

fund out of which the same may be paid; *Therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved, March 8, 1897.

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## CHAPTER 27.

[S. B. 188.]

### FOR MESSENGERS AND POSTMASTERS.

**AN ACT** to Provide for the Compensation of Messengers and Postmasters of the House and Senate of the Fifth and Future Legislative Assemblies.

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

§ 1. COMPENSATION.] Each messenger and postmaster of the House and Senate of the Fifth and future Legislative Assemblies shall receive four dollars per day, and in addition thereto the sum of thirty dollars for hack and dray hire.

§ 2. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed.

§ 3. EMERGENCY.] There being no provision in law for payment of dray and hack hire for messenger and postmaster of House and Senate, an emergency exists, and this law shall be in force and effect from and after its passage and approval.

Approved, March 6, 1897.

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## ASSESSMENT.

### CHAPTER 28.

[H. B. 66.]

#### PROVIDING FOR ASSESSMENT IN CERTAIN CASES.

**AN ACT** to Provide for the Assessment, Levy and Collection of Taxes Upon Property in Cases when such Property was Subject to Taxation, but the Assessment and Levy of Taxes Thereon Have Been Omitted, or When such Property has for Any Cause Escaped Taxation

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

§ 1. WHEN ASSESMENT OMITTED.] In all cases when any buildings or lands in this State have heretofore been subject to taxation for the year 1889, and subsequent years, but the assessment or levy of taxes therein for any such year or years has been omitted, or such assessment and levy has for any cause been

omitted, or set aside, and such property has thereby escaped taxation when subject to taxation, all such taxes the assessment or levy of which has heretofore or may hereafter been omitted or set aside, including all buildings on lands heretofore declared forfeited to the State and omitted from assessment by reason thereof, shall hereafter be assessed and levied upon such buildings and lands and collected in the manner hereinafter provided.

§ 2. DUTY OF COUNTY AUDITOR.] It shall be the duty of each county auditor, on or before the 1st day of June next, after the passage of this act, to make a separate list of all lands in his county since the year 1889, and of all buildings standing upon lands owned by parties other than the owners of such buildings, upon which taxes were not assessed and levied for any such year or years, or were for any cause set aside, or omitted, or has for any reason escaped taxation, but which were subject to taxation for such year.

§ 3. NOTIFY COUNTY COMMISSIONERS.] Upon the completion of such list or lists, it shall be the duty of the county auditor to forthwith notify each county commissioner of his county of such completion, and thereupon a special meeting of the board of county commissioners of such county for the purpose set forth in this act, shall be called in the manner prescribed by law, to be held at a time and place in such call designated, not less than two weeks from the time of the making of such call and not later than the fifteenth day of July next, after the passage of this act. After any such meeting shall have been called, it shall be the duty of the county auditor of the county to give notice of the time and place of such meeting, by publication in a newspaper published in his county, if there be any newspaper published therein, and if there be none, then in a newspaper published in the judicial district. Such notice shall be published at least three times before the day appointed for such meeting, and at intervals of not less than five days. Such notice may be in the following form:

STATE OF NORTH DAKOTA, }  
 County of..... }  
 Office of County Auditor. }

Notice is hereby given that a special meeting of the Board of County Commissioners of the County, for the purpose set forth in an act of the Legislative Assembly, entitled "An act to provide for the assessment, levy and collection of taxes upon property in cases where such property was subject to taxation, but the assessment and levy of taxes thereon have been omitted, or when such property has from any cause escaped assessment and taxation. Approved, eighth day of March, A. D. 1897," will be held at the Court House, in.....county, commencing on the .....day of.....A. D. 1897, at.....o'clock a. m.

.....  
 County Auditor.

§ 4. MEETING OF COUNTY COMMISSIONERS.] The Board of County Commissioners shall meet at the time and place appointed therefor in such call, and at such meeting shall add to the list aforesaid, furnished by the county auditor, a description of each tract of land within the county, owned by parties other than the owners of such buildings. not already upon such list, upon which taxes were not assessed and levied for the year or years for which such list shall have been made, which were subject to taxation for such year, but no accidental failure or omission by either the county auditor or the Board of County Commissioners to place upon any such list any tracts of land or buildings within the county, subject to be placed therein under the provisions of this act, shall in any manner affect the validity of anything done under the provisions of this act with reference to such lands and buildings as are actually placed upon such list.

§ 5. SHALL ASCERTAIN CASH VALUE.] After such list shall have been perfected as hereinbefore provided. such board shall proceed at such meetings to ascertain the true and actual cash value for each year for which such lists shall have been made, of each tract of land and of each building described in such list, and for that purpose may summon before it and examine under oath such witnesses as it may deem necessary for its information in regard to such value. In making such valuation the board shall have due regard for the average valuation of real property in the county, made according to law, for the year for which such lists shall have been made, for the purpose of taxation, and also for the relative situation, quality of soil, improvements and natural advantages possessed by such tract and lot. Any person interested in any lands or any buildings on such list shall have a right to be present at such meeting, and to be heard as to the valuation of such lands or buildings, and to swear and examine witnesses before such board upon the question of such valuation. After the valuation of any tract of land or building upon such list shall have been ascertained, as hereinbefore provided, such value shall thereupon be entered upon such list opposite to the description of such tract or building, in a column set apart for that purpose. When the valuation of all of the several tracts of lands and buildings upon such lists shall have been ascertained and entered thereon, such list and valuation shall be authenticated by the signature of the chairman of the board, which shall be a sufficient authentication thereof for all purposes. Such meeting may be adjourned from day to day, but shall not continue longer than for ten days, and the valuation of all tracts of lands and buildings upon such list shall be fully completed and authenticated in the manner hereinbefore provided, on or before the first day of August next, after the passage of this act.

§ 6. DUTY OF STATE BOARD OF EQUALIZATION.] After such list and valuation shall have been completed, as hereinbefore provided, the same shall remain in the custody of the county

auditor of the county, and he shall, on or before August 1st of each year, make a certified copy of such list and valuation, and forward the same to the State Auditor. At the next session of the State Board of Equalization it shall be the duty of the State Auditor to lay before the same all certified copies of such list and valuation as shall have been received by him, and it shall thereupon be the duty of such State Board to equalize the valuation of the property contained in each of such lists with the valuation of the property throughout the State, made according to law for purposes of taxation for the year for which such lists shall have been made, which equalization shall be made in the same manner as near as may be, as is provided by law for equalization of values of property throughout the State by such board.

§ 7. LISTS RETURNED TO COUNTY AUDITOR.] When the State Board shall have completed its equalization of the property contained in each of such lists as hereinbefore provided, the State Auditor shall return each of such copies of lists received by him as aforesaid to the auditor of the county wherein the property therein described is situated, together with a statement specifying the per centum, if any, to be added to or deducted from the valuation as made by the county board as determined by such State Board, and upon the receipt of such copy and statement it shall be the duty of the county auditor to add to or deduct from from each tract and building upon such list the required per centum on the valuation thereof as made by the county board, and the value of each tract of land and of each building upon such list as corrected shall be entered by such county auditor upon such list, opposite to the description thereof, in a column provided for that purpose.

§ 8. AUTHENTICATED BY COUNTY AUDITOR.] After the valuation of such property shall have been corrected as hereinbefore provided, it shall be the duty of the county auditor to ascertain and set down in a list, opposite to the description thereof, in columns provided for that purpose, the rate of taxation for all purposes to which each tract of land and each building upon such list was subject for the year for which such list shall have been made, and such auditor shall thereupon calculate the amount of tax upon each of such tracts of land and buildings at such rate, and set down such amount upon such list, opposite to the description of the tract or building upon which such amount of taxes so calculated, in columns appropriated for that purpose. When such amounts shall have been so calculated and set down on such list the same shall be authenticated by the signature to such list by such auditor, which shall be deemed a sufficient authentication thereof for all purposes.

§ 9. AMOUNT OF TAXES.] After the amount of tax upon each tract of land and each building upon such list shall have been calculated and entered thereon as hereinbefore provided, the county auditor shall make out and certify two complete duplicates

of such list as the same items appear, one of which shall be transmitted to the State Auditor for custody in his office, and the other of which shall be forthwith delivered to the county treasurer of the county, and shall constitute his warrant for the collection of the taxes herein specified.

§ 10. TAXES A LIEN UPON PROPERTY.] Upon the receipt of such duplicate by the county treasurer, the respective amounts of tax therein specified upon each tract of land and buildings therein described shall become forthwith due and payable, and become a lien upon the tract or building upon which the same shall have been so levied, and it shall become the duty of such treasurer forthwith to collect such tax.

§ 11. NOTICE TO BE PUBLISHED.] In case any tax upon any such duplicate shall not be paid within three months after the receipt of such duplicate by the county treasurer, such tax shall thereafter draw interest at the rate of twelve per cent per year, and it shall be the duty of such treasurer to apply to the District Court of the county, at the next term after the receipt by him of such duplicate for judgment against the tract of land or building upon which such tax shall have been assessed for the aggregate amount of the taxes and interest thereon, upon all duplicates in his hands made under the provisions of this act. Notice of such application shall be given by publication in a newspaper published in the county, if any there be published, and if no newspaper be published in such county, then in a newspaper published in the judicial district. Such notice shall be published at least three times, at intervals of at least five days, the last publication being made at least ten days before the term of court at which such application for judgment is made. Such notice may be in the following form:

STATE OF NORTH DAKOTA, }  
County of..... } ss.  
Treasurer's Office.

Notice is hereby given that in pursuance of an act of the Legislative Assembly entitled (quote title) I shall apply to the District Court in and for this county, at a term thereof to be held at..... in..... in this county, commencing on the..... day of..... A. D. 189....., on the first day of such term, for judgment against each and every one of the tracts of lands and buildings hereinafter described for all taxes levied thereon, under provisions of said act, remaining unpaid, together with interest thereon, and costs as allowed by such act. The following is a description of the lands and buildings against which judgment will be applied for.

Dated at....., this..... day of..... A. D., 189.....  
.....  
County Treasurer.

No service of summons nor notice other than publication of the notice in this section provided for shall be necessary to give the court to which such application is made jurisdiction to receive and act upon the same as hereinafter provided.

§ 12. APPLICATION.] The application referred to in the previous section may be in the following form:

To the District Court in and for the County of.....  
The application of.....County Treasurer, in and  
for.....county:

That in pursuance of an act of the Legislative Assembly entitled (quote title), certain taxes were levied upon each of the several tracts of lands and buildings hereafter described, situated in said county, and duplicate lists of such tracts and buildings, and such taxes were placed in my hands in accordance with such act for the collection of such taxes; that more than three months have elapsed since the receipt by me of such duplicates, and there remains unpaid upon each of the following described tracts of lands and buildings, taxes charged against the same in such duplicates to the amount in aggregate in the sum hereinafter set opposite the description of such tract or building; and that said duplicates were placed in my hands on the.....day of.....A. D. 189.....

The following is a list of the lands and buildings referred to, and of the amount of the tax charged against the same upon such duplicates remaining unpaid. (Insert list.)

The applicant therefore prays the judgment of the court that the respective amounts above specified, together with interest thereon from the.....day of.....189.....at the rate of twelve per cent. a year, be adjudged to be a lien upon the respective tracts of lands and buildings opposite to the description of which the same are set, and that such lands and buildings be sold for the payment thereof.

.....  
County Treasurer.

All taxes remaining unpaid upon such duplicates shall be included in one application.

§ 13. FILING OF APPLICATION AND PROOF.] Upon filing such application with the court, together with proof of publication of the notice hereinbefore provided for, which may be by the affidavit of the publisher of the newspaper in which the same shall have been published, or the foreman, clerk or business manager thereof; the court shall forthwith proceed to enter judgment against each tract of land and building in such application described for which no objection shall be filed, as provided for in the next section; adjudging that the amount of tax stated in such application to be one therein, together with interest thereon as hereinbefore provided, and costs be a lien upon such tract of land or building, as the case may be, and the whole thereof, and that such tract of land or building, as the case may be, be sold for the

payment of the same. All the several tracts of lands and buildings described in such application, for which no objection shall be filed, shall be included in one judgment.

§ 14. OBJECTIONS FILED.] Any person legally or equitably interested in any such tract of land or in any building described in such application, may at the time mentioned in such notice of application, appear in court and file objections in writing against the rendition of judgment against such tract or building, as the case may be, and thereupon the court shall proceed to try and determine the issue raised by such objections, and shall render judgment according to law and the rights of the parties all the several tracts of lands and buildings in such application, for which objections shall be filed, but against which judgment shall be rendered upon the trial thereof shall be included in one judgment. No appeal, certiorari or other proceedings to review any judgments shall stay proceedings upon such judgment.

§ 15. COSTS.] The costs included in any such judgment shall consist of the expense of publication, of notice of application for judgment and fees of officers of the court, as allowed by law for like services in civil actions; such costs shall be apportioned among the several tracts of land and buildings in such judgment described according to the amount of the tax and interest for which judgment is rendered against the same.

§ 16. DUTIES OF ALL OFFICERS.] All tracts of land and buildings against which any judgment shall be rendered shall be sold by the sheriff of the county to satisfy such judgment, together with costs and expenses of advertisement of and sale, in the same manner and upon like notice as is now or may hereafter be prescribed by law for sales of real estate for non-payment of taxes; and purchasers at such sales shall acquire like rights as are acquired by purchasers of lands at sales of real property made under the laws of this state for non-payment of taxes, and the duties of all officers in reference to such sales shall be the same as the duties in reference to the sales of real property under the laws of the State for non-payment of taxes; and such lands and buildings shall be subject to redemption within three years from the time of such sales, in like manner as redemption of real property from sales made under the laws of this State for non-payment of taxes; *Provided*, however, that the holder of any certificate for any piece or parcel of land sold under any tax judgment must, ninety days preceding the maturity of such certificate, give personal notice to the owner, if a resident of the State, of the expiration and maturity of such certificate, and if the owner of any such piece or parcel of land is a non-resident of the State, such notice may be given by registered letter, addressed to such owner at his last known post office address, and in case the property covered by such certificate is occupied, the service of such notice shall in addition to the foregoing provision be made upon the person in possession thereof; also, by publication of the

maturity of such certificate in some newspaper published in the county where the land is situated; or otherwise as hereinbefore provided, for at least thirty days preceding the expiration and maturity of such certificate, and the owner may redeem such certificate by paying the amount named therein, together with accrued interest and costs.

"Proof of the notice herein provided for must be filed in the office of the clerk of the district court prior to the maturity of such certificate." The fee simple of any piece or parcel of land named in any certificate shall not rest in the holder thereof until the notice provided for herein is given and due proof thereof filed with the clerk of the district court.

§ 17. All moneys collected or received by the county treasurer under the provisions of this act shall be distributed and accounted for in like manner as taxes levied and collected under the laws of this State.

§ 18. HOW CONSTRUED.] This act shall not be construed to charge taxes against any property which at the time the same may have been purchased in good faith and prior to the passage and approval of this act, appeared upon the books of the county as clear and free from any prior taxes thereon.

§ 19. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 20. EMERGENCY.] An emergency exists in this, that in many of the counties of this State property subject to taxation has been omitted from the assessment and levy and has thereby escaped taxation, and no adequate law exists for the re-assessment of such property or the collection of the taxes when re-assessed; *Therefore*, This act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1897.

## CHAPTER 29.

[H. B. 66.]

### LAW OF EMINENT DOMAIN.

An Act to Provide for a Special Jury to Assess Damages Under the Law of Eminent Domain.

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

§ 1. SPECIAL JURY IN CERTAIN CASES.] Whenever in an action brought under the provisions of the Revised Codes of North Dakota relating to the law of eminent domain, an issue for the jury is formed and a note of issue filed with the clerk of the district court where the same is pending, whereby it appears that the attendance of a jury will be necessary to assess the damages in such action as provided by law, the plaintiff therein may apply

to the judge of the district court where the same is pending, for an order requiring an jury to be summoned to assess the damages in such action as provided by law. Thereupon the judge shall forthwith issue an order to the clerk of said court requiring a jury to be summoned, and in such order shall specify the number of petit jurors required by the plaintiff, to be summoned therefor, and the time and place where they shall appear, and in such order the time specified, shall not be less than twenty nor more than forty days from the date thereof. Thereupon the clerk shall proceed to the drawing of the number of petit jurors required in said order according to the Revised Codes of North Dakota, relating to the drawing of petit jurors. After the names have been so drawn, the sheriff of said county shall forthwith certify to the clerk his legal fees for the service of the venire upon the jurymen who have been drawn, which fees shall be those provided by law to be paid to him for the summons of a jury, under a special venire whereupon the clerk shall forthwith notify the plaintiff of the amount of said fees, and upon the payment thereof to the clerk to be paid by him to the sheriff, said clerk shall issue the venire forthwith, and the same shall forthwith be served by the sheriff. Thereupon the plaintiff shall serve notice of trial upon the opposite party or parties to such issue, at least twelve days before the time specified for the meeting of said jury.

§ 2. SPECIAL TERM OF COURT.] The court shall sit at a special term to hear the case according to the law and practice of the court and shall have the same power to complete the jury as is now provided by the Revised Codes of North Dakota, and the provisions of sections 459 and 2096, of said codes as to the pay of the said jurymen and as to the penalty for failure or refusal of such jurymen to appear, shall apply to the jurymen summoned according to the provisions of this act.

Approved, March 9, 1897.