving such books and blanks and for conference with the auditor and county commissioners in reference to the performance of their duties, and the county commissioners shall meet upon that day for that purpose."

§ 2. AMENDMENT.] That Section 70 of said act be amended so as to read as follows:

"The auditor shall sell by public vendue, each piece or parcel of land separately in the order in which they are described in the delinquent list returned and by the description therein; but if the sum bid for any piece or parcel shall not be paid before the sale closes, he shall again offer such piece or parcel for sale; he shall state the amount for which each piece or parcel is to be sold and shall then offer the same in fee to the highest bidder who shall bid not less than the amount for which the same is to be sold. If no bidder shall bid an amount equal to that for which the piece or parcel is to be sold, then he shall bid in the same for the State at such an amount. The county treasurer shall attend the sale and receive all monies paid thereon; *Provided*, That none of the provisions of this act shall be construed so as to conflict in any manner with any of the provisions of an act entitled, 'An act providing for extension of the time for the payment of taxes for the year 1889, approved January 22, 1890.'"

§ 3. EMERGENCY.] There being an emergency by reason of its being necessary for the several county auditors to have time to prepare the necessary books and blanks for delivery to the assessors for this year's work, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 19, 1890.

CHAPTER 134.

[S. F. 185.]

PROVIDING FOR TAX ON GROSS EARNINGS OF RAILROADS.

AN ACT to Amend an Act of the Legislative Assembly of the Territory of Dakota, Approved March 7, 1889, Entitled, "An Act Providing for the Levy and Collection of Taxes Upon the Property of Railroad Companies in this Territory."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

THAT an act of the Legislative Assembly of the Territory of Dakota, approved March 7, 1889, entitled "An act providing for the levy and collection of taxes upon the property of railroad companies in this territory" be, and the same is hereby amended so as to read as follows:

§ 1. PERCENTAGE OF GROSS EARNINGS TO BE PAID IN LIEU OF OTHER TAXES.] In lieu of any and all other taxes upon any railroad, except railroads operated by horse power, within this State, or upon the equipment, appurtenances or appendages thereof, or upon any other property situated in this State, belonging to the corporation owning or operating such railroads, and used exclusively in and about the prosecution of the business of such railroad companies, as common carriers, including the roadbed, right of way, shops and buildings of such railroad companies, and upon the capital stock or business transactions thereof, there shall hereafter be paid into the treasury of this State, an amount equal to a percentage of all the gross earnings of the corporation owning or operating such railroad, arising from the operation of such railroad, as shall be situated within this State, both upon State and inter-state traffic, in case the railroad company owning or operating such line shall accept or has heretofore accepted, and become subject to this act as hereinafter provided, or of the act of which this act is amendatory. Every such railroad, corporation or person owning or operating, or that may hereafter own or operate any line of railroad in this State, which shall have accepted this act, shall pay to said treasurer each year "for the first five years" after the approval of this act, an amount equal to 3 per centum of such gross earnings, "and for and in each and every year after the expiration of such five years, an amount equal to 2 per centum of said gross earnings," and the payment of such amount annually as aforesaid, shall be, and is, in full of any and all other taxation and assessment whatever upon the property aforesaid. Said payments shall be made, except as hereinafter

provided, one-half on or before the fifteenth day of February, and one-half on or before the first day of August in each year. And for the purpose of ascertaining to [the] gross earnings aforesaid, an accurate account of such earnings shall be kept by said company. An abstract shall be furnished by said company to the Treasurer of this State, on or before the first day of February in each year; the truth of which abstract shall be verified by the affidavits of the treasurer and secretary of such company, and for the purpose of ascertaining the truth of such affidavits and the correctness of such abstracts, full power is hereby vested in the Governor of this State, or any other person appointed by law, to examine under oath the officers and employes of said company, or other persons, and if any person so examined by the Governor or other authorized person shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury. And for the purpose of securing to the State the payment to [of] the aforesaid per centum, it is hereby declared that the State shall have a lien upon the railroad of said company, and upon all property, estate or effects of said company whatsoever, personal, real or mixed; and the lien hereby secured to the State shall have and take precedence of all demands, decrees and judgments against said company.

§ 2. WHEN COMPANY SHALL FAIL TO MAKE RETURN.] If any such railroad company, having accepted this act, shall fail to make return of its gross earnings as aforesaid, or of any part thereof, at the time and in the manner provided by law, and such default shall continue during the period of thirty days, such company shall be subject to a penalty of an amount equal to 10 per cent. of the tax imposed upon such company by this act. And the Treasurer of the State shall forthwith ascertain the amount of such percentage justly due from such company, as near as may be from such evidence as may be available, and shall thereupon collect such amount so ascertained, together with the said penalty thereon. The amount so ascertained by the State Treasurer, as in this section provided, shall, together with the said penalty thereon, be by him entered in the books of his office, and such entry when so made shall stand in the place of the report required by law to be made by such company, and shall in all courts within this State be evidence of the amount of such tax and penalty and of the other facts stated therein, in pursuance of this act.

§ 3. NEGLECT TO PAY TAXES.] In case any railroad company, which shall have accepted the provisions of this act, shall fail or neglect to pay the amount reported at the time and in the manner hereinafter provided, for a period of thirty days after the same shall have become due by the terms thereof, in such case there shall be added, to the amount of such tax, 10 per centum thereof as a penalty for such failure or neglect of duty.

§ 4. STATE TREASURER TO DISTRAIN.] At any time after the expiration of the period of thirty days, after the amount as above

provided has become due and payable under the provisions of this act, the state treasurer, or his deputy, shall distrain sufficient goods, chattels or other movable property if found within this State, to pay the said amount due from such corporation, together with the penalty thereon, as hereinafter provided, and shall immediately advertise the sale of the same in at least three newspapers published within this State, stating the time when and place where such property shall be sold; such sale shall take place at some point on the railroad of such delinquent company, and at least four weeks' notice of the time and place of such sale shall be given. Such delinquent company, its successors or assigns, may pay in such amount and penalty at any time before the sale of the property distrained as herein provided, and thereupon further proceedings in connection with such distress shall cease, and the property distrained shall be delivered to the owner thereof.

§ 5. HOW TAXES APPORTIONED.] The monies received and collected by the State Treasurer in pursuance of this act, shall be disposed of by him as follows: One-half of the same shall be retained in the State Treasury for the use of the State, and the remainder shall be apportioned among the several counties into or through which the railroad or railroads of such companies run in proportion to the number of miles of track of the main line and its branches sustained in such counties respectively; *Provided*, That all monies paid by such companies upon statements of gross earnings heretofore made shall be distributed according to Section 6 of the act of which this is amendatory.

§ 6. HOW RAILROADS CAN ACCEPT PROVISIONS OF THIS ACT.] Any railroad company, which at the date of the passage of this act, owns or is engaged in operating any line or lines of railroad in this State, which has not accepted and become subject to the provision of the act of which this is amendatory, may at any time within thirty days after the passage of this act, by resolution of its board of directors, attested by its secretary, and filed with the Secretary of the State, accept and become subject to the provisions of this act. It is further expressly provided that any company failing to strictly comply with the provisions of this act within the time herein provided, shall be immediately subject to assessment and taxation in the manner provided for the assessment and taxation of the property of individuals of this State, and said taxes shall be collected in the same manner as is now provided in cases of property of individuals.

§ 7. WHEN RAILROADS NOT ENTITLED TO EXEMPTION SET FORTH IN THIS ACT.] The railroads and property of all railroad companies owning or operating lines of railway in this state, which have not accepted and become subject to the provisions of the act of which this is amendatory or shall not accept and become subject to the provisions of this act, shall not be entitled to the exemption in this act contained; but shall be subject to taxation in such manner as shall be provided

by law; *Provided*, That no further acceptance shall be required of such railroad companies as have already accepted of the act of which this is amendatory and become subject thereto.

§ 8. EMERGENCY.] Wherein, an emergency exists this act shall take effect and be in force from and after its passage and approval.

Approved March 20, 1890.

CHAPTER 135.

[H. F. 164.]

PROVIDING FOR ASSESSMENT AND TAXATION OF RAILROADS.

AN ACT to Provide for the Assessment of Railroad Property in this State and Prescribing the Manner of Levying and Collecting the Tax on the Same.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. RAILROAD PROPERTY TO BE ASSESSED BY STATE BOARD OF EQUALIZATION.] The State Board of Equalization shall at their annual meeting in August in each year, assess at its actual value, the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this State. To enable said board to make a correct valuation of such property, they shall have access to all reports, estimates and surveys of such lines of railroads as may be on file in the office of the Commissioners of Railroads, and shall have power to summons and compel the attendance of witnesses, and may examine such witnesses under oath in any matter relating to the value of such property. In estimating the value of each railroad, branches and sidetracks thereof they shall be governed by the same rules as are provided for the government of county and township assessors, in valuing other property in this State. They shall cause a record to be made of the estimated value placed upon each of the items set forth in this section which go to make the aggregate valuation of such assessments.

§ 2. APPORTIONMENT TO COUNTIES ACCORDING TO MILEAGE.] The Board of Equalization shall divide the valuation so found and determined of each continuous line by the number of miles of such line contained in the State, and the result shall be the valuation per mile for which said line shall be assessed. The value of each branch line shall be determined in the same manner, and such valuation per mile shall be apportioned to each county according to the number of miles of such line or branch line contained in such county.

§ 3. MILEAGE AND VALUATION, HOW CERTIFIED TO VARIOUS POLITICAL SUBDIVISIONS FOR TAXATION.] The State Auditor shall

at the time of certifying the equalized value of each organized county to the county auditor, also certify the number of miles of each main line of railroad, and branches and side tracks thereof contained in said county and the valuation per mile of such line or branch line as determined by the State Board of Equalization; and the county auditor of such county shall apportion such valuation to the cities, towns, townships and districts through which such railroads run according to the number of miles contained in each, as a part of the valuation of such city, town, townships and district for the purpose of taxation, and the same shall be taxed as personal property is taxed in each county.

§ 4. TAXATION IN UNORGANIZED COUNTIES.] The valuation so apportioned to unorganized counties in this State shall be taxed for State purposes only; and such tax shall be levied annually by the State Auditor at the same rate as other property is taxed for State purposes, and the State Auditor shall notify each railroad company so taxed of the amount of such tax, on or before the first day of December in each year, and such tax must be paid to the State Treasurer at the same time, and subject to the same penalty as is prescribed by law for the collection of personal property taxes in organized counties, and the State Treasurer shall have the same powers, and it shall be his duty to collect the said tax in the same manner as county treasurers are authorized by law to collect personal property taxes.

§ 5. WHEN PROVISIONS OF THIS ACT INOPERATIVE.] If at any time the Legislative Assembly shall provide by law for the payment of a per centum of gross earnings, by railroads, as authorized by Section 176 of the Constitution of this State, then and during the time such law shall be in force the provisions of this act shall be inoperative.

Approved March 20, 1890.

CHAPTER 136.

[H. F. 254.]

TO LICENSE EXPRESS COMPANIES.

AN ACT to License Express Companies.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LICENSE, HOW PROCURED.] Each and every express company doing any express business within this State, shall on or before the first day of August each year procure a license from the State Auditor, which license shall contain the name, popula-

tion and license fee of every station, town, village and city wherein said express company is doing business.

§ 2. "EXPRESS COMPANY" DEFINED.] The words "express company" herein used shall mean any person, company, or corporation doing an express business.

§ 3. LICENSE FEE TO BE DETERMINED BY POPULATION.] The State Auditor shall charge and the Treasurer shall collect from each and every express company doing business within this State five (5) dollars license fee for each and every station, town and city having 200 or less inhabitants, and ten (10) dollars license fee for each and every station, town or city having between 200 and 1,000 inhabitants in which they have an agent, and twenty-five (25) dollars license fee for each and every station, town and city having not less than 1,000 nor more than 3,000 inhabitants, and fifty (50) dollars license fee for each and every station, town and city having over 3,000 inhabitants in which they are doing business; *Provided*, That one or all stations, towns and cities may be named in one and the same license issued to one and the same company.

§ 4. EXPRESS COMPANIES TO FURNISH LIST OF TOWNS AND CITIES.] Each and every express company doing business in this State shall, on or before the first day of July each year, make out and deliver to the State Auditor a certified list of all stations, towns and cities in which they are doing business in this State.

§ 5. EXPRESS COMPANIES TO BE NOTIFIED OF LICENSE FEE REQUIRED.] The State Auditor shall immediately thereupon determine the number of inhabitants of each station, town and city according to the last census at his hands, and he shall satisfy himself of the correctness of the list of stations, towns and cities sent him. He shall then notify each and every express company of the number of inhabitants and the license fee of each and every station, town and city wherein they are doing business, and the total amount of license fee they are required to pay in this State, which notice shall be sent to the president, secretary or treasurer of the proper express company affected thereby, as soon as possible after the first day of July each year.

§ 6. LICENSE FEES TURNED INTO STATE TREASURY.] The State Auditor shall, upon payment of the license fee herein required, issue a proper license to the company entitled thereto and he shall pay all license fees into the State treasury general fund and shall take the State Treasurer's receipt therefor.

§ 7. BOOKS OF RECORD.] The State Auditor and Treasurer shall each keep a book in which shall be entered the name of every express company doing business in this State, the names of stations, towns and cities in which they are doing business and the number of inhabitants of each, and the amount of license fee collected for each station, town and city.

§ 8. PENALTY FOR FAILURE TO COMPLY WITH THIS ACT.] Any express company doing business within this State failing to com-

ply with the provisions of this act, shall be liable to a fine of not less than two hundred (200) dollars nor more than \$1,000 for each and every offense, at the discretion of the court, and no property belonging to said company shall be exempt from seizure and sale for such fine.

§ 9. ATTORNEY GENERAL TO PROSECUTE.] The Attorney General of this State shall prosecute all violations of this act.

Approved March 17, 1890.

CHAPTER 137.

[S. F. 158.]

SLEEPING CAR LICENSE.

AN ACT Providing for the Payment of a License on Railway Sleeping Cars.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LICENSE, AMOUNT OF.] All companies, corporations or persons, other than railway corporations operating railroads in this State, shall be required to pay a license of one hundred (100) dollars per annum on each and every sleeping car run or operated on any railroad in this State; *Provided*, That the aggregate amount of such license shall not exceed the amount of \$5,000 per annum.

§ 2. LICENSE FEE, WHEN TO BE PAID.] The license required by this act shall be issued for one year beginning on the first day of May in each year; and it shall be the duty of such companies, corporations or persons to pay such license fee into the State Treasury on or before the first day of May in each year, and the State Treasurer shall issue a duplicate receipt for the payments herein required to be made, which receipt in duplicate, it is hereby made the duty of such Treasurer to furnish.

§ 3. SECRETARY OF STATE TO ISSUE LICENSE.] The license required by this act shall be issued by the Secretary of State, and he shall issue a license for every sleeping car on which the license fee shall have been paid; the duplicate receipt of the State Treasurer, filed with the Secretary of State, shall be evidence of the number of sleeping cars on which such license fee has been paid.

§ 4. STATEMENT OF SLEEPING CAR COMPANY TO BE FILED WITH STATE TREASURER.] It shall be the duty of every company, corporation or person, at the time of the payments herein required to be made, to file with the State Treasurer, a statement sworn to by a proper officer of such company or corporation or by such per-

son; which statement shall contain the number of sleeping cars, with the names thereof, to be run or operated in this State by such company, corporation or person, as provided in Section 1, during the year for which such license is applied for, and for the purpose of ascertaining the truth of such affidavits and the correctness of such statements full power is hereby vested in the Railroad Commissioners to examine, under oath, the officers or employes of said companies, corporations, or said person, or other persons, and if any person so examined by the Railroad Commissioners shall knowingly or willfully swear falsely concerning the matter aforesaid, every such person is declared to have committed perjury, and for the purpose of securing to the State the payment of the aforesaid license, it is hereby declared that the State shall have a lien upon all property of said companies, corporations or persons, and the lien hereby secured to the State shall have and take precedence of all demands, decrees and judgments against said companies, corporations or persons.

§ 5. LICENSE FEE TO BE CREDITED TO GENERAL FUND.] All money received by the State Treasurer under the provisions of this act, shall by him be immediately placed to the account of the general fund of the State.

§ 6. PENALTY FOR FAILURE TO COMPLY WITH THIS ACT.] If any company, corporation or person operating or running sleeping cars in this State shall fail to make the sworn statement as provided in Section 4 of this act, at the time and in the manner provided by law, or to pay the license fees as herein provided, and such default shall continue during the period of thirty days, such company, corporation or person shall be subject to a penalty in an amount equal to 25 per cent. of the license fees due under the provisions of this act, and the Treasurer of the State shall forthwith ascertain the amount of such license fees due from such company, corporation or person as nearly as may be available, and shall thereupon collect such license fees so ascertained, together with said penalty thereon. The amount of license fees ascertained by the State Treasurer as in this section provided, shall, together with said penalty thereon [be] by him entered in the book of his office, and such entry, when so made, shall stand in the place of the sworn statement required by law to be made by such companies, corporations or persons, and shall, in all courts of this State, be evidence of the amount of such license fees and penalty, and of the other facts stated herein in pursuance of this act.

§ 7. DISTRESS AND SALE.] At any time after the expiration of the period of thirty days after any license has become due and payable under the provisions of this act, the State Treasurer or his deputy shall distrain sufficient property, goods or chattels, if found within this State, to pay the license fees due from such companies, corporations or persons, together with the penalty thereon herein provided, and the cost of sale and shall immediately ad-

vertise the sale of the same in at least three newspapers published in the State, stating the time when and the place where such property shall be sold, and four weeks' notice of the time and place of such sale shall be given. Such sale shall take place at some point in this State and the proceeds of the same shall apply to the payment of the license fees due, together with the penalty and costs of sale. The delinquent company, corporation or person, may pay any such license and penalty, together with the costs of the same at any time before the sale of the property distrained, as provided, and thereupon further proceedings in connection with such distress shall cease and the property returned to the owner thereof.

§ 8. WHAT SLEEPING CARS EXEMPT.] The provisions of this act shall apply to all companies, corporations or persons running or operating sleeping-cars in this State; *Provided, however,* That sleeping-cars owned and operated exclusively by railway companies doing business in this State as a part of their railway equipment, shall be exempt from the provisions of this act.

§ 9. EMERGENCY.] An emergency exists by reason of the fact that there is now no law requiring railway sleeping car companies doing business in this State to pay their just proportion of the State revenue, and it is necessary for said reason that this act be in force and effect long prior to July 1, 1890, and as soon as practicable, therefore this act shall be in force and effect from and after its passage and approval.

Approved March 20, 1890.

CHAPTER 138.

[H. F. 33.]

LICENSE OF PUBLIC WAREHOUSES.

AN ACT to Provide for the Licensing of Public Warehouses.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LICENSE, HOW OBTAINED—LICENSE FEE, HOW DETERMINED.] That annual State license must be obtained through the Commissioners of Railroads for each and every public grain warehouse in operation in this State. That no license issued under this act shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse than the one therein described. The license fee is hereby fixed at two dollars and fifty cents (\$2.50) per 1,000 bushels elevator capacity or major fraction thereof for each public grain warehouse; *Provided,* That no license shall be issued for less than twenty-five (25) dollars,

and before any license is issued the person applying therefor shall file with the Commissioners of Railroads the receipt of the State Treasurer, showing that the applicant has paid into the State Treasury the amount of said license fee.

§ 2. LICENSE TO BE CONSPICUOUSLY POSTED—PENALTY.] That the license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Every such license shall expire on the first day of August next following the issuance thereof, and no license shall run for a longer period than one year. That any person, association or corporation who shall transact the business of public warehousemen without first procuring a license as herein provided, shall, on conviction be fined a sum not less than one hundred (100) dollars for each and every day such business is carried on.

Approved March 31, 1890.

CHAPTER 139.

[S. F. 105.]

TAXATION OF STOCK OF CORPORATIONS.

AN ACT Requiring the Payment of Fees into the State Treasury by Corporations, Upon Filing Articles of Incorporation, or Upon Increase of Capital Stock.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. TAXATION OF CORPORATE STOCK—FEE.] That no corporation or association, other than those formed for religious, educational, benevolent, charitable, cemetery purposes, and building and loan associations, and county mutual fire insurance companies, associations for the manufacture of dairy products, and agricultural fair corporations, shall hereafter be created or organized under the laws of this State, unless the persons named as incorporators therein, shall, at or before the filing of the articles of association or incorporation, pay into the State Treasury the sum of fifty (50) dollars for the first \$50,000 or fraction thereof of the capital stock of such corporation or association, and the further sum of five (5) dollars for every additional \$10,000 or fraction thereof of its capital stock.

§ 2. FEE TO BE PAID IN CASE OF INCREASE OF CAPITAL STOCK.] No increase of the capital stock of any corporation or association heretofore or hereafter formed, other than those excepted in Section 1 of this act, shall be valid or effectual until such corporation

or association shall have paid into the State Treasury the sum of five (5) dollars for every \$10,000, or fraction thereof, of such increase in the capital stock of such corporation or association.

§ 3. DUPLICATE RECEIPT OF TREASURER FOR FEES PAID TO BE FILED WITH SECRETARY OF STATE.] It shall be the duty of every corporation or association hereafter organized, or which shall hereafter increase its capital stock, to file with the Secretary of State, at the time of filing the articles of association or instrument evidencing such increase, a duplicate receipt of the State Treasurer for the payments herein required to be made; which receipt, in duplicate, it is hereby made the duty of such Treasurer to furnish.

§ 4. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 3, 1890.

CHAPTER 140.

[H. F. 347.]

ASSESSMENT AND TAXATION IN UNORGANIZED COUNTIES.

AN ACT to Provide for Taxation of Real and Personal Property Situated in Unorganized Counties.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ASSESSMENT IN UNORGANIZED COUNTY, HOW MADE—TAXES, HOW COLLECTED.] When any property subject to taxation is situated or kept in any unorganized county of this State, then such property shall be subject to taxation, and shall be listed and assessed by the assessor of the organized county to which said unorganized county is attached for judicial purposes; and the taxes due and payable on said property in said unorganized county shall be paid to and collected by the treasurer of said organized county to which said unorganized county is attached for judicial purposes; *Provided, however,* That said property situated in said unorganized county shall be assessed and taxed for State purposes only.

§ 2. EQUALIZATION AND LEVY.] The board of county commissioners of the county to which such unorganized county is attached for judicial purposes, shall at the time and place they equalize and correct the assessment roll of their county, equalize and correct the assessment roll of such unorganized county, and at the time and place they make their tax levy for county purposes, levy a tax upon the assessed property of such unorganized county, for State purposes only, in the same manner and form that they make

their levy for State purposes in their own county, and when such tax list is completed the board of county commissioners shall attach to such tax list their warrant under their hand and official seal, in general terms, requiring the county treasurer to collect the tax therein levied according to law, and they shall require an additional bond from the said county treasurer in such amount as they may deem necessary for the faithful discharge of his duties in collecting the said tax, and they shall audit and allow the necessary expenses of the assessor and treasurer for the assessment and collection of such tax which shall be paid upon their warrant, out of the tax so assessed and collected.

§ 3. TAX LISTS, HOW KEPT.] Such tax list when completed shall be kept by the county clerk or auditor as the property of such unorganized county. The clerk or auditor shall also prepare a duplicate of such tax list with the warrant of the county commissioners attached and deliver the same to the county treasurer and take a receipt for the same on or before the first day of November following the date of the levy, for the current year; and such tax list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained.

§ 4. TREASURER TO COLLECT TAXES.] It shall be the duty of the county treasurer, upon receipt of the tax list as aforesaid to proceed and collect said tax in the same manner and form in which other taxes are collected, and he shall pay the warrants drawn by the county commissioners upon said tax for necessary expenses of assessing and collecting the same and remit the remainder of the said tax to the State Treasurer.

§ 5. WHEN SPECIAL ASSESSORS MAY BE APPOINTED.] Whenever any organized county, to which such unorganized county may be attached for judicial purposes, is organized into civil townships, then the board of county commissioners of such organized county may appoint a special assessor for the purpose of assessing such unorganized county; said special assessor shall be required by the board of county commissioners to give bond and qualify the same as other assessors in this State.

§ 6. EMERGENCY.] An emergency existing for the reason that the assessing is required to be done long before July 1, 1890; therefore, this act shall take effect and be in force on and after its passage and approval.

Approved March 20, 1890.

CHAPTER 141.

[H. F. 280.]

ASSESSMENT AND TAXATION OF BANKRUPT STOCKS.

AN ACT Entitled "An Act to Provide for the Assessment and Taxation of Itinerant, Transient and Bankrupt Stock Merchants, and Providing for the Collection of Such Tax."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BANKRUPT STOCKS, ETC., HOW ASSESSED.] That all itinerant, transient or bankrupt stock merchants or salesmen who vend goods within this State, at any time after the annual assessment is made shall be assessed and returned by the assessor of the town or city wherein he or they shall open or offer for sale any stock of goods, groceries or merchandise, by exhibiting the same, at the same rate as other merchants have been assessed; and such assessor shall forthwith return the same to the county treasurer to be extended upon the tax list by him.

§ 2. TAX, HOW COLLECTED.] Whenever such assessment is returned to the county treasurer, it shall be his duty to issue a warrant forthwith to the constable of the town wherein such itinerant or transient sales are being effected, commanding him to collect such tax forthwith.

§ 3. CONSTABLE TO SELL PROPERTY IF PAYMENT OF TAX IS REFUSED.] It shall be the duty of such constable to proceed forthwith according to the exigencies of his warrant and demand the amount of taxes so levied, from the person or persons conducting such sale, and if not paid, to levy the same upon any goods, wares and merchandise as shall be found in the possession of such salesman or salesmen, and sell the same after ten days' notice given in the nearest newspaper and make return thereof, deducting his legal fees and returning the surplus, if any after paying costs and taxes, to the owner, or reputed owner.

§ 4. All acts or parts of acts inconsistent herewith are hereby repealed.

Approved March 31, 1890.

CHAPTER 142.

[S. F. 170.]

LICENSING PEDDLERS.

AN ACT to License Peddling and Prescribing Penalties for the Violation Thereof.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN PEDDLING UNLAWFUL.] It shall be unlawful for any person to travel from place to place in any county within this State for the purpose of carrying to sell; or exposing or offering for sale, barter or exchange, at retail to consumers, any goods, wares, merchandise, or other articles of trade whatsoever except as hereinafter provided, whether by samples or otherwise, and whether said goods, wares, merchandise, notions or other articles of trade whatsoever, are delivered at the time of sale, or to be delivered at some future time, unless the said person shall have first obtained a license as a peddler as hereinafter provided, but this chapter shall not prevent any manufacturer, mechanic, nurseryman or farmer from selling his work or production by himself, or any patent right dealer from selling his own invention, or to prevent any person from selling or offering to sell at wholesale to dealers only, any goods, wares or merchandise whatsoever, or to prevent train boys from selling to persons traveling on railroad trains, or to prevent any person resident of this State who, by reason of being blind or deaf and dumb is incapacitated for hard manual labor, from selling goods, wares or merchandise on foot or with one horse and wagon, without a license.

§ 2. LICENSE TO PEDDLE, HOW OBTAINED.] Every person desiring to obtain a license as a peddler shall make application in writing to the auditor in the county in which he desires to travel as a peddler; said application shall be signed by the applicant, and shall state in what manner the applicant desires to travel as a peddler; said application shall be signed by the applicant, and shall state in what manner the applicant desires to travel and trade, whether on foot or with one or more horses or other beasts of burden.

§ 3. LICENSE FEE.] Every such applicant, before he shall be entitled to such license, shall pay into the treasury of the county where such application is made, the following license fees: If for a license to travel on foot including railroads or other public conveyance, the sum of fifteen (15) dollars; if for a license to travel and carry his goods with a single horse or other beast carrying or

drawing a burden, the sum of twenty-five (25) dollars; if for a license to travel with a vehicle or carriage drawn by two or more horses or other animals, the sum of forty (40) dollars.

§ 4. LICENSE, HOW ISSUED.] The county auditor, upon the filing of the application by the applicant, together with the treasurer's receipt for the proper license fee, shall grant to every such applicant a license, under his official seal, signed by himself or his assistant, authorizing such a license to travel and pursue business in the manner stated in his application, for the term of one year; *Provided*, That all license for peddlers shall expire on the thirtieth day of April in each year, and the amount due from such license shall be reckoned proportionately for that part of the year from the first day of the month in which the said license is issued to the first day of May following; but no license shall be issued under this act for a less sum than five (5) dollars; *Provided, further*, That the county auditor may issue a like license to any applicant therefor, who shall prove to the satisfaction of the said auditor that the said applicant served as a soldier in the United States army or navy during the late rebellion, and was thereby disabled and rendered unfit for hard manual labor, and was honorably discharged from said United States army or navy, without the payment of any license fee.

§ 5. PENALTY FOR VIOLATION OF THIS ACT.] Any person who shall be found traveling or trading in any county in this State contrary to the provisions of this act, or who shall refuse to produce his license for examination when requested so to do by any resident or officer of the county in which said person shall be traveling as a peddler, shall be deemed guilty of a misdemeanor, and shall be subject to a fine not exceeding twenty-five (25) dollars, or imprisonment in the county jail where the offense has been committed, not exceeding thirty days, or both fine and imprisonment, as the court may deem proper.

§ 6. THIS ACT NOT TO APPLY TO INCORPORATE TOWNS AND CITIES.] That nothing contained in any other provision of this act shall be so construed as to impair, interfere with, or take away any of the existing rights and authorities of incorporated towns, villages or cities to license and regulate peddlers within their incorporated limits.

§ 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 20, 1890.

CHAPTER 143.

[H. F. 188.]

COUNTY COMMISSIONERS TO LEVY TAXES IN CERTAIN CASES.

AN ACT Authorizing the Levy and Collection of Taxes in Cities and Towns and Villages Which have Failed or Refused to Elect Boards of Trustees, Aldermen or Council.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN COUNTY COMMISSIONERS MAY LEVY A TAX IN INCORPORATED TOWNS AND CITIES.] Whenever any incorporated city, town or village having an existing liability or indebtedness fails or refuses to elect proper officers for the government of said city, town or village, and authorized to levy taxes for the payment of any and all indebtedness for which said city, town or village may be liable, then it shall be the duty of the county commissioners of the county in which said city, town or village is located, upon proper showing by any person having a legal or subsisting claim against such city, town or village, that there are no legal officers in said city, town or village authorized to levy a tax for the payment of said indebtedness, to levy a tax in the same manner and for the same purposes that the board of directors, trustees or city council would be authorized to levy the same for the payment of such indebtedness; and any person having a claim against such city, town or village shall have the same right to enforce the levy of such tax by the said county commissioners that he would have had to compel such levy by the proper authorities of such city, town or village, had they been properly elected and qualified.

Approved February 17, 1890.

CHAPTER 144.

[S. F. 116.]

GOPHER TAX.

AN ACT Authorizing the Counties in the State of North Dakota to Raise and Expend a Fund for the Destruction of Gophers.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. LEVY OF TAX FOR DESTRUCTION OF GOPHERS.] The county commissioners of any county in this State may, at the time fixed

by law for the levy and assessment of taxes, levy a tax, not exceeding two mills on the dollar of assessed valuation, upon all real estate in said county, the proceeds of which shall be used solely for the purpose of promoting the destruction of gophers in said county.

§ 2. FUND, HOW USED.] The fund provided to be raised in accordance with Section 1 of this act, shall be denominated the gopher destruction fund, and shall be kept separate and distinct by the county treasurer, and shall be expended by and under the direction and control of the county commissioners at such time, and in such manner, as is by said board deemed best to secure the abatement and extinction of the gopher pest.

§ 3. REPEAL.] All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

§ 4. EMERGENCY.] The necessity for protection from the ravages of gophers during the coming spring and summer creates an emergency which must be met; therefore, this act shall take effect from and after its passage and approval.

Approved March 8, 1890.

CHAPTER 145.

[S. F. 21.]

EXTENSION OF TIME FOR PAYMENT OF TAXES FOR 1889.

AN ACT Providing for Extension of the Time for the Payment of Taxes for the Year 1889.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN TAXES DELINQUENT—WHEN PENALTY ADDED.] That all unpaid taxes for the year 1889 shall become delinquent on the first Monday in February, 1890, and shall draw interest at the rate of 1 per cent. per month from date of such delinquency until the fifteenth day of October, 1890, at which latter date there shall be added as a penalty 5 per cent. upon the amount remaining unpaid and 1 per cent. per month thereafter until paid, to be added on the first day of each succeeding month.

§ 2. DISTRESS AND SALE—DUTY OF COUNTY TREASURER.] The county treasurers of the various counties in this State of North Dakota shall not proceed to collect by distress and sale, any of the taxes hereinbefore referred to, until after the fifteenth of October, A. D. 1890; *Provided*, That in case any person having only personal property assessed, and upon which the taxes are unpaid, shall in the opinion of the county treasurer be about to move

out of the county or dispose of such property, it shall be the duty of such treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands as provided by law.

§ 3. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] An emergency existing in that by general law the 5 per cent. penalty on delinquent taxes is added on the first day of February of each year, and all personal property taxes can then be collected by distress sale, and it is necessary that this act take effect and become operative at a time long prior to July 1, next; therefore, this act shall take effect and be in force immediately from and after its passage and approval.

Approved January 22, 1890.

SCHOOL LANDS.

CHAPTER 146.

[H. F. 32.]

PROVIDING FOR LEASE AND SALE OF PUBLIC SCHOOL LANDS.

AN ACT to Provide for the Leasing and Sale of the Common School Lands of North Dakota.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOARD OF UNIVERSITY AND SCHOOL LANDS TO HAVE CONTROL OF SCHOOL LANDS—COUNTY BOARDS OF APPRAISAL.] The Superintendent of Public Instruction, Governor, Attorney General, Secretary of State and State Auditor shall constitute a board of commissioners which shall be denominated the "Board of University and School Lands," and subject to the provisions of Article 9 of the Constitution and the provisions of this act. Said board shall have the control of appraisements, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the State Treasurer. The superintendent of schools, the chairman of the county board of commissioners, and the county auditor of each county, shall constitute the "county board of appraisal" of the common school lands, in and for their respective counties.

§ 2. LISTS OF SCHOOL LANDS, HOW MADE.] The superintendent of schools of each county of this State, in which the common school lands have been surveyed and designated, shall immedi-