

DELINQUENT TAXES.

CHAPTER 67.

[H. B. 42.]

COLLECTION OF DELINQUENT TAXES.

AN ACT to Enforce the Payment of Taxes Which Became Delinquent in and Prior to the Year Eighteen Hundred and Ninety-Five.

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

§ 1. TREASURER SHALL MAKE A LIST.] The treasurer of each county in this State shall make a list of all taxes upon real estate in his county, which appear from the records and papers in his office, or in the office of the county auditor, to have become delinquent in the year eighteen hundred and ninety-five, or any prior year or years, and which taxes have not been satisfied by payment or redemption or sale of the real estate to actual purchasers. Such list shall include such taxes upon any real estate which may at any tax sale have been struck off to, or declared to become forfeited to the State or county, whether such sale or forfeiture was valid or invalid. The list shall contain a description of each piece or parcel of land upon which said taxes shall not have been paid as aforesaid, and opposite such description the name of the owner to whom assessed, if known, and if unknown shall so state, for each year, and the amount of such tax for each year, with penalty and interest. He shall attach to such list his affidavit to the effect that the same is a correct list of the taxes upon real estate in his county, for the years therein stated, and which have not been paid into the treasury of the county. He shall immediately after the passage and approval of this act, file such list in the office of the clerk of the district court in his county, or if such county is attached for judicial purposes to some other county, then in the office of the clerk of said court in that county, as provided in section 4 of this act. The filing of such list shall have the force and effect of the filing of a complaint in an action by the county against each piece or parcel of land in such list described, to enforce against it the taxes therein appearing against it, and the penalties and interest for the several years for which such taxes shall remain unpaid, and to obtain a judgment or decree of the court for the sale of such piece or parcel of land to satisfy the amount of such taxes remaining unpaid, with penalties, interest and cost; and also the effect of notice of the pendency of such action, to all persons interested in such lands.

§ 2. FILING OF LIST.] At the time of filing such list, or at any time before a judgment shall be rendered against any piece or parcel therein, if the amount of taxes, exclusive of penalties and interest, appearing in such list against such piece or parcel, shall exceed the sum of one hundred dollars, the treasurer may make an affidavit to the effect that such piece or parcel is wholly or in part rented, rendering rent, and upon presenting such affidavit to the judge of the court, he shall endorse thereon an order allowing an attachment to issue to attach such rents. Upon such affidavit and order being filed with the clerk, he shall issue to the sheriff of the county a writ of attachment, stating the amount of taxes, interest, penalties and cost appearing from such list to be due on such piece or parcel of land, and directing him to attach the rents thereof, and receive and collect the same to the amount stated in such writ, with interest and his fees for collecting and the costs of the affidavit and writ. The sheriff shall serve such writ by serving a copy thereof upon each tenant or person in possession of said piece or parcel of land or any part thereof. Such service shall have the effect to attach all rents accruing after such service from the person served. And, as such rents become due, the sheriff may receive the same, or collect the same by suit, in his own name as such sheriff, before any court of competent jurisdiction. And no payment of rents so attached after service of such writ, or payment of rents made in advance with intent to defeat such attachment, shall be valid as against such attachment. Three days before any such sale of lands as hereinafter provided, the sheriff shall make and deliver to the treasurer a statement in writing, showing how much he has received or collected, under the attachment in his hands, from each piece or parcel of land therein described, and shall pay the same to the treasurer; and if he shall have received or collected upon any attachment the amount therein specified, he shall return such writ to the clerk, but shall retain such writs as have not been satisfied. Upon making any sale of lands the treasurer shall deduct from the amount charged by the judgment against any piece or parcel of land, the amount which the sheriff shall have received or collected from the rents of the same, and shall sell such piece or parcel for the residue only. If at such sale, any piece or parcel of land shall be let or sold to a purchaser, as soon as such purchaser shall have paid the purchase money the treasurer shall direct the sheriff forthwith to return any writ of attachment in his hands against such piece or parcel. If any piece or parcel shall be bid in for the State or county, the sheriff holding an attachment against the same shall continue to receive and collect the rents of such piece or parcel the same as though such sale had not been had. If the tax and interest, penalty and costs on any piece or parcel of land against which an attachment shall have issued, be fully paid before sale, with

the accrued costs of the writ and sheriff, the treasurer shall direct the sheriff to return such writ forthwith.

§ 3. FORM OF CLERKS COPY.] When the list required by section 1 of this act shall have been filed, the clerk shall forthwith make a copy thereof, and attach thereto a notice which may be in the following form:

State of North Dakota, }
County of..... } ss. District Court,
..... Judicial District.

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

The list of taxes upon real estate which appear from the records and papers in the office of the county treasurer and auditor of the county of....., to have become delinquent in the year 1895 and all prior years, and which have not been in any manner paid into the treasury of said county, having been filed as required by law in the office of the clerk of the district court in the county of.....of which the list hereto attached is a copy. Therefore you and each of you are hereby required to file in the office of the clerk of said court, within thirty days after the last publication of this notice, your answer in writing, setting forth any objection or defense you may have to the taxes or any part thereof, or the penalties or interest thereon, upon any piece or parcel of land described in such list in, to or on which you have or claim any estate, right, title, interest, claim or lien; and in default thereof, judgment will be entered against such piece or parcel of land for taxes in said list appearing against it and for all penalties, interest and costs.

[Signed]

.....
Clerk of the District Court in the
County of.....
(Copy of List.)

§ 4. NOTICE PUBLISHED.] The county treasurer shall cause the said notice and list to be forthwith published once in each of three consecutive weeks in some newspaper of general circulation, printed in the English language, published in the county in which such real estate is situated, if there be one; if there be none, then in some such newspaper published in the county where the proceedings are instituted, or if there be no such newspaper published in either county, then in some newspaper published within the judicial district. The newspaper in which such publication shall be made shall be designated by a resolution of the board of county commissioners of the county in which the taxes are laid, at least ten days before the filing of such list; a copy of which resolution, certified by the county auditor, shall be filed in the office of the clerk of the district court. The owner, publisher, manager or foreman in the printing office of the newspaper in which such notice and list shall be published, shall make and file

with the clerk of the district court an affidavit of such publication, stating the day in which each publication was made, and shall also file with the clerk three copies of each number of the paper, in which the notice and list shall have appeared.

§ 5. LIEN UPON LAND.] Any person, company or corporation having any estate, right, title or interest in, or lien upon any piece or parcel of land embraced in such list as published may within thirty days after the last publication of such notice file in the office of the clerk of the district court an answer, verified as pleadings in civil actions, setting forth his defense or objections to the tax, or penalty, against such piece or parcel of land, which answer need not be in any particular form but shall clearly refer to the piece or parcel of land intended, and shall set forth in ordinary and concise language the facts constituting the defense or objections to such taxes or penalties; and if the list shall embrace the taxes for two or more years, the defense or objections may be to the taxes or penalty for one or more of such years.

§ 6. ENTER JUDGMENT.] Upon the expiration of thirty days from the last publication of such notice and list, the said clerk shall, the affidavit of publication being filed, enter judgment against each and every of such pieces or parcels as to which no answer shall have been filed, which judgment shall include all of such pieces or parcels and shall be substantially in the following form:

State of North Dakota, } In District Court,
County of } ss. Judicial District.

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent in and prior to the year 1895, for the county of, state of North Dakota:

A list of taxes on real property delinquent in and prior to the year 1895 for said county of, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published, as required by law, and no answer having been filed by any person, company or corporation, to the taxes upon any pieces or parcels of land hereinafter described, and more than thirty days having elapsed since the last publication of such notice and list, it is hereby adjudged and decreed that each piece or parcel of land hereinafter described is liable for taxes, interest, penalties and costs, to the amount set opposite the same, as follows, to-wit:

(Here insert correct description of each piece or parcel for each year and the amount due for each year.)

And the amount of taxes, interest, penalties and costs to which, as hereinbefore stated, each of such pieces or parcels of land is liable, is hereby declared a lien upon such piece or parcel of land, as against the estate, right, title, interest, claim or lien of whatever nature in law or in equity of every person, company or corporation whatsoever. And it is adjudged that unless the amount

to which each of such pieces or parcels is liable, be paid each of such pieces or parcels be sold, as provided by law, to satisfy such amount to which it is liable.

[Signed]

Clerk of the District Court.

County of -----

Such judgment shall be entered by the clerk in a book to be kept by him to be called "the real estate tax judgment book," and shall be dated and signed by the clerk. The judgment shall be written out on the left hand pages of such book, leaving the right hand pages blank for the entries hereinafter provided.

§ 7. ANSWERS.] If answer shall be filed, within the time hereinafter provided, as to the taxes or penalties upon any pieces or parcels of land embraced in such list as published, such answers shall stand for trial at any general term of the district court in the county, where such proceedings are pending, in session at the time when the time to file answers as aforesaid shall expire, or at the next general or special term appointed to be held in said county. And if a general or special term shall be appointed to be held within thirty days thereafter, then the same may be brought to trial at any general term appointed to be held in the judicial district, upon ten days' notice of the states attorney of the county in which said taxes are laid, if there be one, and if there be none, then of the county in which such proceedings are instituted, to take charge of and prosecute such proceedings; but the county commissioners of the county in which such taxes are laid may employ any other attorney to assist such states attorney therein. At the term at which such proceedings come on for trial, they shall take precedence of all other business before the court. The court shall proceed without delay without a jury, and summarily hear and determine the objections or defenses made by the several answers, and shall dispose of all of such answers, and direct judgment accordingly, at said term, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits, and any person making answer as herein provided, shall be entitled to a separate trial upon the issues raised by his answer.

§ 8. AFTER HEARING.] If after a hearing the court shall sustain the taxes and penalties in whole or in part against any piece or parcel of land, judgment shall be rendered against all such pieces or parcels for the amount as to which such taxes and penalties shall be sustained against such pieces or parcels, respectively, and the disbursements, unless the court otherwise directs, which judgment may be substantially in the form prescribed in section six of this act, except that it shall in addition state that the same was rendered after answer and trial, and after the description of each piece and parcel shall be stated the name of the person, company or corporation answering as to such piece or parcel. If the court sustain the defense or objection to the taxes

and penalties as to any piece or parcel of land, the judgment shall, after the statement of the lands against which judgment is given, state that all other pieces or parcels not embraced in that or the prior judgment of the court and which are described in the list as published, are discharged from the taxes in said list set down against such other pieces or parcels, and from all penalties, and the court may in its discretion award disbursements against the county laying such taxes, and in favor of the party answering as to the pieces or parcels so discharged.

§ 9. JUDGMENT RENDERED.] If all the provisions of the law in force at the time of such assessment and levy in relation to the assessment and levy of the taxes, shall have been complied with, of which the list so filed with the clerk shall be prima facie evidence, then judgment shall be rendered for such taxes and the interest, penalties and cost. But no omission of any of the things provided by law in relation to such assessment and levy or of anything required by an officer or officers to be done prior to the filing of the list with the clerk shall be a defense or objection to the taxes appearing on any piece or parcel of land, unless it be also made to appear to the court that such omission resulted to the prejudice of the party objecting, or that the taxes against such piece or parcel of land have been partially, unfairly or unequally assessed; and in such cases, but in no other, the court may reduce the amount of taxes upon such piece or parcel and give judgment accordingly. It shall always be a defense in such proceedings, when made to appear by answer and proof, that the taxes have been paid, or that the property is lawfully exempt from taxation.

§ 10. JUDGMENT FINAL.] The judgment which the court shall render shall be final, except that upon application of the county or other party against whom the court shall have decided the point raised by any defense or objection, the court may, if in its opinion the point is of great public importance or likely to arise frequently, make a brief statement of the facts established, bearing on the point and of its decision, and forthwith transmit the same to the clerk of the Supreme Court, who shall enter the same as a cause pending in such court, and place the same on the term calendar of such court for the term then in session, or for the first term thereafter. And the same shall be entitled to a preference over any other business before such court and shall be decided by such court at the term for which it shall be entered on the calendar. As soon as it shall be decided, the clerk of the Supreme Court shall enter the proper order and forthwith transmit a certified copy of such order to the clerk of the proper district court; *Provided*, that such proceedings shall in no case prevent the entry of judgment in the district court, nor prevent the sale of any piece or parcel of land pursuant to the judgment of the district court, unless at the time of applying for such statement an undertaking with at least two sureties and in an amount to be approved

by the judge of the district court, conditioned for the payment of the amount for which judgment shall have been rendered in the district court, and the interest and costs allowed by law if the decision of the district court shall be affirmed, shall be filed with the clerk of the district court.

§ 11. TAX JUDGMENT.] When any tax judgment pursuant to this act shall be entered, the clerk of the district court shall forthwith deliver to the sheriff of the county a certified copy of such judgment, written on the left hand pages of a book, to be provided by the treasurer; and if before sale any person wishes to pay the amount adjudged against any piece or parcel of land, the clerk of the district court shall give him a statement showing the amount so adjudged against such piece or parcel, and such person may pay the same to the treasurer, with interest and accrued costs if any; and the treasurer shall thereupon give a receipt for such payment, and on the receipt being produced to the clerk, he shall enter on the right hand page of the real estate tax judgment book and opposite the description of such piece or parcel, satisfaction of the judgment against the same.

§ 12. TAX JUDGMENT SALE.] After thirty days from the date of any tax judgment, if the amounts therein charged shall not have been paid, the sheriff shall sell the pieces or parcels of land upon which the taxes stand charged in such judgment; *Provided*, however, that no sale shall be made under the provisions of this act prior to November 1st, 1897. Before making such sale he shall give notice thereof, by posting such notice, one copy in the office of the clerk where the judgment shall have been entered, one copy in the office of the treasurer, and one copy at the county seat of the county, in some conspicuous place, at least ten days before the day of sale; and by publishing such notice, once in each of two successive weeks, the last publication to be not less than ten days before the day of sale, in some newspaper printed in the English language and of general circulation, published in the county where such lands are situated, to be designated by resolution of the board of county commissioners, if there be one; if there be none, then in some such newspaper published in the county where the proceedings are instituted, or if there be no such newspapers in either county, then in some newspaper published within the judicial district, which notice may be substantially in the following form:

"TAX JUDGMENT SALE."

Pursuant to a real estate tax judgment of the district court in the county of....., entered on the.....day of....., in proceedings for enforcing payment of taxes upon real estate for the county of..... in and prior to the year 1895, remaining delinquent, and of the statute in such cases made and provided, I shall on the.....day of....., at 10 o'clock in the forenoon, at.....

-----in the town of-----and
 county of-----, sell the lands which are
 charged with taxes in said judgment and on which such taxes
 shall not have been previously paid.

[Signed]

 Sheriff of-----County.

At the time and place appointed in such notice, the sheriff shall
 commence the sale of such lands, and proceed with the sale
 thereof from day to day (Sundays and legal holidays excepted)
 until the whole shall be sold.

§ 13. SELL BY PUBLIC VENDUE.] The sheriff shall sell by
 public vendue each piece or parcel of land separately in the order
 in which they are described in the judgment and by the descrip-
 tion 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. In offering the lands for sale, he shall state the
 amount for which each piece or parcel is to be sold, and he shall
 first offer each piece or parcel to the bidder who will pay the
 amount for which it is to be sold for the shortest term of years in
 such piece or parcel. If no bidder shall offer to pay such amount
 for any term of years, in the piece or parcel so offered, he 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 offer to pay such amount for a term of years, and no bid-
 der shall bid an amount equal to that for which the piece or par-
 cel is to be sold, then the county treasurer shall bid in the same
 for the state or county at such an amount. The treasurer shall
 attend at the sale and receive all moneys paid thereon.

§ 14. FORM OF CERTIFICATE.] The sheriff shall execute to
 the purchaser of any piece or parcel a certificate, which may be
 substantially in the following form:

I,-----, sheriff of the county of-----
 do hereby certify, that at the sale of lands pursuant to the real
 estate tax judgment entered in the district court in the county of
 -----, on the-----day of -----
 in proceedings to enforce the payment of taxes delinquent upon
 real estate for the county of-----, which sale was
 held at-----in said county of-----
 on the-----day of-----, the following described
 piece or parcel of land situate in said county of-----,
 state of North Dakota, to-wit: (insert description) was first
 offered to the bidder who would pay the amount for which the
 same was subject to be sold, for the shortest term of years in said
 piece or parcel.

[If there be a bidder for a term of years, here insert as fol-
 lows:] And-----having offered to pay, and
 having paid, such amount, to-wit: the sum of-----
 for the term of-----years, that being the shortest term
 for which any person offered to take said piece or parcel and pay

said amount, I do, therefore, in consideration for the amount so paid, and pursuant to the statutes in such cases made and provided, let the said piece or parcel of land to the said.....
.....for the term of.....years from the date hereof, subject to any redemption provided by law.

Witness my hand this.....day of.....

[Signed]

Sheriff of.....County.

If no one shall offer to take such piece or parcel for a term of years, then after the asterisk (*) insert as follows:

And no person having offered to pay such amount, for a term of years, I did sell the fee of said piece or parcel of land tofor the sum of..... that being the highest sum bid therefor; and he having paid said sum, I do, therefore, in consideration thereof, and pursuant to the statute in such cases made and provided, convey the said piece or parcel of land in fee simple to the said..... his heirs and assigns, forever, subject to redemption as provided by law.

Witness my hand this.....day of.....

Sheriff of.....County.

If there be no bidder, then insert after the asterisk, (*) as follows:

And there being no bidder upon that offer, I offered the fee of the same to the highest bidder, and no one bidding upon such offer an amount equal to that for which said piece or parcel was subject to be sold, the county treasurer of..... county bid in the same for the State or county at such amount, being the sum of.....

In consideration whereof and pursuant to the statutes in such cases made and provided, I do hereby convey said piece or parcel of land, in fee simple, to the State of North Dakota or the county of..... and its assigns forever, subject to redemption as provided by law.

Witness my hand this.....day of.....

[Signed.]

Sheriff of.....County.

Such certificate, in case the land shall not be redeemed, shall pass to the purchaser, or the State or county, the estate therein expressed, without any other act or deed whatever. Such certificates may be recorded as deeds of real estate. If any purchaser shall at such sale purchase more than one piece or parcel, or if more than one shall be bid in for the State, or county, all of the pieces or parcels so purchased or bid in for the State, or county, may be included in the same certificate; but in all cases the certificate must state the amount at which each piece or parcel was sold, or was bid in for the State or county. *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 postoffice address; and in case the property covered by such certificate is occupied, then service of such notice shall, in addition to the foregoing provisions, be made upon the person in possession thereof, and 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 vest in the holder thereof until the notice provided for herein is given and due proof thereof filed with the clerk of the district court.

§ 15. CERTIFICATE PRIMA FACIE EVIDENCE.] The certificate shall in all cases be *prima facie* evidence that all the requirements of law with respect to the sale have been duly complied with. And no sale shall be set aside or held invalid unless the party objecting to the same shall prove, either that the court rendering the judgment, pursuant to which the sale was made, had not jurisdiction to render the judgment, or that after the judgment and before the sale such judgment had been satisfied; and such certificate shall be conclusive evidence that due notice of sale, as required by this act, was given, and that the piece or parcel of land was first offered at such sale to the bidder who would pay the amount for which the piece or parcel was to be sold for the shortest term of years; and the validity of any sale shall not be called in question unless the action in which the validity of the sale shall be called in question shall be brought, or the defense alleging its invalidity be interposed, within three years from the date of the sale. A sale shall be deemed completed within the provisions of this act when the certificate thereof has been issued by the sheriff.

§ 16. COPY JUDGMENT BOOK.] The county treasurer shall immediately after such sale set out in his copy judgment book what disposition was made at such sale of each piece or parcel of land; if the same was let for a term of years, stating to whom and for what term; if sold in fee, to whom and for what amount; and if bid in for the state or county, then so stating; and upon any assignment or redemption he shall make a note thereof in said list opposite the piece or parcel as assigned or redeemed. After he shall have set out in his copy judgment book what disposition

was made at the sale of the several pieces or parcels of land, he shall deliver the same to the clerk of the court, who shall forthwith enter on the right hand page of the real estate tax judgment book, opposite the description of each piece or parcel sold or let, the words "satisfied by sale," and opposite each piece or parcel bid in for the state or county the words "bid in for the state" or "bid in for the county," and he shall thereupon re-deliver said copy judgment book to the treasurer.

§ 17. ANY PERSON MAY PURCHASE.] Any person 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 claims, lien or incumbrance, except such right, title, interest, claim, lien or incumbrance, as the owner so purchasing may be legally or equitably bound to protect against such sale, or the taxes for which such sale was made.

§ 18. SUBSEQUENT TAXES.] The taxes for subsequent years shall be levied on lands so sold or bid in for the state or county, in the same manner as though the sale had not been made, and if the purchaser or assignee of the state or county, shall pay such taxes, the amount thereof, with interest from the date of payment at the same rate as is provided upon the amount bid on the sale, shall be added to and be part of the money necessary to be paid for redemption from sale.

§ 19. TREASURER SHALL ASSIGN.] After any piece or parcel of land shall have been bid in for the state or county, and at any time before the time to redeem expires, and while the same shall remain unredeemed, the county treasurer shall assign the right of the state or county in such piece or parcel of land to any person, who shall at any time before the time for redemption expires, pay the amount for which the same shall have been bid in, with interest, and the amount of any subsequent taxes, penalty and interest upon the same, and shall execute to such person an assignment, which may be substantially in the following form:

Whereas, at the sale of lands pursuant to the tax judgment entered in the district court in the county of....., on the.....day of....., in proceedings to enforce the payment of taxes for the county of.....which sale was had on the.....day of....., the following described piece or parcel of land situated in said county of....., State of North Dakota, to-wit: (here insert description) was bid in for the state or for the county, and on this day....., having paid into the treasury of said county the amount for which the same was bid in, and all subsequent taxes, penalties and interest, amounting in all to.....dollars;

Therefore, pursuant to the law in such cases made and provided, the whole right, title and interest of said state, or of the county

of....., in or to said piece or parcel of land, acquired at said sale, is hereby assigned to said....., his heirs and assigns forever.

Witness my hand and seal this..... day of.....
 [Signed]

Treasurer of the County of.....

Which assignment may be recorded as deeds of real estate.

§ 20. PERIOD OF REDEMPTION.] Any person having any estate or interest in the property, wishing to redeem from such sale, may make such redemption at any time within two years by paying into the treasury of the county, to the use of the person thereto entitled; or, if the fee shall be sold or the piece or parcel bid in for the state or county, the same may be redeemed at any time within two years from the day of sale, by any person having any estate or interest in the property, who shall pay into the treasury of the county to the use of the person thereto entitled:

First: If such piece or parcel shall have been bid in for the state or county, and the right of the state or county shall not have been assigned, the amount for which the same was bid in, with interest, and the amount of subsequent taxes, penalties and interest.

Second. If the right of the state or county shall have been assigned, the amount paid by the assignee, with interest from the day when so paid, and, if he shall have paid any taxes, penalties or interest, accruing subsequent to the assignment, the amount so paid by him with interest from the day of such payment, and all unpaid taxes, interest and penalties that may have accrued on such piece or parcel after such assignment.

Third. If the same shall have been sold to a purchaser, the amount paid by such purchaser with interest and if he shall have paid any taxes, penalties or interest, accruing subsequent to the sale, the amount so paid by him, with interest from the day of paying the same, and all unpaid taxes, interest and penalties accruing subsequent to such sale.

Upon such redemption the treasurer shall execute to the person redeeming, a certificate which may be substantially in the following form:

I,, the treasurer of the county of, State of North Dakota, do hereby certify that on the..... day of..... paid into the treasury of the county the sum of \$..... for redemption of the following described piece or parcel of land situated in the county of....., State of North Dakota, to-wit:

(Insert description of land.)

From the sale thereof made on the..... day of, pursuant to a tax judgment entered in the district court in the county of..... on the..... day of....., in proceedings to enforce

payment of taxes for the county of.....,
and that said piece or parcel of land is redeemed from such sale
pursuant to law.

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

Treasurer of the County of.....

And such certificate may be recorded. If the amount so paid for the purpose of redemption be less than that required by law, it shall not invalidate such redemption, but the treasurer shall be liable for the deficiency to the person entitled thereto. Such redemption shall have the effect to annul the sale.

§ 21. REDEMPTION IN CERTAIN CASES.] Minors, insane persons, idiots, or persons in captivity, or in any country with which the United States is at war, having an estate in, or a lien on land sold for taxes, may redeem the same within two 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.

§ 22. PERSON HOLDING LIEN.] Any person who has an interest in or lien on any undivided estate in any piece or parcel of land sold, or an estate or interest in any part thereof, may redeem such part of the undivided estate by paying into the treasury a proportionate part of the amount required to redeem the whole estate, and in such case the certificate shall express the estate, portion of, or interest redeemed.

§ 23. TREASURER SHALL PAY.] Upon application of the party entitled thereto, the treasurer shall pay to such party 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 the sale, or for any money paid in for redemption, which he may pay to the purchaser at the sale, or other person appearing from his copy judgment book to hold the right acquired at the sale, taking duplicate receipts therefor.

§ 24. LEASED LAND.] Any person in possession under a lease, of any piece or parcel of land, or any part thereof, against which a judgment pursuant to this act shall have been rendered, may pay to the treasurer of the county the amount due on such judgment, and if the piece or parcel shall have been bid in for the state or county, may, before the right of the state shall be assigned and before the time to redeem shall expire, redeem the same. And the amount paid by him shall, unless by the terms of the lease he is bound to pay such taxes, operate as a payment of the same amount of rent to the party from whom he leases.

§ 25. CLERKS FEES.] The fees of the clerk of the court in said proceeding shall be as follows: For all services (except oaths administered to witnesses on trial) to and including the entries to be made by him on the right hand page of the real estate tax judgment book, twenty-five cents for each and every description, which with fifteen cents per description for publica-

tion of the notice and list, shall be included in the amount charged to each description in the judgment. For each oath administered to witnesses on the trial of any answer, ten cents, which shall be included in any amount charged by the judgment against any piece or parcel with respect to which the oath was administered. For issuing a writ of attachment, as herein provided, including the filing of the affidavit and order of allowance, and filing the writ, and return when returned, one dollar. All which fees shall be paid by him, when collected to the county in which the taxes are levied and become part of the general fund of such county. To the sheriff shall be allowed for serving the writ of attachment provided by section two, and receiving or collecting any money under the provisions of this act, the same fees as are allowed by law upon an execution in a civil action, and in case he brings suit as in section two provided, such additional compensation as the district court may allow.

§ 26. COMMISSIONERS SHALL ADVERTISE.] The county commissioners shall let the advertising, provided in section 4 of this act, to the party who will offer to do the same in some newspaper, daily if there be one published in the county, if not, then in some weekly newspaper, which shall have been published at the county seat of such county and circulated for at least six months prior to the time of publishing, for a sum not exceeding fifteen 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 an amount to be fixed by said county commissioners, conditioned for the correct and faithful performance of such advertising. And in any suit by the county on such bond, for breach of the conditions thereof, the county shall recover as damages one-half of the taxes, penalty and interest upon each piece or parcel of land in the copy list made by the clerk, which may be affected by an error in the publication of the notice and list, or either, mentioned in section 3 of this act, wherein the printer departed from the copy furnished him.

§ 27. IMMEDIATE POSSESSION GIVEN.] When any piece or parcel of land shall be so sold, the purchaser, after the time for redemption shall have expired, shall be entitled to the immediate possession of the piece or parcel purchased by him; and if, on demand and presentation of the certificate of sale, the person in possession of the piece or parcel refuse or neglect to deliver such possession, such person may be proceeded against as a person holding over after the determination of his estate, which proceedings may be instituted and prosecuted as prescribed in the code of civil procedure of this State.

§ 28. WHEN PURCHASE MONEY REFUNDED.] When a sale of lands, as provided in this act, is for any cause declared void by judgment of court, the money paid by the purchaser at the sale, or by the assignee of the State or county upon taking the assignment, shall with interest at the rate of seven per cent per annum

from the date of each payment, be refunded 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 such money as has been paid into the State Treasury shall be charged to the State and deducted from the next money due the State on account of taxes.

Provided, that if such purchaser or assignee or party holding his right shall, after such purchase or assignment from the State or county have paid taxes, penalties and interest upon such piece or parcel of land, he shall have a lien on such piece or parcel for the amount of taxes, penalties and interest so paid, with interest at the rate by this act allowed, and may enforce such lien by action, or if he be in possession of such piece or parcel shall not be ejected therefrom until such amount and interest shall be paid.

§ 29. WHEN TAXES MAY BE PAID.] Any person may pay the taxes mentioned in section one of this act, on or before the day when the list is filed with the clerk of the district court as provided in section one of this act, by paying the amount of the tax for the several years, with interest at the rate of seven per cent per annum from the time when the taxes each year became delinquent and without any other interest, penalty or costs; and such payment shall relieve the piece or parcel of land on which the taxes shall so be paid, from any forfeiture to the State or county whether valid or invalid. Judgment rendered pursuant to this act shall bear interest at the rate of two per cent per month; the amount for which any piece or parcel shall have been sold or bid in shall bear interest at the same rate from the date of the sale. All subsequent taxes paid by the purchaser or any assignee shall bear interest at the same rate from the date of such payment; the amount paid by any person taking an assignment of the right of the State or county shall bear interest at the same rate, from the time of such payment.

§ 30. ASSIGNMENT.] Whenever an assignment of any right derived from a sale provided in this act, shall be made before the time for redemption expires, the assignee shall present the assignment to the treasurer, who shall note on the copy judgment book provided by section eleven the name of the assignee and the date of the assignment, and indorse on such assignment the word "countersigned," and sign his name to the same, and no such assignment shall be recorded by the register of deeds until such indorsement is made.

§ 31. RECORD OF CERTIFICATES.] The record of certificates provided for in this act shall have the same force and effect as evidence, or otherwise, as the records of deeds of real estate. □

§ 32. TOTAL ASSESSMENT.] Any local assessment which any purchaser at a sale provided in this act, or any assignee of the state or county shall have paid upon any piece or parcel of land shall, if he shall have produced to the county treasurer the proper receipt for such payment, and left with him a copy

thereof, be deemed taxes paid by him within the meaning of section twenty of this act.

§ 33. DUTY OF CLERK.] The clerk shall attach together and keep in his office the list, notice, affidavit of publication, one copy of the newspaper in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course of the proceedings.

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

§ 35. EMERGENCY.] An emergency exists, in this, that there are delinquent taxes to a large amount due the state and the various counties and municipalities of the state, and there is no adequate law for the collection of delinquent taxes, *therefore*, this act shall take effect and be in force immediately upon its passage and approval.

Approved February 20th, 1897.

CHAPTER 68.

[S. B. 25.]

AMENDING REVISED CODE.

AN ACT to Amend Section 1325 of the Revised Codes of the State of North Dakota.

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

§ 1. AMENDMENT.] That section 1325 be amended to read as follows:

§ 1325. "No deed, mortgage, deed of trust, or other incumbrance or transfer of real property shall be received, filed or recorded by the register of deeds until all delinquent taxes due upon the real estate in such instruments described shall have been paid, which payment shall be evidenced by the endorsement of the county treasurer to the effect on the instrument presented for filing or record; *Provided*, that sheriffs or referee's certificates of sale on execution, decrees or foreclosures of mortgages or United States patents may be recorded by the register of deeds without any such certificate from the county treasurer."

Approved, January 29, 1897.