

with the necessary assistants, employed by any person or persons interested in such proceedings, to enter on the lands adjacent to such highways or street, or the lands to be drained under the provisions of said act, or other lands for the purpose of making the necessary survey, doing as little damage as possible to the owner or owners of said lands.

29. SEC. 2. That in all cases where an action has been commenced in any court of this state, wherein the title to lands, tenements, hereditaments or other real estate may come in question, the practical surveyor or surveyors, with the necessary assistants, employed by any of the parties to said action shall, and they are hereby authorized to, enter upon such lands or real estate, or other lands, for the purpose of running doubtful or disputed lines and locating or searching for monuments, and ascertaining and deciding the location of the lines and monuments of any survey, doing as little damage as possible to the owner or owners of said land; *provided*, that an order of the court before which action or suit shall be pending be first made directing such entry and survey.

In cases of actions in reference to titles, surveyors authorized to enter on lands to run doubtful or disputed lines and to locate monuments, &c.

Proviso.

Taxes and Assessments.

I. TAX ACT OF APRIL 14TH, 1846, WITH SUPPLEMENTS.

1. Lists of taxable property to be made out.
2. Penalty for refusing to account, &c.
3. Amended by section 175.
4. Abstracts made out.
5. Duplicate furnished.
6. How assessment made.
7. Penalty on assessor for neglect.
8. Appeal.
9. Majority of assessors may act.
10. Township collector to advertise.
11. Amended by sections 196 and 206.
12. And return delinquents to justice.
13. Justice to administer oath and give receipt.
14. Penalty on collector for neglect.
15. Liability of assessor and collector for deficiency.
16. Fees of assessor and collector.
17. Time to govern assessments for state.
18. Justice to issue tax warrants.
19. Fees of justice and constable.
20. Penalty on justice for neglect.
21. Tax warrants to be returned.
22. Amended by section 153.
23. Liability of constable.
24. Money to be paid county collector.
25. Township collector may be sued.
26. Tax paid to treasurer.
27. Fee of county collector.
28. Liability of county collector to collect penalty.
29. And to a suit for tax money unpaid.
30. Liability of township for money embezzled.
31. Liability of county for the same.
32. Deficiency of tax assessed next year.
33. Tenants liable for tax.
34. Of tax on unimproved or untenanted land.
35. Of collecting tax by sale of timber, &c.
36. Notice of sale. Advertisement.
37. Purchaser may enter within two months.
38. But not after, under penalty.
39. Officers to account to township committee.
40. Warrant may be taken from one and given to another constable.
41. How lands of defaulting officer may be sold.
42. If deficiency, *ca. sa.* to issue.
43. Sheriff liable to forfeiture.
44. And so for failure to execute execution.
45. Repealed by section 92.
46. On refusal to pay, how collected.
47. Commissioners of appeal to meet.
48. Assessor to attend.
49. Commissioners to decide.
50. To give a transcript to appellant.
51. May subpoena witnesses.
52. Amended by section 136.
53. Who to pay costs.
54. Penalty on commissioners for neglect of duty.
55. Construction of terms in act.
56. Collector to assess persons omitted.
57. Commissioners of appeals to hear complaints of omitted or insufficient assessments.
58. Assessment of life insurance companies.
59. Repealer.
60. Bounty poll tax not to be assessed against honorably-discharged soldiers.
61. Poll tax to be assessed.
62. Valuation and rate of taxation.
63. Term "real estate," what to include.
64. Personal estate, what to include.
65. Amended by section 200.
66. Where taxes to be assessed.
67. Property held in a representative capacity, where assessed.
68. Duty of assessor in making assessment.
69. Secretary of state to prepare schedule of taxable property.
70. Duplicate, how to be made out.
71. Person assessed as trustee, &c., to be assessed as such.
72. Annual meeting of board of assessors.
73. Amended by section 140.
74. Penalty for neglect of duty on part of assessor.
75. Private corporations, how assessed. Exceptions.
76. Repealed by section 101.
77. Duties of officers of corporations.
78. Form of oath to be administered by assessor, &c.
79. Foreign corporations, how assessed.
80. Deductions for debts, when to be made.
81. Duty of collector.
82. Commissioners of appeals to issue subpoenas.
83. Real estate of corporations assessed and deducted from capital stock.
84. Dog tax.
85. First payment to be made to county collector.
86. Penalty for embezzlement or loaning tax moneys.
87. Interest to be paid by delinquents.
88. Notice of assessment to be printed or in writing.
89. Amended by section 117.
90. Compensation of assessors and collectors.
91. Penalty for false swearing.
92. Repealer.
93. Revision of assessment by town committee or council.
94. Assessment, when to be completed.
95. Assessors to attend meeting of town committee.
96. Committee may adjourn from time to time.
97. Any member may issue subpoenas.
98. Act not to affect incorporated towns.
99. *Alias* tax warrant, when and to whom to issue.
100. Proceedings in case of neglect to return tax warrant.
101. Bank stock, where and how assessed.

102. Poll tax to be assessed.
103. Word "citizen" to include bodies corporate.
104. Collector, when to furnish copy of duplicate.
105. One copy only to be required.
106. Penalty for neglect or refusal.
107. Treasurer, when to demand certain taxes.
108. May bring suit against delinquents.
109. Personal property taxed once, not to be taxed elsewhere.
110. Certificate of assessor evidence of taxation.
111. Certificate of sale not to be set aside for variance between date of notice and actual publication.
112. Amended by section 193.
113. Mortgages subject to taxation, how assessed.
114. Township collector to make list of delinquents.
115. Unpaid taxes, how collected.
116. Fees to justice and collector.
117. Tax warrants to be issued to collector.
118. Claim for deduction of personal indebtedness to be made under oath.
119. Penalty for false swearing.
120. Mortgages due to state school and sinking funds may be deducted.
121. Mortgages due chosen freeholders for moneys loaned from surplus revenue may be deducted.
122. Fee to justices for issuing *alias* or *pluries* warrants.
123. Repealer.
124. How *alias* or *pluries* warrants shall be issued in towns.
125. Township collector to file list of delinquents on April 1st.
126. Township committee may release collector from liability.
127. Mortgage due to chancellor or the state may be deducted.
128. Taxes on such mortgages, by whom assessed and collected.
129. To whom assessed.
130. Unpaid taxes against residents, how collected.
131. Unpaid taxes against non-residents, how collected.
132. Taxes assessed since July 4th, 1879, how collected.
133. Upon petition of collector, chancellor may order taxes paid out of income.
134. Repealer.
135. Taxes for school purposes to be entered in tax levy as separate item.
136. Compensation of commissioners of appeals.
137. Poll tax not to exceed \$1.
138. Poll tax in excess of \$1, how to be raised.
139. Repealer.
140. Duties and powers of county boards of assessors.
141. When vacancy exists in office of assessor, committee of county board of assessors to make assessments.
142. Additional facts to be sworn to on claim for deduction for indebtedness, &c.
143. No deduction to be made unless statement is furnished. Penalty for false return.
144. Statement by corporation, how subscribed.
145. Powers of assessor to ascertain truth of statement.
146. Process of subpoena may be awarded by circuit court.
147. Taxes assessed under act of March 10th, 1884, how collected.
148. Taxes assessed by committee valid.
149. Amended by sections 161 and 185.
150. Repealer.
151. How *alias* or *pluries* warrants shall be issued in cities.
152. Repealer.
153. Penalty if constable or collector refuse or neglect to execute warrants, &c.
154. Buildings which are personal property to be assessed where situated.
155. Moneys and property held invested or deposited in court of chancery, subject to taxation.
156. Persons and corporations owning or having interest in such money and property to be assessed.
157. Real estate held by chancellor, where assessed.
158. Taxes assessed to remain a claim and lien against persons and corporations.
159. Property not to be taxed more than once in each year.
160. Chancellor to make and enforce rules and orders.
161. Amended by section 185.
162. Active firemen exempt from poll tax, and property tax not to exceed \$500.
163. Amended by section 173.
164. Members of salvage corps and fire patrol exempt from poll tax, and tax upon property not exceeding \$500.
165. Amended by section 174.
166. From what taxes exemptions claimed and allowed.
167. What sufficient evidence of right to claim exemption.
168. Certificates may be combined in the form of a list of persons entitled.
169. False claims to exemption not to be allowed.
170. Amount exempted may be included in tax.
171. Claim to exemption to be delivered to assessor before closing of assessment.
172. Repealer.
173. Exempt firemen exempt from poll tax and property tax.
174. Honorably-discharged soldiers and sailors exempt from poll tax and property tax not exceeding \$500.
175. Assessors to adjust and fix quota of tax to be levied and collected.
176. Mistakes in names of owners or omission to name owner of personal property not to invalidate assessment.
177. Changing of ward lines not to affect assessment and collection of taxes.
178. On neglect or refusal of borough to elect assessor or collector, assessor or collector of township to act.
179. Such township assessor to assess and levy for due and unpaid taxes.
180. Duty of assessor and compensation.
181. Duty of such collector and commissioners of appeals.
182. Such collector to collect taxes assessed.
183. Taxes due the state from county to be paid by county collector.
184. Chosen freeholders may borrow in anticipation of taxes.
185. No more than one poll tax to be assessed in any one year.
186. Parsonages exempt from taxation to an amount not exceeding \$5,000.
187. Repealer.
188. Mortgages due the chancellor or to commissioners appointed by supreme court, &c., may be deducted.
189. Such mortgages to be assessed by assessor making the deduction.
190. To whom assessment made.
191. Unpaid taxes against residents, how collected.
192. Unpaid taxes against non-residents, how collected.
193. Repealer.
194. *Alias* and *pluries* warrants, how issued and executed.
195. Repealer.
196. Amended by section 206.
197. Bonds, securities, &c., issued by state, county, city, &c., exempt from taxation.
198. Mortgages on real and personal property not to be assessed unless deduction claimed.
199. Exemption from taxation of firemen, salvage corps, &c., extended to incorporated villages.
200. Property exempt from taxation.
201. Township committee, when to meet to revise and correct duplicates.
202. Assessor shall attend meeting with duplicates.
203. Committee may adjourn from time to time.
204. Fees to be allowed assessors and collectors of townships.
205. Repealer.
206. Township, town or borough collector to demand tax within sixty days after receipt of duplicate.

II. TAXATION OF RAILROAD AND CANAL PROPERTY.

207. State board of assessors to examine into correctness of reports of railroad and canal companies.
208. May examine books, papers, &c.
209. To report to attorney-general. Proceedings before supreme court.
210. On failure to pay tax, judgment to be entered in supreme court and execution issued, &c.
211. Attorney-general to act as counsel of state board of assessors.
212. Railroad and canal property, how taxed.
213. Amended by section 243.
214. When state board of assessors to meet. What facts to be ascertained.
215. Local assessors to send statement of property, &c., to state board.
216. Meetings of board for hearing on questions of valuations and assessments.
217. Taxation of railroad property leased or operated by another corporation.
218. Deduction for mortgages to be allowed if claimed.
219. Deduction of other debts allowed. How taxed. Creditors' debts, how assessed. Proviso.

220. State board to compute tax upon completion of assessment. Copy of valuation, how served and remedies for collection.
221. When board to certify statement to comptroller. When tax is payable. Default and penalty.
222. Amended by section 242.
223. Meetings of board to review assessment and proceedings.
224. Manner of contesting assessments by *certiorari*.
225. Proceedings when tax remains unpaid for ten days.
226. Sale by master in chancery of property under execution. Provision for redemption.
227. Powers of board.
228. When railroads shall make return to board. Requisites of statements or schedules.
229. Company claiming exemption under contract with state to make additional return.
230. No company having contract for exemption to acquire other property until exemption is waived.
231. Penalty for neglecting to make returns or making false returns.
232. Company paying tax on cars hired, &c., to have action against owners for tax paid.
233. Payment of tax by mortgagee, &c., when company is in default.
234. Assessment of property owned or operated by individual or association not incorporated.
235. Attorney-general and state board may employ assistants.
236. Company claiming exemption under contract may pay certain sum. Effect of such payment.
237. Unconstitutionality of one section of act not to affect other sections.
238. Companies having contract with state may file agreement waiving contract and be subject to tax.
239. Supreme court to determine character of property assessed by both local authorities and state board.
240. Payment of tax not to affect right of writ of *certiorari*.
241. Act subject to amendments. Repealers not to affect taxes heretofore assessed.
242. Money collected for tax, how appropriated, &c.
243. State board of assessors, how constituted.
244. Appointment of state board shall be non-partisan.
245. Company may file statement waiving benefit of contract relating to tax.

III. TAXATION OF CORPORATIONS.

246. Amended by section 257.
247. Amended by section 258.
248. Amended by section 259.
249. Amended by sections 256 and 260.
250. Amended by section 261.
251. Taxes to be a debt, how collected.
252. Corporation may be restrained from doing business if tax is not paid.
253. To what act is not applicable.
254. Repealer.
255. When corporation not liable to taxation, tax to be refunded.
256. Amended by section 260.
257. Certain corporations to pay annual tax as license.
258. Corporations to make annual report to state board of assessors.
259. Penalty for false return, &c.
260. Amount of tax to be paid by corporations.
261. State board to report annually to comptroller, &c.
262. Repealer.

IV. COLLATERAL INHERITANCE TAX.

263. Gifts, legacies and collateral inheritances subject to tax of \$5 on every \$100.
264. Property devised to be immediately appraised.
265. Bequests to executors exceeding reasonable compensation, excess to be taxed.
266. All taxes due at death of testator.
267. When penalty shall not be charged.
268. Administrator, executor, &c., not to deliver legacies until tax is paid or collected.
269. Executors, &c., shall sell property to pay tax.
270. Shall pay tax to state treasurer, taking h's receipt, &c.
271. Executors, &c., shall notify comptroller when property passes to corporation or other than certain relative.
272. When proportion of tax may be refunded.

273. When foreign executors shall transfer stocks or bonds, tax shall be paid on transfer.
274. Tax paid erroneously to be refunded.
275. Surrogate to appoint appraiser.
276. Taking fees or reward of executor, &c., by appraiser a misdemeanor.
277. Ordinary or orphans' court to have jurisdiction relative to tax.
278. Delinquents shall be cited to show cause.
279. State comptroller to notify prosecutor of pleas of failure to pay tax.
280. Certain officers to make quarterly statement to comptroller.
281. State treasurer to pay expense of citation.
282. Comptroller to furnish record-books, blank forms, &c.
283. Surrogate's fees.
284. State treasurer to furnish receipts for payments which may be recorded.
285. Repealer.

V. STATE BOARD OF TAXATION.

286. State board of taxation, how constituted and appointed.
287. Amended by section 316.
288. Board to order assessors to determine true value of each lot or tract.
289. Assessor to make, in separate list, a description of cemeteries, churches, &c.
290. Assessment of lands of non-residents.
291. Personal estate to be taxed where found.
292. Assessment of personal estate in possession of trustee, guardian, executor, &c.
293. When board to meet.
294. Collectors may amend and correct descriptions of land assessed.
295. Tax title not to be set aside for variance between date of notice and publication.
296. Act not to render property subject to tax other than that now subject to taxation.
297. Board of Taxation to investigate methods of local assessors.
298. Court on *certiorari* may amend assessment and reduce same to proper amount.
299. Tax warrant not to be set aside for lack of form.
300. County board of equalization to issue subpoenas.
301. Penalty for false swearing.
302. Act for taxation of railroad and canal property not repealed.
303. Repealer.
304. Number of members of state board.
305. Board to be non-partisan.
306. Board may increase assessments.
307. Repealer.
308. Appeals to be filed before a certain day.
309. Repealer.
310. Thirty days to be allowed for payment of taxes reduced by state board.
311. Thirty days to be allowed for payment of taxes increased by state board.
312. Repealer.
313. Copies of all assessments shall be forwarded to state board by assessor or boards of tax commissioners.
314. Penalty for failure to report.
315. Repealer.
316. Power of board to review and correct the action of the local assessors.

VI. SALE OF LANDS FOR TAXES.

317. Lands to be assessed in names of owners. Description.
318. Assessments on lands of non-residents a lien.
319. If unpaid for one year, town committee may issue warrant to constable and direct sale.
320. Warrant to be recorded by township clerk.
321. Constable to advertise sale. Mode.
322. Constable to make sale and give deed.
323. Mistake in name of owner not to invalidate assessment.
324. Fees and costs.
325. All assessments on lands to be a lien for two years.
326. Owner may redeem.
327. Real estate of residents may be sold for taxes.
328. Treasurer of city or township may purchase at tax sales.
329. Collectors may make applications to judge to have description amended.

- 330. Amended by section 368.
- 331. Proceedings for collection. Tax warrant.
- 332. Warrant to be recorded.
- 333. Notice of time and place of sale.
- 334. Collector to sell and deliver certificate of sale.
- 335. Amended by section 349.
- 336. Township clerk to record return of warrant.
- 337. Purchaser to have certificate of sale recorded.
- 338. Redemption of lands sold.
- 339. Township committee to execute and deliver deed. Record of deed.
- 340. Record of tax sales to be evidence.
- 341. Purchaser to give notice to mortgagee.
- 342. Township collector to return list of delinquents to county clerk on February 1st.
- 343. County clerk to record return.
- 344. When tax shall cease to be a lien.
- 345. Amended by section 363.
- 346. Collection of tax now due.
- 347. Amended by section 371.
- 348. Repealer.
- 349. Collector to return warrant with all proceedings.
- 350. Fees of collector.
- 351. Fees of township committee for issuing warrant.
- 352. Fees of township clerk.
- 353. Fees, costs, &c., to be paid by purchaser.
- 354. Township committee may purchase lands, &c.
- 355. All purchases of lands heretofore made ratified.
- 356. Amended by section 365.
- 357. All lands purchased by township to be included in one certificate. No deed necessary.
- 358. Collector may adjourn sale.
- 359. Collector to continue proceedings if his term expires.
- 360. No lands to be sold for longer term than thirty years.
- 361. Fees of collector.
- 362. Repealer.
- 363. Fees, costs, &c., to be paid by delinquent, and tax record satisfied.
- 364. Repealer.
- 365. Not necessary to sell lands previously purchased by township for non-payment of taxes, &c.
- 366. Amended by section 367.
- 367. Redemption of lands purchased by township.
- 368. Taxes and all costs, &c., in relation to the levy, &c., to be a first lien on lands from December 20th after such assessment.
- 369. Repealer.
- 370. Proceedings heretofore had for sale of lands in townships validated.
- 371. Act of March 14th, 1879, to apply to all townships and certain cities.
- 372. Supplements heretofore passed validated.
- 373. Construction of term "township."
- 374. Amended by section 376.
- 375. Repealer.
- 376. Taxes in cities, boroughs, &c., to be first lien on lands.
- 377. Effect of sale of lands where real and personal taxes have been blended.
- 378. Act applicable to proceedings heretofore had.
- 379. Tax titles not invalid by reason of defect in notice of sale.
- 380. Repealer.
- 381. Where judgment is obtained at law for recovery of lands sold for taxes, injunction may issue until cost of improvement is paid.
- 382. Sales of lands, and proceedings thereon dependent, validated.
- 383. Declarations or certificates of sale to be *prima facie* evidence.
- 384. Declarations or certificates of sale hereafter issued to be evidence in all courts.
- 385. Taxes levied by trustees to be a first lien.
- 386. Amended by section 387.
- 387. Real estate may be sold to pay taxes in arrears.
- 388. Advertisement, how published, &c.
- 389. Certificate of sale. Collector to deliver deed.
- 390. Redemption of property by mortgagee. Redemption money refunded. How notice published and service verified. Affidavit to be filed.
- 391. General statement set forth in proceedings.
- 392. Proceedings in case person interested is unknown to purchaser.
- 393. Proceedings in case owner or person interested is under age.

- 394. Proceedings in case devisees of property cannot be ascertained.
- 395. Persons claiming interest by unrecorded deed or mortgage shall be bound by proceedings under this act.
- 396. Persons duly notified to be bound by notice served.
- 397. Persons redeeming lands shall hold first lien thereon. Certificate of collector to be evidence.
- 398. When sum in excess of taxes and costs paid, court to direct disposition thereof.
- 399. Proceeds of sales to be deposited with collector.
- 400. Proceeding to obtain writ of *certiorari*.
- 401. Act not operative until accepted.
- 402. Repealer.
- 403. Officer authorized to sell lands for taxes, &c., may collect claims after authority for sale given.
- 404. Repealer.
- 405. Declaration or certificate of sale *prima facie* evidence that acts necessary to validity of sale have been legally done.
- 406. When lands hereafter sold, officer to deliver certificate of sale, which certificate to be evidence.
- 407. Sales for unpaid taxes made by collector whose office may have terminated, ratified and confirmed.
- 408. When tax deed is annulled, money to be refunded to purchaser.
- 409. When money has been refunded, all taxes re-established as lien on lands and re-advertised for sale.

VII. COLLECTION OF ARREARS OF TAXES AND ASSESSMENTS.

(THE MARTIN ACT.)

- 410. Common council, &c., may apply to circuit court for appointment of commissioners to adjust unpaid taxes, &c.
- 411. Powers and jurisdiction of commissioners. Proceedings of.
- 412. Amended by section 427.
- 413. Amended by section 428.
- 414. Amended by section 453.
- 415. Proceedings for redemption, &c.
- 416. Bonds of city may be received in payment of taxes, &c.
- 417. Proceedings need not be stated at length in deed.
- 418. Commissioners need not adjust taxes, &c., on all lands in city.
- 419. When *certiorari* may be allowed.
- 420. Amended by section 429.
- 421. Taxes and assessments may be apportioned between subdivisions of lots.
- 422. What taxes and assessments may be collected under this act.
- 423. Repealer.
- 424. Expenses incurred may be paid out of any fund.
- 425. Commissioners to divide and apportion assessments, &c., upon subdivisions of lots.
- 426. Upon petition, court may appoint commissioners of adjustment.
- 427. Commissioners to keep records of proceedings, &c.
- 428. When tax assessment and lien shall become due.
- 429. Disposition of moneys received from sales.
- 430. Comptroller to certify designation of lands affected by liens for taxes and assessments.
- 431. Commissioners to adjust assessments in arrears prior to certain time.
- 432. Officials to furnish tax certificates at request of commissioners.
- 433. Officers authorized to make sales.
- 434. How payments made and sales canceled.
- 435. Common council may pay over money to commissioners to carry out provisions of act.
- 436. Amended by section 454.
- 437. Proceedings in case lands sold where the owners, &c., are unknown and cannot be ascertained.
- 438. Proceedings in case owner, &c., is an infant.
- 439. Proceedings in case land sold which has been devised to any person for life, &c.
- 440. Persons claiming interest or mortgage upon lands sold to be bound by proceedings, &c.
- 441. Persons claiming any interest by descent, &c., to be bound by notice served.
- 442. Mortgagee, &c., redeeming lands sold to have first lien for amount paid.
- 443. When greater sum is bid to pay lien, surplus, how distributed.
- 444. Commissioners to adjust, assess and levy claims for unpaid taxes, &c.

445. Repealer.
446. Commissioners authorized to fix compensation for certificates of arrearages.
447. Sales of lands, although not made between hours prescribed by law, validated.
448. Court may make apportionment of a confirmed tax assessment upon a parcel of land among several tracts comprising the same.
449. Mortgagee, &c., may enforce as against lands redeemed, first lien and payment.
450. Repealer.
451. Act extended to all taxes, assessments or water rates levied since passage of act.
452. Repealer.
453. Certificate of sale to contain covenant to return amount paid if title prove invalid.
454. Common council may increase salaries of surveyor and counsel.
455. Commissioners to make report of estimates and assessments for sewer improvements.
456. Act extending powers of commissioners not to be in operation until this act be accepted by common council.
457. Repealer.
458. Amended by section 477.
459. Mortgagee redeeming to have lien for amount paid.
460. Costs and expenses to be paid on redemption.
461. Taxes and assessments not paid within two years may be collected under act.
462. No amount to be paid to purchaser for perfecting title unless mayor approve.
463. Repealer.
464. Advertisements for sale in cities not divided into wards and having no block maps.
465. Conveyances to convey land freed of estate of dower and curtesy.
466. *Certiorari* not allowed after two years from execution of deed.
467. Amended by section 478.
468. Description of lands in deeds.
469. Notices where persons are unknown and address cannot be ascertained.
470. Affidavits or proofs of service of publication to be filed.
471. Lands sold, if not redeemed in time, bars right of title of trustees.
472. Notice for redemption of land, &c.
473. Repealer.
474. How lands may be redeemed notwithstanding delivery of deed.
475. Time limit for filing omitted affidavits.
476. Repealer.
477. Costs and expenses of perfecting title to be paid by person redeeming lands.
478. Assignee of certificates of sale to acquire title and receive conveyance.
479. Repealer.
480. City may correct mistakes in description, &c., of assessments of lots purchased.
481. When tax, &c., paid by mistake on land of another, city may cause same to be reinstated and charged against land liable.
482. Repealer.
483. When taxes for which sales have been made shall be considered as in arrears.
484. Lands purchased by city and proceeds thereof, if redeemed, to be sinking fund to redeem bonds.
485. Certificate of sale issued to any city may be assigned.
486. Repealer.
- VIII. MISCELLANEOUS ACTS.
487. For what, assessments of taxes shall not be set aside on *certiorari*.
488. Court on *certiorari* may reduce rate or proportion of tax.
489. Return of tax or tax warrant not set aside for lack of form.
490. When and how question of taxes due from incorporated companies to be submitted to supreme court.
491. If company do not consent to submission, attorney-general to institute suit.
492. Soldiers of war of 1812 exempt from poll tax.
493. Farm lands in certain cities to be rated and assessed by the acre.
494. Repealer.
495. Amended by section 497.
496. Repealer.
497. Appointment of collector of taxes in certain cities and towns.
498. Taxes, &c., laid on any plot may be apportioned among subdivisions of plot.
499. Map and report to be filed.
500. Amended by section 503.
501. Proceedings when owners of lands to be affected do not join in application.
502. Taxes, &c., laid on lots taken in part for opening streets, &c, how apportioned.
503. Powers to apportion, in whom vested.
504. Penalty for not delivering to successor in office property, books, &c.
505. Rate of interest on unpaid taxes in cities.
506. Rate of interest on unpaid assessments in cities.
507. Taxes may be received in installments of not less than one-fourth of the whole amount and interest.
508. Towns may levy tax to pay interest and principal of any debt heretofore incurred.
509. Tax, how collected, &c.
510. Repealer.
511. Proceedings in certain boroughs and towns for collection of delinquent taxes on lands.
512. Notice of sale of lands, requisites of, &c.
513. Notice to be served on owner by purchaser.
514. Certificate of sale presumptive evidence. Record.
515. Certificate to be assignable by borough or town.
516. Notice to be given to mortgagee.
517. Redemption.
518. Common council to execute and deliver declaration of sale. Purchaser may remove buildings, &c.
519. Certificates of sale to be recorded.
520. Meeting of commissioners of appeal.
521. Lien for taxes now due confirmed.
522. Repealer.
523. Election of assessors and collectors in towns and villages set off from any township.
524. Fees of receiver of taxes in certain townships.
525. Poll tax for school purposes.
526. Repealer.
527. Certain cities may increase rate of taxation from one to one and one-half per cent.
528. Term of assessors in certain cities of 20,000 to 25,000 inhabitants.
529. Repealer.
530. Amended by section 531.
531. Taxes on property entailed or held in trust to be paid out of income.
532. City or township may purchase goods or chattels at tax sale.
533. Arrest and imprisonment for non-payment of taxes on real estate abolished.
534. Taxes, &c., to be continued upon lands sold to city for non-payment of taxes, &c.
535. Cities, &c., may sell lands bought for taxes, &c., subject to right of redemption.
536. Fees not allowed.
537. Appointment of tax assessor in cities of 5,000 to 6,000 inhabitants.
538. Repealer.
539. Town council or committee may authorize collection of interest on taxes, &c., now remaining due.
540. Certificates of sale may be surrendered when taxes, &c., are paid.
541. Interest may be collected on taxes, &c., hereafter levied.
542. Rate of interest to be determined by resolution.
543. Repealer.
544. In cities, time of meeting of commissioners of appeal may be changed by ordinance.
545. In cities, taxes unpaid for one year may be paid in municipal bonds issued in anticipation of taxes.
546. Bonds to be received at par with accrued interest.
547. No tax assessment or water rate shall be set aside in any court for irregularity or defect in form, &c. Court to amend irregularities, &c.
548. Repealer.
549. Amended by sections 551 and 551.
550. Amended by section 552.

551. Amended by section 551.
552. Fire departments to establish fire districts and file descriptions.
553. Repealer.
554. Exemption of active firemen.
555. Sales of lands in townships not invalid by reason of insufficient description in duplicate, &c.
556. Sales to township not to be set aside except on payment of tax.
557. Deficiencies created by embezzlements to be raised by tax.
558. Act applicable to all municipalities.
559. Repealer.
560. Common council in cities authorized to fix by ordinance times and dates when taxes shall be assessed, collected, &c.
561. By whom state and county taxes shall be assessed and collected.
562. Warrant to be issued for collection of taxes.
563. Return of names of delinquents to be made by collector.
564. Powers and duties of officers not to lapse or cease by reason of expiration of official term.
565. To what cities and officers act not applicable.
566. Construction of term "common council."
567. Redemption from tax or assessment sale where purchaser is non-resident or cannot be found.
568. When redemption money paid, lands discharged.
569. Compensation of treasurer.
570. Repealer.
571. Exemption of soldiers.
572. Poll tax for school purposes not to be assessed on soldiers or sailors.
573. Repealer.
574. Certain cities may authorize payment of taxes by offsetting claims of taxpayers.
575. Repealer.
576. When local officers in any municipality fail to assess certain taxes, governor may appoint commissioners to assess.
577. Duties of commissioners.
578. Commissioners to attend meeting of assessors of county to fix rate.
579. To make out tax bills, &c.
580. Purposes for which commissioners shall assess taxes.
581. Taxes not to exceed one and one-quarter per centum.
582. By what officers taxes shall be collected.
583. Taxes levied valid.
584. How collected, paid over, &c. Construction of act.
585. Commissioners to take and subscribe oath. Term of office.
586. When governor shall revoke commissions.
587. Local officers shall not for same year levy taxes for same purposes.
588. Commissioners to be officers of state.
589. Compensation of commissioners.
590. Repealer.
591. No tax to be set aside for informality or irregularity, &c.
592. Repealer.
593. Tax on real estate unpaid for one year may be paid by any person other than the owner, which payment shall be a "tax purchase."
594. Real estate upon which taxes are in arrear for five years to be sold.
595. Improved property, how sold.
596. Unimproved property, how sold.
597. Payment to tax purchaser.
598. Improved and unimproved property defined.
599. Sale of unimproved property in portions.
600. When there are no bidders, city may buy.
601. Proceedings for sale, how conducted. When may be set aside.
602. Property to be sold for full amount of taxes in arrear.
603. Redemption of property sold.
604. If tax set aside or tax title be defective, city to refund to purchaser amount paid, with interest.
605. Act not applicable until accepted by legal voters.
606. How question of acceptance or rejection submitted to voters.
607. Repealer.
608. Common council, &c., of cities may change time for commencing assessments and furnishing schedules.
609. Taxation of property of persons engaging temporarily in business.
610. Penalty for failure to notify assessor or to pay tax.
611. Appointment of additional ward assessors in cities.
612. Exemption of firemen, soldiers and militiamen not to be cumulative.
613. Exemption of firemen where city, &c., is incorporated within a township.
614. When exemption may be claimed.
615. What sufficient evidence of right to exemption.
616. When certificates of right to exemption may be combined.
617. Repealer.
618. Proceeding to tax property of person omitted by assessor and commissioners of appeal.
619. Time to be designated for hearing complaint.
620. Township clerk to give public notice of meeting of commissioners.
621. Commissioners to make assessments.
622. Taxes so assessed to be a lien, how collected.
623. Assessors of cities may meet as a board of assessors.
624. Not to apply to cities having charter provisions.
625. Municipal authorities may order certain sum to be raised by tax for general city purposes.
626. Repealer.
627. Salary of commissioners to assess and revise taxes in cities having more than 100,000 inhabitants.
628. Repealer.
629. Taxes and assessments due and unpaid in cities may be paid with seven per centum interest and cost.
630. Act not to become operative until authorized by common council or other governing body.
631. Tax assessed in and after the year 1885 to be paid with ten per centum interest.
632. Repealer.
633. Limitation of power to impose and collect taxes not to apply to taxes to pay interest upon or provide a sinking fund to redeem funded debt in cities, boroughs, towns, &c.
634. In cities, taxes and assessments levied prior to year 1885 may be paid within one year, with interest at seven per centum and costs.
635. Repealer.
636. When cities may be authorized to remit and cancel tax or assessment imposed prior to 1875.
637. Appointment and term of office of "collector of arrears of taxes" in towns.
638. Collector to give bonds, &c.
639. Compensation of collector.
640. Warrants to be delivered to and executed by the collector.
641. Repealer.
642. Term of office of assessor in cities where one assessor only is provided for by charter.
643. Boards in cities authorized to revise, alter and adjust past-due taxes assessed prior to 1886.
644. Repealer.
645. Personal property used in business to be taxed where business is carried on.
646. Repealer.
647. Real estate in cities having block maps to be assessed as shown upon maps.
648. Time for payment of taxes in cities may be changed by ordinance.
649. Repealer.
650. In cities of the second class, of 50,000 inhabitants, mayor to appoint commissioners of assessment of taxes.
651. Vacancies, how filled.
652. Repealer.
653. Annual salaries of commissioners of assessment may be increased.
654. Commissioners authorized to appoint a clerk.
655. Repealer.
656. Mayor to appoint assessors in boroughs of first class.
657. Appointment to be made annually.
658. Repealer.
659. Rate of interest on past-due taxes in cities unpaid, prior to January 1st, 1888, may be fixed at seven per centum.
660. Repealer.
661. Board of assessment of taxes, how constituted and appointed in cities accepting this act.
662. Board to inspect property before estimating value.
663. Act may be submitted to voters for acceptance or rejection.
664. Repealer.
665. Ward assessors abolished in certain cities.
666. Board to appoint clerks or assistants.
667. Duties of clerks or assistants.

668. Valuations of property and assessment of taxes in such cities, when to be considered made, &c.
669. Board may appoint surveyor and draughtsman.
670. Repealer.
671. Township committee or town council may adjust past-due taxes, &c.
672. Duty of collector on receiving certified statement of amount agreed on.
673. Reduction, when null and void.
674. Proceedings in case assessors in any municipality have neglected to assess property or have assessed it at too low a valuation.
675. Commissioners of appeal, on complaint, to designate time and place of meeting.
676. Notice of meeting of commissioners of appeal to be posted and advertised.
677. Powers of commissioners.
678. Taxes levied to remain a lien.
679. Council or township committee of any town, borough or township may adjust arrears of taxes.
680. Duty of collector of taxes on receiving certified statement of amount agreed on.
681. Act not to be operative unless owners shall apply for reduction within one year.
682. Common council may, by ordinance, fix time within which statements of taxable property shall be made and board of appeals to meet.
683. Persons and property from a foreign state, or other taxing district in this state, when taxed.
684. When act to take effect.
685. Appointment and term of office of members of boards of assessment and revision of taxes in certain cities.
686. Powers and duties of members and boards.
687. Appointments to be made from two political parties.
688. Vacancies, how filled.
689. Vacancies in board now in office, how filled.
690. Appointments to be made as provided by this act. Repealer.
691. Appointment of assessors in towns and cities of the third class in counties of the first class.
692. When assessor may be appointed and when to enter upon his duties.
693. Repealer.
694. Cities of third class authorized to pass ordinance to provide a board of assessment. Number thereof, office, vacancies and salary. How assessors removed.
695. Duties and powers of board of assessment.
696. How assessment of damages for laying out and opening street made.
697. Board may examine witnesses, view property and make report of estimate and assessment. Report, where deposited, and notice, how published, &c.
698. Assessment for improvements to be made on owners of land benefited.
699. A ward of damages and assessments, how collected.
700. Warrant, how to issue, for collecting delinquent taxes in cities.
701. What warrant to contain.
702. Remedy contained therein cumulative.
703. Costs.
704. Correction of errors and mistakes in the tax and assessment records in any city.
705. When tax, &c., paid by mistake upon land of another, city may cause same to be reinstated and charged against land liable.
706. Clerk to assist assessor to be appointed in certain cities.
707. Repealer.
708. Cities may return taxes, assessments, &c., paid in error.
709. When arrears of taxes and assessments with interest may be paid in cities.
710. Amended by section 712.
711. Repealer.
712. Terms of office of clerks and collectors or receivers of taxes in certain towns, boroughs and townships.
713. Township committees in townships having 10,000 inhabitants may fix salary of assessors.
714. Repealer.
715. Mayor to appoint a board of appeals in cases of taxation in cities of the first class.
716. Upon appointment of board, other like boards abolished.
717. May be removed by appointing power.
718. Appeals, when to be acted upon.
719. Term of office of assessor and collector in boroughs and towns.
720. Repealer.
721. Receiver or collector of taxes in every first-class city, within ten days after expiration of fiscal year, to make a list of all persons in arrears for taxes.
722. Publication of list, &c.
723. Repealer.
724. Ward assessors to be elected in towns, townships and boroughs divided into wards.
725. Meeting of assessors to form board. Duties.
726. Repealer.
727. Term of office of collectors in cities of second class containing less than 15,000 inhabitants.
728. Repealer.
729. Township committee and governing body of any town may reduce rate of interest on unpaid assessments.
730. Act limited to certain assessments.
731. Errors in tax and assessment made by public road boards or municipality, how corrected.
732. Such tax and assessment may be reinstated and charged against property liable.
733. In cities, having block maps, real estate to be assessed as shown upon map.
734. New owners of property shall have the change properly noted on the books and maps.
735. Deeds not to be recorded unless it shall be duly certified thereon that the same have been presented at the office of the officer having charge of the assessment of taxes.
736. Repealer.
737. In cities of first class, board of tax commissioners authorized to appoint chief clerk or secretary.
738. Duties of said clerk.
739. Provision for payment of salary.
740. Appointment of collector of arrears of personal taxes in cities of the first class.
741. Powers of such collector.
742. Appointment of additional deputy collectors of arrears of taxes in cities.
743. Term of office of township assessor in counties of the first class.
744. Repealer.
745. Term of office of collector of taxes in cities of the third class.
746. Repealer.
747. Common council, &c., may fix rate of interest on past-due taxes due prior to January 1st, 1892.
748. Repealer.
749. In towns, warrant may be issued after the expiration of one year for collection of unpaid taxes and assessments.
750. Lands heretofore sold to towns and now redeemed, taken to be lands upon which taxes are in arrears.
751. Warrant may be issued after the expiration of three years, for collection of unpaid taxes.
752. What warrant shall contain.
753. Notice of sale to be given and what to contain.
754. Sale to be at public auction.
755. Certificate of sale to be delivered to purchaser.
756. When council or governing body may purchase.
757. When owner may redeem.
758. Surplus of purchase-money to be held for use of person legally entitled thereto.
759. Clerk to keep record of redemption.
760. Form of deed.
761. Repealer.
762. Common council of cities may fix rate of interest on past-due taxes unpaid prior to January 1st, 1892.
763. Power to refund excess of interest and costs.
764. Repealer.
765. Cities of fourth class may elect an assessor for each ward.
766. Equal representation in county board.
767. When ward assessors to meet to revise duplicates.
768. Compensation.
769. Repealer.
770. Real and personal property of firemen's relief and exempt associations exempt from tax.
771. Repealer.
772. In cities of second class having less than 35,000 inhabitants, mayor to appoint board of assessors. Term, vacancy and salary of board.
773. When to enter upon discharge of duties, &c.

774. Repealer.
 775. In cities of second class having 50,000 inhabitants, receiver of taxes to be elected for two years.
 776. When first election shall be held.
 777. Shall not affect existing terms.
 778. Repealer.
 779. In cities, &c., in counties of the first class, taxes to be assessed by block maps.
 780. Changes in ownership to be noted on maps, &c.
 781. No deed to be recorded unless certified thereon that such change has been made.
 782. Repealer.
 783. Amended by section 785.
 784. Repealer.
 785. Term of office of assessors in cities of the third class, three years.
 786. Equalization of values of real estate between the assessment districts of cities, towns, &c., how made.
 787. In all cities, towns, &c., having block maps, assessments to be made as shown on maps.
 788. Change of ownership to be noted.
 789. No deed to be recorded unless certified thereon that such change has been made.
 790. Repealer.
 791. Receiver of taxes in cities of the first class shall furnish list of personal-tax delinquents.
 792. Receiver shall make oath that money has been demanded or notice served. Proceedings for collection.
 793. When warrants shall be returnable.
 794. Repealer.
 795. Term of borough commissioners of appeal fixed at three years.
 796. Repealer.
 797. Assessing districts of personal property may be changed in cities.
 798. Assessments may be made by block numbers in cities of the first class.
 799. Mistakes in the assessment and collection of taxes and in the sale of land for alleged non-payment of taxes may be corrected.
800. Repealer.
 801. Common council, &c., may fix and change rate of interest on past-due taxes, &c., due prior to January 1st, 1894.
 802. Repealer.
 803. Receiver or collector of taxes in cities may deduct exemption allowed soldiers or sailors.
 804. Assessors of third-class cities and towns shall be members of county boards of assessors.
 805. Real and personal estate of volunteer fire companies exempt from tax.
 806. In cities having a population between 15,000 and 35,000 inhabitants, mayor to appoint three assessors-at-large. Vacancies and compensation.
 807. Common council to divide such cities into three assessment districts.
 808. Within what time assessments to be made.
 809. Assessors may be appointed at any time after passage of this act.
 810. Repealer.
 811. Act legalizing election of commissioners of appeal in certain townships and boroughs.
 812. Official terms to be assigned by lot.
 813. Real property, not exempt from taxation, to be assessed at true value, and no deductions allowed for indebtedness to any bank.
 814. Township and borough collectors of taxes to surrender books and papers within a certain time.
 815. Penalty.
 816. Township or borough clerk authorized to give certificate.
 817. Repealer.
 818. Real estate, with certain exceptions, to be assessed in districts where it is located.
 819. Repealer.
 820. Poll tax raised for county purposes abolished in counties of first class.
 821. Money for special purposes to be raised by taxation.
 822. When act to become operative.
 823. Repealer.

Rev. 308, 465, 546.

Har. 47, 212.

P. L. 1839, p. 109.

" 1841, p. 68.

" 1845, p. 118,
242.

R. S. 1003.

Lists of taxable property to be made out.

I. Tax act of April 14th, 1846, with supplements.

An act concerning taxes.

Approved April 14, 1846.

§ 1. That the assessor of every township shall, between the twentieth day of May and the twentieth day of August, annually, take a true account, and make out an exact list of the persons, lands, chattels, effects, and estates, including certainties made ratable by law in that year, by which all assessments during the said year shall be regulated and made; and every inhabitant of the township shall, on application of the assessor, forthwith render a full and true account of his name and his ratable lands, chattels, effects, and estates as aforesaid, which the assessor shall set down in writing, in order that the legislature may ascertain the proportion or quota of each county, and that every individual may be duly and justly assessed. (a)

(a) The assessor's demand of an account of taxable property may be made at a place other than the owner's dwelling house, if he do not refuse, on that ground, to render such account. *State v. Thomas*, 2 Har. 160. The prosecutor, being called on by the assessor of his ward, and furnished with a blank to be filled up with the particulars of his property, under oath, told the assessor that he would see his attorney, and if it was right, &c., he would fill up the blank and return it to the assessor's office. Held, that the assessor, hearing nothing further from the prosecutor, was justified, by the provisions of the eighth section of the tax law of 1866, in assessing his property at its highest estimated value. *State, Young v. Parker*, 5 Vr. 48. Since the act of 1862, the person taxed is bound, if required, to state to the assessor the particulars of his property under oath or affirmation, and if he declines to do so, he is not entitled to appeal or to relief by *certiorari*. *State, Sharp v. Appar*, 2 Vr. 358. But it was held that such refusal only deprived the party of his right to appeal, and that his remedy by *certiorari* was unaffected. *State, Euston Bridge Co. v. Metz*, 3 Vr. 199, 203. *State v. Bentley*, 3 Zab. 532. *State, International Co. v. Holigh*, 6 Vr. 279, 284. Assessor not required to take the oath or affirmation of taxpayer. *State, Paulson v. Taylor*, 6 Vr. 184. Under the eighth section of the tax law of 1866, it is not necessary, in order to make a valid assessment, that the assessor shall examine persons to be assessed, by oath or affirmation. *State, Keeler v. Tindall*, 7 Vr. 87.

The essential thing to be done by the assessor under this act is to ascertain, to the best of his ability and according to his own judgment, the names of the persons taxable, and the actual value of all taxable property; and this he is to do by diligent inquiry, by the oaths or affirmations of the persons to be assessed, or of other persons if necessary, and by personal examination of the property to be valued. *Ib.* With respect to the enumerated means or sources of information, by or from which the value of property is to be ascertained by the assessor, the act is not mandatory, but merely directory. *Ib.* An affidavit setting forth that the deponent has no property in the ward subject to taxation, is sufficient and conclusive, unless the contrary is shown by other evidence. *State v. McCurdy*, 3 Dutch. 253. *State v. Randolph*, 1 Dutch. 437. An assessment for taxes in a school district made upon real estate only, is illegal, and the assessor has no authority to alter the duplicate by extending the assessment to the personal estate of those assessed, and adding the names of others not assessed, after the duplicate has been delivered to the collector. *State, Roll v. Ferrine*, 5 Vr. 254. An assessor has a right to revise his opinions as to values, deductions and other matters involved in the assessment until his determination as to the amount of tax to be levied against the individual is officially entered in his tax-book. *State, Davison v. Silvers*, 12 Vr. 505.

2. That if any inhabitant shall neglect or refuse to render such account, or shall render a false or fraudulent account, he shall be taxed in a sum double to what the said assessor may suppose his ratable estate would be taxed; which shall not be reduced or altered by the commissioners of appeal, unless the offender can make it appear, by the testimony of credible witnesses, that he was not guilty of such neglect or refusal or did not render a false or fraudulent account as aforesaid.

Penalty for refusing accounts, &c.

3. [Amended by Sec. 175, *post.*]

4. That it shall be the duty of the said assessors, at such meeting, to make out two abstracts of the amount of all the ratables in each township, in the manner heretofore practiced, designating in separate columns in said abstracts the amount of quotas, if any, of county, poor and road tax, to be assessed and collected in the different townships, and also the number of taxable inhabitants in each township; which shall be signed by every assessor present, and on the same day delivered to the county collector, who shall lay one of the said abstracts before the legislature, during the course of the first week of their stated annual session.

Abstracts made out.

5. That the said assessors shall within fifteen days after such meeting, deliver to the township collector a true transcript or duplicate of the said assessment, in which they shall add together the sums contained in each column, and place such aggregate sum at the foot of each column, through every page. (a)

Duplicate furnished.

6. That the amount of the certainties shall be deducted by the said assessors from the quota or sum apportioned to every township, and the remainder of the said quota or sum, with the fees of assessment, collection, and paying over to the treasurer, shall be assessed on the other taxable property within such township, according to the valuations aforesaid, at such rate per dollar, as will be sufficient to produce the sum required.

How assessment made.

7. That if any assessor shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay the sum of thirty-two dollars, to be recovered, with costs, by action of debt, in the name of the clerk of the township for which such assessor was elected or appointed, and for the use of the said township.

Penalty on assessor for neglect.

8. That if any person shall think himself aggrieved by such assessment, he may appeal to the commissioners of appeal in cases of taxation, in and for the proper township, who are hereby required to convene on the fourth Tuesday of November, annually, for the purpose of discharging the duties of their office in all matters arising under this act. (b)

Appeal.

9. That if any assessor shall not attend at the time and place before directed for the meeting of the assessors of the county, it shall and may be lawful for a majority of the said assessors convened as aforesaid, to proceed to business, and to ascertain the proportion of the tax to be assessed and levied on the township of the non-attending assessor, according to the best of their knowledge and information; which proportion shall be assessed and collected by the assessor and collector of the said township.

Majority of assessors may act.

10. That the collector of every township shall annually, on the first day of October, give notice, by advertisements set up in at least four of the most public places of the township, of the said tax, and that, if it be not paid by a certain day therein mentioned, the name of the defaulter, with the tax, will be returned to a justice of the peace for prosecution; in which advertisements, notice shall also be given of the time and place of the meeting of the commissioners of appeal in cases of taxation. (c)

Township collector to advertise.

11. [Amended by Secs. 196 and 206, *post.*]

12. That in case of the non-payment of taxes at the time appointed, the township collector shall make out a list of the names of the delinquents, with the sums due from them respectively thereto annexed, and deliver

And return delinquents to justice.

(a) By this section the assessor is required to deliver the duplicate to the collector at a certain day; the collector is thereupon, doubtless, authorized to receive taxes. *Johnson v. Van Horn*, 16 *Vr.* 189.

(b) In the absence of some statutory requirement of notice, in a particular manner, to the individual taxed, of the assessment against him, notice of the time and place of meeting of the commissioners of appeal, by advertisements set up accord-

ing to the statute, is sufficient notice of the assessment and of the time and place for hearing objections, to make the imposition lawful. *State, Vail v. Runyon*, 12 *Vr.* 98.
(c) The period of two years during which the tax lien exists, commences to run at the time fixed by the collector of taxes in the notice required by this section, before which taxes are to be paid, not later than December 19th. *Johnson v. Van Horn*, 16 *Vr.* 136.

the same to some justice of the peace of the county, on the twentieth day of December in every year, except when the said day shall happen on a Sunday, and then on the next day following. (a)

Justice to administer oath and give receipt.

13. That it shall be the duty of the said justice of the peace, on receiving a list of the names of such delinquents, to administer an oath to the said collector that the moneys in the said list mentioned had been duly demanded, or due notice thereof given or left at the usual place of residence of each delinquent who can be found, or who may then reside in the said township, and thereupon to give to the said collector a receipt for such list, certifying therein the names of the delinquents, and the sums at which they were respectively assessed; and further, that the said township collector shall not be charged by the county collector with the sums in such list contained, until he shall have received the same from the constable.

Penalty on collector for neglect.

14. That if any township collector shall neglect or refuse to perform any service or duty as required by law, he shall, for every such neglect or refusal, forfeit and pay thirty-two dollars, to be recovered, with costs, by action of debt by the county collector, and applied to the use of the county.

Liability of assessor and collector for deficiency.

15. That if any assessor or township collector shall neglect or refuse to perform any duty or service required of him by law, whereby the proportion or quota of any tax or taxes or other sum of money fixed and ascertained at any meeting of the assessors of the county, to be assessed and levied in the township for which he has been chosen or appointed assessor or collector, or any part thereof, shall not be assessed or collected as by law directed, the deficiency arising from any such cause shall and may be recovered, with interest and costs of suit, against such assessor or collector, in an action of debt or trespass on the case in any court of competent jurisdiction, by the board of chosen freeholders of the county in which such township is situate, for the use of said county; but such recovery shall not affect the liability of such assessor or collector to forfeit and pay the penalties mentioned in the seventh and fourteenth sections of this act.

Fees of assessor and collector.

16. That the assessors and collectors of the several townships, cities, wards and boroughs of this state, shall each be entitled to receive eight cents, and no more, for each name on their respective duplicates, for assessing, levying and collecting the township, city, ward, borough, county and state taxes. (b)(1)

Time to govern assessments for state.

17. That the time by this act appointed for the meeting of the assessors to ascertain and apportion the quota of the townships, for making and delivering the assessments to the township collectors, for delivering a list of the names of the delinquents to a justice of the peace, and for the payment of tax moneys by the township collectors to the county collectors, shall extend to and govern all future assessments for the use of the state.

Justice to issue tax warrants.

18. That it shall be the duty of the justice of the peace, within five days after the receipt of the list of the names of the delinquents, to make out and deliver to the constable or constables, a warrant or warrants, requiring him or them to levy the tax so in arrear, with costs, by distress and sale of the goods and chattels of the delinquent, giving at least four days' notice of the time and place of such sale, by advertisements set up in three of the most public places in the township; and it shall be the duty of the said constable or constables to pay the tax for which such warrant is issued to the township collector, within forty-five days after the date thereof; and the said warrant shall further direct, that if goods and chattels of the delinquent cannot be found, or not sufficient to make the money required, the constable shall take his or her body, if to be found in the county, and deliver the same to the sheriff of such county or his jailer, to be kept in close and safe custody until payment be made of the said tax, with costs. (c) [See Sec. 533, post.]

Constable to collect and pay over taxes.

Delinquent imprisoned.

(a) See *Johnson v. Van Horn*, 16 Vr. 139.
(b) For construction of the statutes in respect to the fees allowed township collectors, see *Township of New Barbadoes v. Demarest*, 1 N. J. L. J. 54, and Sec. 50, post.

(c) An arrest under a tax warrant is illegal unless the officer has at the time the warrant with him, so that he can exhibit it if required. *Smith v. Clark*, 24 Vr. 197. *Linn v. O'Neil*, 26 Vr. 59.

19. That the justice who shall issue the said warrant, shall be allowed two cents for every delinquent's name therein contained; and the constable shall be allowed thirty-four cents for each distress, and not more, although two or more taxes shall have been specified in the said warrant; and after deducting the tax and costs, the constable shall pay the surplus money to the delinquent.

Fees of justice
and constable.

20. That if any justice of the peace shall neglect or refuse to perform any service or duty required of him by this act, he shall for every neglect or refusal forfeit and pay thirty-two dollars, to be recovered, with costs, by action of debt, by the county collector, and be applied to the use of the county.

Penalty on justice
for neglect.

21. That it shall be the duty of the constable to return the said warrant to the justice who issued the same, with a schedule thereunto annexed, containing a particular account of the money by him levied of the goods and chattels of or received from each delinquent, and in what manner in other respects he had executed the said warrant; and the said justice shall, upon receipt of such return, deliver a copy of the said warrant and return to the township collector, upon his application for it, and shall return the original warrant, if not fully executed, to the constable, who is hereby commanded to proceed on and execute the same.

Tax warrants to
be returned.

22. [Amended by Sec. 153, *post.*]

23. That every such constable, besides the penalty prescribed by the preceding section, shall be liable for the amount of the taxes which, by the said warrant, he was required to make by distress and sale as aforesaid, or for such part thereof as he shall not have paid to the township collector, except the deficiencies happen without any neglect, fraud or default on his part, to be recovered, with interest and costs, by action of trespass on the case, at the suit of the township collector, for the use of the township, before any judge of the court of common pleas of the county, who is hereby authorized and required to hear and determine the same, and immediately on entry of judgment to issue his warrant, directed to the sheriff of the county, and commanding him to levy and make the sum so adjudged, by distress and sale of the goods and chattels of the said constable; and the said sheriff shall return the said warrant, with his proceedings thereon, to the said judge, at the time therein specified. (a)

Liability of con-
stable on suit
brought.

24. That it shall be the duty of the township collector to pay the moneys which he shall have received by virtue of any such assessment to the county collector by the twenty-second day of December, in every year, and, upon receipt of any tax money from a constable, to make immediate payment thereof to the said county collector. (b)

Money to be paid
county collector.

25. That if any township collector shall not pay the tax money by him collected, or by him received from the constable, or shall pay only part thereof at the time appointed by law, he shall be liable for the same, to be recovered, with interest and costs, by action of trespass on the case, at the suit of the county collector, for the use of the state before any judge of the court of common pleas of the said county, who is hereby authorized and required to hear and determine the said action, and, immediately on the entry of judgment, to issue a warrant, directed to the sheriff of the county, and commanding him to levy and make the sum so adjudged, by distress and sale of the goods and chattels of the said township collector; and the said sheriff shall return the said warrant, with his proceedings thereon, to the said judge at the time therein specified.

Township col-
lector may be
sued.

26. That it shall be the duty of every county collector to pay the tax money which he shall have received of the township collectors, to the treasurer of this state, by the twentieth day of January in every year; and

Tax paid to
treasurer.

(a) A tax warrant issued and delivered to the collector before a *fi. fa.* is delivered to the sheriff but not levied until after the levy under the *fi. fa.*, shall have priority over it. *Evans v. Walsh*, 12 Vr. 281.

(b) That such money has been stolen without the collector's fault is not an excuse for non-payment, nor a justification in an action on his sureties' bond. *New Providence v. McEachron*, 4 Vr. 339, 6 Vr. 523. A *mandamus* will be allowed to compel townships to pay state and county taxes out of the first tax moneys collected; and if the moneys collected for such taxes

are squandered, wasted or misapplied by lending to others, then the township shall be liable to make good such deficiency or loss by adding the same to the quota of such township in the next assessment. *Veghte v. Township of Bernards*, 13 Vr. 338. *Shields v. Paterson*, 26 Vr. 495. A city treasurer failing to pay over to the county collector the county's quota of taxes will be charged with interest upon the same from the time when he ought to have paid them. *Sheridan v. Van Winkle*, 14 Vr. 125. *Sheridan v. Stevenson*, 15 Vr. 371.

also, to pay any tax money which he shall have received of the sheriff, to the said treasurer, within ten days after receiving the same; and for the moneys so paid, the treasurer shall give receipts, which shall be sufficient vouchers to exonerate and discharge the said county collector to the amount therein contained.

Fee of county collector.

27. That every county collector shall be allowed one cent per dollar for all taxes which he shall receive and pay to the treasurer of this state, and also, for the payment of each general assessment, seven cents for every mile that his place of residence may be distant from the office of the said treasurer.

Liability of county collector to penalty.

28. That if any county collector shall not pay to the treasurer of this state, the tax money by him received from the township collector or sheriff, or shall pay only part thereof, at the time appointed by law, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall, for every offense, forfeit and pay fifty dollars, to be recovered, with costs, by action of debt, by the treasurer of this state for the time being, for the use of the state, before any justice of the supreme court, who shall have exclusive cognizance of the same, and who is hereby authorized and required to direct the proper process in such action to the sheriff of the county in which such collector resides, whose duty it shall be to execute the same; and on entry of judgment in the said action against the county collector, the said justice shall issue his warrant thereon, directed to the sheriff of the county, commanding him to levy and make the sum so adjudged, by distress and sale of the goods and chattels of the said county collector; and such sheriff shall return the said warrant, with his proceedings thereon, to the said justice, at the time therein specified.

And to a suit for tax money unpaid.

29. That if any county collector shall not pay the tax moneys by him received, or shall only pay a part thereof, at the time appointed by law, he shall be liable for the same, to be recovered with interest and costs, by action of trespass on the case, by the treasurer of this state, for the use of the state; in which the other proceedings shall be the same as are designated in the section next preceding.

Liability of township for money embezzled, &c.

30. That if any township collector or constable shall squander, waste, embezzle or become insolvent and unable to pay any tax moneys or other moneys or property belonging to this state, and by him received in virtue of his office, then the said township for which such collector was chosen or appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such township, in the next assessment to be made therein by the authority of this state; and the assessor of the said township is hereby required to assess the same, under the like penalties as are hereinbefore referred to for neglect of duty.

Liability of county for the same.

31. That if any county collector shall squander, waste, embezzle or become insolvent and unable to pay any tax moneys or other moneys or property belonging to this state, and by him received in virtue of his office, then the said county for which he was appointed, shall be liable for and make good such deficiency or loss, by adding the same to the quota of such county, in the next tax to be levied therein by the authority of this state; and the assessors are hereby required to apportion the same among the several townships, under the like penalties as are hereinbefore referred to for neglect of duty.

Deficiency of tax assessed next year.

32. That it shall be the duty of the treasurer of this state to add the annual deficiency of every county to the quota of such county, in the next tax to be raised therein by the authority of this state; and it shall be the duty of the county collector to charge such deficiency to the deficient township or townships, which shall be assessed on and collected from the same, over and above the quota of such township or townships, in the next tax as aforesaid; and to prevent all delay or neglect in this particular, it is hereby made the further duty of every county collector to attend and deliver to the assessors, when they meet to adjust and apportion the county's quota of the said tax among the several townships, an accurate account of the whole deficiency of each township, which said deficiency shall be assessed on such township, in the same manner and proportion as the tax then to be raised is required to be assessed.

- 33.** That the tenants or other persons in possession or having the care of any lands or tenements, and their goods and chattels, shall be and they hereby are made liable for the payment of taxes, which are or shall be imposed on the said lands; and if any such tenant or other person shall pay, or his or her goods and chattels shall be levied on and sold to pay any such tax, it shall be lawful for him to deduct the sum so paid out of the rent, or to recover the same from the landlord or owner by action of debt, with costs; *provided always*, that nothing in this act shall affect or extend to any contract made or to be made between landlord and tenant. (a)
- 34.** That if the tax which shall be laid on any unimproved or untenanted (b) land, be not paid agreeably to law, or if tenanted by any person or persons (not the lawful proprietor) who are unable to pay his or her (c) tax as aforesaid, it shall be the duty of the township collector to make return thereof to a justice of the peace of the county, who is hereby authorized and required to issue a warrant to any constable of the said county, commanding him to levy such tax by distress and sale of so much of the timber, (d) wood, herbage, or other vendible property of the owner, and on the premises, as will be sufficient to pay the same, with costs, in the manner prescribed by the eighteenth section of this act.
- 35.** That any constable who shall or may hereafter have occasion to collect any tax, by distress and sale of any timber, wood, herbage, or other vendible property, according to the thirty-fourth section of this act, shall, and is hereby required to annex to the names of the several delinquents in the advertisements, the amount of tax and costs due from each of them respectively.
- 36.** That before any constable shall collect any tax by distress and sale of any timber, wood, herbage, or other vendible property, according to the thirty-fourth section of this act, it shall be his duty to put up notices of such sale in five of the most public places in the township where the premises are, at least thirty days previous to such distress and sale, and shall advertise the same in a newspaper printed in the county, or circulating therein, at least four weeks, successively, prior to such sale, and shall therein set forth the names of all the persons to whom such tax is assessed, and the day and hour of sale, which sale shall be held between the hours of twelve and five o'clock of said day; and the constable, for his trouble and expense of so advertising the same, shall be entitled to an additional cost of twenty-five cents for each tax, over and above the necessary expense of advertising as aforesaid.
- 37.** That it shall and may be lawful for the purchaser or purchasers of any timber, wood, herbage or other property, so as aforesaid, to enter upon the premises for the purpose of conveying away the property by him purchased, for the space of two months next after the day of sale, and no longer.
- 38.** That if any person or persons shall enter upon said premises for the purpose of cutting or conveying away any timber, wood, herbage, or other property, after the time allowed in the thirty-seventh section of this act shall expire, he or she so offending shall be guilty of trespass, and on conviction shall be fined in any sum not less than twenty dollars, or exceeding one hundred, to be prosecuted and recovered by the owner or owners in any court of competent jurisdiction.

Tenants liable for tax.

May recover of landlord.

Proviso.

Of tax on unimproved or untenanted land.

Of collecting tax by sale of timber, &c.

Notice of sale to be given.

Advertisement.

Time of sale. Costs.

Purchaser may enter within two months.

But not after, under penalty.

(a) Taxes on real estate may be assessed either against the tenant or owner, and the fact that by the lease the tenant must pay the taxes, does not prevent taxes from being assessed to, and collected from, the owner. *State v. Blundell*, 4 Zab. 402. *State v. Binninger*, 13 Vr. 529. See *State, Edgar v. Jewell*, 5 Vr. 259.

(b) Means land having no visible occupant or possessor. *State v. Hoffman*, 1 Vr. 346, 347, *Elmer, J.*

(c) The singular pronoun "his" or "her" refers to "proprietor," and not to the plural "person or persons;" the true reading is, "if tenanted by any person or persons who are unable to pay the proprietor's tax as aforesaid," which shows that the tax referred to is regarded as the owner's tax, for which the tenant is merely surety. *Morrow v. Dows*, 1 Stew. 459, 462.

(d) The operation of the act upon the sale was to sever the timber from the land, and pass an absolute title to the purchaser. No distinction is made between the timber and the wood and herbage or other vendible property of the owner. If the timber was sold, it would necessarily be taken by the purchaser from the premises, otherwise it would be useless to sell it. In fact,

the thirty-seventh section expressly authorizes the purchaser to enter upon the premises at any time within two months after the day of sale and take away the timber. The timber is not susceptible of division as to its title; it must necessarily be sold as an entirety. The sale being ordered under the same terms as herbage and other vendible property, its severance and an absolute title in the vendee must have been contemplated by the statute. *Morrow v. Dows*, 1 Stew. 459, 466. Sections 33 and 34 are not repealed by the first section of the act of 1854 (*infra*, Sec. 317), requiring the assessment of lands to be made in the name of the owner. The owner will be returned as delinquent, and upon the tax warrant issued against the owner, the tenant's goods can be seized and sold as a stranger's goods on demised premises were at common law taken on a distress for rent against the tenant. *Id.* The special act of 1868 (P. L. 1868, p. 72), and the general laws authorizing sales of land for taxes (*post*, Sec. 317), have not repealed section 31, by which timber, &c., on unimproved and untenanted lands may be sold. *Newcomb v. Franklin Township*, 17 Vr. 437.

Officers to account to township committee.

39. That all justices of the peace, constables and township collectors, shall render to the township committee of their respective townships, when by them required, a true account of all the moneys which they or any of them shall have received, on any assessment made or to be made, and not paid over to the county collector agreeably to law ; which moneys the said justices of the peace, constables and township collectors are hereby directed to pay on demand to the said township committee ; and if any justice of the peace, constable or township collector shall not account and pay as aforesaid, then the clerk of the township is hereby authorized and required to prosecute him for the same, in the name of the inhabitants of the said township, in the manner prescribed in and by the twenty-fifth section of this act ; and the moneys so recovered shall be disposed of for the use of the township.

Prosecution.

Warrant may be taken from one and given to another constable.

40. That when any constable shall be prosecuted for not collecting or paying any tax money agreeably to law, and complaint shall be made by the prosecutor that he is in fear that the said constable will make use of or not pay forward any such money to be collected, then it shall be the duty of the judge or justice before whom such prosecutions shall be had, to demand and take the warrant of distress from the said constable, giving him credit for the taxes not collected, and to direct the same, or to issue another warrant, to any other constable, who is hereby commanded to execute such warrant ; and if the said constable shall neglect or refuse to give up the said warrant, or to render a true account of the taxes not received thereon, then it shall be the duty of the said judge or justice to commit such constable to the common jail of the said county, there to remain without bail or mainprize until he give up such warrant or render such account.

Constable may be imprisoned.

How lands of defaulting officer may be sold.

41. That where the sheriff to whom any warrant shall be directed by virtue of this act, cannot find goods or chattels to distrain, or cannot find sufficient to make the full sum, then the said sheriff, after making sale of such goods and chattels as he may have found, shall return the said warrant, indorsing thereon how far he has executed it, to the judge who issued the same ; and it shall be the duty of the said judge to transmit, under his hand and seal, a true copy of the entry of the judgment and awarding of the warrant and the sheriff's return to the clerk of the supreme court, if such prosecution be at the suit of the treasurer of this state, or to the clerk of the court of common pleas of the county, if it be at the suit of the county or township collector, who is hereby authorized and directed to file the same, and thereupon to enter in the minutes of the said court, judgment against such defaulting county collector, township collector or constable, for the amount of the debt or tax money, with interest and costs, as indorsed on the said warrant, or the residue thereof, as the case may require, and on such judgment to issue, record, direct and deliver to the sheriff of the proper county a writ of execution against the lands, tenements, hereditaments and real estate of the said county collector, township collector or constable ; which lands, tenements, hereditaments and real estate shall be levied on, seized, advertised, sold and conveyed by the said sheriff in the manner directed by the act entitled "An act making lands liable to be sold for the payment of debts," and by the act entitled "An act to regulate sales of real estate made under a public statute or the directions of a court ;" for all which services, the said judge, sheriff and clerk shall be allowed the same fees as are by law allowed for the like services in other cases.

Judgment entered.

Execution issued.

If deficiency, ca. sa. to issue.

42. That if the money arising from the sale of the lands, tenements, hereditaments and real estate so levied upon and seized, be not sufficient to satisfy the sum mentioned in the said execution, with the costs, then it shall be the duty of the said clerk to issue a *ca. sa. ad satisfaciendum* against such county collector, township collector or constable.

Sheriff liable to forfeiture and amercement.

43. That if the sheriff shall not execute the said warrant of distress agreeably to this act, or shall not pay the money therein directed to be made, within ninety days after receiving such warrant, he shall, for every offense, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer or the county or township collector, as

the case may require, for the use of the state, and shall also be amerced by the court of common pleas of the county to the amount of the sum in the said warrant mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

44. That if the sheriff shall not execute the writ of execution agreeably to this act, or shall not pay the money therein directed to be made, within ninety days after receiving such execution, he shall, for every offense, forfeit and pay one hundred dollars, to be recovered, with costs, by action of debt, by the treasurer or the county or township collector, as the case may require, for the use of the state, and shall also be amerced by the court out of which such execution issued to the amount of the sum in the said execution mentioned, with interest and costs; which amercement shall have the force and effect of a judgment, whereon execution shall instantly, and without any further proceedings, be issued against the goods and chattels, lands, tenements, hereditaments and real estate of the sheriff so amerced.

And so for failure to execute execution.

45. [Repealed by Sec. 92, *post.*]

46. That in case of the neglect or refusal of the president and directors of any such bank to pay, or cause to be paid into the treasury of the state, the amount of tax levied upon such company by this act, for the space of thirty days after the annual period in the forty-fifth section of this act prescribed, it shall be the duty of the treasurer of this state to make return to one of the justices of the supreme court of the amount of the tax levied as aforesaid and unpaid, whose duty it shall be to issue a warrant under his hand and seal, in the name of the treasurer of the state, directed to the sheriff of the county where the goods, chattels, lands, tenements, and hereditaments and real estate of such delinquent company are situated, requiring him to levy the tax so in arrear, with interest and costs, by distress and sale of the personal and real estate of such delinquent company, who shall proceed to make levy and sale thereof, as in other cases where executions issue against personal and real estate, and shall pay the amount levied to the treasurer of the state, and in default thereof, shall be proceeded against in the manner prescribed by the act entitled "An act concerning sheriffs."

On refusal to pay, how collected.

47. That the commissioners of appeal in cases of taxation, in and for every township, shall, for the purpose of discharging the duties of their office, convene at the usual place of holding town meeting, and at such times, where it is not otherwise directed by law, as they shall appoint, giving at least eight days' previous notice of every such meeting in writing, under their hands, and fixed up at six or more of the most public places in such township. (a) [See Sec. 674, *post.*]

Commissioners of appeal to meet.

Notice.

48. That it shall be the duty of the assessor who made the assessment appealed from, to attend at the said time and place before the said commissioners, and to offer such reasons as he may think proper in support of the said assessment.

Assessor to attend.

49. That the said commissioners, after due examination of the facts and consideration of the case, shall give such judgment as shall be agreeable to the principles of justice; which judgment shall be final and conclusive,

Commissioners to decide.

(a) The tribunal of the commissioners of appeal is a special tribunal, and it is well settled that such tribunals should show upon the face of their record all facts necessary to give jurisdiction. *Nixon v. Euple*, 1 Vr. 58. All parties are bound to take notice of the day appointed by law for the meeting of the commissioners of appeal in cases of taxation; but if the commissioners meet at any other time than that appointed by law, such meeting must be upon notice, and must also be at the place of holding the town meeting, in order to obtain jurisdiction of the person of the assessor; and they cannot, therefore, without such notice, alter his assessment. *Ib.* The commissioners can meet only on the day prescribed by law, except perhaps by adjournment. *Den, State v. Helmes*, Pen. *1050, *1059. In the absence of evidence to the contrary, it will be presumed that the commissioners met at the time and place required by law. *State v. Johnson*, 1 Vr. 452, 454. If they meet at an improper time or place, the error is

cured by the appellant appearing before them, and not objecting to their jurisdiction, on that ground. *State v. Thomas*, 2 Har. 160. Payment of tax on the assessor's valuation of property will not deprive the tribunal of review, to which an appeal is given by statute, from discharging the duties imposed upon it by law. *Associates of Jersey Co. v. Jersey City*, 21 Vr. 141. Payment of tax to the collector before the time designated for the meeting of commissioners of appeal does not take from the commissioners, when they meet, the right to consider a complaint of undervaluation by the assessor and the power to add to the assessor's valuation. *Ib.* Such payment is made subject to the provisions of the statute giving the right to make complaint and to appeal on the ground of undervaluation. *Ib.* The money paid to the collector should be credited on the taxes as increased by the commissioners' valuation. *Ib.*

and shall be rendered within three days after the hearing of the said appeal. (a)

To give a transcript to appellant.

50. That it shall be the duty of the said commissioners to give a transcript of their judgment to the appellant, in case such judgment shall pass in his or her favor, which transcript shall be a sufficient voucher to such appellant; and the collector of such township, in collecting the taxes of the same, and every other officer whom it may concern, is hereby directed to govern himself accordingly.

May subpoena witnesses.

51. That such commissioners shall have full power to bring before them, by subpoena or otherwise, any person as a witness on the hearing of such appeal, to whom they are hereby empowered to administer the necessary oath or affirmation.

Who to pay costs.

52. [Amended by Sec. 136, *post.*]

53. That all costs accruing on any such appeal shall abide the event thereof, that is to say, if the appellant shall be discharged from the payment of the whole or of any part of the said tax, then the costs to be paid out of the public money in the hands of the collector of such township, by an order signed by the said commissioners; but if no abatement be made in such tax, then the costs shall be paid by the appellant.

Penalty on commissioners for neglect.

54. That if any of the said commissioners shall neglect or refuse to perform the duties required of him in and by this act, then he shall, for every such neglect or refusal, forfeit and pay ten dollars, to be recovered with costs, by action of debt, in any court having cognizance of that sum, by the clerk of the township in which the said commissioner resides, for the use of such township.

Construction.

55. That the term township, made use of in this act, shall be construed to comprehend precinct and ward.

Supplement.

Approved March 9, 1848.

P. L. 1848, p. 230.

Collector to make assessments against persons omitted. Notice.

56. SEC. 1. That it shall be lawful for the collector, at any time before the meeting of the commissioners of appeal in cases of taxation, to enter the name of any person with a proper assessment which may have been omitted or overlooked by the assessor, giving said person immediate notice of such entry, and of the time and place of the next meeting of the said commissioners of appeal.

Commissioners of appeals to hear complaints as to omitted assessments or those at too low a rate.

57. SEC. 2. That if any person or persons, body politic or corporate, shall be assessed at too low a rate, or be omitted in the assessment, it shall be lawful, upon complaint made, for the commissioners of appeal in cases of taxation, after five days' notice in writing to the party interested by the party complaining, and after due examination of the facts and consideration of the case, to make such addition to the assessment as shall be agreeable to the principles of justice; and the judgment of the said commissioners shall be final and conclusive, and shall be rendered within ten days after the making of said complaint. (b) [See Secs. 81 and 674, *post.*]

(a) If a party assessed for taxes has notice and opportunity to make his appeal and proofs before the commissioners of appeal, and fails to attend and produce his proofs of error in the assessment, he will be refused relief on *certiorari*. *State, Hall v. Snedeker*, 13 Vr. 76. *Appelget v. Pownell*, 20 Vr. 169. See *infra*, Sec. 80, note (b). On a question of value, depending on evidence, the court will not, on *certiorari*, entertain it, except by way of appeal after the commissioners have acted. *State, Young v. Parker*, 5 Vr. 49. *Appelget v. Pownell*, 20 Vr. 169. Whether an assessment is excessive, is within the province of the commissioners of appeal to determine, and application should first be made to them. *State v. Danser*, 3 Zab. 562, 5 Vr. 53.

(b) If other lands in the township are assessed much below their value, it is no ground for setting aside an assessment made upon a correct valuation; but the remedy of the latter is to appeal from his assessment, and at the same time apply to the commissioners of appeal to raise such assessments as may be too low. *State v. Randolph*, 1 Dutch. 427. *State, Paulison v. Taylor*, 6 Vr. 184, 189. *State, Wharton v. Koster*, 9 Vr. 306. *Maxson v. Segoin*, 24 Vr. 339. When any persons or corporations are assessed at too low a rate, commissioners of appeal are authorized by law to make such additional assessment as shall be agreeable to the principles of justice. *Held*, that where the commissioners added a certain sum to the assessment without specifying the amount of tax to be paid thereon, it was within the meaning of the law. *State, Mutual Ins. Co. v. Utter*, 5 Vr. 489. Under a provision authorizing the commissioners to increase the assessment, where the taxpayer has been assessed "at too low a rate," they may add to the assessment taxable property entirely omitted by the assessor. *State, Mutual Ins. Co. v. Utter*, 5 Vr. 494, 4 Vr. 188. When commissioners of appeal

make an additional assessment, and assess persons for property not owned by them at the time, such additional assessment will be set aside. *State, Hudson v. Murphy*, 2 Vr. 288. Where additions to an assessment for taxes are made by commissioners of appeal, on complaint made under the second section of the supplement to the general tax law, passed March 9th, 1848, it must appear on the face of the proceedings of the commissioners, that judgment upon the complaint was rendered within ten days, as required by the supplement. *State, Folwell v. Warford*, 3 Vr. 207. No increase of valuation can legally be made without notice. *State, Perrine v. Parker*, 5 Vr. 352. *State, Paulison v. Taylor*, 6 Vr. 184. Under the eighth section of the act for equalizing assessments for taxes in the county of Hudson (P. L. 1878, p. 794), notice must be given to the taxpayer before the commissioners decide that his assessment shall be increased. *State, Hoboken Land Co. v. Anderson*, 9 Vr. 82. If the notice given by the party complaining is shown to be informal, unmeaning and different in tenor and effect from that recited in the certificate of the commissioners, the judgment will be set aside. *State, Folwell v. Warford*, 3 Vr. 207. Service of a notice upon a prosecutor's tenant is not sufficient. *State v. Drake*, 4 Vr. 194. The notice required by this section is not necessarily to be served upon the person whose tax is proposed to be raised. It may be served upon an agent whose duty involves that of communicating the fact of such notice to the principal. *Cooper v. De Bow*, 17 Vr. 286. The court cannot, on *certiorari*, determine disputes as to the value of rates for the purpose of increasing the tax levied thereon. *Cover v. Davis*, 19 Vr. 112. *Associates of Jersey Co. v. Jersey City*, 21 Vr. 142. See *State, Ward v. Briant*, 13 Vr. 625.

Supplement.

Approved March 24, 1864.

P. L. 1864, p. 440.

WHEREAS, By an act approved February twenty-third, eighteen hundred and sixty-three, entitled "A further supplement to the act entitled 'An act concerning taxes,'" approved April fourteenth, eighteen hundred and forty-six, it is among other things provided that "the tax to be imposed upon associations or corporations whose business is that of assurance upon lives, shall be one-half of one per centum on the amount of premiums received for such assurance during the year next preceding the time appointed for the payment of such tax;" and whereas, taxation should be equal, and the mode of assessment, as far as practicable, uniform, and the act above named is alleged to be defective in these respects, and does not conform to the general tax law of the state relating to incorporated companies; and whereas, associations of the beneficial character referred to, whose contracts cover large amounts and extend over long periods of time, should, to enable them to meet their liabilities, have the benefit of equal and just legislation, and the rate of taxation imposed on them should be definitely fixed; therefore,

Preamble.

58. SEC. 1. That all associations or corporations whose business is that of assurance on lives, shall be assessed and taxed for the full amount of their property and valuable assets after deducting the amount of their debts and liabilities, and that to ascertain the said amounts, a statement of the assets and debts and liabilities as they existed in the month of January preceding such statement, shall be annually made to the assessor in the township or city where the company is located, upon the oath of the president, secretary or treasurer of said association or corporation, and no other tax or assessment shall be imposed on any such association or corporation; *provided*, that in stating the liabilities on policies, the basis of such statement shall be the then present value of such policies at the time of such statement, and not the gross amount insured thereby; and *provided*, that the amount of tax to be assessed against the Mutual Benefit life insurance company, which accepted the provisions of the above-recited supplement, shall not be less than five thousand dollars in any one year, nor less than the assessment on the value at the rate other property is taxed in the city of Newark, of the full amount of the mortgages held by the said company at the time of the assessment, on taxable property in said city, without any deduction therefor; and *provided also*, that the said company shall not be subjected to the foregoing provisions of this act until by an instrument duly executed under its corporate seal, filed in the office of the secretary of state of this state, it shall have signified its assent to this act. (a)

Assessment of
life insurance
companies.

Proviso.

Tax on Mutual
Benefit life insur-
ance company,
of Newark.

Proviso.

59. SEC. 2. That the above-recited supplement, and all acts and parts of acts inconsistent with this act, be, and the same are hereby repealed.

Repealer.

Supplement.

Approved April 5, 1866.

P. L. 1866, p. 971.

60. SEC. 1. That hereafter no assessment as a poll tax for the purpose of raising in any county, city or township, money for the payment of any soldiers' bounty granted during the continuance of the late war for the suppression of the rebellion, shall be made against any citizen of New Jersey who has been in the service of the United States for nine months during said war, and been honorably discharged, and so far as any law of this state conflicts herewith the same is hereby repealed; *provided, nevertheless*, that this act shall not affect the collection of any assessment already made. (b)

Bounty poll tax
not to be assessed
against honorably-
discharged
soldiers.

(a) Manner of taxing mutual insurance companies. *State, Mutual Ins. Co. v. Receiver*, 4 Vr. 183, 5 Vr. 489. A policyholder in a mutual life insurance company cannot be assessed on the amount of such policy. *State, Mutual Ins. Co. v. Utter*, 5 Vr. 489, 494.

(b) The authorities of T., in 1866, assessed against the prosecu-

tor a poll tax of five dollars. The prosecutor showed that he came within the provisions of the act of April 5th, 1866. *Held*, first, that the act of said 5th of April, 1866, was not unconstitutional as impairing the obligation of contracts; and secondly, that it was not repealed by the thirty-second section of the act of 11th of April, 1866. *State, Hall v. Parker*, 4 Vr. 312.

Supplement.

Approved April 11, 1866.

P. L. 1866, p. 1078.

Poll tax to be assessed.

P. L. 1877, p. 18.

61. SEC. 1. That a poll tax not exceeding one dollar shall be assessed upon every male inhabitant of this state, of the age of twenty-one years and upwards, except the polls of all volunteers and sailors who have served in the armies or navies of the United States, and been honorably discharged therefrom, and of all paupers, idiots and insane persons; *provided*, that nothing in this act shall in anywise interfere with the poll tax required to be raised by any special law in payment of bounties. (a) [See Secs. 102 and 820, *post*.]

Valuation and rate of taxation.

62. SEC. 2. That all real and personal estate within this state, whether owned by individuals or by corporations, shall be liable to taxation at the full and actual value thereof, on the day in each year when by law the assessment is to commence, at such rate per dollar as will be sufficient to produce the sum required to be raised, together with an addition thereto, not exceeding ten per centum of such sum to meet contingencies, after deducting the poll tax and the tax derived from foreign insurance companies. (b)

Term real estate, what to include.

63. SEC. 3. That the term real estate, as used in this act, shall be construed to include all lands, all water power thereon or appurtenant thereto, and all buildings or erections thereon or affixed to the same, trees and underwood growing thereon, and all mines, quarries, peat and marl beds, and all fisheries. (c) [See Sec. 818, *post*.]

Personal estate, what to include.

64. SEC. 4. That the term personal estate, as used in this act, shall be construed to include goods and chattels of every description, including steamboats and other vessels, money, debts due or owing from solvent debtors, whether on contract, note, bond, mortgage or book account, public stocks and stocks in corporations, whether said personal estate be within or without this state. (d)

65. SEC. 5. [Amended by Sec. 200, *post*.]

(a) No poll tax can be levied upon a person temporarily resident in the state. The statute directs it to be levied upon "inhabitants," which implies more than mere residence; it requires the domicile to be within the state. *State v. Ross*, 3 Zab. 517. The seventy-second section of the act for the organization of the National Guard of New Jersey, approved March 9th, 1869, does not exempt a member of the guard from the special poll tax imposed in the county of Essex, under the law of 1865, for the payment of war bonds. *State v. Mills*, 5 Vr. 77. It does exempt him from the payment of a poll tax under the general law. *Id.* Such an interpretation of a special law for the collection of a special poll tax, should not be adopted, as will interfere with the purpose of a general law, unless there is the clearest language to justify it. *State, Pierson v. Douglass*, 4 Vr. 363. See *State v. Brannin*, 3 Zab. 484.

(b) The mere franchises of corporations are not taxable under this section of the act. *Passaic Water Co. v. Peterson*, 27 Vr. 471. The Washington Building and Loan Association was taxed in 1878, on the return of the secretary, for assets, in the shape of notes, bonds and mortgages, to the amount of \$120,700. *Held*, that under the act requiring the property of such corporations to be assessed as the estate of an individual, the amount of loans to stockholders which these notes, bonds and mortgages represent are assets, and assessable as property of the corporation. *State, Washington B. & L. Assn. v. Hornbaker*, 12 Vr. 519.

(c) Real estate must be assessed in the name of some person or persons or corporation, as the owner thereof. *State, Tindall v. Vanderbill*, 4 Vr. 38. "Untenanted land" applies to that which has no visible occupant or possessor. *State v. Hoffman*, 1 Vr. 346, 347. *State, Cossat v. Reinhardt*, 2 Vr. 218, 219. That part of the land taxed lies below high water, or even below low-water mark, does not, of itself, vitiate an assessment, for although such land was originally in the state, yet it may have been granted by the state, and it is susceptible of ownership. *State v. Collector*, 4 Zab. 108. Whether lands of the state conveyed by statute for a term of years, or for any other term, are taxable or not, depends not on the qualities of the estate so granted, but on the legislative intention expressed in such act. *State, Morris Canal Co. v. Haight*, 7 Vr. 471, affirming 6 Vr. 173. Where a license is given to owners of land lying on a navigable stream to wharf out below high-water mark, so far as the grant extends, the property is vested in the grantees, and is liable to taxation. *State v. Supple*, 1 Dutch. 530. Where a person owns land above and below high-water mark, and an assessment of taxes is made upon the whole for an amount not greater than the value of the land above high-water mark, it will be sustained; but if a separate assessment is made on the land below high water, it cannot be supported. *State v. Jersey City*, 1 Dutch. 525. *State, Morris Canal Co. v. Haight*, 6 Vr. 173, 7 Vr. 471. If a bridge is assessed to a company as real estate the assessment is good, and it makes no difference whether the interest is leasehold or fee-simple. *State v. Metz*, 5 Dutch. 122. All toll bridges are liable to taxation, unless specially exempted. *Bridge Proprietors ad. State*, 1 Zab. 384, 2 Zab. 593. Under the tax laws

in force in 1849, it was erroneous to assess and value as real estate, property directed to be assessed as certainties, such as mills, furnaces, &c. *State v. Favell*, 4 Zab. 370. Under the act of 1869, p. 1225 (the five-county act), all lands to which it applies are to be taxed in the township wherein they lie. This repeats, by necessary implication, the provision in the general law of 1866 (*infra*, Sec. 66), that an occupied farm or lot lying partly in one township and partly in another shall be assessed in the township where the occupant resides. *State, Savage v. Jones*, 10 Vr. 248. No error in form of assessing lots by blocks, where no fraud or prejudice is shown. *State, Paulson v. Taylor*, 6 Vr. 184. Even when such lots are of different values. *State v. Collector*, 4 Zab. 108. Where a farm lying within the city limits is mapped in lots on city atlas, no error to assess in lots instead of by the acre. *State, Paulson v. Taylor*, 6 Vr. 184. Nor are lands so mapped out by the owner, within the statute (P. L. 1876, p. 240) directing certain lands within incorporated districts to be assessed by the acre. *State, Combes v. Vanhorne*, 10 Vr. 444. The act of 1866, taxing property, is not superseded with respect to the taxation of corporations by the act of April 18th, 1884, imposing a franchise tax. Both schemes of taxation apply to foreign as well as domestic corporations. *Pipe Line Co. v. Berry*, 24 Vr. 212. A foreign corporation owning a pipe line for carrying petroleum, which is laid under ground under a grant by the owner of the fee, is taxable for the "pipe line" as real estate in the township where it is located, under the definition of real estate contained in this section, although the owner of the fee has reserved the use of the surface for cultivation, &c. *Id.*

(d) A resident of this state must be assessed for all his personal property in the township where he resided on the day prescribed by law for commencing the assessment, and if assessed in another township for any part of his personal property, although it may be actually located in that township, such assessment will, to that extent, be set aside. *State, Perkins v. Bishop*, 5 Vr. 45. Under the act of November 2d, 1810, to tax bank stock, although the capital of the bank may have been diminished by losses, yet the tax must be paid on the whole amount of the capital stock subscribed and paid in. Neither the treasurer, nor the supreme court could look into the losses of the bank, and make proportional allowances upon the tax to be paid. *Gordon v. New Brunswick Bank*, 1 Hat. 100. But where the legislature reduces the shares of the stock two fifths, it is in effect declaring that the capital is reduced two fifths, and the bank shall only pay tax on the remaining three fifths. *Id.* The stock of incorporated banks, although the bank pays a tax on its capital, may be taxed in the hands of stockholders, if authorized by the legislature, although it is a second tax upon the same property. *State v. Brannin*, 3 Zab. 484. Stocks in foreign corporations, held by individuals resident in this state, are personal estate within this state, and subject to taxation. *Newark City Bank v. Assessor*, 1 Vr. 13. *State v. Bentley*, 3 Zab. 532. *State v. Danser*, 3 Zab. 552. *State v. Brannin*, 3 Zab. 484. *Merchant's Bank v. Bridges*, 1 Vr. 112. Goods and chattels without the state (except vessels belonging to inhabitants of this state)

66. SEC. 6. That the poll tax and the tax on personal property shall be assessed upon each inhabitant liable to a personal tax in the township or ward where he resides, on the day prescribed by law for commencing the assessment in each year; (a) all lands shall be assessed in the township or ward in which they are situate, and every person shall be assessed in the township or ward where he resides for all lands then owned or possessed by him within said township or ward, either occupied or unoccupied; (b) and when the line between two townships or wards divides a farm or a lot owned or possessed by the person taxed, the same shall be taxed, if occupied, in the township or ward in which the occupant resides; and if unoccupied, each part shall be assessed to the owner thereof in the township or ward in which the same may be, and this whether such division line be a township, ward or county line. (c) [See Sec. 818, *post.*]

Where taxes to be assessed.

67. SEC. 7. That every person shall be assessed in the township or ward where he resides, for all personal estate in his possession or under his control, as trustee, guardian, executor or administrator; (d) and in case the

Property held in a representative capacity, when assessed.

are not taxable in the state. The words "within or without the state" refer to all articles enumerated after the word "included," before steamboats. *State v. Railway*, 4 Zab. 56. The term "accumulated surplus," as applied to a stock insurance company, is the fund it has in excess of its capital stock paid in, after payment of its debts or fixed liabilities. *State, People's Fire Ins. Co. v. Parker*, 5 Vr. 479, 6 Vr. 573. *State, Mutual Ins. Co. v. Utter*, 5 Vr. 489, 493. The liabilities to losses upon policies issued and unexpired, is a contingent, not a fixed liability, and therefore does not affect the character of the fund arising from premiums as surplus capital or accumulated surplus. *Id.* The usual form of fire policies being a fixed sum paid, or secured to be paid in advance for a definite term of insurance, the contract is entire; and the premium, when the risk is begun, is the property of the company for the purpose of taxation, if held by them subject to contingent losses. *Id.* The total amount of capital stock paid in, and premium and interest account, as shown by the company's statement in this case, less the sum invested in non-taxable securities, is liable to taxation. *Id.* The twelfth section of the tax law of 1862 repeals those parts of the act of 1854 which relate to mortgages, so that all personal estate, including all debts secured by mortgage, is to be taxed. *State, Warner v. Johnson*, 1 Vr. 452. *State v. Perkins*, 4 Zab. 409, 412. The holder of an annuity bond made in the penalty of \$3,000, conditioned for the payment to the obligee of the annual sum of \$166.66, in semi-annual payments, can be taxed only on the sum actually due and payable at the time of the assessment. *State, Howell v. Cornell*, 2 Vr. 374. Where, under an order of the court of chancery, lands are sold, and a proportion of the proceeds invested in bonds and mortgages for the use of the widow, in lieu of her estate as tenant in dower, a tax can be levied only upon the amount of interest which had become due and was unpaid upon the bonds and mortgages at the time of the assessment. *State, Hill v. Hanson*, 7 Vr. 50. *State, Gano v. Appar*, 12 Vr. 230. *State, Wyckoff v. Nunn*, 10 Vr. 422. A company owning coal lands in Pennsylvania sent coal, mined on their lands, by railroad to Elizabethport, in this state, where it was deposited on the wharf for separation and assortment, for the purpose of being shipped in vessels to purchasers in New York and New England. *Held*, that the commission agents of the company, who resided in this state, whose duties were to obtain orders for coal from purchasers in other states, and to superintend its shipment on board vessels at Elizabethport, had no such property in or possession or control of, the coal as to be taxable for it under the seventh section of the act of 1866. *State, Delmolle v. Engle*, 3 Vr. 425. The property of citizens of another state, sent across this state to markets in other states, and delayed within this state merely for separation and assortment for shipment, has no *situs* within this state for the purpose of taxation. *Id.* A foreign corporation, whose business is the mining of coal in Pennsylvania, which is sent by railroad across this state to tide-water for shipment to customers in other states, and whose office for receiving orders for coal and transacting its business, is in New York city, is not taxable on coal lying on its dock, which is delayed within this state, awaiting shipment to other states. *State, Lehigh and Wilkesbarre Coal Co. v. Carrigan*, 10 Vr. 35. Such corporation is not taxable on coal shipped direct from its mines and delivered in this state, in cars, to local dealers, on orders transmitted through its office in New York city. *Id.* Cattle stopping in a township for the temporary purpose of resting and feeding while on a journey, are not taxable. *State v. Falkenburg*, 3 Gr. 320, 327. Where, in pursuance of a will, money is invested by executors on bond and mortgage conditioned for the payment of the interest annually to the widow of the deceased during her life, and for the payment of the principal at her death, to the executors, to be by them distributed according to the directions of the will, the executors are taxable for such bond and mortgage, at the present value of the principal, computed according to the rules of the court of chancery. *State, Wyckoff v. Jones*, 10 Vr. 650. If such bond and mortgage be in the custody of one of the executors, he is taxable therefor at his place of residence. *Id.* *Crispin v. Van Syckle*, 20 Vr. 366. *Wills v. Lippincott*, 21 Vr. 349. *Darcy v. Darcy*, 22 Vr. 140. (a) The phrase "owner" or "owners" was used to denote the owner of an estate in possession at the time of the assessment, and not a prior owner, or the owner of an estate in expectancy, or of any executory or contingent interest, and the design of the act was to make the interest of such owner only, and those claiming under him, liable for the tax assessed. *Hopper v. Malleson*, 1 C. E. Gr. 382. See *State, Tindall v. Vanderbilt*, 4 Vr. 38. After the assessor has ascertained and set down the

name of the owner and the real estate to be assessed, in the course of his duties in making the assessment, he is not obliged to substitute the name of a subsequent owner, even if requested before the time to complete the assessment has expired. *State, Force v. Williamson*, 4 Vr. 77. The residence required by the tax law of 1866, to make one liable to a personal tax in a particular township or ward, is precisely the same in kind as that which will entitle him to vote there. *State, Sharp v. Casper*, 7 Vr. 367. *State, Tatem v. McChesney*, 8 Vr. 548, 551, *Zabriske v. C.* A mortgagee is bound to pay the tax on his mortgage, and cannot recover it of the mortgagor. *Ford v. Cousdel*, 8 C. E. Gr. 181. Under P. L. 1874, p. 160 (*infra*, Sec. 110), a mortgagee must pay the tax upon his mortgage in the township where the lands covered by the mortgage lie, and not in the township where he resides. *State, Wyckoff v. Nunn*, 10 Vr. 422. Bonds secured by mortgages on land situated in a township or city wherein the mortgagee does not reside, are not taxable to the mortgagee where he resides; it makes no difference if the land is in a city or place where, by a special law, it is taxed according to its value without regard to incumbrances, and where bonds and mortgages are not taxed at all. *State v. Massaker*, 2 *Dutch*. 564, reversing 1 *Dutch*. 531. A person who harbors a dog, as well as the owner, is liable to be taxed therefor, under Rev. p. 17, § 18 (*ante*, p. 44, Sec. 60). *State v. Falkenburg*, 3 Gr. 320, 324, 327. Under the tax law of 1866, property owned in partnership is liable to be taxed in the same way as other property. *State, Forst v. Parker*, 5 Vr. 71. Whether the assessment be against the partners individually, or against the firm as such, the whole partnership property is to be assessed at its full value. *Id.*

(b) A mortgagee may pay the tax on the land, and add the amount to his mortgage. *Stonington Savings Bank v. Davis*, 1 *McCart*. 288. *Elmer v. Loper*, 10 C. E. Gr. 475. *Dolman v. Cook*, 1 *McCart*. 56. A mortgagee in possession must pay the tax on the land. *Shields v. Lozeau*, 7 C. E. Gr. 411, 453. As between a tenant for life and remainderman, the court of appeals declined to make any order respecting the payment of the taxes assessed, or to be assessed, on the property. *Kearney v. Kearney*, 2 C. E. Gr. 505, affirming *Id.* 59. Where, after a contract for sale of part of a tract of land, the vendor paid the taxes upon the whole tract together, the vendee will be charged with a proportionate part of them, with interest from the time of their payment. *Locander v. Lounsbury*, 9 C. E. Gr. 418; case modified, 10 C. E. Gr. 554.

(c) Personal property situate within Jersey City, and belonging to a firm of four, three of whom were non-residents of the state, and the fourth resided in Elizabeth, was assessed in Jersey City. *Held*, that the interests of the non-resident partners were clearly assessable there, and, as the resident partner has failed to show what his interest is, the court can make no reduction. *Taylor v. Love*, 14 Vr. 142. Owners of personal property at the time of the assessment are liable for the tax thereon. *Broeck v. Jersey City*, 15 Vr. 156.

(d) A tax upon personal property in possession, or under control of an executor should be against the person holding the office in his representative character, and not against "the estate of" testatrix; and such tax can be assessed only in the township where executor resides, for all such property wherever situate. *State, Ely v. Holmdel*, 10 Vr. 78. Commissioners appointed to divide real estate, having invested for the benefit of the widow (who has relinquished her dower), one-third of the money arising from the sale of the land, in pursuance of section 23 of the "Act for the more easy partition of lands," &c., do not fall within the class of trustees designated by this section, and are not to be taxed as such. *State, Parker v. Irons*, 6 Vr. 464. *State, Lomasson v. Staats*, 10 Vr. 658. An assignee, to whom an assignment for the benefit of creditors has been made, is taxable as such trustee, and not entitled to a deduction of the debts due from the assignor. *State, Clarke v. Grover*, 8 Vr. 174. Where a bond and mortgage is in the hands of one of several executors, he is taxable for it at his place of residence. *State, Wyckoff v. Jones*, 10 Vr. 650. A tax on real and personal property by the description "of estate of T. D. Endicott" will be amended by the court. *Endicott v. Corson*, 21 Vr. 381. The personal property of the unsettled estate of a decedent must be assessed in the township where the executor resides, if within this state, not in the township where the deceased lived at the time of his death, and where some of the property still remains. *Id.* Where a fund is directed by testator's will to be invested by executors, the interest payable annually to A. for life, the fund itself is taxable in the hands of the executors, and they have the right to retain the tax out of the interest. *Holcombe v. Holcombe*, 2 *Stev.* 597, affirming S. C., 12 C. E. Gr. 473. See *Ditts v. Taylor*, 25 Vr. 369.

Non-residents.

Corporations.

owner or owners of personal estate shall be non-resident of this state, then and in that case the said personal estate shall be taxed in the township or ward where the same may be situate; (a) that the personal estate of every incorporated company liable to taxation, shall be assessed in the township or ward where the principal office shall be, or if such company have no principal office or place of transacting its financial concerns, then in the township or ward where the operations of such company are carried on, (b) and where the tolls of any bridge, turnpike, railroad or canal company are collected in the several townships or wards, the personal estate of such company shall be assessed in the township or ward in which the treasurer, or other officer authorized to discharge the general pecuniary obligations of said company, resides; and the real estate of incorporated companies, liable to taxation, shall be assessed in the township or ward in which the same shall lie, in the same manner as the real estate of individuals.

Duty of assessor
in making
assessment.

68. SEC. 8. That the assessor of every township or ward shall, between the days prescribed by law, annually ascertain by diligent inquiry, and by the oath or affirmation of the persons to be assessed, and, if necessary, of other persons, according to the best of his ability, and according to his own judgment after examination and inquiry, the names of all the persons taxable in their respective townships or wards, and the actual value of all the property, real and personal, taxable therein; and in case any inhabitant of the township or ward shall refuse to swear or affirm and answer in regard to all the particulars of his property when required by such assessor, or in case such inhabitant cannot be found by the assessor after a diligent effort, it shall be the duty of said assessor to estimate his property at the highest value he has reason to suppose it may be placed; and in case the person assessed shall appeal to the commissioners of appeal, they shall not reduce the said estimate, if it shall appear that the person appealing had refused to be sworn or affirmed, and to answer all proper questions respecting the particulars of his estate and of his debts, or had absented himself for the purpose of evading the assessor; nor unless he shall satisfactorily prove by his own oath or affirmation, or otherwise, what was the true value of all his taxable property; *provided*, that nothing herein contained shall be construed to prevent the said commissioners of appeal from increasing the valuation made by the assessor, if it shall satisfactorily appear the same ought to be increased. (c)

(a) The real estate and personal chattels of non-residents are to be taxed in the township where they are found. *State v. Jones*, 3 Zab. 517. See *State, Batem v. McChesney*, 6 Vr. 548. The bonds of corporations in this state, or of residents thereof, or the stock of corporations in this state held by inhabitants of another state, are not liable to taxation in this state. *Id.* A tax against a non-resident stockholder in a national bank, laid where the bank is located, is good. *State, Farmers' Bank v. Cook*, 3 Vr. 347. *State, Jewell v. Hart*, 2 Vr. 434. *State, Fox v. Haight*, 2 Vr. 399. Stock of a national bank located in New Jersey, held by a resident of Pennsylvania, is not liable to taxation in the latter state. *Bucks County v. Ely*, 6 Phila. Rep. 414. The act of 1854, by which bonds and mortgages are made liable to taxation, does not include the bonds, mortgages, stocks, or other choses in action of persons who are not inhabitants of this state. *Dolan v. Cook*, 1 McCurt. 58. An incorporated company of this state is not liable to be taxed for so much of its capital as is represented by stock standing in the name of non-resident stockholders, and owned by them. *State v. Thomas*, 2 Dutch. 181. Owner of lands lying in a township which repairs roads by hire, is liable for tax, although he resides in another township, and works roads there. *Van Dien v. Hopper*, 2 South. *764. If F. resides in one county and owns land in another, on which he grazes cattle, he is liable to be taxed for such cattle in the township where they graze. *State v. Falkenburg*, 3 Gr. 320. Ferry-boats owned by a foreign corporation, enrolled in the New York customs-house, used for carrying freight and passengers between Jersey City and New York, and having no permanent location in Jersey City, are not liable to be taxed there; such property cannot be said to be situate in any township or ward. *State, New York and Erie R. E. Co. v. Haight*, 1 Vr. 428.

(b) An assessment to a corporation in a name not known, is void. *State, Tindell v. Vanderbilt*, 4 Vr. 38. Under the supplement to the tax laws, approved March 28th, 1862, private corporations must be assessed on the full amount of their capital stock paid in without deduction for losses, and not according to the market value of the stock at the time of the assessment. *Anderson v. State, West Jersey Ferry Co.*, 2 Vr. 512, reversing 1 Vr. 405. *State v. Tunis*, 3 Zab. 516. A plank road company is in fact a turnpike company within the meaning of the tax law of 1854, requiring "the personal estate of such company to be assessed in the township or ward in which the treasurer or other officer authorized to discharge the general pecuniary obligations of

such company, resides." *Haight v. State, Jersey City and Bergen Point Plank Road Co.*, 3 Vr. 448, affirming 1 Vr. 443. A railroad company, furnishing their own conveyances, carrying nothing but passengers, and charging a certain price as fare, cannot be considered a toll-collecting company. *State, Jersey City and Bergen R. E. Co. v. Haight*, 1 Vr. 447. The personal property of such company shall be taxed in the township or ward where the principal business is transacted. *Id.* A tax, under the act of 1862, was rightly assessed on the Warren Railroad Company, in the town of Belvidere, where the office of its secretary was. *State, Warren R. E. Co. v. Person*, 3 Vr. 134, 566. Where the real estate of a corporation is situate partly in one township and partly in another, and is occupied by the corporation, it will be subject to taxation in the township where the corporation resides. *State, Warren Mfg. Co. v. Warford*, 3 Vr. 397. *Warren Mfg. Co. v. Dalrymple*, 27 Vr. 449; affirmed, 28 Vr. 708. For provisions as to taxation of the real and personal estate of corporations, see *ante*, title CORPORATIONS, page 935, Secs. 133, 141 and 176, and note (a) to section 133, and also for taxation of savings banks, see P. L. 1883, p. 545, *ante*, page 3013, Sec. 75, and *Trenton Savings Fund v. Richards*, 23 Vr. 156. For the method of taxing corporations engaged in the business of insuring property against fire, see *Merchants' Ins. Co. v. Newark*, 25 Vr. 183; S. C., 26 Vr. 145. See *Pipe Line Co. v. Berry*, 24 Vr. 212. *Pasatic Water Co. v. Paterson*, 27 Vr. 471.

(c) The income of property is no criterion for an assessor in making a valuation. *Id.* *State v. Collector*, 4 Zab. 108, 118. Adjacency to tide-water is a circumstance which may properly enter into the estimate of valuation of lands for the purposes of taxation. *State, Trask v. Carragan*, 3 Vr. 264. Any additional value which may be impressed upon lands, by reason of this adjacency to tide-water, shall be assessed not on the fringe as a separate and distinct property, but on the entire lot of the assessable owner fronting on high water mark. *Id.* Proximity to an extensive water power is an advantage to be considered, and a legitimate ground of valuation. *State v. Flavell*, 4 Zab. 370. In estimating the value of a toll bridge, for the purpose of assessment, the franchises of the company or the profits from the tolls are not to be considered. *State, Easton Bridge Co. v. Metz*, 2 Vr. 378. In valuing the prosecutors' bridge over the Delaware at Phillipsburg for the purpose of assessment in this state, the one-half of the bridge, including the abutments and piers to the center of the river upon the New Jersey side, should be estimated

69. SEC. 9. That it shall be the duty of the secretary of state, before the time prescribed by law for commencing the assessments, in each year, to prepare a schedule of the leading classes of taxable property, both real and personal, and the deductions allowed by law, to be printed, with blank form of affidavit attached, and distributed to the several counties for the use of assessors in making their assessments.

Secretary of state to prepare schedule of taxable property.

70. SEC. 10. That the assessor shall so make out his duplicate as to show in separate and distinct columns the names of all persons assessed, the number of acres and lots of land and appurtenances assessed to each person, the value of such land, the value of the personal estate assessed to each one, including the amount of mortgages held and the amount of debts due and owing to each person from solvent debtors in addition to debts secured by mortgage, the amount deducted from the said value for debts due and owing, the net value assessed to each person, the rate per dollar assessed, and the several sums assessed on each person for state, county, city, township, poor, school, road, poll, dog and other taxes; and the said assessor shall also add to his duplicate, by way of appendix or otherwise, in all cases where real estate is taxed to any person from whom he has reason to suppose it may be difficult to collect the tax by warrant against his goods, chattels and person, a designation of the said real estate by such short description as will be sufficient to ascertain the location and extent thereof, to the end that said tax may be collected in the manner prescribed by the act entitled "An act to make taxes a lien on real estate, and to authorize sales for the payment of the same," approved March seventeenth, eighteen hundred and fifty-four. (a)

Duplicate, how to be made out.

71. SEC. 11. That where a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name or representative character, and such assessment shall be carried out on a separate line from his individual assessment; and in cases where the same property is held by several trustees, guardians or executors, only one of them shall be taxed for the same; and such property shall be assessed

Person assessed as trustee, &c., to be assessed as such.

at its full and fair value at the time of the assessment, as part of the structure, without reference to the extent of travel upon it or the profits derived therefrom. *Id.* In this estimate may also be considered the value of the land occupied by the abutments, its location and other relative circumstances which affect the value of land generally; but in no case should the extent of profit in its use, under the franchise of the company, be taken into account. *Id.* Under the charter of the city of Trenton, it was necessary to have regard to the value as well as the rents. *State v. Bravin*, 3 Zab. 481, 497. The objection that the valuation was based upon the rental of the property assessed, is one of fact, and must be grossly excessive to be set aside. *State, Keeler v. Tindall*, 7 Vr. 97, 100. If an increased valuation has been confirmed by the board of appeals, it cannot be set aside because the assessor before his election issued a printed card addressed to the voters of the township, pledging himself to increase the old valuation. *State v. Quaipe*, 3 Zab. 89, 91. It is no ground of complaint by a plaintiff in *certiorari*, that a third person was rated too high. *McCarty v. Brick*, 6 Hal. 27, 37. The second section of the statute of 1846, authorizing the assessor to estimate and then double the assessment of a taxpayer who refuses to make a return, is repealed by the act of 1854. *State v. Union*, 3 Dut. 433. Assessors of townships are required to take an official oath that they will truly, faithfully, honestly and impartially value and assess the ratable estates in their townships, and that in making such assessments they will, to the best of their knowledge and judgment, observe the directions of the law respecting the same, and make a true return, &c. The fourteenth section of the act of 1862 requires all assessors to assess and value property at its full and fair value, and at such prices as in their judgment said property would sell for at a fair and bona fide sale by private contract; and that every assessor shall annex to his duplicate an oath or affirmation, in writing, that all assessments in his duplicate have been made according to the requirements of that section. *State, Easton Bridge Co. v. Metz*, 2 Vr. 378. In this case, the assessor of P. having taken the proper oath of office and made his assessment, annexed to the duplicate returned by him an affidavit that the statements contained in the assessment were true, to the best of his knowledge and belief. *Held*, sufficient. *Id.* Unless the taxpayer refuses to be sworn, the assessor cannot fix the highest valuation he has reason to believe is right. *Building Association v. Nunn*, 15 Vr. 354; affirmed, 17 Vr. 205. The right of an assessor under this section to estimate the property of a property-owner, whom, after diligent search, he fails to find, does not permit an assessment to be made against him for property belonging to others. *Beese v. Sherrer*, 20 Vr. 610.

(a) Assessments for taxes must relate to the day in each year when, by law, the assessment is to be commenced. *State, Shippen v. Hardin*, 5 Vr. 79. *State, Tindall v. Vanderbilt*, 4 Vr. 38, 39. *State, Force v. Williamson*, 4 Vr. 77. See *State v. Murphy*, 2 Vr. 288. Lands must be assessed in the name of the owner at the time when the assessment is to be commenced. *State, Rutherford Park Assn. v. Union*, 7 Vr. 309. *State, Stevens Institute v. Krollman*,

June, 1876. An assessment to the "estate of J. B. Coles, deceased," where a large estate is shown to have been well known by that name, is sufficient. *State v. Collector*, 4 Zab. 108. See *Hopper v. Malleson*, 1 C. E. Gr. 382, 389. A taxpayer cannot complain of the misnomer of another taxpayer. *McCarty v. Brick*, 6 Hal. 27, 37. The assessor, in describing real estate under the act concerning taxes, may use abbreviations so long as they are intelligible, and leave no uncertainty as to the property upon which the impost is intended to be laid. *State, Alden v. Newark*, 7 Vr. 288. A description "Joseph L. Alden, No. 16 Front street, real estate, H., L. and stable," is full enough. *Id.* "Farm assessed on two hundred and eighty-five acres, and two houses and lots," is insufficient. *State, Shippen v. Hardin*, 5 Vr. 79, 81. Nor can such imperfect description be amended. *State, Shippen v. Hardin*, 5 Vr. 82. "Knapp and McPherson, or R. P. Association; number of acres, 2. Valuation of real estate, \$50,000. Amount taxable, \$50,000," is too defective to warrant a sale. *State, Rutherford Park Assn. v. Union*, 7 Vr. 309, 312. "Estate of John Malleson. 1 H. & 1 L." is not a sufficient description to authorize a sale. *Hopper v. Malleson*, 1 C. E. Gr. 382, 384. An assessment blending together the state, county and township taxes, is illegal. *C. & A. E. R. Co. v. Hillegas*, 3 Har. 11. *State v. Falkinburge*, 3 Gr. 320. That the several taxes are blended together, and that the duplicate does not show directly the value per acre of the land assessed, are objections going merely to the form, and not to the substance of the assessment, and insufficient since the act of March 26th, 1852, to justify the court in setting it aside. *State, Perkins v. Bishop*, 5 Vr. 46. When an assessor, in making out his duplicate, has blended together and placed in one column the township taxes other than the township tax for school purposes, the assessment will not be avoided for the non-compliance with the precise terms of the tax law of 1866, in the particular mentioned, if it has not in any wise impaired the substantial rights of the prosecutor. *State, Verhulst v. Saalman*, 8 Vr. 166. A tax against a stockholder in a national bank, resident in the township where the bank is located, and taxed on the same duplicate for other personal property—*Held*, to be good although the valuation was carried out separately. *State, Farmers' Bank v. Cook*, 3 Vr. 347. If taxable and non-taxable property is joined in one assessment, and the whole amount is not greater than the value of the taxable, it will be sustained. *State, Morris Canal Co. v. Haight*, 6 Vr. 173, 7 Vr. 471. *State v. Jersey City*, 11 Dut. 525. If the assessor in his duplicate omits to carry out the amount assessed to any person, so that it does not appear how much his tax was, the assessment will be set aside. It is not sufficient to give the valuation of the property and mention the rate per cent. *State v. Perkins*, 4 Zab. 409. An assessment for taxes upon real estate will not be invalidated by the failure of the assessor to designate the real estate by such a description as would be sufficient to ascertain its valuation and extent. Such a description is only indispensable to create a lien on the real estate, and, in its absence, the tax may be enforced by any other lawful proceeding. *Yeffer v. Miles*, 19 Vr. 450.

in the hands of such one of said executors, or guardians or trustees as have the actual possession or control of such property, or the bonds, mortgages or other securities by which the same is held. (a)

Annual meeting
of board of
assessors.

72. SEC. 12. That when any money shall be directed to be assessed for state or county purposes, it shall be the duty of the assessors of the several townships and wards in the county to meet at the time prescribed by law in every year at the place of holding the court of common pleas in such county, and each of the said assessors shall produce his duplicate of the value of real and personal estate to be by him assessed, with the amount of each column and the total of all the columns correctly added together, and shall also produce an affidavit by him subscribed and taken upon his oath or affirmation before some person authorized to administer oaths, of the following or like tenor and effect, viz.: "I, ———, assessor of ———, do hereby swear (or solemnly affirm), that I have diligently inquired, respecting the nature and value of the real and personal estate liable to taxation, in the township (or ward) whereof I am assessor, and have to the best of my ability, and without favor or partiality, valued all the said property liable to taxation in said township (or ward) at its full and fair value, at such price as in my judgment said property would sell for at a fair and bona fide sale by private contract on the day prescribed by law for commencing the assessment, and have deducted from such value only such balance of debts as is prescribed by law;" and if any assessor shall be unable to attend such meeting, it shall be his duty to send his duplicate with the affidavit aforesaid, and in case any assessor neglecting to attend, or to produce or send his duplicate and affidavit aforesaid, the majority of the assessors convened shall estimate the value of the property liable to assessment in the township or ward of the absent assessor, according to the best of their information and belief. (b) [See Sec. 3, *ante*.]

73. SEC. 13. [Amended by Sec. 140, *post*.]

Penalty for
neglect of duty on
part of assessor.

74. SEC. 14. That if any assessor shall willfully or through gross negligence omit to make a full and fair valuation of all the real and personal estate taxable in his township or ward, as required by this act, within the time prescribed by law, or to make the affidavit prescribed by the twelfth section of this act, or to deliver to the collector a just and true duplicate as herein required, he shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding five hundred dollars for each offense; and if any assessor shall neglect to attend at the time and place prescribed by law for the meeting of the assessors of any county, or shall neglect to produce or send his duplicate and affidavit as required by this act, then it shall be the duty of the said assessors to inquire and ascertain whether the said assessor was unavoidably prevented from attending and producing, or from sending his said duplicate and affidavit, and unless a majority of those met shall, by a writing by them signed, excuse the said neglect, the assessor so neglecting shall be guilty of a misdemeanor and liable to a fine not exceeding two hundred dollars for each offense; and it shall be the duty of the board of assessors to state in writing to the prosecutor of the pleas of the state the name of every assessor guilty of either of the aforesaid neglects, with the names of the witnesses to prove the same, to be by him presented to the grand jury of the county.

Private corpora-
tions, how
assessed.
Exceptions.

75. SEC. 15. That all private corporations of this state, except banking institutions, and except those which by virtue of any contract in their charters or other contracts with this state are expressly exempted from taxation, and except mutual life insurance companies specially taxed, shall be and are hereby required to be respectively assessed and taxed at the

(a) An assessment for taxes made against one of several executors or trustees, for mortgages held by them in their fiduciary capacity, will not be set aside, though the assessor, in making his duplicate, omits to designate him in his representative capacity. *State v. Bonyon*, 12 Vr. 33. Assessments of taxes will not be set aside for mere irregularities or objections in form which do not affect the substantial rights of parties. *Id.* *Dills v. Taylor*, 28 Vr. 370.

(b) If an assessor of taxes attend the meeting of the assessors of the several wards and townships in the county, and produce his duplicate, but refuse to make affidavit thereto, the majority of the assessors convened shall estimate the value of the prop-

erty liable to assessment in his township or ward, according to the best of their information and belief. *Bloomfield v. Pierson*, 18 Vr. 247. When, in such case, the assessors added \$100,000 to the assessors' valuation of real estate in the county, it will not be adjudged, in the absence of proof, that they acted arbitrarily, but according to the best of their information and belief. *Id.* The county board of assessors meet only for the purpose of determining how much each township and borough shall contribute to the state and county tax, and the valuation fixed by that board is exclusively for the purpose of adjusting such quota. *Recroth v. Ames*, 28 Vr. 509. See *State, Colwell v. Abbott*, 13 Vr. 115.

full amount of their capital stock paid in, and accumulated surplus; but any real estate which such corporations may lawfully own in any other state than this state, shall not be liable to be estimated in such accumulated surplus, and the persons holding the capital stock of such corporations shall not be assessed therefor; and such corporations as have no capital stock other than those above excepted, shall be assessed for the full amount of their property and valuable assets, without any deduction for debts and liabilities; but depositors in savings banks, taxed by virtue of this section, shall be exempted from taxation on their personal estate to the amount of their deposits; *provided*, that premium notes held by life insurance companies shall in no case be considered as future premiums, but shall be included in the valuable assets of said company. (a)

76. SEC. 16. [Repealed by act of April 1st, 1869, Sec. 101, *post*.]

77. SEC. 17. That it shall be the duty of the president, secretary, cashier and treasurer, of every corporation and bank, the stock or property of which is liable to taxation, when applied to by the assessor entitled to assess the same, to give to the said assessor a true statement, under oath or affirmation, of the name of the several stockholders who owned the stock of a bank on the day prescribed by law for commencing the assessment, and of the amount of capital stock and accumulated surplus, and of all other property and assets of such bank and corporation, and the said assessor is hereby authorized to administer such oath or affirmation, and to take such other means as may be in his power to ascertain the true amount for which the stockholders or the corporation shall be taxed.

Duties of officers of corporations.

78. SEC. 18. That the assessors and commissioners of appeal, who shall examine any person respecting the taxable property of such persons, or of others, shall administer an oath or affirmation of the following or like tenor and effect, viz.: "I, ———, do swear (or solemnly affirm) that I will true answer make to all such questions as shall be put to me touching the taxable property of myself (or of A. B.), and therein I will speak the truth, the whole truth, and nothing but the truth;" and if any person who shall be required to swear or affirm, or testify respecting his or her taxable property, or the property of any person or corporation, shall, when requested by any assessor or commissioner of appeal, refuse to be sworn or affirmed and examined, he or she shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars; and it shall be the duty of the assessor to furnish to the prosecutor of the pleas of the county the name of any person refusing to be sworn or affirmed, and the names of the witnesses, that the same may be laid before the grand jury of the county; and any assessor who shall refuse to take evidence when offered respecting the amount or ownership of taxable property of any person or corporation, shall be deemed guilty of misdemeanor, and liable to a fine not exceeding two hundred dollars, but the oath or affirmation of no person shall be conclusive as to the amount or ownership of taxable property, but the assessors and commissioners of appeal shall adjudge the same as may appear to them correct.

Form of oath to be administered by assessor and commissioners of appeal.

79. SEC. 19. That all corporations regularly doing business in this state, and not being corporations of this state, shall be assessed and taxed for and in respect of the business so done by them and transacted in this state and every agent of any fire, life, health or marine insurance company not incorporated by the laws of this state and doing business in this state, shall file with the secretary of this state, on or before the first day of February in each year, the certificate now required by law respecting the business and condition of the company of which he is such agent, and shall pay at the time of such filing, to such secretary of state, the sum of five dollars fees therefor; and shall also be required, within ten days thereafter, to take from such secretary of state a license to act as such agent, and transact the business of said company during the ensuing year,

Foreign corporations, how assessed.

(a) Corporations of this state engaged in the business of insuring property against fire are taxable under the provisions of this section. Such a tax is a property tax and not a franchise tax. *Merchants' Ins. Co. v. Newark*, 25 *Vr.* 138. The tax is to be imposed upon the amount of paid-in capital stock and accumu-

lated surplus, after deducting therefrom the value of real estate as prescribed, and also the value of property in which the stock and surplus are invested which is by law non-taxable. *Ib.* See *Society, &c. v. New Brunswick*, 28 *Vr.* 65. See title CORPORATIONS, *ante*, page 935, Sec. 133, note (a).

and shall pay for such license the sum or twenty dollars; and such license fees so paid shall be in lieu of all other taxes to be assessed in this state on such agents for the business of said companies; *provided, however*, that the last foregoing provisions shall apply only to the agents of companies of those states whose laws do not impose a greater tax or assessment than the foregoing upon the agents of companies of this state, and doing business in those states, that the agents of companies of those states imposing larger taxes or assessments than the foregoing upon the agents of companies of this state shall pay, in the manner and at the time now provided by law, a tax of two per centum per annum on the whole amount of premiums taken or received by such agent during the year preceding the payment of said tax; and all other corporations not incorporated by this state, and agents doing business in this state as aforesaid, shall be assessed for the amount of capital usually employed in this state in the doing of such business not otherwise taxed by virtue hereof; and such assessment shall be made in the township or ward where such business is most usually carried on and transacted. (a)

Proviso.

Deductions for debts, when to be made.

80. SEC. 20. That after making the valuation of the real and personal estate for which any individual shall be assessed, it shall be lawful for the assessor or for the commissioners of appeal in cases of taxation, to deduct from such valuation any debt or debts bona fide due and owing from such individual to creditors residing within this state; *provided*, that no deduction shall be made from the full and fair value of the real or personal estate of any individual, unless such individual shall make and sign a true statement in writing, under oath or affirmation, that the same is just and true, of the several debts owing by such individual, which he desires to have deducted, to whom owing and where the creditor resides, and also a statement of the total amount of real estate and of personal property of such individual, including mortgages held and other debts due and owing to such individual from solvent debtors, and shall deliver the same to the said assessor on or before the time limited by law for closing the assessment; *provided*, that if it shall be made to appear to the satisfaction of the commissioners of appeal that the individual assessed was prevented by sickness or other unavoidable accident from delivering such statement to the assessor as aforesaid, the said commissioners may permit the said individual or any person in his behalf, having knowledge of the facts, to deliver such statement to them sworn or affirmed to be just and true as aforesaid, and may therefore deduct the balance of such debts in like manner as the assessor might have done in case the said statement had been duly delivered to him; and in case any assessor or commissioner of appeal shall make any such deduction, without having first delivered to him as aforesaid such statement under oath or affirmation, the said assessor and commissioner of appeal shall be deemed guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars; and all written statements and oaths and affirmations authorized and required by this act, shall be forthwith delivered to the clerk of the township wherein the assessor or person making the same resides, to be by him filed and preserved. (b) [See Secs. 113, 120, 121 and 198, *post*.]

(a) See *Pipe Line Co. v. Berry*, 23 Vr. 308; S. C., 24 Vr. 212, and *ante*, Sec. 62, note.

(b) On an appeal to commissioners by several parties, they are to deal with each case separately and if the particular tax appealed from is remitted as being illegal, the commissioners have no authority to remit it as to others who have not appealed. *State. Roll v. Ferrine*, 5 Vr. 254. The deduction of debts in cases of taxation must be claimed and made, in the first instance, at the place of the residence of the taxpayer. *State. Shreve v. Crosley*, 7 Vr. 425. *State v. Ross*, 3 Zab. 517, 520, 526. *State. Perkins v. Bishop*, 5 Vr. 45. It seems that if the amount of debts exceeds the estate taxable where the taxpayer resides, he might, under P. L. 1864, p. 782, deduct the remainder from the valuation of his real estate in another county. *State v. Crosley*, June, 1867, 4 Vr. 30. A taxpayer residing in any township in this state is entitled to have a debt secured by mortgage upon lands situate in another township deducted from his taxable property in the township where he resides. *State v. Pearson*, 4 Zab. 254. *State v. Williamson*, 4 Vr. 77. There is no provision by which a non-resident owner of real or personal estate situate in this state, may be allowed a deduction for debts due and owing by him to creditors residing within this state. *State. Tutem v. McChesney*, 5 Vr. 63, 6 Vr. 648. By the express pro-

visions of the act of 1854, the landholder is not entitled to any deduction from the amount of tax assessed upon his land for any debts due and owing by him to creditors not residing in this state. At the time of the payment of the tax for which the deduction is claimed, this debt was due and owing to persons not inhabitants of this state. *Stonington Bank v. Davis*, 1 McCurt. 286. *Dolman v. Cook*, 1 McCurt. 56. The deduction for debts cannot be allowed to any individual assessed, whether a resident or not, without a statement in writing, &c., embracing all the particulars enumerated in the first proviso of that section. *State. Tutem v. McChesney*, 5 Vr. 63, 6 Vr. 648. *State. Forst v. Parker*, 5 Vr. 71. *State. Mount v. Parker*, 8 Vr. 341. *State. Perkins v. Bishop*, 5 Vr. 45. What will amount to such a refusal considered. *State. Young v. Parker*, 4 Vr. 192. To entitle a person assessed to a reduction, he must deliver the statement required by section 20 of the act of 1866 to the assessor personally, or leave it at his office or dwelling, with a proper person. *State. Robbins v. Horner*, 9 Vr. 212. Nothing but unavoidable inability to effect such delivery will afford an excuse, and empower the commissioners of appeals to entertain the application for a deduction. *Id.* The commissioners of appeal cannot lawfully reduce the assessment thus made without being satisfied that the prosecutor did not refuse to be sworn,

81. SEC. 21. That the collector, immediately after having received his duplicate from the assessor, shall submit the same to the committee of the township or common council of the city or borough whereof he is the collector, and it shall be the duty of said committee and common council carefully to examine the same, and if they have reason to believe that any individual or corporation has been assessed at too low a rate, or omitted to have been assessed, as required by law, they shall thereupon authorize and require the collector to notify the said individual or corporation that complaint will be made to the commissioners of appeal in cases of taxation, and the said collector shall, at least ten days before the time of meeting of said commissioners, deliver to said individual or leave at his dwelling-house or deliver to the president, cashier, treasurer, clerk or secretary, or if no such officer can be found, to any director of the corporation or leave at the place of business of such corporation, a notice in writing or printing of the following or like tenor, viz.: "To _____: You are hereby notified that complaint will be made to the commissioners of appeal in cases of taxation at _____, on _____ next, that you have been assessed at too low a rate (or omitted to be assessed), to the end that, after due examination of the facts, such addition may be made to your taxes as shall be right and proper and according to law;" and it shall be the duty of the collector to attend before said commissioners and to present the complaints, and to subpoena all proper and necessary witnesses and pay them their fees, and he shall receive out of the public money two dollars for every day he shall so attend. (a) [See Sec. 674, *post.*]

Duty of collector.

Notice in case of assessment at too low a rate.

82. SEC. 22. That each of the commissioners of appeal in cases of taxation shall have power and it shall be his duty to issue subpoenas for the attendance of witnesses before the said commissioners, on the hearing of an appeal which shall be served, and the said commissioner, the witnesses and constable shall have the same fees and be liable to the same penalties as in cases of subpoenas for witnesses to appear on the trial of actions before courts for the trial of small causes.

Commissioners of appeal may issue subpoenas.

83. SEC. 23. That the real estate of private corporations and banks situate within this state, except the banking-house and lot of ground whereon the same is erected, of banking institutions whose stockholders are taxed shall be assessed to said corporations or bank in the township or ward in which said real estate is located, in the same manner as the real estate of individuals, and the amount of said assessment shall be deducted from the amount of the capital stock and surplus and funded debt, or of the valuable assets of the corporation. (b)

Real estate of corporations to be assessed and deducted from capital.

84. SEC. 24. That nothing in this act shall have the effect to alter or repeal any tax imposed upon dogs.

Dog tax.

&c., nor unless he satisfactorily proved what was the true value of all his taxable property. *State, Young v. Parker*, 5 Vr. 49. *State, Mount v. Parker*, 3 Vr. 341, 342. To entitle a taxpayer to have the debts he owes deducted, he must have an affidavit made out and delivered to the assessor before the time limited by law for closing the assessment roll. The assessor is not bound to do it for him. If neglected, the commissioners of appeal may waive it, and make the deduction; but if they decline to do so, the court will not set aside the tax. *State v. Johnson*, 1 Vr. 452. The party assessed, upon making application to the assessor or commissioners of appeal for that purpose, and presenting a sufficient affidavit, is entitled to have his debts owing in the state deducted from his property, both real and personal; but if he neglect to make such affidavit, he cannot correct the assessment by *certiorari*. *State v. Gray*, 5 Dutch. 380. Where the whole board of commissioners of appeal in cases of taxation met, and on a motion to make a deduction of debts claimed, three voted in the affirmative, two in the negative, and one declined to vote, the record that the motion was lost is erroneous, and may be disregarded, and the deduction allowed by the court. *State, Mount v. Parker*, 3 Vr. 341. The commissioners of appeal in cases of taxation have a right to reconsider their opinion until such opinion has been officially promulgated by them. *State, Shreve v. Croslley*, 7 Vr. 425. Where an assessment is reduced by the commissioners of appeal, the assessment merges in the judgment of the commissioners; and in the absence of any evidence that the amount fixed by the commissioners is too great, the court will not interfere. *State v. Randolph*, 1 Dutch. 427. A debtor owing an apportionable annuity is entitled to a deduction for the same as a debt from his taxable property only to the extent of what had accrued on the day fixed for assessment. *State, Rogers v. Pettit*, 10 Vr. 684. *State, Eichey v. Shurts*,

12 Vr. 279. The provision in the charter of Trenton that real estate in said city shall be assessed for all purposes without any deduction for any indebtedness whatever, is a local and special law inconsistent with the general tax law and was abrogated by paragraph 12 of the amended constitution. *Howell v. Richards*, 18 Vr. 434. A taxpayer and resident in Trenton, owning real and personal property taxable in said city, is entitled to have debts *bona fide* due and owing by him to creditors residing in this state deducted from the taxable valuation of his real and personal estate. *Id.* Assessors allowing a deduction, without a statement by the taxpayer under oath or affirmation, are liable to indictment as for a misdemeanor. *State, Wyckoff v. Creveling*, 11 Vr. 150.

(a) The notice prescribed by this section applies to residents and not to any extra-territorial notice. Otherwise a duty is imposed upon the collector which he could not perform, and in most cases the attempt to increase the assessments of non-residents would prove abortive. *Dodge v. Love*, 18 Vr. 486. In the case of non-residents, no method being prescribed for giving notice of increased valuations, no laches can be imputed for failure to do so. In such cases it is incumbent upon a prosecutor to show affirmatively that the valuation made by the commissioners of appeal is unjust, or it will be affirmed. *Id.* In the case of resident taxpayers, when notice is required and has not been given, the assessment will be reduced to the valuation made by the assessor, unless evidence is taken to show its insufficiency, and application is made under act of March 23d, 1881, to increase it. *Id.* Affirmed, 20 Vr. 225. See *State, Lomasson v. Staats*, 10 Vr. 653.

(b) As to taxation of corporate property, see *ante*, title CORPORATIONS, page 935. Sec. 133, note (a). *Pipe Line Co. v. Berry*, 23 Vr. 312. *S. C.*, 24 Vr. 212. *Merchants' Ins. Co. v. Newark*, 25 Vr. 132. *Society, &c., v. New Brunswick*, 26 Vr. 65.

First payment to county collector.

85. SEC. 25. That it shall be the duty of the collectors of the townships, cities or wards in this state, out of the first moneys which shall be collected by them, to pay to the county collector of the county in which they hold their offices, the state and county taxes required to be assessed in their several townships, cities and wards, at the time required by law to pay the same. (a)

Penalty for embezzlement or loaning money received for taxes.

86. SEC. 26. That if any county, township, city or ward collector, or any receiver of taxes or collector of arrearages of taxes, shall embezzle, unlawfully loan or retain in his hands any money received or collected by him for the state, or any county, city, borough, township, ward or school, or road district, he shall be deemed guilty of a misdemeanor and liable to be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding five years, or both.

Interest to be paid by delinquent.

87. SEC. 27. That if any person or corporation shall refuse or neglect to pay the tax due from such person or corporation by the time appointed by law for the payment of the same, such delinquent shall pay interest on said tax at the rate of twelve per centum per annum upon the amount of each tax from the time of such delinquency, until such tax be paid, which interest shall be added to the amount of each tax by the officer whose duty it shall be to collect such tax, and shall be collected by such officer, and accounted for and paid over by him in the same manner that the taxes of delinquents are by law required to be collected and paid over. (b)

Notice required by section 11 to be in writing or printed.

88. SEC. 28. That the notice first required by the eleventh section of the act to which this is a further supplement, shall be in writing or printed, and shall set forth the number of acres assessed, the value of the real estate, and of the personal estate assessed to each one, and of the rate per dollar assessed and the several sums assessed on each person or corporation for state, county, township, poor, school, road, poll, dog and other taxes, as the same are stated on the duplicate, and the time and place of the meeting of the commissioners of appeal; and if any collector shall neglect to deliver said notice as required by the said eleventh section of the aforesaid act, he shall forfeit to each person or corporation assessed, and residing in his township or ward, whose notice he shall neglect to deliver, the sum of fifty dollars, to be recovered by action of debt in any court of record of this state. (c)

Compensation of assessors and collectors.

89. SEC. 29. [Amended by Sec. 117, *post*.]

90. SEC. 30. That the several assessors and collectors of the townships and wards of this state shall be entitled to receive twelve cents, and no more, for each name on their respective duplicates for assessing, levying and collecting all the taxes by them assessed and collected; *provided*, that no name occurring on the duplicate more than once be counted more than as one man; *provided, however*, that wherever the assessors or collectors of any city, town or townships do now receive any fixed salary under any special law of this state, this act shall not entitle any such assessors or collectors to any additional fees. (d)(1)

Penalty for false swearing

91. SEC. 31. That any person guilty of willful and corrupt false swearing or affirming in taking any oath or affirmation required or authorized by this act shall be deemed to be guilty of perjury, and punished accordingly.

Repealer.

92. SEC. 32. That the forty-fifth section of the act to which this is a supplement and the several supplements to the act to which this is a further supplement, approved March twenty-sixth, eighteen hundred and fifty-

(a) The state and county taxes must be paid by way of preference out of the first moneys raised by taxation. *Bayonne v. State*, 12 Vr. 369. *Gabler v. Elizabeth*, 13 Vr. 83. *Water Commissioners v. Brewster*, 13 Vr. 130. *Veghie v. Township of Bernards*, 12 Vr. 338. *Freeholders of Ocean v. Township of Lacey*, 13 Vr. 536. *Sheridan v. Van Winkle*, 14 Vr. 126. *Sheridan v. Stevenson*, 15 Vr. 371. *Dugan v. Jersey City*, 21 Vr. 359. *Bogert v. Mathe*, 22 Vr. 216. *Shields v. Paterson*, 26 Vr. 495. See *State, Pierson v. Douglass*, 4 Vr. 368, 366.

(b) Where a statute imposed a penalty of twelve per cent. on failure to pay the tax assessed—*Held*, that such penalty could not be collected after the repeal of the statute—the rule being that the assessment of the tax was a thing passed and completed, and could not be affected by the repeal. *Contra* with respect to the penal percentage. *Belvidere v. Warren E. R. Co.*, 5 Vr. 193, 6 Vr. 584, 587.

(c) *Vanderpool v. Bonnell*, 20 Vr. 321.

(d) Under this section a township collector is entitled to receive twelve cents, and no more, for each name on his duplicate, for collecting all taxes inclusive, state, county, township, school, poor and other taxes, except so far as this section has been modified by subsequent legislation. *Demarest v. Inhabitants of New Barbadoes*, 11 Vr. 604. The words "all taxes" in this section cannot be treated as distributive, giving twelve cents, or less, for each name separately, instead of for all conjunctively. *Id.*, affirming *S. C.*, 1 N. J. L. J. 54. For which see construction of the statutes upon taxes, in respect to the fees allowed township collectors, and in which the modifications by subsequent legislation are given in detail.

(1) See Sec. 204, *post*, providing for the fees of assessors and collectors of townships of this state.

two, entitled, "An act to provide for the collection of taxes due from banks and banking associations of this state," and the supplements approved March third, eighteen hundred and fifty-four, March fifteenth, eighteen hundred and sixty-one, March eleventh, eighteen hundred and sixty-two, March twenty-eighth, eighteen hundred and sixty-two, March twenty-fifth, eighteen hundred and sixty-three, April fourteenth, eighteen hundred and sixty-four, and a second supplement, eighteen hundred and sixty-four, and April fifth, eighteen hundred and sixty-five, and all other acts or parts of acts, whether special or local or otherwise, inconsistent with the provisions of this act, be and the same are hereby repealed, except an act entitled "A further supplement to the act entitled 'An act concerning taxes,'" approved April fourteenth, eighteen hundred and forty-six, which supplement was approved March twenty-fourth, eighteen hundred and sixty-four, and such special or local acts as shall have been approved since the year eighteen hundred and sixty-two ;(a) *provided*, that the supplement to the charter of Jersey City, approved March twenty-ninth, eighteen hundred and sixty-six, and the acts and parts of acts thereby reinstated shall not be affected by this act.

Supplement.

Approved April 11, 1867. P. L. 1867, p. 934.

93. SEC. 1. That the township committee of each township, and the common council of each town, borough and city in this state shall meet and hold meetings at their usual places of meeting in their respective townships, towns, boroughs and cities, on the third Tuesday in August of each year, for the purpose of examining, revising and correcting the duplicate of assessment to be laid before them in the manner hereinafter provided for. (b)

When town committee, &c., to meet and revise assessment.

94. SEC. 2. That assessors shall hereafter finish making their assessments on or before the third Monday in August of each year.

Assessment, when to be completed.

95. SEC. 3. That the assessors of the several townships, towns, wards, boroughs and cities in this state shall, on the third Tuesday in August of each year, attend the meeting of the committee or council of his township, town, borough or city, and lay before them the duplicate of assessment, to be by them examined, revised and corrected ;(c) and that it shall be his duty to remain with said council, for the purpose of explaining the said duplicate, and assisting said committee or council in the discharge of the duties required of them by this act.

Assessors to attend meeting of town committee.

96. SEC. 4. That said committees and councils respectively shall have power to adjourn from time to time, as they may deem expedient; for the purpose of discharging the duties required of them by this act ; *provided*, the said examination, revision and correction shall be made and completed on or before the last Saturday in August of each year.

Committee may adjourn from time to time.

97. SEC. 5. That any member of said committees or councils shall have power to issue subpoenas to bring before said meetings herein provided for, persons and papers to be examined in relation to said assessments.

Any member may issue subpoenas.

98. SEC. 6. That all acts and parts of acts inconsistent with this act be, and the same are hereby repealed ; *provided*, that the provisions of this act shall not affect cities or incorporated towns where these matters are given by their charters or special laws.

Act not to affect incorporated towns.

Supplement.

Approved April 1, 1868. P. L. 1868, p. 559.

99. SEC. 1. That in all cases where a tax warrant has been issued, and the township collector, or other officer to whom it was delivered, has neglected or failed to execute or return the same, it shall be lawful for the justice who issued the same, upon its return to him, with an affidavit

Alias tax warrants, when and to whom to issue.

(a) The act of March 26th, 1852, entitled "An act regulating the proceedings in cases of erroneous taxation" (*post*, Sec. 487), is not repealed by this section. *State, Harned v. Manning*, 13 Vr. 163. See *State, Hall v. Parker*, 4 Vr. 312. *State, Camden and Burl. R. R. Co. v. Cook*, 3 Vr. 238, 341.

can increase the valuation placed by the assessor upon real estate without notice to the owner. *Vanderpool v. Bonnell*, 20 Vr. 817.

(c) The correction must relate back to the day when the assessment ought to have been made. *State, Shippen v. Hardin*, 5 Vr. 79, 81.

(b) The township committee, under the provisions of this act,

annexed that the taxes, or some part of the same, remain unpaid, and giving the names of the delinquents therein, with the amount of the taxes against them respectively still in arrears and unpaid, to issue an alias tax warrant against the said delinquents for the taxes for which they are so in arrear, to be directed to the township collector for the time being, or other proper officer, to be proceeded on in all things as in the case of the original warrant. (a)

P. L. 1869, p. 612.

Proceedings in case of neglect to return tax warrant.

Alias and pluries warrants to issue.

Supplement.

Approved March 24, 1869.

100. SEC. 1. That in all cases where a tax warrant has been or shall hereafter be issued for the collection of taxes in any township of the state, and the officer receiving the same has neglected or failed to execute or return the same, or to collect any part of the taxes thereby directed to be collected within the time now limited by law, the justice of the peace who issued the said warrant, or in case of his death or disability, or the expiration of his term of office, then any other justice of the peace of the said county shall, at the request of the township committee of the said township, issue alias or pluries warrants for the collection of such taxes as shall remain uncollected under the previous warrant, which said alias or pluries warrants shall be good and effective for that purpose, and shall be executed and returned in like manner as is provided in the case of original warrants, and shall be directed and delivered to such constable of said county as the township committee may designate, or such special constable as may be appointed by the said committee for that purpose; and such constable or special constable so designated or appointed, after giving bond with such security as the said committee may direct and approve of shall, in the execution of said warrant, have the same powers and perform the same duties, and be subject to the same liabilities and forfeitures, and receive the same compensation as is now provided in relation to the township collectors of the several townships in the execution of warrants for the collection of taxes. (b)

Supplement.

Approved April 1, 1869.

P. L. 1869, p. 1149.

Bank stock to be taxed where owner resides, except that of non-residents, which is to be taxed to the bank.

101. SEC. 1. That every person shall be assessed in the township or ward where he resides for all shares of the stock of any national bank in this state, or of any bank organized under the laws of this state, owned by him or in his possession or control as trustee, guardian, executor or administrator; and in case said owner, trustee, guardian, executor or administrator shall be a non-resident of this state, then, and in that case such banks shall be assessed to the amount of such shares so owned or held by non-residents as aforesaid, in the manner now provided by statute in the case of other corporations. (c)

Supplement.

Approved March 21, 1871.

P. L. 1871, p. 48.

Poll tax to be assessed.

102. SEC. 1. That hereafter a poll tax not exceeding one dollar shall be assessed upon every male inhabitant of this state of the age of twenty-one years and upwards, except the polls of all volunteers and sailors, who have served for the period of one year or more, also those wounded and discharged in consequence thereof, in the armies or navies of the United States, who have been honorably discharged, and of all paupers, idiots

(a) After a tax warrant has been issued and the officer has neglected to return it, alias and pluries warrants may be issued, but not after the expiration of the term of the officer whose duty it was to make such return. *State, Trustees, &c., v. Lewis*, 6 Vr. 377, 380. See *Silverthorne v. Warren R. R. Co.*, 4 Vr. 372, 377. *Estell v. Hawkins*, 21 Vr. 122. See Secs. 100, 122, 124, 151 and 194, *post*.

(b) The only instance where a justice, other than the one who issues an original tax warrant, can issue an alias, is when a request is made for the issuing of the second writ by the township committee. *State, Midland Ferry Co. v. Dobbs*, 13 Vr. 136.

(c) The provision of the constitution of this state, as amended, that "property shall be assessed for taxes under general laws and by uniform rules" *proprio vigore*, put an end to existing special legislation for the assessment of taxes. *State, North Ward Nat. Bank v. Newark*, 11 Vr. 558. An assessment of tax on the stock of a national banking association in this state,

owned by a stockholder residing in the city in which the association is located, cannot be sustained by the presumption that the stockholder resided in the ward in which the association is located. It is the right of the stockholder, under the laws of this state, to have the assessment in such case made against himself. *Ib.*, affirming 10 Vr. 380. Bank shares may be rated at more than would be produced by a division of the capital and surplus among all the shares, the bank's business and franchises being likewise entitled to consideration in fixing their real worth. *Stratton v. Collins*, 14 Vr. 563. Under the act of congress, section 5219 of the Revised Statutes, shares in national banks are to be assessed at their actual value, without any deduction on account of the bank's capital or surplus being invested in United States securities. *Ib.* Stock in a national banking association, located in another state, cannot be taxed under the laws of this state. *De Bann v. Smith*, 26 Vr. 110. *Tappan v. Merchants' Nat. Bank*, 19 Wall. 490.

and insane persons; *provided*, that nothing in this act shall in anywise interfere with the poll tax required to be raised by any special law in payment of bounties. [See Sec. 820, *post.*]

Supplement.

Approved April 4, 1872. P. L. 1872, p. 90.

103. SEC. 1. That the word "citizen," in part one, of the fifth section of the act, to which this is a supplement, shall be deemed and taken to include bodies corporate. [See Sec. 65, *ante*, and Sec. 200, *post.*]

The word "citizen" shall include bodies corporate.

Supplement.

Approved March 21, 1873. P. L. 1873, p. 57.

104. SEC. 1. That the collector of taxes in any township, borough, town or ward in this state shall furnish a correct copy, in writing, under oath or affirmation of the duplicate or transcript of the assessment of taxes and the tax warrant or warrants in his hands or possession to the committee of township or common council of the town or borough whereof he is collector, when required by a resolution of said committee or council, within five days after a copy of such resolution in writing, attested by the clerk of the township, town or borough shall be served on him.

Collector to furnish copy of duplicate of assessment when required.

105. SEC. 2. That but one copy as aforesaid shall be required of said collector during his term of office.

One copy only to be required.

106. SEC. 3. That in case of the willful neglect or refusal of said collector to furnish a copy as aforesaid, he shall forfeit to the said township, borough or town, the sum of fifty dollars, to be recovered by said township, borough or town, in an action of debt, in the corporate name of said township, borough or town, for every five days he shall neglect or refuse.

Penalty for neglect or refusal.

Supplement.

Approved April 3, 1873. P. L. 1873, p. 118.

107. SEC. 1. That when the collector of any county or the treasurer of any corporation chartered by the laws of this state, shall fail to pay into the state treasury any state or school tax levied, assessed and collected in accordance with the laws of this state, or due the state under the provisions of any act of incorporation, and shall withhold the same for more than fifteen days after the time that the law requires the said tax to be paid to the state treasurer, then the said treasurer shall be and he is hereby authorized to demand interest at the rate of ten per centum per annum upon the amount so withheld from the time the said amount was due up to the date of payment into the treasury. [See Sec. 490, *post.*]

Treasurer authorized to demand interest when certain taxes are withheld for a stated period.

108. SEC. 2. That upon the failure of any county collector, or the treasurer of any corporation, to pay interest as required by the foregoing section, upon the demand of the state treasurer, then the comptroller of the treasury shall be and he is hereby authorized and directed to bring suit against such delinquent collector or treasurer for the amount of such interest, to be recovered in action of debt with costs of suit; and all interest moneys received in pursuance of this act shall be paid into the state treasury, to be used and applied in the same manner as now is or shall be provided by law for the use or application of the principal thereof.

Treasurer authorized to bring suit against delinquents.

Supplement.

Approved March 5, 1874. P. L. 1874, p. 27.

109. SEC. 1. That hereafter, in all cases where taxes are imposed by virtue of any law of this state, upon personal property where the same is situated, such property shall not be liable to taxation elsewhere.

Personal property only to be taxed where situated.

110. SEC. 2. That in any case, where property is so taxed, the certificate of the assessor by whom the assessment was made shall be deemed sufficient evidence thereof, and shall entitle the owner to exemption for such property in all other places.

Certificate of assessor shall be evidence of taxation.

Supplement.

Approved April 9, 1875.

P. L. 1875, p. 101.

Certificate of sale not to be set aside for variance between date of notice and actual publication.

Proviso.

111. SEC. 1. That in all cases where public notice for a specified time is required by law to be given, before proceedings are had for the public sale of lands for unpaid taxes, no certificate of sale or tax title shall be set aside and holden for naught by reason of any variance between the date of such notice, and the actual publication thereof; *provided*, that notice shall have been or shall be actually given for the specified number of days prior to such proceedings for public sale. (a)

Supplement.

Approved April 17, 1875.

P. L. 1875, p. 160.

Mortgages subject to taxation, how assessed.

Township collector to make list of delinquents.

Unpaid taxes on mortgages, how collected.

Arrest.

Fees to justice and collector.

Constable executing warrant to make return within sixty days.

- 112. SEC. 1.** [Amended by Sec. 198, *post.*]
- 113. SEC. 2.** That hereafter such mortgages or debts secured thereby as shall be subject to taxation, shall be assessed for taxation by the assessor making the deduction on account thereof, and the tax thereon shall be collected by the collector of taxes in and for the township or city wherein the lands in the mortgage described are situate.
- 114. SEC. 3.** That in case the taxes upon such mortgages or debts secured thereby, as shall hereafter be assessed, shall remain unpaid for the space of sixty days after the time appointed for the payment of taxes, it shall be the duty of every city or township collector to make out a list of the names of the delinquents, classifying them according to their residences in counties, with the sums due from them respectively for taxes upon mortgages held by them, for which deduction has been allowed, thereto annexed, and shall deliver the same to some justice of the peace of the county wherein the said delinquents reside respectively.
- 115. SEC. 4.** That such justice of the peace shall, within five days after the receipt of such list as aforesaid, make out and deliver to the constable or constables of his county a warrant or warrants requiring him or them to levy the tax so in arrear, with costs, by distress and sale of the goods and chattels of the delinquents, giving at least four days' notice of the time and place of such sale by advertisement set up in three of the most public places in the place where such delinquent resides; and said warrant shall further direct that if goods and chattels of the delinquent cannot be found, or not sufficient to make the money required, the constable shall take his or her body if to be found in the county, and deliver the same to the sheriff of such county or his jailer, to be kept in close and safe custody until payment be made of the said tax with cost.
- 116. SEC. 5.** That the justice who shall issue the warrant shall be allowed two cents for each delinquent's name therein contained, and the collector shall be allowed thirty-four cents for each distress; that it shall be the duty of said constable executing any such warrant as aforesaid, to make return thereof to the justice who shall issue the same, within sixty days from the time the same shall be delivered to him, with a statement showing what moneys have been collected by him and from whom, and shall return the moneys collected by him to the said justice.

Supplement.

Approved March 27, 1878.

P. L. 1878, p. 195.

Tax warrants to be issued to collector.

- 117. SEC. 1.** That the twenty-ninth section of an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, eighteen hundred and forty-six," approved April eleventh, eighteen hundred and sixty-six, which reads as follows [see P. L. 1866, p. 1078, and Sec. 89, *ante*], shall read as follows:
- [That the warrants hereafter issued for the collection of delinquent taxes in the townships, boroughs, towns, cities, districts or wards of this state, by virtue of the act to which this is a further supplement, shall be directed

(a) The words *shall have been or shall be*, in the proviso of this section, to heal defects in public notices, are prospective and not retroactive. The intent to make statutes retroactive must

clearly appear by express words or by necessary implication. *State, Alden v. Newark*, 11 Vr. 92; affirmed, 15 Vr. 648.

and delivered to the collector of the township, borough, town, city, district or ward; and the said collector shall, in the execution of said warrant, have the same powers and perform the same duties, be subject to the same forfeitures and receive the same compensation as is prescribed to the constables by the provisions of the aforementioned act; *provided*, that this section shall not apply to any city, borough, township, town or district having special provisions inconsistent herewith; *and provided further*, that the said delinquent tax warrant may be delivered to any constable of said township, borough, town, city, district or ward by request of said collector; and the said constable shall be subject to the same forfeitures and receive the same compensation as is prescribed to constables by the provisions of the aforementioned act.] (a)

Proviso.

Proviso.

Supplement.

Approved March 29, 1878.

P. L. 1878, p. 213.

118. SEC. 1. That in making the valuation and assessment of personal estate within this state for state, county, township and municipal taxes, no deduction of the amount of any personal indebtedness shall be made therefrom, unless the individual claiming such deduction shall sign a statement in writing, under oath or affirmation, of the truth and justice thereof, and of the several debts owing by such individual which he desires to have deducted, to whom owing and where the creditor resides, and also of the total amount of personal property of such individual, including debts due and owing to such individual from solvent debtors; and also that no part of such indebtedness was created for the purpose of reducing the taxes of such individual; and that the stated actual value of the personal property of such individual includes not only that to which such individual holds title or possession, but also that to which any other person or persons hold the title or possession for such individual, whether the same be held in trust or not. (b)

Claim for deduction of personal indebtedness to be made under oath.

119. SEC. 2. That any person guilty of willful and corrupt false swearing or affirming in taking any oath or affirmation required by this act shall be guilty of perjury and punishable accordingly.

Penalty for false swearing.

Supplement.

Approved March 14, 1879.

P. L. 1879, p. 228.

120. SEC. 1. That all debts due to the state of New Jersey and secured by mortgages to the school fund and sinking fund shall be deducted from the taxable property of the debtor claiming such deduction; *provided*, that this act shall not apply to any county or counties in this state where, by virtue of any public or private acts, the mortgagor or mortgagors are not permitted to deduct from their taxable property the amount due on such mortgage or mortgages. (c)

Mortgages due to state school and sinking funds may be deducted.

(a) The effect of this section was simply to dispense with the constable in the collection of delinquent taxes, and to put in his place the township collector. *McEachron v. New Providence*, 6 Vr. 528, 533. A tax warrant issued and delivered to the collector before a *fi. fa.* is delivered to the sheriff, but not levied until after the levy under the *fi. fa.*, shall have priority over it. *Evans v. Walsh*, 12 Vr. 281. Where a declaration of sale of land for taxes is void, because the sale was made by a collector of taxes, under a warrant issued by the township committee to any constable of the county, there being no covenant or warranty of title, the purchaser who pays the consideration price voluntarily with knowledge of the facts, cannot recover back the purchase-money of the collector after the same has been paid over to the township for a tax legally assessed. *Tooker v. Roe*, 15 Vr. 591. Under a warrant for the sale of goods and chattels issued for the collection of unpaid taxes, the collector cannot advertise the sale of lands of delinquent taxpayers. Any interference with lands by virtue of its commands is unwarranted, and may be disregarded. The advertising of lands under such warrant will not, however, render the warrant void or illegal. *Estell v. Hawkins*, 21 Vr.

122. Particularity of description sufficient to identify lands or to ascertain the location or extent thereof is not essential to the validity of a tax on lands. It is required in the duplicate warrant to sell and notices of sale only when the lien upon lands for taxes given by the statute is intended to be enforced by sale. *Ib.*

(b) A taxpayer and resident in the city of Trenton, owning real and personal estate in said city, is entitled to have debts *bona fide* due and owing by him to creditors residing in this state deducted from the taxable valuation of his real and personal estate, notwithstanding the Trenton charter provides that no deduction for indebtedness shall be made from the valuation of real estate, that provision being unconstitutional. *Howell v. Richards*, 18 Vr. 434.

(c) A debtor who desires to claim a deduction from his tax, on the ground that the state holds a mortgage on his land, must make such claim to the assessor under oath. *Conover v. Honce*, 17 Vr. 347. The proviso in the above act is inoperative by reason of the fact that the constitutional amendment requiring property to be assessed for taxes under general laws and by uniform rules has abrogated all laws of the character mentioned in the proviso. *Murphy v. Trenton*, 18 Vr. 80.

Supplement.

Approved February 28, 1881.

P. L. 1881, p. 46.
Mortgages due boards of freeholders for moneys loaned from the surplus revenue may be deducted.

121. SEC. 1. That all debts due to the boards of chosen freeholders of the respective counties of this state, for moneys heretofore loaned or hereafter to be loaned by them from the surplus revenue of the general government, heretofore apportioned among said counties, and secured by mortgages to the said respective boards of chosen freeholders, shall be deducted from the taxable property of the debtor claiming such deduction.

Supplement.

Approved March 3, 1881.

P. L. 1881, p. 71.
Fee to justices for issuing alias and pluries warrants.

122. SEC. 1. That hereafter in all incorporated cities in this state for every alias and pluries warrant issued for the collection of taxes, the fee allowed to the justice of the peace who shall issue the same shall be five mills for every delinquent's name therein contained, where the number shall exceed two hundred.

Repealer.

123. SEC. 2. That all acts and parts of acts, general, local and special, inconsistent with this act, are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 15, 1881.

P. L. 1881, p. 117.
How alias or pluries warrants shall be issued in towns.

124. SEC. 1. That in all cases where a tax warrant has been or shall hereafter be issued for the collection of taxes in any incorporated town of the state, and the officer receiving the same has neglected or failed to execute or return the same, or to collect any part of the taxes thereby directed to be collected within the time now limited by law, the justice of the peace who issued the said warrant, or in case of his death or disability, or the expiration of his term of office, then any other justice of the peace of the said county, shall, at the request of the common council of the said town, issue alias or pluries warrants for the collection of such taxes as shall remain uncollected under the previous warrant, which said alias or pluries warrants shall be good and effective for that purpose, and shall be executed and returned within sixty days from the date of issuing the same in the manner provided for the return of original warrants in said incorporated towns, and shall be directed and delivered to the collector of said town, or to such person as the said common council may appoint for that purpose; *provided*, that in case of the appointment of any person other than the collector he shall be required, before receiving the said warrant, to give a bond with such security as the common council may direct and approve of; and the said collector or other person so appointed shall in the execution of the said alias or pluries warrants, have the same powers and perform the same duties, and be subject to the same liabilities and forfeitures, and receive the same compensation as is now provided in relation to the collectors of the several incorporated towns, in the execution of warrants for the collection of taxes. [See Secs. 151 and 194, *post*.]

When to be executed and returned.

Proviso.

Supplement.

Approved March 25, 1881.

P. L. 1881, p. 255.
Township collector to file list of delinquents on April 1st.

125. SEC. 1. That on or before the first day of April, annually, the collector, or other officer having the collection of taxes for any township in this state, shall make out and file with the clerk of such township a statement in writing, setting forth in detail the name of each person assessed whose tax or taxes he has been unable to collect from the person charged with such tax or taxes, by reason of removal, insolvency or erroneous assessment, the value and kind of property, the amount of tax and the cause of inability to collect said tax, in each case, in proper columns provided in a list for that purpose, which said statement shall be verified by the oath or affirmation of such collector or other collecting officer.

126. SEC. 2. That the township committee shall, within ten days after the filing of the statement mentioned in the preceding section, carefully examine said statement, and, on being satisfied as to the correctness of the same, or any part thereof, may, by resolution, credit and release the said collector, or other collecting officer, from liability and collection of any or all the taxes so reported by him as being uncollectible. (a)

Township committee may release collector from liability.

Supplement.

Approved March 17, 1882.

P. L. 1882, p. 120.

127. SEC. 1. That it shall be lawful for the assessor, or for the commissioners of appeal in cases of taxation, to deduct from the valuation of the taxable property for which any person shall be assessed, any debt or debts due and owing from such person upon any mortgage made to the chancellor, in his official capacity, or to the state of New Jersey, for the investment of money in the court of chancery, upon claim for such deduction being made according to law. (b)

Mortgages to the chancellor or the state may be deducted.

128. SEC. 2. That such mortgages, or the debts secured thereby, shall be assessed for taxation by the assessor making the deduction on account thereof, and the tax thereon shall be collected by the collector of taxes in and for the city or township wherein the lands in the mortgage described are situated.

Taxes, by whom assessed and collected.

129. SEC. 3. That such assessment shall be made to the person or persons having the beneficial interest in the said mortgage or mortgages, or who may be entitled to have the income or interest thereof at the time of such assessment, whether such person or persons reside in this state or not. (c)

To whom assessment shall be made.

130. SEC. 4. That where the person or persons, assessed as aforesaid, is or are resident or residents of the state of New Jersey, and such taxes remain unpaid for the space of sixty days after the expiration of the time appointed for the payment of taxes, then it shall be the duty of the collector to proceed to collect such delinquent taxes in the manner provided for by an act entitled "A further supplement to the act entitled 'An act concerning taxes' [Revision], approved April fourteenth, eighteen hundred and forty-six," approved April seventeenth, eighteen hundred and seventy-six.

Unpaid taxes against residents, how collected.

131. SEC. 5. That where the person or persons, assessed as aforesaid, is or are a non-resident or non-residents of the state of New Jersey, it shall be the duty of the person claiming deductions to pay the taxes so assessed, and payment of the same may be enforced by like means and processes as if the same had been originally assessed to such person, and any taxes which such person may pay or satisfy as aforesaid shall be deemed and taken to be a payment, so far as such payment will extend, on the interest or income due, or to grow due, on or secured by the said mortgage.

Unpaid taxes against non-residents, how collected.

132. SEC. 6. That in case any taxes assessed since the fourth day of July, one thousand eight hundred and seventy-nine, upon any of the said mortgages, or the debts secured thereby, to the person or persons for whom the same was or were, at the time of such assessment, held in trust by the chancellor, in his official capacity, or the state of New Jersey, for the investment of money in the court of chancery, or who then had, or were entitled to have, the beneficial interest or income from the same, shall be and remain unpaid, it shall be the duty of the person or persons who claimed deduction from the same to pay such taxes to the collector of the township or city wherein the said deduction was made, and in case of the failure of such person or persons to pay the said taxes within ten days after demand, collection of the same may be enforced the same as if they had originally been assessed upon his or their property, and the payment

Taxes assessed since July 4th, 1879, how collected.

(a) The township committee has no power to direct the township collector not to collect a tax which, although illegal, has never been set aside, and therefore, if he fails to collect said tax, neither he nor the sureties on his official bond can enjoin an action at law by the township against them. *Painter v. Blatrans-town*, 16 *Stew.* 317.

(b) This act was declared unconstitutional by the supreme

court, because of its special character in not including in its operation all mortgages made to officers of courts, the interest or income from which is payable to a beneficiary. *Shotwell v. Dabrymple*, 20 *Vt.* 530.

(c) An assessment made against the chancellor as "chancellor in trust" is unauthorized. *Ming's Case*, 12 *Stew.* 2.

of such taxes shall operate as a payment, so far as the same will extend, on any interest or income due, or to grow due, on the mortgage debt. (a)

Upon petition of collector, chancellor may make order for payment of taxes out of income.

133. SEC. 7. That upon petition of the collector for the time being of any township or city to which any of the said taxes, assessed as aforesaid, now are or hereafter may be due and unpaid, it shall be lawful for the chancellor to make such order and take such measures for the payment of the same out of the income or interest of the mortgage or debt secured thereby, on which the said tax is assessed, as to him shall seem proper, and to enforce such order as in other cases.

Repealer.

134. SEC. 8. That this act shall take effect immediately, and that all acts or parts of acts inconsistent herewith be and the same are hereby repealed.

Supplement.

Approved March 17, 1882.

P. L. 1882, p. 135.

Taxes levied for school purposes to be entered in tax levy as a separate item.

135. SEC. 1. That in all cases where a tax shall be levied in any city, borough, town or township of this state, which tax shall include any moneys to be raised for school purposes, the amount of the tax against any property, either real or personal, which shall be intended for said school purposes, shall be entered in the tax levy made against said property as a separate item; and all tax bills which shall be sent out or rendered by any city, borough, town or township of this state shall state the amount of said school tax in a separate item.

Also in tax bills.

An act increasing the compensation to be paid to commissioners of appeals in cases of taxation, being an act to amend an act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six.

P. L. 1883, p. 29.

Approved February 12, 1883.

136. SEC. 1. That section fifty-two of an act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, being also the fifty-first section of the general tax law as published in the revision of the statutes of New Jersey, published under the authority of the legislature, by virtue of an act approved April fourth, one thousand eight hundred and seventy-one, be amended to read as follows:

Compensation of commissioners of appeals.

[That every commissioner of appeals shall be paid out of the public money in the hands of the collector of such township, the sum of three dollars a day, for every day he shall have attended on the hearing and determining of such appeal, whose receipt shall be a sufficient voucher to such collector for so much of the said money as shall be paid by him for that purpose.]

Supplement.

Approved March 5, 1883.

P. L. 1883, p. 65.

Poll-tax not to exceed \$1.

137. SEC. 1. That hereafter there shall not be assessed upon any inhabitant of this state any poll tax for any of the purposes provided for in any special or local law of this state in excess of the sum of one dollar, any such special or local law, or any general law of this state, to the contrary notwithstanding. [See Secs. 185 and 525, *post.*]

Poll tax in excess of \$1, how to be raised.

138. SEC. 2. That in all the counties in this state where any special or local law now provides for the assessment of a poll tax in excess of the sum of one dollar, for any purpose whatever, the tax necessary for such purpose shall hereafter be assessed and levied upon the property in such county in the same manner as other counties are now assessed and levied. (b)

Repealer.

139. SEC. 3. That all acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect immediately.

(a) A tax assessed after July 4th, 1879, when the act in P. L. 1879, p. 54, went into effect, was held to have been validated by the above section. *Cox's Case*, 9 *Stew.* 448.

(b) This is not a special or local law within the prohibitions of

the constitution. *Hines v. Freeholders of Essex County*, 16 *Vr.* 505. Neither does it impair the obligation of the contract into which Essex county entered by the issue of its bonds under the act of 1865. *Id.*

Supplement to an act entitled "A further supplement to an act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, and which said supplement was approved April eleventh, one thousand eight hundred and sixty-six.

Approved March 23, 1883. P. L. 1883, p. 192.

140. SEC. 1. That section thirteen of said act to which this is a further supplement [see Sec. 73, *ante*] be amended so as to read as follows :

[That the board of assessors, when met as aforesaid, shall compute and ascertain the whole value of real and personal estate after the deduction of debts, to be taxed according to the value thereof, contained in the duplicates of the several assessors or estimated as aforesaid, and shall fix and adjust the proportion or quota of tax to be levied and collected in each township or ward in proportion to said value; *provided*, that if it shall appear to the assessors, so met as aforesaid, from a careful, particular and thorough comparison of the said respective duplicates, that the value of the property contained in any duplicate is relatively less than the value of other property in the county, they may, for the purpose of fixing and adjusting the said proportion or quota, and for that purpose only, add thereto such percentage as shall appear to them just and proper, and warranted by said comparison, but not otherwise; and it shall be the duty of such assessors, at such meeting, to make out two abstracts of the net value of the taxable real and personal property, designating the amount of real estate and personal property in each township and ward, which shall be signed by every assessor present, and shall within three days, be delivered to the county collector, who shall forthwith file one of them and transmit the other to the comptroller of the state, for the use of the legislature; and each of the said assessors shall, within fifteen days after said meeting, deliver to the collector whose duty it is to collect the taxes by him assessed, a true transcript or duplicate of the assessment of taxes for the said township (or ward), completed as herein directed, and by him certified under his hand to be a true duplicate of the taxes assessed; *and provided also*, that if a majority of the assessors of the county shall fail to meet on the day prescribed by law, those met shall adjourn from day to day, at the same place, until a majority shall attend.](a)

Duties and powers of county board of assessors.

Proviso.

Abstracts to be filed with county collector and state comptroller.

Proviso.

Supplement.

Approved March 10, 1884. P. L. 1884, p. 72.

141. SEC. 1. That if in any city, ward or township of this state there exists a vacancy in the office of assessor of such city, ward or township, or a vacancy or vacancies in the membership of any board whose duty it is to assess and levy the state, state school and county taxes within such city, ward or township, at the time fixed by law for the meeting of the assessors of the county, it shall and may be lawful for the majority of the assessors of the county wherein such city, ward or township is situate, attending such meeting, after they shall have ascertained the proportion of the tax to be assessed and levied on the city, ward or township of the non-attending assessor in the manner prescribed by section nine of the act to which this is a supplement, forthwith to appoint a committee of not less than three of the attending members of their body, who thereupon are authorized

When vacancy exists in office of assessor in city, ward or township, majority of assessors of county may appoint committee to assess taxes.

(a) When the board of assessors meet, the township to whose quota of tax an addition is proposed to be made, cannot offer evidence to rebut any alleged inequality. The assessors must determine, upon their own knowledge, the existence of any inequality. *State, Weehawken v. Roe*, 7 Vr. 86. Before they can interfere at all with any duplicate, they must decide that the valuation contained in it is relatively less than the value of other property in the county, and then correct it as to themselves shall seem just and proper. *Ib.* The duplicates of the several assessors are presumed to contain correct valuations of all taxable property in each township or ward. The board of assessors is not warranted in reducing the valuations of any duplicate; nor has it power to increase the valuations contained in any duplicate, unless upon a careful, particular and thorough comparison of the several duplicates, and then only by increasing the valuation by such a percentage as shall appear to be just and proper and warranted by such

comparison. *See Isle City v. Cape May*, 21 Vr. 50. Acquiescence and delay in objecting to the proportion or quota of tax to be levied and collected, fixed by the board of assessors of the several townships and wards of the county and an increased assessment imposed, will be construed as a waiver and *certiorari* refused. *Township of Delaware v. Assessors of Taxes*, 24 Vr. 319. To authorize an increase of the valuation of any township duly returned to the county board of assessors it is necessary for the board—(1) To make a careful, particular and thorough comparison of the respective duplicates. (2) To adjudge that the value of the property contained in any duplicate is relatively less than the value of other property in the county. (3) To thereupon add such percentage as shall appear just, proper and warranted by such comparison. *Englewood v. Hopper*, 25 Vr. 544. *See East Brunswick v. New Brunswick*, 28 Vr. 145. *See P. L. 1891, p. 189 (Sec. 286, post)*.

and empowered to perform all duties which by law the assessor of any such city, ward or township, or any such board, is, or may be required by law to perform as to the levying and assessing of any state, state school and county taxes, within any such city, ward or township. (a)

Supplement.

Approved February 23, 1885.

P. L. 1885, p. 40.

Additional facts to be sworn to on claim for deduction for debts, &c.

142. SEC. 1. That in all cases in which deductions shall be hereafter claimed or allowed, either for indebtedness or for property claimed to be exempt from taxation, from the total values of the property or estate of any person or corporation to be assessed for taxes in this state, such person or corporation shall, in addition to the requirements now imposed by law, furnish to the assessor or other taxing officer or authority a statement under oath or affirmation, showing when the indebtedness for which said deduction is claimed was incurred, and a detailed list of the securities or property claimed to be exempt from taxation, and of the dates at which said securities or other property were purchased, together with a declaration under oath that said indebtedness was not incurred, nor said securities or property purchased with the intent to escape taxation, but in good faith.

No deduction to be made unless statement furnished.

143. SEC. 2. That no deduction shall be made, either for indebtedness, or for property or securities claimed to be exempt from taxation, unless the statement and deduction hereinbefore required shall be furnished at the time and in the manner now or hereafter directed by law for furnishing statements of taxable property and schedules of indebtedness; and that any person who shall in such statement make a false return, in whole or in part of his or her taxable property or of his or her indebtedness, or of the indebtedness or taxable property of the corporation of which he may be an officer, or of such property or securities claimed to be exempt from taxation, shall be deemed guilty of perjury and subject to the penalties now or hereafter prescribed by law for that offense.

Penalty for false return.

Statement by corporation, how subscribed.

144. SEC. 3. That the statements and declarations herein required to be furnished, when made by or in behalf of any corporation, shall be subscribed and sworn to by the president or principal officer of such corporation.

Powers of assessor to ascertain truth of statement.

145. SEC. 4. That the assessor, taxing officer or other taxing authority, to whom such statements and declarations shall be made, shall have power to examine under oath any person or officer of any corporation as to the truth of the matters contained in the statement or return made by such person or officer, and shall have authority to compel the attendance of such person or persons, and other witnesses, and the production of books and papers, at such time and place as they may designate, giving notice to such person or persons, or such additional witnesses, to attend at a time and place in said notice designated, and to produce such books and papers; which notice shall be served at least two days before the time therein designated by leaving it at the residence of such person or witness, or at the office of such corporation; and such assessor, or taxing officer, or any member of any taxing board is hereby authorized to administer oaths or affirmations to all persons examined before him or them as aforesaid.

Process of subpoena may be awarded by circuit court.

146. SEC. 5. That in case any person so notified to attend before said assessor or taxing officer or authority shall refuse or neglect to appear at the time and place so designated, such assessor or taxing officer or authority may adjourn such examination to a subsequent day, and apply to the circuit court of the county, and said court shall award process of subpoena to compel the attendance of such person or persons so neglecting or refusing to attend before such assessor or taxing officer or authority, and said court shall have power, as in cases depending in said court, to punish as for contempt any person disobeying or disregarding such process.

(a) In case of such vacancy, and for that reason the duplicate of such city, ward or township is not produced, the board of assessors may proceed to ascertain the proportion of tax to be levied on said city, ward or township in the same manner as if

the office of assessor were filled, and the assessor were voluntarily absent from the meeting. *Eatontown v. Monmouth*, 22 Vr. 100.

A supplement to an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which further supplement was approved March tenth, one thousand eight hundred and eighty-four.

Passed March 25, 1885. P. L. 1885, p. 139.

147. SEC. 1. That all taxes levied and assessed in pursuance of the act of March tenth, eighteen hundred and eighty-four, to which this is a supplement, shall be collected, enforced and received by the appropriate officer or officers of the city, ward or township wherein said vacancy existed, in the same manner and according to the laws in force for the collection of other taxes therein.

Taxes assessed under act of March 10th, 1884, how collected.

148. SEC. 2. That taxes levied for the purposes enumerated and defined in the act to which this is a supplement shall be valid, notwithstanding they may be assessed or levied by said committee prior or subsequent to the time fixed by existing laws.

Taxes assessed by committee valid.

Supplement.

Approved April 16, 1886. P. L. 1886, p. 233.

149. SEC. 1. [Amended by Secs. 161 and 185, *post.*]

150. SEC. 2. That all acts and parts of acts inconsistent with this act be and are hereby repealed.

Repealer.

Supplement.

Approved April 16, 1886. P. L. 1886, p. 235.

151. SEC. 1. That in all cases where any tax warrant has been or shall hereafter be issued for the collection of taxes in any city of this state, and the officer receiving the same has neglected or failed to execute or return the same, or to collect the said taxes or any part thereof thereby directed to be collected, within the time now limited by law, the justice of the peace or other officer who issued the said warrant, or in case of his death or inability, or the expiration of his term of office, then any other justice of the peace of the county where the city is situate, or the successor of such other officer, shall, at the request of the board or body having charge or control of the finances of the city, issue alias or pluries warrants for the collection of any such taxes as shall remain uncollected under the previous warrant, which said alias or pluries warrant shall be good and effective for that purpose, and shall be executed in like manner as is provided in the case of original warrants, and shall be directed and delivered to such constable or other collecting officer of the city as the said board or body having charge or control of its finances may designate, or such special constable or collecting officer as may be appointed by the said board or body for that purpose; and such constable or special constable or officer so designated or appointed, after giving bond for the faithful performance of his duties, with such security as the said board or body may direct and approve, shall, in the execution of the said warrant, have the same powers and perform the same duties, and be subject to the same liabilities and forfeitures, and receive the same compensation as is now provided for similar services in the execution of original warrants for the collection of taxes in such city. (a) [See Sec. 194, *post.*]

How alias or pluries warrants shall be issued in cities.

152. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Supplement.

Approved April 28, 1886. P. L. 1886, p. 313.

153. SEC. 1. That section twenty-two (22) of said act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, be amended so as to read as follows :

(a) The only instance where a justice, other than the one who issues an original tax warrant, can issue an *alias*, is when a request is made for the issuing of the second writ by the proper

board or body. Compare *State, Midland Terminal Ferry Co., pros., v. Dobbs*, 18 V. 136.

Penalty for constable or collector neglecting or refusing to execute warrant or to pay tax money.

[That if any constable or collector, to whom such warrant shall be delivered, shall neglect or refuse to execute the same as therein directed, or shall neglect or refuse to pay the tax money which he shall have levied and made by distress and sale as aforesaid to the township treasurer, or shall neglect or refuse to perform any other service or duty required of him by this act, he shall forfeit and pay for every such neglect or refusal thirty-two dollars, to be recovered with costs by action of debt by the township treasurer for the use of the township.](a)

Supplement.

Approved March 17, 1887.

P. L. 1887, p. 33.

Buildings which are personal property to be assessed where situated.

154. SEC. 1. That all houses, cottages and other buildings which are personal property, shall be assessed and taxed in the taxing district where the same are situated, in the name of the owner thereof, if he is known, and if he is unknown then in the name of the occupant of the same or of the owner of the land whereon the same are situated; and the taxes levied upon such houses, cottages and buildings may be collected in the same manner as taxes on other personal property are collected.

Supplement.

Approved April 13, 1887.

P. L. 1887, p. 163.

Moneys and property held, invested or deposited in court of chancery subject to taxation.

155. SEC. 1. That all moneys now on deposit or hereafter deposited in the court of chancery, which are or shall be invested upon any security, and all moneys that are or shall be deposited therein and which shall have remained uninvested for the period of six months from the date of the deposit thereof, and all real and personal estate now held or that shall hereafter be held by the said court or any officer or appointee thereof, or by the chancellor in his official capacity, belonging to any individual, partnership or corporation, or in which any individual, partnership or corporation has or may have the beneficial interest, shall be subject to taxation at the full and actual value thereof as other money and real and personal estate is or may be taxed according to the laws of this state.

Persons and corporations owning or having interest in such money and property to be assessed.

156. SEC. 2. That all boards and officers charged with the duty of assessing persons or property for taxation shall assess all persons and corporations owning or having the beneficial interest in such money or other personal property or estate, and residing or located in the respective cities, towns and other taxing districts of this state, for and on account of such money and other personal property or estate at and according to the respective interests therein of such persons and corporations; and in all cases where the owners or parties having the beneficial interest in such money or other personal property or estate are non-residents of this state, the taxes thereon or on account thereof shall be assessed and paid in the city, town or other taxing district where the same is held or deposited at the time when assessments for taxation are made.

Real estate held by chancellor, where assessed.

157. SEC. 3. That all real estate that now is or may be hereafter held by the chancellor in his official capacity in which any individual or corporation has or may have the beneficial interest, shall be assessed for taxation in the several cities, towns and taxing districts of this state as other real estate is or may be assessed therein.

Taxes assessed to remain a claim and lien against persons and corporations.

158. SEC. 4. That all taxes assessed in pursuance of this supplement shall be and remain a claim against the persons and corporations owning or having the beneficial interest in the property against and on account of which the same shall be assessed, and also the same lien as other taxes assessed on or on account of similar property are or shall be in the respective cities, towns and other taxing districts of this state wherein the said property shall be assessed; and in addition to the remedies for the collection of taxes, for the time being, it shall be lawful for all boards and officers for collecting taxes to apply to the chancellor by petition for the payment of the taxes assessed upon or on account of such property, with

Taxes, how collected.

interest and costs, and, upon such petition, it shall be lawful for the chancellor to order the payment of such taxes, interest and costs out of the interest or income of the said money or real or personal property or estate, and if the interest or income thereof is not sufficient to make the payment, then the same shall be paid out of the principal of the money so deposited, and the whole or such part of said other personal or real property or estate as may be necessary to raise the amount of the taxes, interest and costs shall be sold by direction of the chancellor; and in case of the sale of any real estate for the purpose aforesaid the title conveyed thereby shall be in fee-simple.

Chancellor may order payment of taxes, interest and costs.

159. SEC. 5. That nothing herein shall be construed to authorize or permit taxation of or for such property more than once in each year; and this act shall not apply to mortgages or debts secured thereby that shall be assessed for taxation in pursuance of an act entitled "A supplement to an act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, which supplement was approved March seventeenth, one thousand eight hundred and eighty-two.

Property not to be taxed more than once in each year.

160. SEC. 6. That it shall be lawful for the chancellor to make and enforce appropriate rules and orders for carrying out the provisions of this act; and that all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

Chancellor to make and enforce rules and orders.

An act to amend an act entitled "Supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which said supplemental act was approved April sixteenth, one thousand eight hundred and eighty-six.

Approved February 11, 1888.

P. L. 1888, p. 21.

161. SEC. 1. [This section amends Sec. 149, *ante*, which is again amended by Sec. 185, *post*.]

Supplement.(1)

Approved April 23, 1888.

P. L. 1888, p. 479.

162. SEC. 1. That all persons enrolled as active members of any fire engine, hook and ladder, hose or supply company, under supervision or control of any common council, township committee, or board of commissioners or other governing board or body whatsoever, or fire commissioners, of any city, town, borough, township or fire district in this state, shall be exempt from general and special poll tax, and from state, county and municipal taxation upon real or personal property, or both, not exceeding in the aggregate five hundred dollars, which may be assessed against them or their said property, by authority of the municipal corporation under the supervision or control of which they may be doing public fire duty.

Active firemen exempt from poll tax and property tax not exceeding \$500.

163. SEC. 2. [Amended by Sec. 173, *post*.]

164. SEC. 3. That such members of any salvage corps, under supervision or control of any duly-authorized board of underwriters of this state, and such members of any duly-organized fire patrol, as shall have been enlisted from among the active or exempt firemen of any city, town, borough, township or fire district in this state, shall be exempt from general and special poll tax, and from state, county and municipal taxation upon real or personal property, or both, not exceeding in the aggregate five hundred dollars, which may be assessed against them or their said property, by authority of the municipal corporation of the city, town, borough, township or fire district within which they may be doing public fire, patrol or salvage duty.

Members of salvage corps and fire patrol exempt from poll tax and tax upon property not exceeding \$500.

165. SEC. 4. [Amended by Sec. 174, *post*.]

166. SEC. 5. That if the entire tax levied in any township in this state, within the bounds of which any city, town, borough or fire district may have been, or may hereafter be, set off or incorporated, shall be levied by authority of the township committee of such township, then and in such

From what taxes exemptions claimed and allowed.

(1) See Sec. 199, *post*.

case the aforesaid exemptions may be claimed and shall be allowed from the taxes levied by authority of such township committee ; or if any portion of the taxes levied upon the property within such city, town, borough or fire district, or upon the personal estate of the residents of such city, town, borough or fire district, or upon both, shall be levied by authority of such township committee, then the aforesaid exemptions may be claimed and shall be allowed from all taxes so levied.

What sufficient evidence of right to claim exemption.

167. SEC. 6. That the following shall be sufficient evidence to the collector or receiver of taxes of the right of any person to claim exemption as aforesaid, to wit, the certificate of the clerk of the city, town, borough or township, or of such other municipal or other officer as shall have charge of the records showing what persons are such active or exempt firemen or salvage corps members, which shall be furnished without charge, stating that the person claiming such exemption is either an active or exempt fireman or a salvage corps member ; and in the case of soldiers or sailors, or their widows, the production to the taxing officer, board of revision of taxes, commissioners of appeals, or collector, of the discharge of such soldier or sailor from the service of the United States.

Certificates may be combined in the form of a list of persons entitled.

168. SEC. 7. That in case any two or more persons, residing in the same city, town, borough or township, shall be entitled to certificates, as above provided, from the same officer or from the clerk of any city, town, borough or township, such certificates may be combined in the form of a list of the persons residing and entitled as aforesaid, which list shall be certified by such officer or clerk, and filed by him with the collector or receiver of taxes of such city, town, borough or township, at or before the time, in each year, when taxes shall be due and payable therein.

False claims to exemption not to be allowed.

169. SEC. 8. That if any person shall falsely claim exemption under this act, such exemption shall in no case be allowed, and such person shall be deemed to have forfeited and lost all rights thereafter to such exemption in case he should become otherwise entitled thereto ; no person shall, under any pretense, be entitled to claim or receive the benefit of more than one exemption in any one year.

Amount exempted may be included in tax.

170. SEC. 9. That the incorporated towns and cities of this state in which a limitation on taxation exists, shall not be precluded from adding to and including in the aggregate amount on which taxation therein is based, the amount hereby exempted from taxation.

Claim to exemption to be delivered to assessor before closing of assessment.

171. SEC. 10. That no person shall be entitled to exemption, as above provided, unless the evidence of the right of such person to claim exemption from taxes shall be delivered to the assessor or taxing officer or officers at or before the time limited by law for closing the assessment in the city, town, borough or township where such person resides or is taxable ; *provided, however,* that if it shall be made to appear to the satisfaction of the board of commissioners of appeal, or of the officers by law authorized to hear and determine appeals, that the person assessed was prevented by sickness or other unavoidable cause from delivering, or causing to be delivered, such evidence to the assessor or taxing officer or officers, the said board, commissioners, or officers authorized to hear and determine appeals, shall permit the said person to make such proof, and if satisfied of the correctness thereof, they shall thereupon allow the deduction or exemption as if the same had been made to the taxing officer or officers.

Proviso.

Repealer.

172. SEC. 11. That this act shall take effect immediately, and that all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

An act to amend an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which said further supplement was approved April twenty-third, one thousand eight hundred and eighty-eight.

173. SEC. 1. That section two of the act of which this is an amendment [see Sec 163, *ante*] be and the same is hereby amended so as to read as follows, videlicet :

[That all exempt firemen of any city, town, borough, township or fire district in this state shall be exempt from general and special poll tax, and from state, county and municipal taxation upon real or personal property, or both, not exceeding in the aggregate five hundred dollars, which may be assessed against them on their said property by the authority of the municipal corporation in the service of which they became exempt firemen; *provided*, that all persons who heretofore have become exempt firemen by reason of membership and service in any fire engine, hose or hook and ladder company, a majority of the active members of which company have subsequently been constituted a company of the regular fire department of any city, town or borough of this state, shall be entitled to the same rights and exemption from taxation provided in this act as if they had become exempt firemen in the service of such city, town or borough.]

Exempt firemen exempt from poll tax and property tax to the amount of \$500.

Proviso.

An act to amend an act entitled "A further supplement to the act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which supplement was approved April twenty-third, one thousand eight hundred and eighty-eight.

Approved March 3, 1890.

P. L. 1890, p. 22.

174. SEC. 1. That section four [see Sec. 165, *ante*] of the said act be amended so as to read as follows:

[That all honorably-discharged soldiers or sailors resident in this state who have served in the army or navy of the United States during the late rebellion or during the war of one thousand eight hundred and twelve, and the widows of such soldiers or sailors, so long as they remain unmarried, shall be exempt from general and special poll tax, and from state, county and municipal taxation upon real or personal property, or both, not exceeding in the aggregate five hundred dollars.]

Honorably-discharged soldiers and sailors exempt from poll tax and property tax not exceeding \$500.

Supplement.

Approved March 31, 1890.

P. L. 1890, p. 158.

175. SEC. 1. That the third section of the act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, be and the same is hereby amended to read as follows:

[That when any money shall be directed to be assessed, collected and paid into the treasury of this state, agreeably to this act, it shall be the duty of the assessors of the several townships, in every county, to meet at the hour of ten in the forenoon of the first Tuesday in September, in every year, at the place of holding the court of common pleas in such county, and at such meeting to furnish full, true and accurate abstracts, under oath or affirmation, from their respective tax-books, of ratable lands, chattels, effects, estates and certainties, so by them respectively made, as required in the first and second sections of this act, and then and there to ascertain the amount of the certainties required by law to be rated in the assessment to be made, and to estimate the estate, real and personal, taken by the assessor of each township, at such valuation as they or a majority of them then present shall think reasonable and just, according to the law for the time being for that purpose, and thereby to adjust and fix the proportion or quota of the tax to be levied and collected in each township.](a)

Assessors to adjust and fix quota of tax to be levied and collected.

Supplement.

Passed April 28, 1890.

P. L. 1890, p. 275.

176. SEC. 1. That notwithstanding any mistake in the name or names of the owner or owners, or omission to name the real owner of any personal property in this state in assessing the taxes on account thereof, as aforesaid, such assessment shall be valid and effectual in law, and if the

Mistakes in names of owners or omission to name owner of personal property not to invalidate assessment.

(a) The power of making an apportionment or voting a tax, cannot be delegated. *State v. Sickels*, 4 Zab. 125. *State, Wharton v. Koster*, 9 Vr. 308. *State, Verhule v. Saalmann*, 8 Vr. 156. The board of assessors in apportioning the state and school tax among the several townships in a county, must distribute it according to the value of the property, after deducting debts,

as shown by the duplicates of the assessors of the several townships of the then present year, and not of the preceding year. *State, Skirm v. Cox*, 9 Vr. 302. After the apportionment is fixed the officers have no right to add any sum to the assessment for contingencies. *State v. Jersey City*, 4 Zab. 108. *State v. Flavell*, 4 Zab. 370. *State, Verhule v. Saalmann*, 8 Vr. 156.

Failure to pay,
tax warrants to
issue.

owner or owners of such personal property shall fail to pay the taxes assessed as aforesaid within the time required by law, a tax warrant or tax warrants shall be issued, according to the provisions of the act to which this is a supplement, against the person or persons to whom said tax was originally assessed or against the real owner or owners of said personal property at the time of such assessment, and such personal property shall be levied upon and sold, and said tax collected by virtue thereof, in the same manner as taxes assessed upon personal property are now collected; *provided, however,* that no personal property shall be liable to be levied upon and sold for taxes, by virtue hereof, which shall be owned by a bona fide purchaser without notice at the time of the making of such levy.

Previso.

Supplement.

Approved May 5, 1890.

P. L. 1890, p. 290.

Changing of
ward lines not to
affect assessment
and collection of
taxes.

177. SEC. 1. That where in any city of this state, maps and books are prepared for the assessment of property by wards, any change made in the ward lines different from those indicated and shown by such maps and books shall in nowise affect the assessment and collection of taxes therein, but for all purposes of taxation the ward lines shall exist as heretofore, until such books and maps may be changed by the officer or officers having charge thereof.

A further supplement to an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which said further supplement was approved April eleventh, one thousand eight hundred and sixty-six.

Approved March 9, 1891.

P. L. 1891, p. 102.

On neglect or
refusal of borough
to elect assessor
or collector,
assessor or col-
lector of township
to act.

178. SEC. 1. That whenever any borough or other taxing district in this state has refused or neglected, or shall hereafter refuse or neglect to elect or appoint an assessor to assess and levy, or a collector to collect the state school tax or other tax due to the state, it shall be the duty of the assessor and collector of the township from which the said borough or taxing district was originally carved or set off to assess, levy and collect all taxes due from such borough or taxing district, whether in arrears or otherwise, in the manner provided in the act to which this is a supplement, to wit, said supplement of April eleventh, one thousand eight hundred and sixty-six, and to pay over the same as by law they would be required to do if they had assessed, levied and collected the same under said act of April eleventh, one thousand eight hundred and sixty-six.

Such township
assessor to assess
and levy for due
and unpaid taxes.

179. SEC. 2. That it shall be the duty of such township assessor, within thirty days after written notice from the county collector of the amount of taxes due and unpaid from such borough or taxing district, to assess and levy upon the taxable property of such borough or taxing district the taxes due and unpaid, and in giving such notice the county collector shall state the amount of taxes due or in arrears. and such statement and notice shall be a sufficient warrant to the assessor in assessing the same.

Duty of assessor
and compensa-
tion.

180. SEC. 3. That the said assessor upon receiving such notice shall proceed immediately to make such assessment, and as soon as the same is completed shall turn over his duplicate to the collector of said township, and such assessor shall be entitled to the same rate of compensation for assessing such taxes as he is now entitled to receive under the said act of April eleventh, one thousand eight hundred and sixty-six, or any act which amends or changes the provisions thereof.

Duty of such
collector and
commissioners of
appeal.

181. SEC. 4. That the collector of said township shall, within two days after receiving the said duplicate, notify the commissioners of appeal of such township that the duplicate has been delivered to him, whereupon it shall be the duty of said commissioners of appeal, within ten days and upon giving not less than five days' notice of a time and place to be by them appointed, to hear all complaints relating to such assessment, and to correct and amend such assessment as fully and effectually as they are now empowered to correct assessments by said act of April eleventh, one thousand eight hundred and sixty-six, or any act which amends or changes

the provisions thereof ; and such commissioners of appeal shall be entitled to the same compensation for such service as they are now entitled to receive under said act of April eleventh, one thousand eight hundred and sixty-six, or any act which amends or changes said act.

And compensation of commissioners.

182. SEC. 5. That it shall be the duty of the collector of such township to proceed within two days after the meeting of said commissioners of appeal to collect the taxes assessed and levied by the assessor under this act ; and in making such collections the said collector is hereby vested with all the powers conferred upon him for that purpose by any act of the legislature ; and such collector shall be entitled to the same rate of compensation for collecting such taxes as he is now entitled to receive under any act of the legislature.

Such collector to collect taxes assessed.

Compensation.

183. SEC. 6. That it shall be the duty of the county collector of any county in which is located a borough or taxing district, such as is described in the first section of this act, to pay over to the state treasurer out of any money that may be in his hands belonging to the county and unappropriated, the amount of taxes due the state from said county, whether the full amount of the tax has been collected or not.

Taxes due the state from county to be paid by county collector.

184. SEC. 7. That the board of chosen freeholders of the county shall have power to borrow the amount of any such taxes due the state, in anticipation of the collection of said taxes, upon such terms as they deem proper, and issue proper obligations therefor, signed and executed as bonds of said county are signed and executed, and pay said taxes to the state immediately.

Chosen freeholders may borrow in anticipation of collection of taxes.

An act to amend an act entitled "A supplement to an act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, which said supplement was approved April sixteenth, one thousand eight hundred and eighty-six.

Approved April 17, 1891.

P. L. 1891, p. 495.

185. SEC. 1. That section one of the act of which this is amendatory [see Secs. 149 and 161, *ante*] be and the same is amended so that it shall read as follows :

[That hereafter there shall not be assessed upon any inhabitant of this state more than one poll tax in any one year.]

No more than one poll tax to be assessed in any one year.

Supplement.

Approved March 11, 1893.

P. L. 1893, p. 225.

186. SEC. 1. That the dwelling-house owned by any religious corporation, and the land upon which the same stands, while and during only the time actually used by the officiating clergyman of such religious corporation, shall be exempt from taxation to an amount not exceeding five thousand dollars, but not more than one dwelling actually used by any one religious corporation shall be so exempt.

Parsonages exempt from taxation to an amount not exceeding \$5,000.

187. SEC. 2. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

Repealer.

Supplement.

Approved March 14, 1893.

P. L. 1893, p. 280.

188. SEC. 1. That it shall be lawful for the assessor, or for the commissioners of appeal in cases of taxation, to deduct from the valuation of the taxable property for which any person shall be assessed, any debt or debts due and owing from such person upon any mortgage made to the chancellor, in his official capacity, or to the state of New Jersey, for the investment of money in the court of chancery, or upon any mortgage made to commissioners appointed by an order of the supreme court of this state, or by an order of any circuit court, inferior court of common pleas or orphans' court of any of the counties of this state, upon claim for such deduction being made according to law. (a)

Mortgage due to the chancellor or to commissioners appointed by supreme court, &c, may be deducted.

(a) This act was declared unconstitutional by the supreme court in that it did not include in its operation all official mortgages having substantially like characteristics; it failing to

extend its provisions to mortgages made under the order of the prerogative court. *Cox v. Truitt*, 28 *Vr.* 635.

Such mortgages to be assessed by the assessor making the deduction.

189. SEC. 2. That such mortgages or the debts secured thereby shall be assessed for taxation by the assessor or commissioners of appeal, making the deduction on account thereof, and the tax thereon shall be collected by the collector of taxes in and for the city or township wherein the lands in the mortgage described are situated.

To whom assessment made.

190. SEC. 3. That such assessment shall be made to the person or persons having the beneficial interest in the said mortgage and mortgages, or who may be entitled to have the income or interest thereof at the time of such assessment, whether such person or persons reside in this state or not.

Unpaid taxes against residents, how collected.

191. SEC. 4. That where the person or persons assessed as aforesaid is or are resident or residents of the state of New Jersey, and such taxes remain unpaid for the space of sixty days after the expiration of the time appointed for the payment of taxes, then it shall be the duty of the collector to proceed to collect such delinquent taxes in the manner provided for by the act entitled "A further supplement to the act entitled 'An act concerning taxes'" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, approved April seventeenth, one thousand eight hundred and seventy-six.

Unpaid taxes against non-residents, how collected.

192. SEC. 5. That where the person or persons assessed as aforesaid, is or are a non-resident or non-residents of the state of New Jersey, it shall be the duty of the person claiming deductions to pay the taxes so assessed, and payment of the same may be enforced by like means and processes as if the same had been originally assessed to such person, and any taxes which such person may pay or satisfy as aforesaid, shall be deemed and taken to be a payment, so far as such payment will extend, on the interest or income due or to grow due on or secured by the said mortgage.

Repealer.

193. SEC. 6. That this act shall take effect immediately, and that all acts and parts of acts inconsistent herewith be and the same are hereby repealed.

A further supplement to an act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, and providing for the issue of alias or pluries warrants in all cases where no statutory authority now exists for the issuance of the same.

P. L. 1893, p. 349.

Approved March 16, 1893.

Alias and pluries warrants, how issued and executed.

194. SEC. 1. That whenever in any township, town or other municipality of this state a tax warrant has been, or shall hereafter be, issued for the collection of taxes therein, and the officer receiving the same has neglected or failed, or shall hereafter neglect or fail to execute or return the same, or to collect the said taxes, or any part thereof, thereby directed to be collected according to law, and no statutory authority exists for the issuance of alias or pluries warrants therein, it shall be lawful for the township committee, town council or other governing body of any such township, town or municipality to issue alias or pluries warrants for the collection of any such taxes as shall remain uncollected under the previous warrant, which said alias or pluries warrants shall be good and effective for that purpose, and shall be executed in like manner as is provided in the case of original warrants, and shall be directed and delivered to the collector of arrears of taxes of any such township, town or other municipality (if there be such an officer therein), or to such constable or other officer or person as the said township committee, town council or other governing body may designate or appoint for that purpose; and such collector of arrears, constable or other person or officer so designated or appointed, after giving bond for the faithful performance of his duties, with such security as the said township committee, town council or other governing body may direct and approve, shall in the execution of the said warrants, have the same powers, and perform the same duties, and be subject to the same liabilities and forfeitures, and receive the same compensation as provided in the execution of original warrants for the collection of taxes in such township, town or other municipality.

Bond to be given.

Compensation.

195. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this shall take effect immediately. Repealer.

Amendatory act.

Approved March 16, 1893. P. L. 1893, p. 359.

196. SEC. 1. [This section, amending Sec. 11, *ante*, is amended by Sec. 206, *post*.]

Supplement.

Approved March 27, 1893. P. L. 1893, p. 485.

197. SEC. 1. That all bonds, securities, improvement certificates, and other evidence of indebtedness heretofore or hereafter issued by this state, or by any county thereof, or by any city town, township, borough, school district, or other municipality of this state, shall be exempt from taxation for any purposes. Bonds, securities, &c., issued by state, county, city, &c., exempt from taxation.

An act to amend an act entitled "A further supplement to the act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, which supplement was approved April seventeenth, one thousand eight hundred and seventy-six.

Approved March 23, 1893. P. L. 1893, p. 494.

198. SEC. 1. That section one of the act entitled "A further supplement to the act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, which said supplement was approved April seventeenth one thousand eight hundred and seventy-six [see Sec. 112, *ante*], be amended so as to read as follows :

[That hereafter no mortgage on real or personal property, or both, whether given by individuals or corporations, or the debt secured by such mortgage, shall be assessed for taxation unless a deduction therefor shall have been claimed by the owner of such mortgaged property, and allowed by the assessor.] (a) Mortgages on real and personal property not to be assessed unless a deduction claimed.

Supplement.

Approved April 12, 1894. P. L. 1894, p. 61.

199. SEC. 1. That the provisions of an act entitled "A further supplement to the act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which said supplement was approved April twenty-third, one thousand eight hundred and eighty-eight, be and the same are hereby extended to the incorporated villages of this state ; and all persons enrolled as active members of any fire engine, hook and ladder, hose or supply company, under supervision or control of the municipal authority or authorities of any such village, all exempt firemen of any such village, and such members of any salvage corps, under supervision or control of any duly-authorized board of underwriters of this state, and such members of any duly-organized fire patrol, as shall have been enlisted among the active or exempt firemen of any such village, shall be entitled to the same exemptions from general and special poll tax and from taxation on real or personal property, or both, as by said further supplement above referred to are conferred upon the members of similar organizations under the control of the cities, towns, boroughs, townships and fire districts of the state ; and such exemptions shall be allowed in the same manner and upon a like certificate or certificates from the clerk of such village as is provided by

(a) No claim for deduction from taxation on account of any debt secured by mortgage upon lands within the state can be allowed by any other than the assessor of the place wherein the lands are situate, and if such claim be made to and allowed by him, then, in lieu thereof, he is to assess the mortgage debt, and the tax so levied is to be collected by the collector in and for the same municipality. *State, Cummins v. Jones*, 11 Vr. 105. *State, King v. Manning*, 11 Vr. 461. The deduction of the mortgage debt from the valuation of the lands mortgaged may be allowed by the assessor, and the owner of the mortgage be assessed therefor without the deduction being claimed by the owner of the lands under oath. *State, Vail v. Bunyon*, 12 Vr. 98. The assessor may require an affidavit to satisfy himself of

the existence and amount of the mortgage and of the person by whom the same is held ; but if the deduction is claimed, and is allowed, and the sum allowed is in fact the correct amount of the mortgage debt, and the owner of the mortgage is taxed only therefor, the latter cannot complain. *Id.* The act of April 17th, 1876, is constitutional. *Id. Merchants' Ins. Co. v. Newark*, 25 Vr. 143. *Appleby v. East Brunswick*, 15 Vr. 153. If deduction be claimed by landowner and allowed by the assessor, the tax upon whole amount of the mortgage debt should be assessed against the holder of mortgage. *Appleby v. East Brunswick*, 15 Vr. 153. A mortgage upon lands exempt from taxation is taxable, but it must be assessed to the mortgagee at the place of his domicile. *Engle v. Lantz*, 24 Vr. 578.

said supplement in respect to persons claiming such exemption by reason of their service under the municipal authorities of cities, towns, boroughs, townships and fire districts.

An act to amend an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which supplement was approved April eleventh, one thousand eight hundred and sixty-six.

P. L. 1894, p. 351.

Passed May 16, 1894.

200. Sec. 1. That section five of an act entitled "A further supplement to an act entitled 'An act concerning taxes,' approved April fourteenth, one thousand eight hundred and forty-six," which supplement was approved April eleventh, one thousand eight hundred and sixty-six [see Sec. 65, *ante*], be and the same is hereby amended so as to read as follows :

Property exempt from taxation.

[That the following persons and property shall be exempt from taxation, namely :

Property and bonds of the United States, and property of municipalities in New Jersey.

I. The property and the bonds and other securities of the United States, and the bonds and securities of this state which are by law exempt from taxation, the property of the counties, townships, cities and boroughs of this state, and stocks and other personal estate owned by citizens of this state situate and being out of this state, upon which taxes shall have been actually assessed and paid within twelve months next before the day prescribed by law for commencing the assessment. (a)

Colleges, academies, libraries, school-houses, &c.

II. All colleges, academies or seminaries of learning, public libraries, school-houses, buildings erected and used for religious worship, buildings used as asylums or schools for the care, cure, nurture, maintenance and education of feeble-minded or idiotic persons and children, provided such institutions are duly incorporated under the laws of this state, and the land whereon the same are situate, necessary to the fair use and enjoyment thereof, not exceeding five acres for each one, the furniture thereof and the personal property used therein, the endowment or fund of any religious society, college, academy, seminary of learning, public library or institution for feeble-minded persons as aforesaid; *provided*, that no building so used which may be rented for such purposes and rent received by the owner therefor shall be exempted; the stock of any corporation of this state,

Proviso.

(a) The power of taxation is an essential attribute of sovereignty, reaching to all property and persons belonging to a body politic. If the legislature grants an exemption from taxation to some corporations, nothing should be left to implication, but the extent of the intended relief must appear and be clearly expressed in the legislative act. *State v. Newark, 2 Dutch, 519*. It does not follow that if the state should lease a portion of the public domain, the lands so leased would be exempt from taxation. *State, Morris Canal Co. v. Haight, 8 Vr. 178, 7 Vr. 471*. A grant of the franchise of taking tolls on a bridge for a term of years, after which it reverts to the state, does not exempt such bridge from taxation. *Bridge Proprietors v. State, 1 Zab. 364, 2 Zab. 598*. Lands purchased for the Brotherton Indians in this state, exempted from taxes by the act authorizing the purchase, and afterwards sold by them, are subject to taxation. *State v. Wilson, Pen. *800; reversed, 7 Cranch 184*. A tax assessed for the year 1865, against the prosecutors, on stock owned by them in a national bank, whose capital is wholly invested in United States bonds, is illegal. *State, Matheson v. Boyd, 3 Vr. 273*. A stockholder in a national bank, whose capital is invested principally in United States bonds, may be taxed by the laws of the state only for such proportion of the amount of his shares as is not made up of the value of said bonds. *State, Jewell v. Hart, 2 Vr. 484*. To the extent in which United States securities stand as the capital or property of such bank, the shares of stock owned by private persons can be taxed by state authority only with the sanction of congress, and in the mode prescribed by that body. *State, Fox v. Haight, 2 Vr. 369*. The forty-first section of the act of congress provides that all the shares of such banks held by individuals or incorporations, may be included in the assessments made by the state authorities, at the place where such banks are located and not elsewhere, at the same rate as other property is taxed. *Id.* The act of congress of July, 1862, enacting that all stocks, bonds and other securities of the United States held by individuals, corporations, or associations shall be exempt from taxation, by or under state authority, was only declaratory of the result of previous adjudication. *State, Mutual Ins. Co. v. Haight, 5 Vr. 128*. Such securities are also exempt from taxation by section 5 of the state tax law of 1868. *Id.* Certificates which seem to have been given for a loan, are of that class of securities which are exempted from taxation. *Id.* Corporations are entitled

to have deducted from the amount of their capital stock paid in, and accumulated surplus, the amount of the bonds of this state and the stock and public securities issued by the United States owned by them at the time of assessment. *Newark City Bank v. Assessor, 1 Vr. 13*. *State, Easton Bridge Co. v. Metz, 3 Vr. 199*. *State, People's Ins. Co. v. Parker, 5 Vr. 479, 6 Vr. 575*. *State, International Ins. Co. v. Haight, 6 Vr. 279*. Bonds issued by this state under the act of 1861 (P. L. 1861, p. 554) are exempt from taxation when held by individuals or corporations. *Id.* So, lands acquired by a city for purposes purely municipal. *State, Water Comrs. v. Gaffney, 5 Vr. 131*. Mortgages deposited with the treasurer by a foreign insurance company, under the act of March 10th, 1853, to enable the prosecutor to do business in another state, are not exempt from taxation. *State, International Ins. Co. v. Haight, 6 Vr. 279*. The fourth section of the supplement of 1863, exempting from taxation property out of the state belonging to residents in this state, does not apply to corporations. *State, Easton Bridge Co. v. Metz, 3 Vr. 199*. *State, International Ins. Co. v. Haight, 6 Vr. 279*. Property belonging to a municipality, used for a public purpose germane to the objects for which the municipality was created, is not taxable. *Newark v. Township of Clinton, 20 Vr. 370*. If a city purchase a farm situated in another municipality, although for the purpose of obtaining a place for burying the poor who die in the city, and use the bulk of the premises for farming purposes to derive pecuniary profit therefrom, the whole property will not be exempt from taxation, but only such reasonable quantity as has been set apart and is being used for the burial of the dead. *Id.* A mortgage owned by a resident of this state, although made upon lands situate in another state, where a tax upon such lands has been assessed and paid within the preceding twelve months, is taxable here. *Darcy v. Darcy, 22 Vr. 140*. Shares of stock in foreign corporations owned by citizens of this state, upon which taxes have been actually assessed and paid by the corporation within twelve months next before the day prescribed by law for commencing the assessment within this state, are exempt from taxation under the laws of this state. *Smith v. Bamsey, 26 Vr. 848*. *De Baum v. Smith, 26 Vr. 110*. Stock in a national banking association located in another state cannot be taxed under the laws of this state. *De Baum v. Smith, 26 Vr. 110*.

which by charter or other contract with this state is expressly exempted from taxation, the stock of any corporation of this state, the capital whereof is by this act made taxable to and against said corporation, pews in churches, graveyards not exceeding ten acres of ground, cemeteries and all buildings erected thereon, and all buildings used exclusively for charitable purposes, with the land whereon the same are erected, and which may be necessary for the fair enjoyment thereof, and the furniture and personal property used therein, the funds of all charitable institutions and associations collected and held exclusively for the sick or disabled members thereof, or for the widows of deceased members or for the education, support and maintenance of deceased members. (a)

Supplement.

Approved March 22, 1895.

P. L. 1895, p. 457.

201. SEC. 1. That the township committee of each township in this state shall meet and hold meetings at their usual places of meeting in their respective townships on the second Tuesday in July of each year for the purpose of examining, revising and correcting the duplicate of assessment to be laid before them in the manner hereinafter provided.

Township committee, when to meet to revise and correct duplicates.

202. SEC. 2. That the assessors of the several townships in this state shall on the second Tuesday in July of each year attend the meeting of the committee of his township and lay before them the duplicate of assessment, to be by them examined, revised and corrected, and that it shall be his duty to remain with said committee for the purpose of explaining the said duplicate and assisting said committee in the discharge of the duties required of them by this act.

Assessors shall attend meeting with duplicates.

203. SEC. 3. That said committee shall have power to adjourn from time to time as they may deem expedient for the purpose of discharging the duties required of them by this act, providing the said examination, revision and correction shall be made and completed on or before the third Tuesday in July of each year.

Committee may adjourn from time to time.

Supplement.

Approved March 22, 1895.

P. L. 1895, p. 496.

204. SEC. 1. That the several assessors and collectors of the townships of this state shall hereafter be entitled to the following fees and no others for duties performed by them in assessing and collecting all taxes levied for township and county purposes, to wit: eight cents per name for each name on the duplicate of assessment; also the sum of one and one-half per centum on the amount of taxes assessed and collected in their respective townships except when the amount assessed and collected shall exceed forty thousand dollars, in which event the said collector and assessor shall receive the sum of one and one-half per centum upon the first forty thousand dollars, and three-quarters of one per centum upon the amount in excess of forty thousand dollars.

Fees to be allowed assessors and collectors of townships.

205. SEC. 2. That all acts and parts of acts inconsistent with this act be and they are hereby repealed, and that this act shall take effect immediately.

Repealer.

(a) The dwelling-houses erected by the College of New Jersey for the accommodation of professors and stewards, are exempted from taxation, by the exemption in the act of 1851, exempting all colleges, academies, or seminaries of learning, and the lands whereon the same are erected. *State v. Ross*, 4 *Tob.* 497. An academy or seminary kept by an individual on his own account, and at his own risk, not being a common public school, or incorporated, is not an academy or seminary within the meaning of the exemption in the tax act of 1851. *Id.* The supplement to the tax law, passed April 10th, 1866, exempts from taxation the endowment or fund of any religious society. *Held*, that the parsonage belonging to a church, although purchased by the voluntary contributions of the members of the congregation, was liable to taxation as real estate. *State, First Reformed Dutch Church v. Lyon*, 8 *Pr.* 360. Lands held by trustees for a church, situated apart from the church edifice, do not constitute a part of the "endowment or fund" of a religious society, and are not exempt from taxation. *State, Nevins v. Krollman*, 9 *Pr.* 323, 374. *State, Church of the Redeemer v. Astell*, 12 *Pr.* 117. By P. L. 1893, p. 225 (*ante*, Sec. 186), a parsonage while actually used by an officiating clergyman is exempt from taxation to an amount not exceeding \$5,000. School-houses, unless rented by the owner, are not taxable. *Englewood School v. Chamberlain*, 26 *Pr.* 292, reversing *S. C.*, 25 *Pr.* 549. A corporation organized under the "Act to incorporate societies for the promotion of

learning," approved April 9th, 1875, and the supplements thereto, owns real estate which it leases to individuals who keep a boarding and day-school thereon, and pay rent by paying interest on a mortgage, the taxes, the water rates and fire insurance premiums. *Held*, (1) that such real estate is not exempt from tax under this second clause; (2) that such corporation is properly taxed on its real estate either under section 105 of the corporation act as amended in 1878, or under sections 15 and 23 of the tax act of 1866. *Society, etc., v. New Brunswick*, 26 *Pr.* 65. A mortgage held by a church as security for a sum of money bequeathed to said church, with a direction that the interest therefrom is to be used in the payment of the minister's salary, is exempt from taxation on the ground that the sum secured is an endowment of a religious society. *Trustees v. Silverthorn*, 23 *Pr.* 73. A corporation owning real estate the products of which are exclusively expended in the training and furnishing of persons for charitable purposes, such as the visitation of the sick, the care of hospitals, of orphanages and poor-schools, is exempted from taxation. *Sisters of Charity v. Township of Chatham*, 23 *Pr.* 373, reversing *S. C.*, 22 *Pr.* 89. A stipulation in a cemetery company's charter that no assessment shall be imposed on the burial-ground until the board of freeholders of the county should order otherwise—*Held*, to be obligatory and valid. *Mount Pleasant Cemetery Co. v. Newark*, 23 *Pr.* 539.

Supplement.

Approved March 23, 1895.

P. L. 1895, p. 739.

206. SEC. 1. That section eleven of the act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, which was amended by an act approved March sixteenth, one thousand eight hundred and ninety-three [see Secs. 11 and 196, *ante*], so as to read [see P. L. 1893, p. 359], be and the same is hereby further amended so as to read as follows:

Township, town or borough collector to demand tax within sixty days after receipt of duplicate.

[That the township, town or borough collector within sixty days after the receipt of the transcript or duplicate of the said assessment shall demand payment of the tax or sum assessed on each individual in his township, town or borough in person or by notice left at his or her place of residence, or where the residence and post-office address is precisely known to said collector, or where any real estate or any mortgage or personal property is assessed in any township, town or borough to any person not resident in said township, town or borough, but resident in this state, and the residence and post-office address of such person whose property is so assessed is known to said collector, by mailing such notice to the post-office address of such person or persons, with the postage prepaid thereon, and also give notice of the time and place of the meeting of the said commissioners of appeal; and the said collector shall pay the taxes by him collected and the fines and forfeitures by him received by virtue of any law of this state, to the collector of the county, by the twenty-second day of December in every year.]

II. Taxation of railroad and canal property.

An act for the taxation of railroad and canal property.

P. L. 1884, p. 142.

Approved April 10, 1884.

[This act repealed by Sec. 241, *post*.]

Supplement.

Approved June 10, 1886.

P. L. 1886, p. 401.
Preamble.

WHEREAS, By the provisions of their several charters or of the act entitled "An act respecting railroads and canals" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, many railroad and canal corporations were and are required to pay an annual tax of one-half per centum per annum upon the cost of their several railroads and canals, and also in many cases upon the cost of the equipment and appendages of their several roads and canals, which cost was required to be reported under oath by an officer or officers of said several railroads and canals; and whereas, there is good reason to believe that the cost of the said railroads, canals, equipment and appendages has not been fully or correctly stated in the said reports, and that thereby the payment of large amounts of the annual taxes due and payable by such corporations has been evaded; therefore,

State board of assessors authorized to examine into the correctness of reports of railroads and canals.

207. SEC. 1. That the state board of assessors be and they are hereby authorized and directed to examine and ascertain the correctness or incorrectness of any or all of the reports heretofore made by any or all of the railroad and canal corporations created by this state, or by the vendee, lessee or lessees of any such corporation, and which reports have been made to any officer or officers of this state pursuant to any provision contained in any law passed or any charter granted by the legislature of this state; and that for the purpose of making such examination and ascertainment effectual the said board may employ such accountants, engineers and experts as they may deem necessary, and such accountants, engineers and experts shall receive such compensation as may be approved by the governor and comptroller of the state. (a)

May employ accountants and engineers.

(a) See *State Board of Assessors v. Morris and Essex R. R. Co.*, 20 Vr. 222.

208. SEC. 2. That the said board and the accountants employed as aforesaid be and they are hereby authorized and empowered to have free access during ordinary business hours to, and to examine all books, reports requisitions, engineers' estimates and other papers of any railroad or canal corporation created by the laws of this state, or by any charter granted by the state, and required by law or its charter to make such reports as aforesaid, or of any vendee, lessee or lessees of such corporation, which contain entries or other information respecting the cost of the construction or maintenance of the railroad or canal, equipment and appendages operated by such corporation, and to make such copies and extracts therefrom as the said board shall deem necessary to determine the correctness of said reports; and each and every such corporation is hereby required to permit such access and examination as aforesaid, upon the written demand of the president of said board for the same, served upon the president, or, in his absence, upon the secretary of such corporation, vendee, lessee or lessees, and in case any such corporation, vendee, lessee or lessees shall neglect or refuse to permit such access and examination for the space of ten days after service of such demand as aforesaid, at the request of said board, the attorney-general shall apply to the court of chancery by petition setting forth such demand and neglect or refusal, and upon proof thereof made before the chancellor, on five days' notice to such corporation, to be served as the chancellor may direct, the said chancellor may in his discretion issue the state's writ of injunction to restrain such corporation, vendee, lessee or lessees, from the exercise of any franchise or the transaction of any business in this state, until such corporation, vendee, lessee or lessees shall have complied with such demand, and shall have paid the costs of such application, in which shall be included a suitable allowance to the attorney-general for his services in such proceeding, to be fixed by the chancellor.

209. SEC. 3. That if, upon such examination and ascertainment as aforesaid, said board shall have reason to believe that in any of the said reports the cost of any railroad or canal or of the equipment and appendages thereof, has been incorrectly stated at a less sum than the true cost thereof, they shall so report to the attorney-general and he shall present a petition in the name of the state of New Jersey, to a justice of the supreme court, setting forth the errors in any report or reports made by any railroad or canal corporation, and praying that the said justice may reform and correct the same; and all errors in all the reports made by any corporation may be embraced in one petition and proceeding; and it shall be the duty of the said justice to hear and decide the said application, upon depositions or upon evidence taken by himself, and he may compel the attendance of witnesses, and the production of all books, deeds, reports, contracts, engineers' estimates, and other papers of the railroad or canal corporation making the report or reports in question defendant in the proceeding which contain entries of information respecting the cost of construction or maintenance of the railroad or canal, equipment, and appendages in question in the proceeding, before a supreme court commissioner or himself, and punish such witnesses or the officers of such corporations as for a contempt upon their failure to appear or answer or to produce the said books and papers; and the said justice shall, upon such proofs, reform the said report or reports, if the cost stated therein be less than the true cost of the said railroad or canal, or of the equipment and appendages thereof, and shall ascertain and determine the amount of tax due and payable from the defendant corporation by reason of such errors in said report or reports, together with interest thereon at the rate of six per centum per annum from the time of making such erroneous report, and shall also ascertain and allow the reasonable expenses incurred by the state in the proceeding, and a reasonable compensation to the attorney-general or his assistants acting therein, for his or their services therein, which shall be paid by the defendant corporation, and shall certify his reformation, ascertainment and determination aforesaid under his hand to the state comptroller, who shall file the same in his office; and the said justice shall control and regulate the pro-

Board and accountants empowered to examine books, papers, &c., of railroads, &c.

Corporations required to permit examinations.

Duty of attorney-general upon neglect or refusal of corporations to permit examinations, &c.

Board to make report to attorney-general.

Justice of supreme court to hear and decide application to reform and correct errors.

Justice to reform reports and allow expenses and compensation.

Certificate of reformation, determination, &c., to be filed with state comptroller.

Time stated within which cases are to be decided.

Proviso.

Failure of corporation to pay tax, &c., within a certain time, judgment to be entered in supreme court.

Execution may be issued, &c., and franchises, property, &c., sold.

Attorney-general to act as counsel of board and may employ assistants.

P. L. 1888, p. 269.

Railroad and canal property, how taxed. When board to meet.

ceedings upon each petition, so that he can decide the same within ninety days after the presentation thereof, unless he shall extend the time by certificate under his hand, stating the time for such extension and the reasons therefor, and upon the completion of the proceedings, the petition, proceedings and proofs shall be filed in the office of the state comptroller; *provided*, that in ascertaining whether any company is indebted to the state for taxes under the investigation herein provided for, the company shall be allowed for overpayments of taxes in any one or more years (if any such there be) in determining the amount due the state.

210. SEC. 4. That whenever any corporation, defendant in such proceeding as aforesaid, shall fail to pay the amount of tax and interest, expenses and allowance certified as aforesaid by the said justice to the said comptroller for ten days after the filing of such certificate in the comptroller's office, it shall be the duty of the attorney-general forthwith to apply to a justice of the supreme court for an order that the said tax and interest, expenses and allowance so certified by the aforesaid justice, and also a further reasonable sum to be certified by said justice for the expense of said proceeding before him and for the services of the attorney-general therein shall be made a record of the supreme court and judgment entered for the amount in the name of the state of New Jersey as plaintiff and against such corporation as defendant, which order shall be made forthwith upon a certified copy from the comptroller of the reformation, ascertainment and determination aforesaid on file in his office and the certificate of the state treasurer that the sum or sums awarded in said certificate have not been paid; and the attorney-general may then apply for an order of the said justice that an execution forthwith issue on said judgment, to be directed to a master in chancery to be named in said order; and such an order may be applied for *ex parte*, and in all cases the proceedings shall be summary under such execution; the master to whom the same shall be directed shall sell all the franchises of the said corporation, and also so much of the real, personal and mixed property of the corporation as may be sufficient to make the amount due on said judgment and the usual execution fees; such sale shall pass the absolute title to said franchises and property sold thereunder, free and clear of all liens and incumbrances whatever, except of other taxes levied thereon; such notice, advertisement and publication of such sale shall be given not less than four weeks, as shall be directed in the order for execution, and no other notice, advertisement or publication shall be necessary.

211. SEC. 5. That the attorney-general shall act as counsel to said board, and, with the approval of the governor and comptroller, the attorney-general shall employ such assistant attorneys or counsel as may be necessary to assert and protect the rights of the state in the examination and proceedings authorized by this act, and such assistants shall be paid by the state such compensation as may be approved by the state board of assessors, nor shall the total amount expended under this act exceed the sum of seven thousand dollars.

Amendatory act.

Approved March 27, 1888.

212. SEC. 1. That all the property of any railroad or canal company not used for railroad or canal purposes shall be assessed and taxed by the same assessors and in the same manner and at the same rate as the taxable property of other owners in the same municipal division or taxing district; all other property of any railroad or canal company shall be assessed and taxed as hereinafter directed; the tax imposed by this act shall be in lieu of all other taxation upon the property subject to taxation under the provisions of this act; in all cases where the real estate, tangible personal property and franchise of any company are assessed and taxed under this act, the shares of stock and the bonds and certificates of indebtedness of

such company shall not be taxed in the hands of the shareholders, bondholders or creditors, except as hereinafter provided. (a)

213. SEC. 2. [Amended by Sec. 243, *post.*]

214. SEC. 3. That it shall be the duty of the board of assessors to meet at Trenton on the first Tuesday of May in the present and each succeeding year, and as often during each year and at such places as their duties may require; they shall proceed to ascertain the true value of all property used for railroad or canal purposes of each railroad and of each canal company in this state, including its franchises, and they shall, in such ascertainment, ascertain:

I. The length and value of the main stem of each railroad, and of the water-way of each canal and the length of such main stem and water-way in each taxing district;

II. The value of the other real estate used for railroad or canal purposes in each taxing district in this state, including the roadbed (other than main stem), water-ways, reservoirs, tracks, buildings, water tanks, water works, riparian rights, docks, wharves and piers, and all other real estate, except lands not used for railroad or canal purposes;

III. The value of all the tangible personal property of each railroad and of each canal company;

IV. The value of the remaining property, including the franchise.

The term "main stem" of each railroad and of each canal company, as used in this act, shall be held to include the roadbed not exceeding one hundred feet in width, with its rails and sleepers, depot buildings used for passengers connected therewith; the term "water-way" shall be held to include the towing-path and berme-bank; the term "taxing district" shall be held to designate any municipality, city, township, borough, incorporated town or village having power to assess and levy taxes, through which any road or canal may run; the term "tangible personal property" shall be held to include the rolling stock, cars, locomotives, ferry-boats, all machinery, tools, other tangible personal property of any railroad company, and the floating, movable and other tangible personal property of any canal company, and also the locomotives and cars not belonging to such railroad company but built for its use and actually used in this state, or run under its control in this state by a sleeping car company or other company; but the rolling stock of other persons or corporations temporarily used on any such road, and the floating or movable property temporarily used on such canal, but not forming part of the equipment of such road or canal, shall not be included in said term. (b)

215. SEC. 4. That it shall be the duty of the assessors in all taxing districts where property of any railroad or canal company not used for railroad or canal purposes shall be assessed, if required so to do by the state board of assessors, to certify and send to the state board of assessors, on or before the second Monday of June in each year, a statement giving the description of such property and showing the assessed valuation thereof; the local assessors shall also, at the same time, certify and send to the state board of assessors a short description of all the real property in their

When board of assessors to meet.

What facts to be ascertained.

Main stem and water-way.

Value of other real estate.

Tangible personal property.

Remaining property and franchise. Terms defined.

Local assessors to send statement of property, &c., to state board within certain time.

(a) The authorized right of way of a railroad duly acquired, over which a railway has been constructed and is in good faith operated, is used for railroad purposes within the meaning of the act, although it may not, for the time being, be wholly occupied by tracks or railroad appliances. *United N. J. R. Co., &c., Co. v. Jersey City*, 28 Vr. 129, reversing *S. C.*, 24 Vr. 547.

(b) This act is not in contravention of the provisions of the constitution that property shall be assessed for taxes under general laws and by uniform rules, according to its true value. *State Board of Assessors v. Central R. R. Co.* 19 Vr. 146. Railroad and canal property has characteristics sufficiently marked and important to make it a class by itself, and therefore may be made the subject of separate legislation for the purposes of taxation. *Ib.* Being peculiar property, the method of valuing it must be peculiar. The machinery provided for the purpose by the act—a state board of assessors—is appropriate and such as is necessary. *Ib.* Under this act the taxes imposed are one tax, and the fact that under the act railroad and canal property pays less than its share of municipal or county tax as compared with other property, is no objection to the law. *Ib.* The act is not in contravention of the fourteenth amendment to the federal constitution. *Ib.* Corporate franchises are property, and taxable as such. *Ib.* Under the act constituting a state board of assessors to value the property of railroads and canals, the case to be reviewed on *certiorari* by the supreme court should be made by the proofs and exceptions on the appeal before such board, and

not on a rule to take testimony granted by the supreme court. *Central R. R. Co. v. State Board of Assessors*, 20 Vr. 1. In estimating the value of railroad property, the cost of the acquisition of such property is not an absolute criterion of such value, but is an important element in the circumstances on which a judgment on the subject is to be formed. *Ib.* The act directs the valuation of the property of these two classes of companies to be made in a distributive mode; that is, first on the main stem; second, the other real estate used for railroad purposes; third, the tangible personal property; fourth, the franchises. *Held*, that such system of valuations has been declared by the court of errors constitutional and unobjectionable. Further *held*, that the valuations of such property, including the franchises, are legal, and as there is no clear evidence showing the same to be exorbitant, they cannot be modified. *Ib.* In the absence of proof, the court will not interfere with the valuation of the franchise made by the state board of assessors at the taxing date. *Williams v. Bettle*, 21 Vr. 182. When property has been returned to the state board as used for railroad purposes, and has escaped local taxation, it is too late to claim exemption from valuation by such board. *Ib.* The state board of assessors, in the valuation of property, must give its true value, and not be governed by the valuation of the local assessors. *Ib.* See *State Board of Assessors v. Morris and Essex R. R. Co.*, 20 Vr. 193, and *State Board of Assessors v. Paterson, &c., R. R. Co.*, 21 Vr. 446.

respective taxing districts, used or owned for railroad or canal purposes, excepting the main stem or roadbed and track, not exceeding one hundred feet in width of each railroad, and the water-way, towing-path and berme-bank, not exceeding one hundred feet in width of each canal; the said assessors shall also certify to the said board the local rate of taxation for county and municipal purposes, as soon as the same shall be determined, and such other information obtained in the course of the performance of the duties of their office as the said board shall require of them, and for the service mentioned in this section the said local assessors shall receive three dollars per day for each day actually engaged in such service, to be paid on the warrant of the comptroller, on an affidavit of such service being filed in the office of said comptroller.

Compensation of local assessors.

How paid.

Meetings of board for hearing on questions of valuations and assessments.

216. SEC. 5. That on the first Monday of July the board shall meet at the state-house, in Trenton, and shall give a hearing to all companies interested, touching the valuation and assessment of their property; the board may adjourn from day to day, and may, if they see fit, require all arguments and communications to be presented in writing; when the first Monday of July shall fall on the fourth or fifth day of that month, the day of meeting shall be on the first Tuesday of July; all parties interested shall take notice of this hearing.

Taxation of railroad property leased or operated by another corporation.

217. SEC. 6. That if the property of any railroad or canal company be leased to or operated by any other corporation, foreign or domestic, the property of the lessor, or company whose property is operated, shall be subject to taxation in the manner hereinbefore directed, and if the lessee or operating company, being a foreign corporation, be the owner or possessor of any property in this state other than that which it derives from the lessor or company whose property is operated, it shall be assessed in respect of such property in like manner as any domestic railroad or canal company; any tangible personal property of such foreign company, if used or kept but a part of the time in this state, shall be assessed such proportionate part of its value as the time it is used or kept in this state during the calendar year preceding bears to the whole year. (a)

Mode of assessing foreign equipment in the state.

Deduction for mortgage to be allowed if claimed.

218. SEC. 7. That in case any railroad or canal company shall claim any deduction on account of any mortgage or debt secured thereby, the said board are hereby required to allow the same in the cases in which and to the extent to which the assessor is authorized by law to allow a deduction in the case of any other owner of mortgaged lands, and thereupon the said mortgage and the estate of the mortgagee in the land mortgaged shall be subject to taxation in the same manner, as nearly as may be, and at the same rate or rates, as the estate of the mortgagor; the deduction shall be made pro rata from the valuation of each class of property covered by the mortgage, and the amount received from the taxation thereof shall be distributed as if the tax had been paid by the mortgagor without deduction.

Deduction of other debts allowed, if claimed, but if allowed to be taxed as other debts to creditors. Creditors' debts, how assessed.

219. SEC. 8. That if any railroad or canal company shall claim a deduction in any case in which such deduction could be claimed under the general laws of the state by other taxpayers for debts other than the deduction last hereinbefore mentioned, the said board are hereby required to allow the same, and the said indebtedness so allowed shall be taxable as other debts owing to creditors residing in this state are taxable, and at the same rate; but the assessment thereof shall be made by said board and not by the local assessor, and the tax shall be paid to the treasurer of the state, to the credit of the fund derived from taxation under this act; the deduction shall be made pro rata from the valuation of each class of property of the debtor assessed, and shall be distributed as if the tax had been paid by the debtor without deduction; *provided*, that no deduction, either for mortgage or other indebtedness, shall be allowed unless the same shall be applied for in the report and statement required to be made pursuant to

Proviso.

(a) Where it appeared that certain engines and cars that were used on the lines of a railroad of this state under lease to a foreign corporation, by such corporation, in the course of interstate commerce, such company having in use a full local equipment of such leased lines which was duly taxed in this state—

Held, that the tax upon such property employed in interstate commerce was illegal, being in contravention of that clause of the constitution of the United States that gives to congress the exclusive regulation of commerce between the several states. *Central R. R. Co. v. State Board of Assessors*, 20 Vr. 1.

this act, and unless the nature of the indebtedness, and the name and residence of the creditor, and the different taxing districts in which the mortgaged land lies, shall be specified, and unless the other terms imposed by the general laws of the state upon other taxpayers claiming deductions shall be complied with.

220. SEC. 9. That the state board of assessors shall, upon the completion of their valuation and assessment, proceed to compute the tax upon the entire assessed valuation of each railroad company and of each canal company, as ascertained by them; upon such valuation, each company shall pay to the state, for general state purposes, a tax at the rate of one-half of one per centum annually upon each dollar of valuation, and the state board of assessors shall compute the same; each company shall also pay, in addition to said tax of one-half of one per centum, a tax at the local rate as fixed and assessed for county and municipal purposes upon other property in each taxing district, upon the valuation of its property in the several taxing districts, separately valued and assessed under the provisions of subdivision two of section three of this act, which tax shall also be computed by the state board of assessors; but the last-mentioned rate shall in no case exceed one per centum of the valuation of the property valued under the provisions of subdivision two of section three of this act; the sum of the estimates or computations for each company shall constitute the tax to be paid by each company and shall be a lien paramount to all other liens upon all the lands and tangible property and franchise of such company in this state; such lien shall take effect on the first day of November; and a copy of the valuation in detail of the property of each corporation and of the tax assessed against the same under the provisions of this act, shall be served upon the treasurer of such corporation or left at his office within ten days after the said first day of November; but the failure to serve any such notice shall not be held to invalidate any tax assessed or affect any lien created under this act; said tax shall be a debt due from such company to the state on that date, for which an action at law or in equity may be maintained and which shall be a preferred debt in case of insolvency; these remedies are in addition to the special proceedings provided for in this act. (a)

221. SEC. 10. That the said board shall certify and report to the comptroller of the state, on or before the first day of December in each year, a statement of the assessed valuation of the property of each company in the state, and of the separate valuation of property in each taxing district, as made by them, the amount of tax payable by such company with respect to its property separately valued in each taxing district, and the aggregate assessed valuation, and the total tax levied upon each company; such statement shall be made separately for each company, and as to said property separately valued, shall be arranged by taxing districts in such manner as to be of easy reference, and shall be recorded in books in the office of the state comptroller, to be provided by him for that purpose, and shall be public records, subject to public inspection; and the amount of tax payable by each company, as shown by the said statements, shall be due and payable into the state treasury, on any day between the first day of November and the first day of February following; and the payment or collection thereof shall not be stayed by any writ or order of any court of law or equity; it shall be the duty of the state treasurer to receive payment of the said taxes from the said companies; if the taxes of any company, or any portion thereof, remain unpaid on the first day of February following the levying thereof, such company shall be considered in default, and such taxes, or such unpaid portion thereof, shall thenceforth bear interest at the rate of one per centum for each month until paid, notwithstanding the prosecution of any writ of certiorari or other remedy; *provided*, that so much of the tax as is applicable to general state uses, as hereinafter provided, may be paid in four equal installments on or before the first days of February, May

State board to compute tax upon completion of assessment.

State tax.

Local tax.

Local rate limited, &c.

Copy of valuation to be served on treasurer of each corporation.

Remedies for collection.

When board to certify statement to comptroller.

What board shall certify.

Statement to be recorded by comptroller.

When taxes payable.

Treasurer to receive taxes.

Default and penalty.

Proviso.

(a) For construction of this section, which was section 12 of the railroad tax law of 1884, amended, see 21 Fr. 182, 22 Fr. 512.

Williams v. Bettie,

and August and the fifteenth day of October in each year, and any unpaid portion or installment shall bear interest only from the date limited for the payment thereof, at one per centum for each month until paid, but this privilege of payment by installments shall not be granted unless the portion of the tax which is applicable to county and local purposes shall be paid before the first day of February following the levying thereof.

222. SEC. 11. [Amended by Sec. 242, *post.*]

Meeting of board to review assessment.

Proceedings to review assessments.

Attorney-general to attend meetings.

Notice to company.

Subpœnas.

Certificate to comptroller.

When proceedings to be completed.

Manner of contesting assessments by certiorari.

Proviso.

Court may return assessment to board for correction.

No assessment or tax shall be set aside for misnomer.

Proceedings when tax remains unpaid for ten days.

223. SEC. 12. That the said state board of assessors shall meet on the third Monday of November, at the state-house, in Trenton, for the purpose of reviewing their assessment, and may adjourn from time to time till they shall have finished the hearing; upon the written complaint of any company or person considering itself or himself aggrieved, and specifying the grievance, or of the attorney-general or of any member of the board, on behalf of the state, that the property of any company is assessed too low, either in the whole or in any taxing district, or that property has been omitted, they shall review the said assessment, and correct the same as shall appear just; the attorney-general shall attend such meetings of said board in person or by deputy; no complaint that any company or person is assessed too low, or that any property has been omitted, shall be acted upon until the company or person so assessed shall be notified of such complaint by five days' notice, to be served on such company or person by leaving the same at the office of such company or at the usual place of abode of such person, if a resident of this state; the board shall have the power to issue subpœnas and examine witnesses and call for the production of books and papers, and they shall be entitled to use their personal knowledge and judgment as to the value of property; they shall certify to the comptroller of the state all corrections which they shall make in any assessment; the proceedings provided for by this section shall be completed before the fifteenth day of January following the making of said assessment, and all complaints must be presented on or before the third Monday of November, or shall be deemed to have been waived.

224. SEC. 13. That if any company or person assessed, or if the attorney-general on behalf of the state, or if the authorities of any taxing district, shall desire to contest the validity or amount of any tax levied upon property under the provisions of this act, such contest shall be made by certiorari, which may be granted on notice to the attorney-general or to the company or person assessed, on a proper case made, on such terms as the justice or court granting the writ may impose; upon such writ, relief may be had as well in cases where it is claimed that the amount of tax is excessive or insufficient, as in cases where it is claimed that the principle upon which the assessment is made is erroneous; *provided*, that no writ of certiorari shall be granted unless the applicant has applied to said board of assessors to review the assessment, as provided for in this act, nor shall any writ of certiorari be granted after the expiration of three months from the final determination of said board; if such writ shall be allowed, and if it shall be made to appear that any assessment is unlawful, excessive or insufficient, the court shall correct the same by whomsoever such writ shall be prosecuted, and reduce or increase it, as may be just, or refer it back to the board of assessors, who shall correct or re-assess the same, in accordance with the instructions of the court; in any suit or proceeding, except on such certiorari, the certificate and report of the state board of assessors shall be conclusive and shall have the force and effect of a judgment of a court of record having competent jurisdiction, and the proceedings whereon such certificate and report are founded, shall not be inquired into; no assessment or tax shall be set aside for misnomer of the owner of the property assessed; but the name may be corrected at any time by the board of assessors or court; the prosecutor of a writ of certiorari shall pay eight-cents per folio to the state board of assessors and comptroller for returns made by them of proceedings under this act.

225. SEC. 14. That if any tax under the provisions of this act shall remain unpaid in whole or in part for ten days after the expiration of the time limited for payment thereof, it shall be the duty of the attorney-gen-

eral to apply forthwith to a justice of the supreme court for an order that said tax and the interest due thereon and a reasonable sum to be certified by said justice to be paid for the expense of said proceeding, shall be made a record of the supreme court, and judgment shall be entered therefor in the name of the state of New Jersey as plaintiff against said company, mortgagee or mortgagees, or other creditor, as defendant, which order shall be made upon the production of a certified copy from the comptroller of the certificate and report of the state board of assessors on file in his office, and of the certificate of the comptroller that said tax has not been paid; the attorney-general shall also apply for an order that execution forthwith issue on said judgment, directed to a master of the court of chancery, to be named by said justice in said order; the said orders shall be respectively applied for on five days' notice to the company or mortgagee or mortgagees or other creditor concerned, which notice, in case of any company, shall be served in the same manner as a summons is directed by law to be served upon a corporation, and in all cases the proceedings shall be summary; in case a certiorari shall have been granted, on application of the attorney-general the orders above provided for shall be made and enforced without prejudice to the right of the state to enforce the payment of any additional amount of tax which may be imposed and to apply for a second judgment therefor; in case a certiorari shall have been granted on application of any company or mortgagees or other creditor taxed, and the tax shall have been reduced after the payment thereof, then the excess shall be repaid by the state upon the order of the court, and the state comptroller shall, upon such order, issue his warrant for such payment accordingly.

Judgment.

Execution

226. SEC. 15. That the master in chancery to whom the execution shall be directed shall sell all the franchise, real estate and rolling stock and property of said company, and the estate and interest of any mortgagees, and the debt due to any creditor for which a deduction has been allowed, or so much thereof as may be necessary to make the amount due on said tax judgment and the usual execution fees; the execution shall describe the property or debt aforesaid whereon the tax was assessed, and shall direct the sale thereof, and, generally, the sale of all other property of said company or person; such sale shall pass the absolute title to the franchise and property and debt aforesaid so sold, whereon the said tax was assessed or became a lien, free and clear of all liens, incumbrances and trusts of every nature, except taxes subsequently levied; in cases of the sale of the estate and interest of any mortgagee it shall pass as well such estate as the interest of all bondholders and cestuis que trust for whose benefit said mortgage may have been given or may be held in trust or otherwise; as to any other property of said company or persons, the judgment and execution shall constitute or become liens in the same manner and to the same extent as other judgments and executions of the supreme court; the sale, advertisements and proceedings under such executions shall be the same as under other executions of the supreme court; *provided, however,* that the company whose franchise, real estate, rolling stock and property, or any part thereof, has been so sold, and the mortgagee or mortgagees or any bondholder or other person having an interest in the estate and interest of the corporation or mortgagee which has been so sold, may, at any time within two years from and after any such sale, redeem the property so sold by tendering and paying to the purchaser or purchasers thereof the amount of the purchase-money by him or them paid, together with interest thereon at the rate of ten per centum per annum.

Sale, by master in chancery, of property under execution.

Provision of redemption of property sold.

227. SEC. 16. That in order to ascertain the facts necessary for the discharge of their duties under this act, the said board shall use such lawful means as they may deem necessary; they may employ surveyors if they shall be dissatisfied with information otherwise attainable; they shall have the power of compelling the attendance of witnesses and the production of books and papers; and they may delegate such power to any member of their board authorized by them to investigate and report; they shall also use the returns hereinafter provided for, but such returns shall not be conclusive, and if any of said returns shall not be made, the board shall

Powers of board.

To employ surveyors.

To compel attendance of witnesses.

- ascertain the necessary facts from the best information they can obtain, in such mode as they may find convenient, using their personal knowledge and judgment; the said assessors, or any one of them, shall have power to administer oaths and affirmations to any person to ascertain any facts which will enable them properly to perform the duties of their office, and they may reduce the statements of the person sworn to writing, and require him to swear and subscribe thereto, and may, ex parte, apply for and obtain from any justice of the supreme court an order to compel any person to submit to examination in reference to such matters, and such justice may punish any party as for a contempt who shall disobey any order made by such justice in the premises.
- 228. SEC. 17.** That on or before the first Tuesday of May in each year, any person or company running, operating or constructing any railroad or canal in this state shall return to the state board of assessors statements or schedules, subscribed and sworn to by the president or other chief officer, before some officer of the state authorized to administer oaths, of the property of such railroad or canal as it existed on the first day of January preceding, which, for each railroad, shall be as follows :
- I. Of the real estate, specifying its extent and dimensions, which may be shown by a map or maps, setting out in detail the total length of the road, including branch and leased lines, the entire length in this state, and the length of double or side tracks; and the number, character and value of all buildings and structures in each county and in each taxing district through or in which it is located in this state, designating the main stem or roadbed and the width wherever it exceeds one hundred feet, and designating particularly any portion in each taxing district which is not used for railroad purposes, and which is locally assessed and taxed, and the value thereof ;
- II. Of the rolling stock and tangible personal property, giving the number of freight engines, passenger engines, passenger and freight cars, ferryboats and other movable property of every description, owned, used or hired, and the value thereof ;
- III. A statement or schedule, showing :
- a. The amount of capital stock authorized and the number of shares into which such capital stock is divided ;
- b. The amount of capital stock paid up ;
- c. The market value, and if no market value, then the actual value of the shares of stock ;
- d. The total amount and the details and particulars of all indebtedness ; (a)
- Such statements and schedules for canals shall be as follows :
- I. Of all the real estate of said company, giving the depth of water and dimensions of such canal, the length of the canal and of its feeders in the state, and the number, character and value of all locks, and of all buildings and other structures in each county and taxing district, designating particularly the width where it exceeds one hundred feet and designating any portion in each taxing district which is not used for canal purposes and which is locally assessed and taxed ;
- II. The floating and movable property ;
- III. A statement or schedule containing all the particulars above enumerated and to be returned by railroad companies in the third statement or schedule ; such statements or schedules shall be made in conformity with such instructions and forms as may be prescribed by the said board, and such further statements shall be furnished as said board shall require ; the said board shall prescribe the form of the oath to the statements and schedules required by this section, any person who shall make such oath falsely shall be guilty of perjury.
- 229. SEC. 18.** That any railroad or canal company claiming exemption from taxation under this act, by reason of any alleged contract with the state, shall, together with and in addition to the return required by the last section, make a further return specifying the act or acts of the legislature
- To administer oaths.
- To apply for order to compel attendance of witnesses.
- When railroads shall make return to board.
- Real estate, length of road, &c.
- Rolling stock, &c.
- Capital stock.
- Indebtedness.
- Statement for canal company.
- Movable property.
- Statements, &c., to conform to forms prescribed by state board.
- Company claiming exemption under contract with state to make additional return.

(a) Debts cannot be deducted from the valuation of the property by the state board of assessors unless applied for under this section. *Williams v. Belle*, 21 Vr. 132. *S. C.*, 22 Vr. 512.

by which such contract is claimed to have been created, and also specifying what portion of the property of said railroad or canal company is claimed to be exempt from taxation under this act and the particulars thereof, and the cost and value thereof, and such other particulars as the charter of said company and as the said board may require, and the particulars as to character, location and value of the property, if any, admitted to be liable under this act; such return shall be in no manner conclusive as to any of the facts therein stated, but said board shall investigate and determine whether any, and if any, what portion of the property of such company is by contract beyond the power of the state to tax under this act; and shall ascertain the cost and value thereof, and shall estimate the tax to be paid by such company; the residue of said property shall be assessed, apportioned, valued and taxed pursuant to the provisions of this act.

230. SEC. 19. That it shall not be lawful for any railroad or canal company having any contract with the state whereby any of their property is exempted from the taxation imposed by this act, to acquire and hold, directly or indirectly, any property in this state (except such property as such company may be entitled to acquire and hold pursuant to their said contract with this state, if such company has any charter provisions on this subject which the legislature cannot abrogate or repeal), unless such company shall, by a written instrument, executed under their common seal, approved by the attorney-general and filed with the secretary of state, first agree that any and all property acquired by such company after the passage of this act shall be subject to taxation under the provisions of this act, or any amendments thereto, or any further act of the legislature, in which case such property shall be so subject.

Unlawful for company having contract with state exempting property from taxation to acquire other property unless it agrees that such property shall be subject to taxation.

231. SEC. 20. That if any person or corporation running, operating or constructing any railroad or canal shall willfully neglect to make returns, as required by this act, such person or corporation shall forfeit as a penalty not more than ten thousand dollars, to be assessed by the jury, for each offense, to be recovered in any proper form of action in the supreme court, in the name of the state, and paid into the state treasury; it shall be the duty of said board to certify any such default to the attorney-general of the state, and it shall be the duty of the attorney-general to prosecute for such penalty; any person who shall make falsely any oath required to be made under this act, and any person who shall testify falsely when called to testify under this act, shall be guilty of perjury, and on conviction thereof shall be liable to all the penalties prescribed by law therefor.

Penalty for neglecting to make returns.

Penalty for swearing falsely.

232. SEC. 21. That all railroad companies in this state, which shall hereafter pay any taxes imposed by this act on any cars, hired, leased, run or used on the roads of such companies in this state, shall have a right of action against the company or persons owning such cars, for the taxes so paid, with interest thereon from date of payment, and may sue for and recover the same in any court of competent jurisdiction; but nothing in this section shall be so construed as to avoid the obligation of any contract relating to the payment of taxes heretofore entered into or made between any such company, its agents, or person owning such cars, and any such railroad company.

Companies paying tax on cars hired, &c., to have right of action against owners for tax paid.

233. SEC. 22. That if any company shall be in default under this act in payment of the state tax aforesaid, any person having any interest in a mortgage or other lien on its franchises or property, may pay the state treasurer the amount of such state tax, and the interest due thereon, and receive from said treasurer a certificate of such payment, and such person shall thereupon be entitled to be repaid the amount of said tax and interest thereon at the rate of twelve per centum per annum out of the first proceeds of any sale of the franchises or property of said company, and such tax and interest thereon shall continue a lien on the franchise and property of the company for the benefit of the holder of or person interested in such mortgage or lien until paid by said company from the sale of its franchises or property; if any proceedings have been taken by the attorney-general to enforce the payment of said tax and interest thereon, then such holder of or person interested in a mortgage or lien paying such

Payment of tax by mortgagee, &c., when company is in default.

tax and interest shall pay such additional amount as a justice of the supreme court shall certify to be proper and reasonable for the expenses and services of the proceedings as far as they have progressed for the collection of said tax and interest thereon.

Assessment of railroad or canal property operated by individuals or association not incorporated.

234. SEC. 23. That if any railroad or canal shall be owned or operated under a franchise by any individual or association not incorporated, the term "company" used in this act shall apply to such owners or operators, and such property shall be assessed and taxed under the provisions of this act in the same manner as if operated by a company, and the persons operating or owning such railroad or canal shall make the returns required by this act to be made by companies.

Attorney-general and state board may employ assistants.

235. SEC. 24. That the attorney-general shall, with the approval of the governor and comptroller, have power to employ such assistant attorneys or counsel as may be necessary to protect and properly defend the interest of the state, in carrying out the provisions of this act; and such assistants shall be paid such compensation by the state as may be approved by the attorney-general and the comptroller; the state board of assessors shall have power to employ such assistants in making their valuations as may be necessary to complete the same in due time, and such assistants shall be paid such reasonable compensation for their services as the board and the governor shall approve.

Company claiming exemption under contract may pay certain sums.

236. SEC. 25. That any corporation having, or claiming to have, any contract with the state whereby any of its property is claimed to be exempted from the taxation imposed by this act, may, at its discretion, voluntarily pay to the state from year to year such sums of money as, added to the tax now assessable against such corporation under such alleged contract, will be equal to the tax assessable against such corporation under this act in respect to the property so claimed to be exempted, and such voluntary payment shall not be construed in any proceeding or suit to be a waiver by such corporation of its said alleged contract; *provided, however,* that nothing in this section, or in this act contained, shall be construed or taken as an admission on the part of the state that any corporation is possessed of any contract or especial provisions of the law on the subject of taxation which may not at any time be repealed or modified by the state.

Proviso.

If one section of act unconstitutional, not to affect other provisions.

237. SEC. 26. That if any section of this act shall, for any reason, be held to be unconstitutional or invalid, it shall not affect the other provisions of this act or any of them.

Companies having contracts with state may file agreement waiving contract, and be subject to tax under this act.

238. SEC. 27. That any corporation in this state having the right, by contract, to any different imposition of tax, either state or municipal, than that provided for in this act, are hereby authorized to execute and file in the office of the secretary of state an instrument, to be first approved by the attorney-general, waiving the benefit of any such contract, whereupon they shall be bound by the terms of this act, or any amendments hereto, or any further act of the legislature, and upon filing any such instrument the state agrees to surrender its right to take the property of any such corporation under any law now existing; *provided,* that any such corporation shall execute and file such instrument within six months from the time of the passage of this act.

Proviso.

Supreme court to determine character of property when assessed by both local authorities and state board.

239. SEC. 28. That in case any property of any railroad or canal company which has been, or shall hereafter be in any year assessed by the local authorities of any taxing district has been or shall be also assessed by the state board of assessors as property used for railroad or canal purposes, the supreme court or any three justices thereof, to be assigned by the chief justice, shall determine, in a summary manner, the character of the property and whether used for railroad or canal purposes, and by which assessors the same has lawfully been assessed, which determination shall be made whether the taxes in question have been paid or not, and whether a certiorari to review either assessment has been granted or not; such determination shall be made under an order to show cause at a time and place to be therein designated, which order shall be granted by the chief justice of the supreme court upon application ex parte by any of the parties inter-

Order to show cause may be granted.

ested, namely, by the attorney-general on behalf of the state, or by the owner of the property assessed, or by the authorities of the taxing district; and said order shall be served not less than ten days before the day fixed therein for the hearing, upon the said parties interested not making such application; depositions may be taken, on two days' notice by either party, to be used on such hearing; the justices before whom the matter shall be heard, may, if they see fit, view the property in dispute, to guide them in their decision; the judgment of the court shall direct the cancellation or reduction of either assessment, as the character of the property may require, and shall make such order as to the return to the taxpayer of any tax or any portion thereof, that may have been paid to the state, or to any taxing district not entitled thereto, as such court shall deem just; the payment of costs may be directed in such manner as the court may deem equitable; the said judgment shall be conclusive and final in all collateral proceedings, but may be reviewed on writ of error by the court of errors and appeals.

Proceedings on.

240. SEC. 29. That if any corporation whose property and franchises have been or shall be valued and assessed under the provisions of the act to which this is a supplement, by the state board of assessors, shall pay or cause to be paid to the treasurer of the state the tax so assessed upon its property and its franchises at the times and in the manner provided by law, or within fifteen days after the state board of assessors shall have made and declared their final revision of their valuations and assessments, that neither such payment nor the lapse of time in making application for a writ of certiorari shall be considered by any court or judge thereof as a reason why such corporation should not be entitled to such writ of certiorari upon any question adjudicated in favor of any corporation that may refuse to pay the taxes assessed against it, and that shall bring its writ of certiorari, to review the valuations and assessments within the time limited by the act to which this is a supplement; *provided*, application for a writ of certiorari be made within six months after such question has been finally adjudicated, and no other questions shall be considered on said writ.

Payment of tax not to affect right of writ of certiorari.

241. SEC. 30. That this act shall be subject to amendments, alterations or repeal at the will of the legislature; the "Act for the taxation of railroad and canal property," approved April tenth, anno domini eighteen hundred and eighty-four, which is by this act revised and amended, and the supplements thereto approved February fifth and April fifth, (1) anno domini eighteen hundred and eighty-five, and all other acts inconsistent with the provisions of this act, are hereby repealed, except so far as herein re-enacted, but nothing in this repealer shall affect or impair the lien of any taxes heretofore assessed or any remedies for the collection of the same, or to surrender any remedies, powers, rights or privileges acquired by the state under said act hereby revised, or to relieve any person or corporation from any penalty imposed by said act and supplements, nor shall anything in this act be held to repeal the supplement to the said act hereby revised, which supplement was approved June tenth, anno domini eighteen hundred and eighty-six, nor shall this act affect the tenure of office of the present state board of assessors.

Proviso.

Act subject to amendments, &c.

Acts repealed.

Repealer not to affect taxes heretofore assessed, &c.

An act to amend an act entitled "An act to revise and amend 'An act for the [taxation] of railroad and canal property,' approved April tenth, one thousand eight hundred and eighty-four," which was approved March twenty-seventh, one thousand eight hundred and eighty-eight.

Approved April 2, 1888. P. L. 1888, p. 376.

242. SEC. 1. That the eleventh section of an act to revise and amend an act entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eight-four [see Sec. 222, *ante*], be and the same is hereby amended so as to read as follows:

(1) *Query*—Is not this intended to be April seventh? See P. L. 1885, p. 220.

Money collected
for tax, how
appropriated.

[That the money collected under this act for the one-half of one per centum tax shall be applied to the uses of the state, according to law ; the amount received for tax upon property separately assessed in the different taxing districts is hereby appropriated, and shall be allotted to the various taxing districts, giving to each district the amount that was derived from the property of each railroad or canal company therein ; the comptroller shall transmit to the collector of each county a certificate showing the amounts allotted to the taxing districts therein, and shall draw his warrant upon the state treasury, in favor of the several county collectors, for the amounts allotted to their several counties, and the county collector shall forthwith pay to the collector, or other proper officer of each taxing district, the amount allotted thereto, deducting, however, the amount due for county taxes from such taxing district ; the amount thus paid to the county and taxing district shall be at the disposal of the proper authorities for public purposes ; *provided, however*, that whenever the local city rate as fixed and assessed in any city exceeds one per centum of the ratables of such city, then in such case the comptroller shall transmit to the collector of taxes of said city a certificate showing the amount allotted to such city, and shall draw his warrant upon the state treasurer in favor of the treasurer of such city for said amount ; such warrant to be at the disposal of the board of such city having control of its finances, to be used for the municipal purposes of such city, such amount to be first applied to the purchase of such outstanding bonds or obligations of the city as can be bought below the par value thereof, and if no bonds or obligations can be bought below par, then such amount, or the balance, if any, shall be applied to the payment of such part of the city debt and interest falling due thereon as the said board having control of the finances of the city may determine.]

Proviso.

A supplement to an act entitled "An act to revise and amend 'An act for the taxation of railroad and canal property,' approved April tenth, one thousand eight hundred and eighty-four," approved March twenty-seventh, one thousand eight hundred and eighty-eight.

P. L. 1891, p. 165.

Approved March 17, 1891.

243. SEC. 1. That section two of the act to which this is a supplement [see Sec. 213, *ante*] be amended to read as follows :

State board of
assessors, how
constituted.

[That all property of any railroad and of any canal company used for railroad or canal purposes shall be assessed by a state board of assessors, which shall consist of four members, and shall be appointed by the governor, by and with the advice and consent of the senate ; no person shall be qualified or authorized to act as a member of said board unless his appointment shall have been confirmed by the senate ; their term of office shall commence on the first Monday of May ; the assessors first appointed shall be appointed to hold office respectively for one, two, three and four years, and until the appointment of a successor ; all subsequent appointments shall be for a term of four years and until the appointment of a successor ; vacancies shall be filled by the governor, subject to the approval of the senate ; the said assessors shall be citizens of this state, and shall not, during their term of office, be interested in any railroad or canal company ; each assessor shall, before entering upon his duties, file with the secretary of state an oath taken before a justice of the supreme court that he will faithfully discharge the duties of his office, and that he is not interested in any railroad or canal company ; they shall each receive an annual salary of twenty-five hundred dollars ; three members shall constitute a quorum, and any official act shall be valid which has the sanction of three members ; they may employ a secretary, who shall receive an annual compensation as the board of assessors may determine, not to exceed twenty-five hundred dollars ; they shall keep a record of their proceedings and shall annually report to the legislature.] [See Sec. 244, *post.*]

Term of office.

Vacancies.

Oath.

Salary.

May employ a
secretary.

Record and
report.

A further supplement to an act entitled "An act to revise and amend 'An act for the taxation of railroad and canal property,' approved April tenth, one thousand eight hundred and eighty-four," approved March twenty-seventh, one thousand eight hundred and eighty-eight.

Approved May 14, 1894. P. L. 1894, p. 286.

244. SEC. 1. That hereafter all appointments to be made by the governor, of members of the state board of assessors, established under the provisions of the act to which this is a supplement, whether by reason of the expiration of the term of office of any member of the said board, or to fill any vacancies in said board caused by death, resignation or otherwise, shall be so made that not more than two members of the said board at any time shall be members of the same political party.

Appointment to state board shall be non-partisan.

An act to provide for the surrender to the state by railroad and canal companies of special immunities with respect to taxation claimed by virtue of contracts with the state.

Approved March 18, 1885. P. L. 1885, p. 106.

245. SEC. 1. That any railroad or canal company having the right, by contract, to any different imposition of tax, either state or municipal, than that provided for in the act entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eighty-four, is hereby authorized to execute and file in the office of the secretary of state an instrument, to be first approved by the attorney-general, waiving the benefit of any such contract and accepting and submitting to the provisions of the aforesaid act and the supplements thereto; whereupon they shall be bound by the terms of said act, or any supplement or amendment thereto, or any further act of the legislature, and upon filing any such instrument the state agrees to surrender its right to take the property of any such company under any statute now existing; *provided*, that any such company shall execute and file such instrument on or before the first day of July, one thousand eight hundred and eighty-five; *provided further*, that the lessee or grantee of the railroad or canal of any such company shall join in such instrument.

Company authorized to execute and file statement waiving benefit of contract relating to tax.

Proviso.

Proviso.

III. Taxation of corporations.

An act to provide for the imposition of state taxes upon certain corporations and for the collection thereof.

Approved April 18, 1884. P. L. 1884, p. 232.

246. SEC. 1. [Amended by Sec. 257, *post.*]

247. SEC. 2. [Amended by Sec. 258, *post.*]

248. SEC. 3. [Amended by Sec. 259, *post.*]

249. SEC. 4. [Amended by Secs. 256 and 260, *post.*]

250. SEC. 5. [Amended by Sec. 261, *post.*]

251. SEC. 6. That such tax, when determined, shall be a debt due from such company to the state, for which an action at law may be maintained after the same shall have been in arrears for the period of one month; such tax shall also be a preferred debt in case of insolvency.

Taxes to be a debt, and how collected.

252. SEC. 7. That in addition to other remedies for the collection of such tax, it shall be lawful for the attorney-general, either of his own motion, or upon the request of the state comptroller, whenever any tax due under this act, from any company, shall have remained in arrears for a period of three months after the same shall have become payable, to apply to the court of chancery, by petition in the name of the state, on five days' notice to such corporation, which notice may be served in such manner as the chancellor may direct, for an injunction to restrain such corporation from the exercise of any franchise, or the transaction of any business within this state until the payment of such tax and interest due thereon, and the costs of such application, to be fixed by the chancellor; the said court is hereby

Corporation may be restrained from transacting business if tax due is in arrears three months.

authorized to grant such injunction, if a proper case appear, and upon the granting and service of such injunction, it shall not be lawful for such company thereafter to exercise any franchise or transact any business in this state until such injunction be dissolved. (a)

Act not to affect tax on premiums now paid by foreign fire insurance companies.

253. SEC. 8. That this act shall not apply to or in any manner affect the tax upon the premiums obtained in this state by foreign fire insurance companies and their agents, which tax shall be in lieu of the tax herein provided, and shall be collected and distributed as is specially provided by law in relation thereto.

Repealer.

254. SEC. 9. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed in so far as the same are inconsistent herewith.

Supplement.

Approved March 1, 1888.

P. L. 1888, p. 118.

When corporation not liable to taxation, tax to be refunded.

255. SEC. 1. That when any corporation upon which taxes have been or shall be levied under the provisions of the act to which this is a supplement shall afterwards be found by the state board of assessors to be not liable under the said act for such tax, it shall be the duty of the said board to report and certify to the comptroller of the treasury the fact that such corporation has been found to be exempt from the tax imposed by the said act, and to cancel and declare null and void any taxes which may have been or shall be imposed upon such exempted corporation, and if any corporation has paid or shall pay the tax so improperly levied the comptroller of the treasury shall be and is hereby authorized upon receipt of such certificate to draw his warrant upon the state treasurer in favor of the proper officer of such corporation for any and all of such taxes which have been or shall be paid into the state treasury. (b)

An act to amend chapter one hundred and nine of the laws of one thousand eight hundred and eighty-four, entitled "An act to provide for the imposition of state taxes upon certain corporations and for the collection thereof," approved April eighteenth, one thousand eight hundred and eighty-four.

P. L. 1891, p. 50.

Approved March 16, 1891.

256. SEC. 1. [This section amends Sec. 249, *ante*, which is again amended by Sec. 260, *post*.]

Supplement.

Approved March 17, 1892.

P. L. 1892, p. 136.

Certain corporations to pay annual tax to state as license.

257. SEC. 1. That the first section [see Sec. 246, *ante*] of said act be amended so as to read as follows :

[That every telegraph, telephone, cable or electric light company, every express company, not owned by a railroad company and otherwise taxed, every gas company, palace or parlor or sleeping car company, every oil or pipe line company, every life insurance company incorporated under the laws of this state, and every fire, marine, live stock, casualty or accident insurance company, doing business in this state, except mutual fire insur-

(a) Under the act of the legislature imposing taxes upon certain corporations, and providing for the collection thereof, the only power given to or duty imposed upon the court of chancery is to issue an injunction when the attorney-general presents a proper case. *Electro Pneumatic Transit Co.'s Case*, 6 Dick. 71, overruling *Faure Electric Light Co.'s Case*, 16 Stew. 411, and *New York Fire and Sharpening Co.'s Case*, 16 Stew. 413. A message sent by telephone from one state into another is commerce between the states, and cannot be prohibited or regulated by injunction in either state against persons or corporations engaged in sending such messages, because they do not pay the taxes assessed against them by such state. *In the Matter of the Pennsylvania Telephone Co.*, 3 Dick. 91. The constitutionality of such an assessment may be considered by a court of chancery. *Ib.* But the court of chancery has not the power to go beyond this and set the assessment aside. This can only be accomplished by resort to a legal tribunal. *Ib.* When a receiver has been appointed for an insolvent corporation, he is a necessary party to a petition by the state for an injunction to restrain the further exercise of any franchise or transaction of any business of the company by him because of the corporation's non payment of the state's franchise tax. *Mather's Sons'*

Co.'s Case, 7 Dick. 607. When an insolvent corporation is of a public character, its property and work being dependent upon the franchise and the public being interested in the continuance of its work, its receiver must pay the state's franchise tax until the franchise of the corporation shall be sold. *Ib.* When an insolvent corporation is of a mere private character, he will not be obliged to pay any other franchise tax than that which was due at the time of his appointment, unless he shall realize from the assets of the company more than sufficient to pay its debts and the expenses of the receivership, then before distributing to stockholders he will pay any franchise tax that may have been assessed subsequent to his appointment. *Ib.* If the receiver of a private corporation shall continue its business, using its franchise, he shall pay the franchise tax assessed while he continues the business. *Ib.* See *Kirkpatrick v. Board of Assessors*, 28 Vr. 53.

(b) When the legislature has enabled the court to compel the restoration of state taxes in case they should be adjudged illegal after they are paid into the state treasury, the court should not ordinarily stay proceedings to collect the taxes pending the question of their legality. *Singer Sewing Machine Co. v. Assessors*, 25 Vr. 90.

ance companies which do not issue policies on the stock plan, shall pay an annual tax, for the use of the state, by way of a license for its corporate franchise, as hereinafter mentioned; *provided, however*, that no company or society shall be construed to be a life insurance company doing business in this state within the purview of this act, which by its act or certificate of incorporation shall have for its object the assistance of sick, needy or disabled members, the defraying funeral expenses of deceased members and to provide for the wants of the widows and families of members after death.](a)

Proviso.

258. SEC. 2. That the second section [see Sec. 247, *ante*] of said act be amended so as to read as follows:

[That on or before the first Tuesday of May next, and annually thereafter, it shall be the duty of the president, treasurer or other proper officer of every corporation of the character specified in the preceding section, to make report to the state board of assessors, appointed and to be appointed under the act entitled "An act for the taxation of railroad and canal property," stating specifically the following particulars, namely: each telegraph, telephone, cable and express company, not owned by a railroad company and otherwise taxed, shall state the gross amount of its receipts from business done in this state for the year preceding the first day of January prior to the making of such report; each gas company and electric light company shall state the amount of its receipts for light or power supplied within this state for the year preceding the first day of February prior to the making of such report, and the amount of dividends declared or paid during the same time; each parlor, palace or sleeping car company shall state the gross amount of its receipts for fare or tolls for transportation of passengers within this state during the same time; each oil or pipe line company engaged in the transportation of oil or crude petroleum shall state the gross amount of its receipts from the transportation of oil or petroleum through its pipes or in and by its tanks or cars in this state during the same time; each fire, marine, live stock, casualty or accident insurance company shall state the total amount of premiums received by it for insurance upon the lives of persons resident or property located within this state, during the same time.](b)

Officers of corporations to make annual report to state board of assessors.

What corporations are required to report.

259. SEC. 3. That the third section [see Sec. 248, *ante*] of said act be amended so as to read as follows:

[That if any officer of any company required by this act to make a return, shall in such return make a false statement, he shall be deemed guilty of perjury; if any such company shall neglect or refuse to make such return within the time limited as aforesaid, the state board of assessors shall ascertain and fix the amount of the annual license fee or franchise tax and the basis upon which the same is determined, in such manner as may be deemed by them most practicable, and the amount fixed by them shall stand as such basis of taxation under this act.]

Penalty for making false statement.

Failing to make return, board of assessors to ascertain and fix amount.

260. SEC. 4. That the fourth section [see Secs. 249 and 256, *ante*] of said act be amended so as to read as follows:

[That each telegraph, telephone, cable and express company shall pay to the state an annual license fee or franchise tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained; that each gas company and electric light company shall pay to the state an annual license fee or franchise tax at the rate of one-half of one per centum upon the gross amount of its receipts so returned or ascertained, and five per centum upon the dividends in excess of four per centum so paid or

Amount of tax to be paid by corporations.

(a) Foreign corporations doing business in this state are subject to a state tax under this act. *Pipe Line Co. v. Berry*, 23 Vr. 308. *S. C.*, 24 Vr. 212. The federal constitution will not invalidate a state tax upon a corporation merely because the corporation has power to engage in foreign or interstate commerce: the corporation must be actually engaged in such commerce, to secure the immunity. *Honduras Co. v. Board of Assessors*, 25 Vr. 278. A franchise tax, imposed upon a company as the price of the right and privilege of being a corporation, may be exacted by the state granting the franchise, no matter how the corporate property may be invested or employed or where it may be situated. *Id.* The yearly license fee or tax levied upon miscellaneous corporations under the act is such a franchise tax, and is constitutional even as against domestic corporations

engaged in foreign commerce. *Id.* *Lumberville Bridge Co. v. Assessors*, 28 Vr. 529.

(b) An assessment for taxes, made by the state board of assessors, on a statement returned in compliance with the statute, should be a finality, and not be set aside or disturbed unless it be overcome by the most satisfactory proof that it is erroneous in fact. In a suit to set aside such assessment prosecuted by the company, it would not be allowed to gainsay the return of its officer, unless on proof of conduct on his part in fraud of the company. *Kirkpatrick v. Board of Assessors*, 28 Vr. 53. A return made to the state board of assessors just before the appointment of a receiver, may justify further investigation at the instance of the creditors of an insolvent corporation. *Id.*

declared^(a) by said company ; that each oil or pipe line company shall pay to the state an annual license fee or franchise tax at the rate of eight-tenths of one per centum upon the gross amount of its receipts so returned or ascertained ; that each insurance company other than life shall pay to the state an annual license fee or franchise tax at the rate of one per centum upon the gross amount of its premiums so returned or ascertained ; that each life insurance company incorporated under the laws of this state shall pay to the state an annual license fee or franchise tax of one per centum upon the amount of its surplus on the thirty-first day of December next preceding the time of such payment as fixed in section five, and in addition thereto a further annual license fee or franchise tax of thirty-five one-hundredths of one per centum upon the total gross insurance premiums collected by such companies of this state during the year ending December thirty-first next preceding ; *provided*, that any taxes, or charges in lieu of taxes, that may hereafter be collected by this state from life insurance companies of other states shall be credited in rebate of the taxes hereby imposed on companies of this state, in proportion to the several amounts payable by the several companies of this state under this act ; the commissioner of banking and insurance shall ascertain and report to the state board of assessors all facts necessary to enable the said board to ascertain and fix the amount of taxation to be paid by life insurance companies under this act, and shall ascertain and report to said board the amount of rebate to be allowed to said companies as herein provided, and shall also certify to each of said companies the amount of such taxation and the rebate allowed under this act ; that each parlor, palace or sleeping car company shall pay to the state an annual license fee or franchise tax at the rate of two per centum upon the gross amount of its receipts so returned or ascertained ; if any oil or pipe line company has part of its transportation line in this state and part thereof in another state or states, such company shall return a statement of its gross receipts for transportation of oil or petroleum over its whole line, together with a statement of the whole length of its line and the length of its line in this state ; such company shall pay an annual license fee or franchise tax to the state at the aforesaid rate upon such proportion of its said gross receipts as the length of its line in this state bears to the whole length of its line ; that all other corporations incorporated under the laws of this state, and not hereinbefore provided for, shall make annual return to the state board of assessors of such information as may be required by said board to carry out the provisions of this act and shall pay an annual license fee or franchise tax of one-tenth of one per centum on all amounts of capital stock issued and outstanding up to and including the sum of three million dollars ; on all sums of capital stock issued and outstanding in excess of three million dollars and not exceeding five million dollars, an annual license fee or franchise tax of one-twentieth of one per centum, and the further sum of fifty dollars per annum per one million dollars, or any part thereof, on all amounts of capital stock issued and outstanding in excess of five million dollars ; *provided*, that this act shall not apply to railway, canal or banking corporations, or to savings banks, cemeteries or religious corporations, or to purely charitable or educational associations, or manufacturing or mining corporations at least fifty per centum of whose capital stock issued and outstanding is invested in mining or manufacturing carried on within this state ; if any manufacturing or mining company carrying on business in this state shall have less than fifty per centum of its capital stock, issued and outstanding, invested in business carried on within this state, such company shall pay the annual license fee or franchise tax herein provided for companies not carrying on business in this state, but shall be entitled, in the computation of such tax, to a deduction from the amount of its capital stock issued and out-

Proviso.

Proviso.

(a) The earnings or profits of a gas company fairly devoted to the betterment of its plant, cannot be considered as "dividends earned or declared" within the meaning of the act. *Camden Gaslight Co. v. State*, 25 Vt. 135.

standing of the assessed value of its real and personal estate so used in manufacturing or mining.](a)

261. SEC. 5. That the fifth section [see Sec. 250, *ante*] of said act be amended so as to read as follows :

[That the state board of assessors shall certify and report to the comptroller of the state, on or before the first Monday of June in each year, a statement of the basis of the annual license fee or franchise tax as returned by each company to, or ascertained by, the said board, and the amount of tax due thereon respectively, at the rates fixed by this act ; such tax shall thereupon become due and payable, and it shall be the duty of the state treasurer to receive the same ; if the tax of any company remains unpaid on the first day of July, after the same becomes due, the same shall thenceforth bear interest at the rate of one per centum for each month until paid ; the state board of assessors shall have power to require of any corporation subject to tax under this act, such information or reports touching the affairs of such company as may be necessary to carry out the provisions of this act ; and may require the production of the books of such company, and may swear and examine witnesses in relation thereto ; the comptroller shall receive as compensation for his services under this act, and under the act entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eighty-four, the sum of five hundred dollars annually.]

Report to be made to comptroller of receipts and tax due.

To whom paid.

Taxes remaining unpaid to bear interest.

Compensation of comptroller.

262. SEC. 6. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, in so far as the same are inconsistent herewith.

Repealer.

IV. Collateral inheritance tax.

An act to tax intestates' estates, gifts, legacies, devises and collateral inheritance in certain cases.

Approved May 15, 1894.

P. L. 1894, p. 318.

263. SEC. 1. That after the passage of this act all property which shall pass by will or by the intestate laws of this state from any person who may die seized or possessed of the same while being a resident of the state, and all property which shall be within this state, and any part of such property, and any interest therein or income therefrom, which shall be transferred by inheritance, distribution, bequest, devise, deed, grant, sale or gift aforesaid, made or intended to take effect in possession or enjoyment after the death of the intestate, testator, grantor or bargainor, to any person or persons, or to a body politic or corporate, excepting churches, hospitals and orphan asylums, public libraries, bible and tract societies, and all religious, benevolent and charitable institutions and organizations, in trust or otherwise, or by reason whereof any person or body politic or corporate shall

Gifts, legacies and collateral inheritances subject to a tax of \$5 on every \$100.

Bequests to religious, benevolent and charitable organizations excepted.

(a) The business in which the capital of a corporation is invested, and not the objects for which the company is incorporated, as expressed in the certificate of incorporation, determines its liability to taxation. *Printing Co. v. Assessors*, 22 Vr. 75. A company incorporated for the purpose of printing and publishing books and general job printing and publishing a newspaper, is a manufacturing company with respect to its business of printing books and job printing, and is exempt from taxation on so much of its capital as is invested in that branch of its business, but with respect to its business of printing and publishing a newspaper, it is not a manufacturing company and is taxable on its capital invested in that business. *Evening Journal Association v. State Board of Assessors*, 18 Vr. 36. A corporation of this state, which, by contract with another corporation located here, gives to it the exclusive right to make phonographs, and taxes are made, at the cost of materials and labor, with a percentage for profits and depreciation, having also an office and factory where parts of the phonograph are made within this state, is "a manufacturing company carrying on business in this state" and exempt from state taxes under this act. *Phonograph Company v. Board of Assessors*, 25 Vr. 430. "A manufacturing company carrying on business in this state," to be exempted from taxation under section 4, must actually locate and begin work under its charter within the state. *Construction Company v. Assessors*, 24 Vr. 551. A manufacturing company, to bring itself within the proviso of section 4, must be actually engaged in the business of manufacturing in this state. *Edison Phonograph Co. v. Assessors*, 26 Vr. 55. The certificate of a corporation set out that the total amount of the capital stock was to be \$1,500,000, divided into 1,500 shares, with a par value of \$100 each. Subscriptions were made for the whole amount of the capital stock set out in the certificate.

Upon the stock subscribed for, two assessments of five percent each, amounting to \$150,000, were made and paid by the subscribers. No certificates were issued, but receipts were given for the assessments paid. The company elected directors and officers, and, with the capital stock paid in, has engaged in business. *Held*, that the company was liable to taxation pursuant to section 4 of this act on the full amount of the stock subscribed for as capital stock "issued and outstanding" within the meaning of the act. *Storage Co. v. Assessors*, 27 Vr. 389. See *Singer Manufacturing Company v. Heppenheimer*, 25 Vr. 439. The provision that a tax should be imposed on all corporations except, among others, manufacturing companies carrying on business in this state—*Held*, not to apply to a company that manufactures glucose and grape sugar in five places in different states, and merely retains an office here for preserving a record of its transactions. *American Glucose Co. v. New Jersey*, 16 *Stew.* 280. That "The Society for Establishing Useful Manufactures" is a manufacturing corporation, and exempt from taxation by its charter has frequently been decided by the courts of this state, and an increase in the corporate powers, without essentially changing their character, does not render the new franchise taxable. *State v. Society for Establishing Manufactures*, 16 *Stew.* 410. The fourth section of the act, which imposes a tax upon manufacturing companies of this state not transacting business in this state, is not in violation of Article 14, Sec. 7, Par. 12 of the constitution. *Standard Underground Cable Co. v. Attorney-General*, 1 *Dick.* 270. As a license or franchise tax it is not within the clause of the constitution above referred to. *Id.* The true meaning of the proviso of the fourth section above referred to in connection with the rest of that section, as respects the sort of corporations intended to be included in the taxing power, explained. *Id.*

Father, mother and other relatives excepted.

become beneficially entitled, in possession or expectancy, to such property, or to the income thereof, other than to or for the use of the father, mother, husband, wife, children, brother or sister, or lineal descendants born in lawful wedlock, or the wife or widow of a son, or the husband of a daughter, shall be subject to a tax of five dollars on every hundred dollars of the clear market value of such property, to be paid to the treasurer of the state of New Jersey for the use of the state, and all administrators, executors and trustees shall be liable for any and all such taxes until the same shall have been paid as hereinafter directed; *provided*, that an estate which may be valued at a less sum than five hundred dollars shall not be subject to said duty or tax. (a)

Property devised to be immediately appraised.

Tax on to be immediately due and payable.

Proviso.

Proviso.

Bequests to executors exceeding reasonable compensation, excess to be taxed.

Excess of residuary legatees shall be liable to tax.

All taxes due at death of testator.

Interest.

Proviso.

264. SEC. 2. That when any person shall bequeath or devise, convey, grant, sell or give as aforesaid any property, or interest therein, or income therefrom, to a father, mother, husband, wife, children, brother or sister, the widow of a son, or a lineal descendant, during life or for a term of years, and the remainder to a collateral heir of the decedent, or to a stranger in blood, or to a body politic or corporate, the property so passing shall be appraised immediately after the death of said testator or grantor, as the case may be, at what shall then be the fair market value thereof in the manner hereinafter provided, and after deducting therefrom the value of said life estate, or term of years, the tax prescribed by this act on the remainder shall be immediately due and payable to the treasurer of the state of New Jersey, and, together with the interest thereon, shall be and remain a lien on said property until the same is paid; *provided*, that the person or persons or body politic or corporate beneficially interested in the property chargeable with said tax, may elect not to pay the same until they shall come into the actual possession or enjoyment of such property, or, and in that case, such person or persons, or body politic or corporate, shall give a bond to the state of New Jersey in a penalty three times the amount of the tax arising upon personal estate, with such sureties as the chancellor may approve, conditioned for the payment of said tax and interest thereon, at such time or period as they or their representatives may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the clerk in chancery; *provided, further*, that such person shall make a full verified return of such property to the chancellor of the state and file the same in the office of the clerk in chancery within one year from the death of the decedent, and within that period enter into such security and renew the same every five years.

265. SEC. 3. That whenever a decedent appoints or names one or more executors or trustees, and makes a bequest or devise of property to them in lieu of their commissions or allowances, which otherwise would be liable to said tax, or appoints them his residuary legatees, and said bequest, devises or residuary legacies exceed what would be a reasonable compensation for their services, such excess shall be liable to said tax, and the chancellor or the orphans' court having jurisdiction in the case shall fix such compensation.

266. SEC. 4. That all taxes imposed by this act, unless otherwise herein provided for, shall be due and payable at the death of the testator, grantor or intestate, as the case may be, and if the same are paid within one year, interest at the rate of six per centum per annum shall be charged and collected thereon, but if not so paid, interest at the rate of ten per centum per annum shall be charged and collected from the time said tax accrued; *provided*, that if said tax is paid within nine months from the accruing thereof, interest shall not be charged or collected thereon, but a discount of five per centum shall be allowed and deducted from said tax; and in all cases where the executors, administrators or trustees do not pay such tax within one year from the death of the decedent, they shall be required to give a bond, in the form and to the effect prescribed in sections two of this act, for the payment of said tax, together with interest.

(a) This act cannot affect real estate which was devised by will previous to its passage and approval. *In re Dobbermiller*, 17 N. J. L. J. 378.

267. SEC. 5. That the penalty of ten per centum per annum imposed by section four hereof for the non-payment of said tax shall not be charged, where in cases by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, the estate of any decedent, or a part thereof, cannot be settled at the end of a year from the death of the decedent, and in such cases only six per centum per annum shall be charged upon the said tax from the expiration of such year until the cause of such delay is removed.

When penalty shall not be charged.

268. SEC. 6. That any administrator, executor or trustee having in charge or trust any legacy or property for distribution, subject to said tax, shall deduct the tax therefrom, or if the legacy or property be not money, he shall collect the tax thereon upon the appraised value thereof from the legatee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to tax to any person until he shall have collected the tax thereon; and whenever any such legacy shall be charged upon or payable out of real estate, the heir or devisee, before paying the same, shall deduct said tax therefrom and pay the same to the executor, administrator or trustee, and the same shall remain a charge on such real estate until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that the payment of such legacy might be enforced; if, however, such legacy be given in money to any person for a limited period, he shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of his accounts to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

Administrator, executor, &c., not to deliver legacies until tax is paid or collected.

Tax shall remain a charge on real estate until paid.

269. SEC. 7. That all executors, administrators and trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled by law to do for the payment of debts of their testators and intestates, and the amount of said tax shall be paid as hereinafter directed.

Executors, &c., shall sell property to pay tax.

270. SEC. 8. That any sum of money retained by any executor, administrator or trustee, or paid into his hands for any tax or any property, shall be paid by him, within thirty days thereafter, to the treasurer of the state of New Jersey; and the said treasurer shall deliver a receipt of such payment to the comptroller of the state, whose duty it shall be to countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts, but an executor, administrator or trustee shall not be entitled to credit in his accounts, nor to be discharged from liability for such tax unless he shall produce a receipt so countersigned by the comptroller, or a copy thereof certified by him.

Shall pay tax to state treasurer, taking his receipt.

271. SEC. 9. That whenever any of the real estate of which any decedent may die seized, shall pass to any body politic or corporate, or to any persons other than the father, mother, husband, wife, lawful issue, brother or sister, wife or widow of a son, or husband of a daughter, or in trust for them, or some of them, it shall be the duty of the executors, administrators or trustees of such decedent to give information thereof in writing to the comptroller of the state within six months after they undertake the execution of their respective duties, or if the fact be not known to them within that period, then within one month after the same shall have come to their knowledge.

Executors, &c., shall notify state comptroller when property passes to corporation or other than certain relative.

272. SEC. 10. That whenever any debts shall be proven against the estate of a decedent, after the payment of legacies or distribution of property from which the said tax has been deducted, or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the tax so paid shall be repaid to him by the executor, administrator or trustee, if the said tax has not been paid to the state treasurer, or by them if it has been so paid.

When proportion of tax may be refunded.

When foreign executors, &c., shall transfer stocks or bonds, tax shall be paid on transfer.

Proviso.

Tax paid erroneously shall be refunded.

Proviso.

Surrogate shall appoint appraiser.

Proceedings of appraiser.

Shall notify comptroller and all interested parties.

Dissatisfied persons may appeal.

Taking fees or reward of executors, &c., by appraiser a misdemeanor.

Penalty.

Ordinary or orphans' court shall have jurisdiction relative to tax.

Delinquents shall be cited to show cause.

273. SEC. 11. That whenever any foreign executor or administrator shall assign or transfer any stocks or loans in this state, standing in the name of a decedent, or in trust for a decedent, which shall be liable to the said tax, such tax shall be paid to the state treasurer on the transfer thereof, otherwise the corporation permitting such transfer shall become liable to pay such tax; *provided*, that such corporation has knowledge before such transfer that said stocks or loans are liable to said tax.

274. SEC. 12. That when any amount of said tax shall have been paid erroneously to the state treasurer, it shall be lawful for the comptroller of the treasury, on satisfactory proof rendered to him of such erroneous payments, to draw his warrant on the state treasurer, in favor of the executor, administrator, person or persons who have paid any such tax in error, or who may be lawfully entitled to receive the same, for the amount of such tax so paid in error; *provided*, that all such applications for the repayment of such tax shall be made within two years from the date of such payment.

275. SEC. 13. That in order to fix the value of property of persons whose estates shall be subject to the payment of said tax, the surrogate or register of the prerogative court, on the application of any interested party, or upon his own motion, shall appoint some competent person as appraiser as often as, and whenever occasion may require, whose duty it shall be forthwith to give such notice by mail and to such persons as the surrogate or register of the prerogative court may by order direct, of the time and place he will appraise such property, and at such time and place to appraise the same at its fair market value, and make a report thereof in writing to said surrogate or register of the prerogative court, together with such other facts in relation thereto as said surrogate or register of the prerogative court may by order require, to be filed in the office of such surrogate or register of the prerogative court, and from this report the said surrogate or register of the prerogative court shall forthwith assess and fix the then cash value of all estates, annuities and life estates, or term of years growing out of said estates, and the tax to which the same is liable, and shall immediately give notice thereof by mail to the state comptroller and to all parties known to be interested therein; any person or persons dissatisfied with said appraisement or assessment may appeal therefrom to the ordinary or orphans' court of the proper county, within sixty days after the making and filing of such assessment, on paying or giving security, approved by the ordinary or orphans' court, to pay all costs, together with whatever tax shall be fixed by said court; the said appraiser shall be paid by the state treasurer on the warrant of the comptroller, on the certificate of the ordinary or surrogate, duly filed with the comptroller, at the rate of three dollars per day for every day actually and necessarily employed in said appraisement, together with his actual and necessary traveling expenses.

276. SEC. 14. That any appraiser appointed by virtue of this act who shall take any fee or reward from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person liable to pay said tax or any portion thereof, shall be guilty of a misdemeanor, and upon conviction in any court having jurisdiction of misdemeanors he shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars and imprisoned not exceeding ninety days, and in addition thereto the register of the prerogative court or surrogate shall dismiss him from such service.

277. SEC. 15. That the ordinary or the orphans' court in the county in which the real property is situate of a decedent who was not a resident of the state, or in the county of which the decedent was a resident at the time of his death, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this act.

278. SEC. 16. That if it shall appear to the register of the prerogative court or surrogate that any tax accruing under this act has not been paid according to law, such officer shall issue a citation citing the persons interested in the property liable to the tax to appear before the ordinary or orphans' court on a day certain, not more than three months after the date

of such citation, and show cause why said tax should not be paid; the service of such citation and the time, manner and proof thereof, and fees therefor, and the hearing and determination thereon, and the enforcement of the determination or decree shall conform to the provisions of the law for the service of citations now issued by the ordinary or orphans' courts, and the hearing and determination thereon and its enforcement; and the register of the prerogative court or surrogate shall, upon the request of any prosecutor of the pleas or state comptroller, furnish one or more transcripts of such decree, and the same may be by them docketed and filed by the county clerk of any county in the state, and the same shall have the same effect as a lien by judgment.

279. SEC. 17. That whenever the state comptroller shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons interested in the property liable to said tax to pay the same, he shall notify the prosecutor of the pleas of the proper county, in writing, of such failure to pay such tax, and the prosecutor of the pleas so notified, if he have probable cause to believe a tax is due and unpaid, shall prosecute the proceeding before the ordinary of the orphans' court in the proper county, as provided in section sixteen of this act, for the enforcement and collection of such tax; all costs awarded by such decree to such prosecutor, that may be collected after the collection and payment of the tax to the state treasurer, may be retained by the prosecutor of the pleas for his own use.

State comptroller shall notify prosecutor of pleas of failure to pay tax.

Prosecutor shall prosecute for collection.

280. SEC. 18. That the register of the prerogative court, the surrogate and the register of deeds or county clerk of each county shall every three months make a statement in writing, to the state comptroller, of the property from which or the party from whom he has reason to believe a tax under this act has become due since his last report.

Certain officers to make quarterly statement to comptroller.

281. SEC. 19. That whenever the surrogate of any county, or the register of the prerogative court shall certify to the state comptroller that there was probable cause for issuing a citation and taking the proceedings specified in section sixteen of this act, the state treasurer shall pay, upon warrant of the comptroller, to the proper officials all expenses incurred for the issuing and services of the citation and all other lawful disbursements that have not otherwise been paid.

State treasurer shall pay expense of citation.

282. SEC. 20. That the comptroller of the state shall furnish to the register of the prerogative court and to each surrogate a book in which he shall enter, or cause to be entered, the returns made by appraisers, the cash value of annuities, life estates and term of years and other property fixed by him and the tax assessed thereon, and the amount of any receipts for payments thereon filed with him, which books shall be kept in the office of the register of the prerogative court of the surrogate as a public record, and shall furnish all other forms and blanks necessary for use in the proper enforcement of this law.

Comptroller shall furnish record-books, blank forms, &c.

283. SEC. 21. That in addition to the fees above mentioned the fees of the surrogates for each county, for the duties heretofore or hereafter to be performed by them in each estate, under this act, or any act heretofore passed, shall be paid by the state treasurer upon the warrant of the comptroller, and shall not exceed the following rates: on all sums paid to the state treasurer, not exceeding three thousand dollars, five per centum; if over three thousand dollars, three per centum on such excess.

Surrogate's fees.

284. SEC. 22. That any person, or body politic or corporate, shall be entitled to a receipt from the state treasurer, countersigned by the state comptroller, for the payment of any tax paid under this act, which receipt shall designate on what real property, if any, of which any decedent may have died seized, said tax has been paid, and by whom paid, and whether or not it is in full of said tax, and said receipt may be recorded in the clerk's office of the county in which said property is situate, in a book to be kept by said clerk for such purpose, which shall be labeled "collateral tax."

State treasurer shall furnish receipt for payments, which may be recorded.

Repealer.

285. SEC. 23. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed, except so far as herein re-enacted ; but nothing in this repealer shall affect or impair the lien of any taxes heretofore assessed, or due and payable, or any remedies for the collection of the same, or to surrender any remedies, powers, rights or privileges acquired by the state under any act heretofore passed, or to relieve any person or corporation from any penalty imposed by said acts ; *provided, however,* that the exception in the first section hereof in favor of churches, hospitals, orphan asylums, public libraries, bible and tract societies, and all religious, benevolent and charitable institutions and organizations, shall be construed and held to apply to any and all bequests, devises and legacies heretofore made, in trust or otherwise, to or in favor of such institutions, or any of them, in all cases where said tax shall not have been paid prior to the passage of this act.

Proviso.

V. State board of taxation.

A general act concerning taxes.

P. L. 1891, p. 189.

Approved March 19, 1891.

State board of taxation, how constituted and appointed.

Term of office.

Members to be citizens of this state.

To file oath.

Salary.

Two members a quorum.

May employ clerical and other assistants, and their compensation.

Record.

Rules, orders, &c.

May compel attendance of witnesses.

Administer oaths.

Reduce statement of persons sworn to writing.

Decrease assessments.

Direct re-assessments.

Appoint assessor if one neglects to serve.

286. SEC. 1. That there shall be established a board for the equalization, revision and enforcement of taxation, to be called the state board of taxation, which shall consist of three members, who shall be appointed by the governor, by and with the advice and consent of the senate ; their term of office shall commence on the first Monday of April next, and shall be for a period of five years, unless sooner removed by the governor ; all subsequent appointments shall be for a term of five years, subject to the removal by the governor ; said members shall be citizens of this state ; each member shall, before entering upon his duties, file with the secretary of state an oath, taken before a justice of the supreme court, that he will faithfully discharge the duties of his office ; they shall each receive an annual salary of two thousand and five hundred dollars ; two members shall constitute a quorum of said board, and any official act shall be valid which has the sanction of two members ; they shall have power to employ such clerical and other assistants as may be necessary to carry out the intents and purposes of this act, and such assistants shall be paid reasonable compensation, to be determined by the board upon the approval of the governor ; said board shall keep a full record of their proceedings ; said board shall have power to make such rules, orders, regulations and directions as they may deem necessary to a faithful discharge of their own duties, the duties of their assistants, and also to secure the equalization, revision and enforcement of taxation in this state ; they shall have the power, in the performance of any duties imposed by this act, of compelling the attendance of witnesses, and to call for and compel the production of books and papers, and they may delegate such power to any member of their board authorized by them to investigate and report ; said members, or any one of them, shall have power to administer oaths and affirmations to any person for the purpose of ascertaining any facts proper for them to know, or to enable them properly to perform the duties of their office ; and they may reduce the statements of persons sworn to writing, and require such persons to subscribe thereto, and may ex parte, apply for and obtain from any justice of the supreme court an order compelling any person to submit to examination in reference to such matters, and said justice may punish anybody as for contempt who shall disobey any order made by such justice in the premises ; said board shall have power on complaint of any owner to decrease the assessment made upon his property, where, in their judgment, injustice has been done or where it is necessary to secure uniform and true valuation ; and if for this purpose it becomes necessary to direct an assessor or other taxing officer to make a re-assessment of such property according to the rules which the said board shall establish, it shall do so ; and if such assessor or other taxing officer shall fail or refuse to comply with the order so given the board shall have power to appoint some other person to make the new assessment, under the direction of the board ; and the assessment

so made and affirmed by the board shall be and be deemed to be the assessment of such property for the year. [See Sec. 304, *post.*]

287. SEC. 2. [Amended by Sec. 316, *post.*]

288. SEC. 3. That where said board shall deem it necessary in order to obtain a correct assessment of property in any city of this state, they may, by rule, direct that the assessor or other taxing officer shall, from actual view and from the best sources of information within his reach, determine the true value of each lot and tract of real estate in his district, without the buildings and improvements, and shall note the same, and shall determine and note separately the true value of every house and other buildings or structures worth over one hundred dollars, and the whole shall be added and carried out as the value of such lot or tract; in cities where said board shall direct the land and buildings to be so separately valued, the receipt given for the payment of the tax on such property, by the collector or other officer charged with the collection of such tax, shall contain a statement of such separate valuations; said board may, by rule, direct that each assessor shall enter in his books the number of acres of arable land, the number of acres of meadow and pasture land, the number of acres of woodland, and the number of acres of uncultivated upland and swamp land in each tract as near as may be.

Board to order assessors to determine true value of each lot or tract.

Receipt for payment of tax to contain statement of separate valuations.

Entries in assessor's books.

289. SEC. 4. That the assessor or other taxing officer making the assessment of real estate subject to taxation, shall enter in a separate list a description of all cemeteries, churches and public buildings and other real estate exempt from taxation, together with the name of the person or persons or corporation owning the same, and he shall value such buildings, property, lots and tracts of land at their true value in the same manner as other real estate, and in each case he shall state the ground of exemption; the assessor or other taxing officer shall be entitled to receive the same compensation per name for making such list, and in the same manner as he is now entitled to receive for assessing taxes under the laws of this state.

Assessor to enter in a separate list a description of cemeteries, churches, &c.

Compensation.

290. SEC. 5. That lands occupied by a person other than the owner may be assessed to the owner, or as the lands of non-residents, if owned by such; and that unoccupied lands not owned by a person residing in the taxing district shall be denominated lands of non-residents, and shall be assessed as such; and that no tax on real estate shall be void in consequence of any lands being erroneously classed or omitted from classification as the lands of non-residents or as the lands of unknown owners, nor in consequence of any omission of or mistake in the name of the rightful owner, in the assessment list or roll, but in such cases no such tax shall be collected except from the real estate assessed.

Assessment of lands of non-residents.

Erroneous classification not to void tax.

291. SEC. 6. That the tax on visible personal estate shall be assessed in and for the township, ward or taxing district where such property is found; the tax on other personal estate shall be assessed on each inhabitant in the township, ward or taxing district where he resides as of the day prescribed by law for commencing the assessment for each year, and all real estate shall be assessed in the township, ward or taxing district in which the same may be situated; when the line between two taxing districts divides a farm or a lot owned or possessed by the person taxed, the same shall be taxed, if occupied, in the taxing district in which the occupant resides, and, if unoccupied, each part thereof shall be assessed to the owner thereof, in the taxing district in which the same may be, and this, whether such division line be a township, ward or county line; and personal estate belonging to non-residents may be assessed either to the owner or to the person in possession or charge thereof whenever the owner of personal property in two or more taxing districts is entitled to a deduction for debts in excess of the assessed value of his personal estate in the taxing district where he resides, he shall be entitled to have such further deduction as is or may be allowed by law made from the assessed value of his personal estate in the other taxing districts wherein he may own personal estate; it

Personal estate to be taxed where found.

Farm or lot in two taxing districts.

Deduction.

shall be the duty of the board hereby created to prescribe, by rules, the manner in which such deductions shall be claimed and allowed. (a)

Assessment of personal estate in possession of trustee, guardian, executor, &c.

292. SEC. 7. That every person shall be assessed for all personal estate in his possession or under his control, as trustee, guardian, executor, administrator or in any other representative or fiduciary capacity, in the same manner as other persons are assessed, and where a person is so assessed as trustee, guardian, executor, administrator or in any other representative or fiduciary capacity, he shall be assessed as such with the addition to his name of his representative character, and such assessment shall be carried out on a separate line from his individual assessment; and in cases where the same property is held by several trustees, guardians, executors, administrators, or other representatives or fiduciaries, only one of them shall be taxed for the same; and such property shall be assessed in the hands of such one of said executors, guardians, trustees, administrators, representatives or fiduciaries, as have actual possession or control of such property, if such person is known to or can on reasonable search be ascertained by the assessor or other taxing officer; otherwise such property may be assessed in the name of any one of such trustees, guardians, executors, administrators, representatives or fiduciaries. (b)

Where same property held by several trustees, &c., only one to be taxed for same.

When board to meet.

293. SEC. 8. That it shall be the duty of the state board of taxation to meet on the first Monday of July, and from time to time as they shall deem proper, having regard to the tax laws of different localities, of each year, for the purpose of hearing the complaints of any taxpayer respecting the taxes assessed against him or it in respect to his or their property, and the complaints of any taxing district or county respecting the action of any county board of equalization, and any taxpayer feeling himself or itself aggrieved by the assessment of taxes assessed against him or it, in respect to his or its property, or the action of any board of tax review, or commissioners of appeal, and any taxing district or county feeling itself aggrieved by the action of any board or boards of equalization, may, within such time as said state board shall by rule prescribe, file a petition of appeal to the state board of taxation, setting forth therein his or its cause of complaint, and asking the relief which he or it desires, and the state board of taxation shall proceed summarily to hear and dispose of such complaints; and the said state board of taxation shall make such order respecting the procedure in each case as to them shall seem just; and it shall be the duty of the state board of taxation to hear and determine such complaints, and to revise and correct the taxes assessed against such complaining taxpayers, and to revise and correct the determination of such county boards of equalization by fixing the amount each taxing district shall raise, in just proportion according to the true value of the taxable property therein, and the assessment so corrected and determined by said state board of taxation shall be final and conclusive; such corrected rate of assessment shall be certified by said board to the collector of the taxing district where such property is taxable, and shall be collected in the same manner that other taxes in said taxing district are collected. (c)

Procedure.

Duty of board.

Corrected rate of assessment.

Collectors may amend and correct descriptions of land assessed.

294. SEC. 9. That it shall be lawful for every collector of taxes to make such amendments, corrections and alterations in the description of any land or real estate assessed as shall be useful to better ascertain the location and extent thereof and to identify the same; and the taxes assessed upon such land and real estate shall be and remain a lien upon the same according to the said corrected description of the same, provided that all such correction be made before the public notice is given of the sale of such land or real estate.

(a) See *Warren Mfg. Co. v. Warford*, 8 Vr. 397. *Warren Mfg. Co. v. Dalrymple*, 27 Vr. 449.

(b) By virtue of an order of an orphans' court an administrator sold land of his intestate free from the dower of the widow, and invested a specified part of the proceeds of sale in a mortgage made by him as administrator. The order directed him to pay the interest of the investment to the widow during her life. *Held*, that, if the mortgagor claimed deduction, the mortgage was taxable to the administrator, who, upon payment of the tax, could deduct the same from the interest payable to the widow. *Dills v. Taylor*, 28 Vr. 389.

(c) If the state board of taxation, upon a complaint of a taxing district, under section 8, increases the valuation of another

taxing district, it should proceed to add that increased valuation to the unchallenged valuations of all the other taxing districts of the county, and then to apportion the county and state tax to be raised among the taxing districts in the proportion of the valuation of each to the total valuations. *East Brunswick v. New Brunswick*, 28 Vr. 145. A taxing district, the valuation of which has, upon complaint, been increased, cannot, by *certiorari*, object to the determination of the state board because it has imposed on it an increase less than its adjudication required, nor because the board erred in apportioning the tax to be raised, when such error does no injury to it. *Id.* *Query*—As to what action is within the jurisdiction of the state board of taxation to review under said act. *Id.*, affirming *S. C.*, 28 Vr. 77.

- 295. SEC. 10.** That in case where public notice for a specified time is required by law to be given before proceedings are had for the public sale of lands for unpaid taxes, no certificate of sale or tax title shall be set aside and holden for naught by reason of any variance between the date of such notice and the actual publication thereof, provided that notice shall have been or shall be actually given for the specified number of days prior to such proceedings for public sale.
- 296. SEC. 11.** That nothing in this act contained shall be construed to render any real or personal estate subject to taxation other than such real and personal estate as is now subject to taxation under other laws.
- 297. SEC. 12.** That it shall be the duty of such board to investigate the methods adopted by local assessors in the assessment of real and personal property in this state, to carefully examine all cases where evasion of proper taxation is alleged, and to ascertain wherein existing tax laws are defective or are improperly or negligently administered; they shall annually report to the legislature, particularly specifying any means or practices or devices used for the evasion of proper taxation; they shall annually submit to the legislature such recommendations as they may find necessary to prevent the evasion of just and equal taxation.
- 298. SEC. 13.** That if it shall appear to the satisfaction of any court wherein any certiorari is or may be brought, that any assessment of taxes removed thereby is at a rate or proportion higher or greater than is authorized or required by law, or that the amount or value of taxable property for which any person therein is assessed is too great, said court shall amend such assessment so removed as aforesaid, and reduce the same to the proper and just amount, and thereupon affirm the same according to such amendment and reduction, and reverse the same as to the excess only; and the court shall have power to adopt such rules and proceedings as may enable them to make the said amendment and carry into effect the true intent and meaning of this act.
- 299. SEC. 14.** That no return of taxes or list of delinquents made by the collector of taxes in any of the municipal divisions of this state, nor the proceedings touching or concerning such return, nor any tax warrant shall be set aside or revised on certiorari or otherwise for any lack of form which does not impair the substantial right of the plaintiff in certiorari.
- 300. SEC. 15.** That the chairman of every county board of equalization shall have power to issue subpoenas and administer oaths in the discharge of the duties of their office.
- 301. SEC. 16.** That any person guilty of willful and corrupt false swearing or affirming in taking any oath or affirmation required or authorized by this act shall be deemed to be guilty of perjury and punished accordingly.
- 302. SEC. 17.** That none of the provisions of this act shall be so construed as in anywise to alter, impair or repeal any of the provisions of an act entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eighty-four, or any of the supplements thereto.
- 303. SEC. 18.** That all acts and parts of acts, whether general, special or local, inconsistent with this act, or any of the provisions thereof, shall be and the same are hereby repealed, so far as they are inconsistent as aforesaid; but nothing in this act shall be taken to annul any assessments which have been heretofore made, or to affect any proceedings taken for the collection of such assessment, or to affect any penalties or forfeitures incurred by any person or officer in respect thereto; and that this act shall take effect immediately.

Tax title not to be set aside for variance between date of notice and publication.

Act not to render property subject to tax other than that now subject to taxation.

Board to investigate methods of local assessors.

Annual report.

And recommendations.

Court on certiorari may amend assessment, and reduce same to proper amount.

Court to adopt rules.

Tax warrant not to be set aside for lack of form.

County board of equalization to issue subpoenas.

Penalty for false swearing.

Act for taxation of railroad and canal property not repealed.

Repealer.

Supplement.

Approved May 17, 1894.

P. L. 1894, p. 406.

304. SEC. 1. That the state board of taxation shall hereafter consist of four members; that in addition to the three members who now constitute the state board of taxation, the governor shall appoint, by and with the advice and consent of the senate, a fourth person not of the same political

Number of members of board

New member shall file oath.

To be non-partisan.

Board may increase assessments.

May establish rules therefor.

If assessor fails to make new assessment, board may appoint person to do so.

Repealer.

P. L. 1895, p. 259.

Appeals shall be filed before a certain day.

Repealer.

P. L. 1895, p. 260.

Thirty days shall be allowed for payment of taxes reduced by state board.

No charge shall be made for interest or penalties.

Thirty days shall be allowed for payment of taxes increased by state board.

party as those now constituting the state board of taxation or a majority of them ; the term of office of the member to be appointed under this act shall commence on the first day June next, and shall be for a period of five years ; said member shall be a citizen of this state, and he shall before entering upon his duties as a member of the state board of taxation file with the secretary of state an oath taken before a justice of the supreme court, that he will faithfully discharge the duties of his office ; the members of said board shall receive an annual salary of two thousand dollars.

305. SEC. 2. That at the expiration of the terms of office of the members who now constitute the state board of taxation and thereafter, no more than two persons of the same political party shall be appointed members of the state board of taxation.

306. SEC. 3. That when the said board has reason to believe from information or otherwise that any property has been assessed at a rate lower than is consistent with the purpose of securing uniform and true valuation of property for the purpose of taxation the said board shall have the power after due investigation to increase the assessment made upon such property ; and if for this purpose it becomes necessary to direct an assessor or other taxing officer to make a re-assessment of such property according to the rules which the said board shall establish, it shall do so ; and if such assessor or other taxing officer shall fail or refuse to comply with the order so given, the board shall have power to appoint some other person to make the new assessment under the direction of the board ; and the assessment so made and affirmed by the board shall be and be deemed to be the assessment of such property for the year.

307. SEC. 4. That all acts and parts of acts, general and special, inconsistent herewith or repugnant hereto or any of the provisions thereof, be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 11, 1895.

308. SEC. 1. That all appeals to the state board of taxation shall be filed with said state board of taxation on or before the first day of April next following the assessment or levy of taxes appealed from.

309. SEC. 2. That all acts, special or general, inconsistent with this act are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 11, 1895.

310. SEC. 1. That in all cases where an appeal shall be made to the state board of taxation for the reduction of any assessment made by any assessor or taxing officer whose duty it is by law to make assessments for the purpose of taxation and a reduction of the assessments so appealed from, shall be made or ordered by the state board of taxation on such appeal, the party or corporation whose assessment has been so reduced by order of the said state board of taxation shall have thirty days from the date of the signing of the order by the state board of taxation reducing such assessment in which to pay the taxes so reduced or corrected, without any additional charge for interest or penalties on such amount adjusted or ordered by the said state board of taxation ; and it shall be the duty of the collectors or persons whose duty it is by law to receive or collect the taxes in the various taxing districts of this state to receive and collect such amount of taxes so reduced by order of the state board of taxation, without any charge in addition for interest or penalties thereon.

311. SEC. 2. That in cases where the state board of taxation shall increase the assessment of any person or corporation, the person or corporation whose assessment has been increased by order of the state board of taxation shall have the like thirty days in which to pay the assessment so increased by order of the state board of taxation, without any additional

charges for interest or penalties on such amount increased by the state board of taxation.

312. SEC. 3. That all acts, special or general, inconsistent with this act, are hereby repealed, and that this act shall take effect immediately. Repealer.

Supplement.

Approved March 11, 1895. P. L. 1895, p. 261.

313. SEC. 1. That every assessor or board of tax commissioners in every taxing district of this state, whose duty it is by law to make the assessments, whether the same be a township, borough, village, city or other municipality, shall on or before the first day of November next ensuing the making of assessments for taxes in each year, transmit in writing, under oath or affirmation, to the office of the state board of taxation, at Trenton, a statement copied from the duplicate or assessment-books of such taxing district in which the assessments of property for taxation for that year are contained, the following facts :

Copies of all assessments shall be forwarded to state board by assessor or board of tax commissioners.

First. The total amount or value of real estate assessed by such assessor or tax commissioners in such taxing district for that year ;

Facts to be shown in statement.

Second. The total amount or value of personal property assessed by such assessor or tax commissioners in such taxing district for that year ;

Third. The total amount or value of deductions for debts claimed and allowed, other than debts secured by mortgage, by such assessor or tax commissioners in such taxing district for that year ;

Fourth. The total amount or value of exempt property assessed by such assessor or tax commissioners in such taxing district for that year, specifying particularly and by separate items—(a) the total amount or value of church property, (b) the total amount or value of property used for charitable purposes, (c) the total amount or value of school property owned by the taxing district, (d) the total amount or value of other school property, (e) the total amount or value of public property located in such taxing district other than school property, (f) the total amount or value of cemetery property or property used for graveyards, (g) the total amount or value of the exemptions claimed and allowed by such assessors or tax commissioners under the firemen's, militia and veterans' acts, specifying the amount in each case, if any.

314. SEC. 2. That a failure of any assessor or board of tax commissioners, whose duty it is by law to make the assessments for taxes, to transmit such statement to the state board of taxation as is directed and required by this act, such assessor or board of tax commissioners shall be liable to a penalty of fifty dollars, to be received by the state board of taxation in an action in any court of this state having jurisdiction of the same, such penalty to be used by the state board of taxation for procuring the facts required by this act, to be transmitted to the office of the state board of taxation. Penalty for failure to report.

315. SEC. 3. That all acts, special or general, inconsistent with this act, are hereby repealed, and that this act shall take effect immediately. Repealer.

Amendatory act.

Approved March 28, 1895. P. L. 1895, p. 760.

316. SEC. 1. That the second section [see Sec. 287, *ante*] of the act of which this is amendatory be amended so as to read as follows :

[That where complaint shall be made to said board in writing, verified by the oath of the complainant, by any person or corporation aggrieved at the assessment of his or its property, said board shall have power to review and correct the action of the local assessors or other taxing officers, and of all boards of tax review, by reducing such assessment ; such review and reduction may be made of any assessment hereafter to be made, or any assessment which shall have been made within one year before the filing of the complaint for the review and reduction of the same ; and all assessments so reviewed shall bear interest from the time fixed by the law under which said assessments were originally made and levied until paid, upon the amounts so fixed and determined by said board.]

Power of board to review and correct the action of the local assessors.

VI. Sale of land for taxes.

An act to make taxes a lien on real estate, and to authorize sales for the payment of the same.

P. L. 1854, p. 429.

Approved March 17, 1854.

Assessors to assess lands in names of owners.

Description.

Assessment on lands of non-residents to be and remain a lien.

If unpaid for one year, township committee may issue warrant to constable and direct sale.

Term for which to be sold.

Warrant to be recorded by township clerk.

317. SEC. 1. That it shall be the duty of the assessors of the several townships in this state, in making their assessments, as now provided by law, to assess all lands, tenements, hereditaments and real estate, in the names of the owners thereof, respectively and to designate the same by some short description as will be sufficient to ascertain the location and extent thereof. (a)

318. SEC. 2. That any assessment of taxes made in this state against any person or persons residing out of this state, or foreign corporation residing out of the county in which the land is located, on account of any lands, tenements, hereditaments or real estate of such person or persons, or corporation, shall be and remain a lien on all the lands, tenements, hereditaments or real estate, on account of which said assessment shall be made, with lawful interest thereon accruing, and all costs and fees in relation to said assessment and collection thereof, for the space of two years from the time when the taxes so as aforesaid assessed were payable. (b)

319. SEC. 3. That in case any assessment of taxes, as specified in the last preceding section, together with the interest thereon, and costs and fees aforesaid, shall remain unpaid for the space of one year after the said taxes were payable, then and in every such case it shall be lawful for the township committee of the said township, or a majority of them, to issue their warrant, under their respective hands and seals, directed to any constable of the said township, therein and thereby commanding him to make said taxes, with the interest, and costs and fees as aforesaid, of the lands, tenements, hereditaments or real estate, on account whereof the same were assessed as aforesaid, and of which the assessors' description shall be therein set forth, by selling the same, or any part thereof as will be sufficient for that purpose, for the shortest term for which any person or persons will agree to take the same, and pay such taxes, with the interest thereon, and all costs, fees, charges and expenses; and further directing the said constable to pay the money or moneys raised by such sale to the said township committee of said township, and to make return of said warrant and his proceedings thereunder, to said township committee of said township, to be filed by the clerk of said township among the other papers of said township. (c)

320. SEC. 4. That the warrant specified in the last preceding section shall, before the execution thereof, be recorded by the clerk of said township, in a book to be provided for that purpose; which said record thereof shall be received as evidence in the several courts of this state.

(a) Reference in the description of lands to blocks and lots on a map which is used as an assessors' map, though not formally adopted by the common council, will be sufficient, where it does not appear that the owner was misled. *State, Harned v. Manning*, 12 Vr. 275. The mere form of assessment in the duplicate required by the statute is directory to the officer, and taxes will not be set aside for variations or omissions. *Id.* A description of real estate in a duplicate, describing lands which have no fences or divisions upon the ground, but which are laid out, upon a map filed in the county clerk's office, and generally known, into lots or farms designated by numbers, by the numbers is sufficient. *State, Egg Harbor H. & P. Co. v. Galloway Township*, 13 Vr. 415. Where lands are listed by an insufficient description, and are sold for taxes, the sale will be set aside, but the assessment and the proceedings to collect the same, so far as to fix the lien and charge upon the property and person, are amendable under P. L. 1881, p. 194. *Newcomb v. Franklin Township*, 17 Vr. 437. See *supra*, Sec 70, note (b).

(b) It seems that the act to make taxes a lien on real estate, is only directory, and is indispensable only for the purpose of authorizing a sale of the land when the owner is a non-resident. *State v. Hoffman*, 1 Vr. 346. A sale of land for non-payment of taxes after the expiration of the lien of the taxes upon such land is *ultra vires* and void. *Doremus v. Cameron*, 4 Dick. 1. See *infra*, Sec. 327.

(c) If a tax warrant is void, any sale made, or deed given by virtue thereof, will also be void. *Van Wageningen v. Mulford*, 2 Dutch. 196. If more land is taxed to a person than he owns, and his assessment thereby becomes higher than it should be, it constitutes an objection to the validity of a sale of the land for such tax. *Martin v. Curron*, 2 Dutch. 594, reversing 2 Dutch. 228. If

lands are not designated by such short description as will be sufficient to ascertain the location and extent, and a sale thereof cannot be made, the tax for the same may still be collected by warrant against the goods, chattels and person of the owner. *State, Rutherford Park Association v. Union*, 7 Vr. 309. The publication of notices is indispensable, and must be made in strict conformity with the statute. *State, Aiden v. Newark*, 7 Vr. 288. The power to sell land for the payment of taxes is a naked power not coupled with an interest, and must be exercised in strict accordance with the provisions of the statute. Every prerequisite must precede the exercise of the power. *Hopper v. Malleson*, 1 C. E. Gr. 382. *State, Baxter v. Jersey City*, 7 Vr. 188. *Woodbridge v. State*, 14 Vr. 262. To establish a title under a sale for taxes, it is incumbent on the purchaser to show that all the prerequisites to the exercise of the power of sale have been complied with. The deed is not even *prima facie* evidence of that fact. *Id.* Where the tax warrant directs a sale to be made to raise a sum larger than the whole amount due, it is a clear excess of authority, and renders the warrant, so far as it affects the land in question, null and void. *Id.* An error in the notice of tax left by the collector, as to amount, &c., will not avoid the assessment, but only the tax warrant. *State v. Perkins*, 4 Zab. 409. The warrant for sale of land for taxes must be issued to a constable of the township. There is no authority for issuing it to the collector of taxes. *Dinsmore v. Westcott*, 10 C. E. Gr. 470. See *McEachron v. New Providence*, 6 Vr. 523, 533. A deed made by a collector, under a sale in pursuance of a warrant issued to him under that act, is void. *Id.* Where a municipal corporation has undertaken to sell real estate for taxes, the sale will be set aside unless all legal conditions precedent appear to have been performed. *Fleischauer v. West Hoboken*, 11 Vr. 111.

321. SEC. 5. That it shall and may be the duty of the constable to whom such warrant shall be directed as above specified, before he sells by virtue thereof, to give notice of the time and place of the sale of any lands, tenements, hereditaments or real estate, under this act, by advertisement, signed by said constable, and inserted in a newspaper printed and published in said township, or in the county where the sale is to take place, for at least sixty days, once in each week, before the time appointed for such sale; and also set up for the same period in five of the most public places in said township, one of which shall be at or near the lands, tenements, hereditaments or real estate to be sold; *provided, however,* such sale may be adjourned from time to time, not exceeding ninety days in the whole.

Constable to whom warrant directed, to advertise sale.

322. SEC. 6. That it shall and may be lawful for the said constable, to whom such warrant shall be directed, at the time and place specified in the above-required notice, or at the time and place to which he shall adjourn, as provided for in the last preceding section, to sell and strike off such lands, tenements, hereditaments or real estate, as may be set forth in said warrant, or any part thereof, to such person or persons as will agree to take the same for the shortest term, and pay such taxes as may be assessed as aforesaid on account thereof and the interest thereon, and all costs, fees, charges and expenses, and thereupon to execute and deliver to any such person or persons a deed for the same, under his hand and seal, and such person or persons, and his, her or their legal representatives, shall, by virtue thereof, lawfully hold and enjoy the said lands, tenements and hereditaments, or real estate, during the term for which he, she or they shall have purchased the same, for his, her or their own proper use and benefit, against the owner or owners^(a) thereof, and all and every person or persons claiming under him, her or them, until said term shall be fully completed and ended, and shall be at liberty, at or before the expiration of the said term, to remove any building or buildings and materials erected and placed by him, her or them thereon, and when said term shall have ended, shall peaceably and quietly yield up the same to the lawful owner or owners thereof, in as good condition as when he, she or they took possession of the same, damage resulting from ordinary use and the elements excepted.

Constable to make sale and give deed.

323. SEC. 7. That notwithstanding any mistake in the name or names of the owner or owners, or omission to name the real owner or owners of any lands, tenements, hereditaments and real estate in the said township, in assessing the taxes on account thereof as aforesaid, such assessment shall be valid and effectual in law against such lands, tenements and hereditaments, or real estate; and the same may be proceeded against and sold in the manner prescribed herein.^(b)

Mistake in name of owner not to invalidate assessment.

324. SEC. 8. That the constable to whom such warrant as aforesaid shall be directed, shall be entitled to receive the sum of one dollar for executing the same, and in addition thereto, two cents on each dollar by him collected and paid over to the township committee of said township for advertising the sale of any lands, tenements, hereditaments, or real estate for each delinquent, the same fees which the sheriffs of the counties are entitled to for the like services; and for a deed to the purchaser, the sum of two dollars; and the township committee of said township shall be entitled to receive for said warrant the sum of fifty cents; and the clerk of said township, for recording and filing said warrant, shall be entitled to receive the sum of twenty-five cents.

Fees and costs.

(a) Under a sale of lands for the payment of taxes, only the estate which the owner had at the time of the assessment passes. The estate acquired by a mortgagee prior to the assessment, is not affected by such sale. *Morrow v. Dows*, 12 C. E. Gr. 442, 1 Steu. 459. *Hopper v. Malleon*, 1 C. E. Gr. 382. Only the estate and interest which the taxpayer has, *cum onere*, can be sold. *State, Morris Canal v. Haight*, 6 Fr. 178, 183.

(b) While a mistake in the owner's name will not invalidate a sale, an entire omission thereof is fatal. *State, Tindall v. Vanderbilt*, 4 Fr. 38. An assessment for taxes will not be vacated merely because only one of two tenants in common was named as owner. *Fleischauer v. West Hoboken*, 11 Fr. 109.

Supplement.

Approved March 25, 1863.

P. L. 1863, p. 497.

All assessments of taxes on lands to be a lien for space of two years.

325. SEC. 1. That any assessment of taxes made in this state against any person or persons or corporation on account of any lands, tenements, hereditaments or real estate of such person or persons or corporations, shall be and remain a lien on all the lands, tenements and hereditaments or real estate, on account of which said assessment shall be made, with lawful interest thereon accruing, and all costs and fees in relation to said assessment and collection thereof, for the space of two years from the time when the taxes so as aforesaid assessed were payable; and in case any such assessment of taxes, together with the interest thereon, and the costs and fees as aforesaid, shall remain unpaid for the space of four months after the said taxes were payable, then it shall be lawful for the township committee of the township in which said assessment has been made, or a majority of them, to proceed for the collection of the same in the manner prescribed in and by the several provisions of the act to which this is a supplement; all which proceedings shall be as valid and effectual as in cases of assessment under said act. (a)

Collection of same.

Owner may redeem after one year from sale.

326. SEC. 2. That in all cases of sale made of any real estate, in pursuance of this act and the act to which this is a supplement, the owner or owners thereof shall have the right to redeem the same, after the expiration of one year from the time of such sale, by paying the amount paid by the purchaser therefor, with twelve per cent. interest thereon, and the purchaser, upon payment thereof, shall reconvey and restore to the owner or owners such real estate. (b)

Supplement.

Approved March 26, 1873.

P. L. 1873, p. 63.

Real estate of persons in this state may be sold for taxes in the same manner as if residing out of this state.

327. SEC. 1. That the real estate of any person or persons residing in this state, or of any corporation of this state, may be sold for taxes in the same manner as real estate of persons residing out of this state, or foreign corporations located outside of the county in which the land is located is now sold for taxes.

Supplement.

Approved April 5, 1873.

P. L. 1873, p. 308.

Treasurer of city or township may purchase at sales for taxes, subject to redemption.

328. SEC. 1. That at any sale of lands, tenements, hereditaments and real estate hereafter made by virtue of the said act entitled "An act to make taxes a lien upon real estate and to authorize sales for the payment of the same," approved March seventeenth, eighteen hundred and fifty-four [see P. L. 1854, p. 429], and the supplements thereto, if there shall be no purchaser or purchasers for said lands, tenements, hereditaments and real estate, or any part thereof, then it shall and may be lawful for the treasurer of the city or of the township committee of the township where said lands, tenements, hereditaments and real estate may be assessed, to purchase the same for the benefit of said city or township, subject to the same redemption as is now provided by law; and the certificate of such treasurer, stating the payment of the amount now required by law to be paid upon the redemption of any lands, tenements, hereditaments and real estate sold by virtue of said act and the supplements thereto, and showing what lands, tenements, hereditaments and real estate such payment is intended to redeem, shall be evidence of such redemption.

Supplement.

Approved March 27, 1889.

P. L. 1889, p. 114.

Collectors may make application to judge to have description amended.

329. SEC. 1. That when the description of any real estate heretofore assessed or hereafter to be assessed in any town, township or borough in this state is insufficient to make a legal sale of such real estate for the taxes

(a) Act of March 25th, 1863, limits the lien of taxes to two years. Act of March 27th, 1874, incorporating a certain town, provided that a tax lien on real estate shall "remain a lien thereon until paid." *Held*, that the latter provision superseded that contained in the general act. *Stetson v. Christie*, 7 Dick. 720. See *State v. Newark*, 13 Fr. 89. *Trustees, &c., v. Trenton*, 3 Steu. 674. *Kirpatrick v. New Brunswick*, 13 Steu. 54.

(b) A bill in equity is proper to compel the purchaser of land for a term, under a tax sale, to reconvey the land to the landowner who complies with the law regulating the right to redeem. *Culver v. Watson*, 1 Steu. 548.

so assessed, the collector or other officer having the collection thereof, may make application to one of the judges of the court of common pleas of the county where such lands are situate, at any time before the sale thereof, to have the same amended by such short description as will sufficiently describe the same; and the said judge, upon proof of the facts alleged, is hereby empowered to so amend the description of such real estate as will enable such officer to properly advertise the same, and make title thereto; *provided*, that the owner or owners of said property shall have had at least ten days' notice of said application. Proviso.

A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same

Approved March 14, 1879.

P. L. 1879, p. 340.

330. SEC. 1. [Amended by Sec. 368, *post.*]

331. SEC. 2. That in case any taxes, specified in the last preceding section, together with the interest thereon, and costs, fees, charges and expenses aforesaid, shall remain unpaid and in arrears for the space of six months from and after the time when payable, then and in every such case it shall be lawful for the township committee, or a majority of them, to issue their warrant, which warrant may include the names of any number of delinquent owners and the description of each of their lands, tenements, hereditaments or real estate, on account of which such taxes were assessed, under the common seal, if any, of the township, signed by the chairman thereof and attested by the township clerk, directed to the collector of the said township, therein and thereby commanding him to make said taxes, with the interest, costs, fees, charges and expenses as aforesaid, out of the lands, tenements, hereditaments or real estate, on account of which the same were assessed and incurred as aforesaid, by selling the same, or any part thereof, as will be sufficient for that purpose, for the shortest term for which any person or persons will agree to take the same, and pay such taxes, with the interest thereon, and all costs, fees, charges and expenses, and further directing the said collector to make return of said warrant, with all his proceedings thereunder, in writing, within four months from the date thereof, to said township committee. Proceedings for the collection of unpaid taxes, &c.
Tax warrant.

332. SEC. 3. That the said warrant shall be recorded by the clerk of said township, before its delivery to said collector, in a book provided for the purpose, to be known as the "record of tax sales." Tax warrant to be recorded.

333. SEC. 4. That it shall and may be the duty of the said collector, before he sells by virtue of such warrant, to give public notice of the time and place of such sale of any lands, tenements, hereditaments, or real estate under this act by advertisement, signed by such collector, in a newspaper printed and published in said township, or in the county wherein such lands, tenements, hereditaments or real estate are situate, once in each week, for at least four weeks successively next preceding the time appointed for such sale, and shall cause copies of such notice to be set up in five of the most public places in said township for the same period, one of which must be at or near the lands, tenements, hereditaments or real estate to be sold, and shall forthwith mail a copy of such notice to the owner or owners, directed to him, her or them, at his, her or their last-known post-office address, with full postage prepaid thereon; *provided*, such sale may be adjourned on application of the owner or other person interested therein, or because of no bidders, from time to time, not exceeding sixty days, in which case a short notice of such adjournment shall be published in the said newspaper. Collector to give notice of time and place of sale.
Proviso.

334. SEC. 5. That it shall and may be lawful for the said collector, at the time and place specified in the above notice, or at the time and place to which he shall adjourn as aforesaid, to sell and strike off such lands, tenements, hereditaments or real estate set forth in such warrant, or any part thereof, to such person or persons as will agree to take the same for the shortest term, and pay such taxes as may be assessed as aforesaid on account thereof, and the interest thereon, and all costs, fees, charges and Collector to sell.

Certificate of purchase to be delivered.

expenses touching the same, such payment to be made in all cases before the conclusion of such sale, and if not so made the collector shall resell the property; and that within ten days thereafter the said collector shall deliver to the purchaser a certificate of such sale, under his hand and seal, and duly acknowledged according to law; such certificate shall contain a description of the property, the term for which sold, the amount of tax, interest, costs, fees, charges and expenses in detail, the year for which assessed, the time when the right to redeem shall expire and the date of the warrant under which the sale was made.

335. SEC. 6. [Amended by Sec. 349, *post.*]

Township clerk to record return of warrant.

336. SEC. 7. That the clerk of said township shall record such return (the warrant only excepted) and the papers thereto annexed, in the aforesaid "record of tax sales," at length immediately succeeding the record of such warrant, space being reserved for the purpose.

Purchaser to have certificate of sale recorded.

337. SEC. 8. That the purchaser shall cause such certificate of sale to be recorded in the county clerk's office within the county where the lands are situate, within twenty days from the receipt thereof, and that thereupon he shall be entitled to the immediate possession of the property described in said certificate, and to all the rents, issues and profits arising therefrom on and after the date of such certificate, and in case the said premises are occupied by the owner or owners thereof, the purchaser shall give notice, in writing, to such owner or owners, either personally or by leaving the same with some member of his family over fourteen years of age, and informing him of the contents thereof, of such sale, and demanding possession of such premises within thirty days after service thereof as aforesaid, and at the same time exhibit to the person so served the aforesaid certificate, and if, at the expiration of the said thirty days, the said owner or owners shall not deliver up possession thereof, then and in that case the purchaser may take the same proceedings to gain possession of such lands and premises as purchasers under decrees of foreclosure and sale of mortgaged premises.

By whom, when and how lands sold may be redeemed.

338. SEC. 9. That the owner or owners, mortgagee, occupant or any other person having a legal or equitable interest in any lands tenements, hereditaments or real estate sold for taxes as aforesaid, may redeem the same at any time within two years from the date of such sale by paying to the purchaser, or his legal representative, the amount of purchase-money set out in detail in said certificate, with twelve per centum interest thereon, together with such other fees, costs, expenses and charges as may have been incurred by the purchaser under the provisions of this act, and the purchaser, upon receiving such payment, if made by the owner or owners thereof, shall recover and restore to such owner or owners such real estate, and in case the owner or holder of any estate, in lien upon or right of possession of such real estate so sold, shall pay to the purchaser within the said two years the aforesaid purchase-money, interest, fees, costs, expenses and charges, the sale shall be of no farther effect, and the mortgagee, or other person so redeeming, shall have a lien on the said premises for the amount paid, with twelve per centum interest thereon, in like manner as if the same had been included in his, her or their mortgage or other lien. (a)

Township committee to execute and deliver deed.

339. SEC. 10. That in case such lands, tenements, hereditaments or real estate so sold shall not be redeemed within the time provided for by this act, then and in that case the township committee, upon due proof being made by affidavit that such redemption has not been made, and the surrender of such certificate, shall execute and deliver to the purchaser, his legal representatives or assigns, at his or their expense, a deed for the same under the common seal of the township, signed by the chairman of such township committee and attested by the township clerk, and acknowledged according to law, which deed shall contain a description of the property, the year of the tax assessment, the fact of advertisement and sale, the date of sale and the period for which the premises were sold, and which deed shall be recorded in the clerk's office of the county where the lands are

Deed to be recorded.

(a) A bill to redeem lands sold for taxes, under this section, must aver when the defendant received his certificate of sale, and how long he has held it, in order that the court may see

that the right of redemption has not been lost through lapse of the time limited by the statute for such redemption. *Langley v. Jones*, 16 *Stev.* 404.

situate within ten days after date thereof, and if not so recorded, the same shall be of no effect until such period as against a mortgagee or purchaser in good faith, and the right of redemption shall also continue until such record, notwithstanding the lapse of the aforesaid two years; and that such purchaser or purchasers, and his and their legal representatives, upon complying with the provisions of this act, shall, by virtue thereof, lawfully hold and enjoy said lands, tenements, hereditaments or real estate, for and during the term for which he, she or they shall have purchased the same for his, her or their own proper use, benefit and advantage, against the owner or owners thereof, and all and every person or persons claiming under him, her or them, and against any and all other estates therein, whether legal or equitable, and any and all mortgages, alienations, devises, descents, liens and incumbrances of every kind and nature, as fully and completely as though there were no other estates, mortgages, alienations, devises, descents, liens or incumbrances of, in, upon or against said property, or any part thereof, until said term shall be fully completed and ended, and the purchaser shall be at liberty, at or before the expiration of the said term, to remove any building or buildings and materials erected and placed by him, her or them thereon, and when said term shall have ended shall peaceably and quietly yield up the same to the lawful owner or owners thereof in as good state and condition as when he took the possession of the same, damage resulting from the ordinary use and the elements excepted. (b)

340. SEC. 11. That the aforesaid "record of tax sales" shall be received in all courts as presumptive evidence of the regularity of the proceedings therein recorded, and the aforesaid deed shall be presumptive evidence in all courts and places that such sale and proceedings were regularly made and had according to the provisions of this act.

Record of tax sales to be evidence, &c.

341. SEC. 12. That no sale of lands, tenements, hereditaments or real estate, made in pursuance of this act, shall destroy or in any manner affect the lien of any mortgage thereon duly recorded or registered at the time of such sale, unless the purchaser shall give to such mortgagee or mortgagees, within three months from the date of such sale, notice in writing, setting forth the date of such sale, the amount of purchase-money, the description of the property as contained in the certificate of sale, the date when the limit of redemption shall expire and a reference to this act, which notice shall be served personally or by leaving the same with a member of his family over the age of fourteen years, and if he cannot be found, then by mailing the same inclosed in an envelope plainly directed to him, her or them, at his, her or their last-known post-office address, with full postage prepaid thereon; and the purchaser shall, within twenty days after the service of said notice, transmit a true copy of such notice with due proof of service to the clerk of the county in which such lands are situate, and which notice shall be recorded and indexed in the same book in which mortgages are recorded, and a marginal note made thereof in the book where the original mortgage is recorded or registered, for which service the county clerk shall receive the sum of eight cents a folio, to be paid by the purchaser.

Purchaser to give notice to mortgagee.

342. SEC. 13. That it shall be the duty of the township collector of each township, on or before the first day of February in each year hereafter, to make return in writing to the clerk of the county in which his township is situate, of all unpaid taxes assessed the preceding year on real estate situate in his township, setting forth against whom assessed, the date, description of the property, the amount of tax thereon, to which he shall affix an oath or affirmation in writing to the effect that the same is just, true, full and complete in every particular, as shown by his tax duplicate, and for such service he shall be paid by his township the sum of two cents for each name so returned; and in case the said collector shall neglect or refuse to make such return as herein provided, he shall forfeit and pay to the township the sum of one hundred dollars, to be recovered in an action of debt in any court of competent jurisdiction.

Township collector to make annual return of unpaid taxes on February 1st to county clerk.

Penalty for neglect.

County clerk to make record of returns.

343. SEC. 14. That the clerk of said county, upon receipt of such returns, shall record the same at length in separate books provided for the purpose, respectively, for each township in his county, and shall properly index the same, which books shall be at all times open for public inspection, free of charge; and the said clerk shall receive for the aforesaid service the sum of five cents for each name in said return, to be paid by the township returning the same; and it shall be lawful for said clerk in making searches, on request, for unpaid taxes, to charge ten cents per year for each name searched against.

When tax shall cease to be a lien.

344. SEC. 15. That in case such tax return shall not have been made at the time herein provided, or in case a name or names shall have been omitted from such return, then and in that case such tax shall cease to be a lien upon such real estate as against a purchaser or mortgagee in good faith.

Collection of tax now due.

345. SEC. 16. [Amended by Sec. 363, *post.*]

346. SEC. 17. That any tax now due on any lands, tenements, hereditaments or real estate in any township of this state may be collected under this act in the manner prescribed herein.

Repealer.

347. SEC. 18. [Amended by Sec. 371, *post.*]

348. SEC. 19. That all acts and parts of acts inconsistent with the provisions of this act, except as aforesaid, be and the same are hereby repealed.

Supplement

Approved March 12, 1880.

P. L. 1880, p. 283.

349. SEC. 1. That section six [see Sec. 335, *ante*] of the act to which this is a supplement be and the same is hereby amended so as to read as follows:

Collector to return warrant with all proceedings, &c.

[That the said collector shall return said warrant to said committee within the time required therein, together with all of his proceedings thereunder in writing, and he shall annex thereto copies of the notices required by this act to be by him given, published, mailed and posted, with proof of such publication, posting and mailing and an oath or affirmation by said collector that the said return is true, full and complete in all respects.] (*a*)

Fees of collector.

350. SEC. 2. That the said collector shall be entitled to receive for his services under said warrant the following fees and no more for each name on said warrant, to wit: for executing the warrant, twenty-five cents; for selling, twenty-five cents; for every adjournment, ten cents; for making and executing each certificate of sale, fifty cents, beside actual necessary disbursements for printing, postage, affidavits and acknowledgments. [See Sec. 361, *post.*]

Fee of committee for issuing warrants.

351. SEC. 3. That the township committee issuing such warrant shall receive therefor five cents for each name on said warrant, the same to be divided equally among the members in attendance when the warrant is issued.

Fee of township clerk.

352. SEC. 4. That the township clerk shall receive for attesting and recording said warrant and return ten cents for each name thereon.

Fees, costs, &c., to be charged to and paid by purchasers.

353. SEC. 5. That all the fees, costs, charges and expenses in this act and the act to which this is a supplement, together with the fees for assessing and collecting and justices' warrants, shall be charged to and paid by the purchasers; *provided, however,* that when the inhabitants of the township are the purchasers of any lands, tenements, hereditaments or real estate, sold under any warrant so issued, the said collector shall charge to and receive from the township one-half of said collector's fees prescribed in section two of this act.

Proviso.

(*a*) The statute of 1879, amended March 12th, 1880, does not require that the return shall show the time of sale or an adjournment; these particulars may be supplied by proof *ante*. *Jones v. Landis Township*, 21 *Pr.* 374. Three adjoining lots of land taxed, held and used as one property, may be sold together. *Id.* Copies of the certificate of sale and acknowledgment, with an affidavit that the copies are true, are not required to be annexed to the return under the act of 1880, amending section

6 of the act of 1879. A copy of the notice of sale is necessary. *Id.* The owner of land at the time the assessment is made is the person to whom a copy of the notice of sale shall be sent by mail. *Id.* When the return does not show that one of the five notices of sale was posted at or near the land to be sold, as required by the statute, parol proof to supply this omission is not admissible. If admissible, it should specify the place where the notice is posted. *Id.*

354. SEC. 6. That any sale of lands, tenements, hereditaments or real estate made by virtue of this act and the act to which this is a supplement, if there be no purchasers therefor, then it shall and may be lawful for the township committee of said township to cause said lands, tenements or real estate to be purchased for the benefit of the inhabitants of the township, and that the inhabitants of said township so purchasing shall have lawful right and authority to use, occupy and enjoy said lands, tenements or real estate, and through their township committee to take such proceedings as may be necessary to obtain possession thereof, and to sell and transfer the same, or any part thereof, to any person paying the purchase price therefor, together with the subsequent taxes and lawful interest.

Township committee may purchase lands, &c.

355. SEC. 7. That all purchases of lands, tenements, hereditaments or real estate heretofore made by the inhabitants of any township under the act to which this is a supplement, be and the same are hereby ratified and confirmed.

All purchases of real estate, &c., ratified and confirmed.

356. SEC. 8. [Amended by Sec 365, *post.*]

357. SEC. 9. That all the plots, pieces or parcels of land, tenements, hereditaments or real estate so purchased by the inhabitants of the township at a sale under any one warrant shall be included in one certificate of sale, which certificate shall conform in all other respects to the certificate described in section five of the act to which this act is a supplement; *provided, however,* that it shall not be necessary, in case said lands, tenements, hereditaments or real estate so purchased shall not be redeemed, for the township committee of said township to execute a deed to the inhabitants of the township, but that the said inhabitants of the township shall hold and enjoy said lands, tenements, hereditaments or real estate to the end of the term named therein, under said original certificate, with the like privileges and effect in all things as though a deed therefor had been given.

All plots, pieces or parcels of land purchased by township to be included in one certificate of sale.

Proviso.

358. SEC. 10. That the collector shall have power to adjourn any sale for more than sixty days, upon the written request of the township committee; *provided,* there be no purchasers present.

Collector may adjourn sale.

359. SEC. 11. That in case the collector's term of office shall expire before he shall have completed his proceedings under any warrant, he shall continue such proceedings thereunder to the end, in which case his bondsmen shall be liable for any illegal act of their principal in the same manner and to the same extent as though said collector's term of office had not expired.

Collector to continue proceedings if his term of office expires.

360. SEC. 12. That no lands, tenements, hereditaments or real estate shall be sold by virtue of this act, and the act to which this is a supplement, for a longer period or term than thirty years.

No lands to be sold for a longer term than thirty years.

361. SEC. 13. That the collectors of the several townships in this state shall be entitled to receive for the services performed by them under and by virtue of the sixteenth section of the act to which this is a supplement [Sec. 363, *post.*], the sum of twenty cents besides the fees paid by them for the acknowledgment therein required, and the clerks or registers of the several counties of this state shall be entitled to receive for the services performed by them under said sixteenth section the sum of twenty cents.

Fees of collector.

Fees of county clerks or registers.

362. SEC. 14. That all acts and parts of acts inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

Supplement.

Approved March 24, 1881.

P. L. 1881, p. 215.

363. SEC. 1. That section sixteen [see Sec. 345, *ante*] of the act entitled "A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same," approved March fourteenth, one thousand eight hundred and seventy-nine, be so amended as to read as follows:

[That the fees, charges and expenses incurred for services rendered under this act shall be included in the amount to be paid by the delinquent, and that, upon payment of such taxes, costs and expenses, the collector who shall receive the same shall give a receipt for the amount paid,

Fees, expenses, &c., for services to be included in amount to be paid by delinquent.

Tax record, how satisfied.

in satisfaction thereof, to the person paying the same, which receipt shall be sufficient evidence of the payment of such tax, and that, upon presentation thereof, the clerk of the county shall satisfy such tax record in the same manner as the record of mortgages is now by law satisfied, and shall file such receipt in his office.]

Repealer.

364. SEC. 2. That so much of said act as is inconsistent with the provisions of this act be and the same is hereby repealed.

A supplement to an act entitled "A supplement to an act entitled 'A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the same,' approved March fourteenth, one thousand eight hundred and seventy-nine," which said supplement was approved March twelfth, one thousand eight hundred and eighty.

P. L. 1882, p. 27.

Approved February 24, 1882.

365. SEC. 1. That section eight [see Sec. 356, *ante*] of the above supplementary act be amended to read as follows :

Not necessary to sell lands purchased by township for non-payment of taxes.

[That it shall not be necessary to advertise for sale, or to issue warrant, or to sell any lands, tenements, hereditaments or real estate purchased by "the inhabitants of the township" for non-payment of any taxes laid, assessed or imposed subsequent to the taxes for which said lands, tenements, hereditaments or real estate were so sold and purchased by "the inhabitants of the township," but that such subsequent taxes shall be assessed in the name or names of the owners of said lands, tenements, hereditaments or real estate, as if no sale for taxes had been made or taken place, and such taxes so assessed shall be and remain a first lien on said lands, tenements, hereditaments or real estate, added to the original purchase-money, and shall be paid to such township before such lands, tenements, hereditaments or real estate can be redeemed ; and the assessor and collector shall each be entitled to receive, for assessing and collecting the said taxes, the same fees as those to which they would be entitled by law in case the said lands, tenements, hereditaments or real estate had not been sold for taxes.]

How subsequent taxes assessed.

Supplement.

P. L. 1883, p. 117.

Approved March 22, 1883.

366. SEC. 1. [Amended by Sec. 367, *post*.]

Supplement to an act entitled "A supplement to an act entitled 'A further act concerning taxes, making the same a first lien on real estate, and to authorize sales for the payment of the same,' approved March fourteenth, one thousand eight hundred and seventy-nine," and which said supplement was approved March twenty-second, one thousand eight hundred and eighty-three.

P. L. 1884, p. 113.

Passed April 1, 1884.

367. SEC. 1. That section one [see Sec. 366, *ante*] of the act to which this is a supplement be amended so as to read as follows :

By whom, when and how lands purchased by township may be redeemed.

[That the owner or owners, mortgagee or other person having a legal or equitable interest in any lands sold for unpaid taxes under and by virtue of the act to which this is a supplement, and purchased by the township, shall have the right to redeem the same at any time while such tax title is held by the township (even though the redemption period of two years, provided by law, shall have expired), by paying to such township the sum of money mentioned in the certificate of sale to said township, with interest, costs, expenses and charges thereon, and all subsequent taxes assessed thereon, together with interest, costs, fees and charges and that, upon receiving such payment, the township shall surrender said premises to the person so redeeming, his heirs or assigns ; *provided, however,* that in case the township shall have leased or rented the said land and real estate, or any part thereof, for any term not exceeding three years, the tenant in

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possession under said township shall hold for and during his said term aforesaid, except that such tenant shall pay all rents thereafter accruing to the person so redeeming.]

Supplement.

Approved April 2, 1888. P. L. 1888, p. 372.

368. SEC. 1. That section one [see Sec. 330, *ante*] of said act be amended so as to read as follows :

[That any and all taxes which shall or may hereafter be laid, assessed or imposed, pursuant to the laws of this state, against any person or persons, or corporations, for and on account of any lands, tenements, hereditaments or real estate situate, lying and being in this state, together with lawful interest thereon accruing, and all costs, fees, charges and expenses in relation to the levy, assessment and collection of said taxes, shall be and become, from and after the twentieth day of December next after such assessment, a full and complete first and paramount lien on all the lands, tenements, hereditaments or real estate on account of which such levy and assessment shall be made, and while unpaid shall remain such lien for the space of two years from the said twentieth day of December, and that any and all mortgages, alienations, devises, descents, liens and incumbrances of every kind and nature, of, in, upon or against such lands, tenements, hereditaments or real estate, shall be in every respect subject and subservient to the lien of the aforesaid taxes, interest, costs, fees, charges and expenses.](a)

Taxes and all costs, &c., in relation to the levy, &c., to be a first lien on lands from December 20th after such assessment.

369. SEC. 2. That all acts and parts of acts inconsistent herewith, be and the same are hereby repealed.

Repealer.

Supplement.

Approved April 24, 1888. P. L. 1888, p. 482.

370. SEC. 1. That any and all proceedings heretofore had, under or by virtue of any law of this state, in relation to the sale of any lands and real estate, in any township of said state, for the collection of any unpaid taxes or any unpaid assessment for any improvement, with interest, costs and fees thereupon, and any and all certificate or certificates, declaration or declarations, of any such sale or sales, heretofore made, executed and delivered to any purchaser or purchasers of any such lands and real estate, and any and all record or records, assignment or assignments thereof, shall be and the same are hereby declared to be valid, and are confirmed, in all things, so far as may be necessary to establish and confirm the lien of said taxes and assessments, and of such certificate or certificates, declaration or declarations, upon said lands and real estate, in the same manner and to the same extent provided for in and by the certain law or laws under which the same were made; and that, in any case where any such certificate or declaration for any such sale or sales has not been already made, executed and delivered, it shall be lawful to make, execute, deliver, record and assign the same, at any time or times hereafter, in the same manner, and with the same effect in every particular, as if the law to which this is a supplement had not been passed; *provided*, that any mortgagee whose mortgage has been heretofore duly registered, and who is now entitled to avail himself of any illegality in any tax or tax sale, may, at any time within six months from the passage of this act, redeem from any such sale upon paying the amount of the tax with interest and costs of the sale.

Proceedings heretofore had for sale of lands in townships, declared to be valid and confirmed.

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Supplement.

Approved May 6, 1889. P. L. 1889, p. 357.

371. SEC. 1. That section eighteen [see Sec. 347, *ante*] of the act to which this is a supplement be amended so as to read as follows :

(a) The sale of lands for taxes must be made before the expiration of the two years during which the lien for taxes is to continue. *Johnson v. Vanhorn*, 16 Vr. 136. Taxes become a lien on property only by force of express legislation, and can be collected only in the manner provided by statute. *Linn v. O'Neil*, 26 Vr. 58. The act of March 14th, 1879, makes the lien of taxes prior to that of a mortgage given before the passage of the act, and is within the power of the legislature. *Lydecker v. Fallside*

Land Co., 6 Stew. 415. The statute of 1888 fixes conclusively the 20th of December as the period when an assessment for taxes becomes a lien upon lands. *Bradley v. Dike*, 23 Vr. 472. Prior to that period there exists nothing but a liability of the lands to a future lien. *Id.* An assessment for taxes upon lands is not an incumbrance prior to the 20th of December, within the import of a covenant against incumbrances in a conveyance. *Id.*

Act to apply to all townships and all cities wherein no provisions exist making taxes a lien upon real estate.

[That this act shall not be construed so as to alter, modify, affect, annul or repeal the provision of any charter of any city, village or borough whereby the collection of taxes is regulated, and the taxes assessed and to be assessed in any such city, village or borough shall be levied, assessed and collected as heretofore, and the lien of taxes on lands in any such city shall be and remain as now regulated, and nothing in this act shall be held to impair, alter or affect the said lien in any way whatsoever, but this act shall apply to all townships in this state and to all cities wherein no other provisions are in force making taxes a lien upon real estate and authorizing sales for the payment of the same.] (a)

Supplements heretofore passed valid.

372. SEC. 2. That all supplements to the said act heretofore passed shall have the same force and validity in all such cities as aforesaid, as if they had been passed after the passage of this act.

Term "township" construed.

373. SEC. 3. That the term "township" wherever used in the said act and the supplements thereto shall be construed to include all such cities as aforesaid; and that in all such cities, the duties by the said act and the supplements thereto directed or authorized to be performed respectively by the township committee, or a majority of them, and by the township clerk and township collector, shall be performed, respectively, by the city council or other legislative body of said city, and by the city clerk and the city collector of taxes; and that any lands, tenements or real estate purchased in any such city for the benefit of said city, under the provisions of said act and the supplements thereto, shall be purchased in the corporate name of said city.

In such cities duties to be performed by whom.

Lands to be purchased in name of city.

A further supplement to an act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, making the same a first lien on real estate.

P. L. 1880, p. 149.

Approved March 10, 1880.

374. SEC. 1. [Amended by Sec. 376, *post.*]

Repealer.

375. SEC. 2. That all acts and parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

An amendment to an act approved March tenth, one thousand eight hundred and eighty, entitled "A further supplement to an act entitled 'An act concerning taxes,'" approved April fourteenth, one thousand eight hundred and forty-six, making the same a first lien on real estate.

P. L. 1882, p. 130.

Approved March 17, 1882.

376. SEC. 1. That the first section of the act approved March tenth, one thousand eight hundred and eighty, entitled as above set forth, be and the same hereby is amended so as to read as follows:

Taxes in cities, boroughs, &c., to be a first lien on lands.

[That any and all taxes which shall or may hereafter be laid, assessed or imposed, pursuant to the laws of this state, within any incorporate city, village, borough or other municipality of this state, against any person or persons or corporations for or on account of any lands, tenements, hereditaments or real estate situate, lying and being in such city, village, borough or other municipality, together with lawful interest thereon accruing, and all costs, fees, charges and expenses in relation to the levy, assessment and collection of said taxes, shall be, become and remain, from and after the date of such levy and assessment, a full and complete first and paramount lien on all the lands, tenements, hereditaments or real estate, on account of which such levy and assessment shall be made, for and during the period now provided for in the act of incorporation, or any supplement thereto or revision of the same, of any such city, village, borough or other municipality as aforesaid, or if no such period is provided in such act of incorporation, supplement or revision, for and during the period of three years; and that any and all estates therein, whether legal or equitable, and any

(a) The act of March 16th, 1879, applies to all townships and has repealed inconsistent provisions of special laws providing for the sale of lands for taxes in townships. *Brown v. Mullica Township*, 19 Fr. 447. The act of March 1st, 1887, excepting

Mullica township from the act of March 16th, 1879, relating to taxes in townships, is unconstitutional and void. *Haines v. Mullica Township*, 22 Fr. 412.

and all mortgages, alienations, devises, descents, liens and incumbrances of every kind and nature of, in, upon or against such lands, tenements, hereditaments or real estate, shall be in every respect subject and subservient to the lien of the aforesaid taxes, interest, costs, fees, charges and expenses; *provided, however*, that nothing herein contained shall be construed to apply to any township in this state, or to conflict with any laws regulating the assessment and collection of taxes in said townships.]

Mortgages, &c.,
to be subservient
to lien of taxes.

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An act relating to the blending of real and personal taxes for the non-payment of which lands and real estate have been or shall be sold, and declaring that certificates or declarations heretofore or hereafter issued thereon, shall be valid for the full amount for which said lands and real estate might legally have been sold

Approved March 10, 1880.

P. L. 1880, p. 166.

377. SEC. 1. That no sale of lands and real estate for non-payment of real or personal taxes which have been assessed upon or are liens upon such lands or real estate under any law of this state, shall hereafter be set aside, reversed or holden for naught in any court of this state for the reason that the said taxes, real and personal, have been blended together, and said lands and real estate, assessed for taxes or on which said taxes are a lien, sold for the full amount of such taxes so blended as aforesaid; and in all cases where certificates or declarations have been issued upon any such sale, and such sale is in any part thereof illegal either as against the owner, mortgagee, or other person having a legal or equitable interest in said premises so sold as aforesaid, the said certificate or declaration shall not be annulled, but so much thereof as equals the amount for which said lands and real estate were illegally sold as aforesaid, shall not be held to be a lien by virtue thereof.

No sale of lands
for non-payment
of taxes to be set
aside because of
illegal blending
of real and personal
taxes.

No certificate or
declaration shall
be annulled.

378. SEC. 2. That the provisions of this act shall be applicable to all cases where said real and personal taxes being liens on lands and real estate as aforesaid, have been heretofore blended together as aforesaid, and such lands and real estate have been heretofore sold for the non-payment thereof; and all certificates and declarations heretofore issued upon such sales shall be as good and valid for the amount of the tax for which said lands might have been lawfully sold as if said taxes for the full amount of which said lands have blended together as aforesaid. (a)

Act applicable to
proceedings here-
tofore had.

An act validating sales for taxes, and certificates and declarations issued in pursuance of such sales, and tax titles, in cases where a variance has heretofore occurred between the date of the notice of such sales required by any law of this state, and the actual publication thereof.

Approved February 18, 1881.

P. L. 1881, p. 40.

379. SEC. 1. That in all cases where public notice for a specified time has been or now is required by any law of this state, general or special, before proceedings are had for the public sale of lands for unpaid taxes, and a variance has heretofore occurred between the date of the notice of any such sale and the actual publication thereof, no such sale, or certificate or declaration of any such sale, had pursuant to such notice, or tax title heretofore or hereafter issued in pursuance thereof, shall be set aside and holden for naught by reason of such variance; and the title of the purchaser under such sale, or his assignee, and of all persons holding such certificates or declarations of sale for unpaid taxes, shall be as good and valid as if such variance had not occurred; *provided, however*, that notice shall have been actually given for the specified number of days required by any law, general or special, prior to such proceedings for public sale.

Tax titles not
invalid by reason
of defect in
notice of sale.

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(a) See case where taxes on real and personal estate were blended, decided shortly before the passage of this act. *State, Macknet, pros., v. Newark*, 13 *W.* 38, 45.

Repealer.

380. SEC. 2. That all acts or parts of acts, general or special, inconsistent with or repugnant to this act, are hereby modified or repealed, and that this act shall be deemed a public act and shall take effect immediately.

**An act concerning the recovery of possession of land sold
for taxes.**

P. L. 1885, p. 141.

Where judgment is obtained at law for recovery of lands sold for taxes, injunction may issue until cost of improvement be paid.

Passed March 25, 1885.

381. SEC. 1. That if in any action at law instituted to recover possession of real estate sold for taxes under any law by which title vests in the purchaser thereof in fee, if not redeemed within the time therein specified, more than five years previous to the commencement of such action, judgment shall be obtained by the person seeking the recovery of such real estate, such person or persons so recovering shall be enjoined by the chancellor on bill in equity from taking possession of the lands in question or any part thereof until such person shall first pay to the party or parties in possession of such real estate the cost of all permanent improvements made thereto by the person or persons in possession under such tax title, his or their grantors.

An act validating and confirming sales for taxes, and certificates and declarations issued in pursuance thereof, and tax titles and rights acquired thereunder, in cases where the time of holding such sales has not been in accordance with the requirements of section one of an act entitled "An act relative to sales of lands under a public statute, or by virtue of any judicial proceedings" [Revision], approved March twenty-seventh, anno domini one thousand eight hundred and seventy-four.(1)

P. L. 1887, p. 49.

Sales of lands, certificates and declarations issued thereon validated and confirmed, although sale not held between the hours prescribed by law.

Approved March 23, 1887.

382. SEC. 1. That all sales of land for taxes heretofore made or had, and all certificates and declarations of sale issued in pursuance thereof, and tax titles and rights acquired thereunder, although the time at which such sales have been made or held, has not been between the hours prescribed in section one of an act entitled "An act relative to sales of lands under a public statute, or by virtue of any judicial proceedings" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, be and they are hereby validated and confirmed, and the same shall be deemed and taken to be to all intents and purposes as good and effectual in law, and the record thereof admissible in evidence, as fully and completely as if said sales had been made and held between the hours mentioned and designated in said section one of said aforesaid act; *provided, however*, that notice of such sales shall have been actually given for the specified number of days required by any law, general or special, prior to such sale.

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An act relating to the sale of lands for unpaid taxes and assessments in cities of this state and proceedings in reference thereto.

P. L. 1887, p. 197.

Declarations or certificates of sale to be prima facie evidence, &c.

Approved April 21, 1887.

383. SEC. 1. That in all actions or proceedings in any court of this state wherein the title to any land or real estate heretofore sold in any city of this state for unpaid taxes or assessments, shall come in question, the declaration or certificate of sale made or issued by the municipal officer or authority of such city making such sale, shall be prima facie evidence that all acts necessary to the validity of such sale have been regularly and legally done and performed.

Declarations or certificates of sale hereafter issued to be evidence in all courts, &c.

384. SEC. 2. That hereafter, whenever in any city of this state any lands or real estate is or shall be sold for unpaid taxes or assessments the officer whose duty it is by law to make such sale shall make, or procure to be made, executed and delivered to the purchaser of such land or real estate at such sale, his executor, administrator or assigns, a declaration or cer-

(1) For similar validating act, see P. L. 1889, p. 76.

tificate of sale, describing therein the said lands or real estate so sold, which declaration or certificate of sale shall be signed and executed as now required by law, and such declaration or certificate of sale executed as aforesaid, shall be presumptive evidence in all courts in all actions or proceedings by or against such purchaser or purchasers, his, her or their legal representatives or assigns of the title of such purchaser or purchasers to the said lands or real estate in such declaration or certificate of sale designated, and of the regularity and validity of all proceedings previously had in reference to said sale.

An act concerning taxes and assessments in villages and other municipal corporations governed by a board of trustees, and making same a first lien on real estate, and authorizing sale for the payment of the same.

Approved February 22, 1888.

P. L. 1888, p. 97.

385. SEC. 1. That such taxes and assessments as may be lawfully levied, imposed or assessed by any board of trustees of any village or other municipal corporation, governed by a board of trustees, against any person or persons or corporations, for and on account of any lands, tenements, hereditaments or real estate situate, lying and being in such village or municipality so governed, together with lawful interest thereon, and all costs, fees, charges and expenses in relation thereto, shall be, become and remain a first and paramount lien upon the lands or real estate on account of which the same were so levied or assessed until paid; and that any and all estates therein, whether legal or equitable, and any and all mortgages, alienations, descents, liens or incumbrances of any kind or nature of, in or upon or against the said lands, tenements, hereditaments or real estate shall be, in every respect, subject and subservient to the lien of the aforesaid taxes, assessments, interest, costs, fees, charges and expenses.

Taxes levied by trustees to be a first lien until paid.

386. SEC. 2. [Amended by Sec. 387, *post.*]

Supplement.

Approved March 25, 1895.

P. L. 1895, p. 671.

387. SEC. 1. That section two of the above-mentioned act be and the same is hereby amended so as to read as follows:

[That in case any taxes or assessments referred to in the last section, whether heretofore levied, imposed or assessed, or hereafter to be levied, imposed or assessed, together with interest thereon, costs, fees, charges and expenses aforesaid, shall remain or shall have remained unpaid and in arrears for the space of one hundred and twenty days after the time when payable according to law, then and in that case the said board of trustees shall have full power and authority to issue their warrant or warrants, under the common seal of said village or municipality, signed by the chairman of said board of trustees or president of said village, and attested by the clerk thereof, directed to the collector of taxes of said village or municipality by whatever title such collector may be legally designated and known, commanding him to make such taxes or assessments, with the interest, costs, fees, charges and expenses aforesaid, out of the lands, tenements, hereditaments and real estate on account of which the same were assessed, levied, imposed or incurred, by selling the same for the purpose as hereinafter provided; the amount of taxes, assessments or liens, for which certificates of sale have been given to and are held by such village or municipality, shall be deemed to be in arrears, within the meaning of this section, and to have been so in arrears from the date when such taxes, assessments or liens were assessed, levied or confirmed, or attempted to be assessed, levied or confirmed, whether such sales were invalid or not; *provided*, that in case of invalid sales, if any, the property sold was liable, at the time such tax, assessment or lien was fixed and imposed, to the imposition of a tax, assessment or lien in respect to the purposes for which such tax or assessment was fixed and imposed, and that it does not appear that any substantial injury was done to the owner of the property by

Real estate may be sold to pay taxes in arrears.

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reason of the irregular or illegal manner or method of fixing, imposing or collecting said tax, assessment or lien.]

What the advertisements shall set forth.

388. SEC. 2. That said collector, after giving notice by advertisement as hereinafter required, shall sell said lands, tenements, hereditaments or real estate in lots or plots as the said taxes or assessments were or are levied, assessed, imposed or incurred, at public auction, to the highest bidder, but not for less than the amount of taxes or assessments, or both, due upon the same, with interest and costs; said advertisement shall include a designation of the time and place of sale and a description of the premises as contained in the tax duplicate or assessment report, and shall state that further particulars of the property to be sold may be obtained at the office of said collector; and it shall not be necessary in said advertisement to include any further particulars of the property to be sold; said advertisement shall be published once in each week, for four weeks prior to said sale, in the newspaper in which the official notices of such village or municipality are usually published; it shall be the duty of said collector, from and after the first publication of said advertisement, to deliver to any person applying to him a written or printed list of all the property intended to be included in said sale, but it shall not in anywise be an objection to the validity of any sale that any person has failed for any reason to receive such list; the sale may be adjourned by said collector from time to time, but it shall not be necessary to publish any notice of such adjournment or of the continuation of the sale; affidavits of the publication of the notice of sale in the manner above provided, and of all other notices required by the provisions of this act to be published, made by one of the respective publishers of said newspapers, or by some person in the employ of said publisher having cognizance of the publication, shall be prima facie evidence in all courts and places of the matters stated therein.

Advertisement shall be published in a newspaper.
List shall be furnished to persons applying for the same.

Affidavit of publication shall be made.

What the certificate of sale shall contain.

389. SEC. 3. That said collector shall, on the receipt of the purchase-money on any sale, execute and deliver to the purchaser a certificate of such sale, which shall contain a covenant on the part of said village or municipality to refund the amount paid for the lands without interest in case the title conveyed shall prove invalid; upon surrender of the said certificate of sale and proof of service of the notice thereof as hereinafter provided upon the owners and mortgagees of the said land and premises, the said collector shall, after the expiration of six months from the date of such service, execute and deliver to the purchaser at such sale, his heirs, devisees and assigns, a deed for the said lands and premises, which shall be sealed and attested by the clerk of said village or municipality and proved in the usual manner; and said purchaser, his heirs, legal representatives and assigns, shall take a good and sufficient title to the property sold in fee-simple absolute, free of all incumbrances (except taxes, assessments and water rates levied after the taxes or assessments for which said property shall be sold), of which the said deed shall be presumptive evidence in all courts and places and in any proceedings or actions to be by such purchaser, his heirs, legal representatives and assigns, taken, prosecuted or defended for the recovery of the possession of the property so sold as aforesaid, or in the establishment or defense of his or their title shown as aforesaid by the possession of said deed; the title shall not fail or be defeated by reason of any irregularity or formal defect in the procedure taken under this act upon which the sale shall have been made or the title conveyed as aforesaid, or by reason of any illegality in fixing and imposing the tax, assessment and lien to enforce which the sale was made, or in the proceeding for collecting the same; *provided*, the property sold was liable at the time such tax, assessment or lien was fixed and imposed by the imposition of a tax, assessment or lien, in respect of the purposes for which such tax, assessment and lien was fixed and imposed, and it does not appear that any substantial injury was done to the owner of the property by reason of the irregular or illegal manner or method of fixing, imposing or collecting said tax, assessment and lien; the village or municipality may be the purchaser at any sale of lands under the provisions of this act with the same right, title and effect as any other purchaser, and

Collector shall execute and deliver a deed to the purchaser.

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the certificate of sale to the village or municipality shall be delivered to the president or other head officer thereof, who shall, on behalf of the village or municipality, cause notice of the sale to be served on the owners and mortgagees of the lands so purchased, as provided in this act; upon proof of service of the notice and expiration of the period for redemption, the village or municipality shall be entitled to a deed for the property the same as any other purchaser; in all cases where any lands be bought by the village or municipality as aforesaid under this act, it shall be lawful for the governing body of such village or municipality to sell and assign the certificate of sale, or to sell and convey such lands, or any part thereof, by a good and sufficient deed, to any person or persons on such terms as may be agreed upon without warranty; *provided*, that if sold at private sale, the price for the land shall not be less than the amount due the village or other municipality thereon when purchased.

390. SEC. 4. That any person or persons having an estate in or mortgage upon any lands and premises sold in pursuance of the second section of this act, whose estate or lien appears of record in the county, may at any time before the expiration of six months after notice shall have been given to him of such sale by the purchaser, his heirs or assigns, in the manner hereinafter provided, or before a deed of such premises shall have been delivered as provided in this act, redeem said lands and premises by paying to the collector of said village or municipality, for the use of the purchaser, his heirs and assigns, the sum paid by him at such sale with interest at the rate of ten per centum per annum from the date of the sale, and one dollar for each notice served as hereinafter provided; and upon such redemption the village or municipality shall pay to such purchaser, his heirs or assigns, the amount received from the person redeeming; such notice shall be in writing and shall be served by the purchaser of the property or his agent on said owner or mortgagee, either personally or by leaving the same at his place of abode with a member of his family above the age of fourteen years; in case such owner or mortgagee is a non-resident, or his residence cannot on due inquiry be ascertained, then the notice may be served by publishing the same in a newspaper printed and published or circulating in the village or municipality for the period of six weeks, at least once in each week, and depositing a copy of such notice within twenty days after its first publication in the post-office of the village or municipality, inclosed in a wrapper, post-paid, directed to such owner or mortgagee at his or her last-known post-office address, if the same can be ascertained; inquiry for the residence or post-office address of such owner or mortgagee shall be made by the purchaser or his agent upon the land purchased at the sale, if they are occupied, and wherever else in the village or municipality the same may be likely to be ascertained, and also by an examination of the record of the deed or mortgage on account of which notice is given; an affidavit shall be made by the purchaser or his agent setting forth the manner and particulars of the service, and in case the same is made by publication, setting forth what inquiry was made to ascertain the residence and post-office address of such owner or mortgagee, and in such case an affidavit of the publication shall also be made by the person publishing such newspaper, or by some one in his employ having cognizance of the publication, stating the particulars thereof; and the affidavit or affidavits shall be filed in the office of the clerk of the village or municipality within one month after the date of service and shall be prima facie evidence in all courts and places of the facts therein stated; the purchaser shall be entitled to the possession of said lands immediately upon giving such notice to the owner thereof in case the same are unoccupied, or if they are occupied, then within thirty days thereafter; and he shall have the same remedy by writ of assistance or otherwise in the circuit court of the county in which the village or municipality is situate, or in the court of chancery for the recovery of the possession of said lands as the purchaser of mortgaged premises at a foreclosure sale is now or may hereafter be entitled to by any law or practice of this state; *provided, however*, that if any estate in any of said lands shall be held by an heir or devisee of a decedent whose estate appears of record in the county,

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Mortgagee may redeem property after due notice.

Purchaser shall have refunded the amount received in redemption.

Notice may be served in certain cases by advertising same in a newspaper.

Service shall be verified by affidavit.

Affidavit shall be filed.

Purchaser shall have recovery of possession.

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or if any mortgage or lease shall be held by the executor or administrator of any decedent whose mortgage or lease appears of record in the county, such heir, devisee, executor or administrator shall be entitled to redeem and to have notice as aforesaid before the purchaser shall be entitled to the possession of the lands; *and provided, also*, that the records and schedules of all sales made under this act shall be filed and kept in the same offices of the several villages and municipalities wherein records of tax sales are now by law required to be kept.

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Proceedings may set forth a general statement.

Proceedings in case person interested is unknown to purchaser.

391. SEC. 5. That it shall not be necessary to set out the proceedings under this act at length in the deed for the lands sold, but a general statement therein that such deed was made and executed upon proceedings taken under the authority of this act shall be sufficient.

392. SEC. 6. That in case any owner, mortgagee or other person appearing to have an interest in the lands which shall be sold for arrears of taxes or assessments under the provisions of this act, is unknown to or cannot be ascertained by the purchaser or his legal representatives or assigns, after due inquiry, application shall be made to the circuit court of the county wherein such lands are situate for an order for a deed, by petition duly verified, which shall describe the said lands so sold not only as described in such notice of sale, but also by metes and bounds, and shall also set out the manner in which the purchaser or his legal representatives or assigns have made inquiry for such unknown owner, mortgagee or other interested person; and the court upon being satisfied by the said petition or otherwise that such owner, mortgagee or other interested person are unknown to said purchaser, his legal representatives or assigns, and that due inquiry to ascertain their names, places of residence and post-office address has been made and cannot be ascertained, may make an order requiring such unknown owner, mortgagee or other person interested in said lands to show cause before said court at a day therein specified, not less than six months from the date of said order, why a deed should not be made and delivered for the said lands to the purchaser or his legal representatives or assigns, and that in case such unknown owner, mortgagee or other interested person shall not appear and show cause or redeem the said lands within the time limited by the said order, then the court shall on the return day thereof, or afterwards, make an order directing the said collector of the village or municipality wherein such lands are situate to make a deed of conveyance of said lands to said purchaser or to his legal representatives or assigns, which shall convey the said lands free of all interest or estate in or lien upon or claim thereto of any such unknown owner, mortgagee or person so proceeded against; *provided*, that within ten days after the date of such order the said purchaser shall cause to be published in one of the newspapers printed or published or circulating in said village or municipality in which said lands are situate, a notice directed to such unknown owner, mortgagee or other person appearing to have an interest in said lands, describing the lands as in said petition, and requiring them to redeem said lands or to show cause why a deed therefor should not be delivered to the purchaser thereof or his legal representatives or assigns within the time specified in said order, which notice shall be published in said newspaper at least once a week thereafter for at least six weeks, and proof of such publication shall be filed in the office of the clerk of the said circuit court; and in case such owner, mortgagee or other person interested shall appear and answer the said petition, the court may hear the same in a summary manner, and make such order thereon as shall be equitable and just.

Proviso.

Proceedings in case owner or person interested is under age.

393. SEC. 7. That in case any owner, mortgagee or other person appearing to have an interest in said lands so sold, shall be known to be an infant under the age of twenty-one years, no deed shall be delivered to the purchaser, or to his legal representatives or assigns, by the said collector, except upon the order of the circuit court of the county wherein said lands are situate, to be made upon a duly-verified petition of the purchaser, his legal representatives or assigns, and upon such notice to said infants or their guardians as the court may deem proper; and the court in such case may appoint a guardian ad litem, and inquire into the ability of the said

infants or their estate to redeem said land, and may postpone the hearing thereon from time to time, in its discretion, to give opportunity for such redemption, and may make such order in relation to such deed as may be equitable and just.

394. SEC. 8. That where any lands which have been devised to any person for life, and to the child or children of such devisee after his or her death, shall be sold under this act, and the purchaser at such sale shall be unable, after due inquiry, to ascertain the name or names of such child or children, or whether such devisee had or left issue or not, the purchaser, or his legal representatives or assigns, shall make application to the circuit court of the county wherein such lands are situate by petition, duly verified, for a deed; such petition shall contain a description of the land, both as described in said notice of sale, and by metes and bounds, and shall also state the manner in which inquiry has been made for such child or children; and the said court, upon being satisfied of the truth of the statements contained in such petition, shall make an order directing the child or children, or heir or heirs, of such devisee (naming him), and the heir or heirs of the testator (naming him), to show cause before said court, at a day therein to be specified, not less than six months from the date of said order, why a deed should not be made and delivered for the said lands to such purchaser, his legal representatives or assigns; and in case such heirs or children, or any of them, shall not appear and show cause, or shall not redeem the said lands within the time limited in the said order, then the court shall, on the return day thereof or afterwards, make an order directing the said collector to make and deliver a deed of conveyance of said lands to the purchaser or his legal representatives or assigns, which shall convey the same free of all claim or lien against or estate therein of such heirs or children; *provided, however,* that such purchaser, his legal representatives or assigns, shall, within ten days after the making of such order, cause to be published in one of the newspapers printed or published and circulating in the said village or municipality in which said lands are situate, a notice directed "to the children and heirs" of such devisee and testator (naming them), describing the lands as in such petition and requiring them to redeem the same, or show cause why a deed therefor should not be made and delivered to such purchaser, his legal representatives or assigns, within the time specified in said order, which notice shall be published for the time, and the publication thereof proved in the manner directed in the sixth section of this act; and in case any such children or heirs shall appear and answer the said petition, the said court may hear the same in a summary way and make such order thereon as shall seem to be just.

395. SEC. 9. That all persons claiming an interest in or mortgage upon any lands sold as provided in this act by or through any deed, conveyance, mortgage, assignment, or any instrument which by law could be recorded, registered, entered or filed in any public office in this state, and which shall not be so recorded, entered or filed at the time of the execution and delivery of the deed as provided in this act, shall be bound by the proceedings had and notices given under the provisions of this act, so far as said property is concerned, in the same manner as if such persons had been duly served with the notice mentioned in the fourth section of this act.

396. SEC. 10. That when notice has been served upon any person having, or appearing to have of record, an estate in or mortgage upon any lands sold as provided in this act, and proof of such service has been made and filed as provided in this act, any person or persons claiming by descent, devise, deed, mortgage, assignment or otherwise, through or under the person or persons so served, shall be bound by the notice so served on such person or persons by, through or under whom such estate, interest or lien has been acquired.

397. SEC. 11. That when any lands sold under this act shall be redeemed by any person having a mortgage or other lien or incumbrance thereon, the person so redeeming shall hold and retain a first lien on said lands, subject only to taxes and assessments thereafter levied and assessed,

Proceedings in case devisees of property cannot be ascertained.

Proviso.

Persons claiming interest by unrecorded deed or mortgage, shall be bound by the proceedings under this act.

Persons claiming interest by descent, &c., bound by proceedings.

Persons redeeming lands shall hold first lien thereon.

Certificate of collector shall be evidence of redemption.

to the amount of the sum paid by him to effect such redemption, together with lawful interest thereon from the time of such payment; and the certificate of the said collector stating the payment and showing what property such payment is intended to redeem shall be evidence of such redemption and payment; any person redeeming lands sold under the provisions of this act shall pay to the said collector, for the use of the purchaser, his legal representatives or assigns, not only the sum paid at the sale, with interest, as provided in section fourth of this act, but also any other tax or assessment chargeable thereon, and which the said purchaser or his legal representatives or assigns may have paid since sale, together with lawful interest on such payment from the time of filing such notice; *provided*, a notice of such payment shall have been filed in the office of the said collector.

Proviso.

When sum in excess of taxes and costs is paid, court shall direct disposition thereof.

398. SEC. 12. That where, in any case, upon the sale of any lands by virtue of this act, a greater sum is bid and paid therefor than is sufficient to pay and satisfy the taxes and assessments thereon, with interest and costs, the said court shall, upon petition by any person interested in the surplus, have jurisdiction to order and direct the distribution, payment and investment of the same, according to the facts and circumstances of each case and as appears to be just, and may award to any person holding possession under a valid term of years the value thereof, together with the value of permanent improvements made by such owner upon the lands so sold.

Proceeds of sales shall be deposited with collector.

399. SEC. 13. That all moneys received upon sales in pursuance of any of the provisions of this act shall be deposited with the said collector, and the surplus, if any, remaining in any case, after deducting the amount of the tax, assessment and lien and interest and expenses of sale and disbursements, shall be held for the use of and paid over to the person legally entitled thereto upon his establishing his right to the same; *provided, however*, that interest thereon shall not be recoverable from said village or municipality; *provided further*, that if in any case a lot or parcel of land is sold upon which there is a mortgage or lien other than the lien of the said village or municipality, and the sum bid and paid therefor is in excess of the sum due to the said village or municipality, then, if the mortgagee or holder of such lien shall notify the said village or municipality of the nature and amount of his or her mortgage or lien within sixty days after the receipt of such excess by the said village or municipality, the said village or municipality shall thereupon pay such excess into the circuit court of the county, and the judge of said court, on the application of any party interested, may make such order in relation to the distribution and disposition of the same as shall be just and equitable.

Proviso.

Proviso.

Proceedings to obtain writ of certiorari.

400. SEC. 14. That no writ of certiorari shall be allowed to contest any proceeding under this act unless the party applying for such writ shall give a bond to such village or municipality, with approved security, conditioned for the payment of so much of said tax, assessment and lien as shall be ascertained to be justly payable, with interest and costs, nor unless application therefor be made within six months from the date of such sale.

Act not to be operative until formally accepted.

401. SEC. 15. That the provisions of this act shall not be operative and in force in any village or municipality of the state until the provisions of this act have been accepted by the governing body of such village or municipality by a formal resolution, approved by the president or chairman of the governing body of such village or municipality, and passed by a vote of not less than two-thirds of such governing body.

Repealer.

402. SEC. 16. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

An act concerning cities.

Approved March 12, 1888.

P. L. 1888, p. 161.

403. SEC. 1. That in any city of this state it shall be the duty of the officer now or hereafter authorized by law to make sale of land therein for unpaid or delinquent taxes and assessments for improvements which may be a lien thereon, to collect, receive and receipt for all such claims after authority to make such sale has been given, and to account therefor to the city treasurer in the same manner as other officers receiving money in behalf of the city are required by law to account.

Officer authorized to sell lands for taxes, &c., may collect claims after authority for sale given.

To account therefor.

404. SEC. 2. That all acts or parts of acts, general or special, public or private, inconsistent with this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act relating to the sale of lands for unpaid taxes and assessments in this state, and proceedings in reference thereto.

Approved March 21, 1888.

P. L. 1888, p. 179.

405. SEC. 1. That in all actions or proceedings in any court of this state, wherein the title to any land or real estate heretofore sold in this state for unpaid taxes or assessments, shall come in question, the declaration or certificate of sale made or issued by the municipal officer or authority of the city, town, township or borough making such sale, shall be prima facie evidence that all acts necessary to the validity of such sale have been regularly and legally done and performed, so far as the said certificate shall recite such acts to have been done and performed.

Declaration or certificate of sale prima facie evidence that acts necessary to validity of sale have been legally done.

406. SEC. 2. That hereafter, whenever in any city, town, township or borough of this state, any lands or real estate is or shall be sold for unpaid taxes or assessments, the officer whose duty it is by law to make such sale, shall make or procure to be made, executed and delivered to the purchaser of such land or real estate at such sale, his executor, administrator or assigns, a declaration or certificate of sale, describing therein the said lands or real estate so sold, which declaration or certificate of sale shall be signed and executed as now required by law, and such declaration or certificate of sale executed as aforesaid, shall be presumptive evidence in all courts in all actions or proceedings by or against such purchaser or purchasers, his, her or their legal representatives or assigns of the title of such purchaser or purchasers to the said lands or real estate in such declaration or certificate of sale designated, and of the regularity and validity of all proceedings previously had in reference to said sale; *provided*, nothing in this act shall be construed to affect in any way proceedings under chapter one hundred and twelve of the laws of eighteen hundred and eighty-six.

When lands hereafter sold, officer to deliver certificate of sale.

Certificate evidence of validity of sale.

Proviso.

An act to validate certain sales of lands, tenements and hereditaments for unpaid taxes.

Passed April 16, 1889.

P. L. 1889, p. 269.

407. SEC. 1. That any and all sales for unpaid taxes assessed and levied against any lands, tenements and hereditaments heretofore made by any person or persons acting, or pretending to act as the collector of taxes in any town, township, city or borough of this state, pursuant to and by virtue of any directions to him or them given by competent authorities, be and the same are hereby ratified and confirmed, and such sales made as aforesaid shall be valid to all intents and purposes, and have the same force and effect as if such sales had been made by any officer duly qualified to make the same, notwithstanding the term of office of such person or persons acting as such collector as aforesaid may have terminated at the time of such sale.

Sales for unpaid taxes made by collector whose office may have terminated, ratified and confirmed.

An act relating to sales of lands for taxes or assessments.

P. L. 1893, p. 344.

Approved March 16, 1893.

When tax deed is annulled or set aside, money shall be refunded to purchaser.

408. SEC. 1. That whenever any tax deed heretofore or hereafter given by any city, town or township or by the public body or public officer authorized by law to make conveyance of lands sold for taxes shall be annulled or set aside on account of any defect in the levying of the tax for which said property is sold, or in the proceedings for the collection of said tax or the sale of said lands, or for any defect in the giving of notice to redeem, where such defect results from the fault or omission of said city, town or township or of any of its officers or representatives, it shall be the duty of such city, town or township to refund to the person or persons who shall have purchased said land at said tax sale, or who shall have purchased the right of said city, town or township to said lands under such tax sale, his or their heirs or assigns, any and all sums of money received by said city, town or township as consideration of said tax deed, and for other taxes upon said lands in arrears when said purchase was made or deed taken, together with interest thereon from the date of such payment by the grantee in said deed named.

When money has been refunded, all taxes are re-established as a lien upon said lands.

409. SEC. 2. That whenever any tax deed or sale of lands for taxes or assessments shall be set aside for any omission, fault or defect in the proceedings for such sale or in the giving of notice to redeem or otherwise, and the said city, town or township shall have refunded to the purchaser of said tax title the amount so paid the said tax or assessment shall not thereby become discharged as against the lands originally lawfully chargeable therewith, but the said tax or assessment and all other taxes thereon paid contemporaneously therewith shall thereupon be re-established as a lien or incumbrance upon said lands to the same extent and with the same force and effect as said lien existed before proceedings for sale of lands for such taxes or assessments were taken; and such city, town or township may re-advertise said lands for sale and sell the same in the same manner and execute certificate of sale and deed for the same in the same manner and with the same force and effect as if such defective sale or proceedings had not been taken.

Lands re-advertised for sale.

VII. Collection of arrears of taxes and assessments.

(THE MARTIN ACT.)

An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment.

P. L. 1886, p. 149.

Passed March 30, 1886.

Preamble.

WHEREAS, Arrears of unpaid taxes, assessments and water rates in cities of this state have accumulated to the amount of many millions of dollars; and whereas, the validity of some such unpaid taxes, assessments and water rates has been or may be called in question by reason of some irregularity, omission or defect in the procedure instituting, laying or imposing the same, or because of the unconstitutionality of the laws or methods under which such proceedings were had or taken; and whereas, several cities have issued and sold bonds or obligations in anticipation of the collection, or on account of the arrears of such unpaid taxes or water rates, and have issued and sold their bonds to obtain the money paid for the improvements for which the assessments so in arrears were imposed, or attempted to be imposed, and the said improvements have been completed, and the property assessed therefor has been benefited thereby; and whereas, it has been found that the cities of this state have no adequate means to enforce the collection of taxes and assessments by sale of the lands upon which the same have been or may be imposed; now, therefore,

410. SEC. 1. That it shall be lawful for the board of aldermen, common council, or other legislative body of any city in this state, with the concurrence of the board or body having charge or control of the finances of the city, in which any such arrearages of taxes, assessments or water rates may exist, to make application to the circuit court of the county in which such city is situate for the appointment of three freeholders and residents of this state as commissioners of adjustment, at least one of whom shall be a resident of the city, for the purpose of performing the duties and executing the powers conferred by the following sections of this act; at least two weeks' notice of such intended application shall be given by public advertisement, signed by the clerk of the city, and published at least once each week in two newspapers printed and circulating therein; such notice shall state the time and place when and where said application is intended to be made, and all persons interested therein, either as taxpayers, owners of delinquent lands or otherwise, shall be entitled to appear and be heard before the court on said application; after such hearing, and upon due proof that notice has been given as aforesaid, on which the judgment of the court shall be final and conclusive, it shall be the duty of the court to appoint three disinterested freeholders and residents, as aforesaid, as commissioners of adjustment for said city for the purposes aforesaid; said commissioners of adjustment shall, before entering upon the discharge of their duties, take and file with the city clerk the oath of office required to be taken by officers of the city for which they are appointed, and they shall receive for their services such compensation as the said court shall determine; vacancies in the board of commissioners, caused by death or otherwise, shall be filled in the same manner as original appointments are herein required to be made. (a)

Common council, &c., may apply to circuit court for commissioners to adjust arrearages of unpaid taxes, assessments and water rates.

Notice of application to be published.

Court to appoint commissioners, &c.

411. SEC. 2. That the said commissioners of adjustment, when appointed for any city, shall have power and jurisdiction, and they are hereby directed and required, in all cases when any tax, assessment or water rate levied or imposed, or attempted to be levied or imposed on any land therein, prior to the passage of this act, remains unpaid and in arrears, to examine into and fix, adjust and determine as to each parcel of land, how much of such arrearages and subsequent taxes, assessments or water rates, if any, ought, in the way of tax, assessment or water rate, in fairness, equity and justice to be laid, assessed and charged against and actually collected from said land for or on account of said taxes, assessments or water rates and claims for local improvements heretofore made, and the said commissioners, in dealing with the said arrearages as matters of fact, according to their judgment of what shall be equitable, fair and just, as hereinbefore directed, shall treat the same without regard to any supposed want of jurisdiction, invalidity, irregularity or defect in any of the proceedings had for the levying, imposing or confirming of any of said taxes, assessments or water

Powers and jurisdiction of commissioners.

Treat arrearages without regard to invalidity or irregularity of former proceedings.

(a) This act contains two classes of provisions—first, those which relate to taxes, assessments and water rates levied and made anterior to the passing of the act, and which come within the jurisdiction of the commissioners provided therein; and second, a provision for the lien of taxes and assessments thereafter assessed, and for the sale of premises for such taxes and assessments by city officials. *Held*, that these two features combined in one statute do not give the act the quality of an act with a twofold object, and hence the act is not in contravention of the constitutional provision that every act shall embrace but one object. *In re Commissioners of Elizabeth*, 20 *Vr.* 488. The act, so far as it relates to the powers and functions of the commissioners, applies only to taxes, assessments and water rates "levied or imposed, or attempted to be levied or imposed, on any land prior to the passage of the act." All taxes, assessments and water rates of this description are placed under the jurisdiction of the commissioners, whether they were levied or assessed in strict conformity with the laws by which they were imposed, or were subject to be vacated for irregularities, illegalities or other imperfections in the proceedings. *Id.* Unpaid taxes and assessments are not excluded from adjustment, and the proceedings thereon for collection prescribed by the act, by reason of the fact that they were levied under valid laws. *Id.* A tax laid by authority of law, or an assessment for benefits conferred by a local improvement, creates a duty and obligation, which may be enforced by any means which the legislature may from time to time adopt. Individuals upon whom, or against whose property, such duties and obligations arise, have no vested right in the remedy which was in force when the duty or obligation arose. Until the tax or assessment is satisfied and the discharge of the premises therefrom, in

virtue of the law then in force, has become a vested right, there is no contract with the public to be violated by the adoption of more stringent measures to enforce payment of these public dues. *Id.* See *In re Commissioners of Camden*, 12 *N. J. L. J.* 94. The jurisdiction of the commissioners extends to all assessments for improvements previously made and remaining unpaid, without regard to the invalidity thereof or to the lack of power in the municipality originally to impose such assessments. Of this jurisdiction the two essentials are—first, that the improvement has been made, and an assessment made and imposed or attempted so to be; and second, that payment thereof has not been made. *Norris v. Elizabeth*, 22 *Vr.* 485. Where an assessment illegal at its inception has been paid, and the amount so paid has afterwards been refunded by the city, the assessment not having been set aside, the action of the city, in making such repayment, does not annul the original effect of the payment, which was to extinguish the city's claim against the lands in respect to the assessment. In such a case there remains no unpaid assessment within the meaning of the Martin act, and the commissioners of adjustment are without jurisdiction in the premises. *Id.* The "arrearage" which vests jurisdiction in the commissioners is not necessarily an unpaid balance of a subsisting assessment. Any sum which has been assessed for a public improvement may become, in whole or in part, an "arrearage," within the meaning of the Martin act, without reference to invalidity of the law under which it was imposed. *Protestant Foster Home v. Newark*, 23 *Vr.* 138. The setting aside of such an assessment by the supreme court for total invalidity does not prevent the sum represented thereby from being regarded as an "arrearage," for the purpose of vesting jurisdiction in the commissioners. *Id.*

For street or sewer improvements, shall not assess in excess of original benefit.

Proviso.

Notice of meeting of commissioners.

Procedure.

rates so in arrears ; and in ascertaining the amount that should be assessed and charged on any of the said lots, tracts or parcels of land, the said commissioners, in dealing with the assessments or claims for street or sewer improvements, shall not assess or charge any lot, tract or parcel of land, for or on account of any such improvement, in excess of the benefit derived therefrom at the time the said improvement was made, or in excess of its due and equable proportion thereof, with interest ; *provided*, that in all cases in which an assessment or a re-assessment has been made on any lot or tract of land under a valid law for the benefit conferred by any local improvement, the said commissioners shall have regard to that fact, and shall not reduce the principal sum of such assessment unless, in their judgment, after investigation, they determine that the amount heretofore so assessed thereon does, in fact, exceed the benefit conferred upon the property at the time the improvement was made ; the said commissioners shall, within thirty days after their appointment, cause a notice, signed by themselves, to be published in at least two newspapers printed and circulating in the city for which they were appointed, making known thereby that the said commissioners will meet at a time and place to be therein designated, not more than forty nor less than thirty days from the date of the first publication of the notice, to hear all persons interested in the re-assessment or adjustment, under this act, of the taxes, assessments or water rates in arrears in the city, or in such part thereof as the said commissioners shall designate in the notice ; such notice shall be continued in said newspapers at least once each week until said meeting ; at the time and place mentioned in said notice, all persons interested in said matters, either as taxpayers, owners of assessed lands or otherwise, shall be entitled to appear before said commissioners and be heard either personally or by counsel, and said commissioners shall have the right to examine witnesses under oath in relation to all of said matters, which oath any one of them is hereby authorized to administer ; after such hearing and after due examination of the property mentioned in said notice, the said commissioners shall proceed as speedily as may be to fix and adjust the said arrearages of taxes, assessments and water rates upon the principles aforesaid ; and in like manner and upon like notice the said commissioners shall proceed until all the arrearages of taxes, assessments and water rates in such city have been reviewed, fixed, adjusted and determined, as provided in this act ; the amount of taxes, assessments and water rates for which certificates of sale have been given to and are held by the city, whether such sales are invalid or not, shall be deemed to be in arrears within the meaning of this section, and to have been so in arrears from the date when said taxes, assessments and water rates were assessed, levied or confirmed, or attempted to be assessed, levied or confirmed ; the term " water rates," in this act, shall be construed to include " water rents." (a)

412. SEC. 3. [Amended by Sec. 427, *post*.]

413. SEC. 4. [Amended by Sec. 428, *post*.]

414. SEC. 5. [Amended by Sec. 453, *post*.]

Persons having estates or liens of record may redeem.

When redemption to be made.

415. SEC. 6. That any person or persons having an estate in or mortgage upon any lands and premises sold in pursuance of the fourth section of this act, whose estate or lien appears of record in the county, may, at any time before the expiration of six months after notice shall have been given to him of such sale by the purchaser, his heirs or assigns, in the manner hereinafter provided, or before a deed of said premises shall have been delivered, as provided in this act, redeem said lands and premises by paying to the treasurer of the city, for the use of the purchaser, his heirs or assigns, the sum paid by him at such sale, with interest, at the rate of

(a) The commissioners cannot make re-assessments against lands purchased by the chancellor, under foreclosure of mortgages representing funds in court, when the city was made a party to the proceedings and answered, setting up the taxes and assessments as liens on the lands. *Elizabeth v. Chancellor*, 22 Fr. 414. Purchasers of such lands from the chancellor for full value, are also exempt from re-assessments for the same taxes and assessments. *Id.* The title to lands acquired under foreclosure of a mortgage to the commissioners of the sinking fund of this state is superior to the title of a purchaser under a sale

made under the Martin act for taxes, some of which became a lien prior to the date of the mortgage and others subsequent thereto, the tax sale being made to satisfy the combined taxes. *Fugh v. Commissioners of Sinking Fund*, 24 Fr. 629. The commissioners cannot fix the sum to be paid for an improvement for which no assessment has been made or attempted. *In re Report of Adjustment Commissioners*, 11 N. J. L. J. 142. The commissioners cannot consider an award of damages relating to the same land. *Id.*

ten per centum per annum from the date of the sale, and one dollar for each notice served, as hereinafter provided ; and upon such redemption the city shall pay to such purchaser, his heirs or assigns, the amount received from the person redeeming ; such notice shall be in writing, and shall be served by the purchaser of the property, or his agent, on said owner or mortgagee, either personally or by leaving the same at his place of abode with a member of his family above the age of fourteen years ; in case such owner or mortgagee is a non-resident, or his residence cannot, upon due inquiry, be ascertained, then the notice may be served by publishing the same in a newspaper printed and circulating in the city for a period of six weeks, at least once in each week, and depositing a copy of such notice, within twenty days after its first publication, in the post-office of the city, inclosed in a wrapper, post paid, directed to such owner or mortgagee at his or her last-known post-office address, if the same can be ascertained ; inquiry for the residence or post-office address of such owner or mortgagee shall be made by the purchaser or his agent upon the lands purchased at the sale, if they are occupied, and wherever else in the city the same may be likely to be ascertained, and also by an examination of the record of the deed or mortgage on account of which such notice is given ; an affidavit shall be made by the purchaser or his agent, setting forth the manner and particulars of the service, and in case the same is made by publication, setting forth what inquiry was made to ascertain the residence and post-office address of such owner or mortgagee, and in such case an affidavit of the publication shall also be made by the person publishing such newspaper, or by some one in his employ having cognizance of the publication, stating the particulars thereof ; and the affidavit or affidavits shall be filed in the office of the clerk of the city within one month after the date of service, and shall be prima facie evidence in all courts and places of the facts therein stated ; the purchaser shall be entitled to the possession of said lands immediately upon giving such notice to the owner thereof, in case the same are unoccupied, or if they are occupied, then within thirty days thereafter ; and he shall have the same remedy by writ of assistance or otherwise in the circuit court of the county in which the city is situate, or in the court of chancery, for the recovery of the possession of said lands as the purchaser of mortgaged premises at a foreclosure sale is now or may hereafter be entitled to by any law or practice of this state ; *provided, however,* that if any estate in any of the said lands shall be held by any heir or devisee of a decedent whose estate appears of record in the county, or if any mortgage or lease shall be held by the executor or administrator of any decedent whose mortgage or lease appears of record in the county, such heir, devisee, executor or administrator shall be entitled to redeem and to have notice as aforesaid before the purchaser shall be entitled to the possession of the lands ; *and provided also,* that the records and schedules of all sales made under this act shall be filed and kept in the same offices of the several cities wherein records of tax sales are now by law required to be kept.

416. SEC. 7. That all bonds or obligations of the city shall be receivable at par and accrued interest in payment of the tax, assessment and lien imposed under this act, and the sum for which any lot or tract of land may be sold under this act ; but no bonds or obligations shall be received for such part thereof as may be imposed in lieu of arrears of annual taxes or water rates except bonds or obligations issued on account of taxes or water rates ; *provided,* that in all cases where the bid shall exceed the amount of the tax, assessment and lien, with interest, the excess shall be paid in cash.

417. SEC. 8. That it shall not be necessary to set out the proceeding under this act at length in the deed for the lands sold, but a general statement therein that such deed was made and executed upon proceedings taken under the authority of this act shall be sufficient.

418. SEC. 9. That it shall not be necessary for the said commissioners to adjust the taxes, assessments or water rates on all the land and real estate in the city for which they may be appointed, but such claims of the city as in the judgment of the commissioners can be collected in their present con-

Notice of purchase to be served on owner or mortgagee.

On non-residents.

Affidavit of service to be made and filed.

When purchaser entitled to possession.

Proviso.

Proviso.

Bonds or obligations of the city received in payment of taxes, assessments, liens and bids.

Proviso.

Proceedings need not be stated at length in deed.

Commissioners need not adjust taxes, &c., on all lands in city.

Sewer assessments under certain act not to be reviewed except on request of council.

All re-assessed land need not be advertised or sold at same time.

Certiorari not allowed unless bonds given for payment of amount justly payable.

Taxes and assessments may be apportioned between subdivisions of lots.

Taxes, where rate does not exceed three per centum, and assessments hereafter levied and unpaid for three years, may be collected under this act.

Deed not to be given until one year after sale.

dition may be left unchanged ; and no assessment for a sewer improvement, made or levied under the provisions of an act entitled "An act to authorize cities to construct sewers and drains, and to provide for the payment of the cost thereof," approved March eighth, one thousand eight hundred and eighty-two, shall be reviewed by the said commissioners, except upon request of the council or legislative body of the city ; it shall not be necessary to advertise and sell at the same time all the lands in the city subjected to the provisions of this act, but that any part of such lands may be advertised and sold at any time.

419. SEC. 10. That no writ of certiorari shall be allowed to contest or set aside any tax, assessment and lien fixed or determined by the said commissioners, or to set aside any proceeding under this act to collect the same, unless the party applying for such writ shall give a bond, with approved security, conditioned for the payment of so much of said tax, assessment and lien as shall be ascertained to be justly payable, with interest and costs, nor unless application therefor be made within six months from the confirmation of the said report. (a)

420. SEC. 11. [Amended by Sec. 429, *post.*]

421. SEC. 12. That the commissioners of adjustment shall have the power and it shall be their duty, upon the written application of any owner or person having an interest in or lien upon the whole or any part of any lot or parcel of land, as to which the said commissioners shall have fixed and certified the amount of tax, assessment and lien under the provisions of sections two and three of this act, and upon satisfactory proof of the ownership, interest or lien of said applicant, at any time before the payment of such amount, or before the sale on account of the same, as hereinbefore provided, to apportion equitably the said amount upon and between such subdivisions of said lot or parcel as in their judgment it shall be necessary and proper to make, and shall cause the assessment map to be altered so as to show such subdivision, and give a new number to each of the same, and shall thereupon certify and report to the comptroller, or other collecting officer, the amount of said tax, assessment and lien fixed and apportioned by them upon and against the said several subdivisions, and thereupon the said several amounts shall stand in place of the amount originally fixed, certified and confirmed, and as of the date of such original report, certificate and confirmation, with the same force and effect, and be payable and collected in the same manner as if the said several amounts had been fixed, certified and confirmed in the first instance against such subdivisions.

422. SEC. 13. That taxes hereafter levied, where the rate does not exceed three per centum, and assessments hereafter levied and assessed on land and real estate in any city of this state, which shall remain unpaid for the space of three years from and after the time when due and payable, may, in the discretion and upon the direction of the board or body having charge or control of the finances of the city, be collected, and the land and real estate subject thereto sold by the comptroller or other collecting officer of the city in the same manner that the comptroller or other collecting officer is in this act authorized and empowered to collect the assessments, charges or liens fixed and determined by this act, and to sell the lands subject thereto ; the deed given for the same shall be executed in the same manner and shall have the same effect as if made on proceedings to enforce the taxes, assessments and liens fixed and confirmed as in this act provided ; but in such cases the deed shall not be given for the land until after the expiration of one year from the time of sale, during which time the owner or any party having any interest in or lien upon the said land may redeem the same in the manner and on the terms in this act provided. (b)

(a) A certiorari will not be granted to review an assessment made by commissioners under the Martin act for alleged irregularities in the proceedings of the commissioners or for undue or excessive assessment, or for alleged mistake in the manner of making the assessment. *Benedictine Sisters v. Elizabeth*, 21 Vr. 347. In this case the writ was allowed on the ground that the relator is exempted by statute from any assessment; the relator not being permitted to raise any other question. *Id.* A writ of certiorari to remove an assessment will

not be allowed without bond, although the application is made on the ground that this statute authorizing the assessment is unconstitutional. *State, Boream v. Commissioners of Newark*, 11 N. J. L. J. 80.

(b) In the case specified by section 13 the city council may elect to proceed under the city charter, and in that event the provisions of the city charter must regulate the proceedings. *Bowyer v. Camden*, 21 Vr. 87.

423. SEC. 14. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

Supplement.

Approved March 23, 1887. P. L. 1887, p. 66.

424. SEC. 1. That the common council or other governing body of any city in this state may pay the expenses incurred in the carrying out of the provisions of the act to which this act is a supplement, out of any fund of such city under the control of such common council or other governing body, not otherwise appropriated by law. Expenses incurred may be paid out of any fund.

425. SEC. 2. That if in any case specific liens either for taxes, assessments or water rates have been imposed or assessed upon an entire lot or tract and other liens upon parts or portions of such lot or tract, the commissioners of adjustment appointed under the provisions of the act to which this act is a supplement, shall equitably divide and apportion the assessment made by them in lieu of such specific lien or liens upon the several parts or subdivisions of such lot or tract, to the end that each part or subdivision of such lot or tract may bear its just proportion of such specific lien or liens, and the amount so divided and apportioned upon the parts or subdivisions of such lot or tract shall be a lien upon such parts or subdivisions; and all such apportionments heretofore made shall be deemed lawful and binding. Commissioners to divide and apportion assessments, &c., upon subdivisions of lots.

Supplement.

Approved April 21, 1887. P. L. 1887, p. 184.

426. SEC. 1. That one hundred or more persons being residents and freeholders of any city in this state may make the application to the circuit court referred to in the first section of the act to which this is a supplement, and in case of application so made the notice provided by said section to be given, may be signed by the clerk of the city or by the persons intending to make the application, and notice so given shall be of the same force and effect as the notice provided in said section, whereupon said court may in its discretion proceed thereon and appoint commissioners of adjustment in the same manner as if said notice had been given and the application made in the manner prescribed in said section; *provided*, that no person shall be eligible as a signer to such application who is in arrears for taxes or assessments in such city and the certificate of the officer charged with the collection of such taxes and assessments shall be plenary evidence of the [eligibility] of such applicants in the respect aforesaid. Upon petition, court may appoint commissioners of adjustment.

Proviso.

Supplement.

Approved April 24, 1888. P. L. 1888, p. 529.

427. SEC. 1. That section three of an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes and assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six [see Sec. 412, *ante*], be and the same is hereby amended so that it shall be and shall read as follows:

[That the said commissioners shall keep a record of their proceedings under this act, in which shall be entered their determination as to the amount to be charged and assessed upon and against each lot or tract of land as aforesaid, designating the same by block and lot numbers on assessment maps to be made for that purpose, and shall make reports, from time to time, as they proceed with the discharge of their duties, of the amounts so charged and assessed, and shall file the same, with the said map, in the office of the clerk of the court by which they were appointed; said reports shall be certified by the signatures of at least two of the said commissioners, and upon the coming in and filing of any such report signed by the said commissioners, or any two of them, such

Commissioners to keep record of proceedings.

Make and file report.

Proceedings for confirmation of report.

notice shall be given as the said court shall direct, of the time and place of hearing any objection that may be made to the assessments, charges and liens so fixed and certified by the commissioners, and, after hearing any matter that may be alleged against the same, the said court shall, by rule or order, either confirm the said report, or refer it to the same commissioners, or to other commissioners to be appointed by the said court, to reconsider the subject-matter thereof, and the said commissioners to whom the said report may be so referred, shall return the same corrected and revised, or a new report to be made by them in the premises, to the said court without unnecessary delay, and the same, on being so returned, shall be confirmed, or again referred by the said court in the manner aforesaid, as right and justice may require, and so, from time to time, until a report shall be made or returned in the premises which the said court shall confirm; any commissioner who shall refuse to sign such report shall file with the same a statement of his reasons for so refusing, for the information of the court; said report, upon being so confirmed, shall be final and conclusive upon the said city, and upon all persons owning or having any interest in or lien upon the said lands and against all persons whomsoever, and the amount so fixed, determined, certified and confirmed in each case shall thereupon become and be a valid and binding tax, assessment and lien on the lands so designated, in lieu and instead of all outstanding claims of the city for arrearages of taxes, assessments or water rates levied or confirmed, or attempted to be levied or confirmed, prior to the making of the said report, and shall be a valid lien on said lands, having priority over all other liens, claims or demands whatsoever, except taxes, assessments or water rates levied after the making of the said report; and the proceeds thereof, when collected, shall be applied to the payment of the expenses of carrying out the provisions of this act, and any indebtedness to which the original tax, assessment or water rate was specifically pledged, and to the payment of other debts of the city, if any, but no application to any other use shall be made while any bonds of the city remain unpaid; it shall be competent for the said commissioners to include in any one report their several determinations respecting as many lots or tracts of land as may seem to them convenient, and it shall be their duty to indicate in their report how much of the new lien imposed by them on each lot or tract of land was made on account of taxes, assessments and water rates, respectively, to the end that the money to be derived from the sale of the lands as hereinafter provided, may be applied in due proportion to the purchase or payment of any bonds or obligations that may have been issued on account of taxes, assessments and water rates respectively, or for the payment of which the same may have been pledged; it shall be the duty of the corporation attorney or counsel for the city to assist the said commission by advice, preparation of reports and otherwise in the discharge of their duties, when requested, and the city surveyor or engineering department of the city shall make all necessary surveys and maps required; and the said commissioners shall have the power to appoint a clerk and such other assistants as in their judgment shall be necessary, and fix their compensation, which appointments and compensations shall be subject to the approval of the judge of the circuit court of the county appointing the commissioners; the compensation of any clerk heretofore fixed may be changed by the commissioners, and when approved by the judge of the circuit court by whom said commissioners were appointed, the compensation of said clerk shall be the amount so fixed and approved, in lieu of the amount fixed by the body having charge or control of the finances of the city; *provided, however,* that in any city where the compensation and expenses of carrying out the provisions of the act to which this is a supplement are now paid out of the general or contingent fund of said city, then and in that case the compensation of said clerk and his assistants shall be fixed by the finance committee of the common council or other body in said city having charge and control of the finances in said city.](a)

Report, when confirmed, to be final.

Proceeds, how applied.

What commissioners to include in report.

City attorney to assist commissioners.

Surveyor or engineer to make maps, &c.

Commissioners may appoint assistants.

Proviso.

(a) The court, as a general rule, may not review the discretion of the commissioners, but only the legality of their acts. *In re Report of Adjustment Commissioners*, 11 N. J. L. J. 142.

428. SEC. 2. That section four [see Sec. 413, *ante*] of said act be and the same is hereby amended so that it shall be and shall read as follows :

[That upon the confirmation of the said report, the same, or a certified copy thereof, with the assessment map or maps filed therewith, shall be transmitted to the comptroller of the city or other officer for collecting assessments, to be filed by him in his office, and thereupon the amount of said tax, assessment and lien so fixed and certified in respect of each and every lot or parcel of land included therein, shall immediately become due and payable, and shall be collected by the said comptroller or said other officer without interest, if the same be paid within sixty days after the filing of such report with him, and if not so paid, then with interest from the date of such filing at the rate of six per centum per annum, and if not paid within six months from such filing, with interest at the rate of seven per centum per annum from the date of such filing ; the comptroller or said other officer shall not be required to make any demand for the payment of said tax, assessment and lien, and if, after the expiration of six months from the filing of the said report and assessment map, the amount therein certified in respect of any lot or parcel of land shall not have been collected or paid, the said comptroller or said other officer, after giving notice by advertisement as hereinafter required, shall sell the said lot or parcel of land at public auction to the highest bidder, but not for less than the amount due from the same, as appears by the said report, with interest and costs ; said advertisement shall include a designation of the time and place of sale, and of the ward or wards, district or districts, in which the property then and there to be sold is situate, and the lot and block numbers of the same on the said assessment maps, and shall state that further particulars of the property to be sold may be obtained at the office of the comptroller or said other collecting officer, and it shall not be necessary in said advertisement to include any further particulars of the property to be sold ; said advertisement, in cases where publication has not already been commenced, shall be published once in each week for four weeks prior to said sale, in the official newspapers of such city, or, in case such city shall not have any regularly-designated official newspapers, in two newspapers printed and circulating in the city ; it shall be the duty of said comptroller or other collecting officer, from and after the first publication of said advertisement, to deliver to any applicant at the office, within office hours, a written or printed list of all the parcels of property intended to be included in said sale, but it shall not in anywise be an objection to the validity of any sale that any person has failed for any reason to receive such list ; it shall not be necessary in the said list, or in the reports of the said commissioners hereinbefore mentioned, or in any notice required to be given or published by any of the provisions of this act, to state the name of the owner of the premises affected, nor to describe the premises affected otherwise than by the said block and lot numbers on the said assessment maps ; the sale may be adjourned from time to time by the said comptroller or other collecting officer, but it shall not be necessary to publish any notice of such adjournment or of the continuation of the sale ; affidavits of the publication of the notice of sale, in the manner above provided, and of all other notices required by the provisions of this act to be published, made by one of the respective publishers of said newspapers, or by some person in the employ of such publisher having cognizance of the publication, shall be filed in the office of the clerk, and shall thereupon become public records and shall be prima facie evidence in all courts and places of the matters stated therein ; if any original report shall be transmitted to the comptroller, or such other officer as aforesaid, a copy thereof, certified by such comptroller, or other officer for collecting assessments, shall be forthwith filed in the office of the clerk of said circuit court.]

When tax, assessment and lien shall become due.

Lands may be sold.

Advertisement of sale.

How published.

Lists of property to be sold to be delivered to applicant.

Sale may be adjourned, &c.

429. SEC. 3. That section eleven [see Sec. 420, *ante*] of said act be and the same is hereby amended so that the same shall be and shall read as follows :

Disposition of moneys received from sales.

Proviso.

Comptroller to certify designation of lands affected by liens for taxes and assessments.

Upon application, commissioners to adjust assessments in arrears prior to certain time.

Proviso.
Proviso.

Officials to furnish certificates in regard to taxes and assessments at request of commissioners.

[That all moneys received upon sales in pursuance of any of the provisions of this act shall be deposited with the treasurer of the city, and the surplus, if any, remaining in any case, after deducting the amount of the tax, assessment and lien, and interest and expenses of sale and disbursements shall be held for the use of and paid over to the person legally entitled thereto, upon his establishing his right to the same; *provided, however*, that interest thereon shall not be recoverable from the city; all bonds received at sales under this act shall be canceled after the delivery of the deed; *provided further*, that if in any case a lot or parcel of land is sold upon which there is a mortgage or lien other than the lien of the city, and the sum bid and paid therefor is in excess of the sum due to the city, then, if the mortgagee or holder of such lien shall notify the city of the nature and amount of his or her mortgage or lien, within sixty days after the receipt of such excess by the city, the city shall thereupon pay such excess into the circuit court of the county, and the judge of said court, on the application of any party interested, may make such order in relation to the distribution and disposition of the same as shall be just and equitable.]

430. SEC. 4. That when the said report, or a certified copy thereof, shall have been filed with the comptroller of the city or other officer for collecting assessments, it shall be the duty of said comptroller or other officer forthwith to certify to all officers of the city having custody of records showing liens for taxes, assessments and water rates or water rents, a particular designation of the land and premises affected thereby, whereupon the said comptroller, city collector, city clerk or other officer in whose office any record of taxes, assessments, water rates or water rents, or sales therefor shall remain, shall forthwith cancel upon the records in their respective offices all prior liens for taxes, assessments and water rents or water rates, held by or for the use of said city upon the land and premises included in said report.

431. SEC. 5. That upon the application of the owners, or persons interested in any lands in any city to the commissioners appointed under the act to which this is a supplement, for said city, for the adjustment of any assessments in arrears prior to the thirtieth day of March, one thousand eight hundred and eighty-six, said commissioners may proceed forthwith to adjust the same, and may report the same to the comptroller of the city or other officer for collecting assessments, and in case said amount so adjusted shall be paid within thirty days after said report shall be received by said comptroller or other officer, together with all arrears of taxes, water rents or water rates upon said property, due to the said city at the time of said payment, the payment of said amount so adjusted shall be in lieu of all assessments for street and sewer improvements due upon said property at the time of said payment; *provided*, no adjustment shall be made for an amount less than the principal amount of said assessments; *provided*, that if the amount so adjusted in lieu of said assessments shall not be paid within thirty days after the same shall be reported to said comptroller of said city or other officer for collecting assessments, together with all arrearages of taxes, assessments, water rents, or water rates due at the time of said report, said adjustment shall be void, and said assessments shall remain as if no adjustment had been made and subject to the general provisions of the act to which this is a supplement.

432. SEC. 6. That in each and all of the cities of this state in which commissioners of adjustment have been or shall hereafter be appointed under the provisions of the act of the legislature of this state to which this act is a supplement, the officials of said city, who shall have the custody of the records of taxes, assessments for local improvements and water rates or water rents, or either or any of them, or who, by the act of incorporation of said city, are qualified to make official certificates in regard thereto, shall, upon the request of the said commissioners, prepare and furnish to them, for their use in making their determinations under the provisions of said act, certificates under his or their hand and official seal, if any, of the arrearages of such taxes, assessments and water rates or water rents, as recorded in said records in his or their custody, which are liens upon real

estate within said city, and he shall furnish such certificates concerning such properties within said cities within a reasonable time after such request; that in making return of the taxes in arrears he shall specify and set out in his certificate the years in which such arrears occurred, and the amount thereof, the valuation of the property for the purpose of taxation, and the amount or amounts of poll and other special taxes not included in the general tax rate of said city, but which may be included in the amount of such arrearages, for each and every year of such arrearages; that in such certificates of arrearages of taxes said officials shall return such arrearages in the same tracts or parcels of lots as they appear in the tax levy for each and every year thereof; that in no case shall he include in one item of his certificate the arrearages of taxes on more than one tract or parcel of lots appearing in the tax levy for the last year included in said certificate; that in making return of the assessments in arrears, he shall return such arrearages in the same tracts or parcels of lots as they appear in the original assessments, and so as to, in all cases, show the tracts or lots affected thereby as they are delineated and numbered on the official map of the city in force at the time of the making of such returns and certificates; *provided*, that if the plot or lot as to which a certificate is given shall be part of a larger tract against which taxes and assessments have been made as a whole, and remain unpaid, then the said certificate shall include the whole of such tract and each subdivision thereof; *provided further*, that the officials herein required to furnish certificates shall not be liable for any error or omission therein.

Proviso.

Proviso.

433. SEC. 7. That the officer in any city authorized to make sale of lands sold by virtue of the act to which this is a supplement, and the supplements thereto, shall in every case be the officer now or hereafter authorized by law to make sale of lands sold therein for unpaid or delinquent taxes, to whom, when confirmed, the said report, or the certified copy thereof, shall be transmitted for this purpose.

Officers authorized to make sales.

434. SEC. 8. That payments in redemption from sales under this act, shall be made to the same officers, and sales shall be canceled from the records by the same officers of the several cities, as is by the charters of the respective cities required to be done.

How payments made and sales canceled.

Supplement.

Approved April 13, 1889.

P. L. 1889, p. 308.

435. SEC. 1. That the common council, board of aldermen or other body having the control and management of the finances of any city in which the act to which this is a supplement has been or may be in operation, may pay over to the commissioners of adjustment such sum or sums of money as they may require, and as such municipal board may deem necessary, to properly perform and carry out the provisions of said act and the supplements thereto; and the said commissioners of adjustment shall render an account to said municipal board of the manner of the expenditure of all moneys so appropriated; *provided*, that such moneys so advanced shall be refunded out of the moneys collected under the provisions of said act.

Common council may pay over money to commissioners to carry out provisions of act.

Proviso.

436. SEC. 2. [Amended by Sec. 454, *post*.]

437. SEC. 3. That in case any owner, mortgagee or other person appearing to have an interest in the lands which shall be sold for arrears of taxes or assessments under the provisions of the act to which this is a supplement, is unknown to, or cannot be ascertained by the purchaser or his legal representatives or assigns, after due inquiry, application shall be made to the circuit court of the county wherein such lands are situate for an order for a deed, by petition duly verified, which shall describe the said lands so sold, not only by lot and block numbers, as required by the act to which this is a supplement, but also by metes and bounds, and shall also set out the manner in which the purchaser or his legal representatives or assigns, have made inquiry for such unknown owner, mortgagee or other interested person; and the court, upon being satisfied by the said petition, or otherwise, that such owners, mortgagees or other interested persons are unknown to said

Proceedings in case lands sold where the owners, &c., are unknown and cannot be ascertained.

purchaser, his legal representatives or assigns, and that due inquiry to ascertain their names, places of residence and post-office address has been made and cannot be ascertained, may make an order requiring such unknown owner, mortgagee or other person interested in said lands to show cause before said court, at a day to be therein specified, not less than six months from the date of said order, why a deed should not be made and delivered for the said lands to the purchaser or to his legal representatives or assigns, and that in case such unknown owner, mortgagee or other interested person shall not appear and show cause or redeem the said lands within the time limited by the said order, then the court shall, on the return day thereof, or afterwards, make an order directing the comptroller, or other collecting officer of the city wherein such lands are situate, to make a deed of conveyance of said lands to said purchaser, or to his legal representatives or assigns, which shall convey the said lands, free of all interest or estate in or lien upon, or claim thereto, of any such unknown owner, mortgagee or person so proceeded against; *provided*, that within ten days after the date of such order the said purchaser shall cause to be published in one of the newspapers printed and circulating in the city in which said lands are situate, a notice directed to such unknown owner, mortgagee or other person appearing to have an interest in said land, describing the lands as in said petition and requiring them to redeem said lands or to show cause why a deed therefor should not be delivered to the purchaser thereof, or his legal representatives or assigns, within the time specified in said order, which notice shall be published in such newspaper at least once a week thereafter for at least six weeks, and proof of such publication shall be filed in the office of the clerk of the said circuit court; and in case such owner, mortgagee or other person interested shall appear and answer the said petition, the court may hear the same in a summary manner, and make such order thereon as shall be equitable and just.

Proviso.

Proceedings in case owner, &c., is an infant.

438. SEC. 4. That in case any owner, mortgagee or other person appearing to have an interest in said lands so sold shall be known to be an infant under the age of twenty-one years, no deed shall be delivered to the purchaser, or to his legal representatives or assigns, by the comptroller or other collecting officer, except upon the order of the circuit court of the county wherein said lands are situate, to be made upon a duly-verified petition of the purchaser, his legal representatives or assigns, and upon such notice to said infants or their guardians as the court may deem proper; and the court in such case may appoint a guardian ad litem, and inquire into the ability of the said infants or their estate to redeem said land, and may postpone the hearing thereon from time to time, in its discretion, to give opportunity for such redemption, and may make such order in relation to such deed as may be equitable and just.

Proceedings in case of lands sold which have been devised to any person for life, and purchaser cannot ascertain name of devisee or children.

439. SEC. 5. That where any lands which have been devised to any person for life, and to the child or children of such devisee after his or her death, have been or shall be sold under the act to which this is a supplement, and the purchaser at such sale shall be unable, after due inquiry, to ascertain the name or names of such child or children, or whether such devisee had or left issue or not, the purchaser, or his legal representatives or assigns, shall make application to the circuit court of the county wherein such lands are situate, by petition, duly verified, for a deed; such petition shall contain a description of the land, both by lot and block numbers, and by metes and bounds, and shall also state the manner in which inquiry has been made for such child or children; and the said court, upon being satisfied of the truth of the statements contained in such petition, shall make an order directing the child or children, or heir or heirs, of such devisee (naming him), and the heir or heirs of the testator (naming him), to show cause before said court, at a day therein to be specified, not less than six months from the date of said order, why a deed should not be made and delivered for the said lands to such purchaser, his legal representatives or assigns; and in case such heirs, or children, or any of them, shall not appear and show cause, or shall not redeem the said lands within the time limited in the said order, then the court shall, on the return day thereof, or afterwards,

make an order directing the comptroller, or other collecting officer, to make and deliver a deed of conveyance of said lands to the purchaser, or to his legal representatives or assigns, which shall convey the same free of all claim or lien against or estate therein of such heirs or children; *provided, however,* that such purchaser, his legal representatives or assigns, shall, within ten days after the making of such order, cause to be published in one of the newspapers printed and circulating in the city in which said lands are situate, a notice directed "to the children and heirs" of such devisee and testator (naming them), describing the lands as in such petition, and requiring them to redeem the same, or show cause why a deed therefor should not be made and delivered to such purchaser, his legal representatives or assigns, within the time specified in said order, which notice shall be published for the time, and the publication thereof proved in the manner directed in the third section of this supplement; and in case any such children or heirs shall appear and answer the said petition, the said court may hear the same in a summary way, and make such order thereon as shall seem to be just.

Proviso.

440. SEC. 6. That all persons claiming an interest in or mortgage upon any lands heretofore or hereafter sold as provided in the act to which this is a supplement by or through any deed, conveyance, mortgage, assignment or any instrument which by law could be recorded, registered, entered or filed in any public office in this state, and which shall not be so recorded, registered, entered or filed at the time of the execution and delivery of the deed as provided in the act to which this is a supplement, shall be bound by the proceedings had and notices given under the provisions of said act, so far as said property is concerned, in the same manner as if such persons had been duly served with the notice mentioned in the sixth section of said act.

Persons claiming interest or mortgage upon lands sold to be bound by proceedings had and notices under the act.

441. SEC. 7. That when notice has been served upon any person or persons having, or appearing to have of record, an estate in or mortgage upon any lands sold as provided in the act to which this is a supplement, and proof of such service has been made and filed as provided in said act, any person or persons claiming by descent, devise, deed, mortgage, assignment or otherwise, through or under the person or persons so served, shall be bound by the notice so served on such person or persons by, through or under whom such estate, interest or lien has been acquired.

Persons claiming any interest by descent, &c., to be bound by notice served.

442. SEC. 8. That when any lands assessed under the act to which this is a supplement, have been heretofore or shall hereafter be redeemed by any person having a mortgage or other lien or incumbrance thereon, the person so redeeming shall hold and retain a first lien on said lands, subject only to taxes and assessments thereafter levied and assessed, to the amount of the sum paid by him to effect such redemption, together with lawful interest thereon from the time of such payment; and the certificate of the city treasurer stating the payment and showing what property such payment is intended to redeem, shall be evidence of such redemption and payment; any person redeeming lands sold under the provisions of the act to which this is a supplement, shall pay to the city treasurer, for the use of the purchaser, his legal representatives or assigns, not only the sum paid at the sale, with interest, as provided in section sixth of said act, but also any other tax or assessment chargeable thereon, and which the said purchaser or his legal representatives or assigns may have paid since said sale, together with lawful interest on such payment from the time of filing such notice; *provided,* a notice of such payment shall have been filed in the office of the city treasurer.

Mortgagee, &c., redeeming lands sold to have first lien for amount paid.

Proviso.

443. SEC. 9. That where, in any case, upon the sale of any lands by virtue of the act to which this is a supplement, a greater sum is bid and paid therefor than is sufficient to pay and satisfy the liens so re-adjusted and fixed, the said court shall, upon petition by any person interested in the surplus, have jurisdiction to order and direct the distribution, payment and investment of the same, according to the facts and circumstances of each case and as appears to be just, and may award to any person holding possession under a valid term of years the value thereof, together with the value of permanent improvements made by such owner upon the lands so sold.

When greater sum is bid to pay lien, surplus, how distributed.

Commissioners to adjust, assess and levy claims for unpaid taxes, assessments and water rents.

444. SEC. 10. That the commissioners of adjustment who have been or may be appointed in pursuance of the act to which this is a supplement, shall have power and jurisdiction, and they are hereby directed and required to adjust and assess and levy, in the manner directed and required by the said act, any and all claims for unpaid taxes, assessments and water rates heretofore levied or imposed, or attempted to be levied or imposed on any land in the cities in and for which such commissioners have been or may be appointed respectively, notwithstanding that any such land may be, or may have been mortgaged to, or owned by any officer or officers of this state in his or their official capacity, or may be, or may have been mortgaged to or owned by any person or persons appointed by any court, or in any judicial proceeding had or taken in this state in his or their official capacity; that nothing but actual payment of the amount of the special benefit conferred on any such land by reason of the making of any local or public improvement, or the payment of any such claims for taxes, assessments or water rates levied or imposed, or attempted to be levied or imposed thereon, whether valid or not, shall be held to exempt any such land from liability to such adjustment, assessment and levy by the commissioners of adjustment, for or on account of any such improvement or claims; and that the amount of such benefits or claims, when so adjusted, assessed and levied, and the report thereof confirmed as provided in said act, shall be a first lien upon such lands, prior to any other interest or estate therein, or claim against or lien upon the same, and shall be enforced and collected in the manner provided in the said act and its supplements for enforcing and collecting other liens imposed by such commissioners.

Repealer.

445. SEC. 11. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Supplement.

Approved March 5, 1890.

P. L. 1890, p. 38.

Commissioners authorized to fix compensation for certificates of arrearages.

446. SEC. 1. That the commissioners of adjustment shall have power, in their discretion, to fix and certify a reasonable compensation to be paid to the officials who have the custody of the records of taxes, assessments and water rents or water rates, for the certificates of arrearages which said officials are required to furnish to said commissioners, such compensation to be paid in the same manner that all other expenses of said commissioners are paid.

Supplement.

Approved May 5, 1890.

P. L. 1890, p. 285.

Sales of lands for taxes adjusted, although not made between hours prescribed by law, validated.

447. SEC. 1. That all sales of land heretofore made or hereafter to be made for non-payment of taxes, assessments or water rents, adjusted or to be adjusted under the provisions of the act to which this is a supplement, and all past and future notices of such sales by advertisement, and all certificates and declarations of sale issued or to be issued in pursuance thereof, and all tax titles and rights acquired thereunder, although the time at which such sales have been made or advertised for have not or shall not be between the hours prescribed in section one of an act entitled "An act relative to sales of land under a public statute or by virtue of any judicial proceedings" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, are and shall be valid and effectual, and the same shall be deemed and taken to be good and effectual in law, and the record thereof admissible as fully and completely as if said sales had been or shall be advertised for and held between the hours mentioned and designated in said section one of the last aforesaid act; *provided, however,* that said sale or sales and the notices thereof shall have been or shall be given in all other respects as required by the act to which this is a supplement.

Proviso.

Supplement.

Approved May 23, 1890.

P. L. 1890, p. 356.

448. SEC. 1. That if any parcel of lands has been or shall hereafter be sold, under the provisions or any of the provisions of the act to which this is a supplement, or under the provisions or any of the provisions of any supplement to the said act, and it shall appear that separate and distinct portions of such parcel so sold are owned by different persons, or that any separate and distinct portion thereof is subject to any mortgage or other lien or incumbrance which does not affect the other portions of such parcel, it shall be lawful for the court by which the report of the commissioners charging and assessing the tax, assessment and lien on such lands was confirmed, upon application made by any person interested therein as owner, mortgagee or other lienor or incumbrancer of any such separate and distinct portion, and describing the same, to cause a proper and equitable apportionment of the confirmed tax, assessment and lien to be made among and upon the several separate and distinct tracts composing the parcel so assessed or sold, and for that purpose the court may refer the said application to the said commissioners, who shall, after making apportionment as aforesaid, report the same to the said court for confirmation, and when confirmed, the tax, assessment and lien so apportioned as to each separate and distinct portion shall stand in lieu and instead of the former tax, assessment and lien upon the whole tract, as of and from the date of the confirmation of the original report thereof; and the said court shall have power to order and regulate the practice and procedure under this act and to fix any fees and expenses which the said court may deem proper to be allowed in and about such apportionment, and which said fees and expenses shall be paid by the person so making application, or, in the discretion of the court, may be added, in equitable proportions to be determined by the said court, to the amounts so apportioned.

Court may make apportionment of a confirmed tax or assessment upon a parcel of land among several tracts comprising same.

Court to regulate practice.

449. SEC. 2. That any person having a mortgage or other lien or incumbrance upon any lands assessed under the act to which this is a supplement, or under any supplement to the said act, and who has redeemed or may hereafter redeem any such lands heretofore sold or that may hereafter be sold under the provisions of the said act to which this is a supplement, or of any supplement thereto, and who has acquired or may acquire, by such redemption, the first lien provided and given in and by the eighth section of the supplement to said act, which was approved April eighteenth, one thousand eight hundred and eighty-nine, or the heirs, legal representatives or assigns of any such person so redeeming or having redeemed, may, by any appropriate proceeding at law or in equity, enforce against the lands and premises redeemed such first lien and payment of the amount paid for the redemption, together with lawful interest thereon, and the costs of the proceedings, and, also, and as a part of such first lien, any and all sums paid by such redeeming mortgagee or incumbrancer for taxes, assessments and water rates or water rents levied and imposed upon the premises redeemed subsequent to such redemption, with lawful interest thereon; and such proceedings may be instituted and maintained either independently of and before, or in connection with, proceedings to enforce payment of the mortgage or other lien or incumbrance held by the person so redeeming or having redeemed, his heirs, legal representatives or assigns.

Mortgagee, &c., may enforce, as against lands redeemed, first lien and payment.

Proceedings instituted.

450. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

A supplement to an act entitled "An act concerning the settlement and collection of unpaid taxes, assessments and water rates or water rents, in cities of this state, and imposing and levying a tax assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," approved March thirtieth one thousand eight hundred and eighty-six, and the operation thereof.

Approved April 14, 1891.

P. L. 1891, p. 393.

Act extended to all taxes, assessments or water rates levied since passage of act.

451. SEC. 1. That the provisions of the act to which this act is a supplement be and the same are hereby extended to include all cases where any tax assessment or water rate shall have been levied or imposed, or attempted to be levied or imposed, on any land in any city of this state subsequent to the passage of the act to which this act is a supplement, and where such tax assessment or water rate shall remain unpaid and in arrears for the period of one year.

Repealer.

452. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Supplement.

Approved April 16, 1891.

P. L. 1891, p. 450.

453. SEC. 1. That section five of an act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes and assessments and water rates or water rents in cities of this state and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subject to future taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six [see Sec. 414, *ante*], be and the same is hereby amended so that it shall be and read as follows :

Certificate of sale to be given, to contain covenant to return amount paid if title prove invalid.

[That the comptroller or other collecting officer shall on the receipt of the purchase-money on any sale or of bonds in lieu thereof, as provided by this act, execute and deliver to the purchaser a certificate of such sale, which shall contain a covenant on the part of the city to refund the amount paid for said lands in cash, where cash was received, and to return the bonds or obligations, where bonds or obligations were received, without interest, in case the title conveyed by said sale shall prove invalid ; upon surrender of the said certificate of sale and proof of service of the notice thereof as hereinafter provided, upon the owners and mortgagees of the said lands and premises, the comptroller or other collecting officer shall, after the expiration of six months from the date of such service, execute and deliver to the purchaser at such sale, his heirs, devisees and assigns, a deed for said lands and premises, which shall be sealed and attested by the clerk of the city and proved in the usual manner ; and such purchaser, his heirs, legal representatives or assigns shall take a good and sufficient title to the property sold in fee-simple absolute, free of all incumbrances (except taxes, assessments, water rates levied after the confirmation of said report, and except sewer assessments made and levied under the provisions of an act entitled "An act to authorize cities to construct sewers and drains and to provide for the payment of the cost thereof," approved March eighth, one thousand eight hundred and eighty-two, when the sewer assessment on the land sold was not included in the report of the commissioners), of which the said deed shall be presumptive evidence in all courts and places, and in any proceedings or actions to be by such purchasers, his heirs, legal representatives or assigns, taken, prosecuted or defended for the recovery of the possession of the property so sold as aforesaid or in the establishment or defense of his or their title, shown as aforesaid by such deed, the title shall not fail or be defeated by reason of any irregularity or formal defect in the procedure taken under this act, upon which the sale shall have been made or the title conveyed as aforesaid, or by reason of any illegality in fixing and adjusting the tax, assessment and lien to enforce which said sale was made or in the proceeding for collecting the same ; *provided*, the property sold

Deed given to purchaser.

Purchaser takes title in fee.

Title not to fail from irregularity or formal defect in proceedings.

Proviso.

was liable, at time such tax, assessment and lien was fixed and adjusted, to the imposition of a tax, assessment or lien in respect of the purposes for which such tax, assessment and lien was fixed and imposed, and it does not appear that any substantial injury was done to the owner of the property by reason of the irregular or illegal manner or method of fixing, imposing or collecting said tax, assessment and lien; the city may be a purchaser at any sale of lands under the provisions of this act, with the same right, title and effect as any other purchaser, and the certificate of sale to the city shall be delivered to the mayor, who shall on behalf of the city cause notice of the sale to be served on the owners and mortgagees of the lands so purchased, as provided in this act; upon proof of service of the notice and expiration of the period for redemption, the city shall be entitled to a deed for the property the same as any other purchaser; in all cases where any lands shall be bought by the city as aforesaid under this act, it shall be lawful for the common council or legislative body of the city, with the consent of the board or body having charge or control of its finances, to sell and assign the certificates of sale or to sell and convey such lands, or any part thereof, by a good and sufficient deed, to any person or persons, and accept either money or bonds or obligations of the city in payment therefor, on such terms as may be agreed upon and with or without warranty; *provided*, that if sold at private sale, the price for the land shall not be less than the amount due the city thereon when purchased.]

454. SEC. 2. That the second section of the supplement to said act, approved April eighteenth, one thousand eight hundred and eighty-nine [see Sec. 436, *ante*], be and the same is hereby amended so as to read as follows:

[That the common council, board of aldermen or other body having control and management of the finances in any such city, may, by a majority vote, with the approval of the mayor, increase the salaries of the city surveyor and city counsel, or either of them, to an amount not exceeding one thousand dollars each per annum above that already paid to such officers, such increase to take effect from the time of the passage of any such resolution, and to continue so long as such officers perform duties under the said act.]

Common council may increase salaries of surveyor and city counsel.

455. SEC. 3. That the said commissioners of adjustment appointed under said act of which this is a supplement, if they have not heretofore included in their reports the assessments for sewer improvements made and levied under an act entitled "An act to authorize cities to construct sewers and drains, and to provide for the payment of the cost thereof," approved March eighth, one thousand eight hundred and eighty-two, and the supplements thereto, upon the lands mentioned in their reports, shall make separate report or reports of all such sewer assessments due prior to January first, one thousand eight hundred and ninety, and of the lands on which they are due and unpaid; and such assessments when reported by the said commissioners, and their report or reports confirmed by the court, shall be collected in the same manner, and the conveyance of the lands on which they are due and unpaid have the same force and effect, as the other taxes and assessments are collected and lands sold therefor under the said act of which this is a supplement; the said commissioners shall include in their report of such sewer assessments the original amount and interest thereon, and may also subdivide any such assessment and correct all errors and irregularities in any original assessment; all such reports shall be filed and the same proceedings had to confirm the same as for reports of taxes and other assessments under said act.

Commissioners to make report of estimates and assessments for sewer improvements.

Assessments, how collected.

456. SEC. 4. That the provisions of the act extending the powers of the commissioners so appointed to assessments made since the passage of the act to which it is a supplement, shall not be operative and in force in any city of the state until the provisions of this act have been accepted by the common council or other governing body of such city by a formal resolution approved by the mayor of such city and passed by a vote of not less than two-thirds of such legislative body.

Act extending powers of commissioners not to be in operation until this act be accepted by common council.

457. SEC. 5. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

Supplement.

Approved April 5, 1892.

P. L. 1892, p. 395.

Mortgagee
redeeming to
have lien for
amount paid.

458. SEC. 1. [Amended by Sec. 477, *post.*]
459. SEC. 2. That when such redemption is made by any person as mortgagee, such mortgagee shall have a lien upon the lands and premises redeemed, for the amount so paid, with interest, from the date of payment, and a like lien for all taxes and assessments levied and assessed upon the said lands and premises subsequent to the levy and assessment of the taxes and assessments for which the sale was made, from the date of the payment thereof.

Costs and
expenses to be
paid on redemp-
tion.

460. SEC. 3. That on the redemption of any lands and premises purchased by the city at any such sale, the person or persons redeeming the same shall in addition to the amount paid by the city therefor, with interest, as now provided, pay to the said city the cost and expenses incurred by it in proceedings taken by it for the purpose of perfecting title to the said property, and also all taxes and assessments levied and imposed by said city upon said lands and premises subsequent to the levy and assessment of the taxes and assessments for which such sale was made.

Taxes and
assessments not
paid within two
years may be
collected accord-
ing to this act.

461. SEC. 4. That sales for taxes and assessments levied and assessed on lands and real estate in any city of this state after the date of the passage of the act to which this is a supplement, which shall remain unpaid for the space of two years from and after the time when due and payable, may in the discretion and upon the direction of the board or body having charge or control of the finances of the city, be collected, and the lands and real estate subject thereto sold in the manner, and according to the directions of the act to which this is a supplement, it being the intention of this section to limit the time within which such sale may be made to two years instead of three as provided in the said act.

No amount to be
paid to purchaser
for perfecting title
unless mayor
approves.

462. SEC. 5. That no amount shall be paid to the purchaser of lands and premises under this act, or the act to which this is a supplement, or to his assignee, in case of assignment, or to the city for the use of said purchaser, or his assignee, for costs and expenses necessarily incurred in proceedings taken for the purpose of perfecting title thereto, unless the mayor of the city, where such costs and expenses are incurred, shall approve of the amount in each case to be paid to said purchaser, assignee or city for the use of such purchaser.

Repealer.

463. SEC. 6. That this act shall be deemed a public act, and shall take effect immediately, and that all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Supplement.

Approved April 8, 1892.

P. L. 1892, p. 420.

Advertisements
for sale in cities
not divided into
wards and having
no block maps.

464. SEC. 1. That in proceedings for the sale of lands for unpaid taxes and assessments under the act to which this is a further supplement, in cities not divided into wards, or that have no block maps, or have not two newspapers printed in the city, it shall be sufficient to describe the property by lot numbers on the assessment maps and publish the advertisement of sale in two newspapers circulating in the city, said advertisement to be published once in each week for four weeks prior to said sale.

Supplement.

Approved April 8, 1892.

P. L. 1892, p. 430.

Conveyances to
convey land
freed of estate of
dower and
curtesy

Notice to be given
to persons having
such estates.

465. SEC. 1. That the conveyance or conveyances of land given pursuant to the provisions of the act of which this is a supplement and all supplements thereto, shall convey the land freed and discharged of and from all estate dower, or by the curtesy or inchoate right of dower and estate by the curtesy therein; *provided*, that notice shall be or shall have heretofore been given to the person having such estates of dower, by the curtesy or inchoate right of dower or estate by the curtesy in said lands in the manner provided in said act and supplements, including this supple-

ment, and in case the first or Christian name of such person, wife or widow or husband, when the title is in the wife, as the case may be, is unknown to the purchaser or his agent, notice may be given to such person, using in case of the wife or widow the first or Christian name of the husband with the prefix "Mrs." thereto, and where the title is in the wife the prefix "Mr." before the surname, and then "husband of," using the name of the wife; and an affidavit of the fact that such first or Christian name is unknown to the purchaser or his agent shall be filed with the officer with whom the proof of service and mailing is required to be filed.

466. SEC. 2. That no writ of certiorari shall be allowed, and no action shall be brought, to contest or set aside any deed hereafter given pursuant to the provisions of the act of which this is a supplement, or any supplements thereof, or to recover possession of the lands conveyed by such deed, after the expiration of two years from the date of the execution of such deed.

Certiorari not allowed after two years from the execution of the deed.

467. SEC. 3. [Amended by Sec. 478, *post.*]

468. SEC. 4. That the officer whose duty it is to make and execute the deeds under the said act and supplements, in describing the land in the deed given pursuant thereto may, in addition to the lot and block numbers, describe the same by metes and bounds, if the same can be ascertained from the assessment map; and every such deed shall be recorded in the office of the clerk or register of the county within which the lands and premises conveyed thereby are situated; that the corporation counsel shall make or have made the necessary searches and serve or have served the necessary notices for all the lands purchased by the city under said act and supplements, and the fees for such searches and notices shall be paid to him by the city treasurer from time to time upon his filing a statement under oath of such fees and notices, and provided the amount for such fees shall be approved by the mayor.

Description of lands in deeds.

Deed to be recorded.

469. SEC. 5. That where notice is given by publication pursuant to the provisions of said act and supplements, or has heretofore been so given, to the person who by records in said county where the land sold lies, is or appears to be the owner or mortgagee of said lands or to have an interest therein, and the time for redemption has not yet elapsed and the purchaser or his agent, or his assignee or his agent, does not know of his own knowledge and cannot ascertain by inquiry made on the said lands whether such person is alive or deceased, and cannot ascertain his address by inquiry made on said lands, such person shall be conclusively presumed to be alive, and a notice published as required by said act and supplements, and mailed to the address, if given by the deed, mortgage or other recorded instrument, to him shall, after the time limited for the redemption of said lands, bar, bind, divest and foreclose of and from all equity of redemption, the right, title and interest in said lands of not only such person, if he shall have been alive at the time of the publication of such notice, together with all persons claiming through or under him, but shall also be conclusive against and bar, bind, divest and foreclose of and from all equity of redemption, all right, title and interest in said lands, of the heirs, devisees and personal representatives of such person or persons if at the time of such publication of said notice such person shall, in fact, have been dead; *provided*, the said purchaser or his agent, or his assignee or his agent make affidavit to the fact that he does not know and cannot ascertain by inquiry made in said lands whether such person is alive or dead at the time of the first publication of said notice, and could not then ascertain his address by inquiry made upon said lands, and does not know such address at the time of making said affidavit, and that the only address he can learn of such person is that disclosed by said record, if any is disclosed, and where no address is given publication alone shall be sufficient; and he shall also make proof of such mailing, if notice is mailed, which affidavits and proof shall be filed with the officer with whom the proofs are required to be filed, before the execution and delivery of the deed for said lands.

Notices where persons are unknown and address cannot be ascertained.

Proviso.

Affidavits or proofs of service of publication to be filed.

470. SEC. 6. That all the affidavits or service of publication and other proof required to be made by the act of which this is a supplement, and all supplements, shall be filed with the city clerk, and all the affidavits and proofs now or hereafter filed shall, after the expiration of two years from the time of the execution of the deeds of the land relating to which they are filed, be deemed and taken as conclusive evidence of the facts therein stated.

Land sold, if not redeemed in time, bars right of title of trustees.

471. SEC. 7. That where the land heretofore sold or hereafter sold under this act and supplements, the title of which shall be vested in a trustee, service of the notice required under the said act of which this is a supplement, and all supplements heretofore or hereafter made on the trustee or person holding the title of said lands in trust, either by deed or descent, as provided in said act and supplements, shall after the time for redemption has passed, bar, bind, divest and foreclose all right, title and interest of every kind, not only of such trustee in said lands, but also all the right, title and interest of all persons in any manner interested in said lands either in law or equity, whose names are not disclosed by the deed creating the trust.

Notice for redemption of land and when it may be redeemed.

472. SEC. 8. That the owner, mortgagee or other person interested may redeem as in said act and supplements provided the lands sold pursuant to the said act and supplements at any time before notice is given or before the expiration of six months after notice shall have been given to him of such sale by the purchaser, his heirs or assigns, in the manner in said act and supplements provided, or before a deed of said premises shall have been delivered.

Repealer.

473. SEC. 9. That all acts or parts of acts, so far as they are inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 16, 1893.

P. L. 1893, p. 350.

How lands may be redeemed, notwithstanding delivery of deed.

474. SEC. 1. That in case any person interested in the lands sold under the act of which this is a supplement or any of the supplements thereto, who is entitled to a notice of the sale under said act and supplements, has not been notified by the purchaser thereof or his legal representatives or assigns of such sale by inadvertence or otherwise, and a deed of said lands has been made and delivered to such purchaser, his legal representatives or assigns, such person or persons having such interest may, notwithstanding the making and delivery of said deed, be notified in the same manner and be entitled to redeem said lands within the same time and manner as provided in said act and supplements, and after the expiration of the time for redemption the officer whose duty it is under said act and supplements to make and execute the deed for the land sold shall make and execute a supplemental deed of such land to the said purchaser, his legal representatives or assigns, which deed shall recite the omission to notify said person in interest and the giving of such notice after the making and delivery of the original deed and said supplemental deed shall convey said lands as fully and to the same extent as if the said person interested in said lands had been originally notified and his interest had been sold, conveyed, debarred and foreclosed by the original deed.

Supplemental deed to be made after expiration of time for redemption.

Time limit for filing affidavits omitted.

475. SEC. 2. That where the purchaser, his legal representatives or assigns have omitted to file the affidavits and proofs of mailing and publication required by the act to which this is a supplement and any of the supplements thereto within the time now required by law, such affidavits and proofs may be filed any time within two months after the passage of this act.

Repealer.

476. SEC. 3. That all acts so far as they conflict herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 16, 1893. * P. L. 1893, p. 376.

477. SEC. 1. That section one of the supplement to said act, which supplement was approved April fifth, one thousand eight hundred and ninety-two [see Sec. 458, *ante*], shall be and the same is hereby amended so as to read as follows :

[That whenever any person shall desire to redeem any lands and real estate sold under and by virtue of the provisions of the act to which this is a supplement, and the acts supplementary thereto and amendatory thereof, every such person shall, in addition to the sum or sums of money required to be paid as now provided by law, pay to the purchaser of such lands and premises, or to his assignee, in case of assignment, or to the city for the use of said purchaser, or his assignee, all the costs and expenses necessarily incurred in proceedings taken for the purpose of perfecting title thereto, including fees for searching, at the rates allowed by law to the county clerks or registers of deeds for like services, but not including counsel fees ; *provided, however,* that no purchaser or assignee shall be allowed for such search or notice fees upon the redemption of said property unless he shall have filed with the city clerk of said city before such redemption a statement of such fees, costs and expenses incurred in serving notices and searching as above provided.]

Costs and expenses of perfecting title to be paid by person redeeming lands.

Proviso.

478. SEC. 2. That section three of the supplement to the act of which this is a supplement, approved April eight, one thousand eight hundred and ninety-two [see Sec. 467, *ante*], be and the same is hereby amended so as to read as follows :

[That the assignee of the certificate or certificates of sale given pursuant to the provisions of said act and supplements, may give notice, in his or their names, of such sale to the owners, mortgagees and other persons interested as required by said act and supplements, and to acquire title to the lands and receive the deed or deeds thereof, in the same manner and to the same effect and extent as if such assignee or assignees were the original purchaser or purchasers at the tax sale, and such notice or notices heretofore given by such assignee or assignees are declared to be valid and effectual and to have the same force and effect as if given pursuant to this act, and any notice of sale heretofore or hereafter given by the purchaser at a tax sale, including a city if it be the purchaser, under said acts and supplements and before assignment of the tax certificate, shall enure to and be for the benefit of the assignee of such tax certificate, and such assignee shall be entitled to receive a deed for the lands in such certificate named, which shall convey the same as fully and to the same effect and extent as if such assignee had given notice of sale in his own name and as if the said deed had been made and delivered to the original purchaser and the certificate of sale had not been assigned, and any such deed heretofore made, executed and delivered to any such assignee shall have such force and effect.]

Assignee of certificates of sale to acquire title and receive conveyance.

Notices of assignee valid.

479. SEC. 4. That all acts and parts of acts, so far as they conflict herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved May 8, 1894. P. L. 1894, p. 227.

480. SEC. 1. That in case any city has heretofore purchased or shall hereafter purchase at a sale of lands made under the provisions of the above-entitled act, any lot, tract or parcel of land, it shall appear that by or through error or mistake, such lot, tract or parcel of land has been incorrectly described or designated, whereby the tax or assessment imposed thereon would appear by any map or record to have been made upon a lot, tract or parcel of land not intended to have been so taxed or assessed, it shall be lawful for said city to cause any and all such errors and mistakes to be corrected, and such lots, tracts or parcels of land to be correctly and properly described, numbered and designated, in such manner as in its judgment may be proper and necessary to that end.

City may correct mistakes in description, &c., of assessments of lots purchased.

When tax, &c., paid by mistake on land of another, city may cause same to be reinstated and charged against land liable.

481. SEC. 2. That whenever any person by reason of such error or mistake as aforesaid has paid a tax or assessment upon the land of another, having intended at the time of such payment to pay the tax or assessment upon land of which he was the owner, or in which he had an interest justifying such payment, in every such case it shall be lawful for said city to cause the tax or assessments so paid to be reinstated and charged against the land in respect to which such payment was wrongfully made; and the said reinstated tax or assessment shall thereupon be and remain a lien upon the same, and be collectible by the said city in the manner provided by law for the collection of unpaid taxes or assessments; and thereupon the said city shall have power to discharge the land intended to have been discharged by such payment from the lien of the tax or assessment thereon.

Repealer.

482. SEC. 3. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

Supplement.

P. L. 1894, p. 294.

When taxes for which sales have been made shall be considered as in arrears.

Approved May 14, 1894.

483. SEC. 1. That where any sale shall have been made or shall hereafter be made for unpaid taxes under the provisions of the thirteenth section of the act to which this is a supplement, or any supplements thereto or any amendments thereof, and the city shall have become or shall hereafter become the purchaser at such sales, the amount of taxes for which such sales have been made, whether such sales are invalid or not, shall be deemed to be in arrears within the meaning of the second section of the act to which this is a supplement, and the supplements thereto, and to have been so in arrears from the date when said taxes were assessed, levied or confirmed, or attempted to be assessed, levied or confirmed, and be subject to adjustment of arrearages under said act and the supplements thereto.

Lands purchased by city and proceeds thereof, if redeemed, to be sinking fund to redeem bonds.

484. SEC. 2. That where any sales have been made or shall hereafter be made under the provisions of the said thirteenth section of the act to which this is a supplement, or any supplement thereto or any amendment thereof, and the city shall have become or shall become the purchaser at such sales, and shall hold said lands so purchased and the proceeds thereof, if any are redeemed, as security for any bonds issued by said city, and said taxes shall be hereafter adjusted under the provisions of the first section of this act, then all moneys realized by said city from such adjustment for the years for which lands shall have been sold for such taxes, shall be and remain a sinking fund for the redemption and payment of all bonds which may have been issued upon the pledge of such lands or the proceeds thereof, for the payment of the same.

Supplement.

P. L. 1895, p. 376.

Certificate of sale issued to any city may be assigned.

Approved March 20, 1895.

485. SEC. 1. That the certificate of sale issued to any city for lands bought by any city at any sale, under the provisions of the act passed March thirtieth, one thousand eight hundred and eighty-six, the title to which is above recited, may be sold or assigned to any person or persons, by and with the consent of the mayor of any such city, upon the terms and conditions now existing.

Repealer.

486. SEC. 2. That all acts and parts of acts inconsistent or conflicting with the provisions of this act are hereby repealed, and this act shall take effect immediately.

VIII. Miscellaneous acts.

An act regulating the proceedings of courts in cases of erroneous taxation.

P. L. 1852, p. 526.

For what assessment of taxes shall not be reversed or set aside on certiorari.

Approved March 26, 1852.

487. SEC. 1. That no assessment of taxes shall hereafter be reversed, avoided, or set aside upon any certiorari, brought or to be brought in any court of this state, because the state, county, township, borough, ward, or city taxes, or any of them, are blended together, nor because the aggre-

gate amount of money levied or assessed in any township, borough, ward, or city, for taxes, is greater than called for by the law, resolution or resolutions raising, voting, or granting the same, nor because any such assessment is made upon any person or persons, body politic or corporate, his, her, or their property, at a rate or proportion higher or greater than authorized or required by the law, ordinance, resolution or resolutions, order or vote, raising, voting, or granting the money or moneys for which the said assessment of taxes is made. (a)

488. SEC. 2. That if it shall appear, to the satisfaction of any court wherein any certiorari is or may be brought, that any assessment of taxes removed thereby is at a rate or proportion higher or greater than authorized or required by the law, resolution, order, or vote authorizing such assessment, or that the amount or value of taxable property, for which any person is therein assessed, is too great, said court shall amend such assessment so removed as aforesaid, and reduce the same to the proper and just amount, and thereupon affirm the same according to such amendment and reduction, and reverse the same as to the excess only; and the court shall have power to adopt such rules and proceedings as may enable them to make the said amendment, and carry into effect the true intent and meaning of this act. (b)

Court on certiorari may reduce rate or proportion of tax.

(a) See *State, Verhule v. Saalmann*, 8 Vr. 156. The act of March 26th, 1852, is not repealed by the thirty-second section of the general tax law of 1866. *State, Harned v. Manning*, 13 Vr. 163.

(b) The court, on certiorari, will revise the assessment of taxes, so far as to correct an assessment made upon erroneous principles; but they will not review the judgment of the assessor or of the commissioners of appeals on the mere valuation of property. On that the judgment of the commissioners of appeals is by statute final and conclusive. *State v. Quaipe*, 3 Zab. 89. If more tax is assessed than authorized by the proper authorities, the assessment will be set aside to the extent of such excess, and each person against whom an assessment is made will be entitled to a reduction, in proportion to the amount of his assessment. *State v. Randolph*, 1 Dutch. 427. School taxes assessed upon property lying in a district illegally absorbed by another district, will be set aside on application of persons aggrieved, upon certiorari, but the whole assessment will not be set aside, although the alteration be illegal, and the notice to the assessor defective. *State v. Browning*, 3 Dutch. 527, 4 Dutch. 556. Upon the amount of assessment, or the mere value of the property assessed, the decision of the commissioners of appeal is final, and cannot be reviewed in this court; *alter* as to the question whether the property, or any part of it, is liable to taxation. *State v. Ross*, 3 Zab. 517. Where the only objection to a tax is, that the prosecutor has been assessed for a greater aggregate value of personal property than he had, and he has not made oath of the value of his property, or appealed, the certiorari will be dismissed. *State v. Manchester*, 1 Dutch. 531; case reversed, 2 Dutch. 564. A mistake in the name of the owner may be corrected where he has notice. *State, Rutherford Park Association v. Union*, 7 Vr. 309. When the true owner has notice, and is a party to the record, the court will reverse or affirm the tax against his lands, in part or as to the whole, according to the justice of the case. (Case distinguished from *State v. Harvin*, 5 Vr. 79.) *Id.* The mistake of an assessor in omitting to assess taxable property, does not set aside or invalidate the whole assessment, unless it is such a plain disregard of the directions of the law as to throw the burden of taxation upon persons and property at a different rate from that intended by the law. *State v. Collector*, 4 Zab. 108. The court will not amend an assessment of taxes on the ground that the value of the taxable property is stated at too great a sum, unless it appears that an erroneous principle of valuation was adopted, or it is clearly shown that the valuation was too high. *State, Howell v. Metz*, 2 Vr. 365. A tax affirmed by the commissioners of appeal, was carried, on certiorari, into the supreme court and court of errors, in both of which courts the proceedings were sustained. Before the argument in the supreme court, the statute authorizing the tax was repealed. On a mandamus directing the payment of such tax—*Held*, that the question of the legality thereof arising from the repeal of such statute could not be raised, on the ground that the judgments on certiorari had conclusively settled that question. *Belvidere v. Warren R. R. Co.*, 5 Vr. 198, 6 Vr. 584. If more tax is assessed than is authorized by law, the assessment will not be void, but will be valid for what the law allows, and the excess only will be remitted. *State v. McClurg*, 3 Dutch. 253. Where one tax alone is illegally assessed, if it is assessed separately it will be set aside, and the residue of the assessment confirmed. *State v. Quaipe*, 3 Zab. 89. On a certiorari to correct a tax assessment, of which no one but the prosecutor complains, the court will not set aside the whole assessment, if without so doing it can give proper relief to the prosecutor. *State v. Kingsland*, 3 Zab. 85. An executor intended, or likely, to be affected by a tax against "the estate of" his testatrix, may prosecute a certiorari to have such tax reviewed. *State, Ely v. Holmstel*, 10 Vr. 79. Where an assessor errs as to the quantity of land assessed, and on appeal the commissioners fail to reduce the assessment, this court will grant relief by reducing the tax to the correct amount. *State, Sagehorn v. Jersey City, June, 1876*. It is not a sufficient reason for setting aside an assessment of taxes, that the year when the town meeting was held at which they were raised, does not appear in the record, if it can be shown by parol proof. *State v. Bentley*, 3 Zab. 532. A tax complained of as illegal, will not be set aside as illegal, unless there

is proof of the facts necessary to show in what the illegality consisted, other than the prosecutor's *ex parte* affidavit upon which the certiorari was allowed. *State v. Smith*, 1 Vr. 449. A tax illegally assessed will be reversed and set aside when regularly before the court on a certiorari, although it has been collected by warrant. *State v. Clothier*, 1 Vr. 351. Where the court is unable to determine from the evidence what amount should be deducted as illegal, it may be referred to a commissioner. *State v. Sickels*, 4 Zab. 125, 127. *State v. Randolph*, 1 Dutch. 427, 433. Under R. S., p. 1008, § 49 (*supra*, Sec. 49), the judgment of the commissioners as to the amount of the valuation was final, and could not be reviewed on certiorari. *Bridge Proprietors ads. State*, 1 Zab. 364, 369. *State v. Quaipe*, 3 Zab. 89. *State v. Ross*, 3 Zab. 517, 521. *State v. Dausser*, 3 Zab. 552. *State v. Collector*, 4 Zab. 108, 118. *State v. Powers*, 4 Zab. 406. *State v. Manchester*, 1 Dutch. 531, 2 Dutch. 564. *State, Young v. Parker*, 5 Vr. 49, 53. See *State, Paulison v. Taylor*, 6 Vr. 184, 189. *N. J. R. R. Co. v. Suydam*, 2 Har. 251. But under this section such valuation, if excessive, may be reduced. *State v. Randolph*, 1 Dutch. 427, 432. *State, Howell v. Metz*, 2 Vr. 365. *State, Rutherford Park Association v. Union*, 7 Vr. 309, 313. *State, Trumbull v. Elizabeth*, 10 Vr. 249. *State, Sagehorn v. Jersey City, June, 1876*. *Ante*, CERTIORARI, Sec. 10. The circuit courts have no jurisdiction by certiorari in matters of taxation. *State, Duford v. Deuce*, 2 Vr. 202. A certiorari will lie to correct an erroneous assessment of taxes, although the prosecutor did not apply to the commissioners of appeal for relief. But this may be good ground for the court in their discretion to refuse the writ. *State v. Bentley*, 3 Zab. 532. See *State v. Metz*, 3 Vr. 199, 203. *State, International, &c., Co. v. Hatght*, 6 Vr. 279, 284. But see *State, Sharpe v. Appar*, 2 Vr. 358. If a person against whom an assessment is made, make an affidavit before the commissioners of appeal to what he believes to be the true value, and the commissioners refuse to make a corresponding reduction, relief can be obtained in this court by certiorari. *State v. Randolph*, 1 Dutch. 427. A certiorari will not generally be allowed to remove a resolution of a town meeting raising any particular tax, if the tax is simply raised or voted. The individual affected must bring up his own assessment only. *State v. Middletown*, 4 Zab. 124. School taxes illegally assessed will be set aside on certiorari by the persons aggrieved. *State v. Browning*, 4 Dutch. 556. The court will only correct the assessments so far as they have been made on erroneous principles, but they will not revise valuations. *State v. Quaipe*, 3 Zab. 89. A certiorari to bring up a military tax warrant should be prosecuted by one delinquent, not several. *State v. Kirby*, 2 South. *885. This court will not in general allow a certiorari to remove a resolution at town meeting to raise any particular tax, if the tax is simply raised or voted. Any taxpayer aggrieved can have his remedy by removing his own assessment for correction. *State v. Middletown*, 4 Zab. 124. A stockholder in an incorporated company cannot, on a certiorari prosecuted by him individually, have an erroneous assessment made against such corporation set aside or corrected. *State v. Flavell*, 4 Zab. 370. An individual cannot bring a certiorari to protect or recover his own rights and interests, in the name of a corporation. *Silk Company v. Campbell*, 3 Dutch. 539. A certiorari to bring up taxes assessed against the individual stockholders of a bank, upon the prosecution of the bank itself, dismissed as irregular. *State, Farmers' National Bank v. Cook*, 3 Vr. 347. After commissioners of appeal in cases of taxation, have given their decision, and returned the duplicate, with a certificate thereof, to the collector, the assessment or adjudication is not in their custody, nor can they be removed by a certiorari directed to the commissioners of appeal. *State v. Howell*, 4 Zab. 519. A certiorari brought to set aside an assessment of a tax, should be so directed as to bring up the assessment with the return. If sent to the commissioners of appeal, it is misdirected, and will be dismissed. *State v. Thomas*, 2 Har. 160. See *State v. Falkenburge*, 3 Gr. 320. When a tax is affirmed on certiorari, it may be collected by attachment. *Smith ads. State*, 2 Vr. 216. *State v. Lewis*, 6 Vr. 377, 380. Or by mandamus. *Person v. Warren R. R. Co.*, 3 Vr. 441. *Silverthorne v. Warren R. R. Co.*, 4 Vr. 372. The court cannot, on certiorari, determine disputes as to the value of rates, for the purpose of increasing the tax levied thereon. *Conover v. Davis*, 19 Vr. 112.

Return of taxes or tax warrant not to be set aside for lack of form.

489. SEC. 3. That no return of taxes or list of delinquents, made by any township, borough, ward, or city collector, nor the proceedings touching or concerning such return, nor any tax warrant, shall be set aside or reversed on certiorari, or otherwise, for any lack of form which does not impair the substantial rights of the plaintiff in certiorari.

An act relative to taxes due from incorporated companies in this state.

P. L. 1862, p. 206.

Approved March 13, 1862.

When and how question of taxes due from incorporated companies is to be submitted to supreme court.

490. SEC. 1. That when in the opinion of the governor, attorney-general and treasurer of this state, or when in the opinion of any two of them, there are taxes or other dues due to this state, and unpaid, from any incorporated company in this state, it shall be the duty of the attorney-general, with the written consent of such incorporated company, by means of a rule of the supreme court of this state, to submit the said question relative to taxes or other dues to the said court, without the intervention of a jury; and the facts pertinent to such question, when not settled by a case agreed upon by the attorney-general and the said incorporated company, shall be ascertained by depositions taken on notice and according to the rules of said court; and when the said question is determined by the said court, a rule shall be entered accordingly, which shall in every respect have the effect of a final judgment of said court.

If company refuse or neglect to consent to submission, attorney-general to institute suit.

491. SEC. 2. That when any incorporated company of this state, on being applied to on behalf of the state to submit any question relative to taxes or other dues, as provided in the first section of this act, shall refuse or neglect to consent, in writing, that such question be so submitted, then it shall be the duty of the attorney-general, in the name of "the state of New Jersey," as plaintiff, to institute a suit against said incorporated company as defendant, in the supreme court of this state; and in any suit brought by the state against any incorporated company for taxes or other dues, a declaration containing what are known as the common or money counts, with a schedule attached, setting forth in a clear manner the amount of taxes or other dues claimed by the state from said incorporated company, for any year or series of years, shall be a sufficient statement of what the state demands in said suit; and if the said incorporated company desire to make any defense to such claim, the same shall be made by means of the plea of the general issue, with a notice or notices attached, setting forth in a clear manner such defense, and under such plea and notices all defenses lawful to be made may be set up; and the said suit shall, in all other respects, proceed according to the established forms of legal proceedings in this state.

An act entitled an act to exempt soldiers and sailors, who served in the war of one thousand eight hundred and twelve, from poll tax.

P. L. 1875, p. 65.

Approved April 8, 1875.

Soldiers of war of 1812, exempt from poll tax.

492. SEC. 1. That the soldiers of the war of one thousand eight hundred and twelve, shall be and they are hereby exempt from paying poll tax.

An act to establish the method of assessing and rating farm lands within the limits of incorporated cities.

P. L. 1876, p. 240.

Approved April 21, 1876.

Farm lands in certain cities to be rated and assessed by the acre.

493. SEC. 1. That all farms and tracts of farm lands, containing five acres or more in one inclosure, within the limits of the incorporated cities of this state, that have, since the incorporation of said cities respectively, been and still are used for farming or market-gardening purposes and not otherwise, and that have not been laid out in city lots by the owner or owners thereof, and on which the owner or owners have not laid out or graded streets, shall, for the purposes of taxation, be rated and assessed at their true value by the acre and not otherwise; *provided*, that this act shall

not apply to any incorporated city containing between ten thousand and thirty thousand inhabitants, nor to any city containing over fifty thousand inhabitants, according to the last state census. (a)

494. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed. Repealer.

An act relative to the appointment of collectors of taxes in incorporated cities and towns.

495. SEC. 1. [Amended by Sec. 497, *post.*]

Approved April 21, 1876. P. L. 1876, p. 287.

496. SEC. 2. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall be a public act and take effect immediately.

Repealer.

Supplement.

Approved April 5, 1878. P. L. 1878, p. 319.

497. SEC. 1. That the first section of the act above mentioned, and which is in these words [see P. L. 1876, p. 287], shall be and hereby is altered so that the said section shall read and be as follows :

[That the common council in each of the incorporated cities and towns of this state containing, according to the United States census of eighteen hundred and seventy, not more than six thousand population, which are or may be divided into wards, may appoint one collector of taxes for such incorporated city or town ; *provided*, that this act shall not apply to any incorporated city or town in which the collectors are elected by the voters thereof.]

Appointment of collector of taxes in certain cities and towns.

Proviso.

An act to authorize the apportionment of taxes, assessments and water rents.

Approved April 21, 1876. P. L. 1876, p. 281

498. SEC. 1. That upon application in writing by any person interested to apportion any taxes, assessments or water rents, which have been or shall be laid upon any plot or parcel of land in any city, town or township, amongst any subdivisions of such plot or parcel, accompanied by a map showing the subdivisions desired, the officer or body to which such application shall be made as herein provided shall have power to make a just apportionment of such taxes, assessments and water rents upon and among such subdivisions or such other subdivisions as it may deem just and proper, and also to apportion, in manner aforesaid, any taxes, assessments and water rents, for non-payment of which any plot or parcel of land has been or shall be sold under the laws relating to such sale, with expenses of sale, in cases where such land has been or shall be bought by the treasurer or other officers of such city, town or township, for the use and benefit thereof, or by such city, town or township. (b)

Taxes, assessments and water rents laid on any plot may be apportioned amongst subdivisions of plot.

499. SEC. 2. That upon the approval of such apportionment by the mayor, or passage over his veto, if application was made to the body hereinafter mentioned, where such lands lie in a city, the city clerk shall file the map and report of the officer, board or council showing such apportionment, and upon the adoption of such apportionment by the council or other governing municipal authority of any town, or by the township com-

Map and report to be filed.

(a) Where land has been laid out and mapped by the owner into city lots, it is not erroneous to assess it for taxes by the lot or in blocks, instead of by the acre. *State, Combes v. Vanhorne*, 10 Vr. 444. It is not within the act of April 21st, 1876, directing certain lands within incorporated districts to be assessed by the acre. *Id.* The act of commissioners of appeal in changing an assessment of a tract of land by city lots to an assessment of the same land by the acre, without changing the value of the entire tract, does not invalidate the assessment. *State, Currie v. Van Horn*, 11 Vr. 143.

(b) An assessment of taxes upon land is not invalidated as against a mortgage upon the property by the mere fact that it covers more land than the mortgaged premises. The taxes may be apportioned under the above act. *Pennington v. Mendes*, 11 Stew. 389. In an assessment for benefits, it need not affirmatively appear that the commissioners took into consideration each fact and circumstance necessary to enable them to come to a proper determination. *State, Ackerson v. North Bergen*, 10 Vr. 694. Where lands of a prosecutor assessed are those contained in what, in the proceedings, is called plot J, and it appears

from the evidence that the plot embraces other lands than those of the prosecutor—*Held*, that the assessment could not be sustained on the ground that it cannot be known what proportion of the assessment is properly chargeable to the prosecutor. *Id.* The error is not remedied by the act of April 21st, 1876, that act applying only to assessments properly assessed in the name of the right owners. *Id.* A statutory direction that an assessment for benefits shall be levied upon each *separate* lot or parcel of land, or upon the *several* lots or parcels of land, does not authorize the assessors to levy distinct assessments upon the component parts of a tract of land which the owner has always treated as an entirety. *Muller v. Bayonne*, 26 Vr. 102. If it appear that commissioners authorized to levy an assessment, for the construction of a sewer, upon an entire tract of land on which there are valuable buildings, have ignored the existence of the buildings and levied distinct assessments upon the parts of the tract, dividing it by lines which intersect the buildings, the court cannot infer that the benefit accruing to the entire tract is the aggregate of three distinct assessments. *Id.* See *Rankin v. Coar*, 1 Dick. 574.

Assessments, &c.,
to be a lien.

mittee of any township, the clerk of such town or township shall file the map and report showing such apportionment, and upon such filing the said taxes, assessments or water rents as so apportioned shall be and remain a lien upon such subdivisions in the same manner as if such taxes, assessments or water rents had been originally laid or assessed upon such subdivisions in the separate amounts so apportioned, and upon payment to the proper officer of the amount so apportioned to any subdivision, with interest and penalties added at the same rates as were chargeable on the original taxes, assessments or water rents, respectively, and in case of sale, with the proportion of expenses of sale added, such subdivision shall be discharged from all lien or liability under such taxes, assessments and water rents, and from the effect of such sale therefor.

500. SEC. 3. [Amended by Sec. 503, *post.*]

Proceedings when
owners of lands
to be affected do
not join in appli-
cation.

501. SEC. 4. That when any of the owners of the lands to be affected by such apportionment shall not join in such application, then such comptroller, board, council or township committee shall direct notice to be given to such owner, if resident in such city, town or township, either personally or by leaving the same at his place of abode, and if not resident in such city, town or township, by advertisement for ten days in a newspaper published and circulating in such city, town or township, and if none is so published, then in the nearest newspaper published in the county, of the time and place where and when a hearing will be had upon such application before such comptroller, board, council or township committee, or a committee thereof, which notice, upon proof of service or publication thereof, shall be deemed sufficient, and said comptroller, board council or township committee may thereupon make such apportionment.

Supplement.

Approved February 16, 1881.

P. L. 1881, p. 23.

Taxes, assess-
ments and water
rents upon plots
or parcels of land
taken in part for
opening, widen-
ing or extension
of any street, &c.,
how apportioned.

502. SEC. 1. That where any part of any plot or parcel of land has or shall be taken for the opening, widening or extension of any street or avenue in any township or city in this state, all taxes, assessments and water rents that shall be a lien upon the whole plot or parcel of land from which such plot or parcel shall be taken for such opening, widening or extension as aforesaid, shall be equitably and justly apportioned between the plot or parcel so taken for such opening, widening or extension, and the balance that shall remain of the plot or parcel from which the same has or shall be taken as aforesaid, in the same manner and form, and by the same authority as is provided in said act to which this is a supplement.

Amendatory act.

Approved March 9, 1891.

P. L. 1891, p. 91.

Powers to appor-
tion, in whom
vested.

Proviso.

Proviso.

Proviso.

503. SEC. 1. That section third of the act of which this is an amend-
ment [see Sec. 500, *ante*] be amended to read as follows :

[That such powers to apportion shall be vested in and such application made to the mayor and common council, or board of aldermen, or other chief municipal authority of the several cities and towns, and the township committee of the several townships ; *provided, however,* that whenever there is or shall be in any city or town a board of finance or body possessing the general power now exercised by such boards, the power of apportionment as aforesaid shall be vested in, and such application made to that board ; *and provided further,* that whenever there is or shall be in any city an officer called a comptroller, the power aforesaid shall be vested in and such application made to that officer ; *and provided further,* that whenever there is or shall be, in any city or town, tax commissioners, the power aforesaid shall only be vested in, and such application made to said tax commissioners.]

An act relating to assessors.

Approved March 9, 1877.

P. L. 1877, p. 227.

504. SEC. 1. That if any assessor in any city, town or township in this state shall not immediately, after the expiration of his term of office, or after he shall have vacated or been removed from office, deliver over to his successor in office all the property, books and papers belonging to such city, town or township, or appertaining to such office or its duties, including his field-book or books used during his term of office, and all memoranda concerning property, real or personal, in said city, town or township in this state, or the valuations thereof used by him during his term of office, every such assessor shall be deemed guilty of a misdemeanor, and on being thereof convicted shall be punished by fine not exceeding one thousand dollars or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

Penalty for not delivering to successor in office property, books, &c.

An act relating to interest on arrears of taxes and assessments in incorporated cities.

Approved February 5, 1878.

P. L. 1878, p. 12.

505. SEC. 1. That the rate of interest on taxes remaining unpaid in any incorporated city of this state, at the period when said taxes are by their several charters declared to be in arrears, shall be ten per centum per annum from the date when said taxes are so declared to be in arrears, and in cases where lands and real estate have been or may be sold for non-payment of said taxes, the certificates of said sales shall be redeemable (except as hereinafter stated) upon payment of the amount for which said lands and real estate were or are sold, and interest thereon at the rate of ten per centum per annum from the date of said sale; *provided, however*, that it shall be lawful for the governing bodies of cities in which the redemption of said certificates is not pledged to commissioners of sinking funds for the payment of bonds issued in anticipation of the collection of such taxes, to fix by resolution the interest on said past-due taxes at a rate not less than seven nor more than twelve per centum per annum, and in lieu of said rate being fixed by resolution of the governing body, the rate shall be ten per centum as above, and no more.

Rate of interest on unpaid taxes in cities.

Proviso.

506. SEC. 2. That the rate of interest on unpaid assessments for local improvements, in any of the cities of this state, shall be seven per centum per annum from the date when the same are due and payable, in accordance with the provisions of the charters of incorporated cities of this state, until the date of sale of the lands and real estate on which said unpaid assessments are a lien, and after such sale the certificates, issued in pursuance of law, shall be redeemable upon payment of the amount for which said property was sold, and interest at the rate of ten per centum per annum from the date of said sale; *provided, however*, that nothing in this or the preceding section contained shall authorize the receipt, under the provisions of this act, of any such taxes or assessments in cases where lands and real estate have been sold for such taxes or assessments and bought by any other person than the city in which said taxes or assessments are laid, or some officer thereof for the use of such city; nor shall any lien upon real estate for such taxes or assessments be released or affected; nor shall any sale of any real estate for taxes or assessments, or the delivery of any certificate or declaration of sale, or deed therefor, be stayed or delayed by anything in this act contained.

Rate of interest on unpaid assessments in cities.

Proviso.

An act authorizing the receipt in installments of certain taxes in cities.

Approved February 23, 1878.

P. L. 1878, p. 38.

507. SEC. 1. That the persons authorized by the charters of the several cities of this state to collect and receive taxes for state, county and municipal purposes, are hereby authorized and empowered to receive the same in installments of not less than one-fourth of the whole amount of the taxes

Taxes may be received in installments of not less than one-fourth of the whole amount and interest.

and interest thereon remaining unpaid, at any time before the sale of the lands and real estate upon which said taxes are a lien, and in case of sale of lands and real estate for delinquent taxes which have been partially paid under the provisions of this act, the amount for which said lands and real estate shall be sold shall be the amount of said taxes then remaining unpaid, with such addition for interest as shall be fixed by law, together with the costs of advertising and auctioneer's fees; *provided, however,* that nothing in this act contained shall authorize the receipt under its provisions of any such installment of taxes in cases where the lands and real estate on which said taxes are a lien have been or shall be sold for non-payment thereof, nor shall any lien upon real estate be released or affected, nor shall any sale of real estate for taxes be stayed or delayed by anything in this act contained.

Proviso.

An act to authorize towns to levy taxes for the payment of legal corporate obligations and debts heretofore incurred.

P. L. 1878, p. 161.

Approved March 20, 1878.

Towns may levy tax to pay interest and principal of any debt heretofore incurred.

508. SEC. 1. That every town is hereby empowered, and it is hereby made its duty, to levy taxes to pay the interest and principal of any obligation or debt heretofore legally incurred by it, although the act or supplement authorizing the creation of such obligation or debt contains no express grant of power to levy taxes for that purpose, anything in the act incorporating such town, or in any supplement thereto, in anywise to the contrary notwithstanding. (a)

Tax, how collected, &c.

509. SEC. 2. That it shall be the duty of the governing body of such town to cause in each year a sufficient sum to be levied, assessed and collected by tax as will be sufficient to pay the interest due and to grow due during that year, and the principal due and to grow due during that year of any such obligation or debt; said sum to be levied, assessed and collected as other taxes of such town are or may be by law levied, assessed and collected, and in the assessing and collecting of said sum all officers shall proceed as by the law of this state they are bound to proceed, and be liable to the same pains and penalties as prescribed in the case of the collection of other taxes by them.

Repealer.

510. SEC. 3. That all acts and parts of acts conflicting with this act be and the same are hereby repealed.

An act to facilitate the collection of taxes in boroughs and towns.

P. L. 1878, p. 183.

Approved March 27, 1878.

Proceedings in certain boroughs and towns for collection of delinquent taxes on lands.

511. SEC. 1. That in all boroughs and towns having a population of not more than seven thousand nor less than three thousand, by the census of eighteen hundred and seventy-five, if the full amount of any tax assessed upon or against any lot or subdivision of a lot within the limits of any such corporation, with the interest and costs, shall not be paid and satisfied before the first day of January in each and every year, it shall be the duty of the collector or receiver of taxes within one week thereafter to prepare a transcript of such unpaid taxes, including in such transcript the names of the owners, if any be given, of such lands and real estate, the description thereof and the amount of taxes thereon, respectively, and enter the same in a book to be kept for that purpose; and the said collector or receiver of taxes may in such transcript correct any errors of description in such returns and statements by comparing the same with the original assessment of taxes made by the assessor or assessors of such corporation; and immediately after completing such transcript he shall cause a notice to be published in one or more newspapers printed and published in said borough or town and designated by the common council, or he shall cause a notice to be posted in ten of the most public places in said borough or town, stating that said transcript of unpaid taxes has been made, and that unless said taxes shall be paid at his office within twenty days after the first pub-

Transcript of such unpaid taxes to be made.

Notice demanding payment.

(a) This act does not apply to townships. The inhabitants of a township cannot, by their approval, at an annual meeting, validate an unauthorized assessment of taxes levied in a previous year. *Bonta v. Richards*, 18 Vr. 497.

lication or posting of said notice the same will be collected by public sale according to law ; if any person or persons shall before such sale tender to the collector or receiver of taxes the full proportionate amount of tax and costs due on any portion of a lot plotted on the corporation atlas, and shall present at the same time a correct written description satisfactory to said officer of the part of lot on which he, she or they tenders or tender the payment of tax, the amount so tendered shall be received by said officer and the part of lot on which payment of tax shall have thus been made shall not be sold under the provisions of this act authorizing the sale of land for non-payment of taxes.

512. SEC. 2. That after the expiration of the said twenty days the collector or receiver of taxes shall give public notice of his intention to collect the taxes mentioned in said transcript then remaining unpaid, by public sale at auction of the land and real estate whereon said taxes were imposed, which notice shall embrace the names of the owners, if any be given, of such lands and real estate, the description thereof by its mark or number on the corporation atlas, the amount of taxes unpaid, with interest and costs due thereon respectively, and shall designate the time and place of sale, and shall be signed by said collector or receiver of taxes, and be printed in at least one newspaper printed and published in said borough or town once in each week for four weeks before the time appointed for such sale, or shall be posted for four weeks in ten of the most public places in said borough or town ; and if any tax shall remain unpaid on the day specified in such notice, the said collector or receiver shall proceed to sell by public auction at the time and place appointed in said notice the lots and real estate on which said tax shall have been imposed or may be a lien, for the lowest term of years, but in no case exceeding fifty years, for which any person will take the same and pay the amount of such tax, with the interest thereon and all costs, fees and charges and expenses ; such payment shall be made before the conclusion of the sale, and if not so made the collector or receiver of taxes may resell the property ; the sale may be adjourned from time to time until the lots and real estate are disposed of, and such as are not bid for when offered for sale or for resale, as aforesaid, shall be struck off to the corporation for the term of fifty years ; *provided*, that the advertisement of any adjourned sale shall be in general terms, and shall not embrace the detailed description required in the original advertisement of such sale ; a certificate of the sale of each lot or subdivision of a lot sold as aforesaid shall be made within ten days thereafter by the collector or receiver of taxes and delivered to the purchaser ; such certificate shall contain a description of the property by its number or mark on the corporation atlas, and the term for which it was sold, and state the particular tax, the amount thereof, with interest and expenses, for which the sale was made and the time when the right to redeem will expire, and the terms upon which the same may be redeemed ; and the collector or receiver of said taxes shall record in his proceedings upon such sales, and all sales made and certificates granted by him, and all redemptions of property sold by him.

513. SEC. 3. That within two months after receiving such certificate of sale it shall be the duty of the person or persons receiving the same, to serve upon the owner or owners of such property so by him, her or them bought, a notice or notices informing the said owner or owners of the time when, by whom, and for what term the said property has been bought, and when and at what expense the same may be redeemed, as provided in the next following section, which notice or notices may be served personally on said owner or owners if resident within said borough or town, or by leaving the same at the place of abode of such owner or owners, or if not resident as aforesaid, then by mailing the same, postage prepaid, to the post-office address of such owner or owners, if the same, upon due inquiry, can be ascertained ; if the owner or owners be unknown, or his, her or their address or addresses cannot be ascertained, then such notice or notices shall be served upon the principal occupant of such property if the same be occupied ; and the person or persons receiving any such certificate of

Notice of sale of land, requisites of.

How published.

Sale, how made.

Proviso.

Certificate of sale to be delivered.

Notices to be served by person or persons receiving certificate of sale.

sale shall file in the office of the collector or receiver of taxes an affidavit of service as herein required, or why the same could not be made, which affidavit shall be so filed before the holder of any such certificate of sale shall receive a deed for the property for which the certificate of sale was issued.

Certificate of sale to be presumptive evidence of facts therein stated, to be recorded, &c.

514. SEC. 4. That every certificate of sale shall be presumptive evidence of the facts stated therein and shall be recorded in the office of the clerk of the corporation in proper books kept for that purpose, and shall constitute a lien upon the lots or subdivisions of lots or premises therein described after the same shall have been so recorded, and no assignment of any certificate given on the sale of lands and real estate for any taxes shall have any effect until the same shall be recorded as aforesaid in the office of the clerk of the corporation; a declaration of sale shall not be executed and delivered until the certificate has been canceled and filed with the clerk of the corporation, unless the loss or destruction thereof be established by affidavit to the satisfaction of the common council.

Certificate of sale assignable by borough or town.

515. SEC. 5. That if the corporation become the purchaser of any lot or subdivision of a lot upon any such sale, the certificate of sale shall be assignable, and all the provisions of this act in relation to such sale shall apply to the borough or town as to any other purchaser.

Six months' notice in writing to be given mortgagee.

516. SEC. 6. That no mortgagee or mortgagees whose mortgage shall have been duly recorded before sale for any tax, shall be divested of his, her or their rights in such property, unless six months' notice in writing of such sale shall have been given him, her or them by the purchaser or purchasers, or by any person or persons claiming under him, her or them, personally, if a resident of such borough or town, and if not such a resident, then upon the owner or owners of the premises, if he, she or they be resident in such borough or town, and by depositing such notice in the post-office of said borough or town, directed to the said mortgagee or mortgagees, at his, her or their place or places of residence, as stated in the mortgage or assignment thereof; but nothing herein contained shall be so construed as to impair the lien created by such sale within a month after the service of such notice; it shall be the duty of the persons serving or causing the same to be served to file in the office of the corporation clerk a copy of the notice served, together with the affidavit of some person who shall be certified by the officer before whom such affidavit shall be taken, to be a credible person, proving the due service of said notice.

Lien not impaired.

Time within which land may be redeemed.

517. SEC. 7. That the owner or mortgagee, occupant, or any person or persons having a legal or equitable interest in any land or real estate sold for taxes as aforesaid, may redeem the same at any time within two years from the time of such sale, by paying to the borough or town treasurer, or such other officer thereof as shall exercise the functions of a treasurer, for the use of the purchaser, his heirs or assignees, the said purchase-money, together with any other tax or assessment chargeable thereon, and which the said purchaser may have paid, and any sum of money expended in any improvement made by the order of the common council (*provided*, a notice of such payment has been filed in the office of said treasurer or other officer), with interest on such purchase-money at the rate of ten per centum per annum from the time of such sale and expenditure, and on such payment or payments from the time of filing such notice as aforesaid, and the certificate of such treasurer or other officer, stating the payment and showing what property such payment is intended to redeem, shall be evidence of such redemption; upon the receipt of such moneys by said treasurer or other officer, he shall cause the same to be refunded to the purchaser, his heirs or assigns, and all proceedings in relation to said sale shall cease and determine; if the person so redeeming be a judgment creditor or mortgagee of the premises, he shall have a lien on the lot and real estate redeemed by him by virtue of this act, for the amount paid by him as aforesaid to said treasurer or other officer to effect such redemption, with the legal interest which may thereafter accrue thereon, in like manner as if the same had been included in his mortgage or judgment, and may enforce the same in the same manner.

Proviso.

Effect of redemption by mortgagee, &c.

518. SEC. 8. That if any lot or subdivision of a lot so sold shall not be redeemed as by this act provided, the common council shall execute to the purchaser, his legal representatives or assigns, at his or their expense, a declaration of sale under the common seal of the corporation, signed by the mayor and attested by the clerk of the corporation, containing a description of the premises by its mark or number on the corporation atlas, the fact of the assessment, advertisement and sale, the date of the sale and the period for which the premises were sold, which declaration shall be recorded in the office of the clerk of the county in which such borough or town is situate, and until the same shall have been so recorded, such lots and real estate may be redeemed as hereinbefore provided, notwithstanding the period of two years from the time of said sale may have expired; such declaration of sale shall be presumptive evidence in all courts and places that such sale and proceedings were regularly made and had according to the provisions of this act, and such purchaser or purchasers, and his and their legal representatives, shall, by virtue thereof, lawfully hold and enjoy such lots and real estate, with the rents, issues and profits thereof, for his and their proper use, against the owner or owners thereof, and all persons claiming under him or them, until the term for which the purchaser or purchasers may have agreed to take the same shall be completed and ended, and, at the expiration of said term, shall be at liberty to remove all the buildings or materials which he or they shall have erected or placed thereon, and shall peaceably and quietly yield up such lots and real estate to the lawful owner or owners thereof, in as good order and condition as they were at the beginning of said term, natural wear and tear and damages by the elements excepted, and shall pay all taxes to be paid which shall be legally assessed thereon during said term; *provided*, that whenever satisfactory evidence shall be produced to the common council that any lot so sold belongs to an idiot, lunatic or infant, for whose estate no guardian shall have been appointed, they shall direct the mayor and the clerk of the corporation to postpone the execution of a declaration of sale of such lot until at least four months after they shall have evidence that such disability has been removed, or guardian or trustee of said estate appointed; and until the expiration of said four months, such guardian or trustee, or person whose disability has been removed, may redeem such real estate as hereinbefore provided.

If land is not redeemed, common council to execute declaration of sale.

Declaration of sale to be evidence.

Purchaser may remove buildings, &c., at expiration of term.

Proviso.

519. SEC. 9. That it shall be the duty of the corporation clerk to record, in proper books kept for that purpose, all certificates of sale and assignments thereof, to give certificates of search in relation thereto to any person or persons applying for the same, and to cancel such certificates of sale and assignments thereof so recorded when the lots and real estate for which they were given shall be redeemed on certificates of the treasurer, or other officer exercising the functions of treasurer, of such redemption, and to file such certificates in his office; it shall be the duty of the treasurer, or other officer exercising the functions of a treasurer, to make out two receipts for all property redeemed, one for the person redeeming and one to be filed in the office of the clerk of the corporation.

Certificates of sale to be recorded by corporation clerk

520. SEC. 10. That the commissioners of appeal in cases of taxation shall meet at such time and place and upon such notice as the common council shall direct and appoint, and when so met shall have power and authority to hear and determine all complaints of unjust taxation, whether the same be assessed for state, county or borough or town purposes, in the same manner as the like officers of the townships of this state are authorized and required to do; *provided*, that the said commissioners of appeal shall not have power to increase or diminish the valuation which may have been set upon any lot or subdivision of a lot within the limits of said corporation by the appraisers appointed for that purpose by said corporation; the said commissioners shall organize as a board by choosing a chairman from among their number and a secretary, and all their transactions shall be faithfully entered in a book of minutes to be kept by the secretary, and immediately after the adjournment of said commissioners they shall cause the said record of their proceedings, signed by the chairman and secretary, to be deposited with the collector or receiver of taxes.

Common council to fix time and place of meeting of commissioners of appeal.

Proviso.

Liens for taxes now due confirmed.

521. SEC. 11. That any tax now due on any lands and real estate, and any of said boroughs or towns may be collected under this act and in the manner prescribed herein, and all liens for taxes on real estate and lands which any of said corporations may now hold by virtue of their respective charters are hereby confirmed for the purposes of this act; *provided*, that nothing in this act shall be construed to change the charter of any borough or town of this state which provides any mode for the collection of taxes other than that prescribed by an act entitled "An act to make taxes a lien on real estate, and to authorize sales for the payment of the same," approved March seventeenth, eighteen hundred and fifty-four.

Proviso.

Repealer.

522. SEC. 12. That all acts and parts of acts in conflict with this act be and they are hereby repealed.

An act to provide for the election of assessors and collectors in towns and villages.

P. L. 1878, p. 247.

Election of assessors and collectors in towns and villages set off from any township.

Approved April 2, 1878.

523. SEC. 1. That in cases where any town or village has, by act of the legislature, been or shall be set off from any township, and in the act setting off the same, or in the act incorporating such town or village, there is no provision for the election or appointment of assessor and collector to assess and collect the taxes of such town or village, in such case there shall be elected in and for said town or village, at the next annual election after the passage of the act setting off the same, an assessor and a collector of taxes, who shall assess and collect the state and county and other taxes required to be assessed in said town or village, in the same manner, within the same time and under the same penalties as township taxes are required by law to be assessed and collected. (a)

An act to define and regulate the fees, costs and expenses of receivers of arrears of taxes of townships, where the same are fixed by special acts and where the said receivers are elected by township committees.

P. L. 1878, p. 250.

Fees of receiver of arrears of taxes in certain townships.

Approved April 2, 1878.

524. SEC. 1. That in any township or townships in the state where a receiver of arrears of taxes is elected by the town committee, and where the said receiver's fees, costs, expenses, powers and duties are regulated by special act, such receiver shall receive and collect for his costs, fees and expenses the following amounts and no more: for executing any warrant, the sum of one dollar for each delinquent taxpayer; and for advertising any sale under said warrant, the sum of one dollar for each description of any lot of land and premises; and for each deed actually delivered, the sum of one dollar; and for the acknowledgment of each deed, the sum of fifty cents.

An act in relation to school taxes in townships of this state.

P. L. 1878, p. 264.

Poll tax for school purposes not to exceed \$1.

Approved April 3, 1878.

525. SEC. 1. That from and after the passage of this act all poll taxes directed to be raised for school purposes in any township of this state shall not exceed one dollar, and shall be applied to the school districts where such tax is collected. [See Secs. 137 and 185, *ante*.]

Repealer.

526. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act in relation to cities.

P. L. 1878, p. 328.

Certain cities may increase rate of taxation from one to one and one-half per cent.

Approved April 5, 1878.

527. SEC. 1. That in all cities of this state of less than one hundred thousand and more than fifteen thousand inhabitants, by the last state census, whose charters prescribe that the rate of taxation for municipal purposes shall not exceed one hundred cents on one hundred dollars, the

(a) See *Banta v. Richards*, 13 Vr. 493.

common council or other municipal body shall have the power, by ordinance, duly passed and approved by the mayor, to direct and require a rate of taxation for said municipal purposes equal to and not exceeding one and one-half per centum.

An act for the government of cities.

Approved February 4, 1879. P. L. 1879, p. 18.

528. SEC. 1. That in all cities having, by the ninth census, a population not less than twenty thousand nor more than twenty-five thousand inhabitants, and having a board of assessors of taxation, whose elections occur within the time required by the charters of said cities for assessments of taxes to be made, the terms of office of said members of the board of assessors shall hereafter commence on the first day of January succeeding their election and continue during the terms prescribed in said charters; *provided*, that all members of the board of assessors in said cities now in office shall continue in office until their successors are qualified.

Term of assessors in certain cities of 20,000 to 25,000 inhabitants.

Proviso.

529. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

An act respecting taxes.

Approved February 26, 1879. P. L. 1879, p. 54.

530. SEC. 1. [Amended by Sec. 531, *post.*]

Supplement.

Approved March 2, 1888. P. L. 1888, p. 52.

531. SEC. 1. That section one of "An act respecting taxes," which was approved February twenty-sixth, one thousand eight hundred and seventy-nine, be so amended as to read as follows, to wit :

[That the taxes assessed on entailed property, or property held in trust, or for life, shall be paid out of income from such property, or by the person or persons having the present beneficial interest therein; and the person or persons whose duty it may be to pay such income may pay said taxes, and the amount thus paid may be deducted from the income on presenting to the party receiving the income the collector's receipt for the said taxes; but in case the taxes so assessed shall be on real estate, and the person or persons holding said real estate in trust, or having a beneficial interest therein, shall fail to pay the taxes, the taxes assessed or laid thereon shall be a lien on said real estate.] (a)

Taxes on property entailed or held in trust to be paid out of income or by person having beneficial interest.

An act to authorize the purchase of goods and chattels at sale for delinquent taxes.

Approved March 12, 1879. P. L. 1879, p. 123.

532. SEC. 1. That at the sale of goods and chattels of delinquent taxpayers for the non-payment of taxes, if there shall be no purchaser or purchasers of the said goods and chattels so exposed for sale, then it shall be lawful for any officer of any city or township attending the sale so made, to purchase the same for the benefit of said city or township.

City or township authorized to purchase goods and chattels at tax sale.

An act to prohibit imprisonment for default in payment of taxes on real estate.

Approved March 14, 1879. P. L. 1879, p. 237.

WHEREAS, It has been held by the court of errors and appeals that taxes duly assessed for and on account of real property are not necessarily first liens thereon, but are to be deferred to mortgages which have been made

Preamble.

(a) The act to which the above is a supplement, approved February 26th, 1879, was not required to take effect immediately. Consequently, pursuant to the general act relative to statutes, it went into effect July 4th, 1879, and not before, and did not operate upon assessments for that year, which, under the general act concerning taxes, were required to be made as of May 20th. *Bachey v. State*, 14 V. 414. The act affects three classes of property, *viz.*, entailed property, property held in trust and property held for life. It is not applicable to the interest of an annuitant holding a mortgage merely as security for an annuity,

and having no property in the fund. *Id.* A statute directing that taxes assessed upon property held in trust or for life should be assessed in the name of the person entitled to the beneficial interest or income thereof, does not authorize an assessment against "the chancellor in trust," in respect to a mortgage given to the chancellor, the interest whereon is payable for life to one who is still living, and the principal thereof, after her death, payable to the chancellor. *Ming's Case*, 12 Stew. 1. See *Coxe's Case*, 9 Stew. 448.

upon such property previously to the assessment of such taxes thereon; *and whereas*, the equity of redemption or legal title to real property to a very large extent is vested in persons who, by reason of the depreciation in value of such property, or other misfortunes, are unable to pay the taxes thereon; *and whereas*, constables and other officers charged with the collection of taxes, finding it impossible to collect the same from owners who cannot pay, and from mortgagees who will not pay, may obtain warrants for the imprisonment of the bodies of such owners so delinquent, under and by virtue of section eighteen of an act concerning taxes (Revision of Statutes of New Jersey, page 1142), to the great hardship, suffering and disgrace of such owners and their families, and to the discredit of this state; therefore,

Arrest and imprisonment for non-payment of taxes on real estate abolished.

533. SEC. 1. That hereafter no warrant shall be issued by any justice of the peace or other officer of this state, to any constable or other officer, directing or authorizing the arrest or imprisonment of any person for or on account of any default or delinquency in the payment of taxes on real estate; but nothing in this act shall be construed to affect or in anywise to abridge or impair any provision other than arrest and imprisonment for the collection of taxes.

An act to regulate the taxing and assessing of lands heretofore sold, or which may hereafter be sold in any city, incorporated town or township of this state for non-payment of taxes, assessments or water rents, and which lands may have been or may hereafter be purchased by said city, town or township, or by any person in its behalf.

P. L. 1879, p. 298.

Approved March 14, 1879.

Taxes, assessments and water rents to be continued upon lands or real estate sold to city, &c., for non-payment of taxes, &c.

534. SEC. 1. That in any city, incorporated town or township of this state in which lands or real estate have been heretofore sold or shall be hereafter sold for non-payment of taxes, assessments or water rents, and purchased by such city, town or township, or by any person in its behalf, subject to the right of redemption provided for by law, the taxes, assessments and water rents shall continue to be assessed upon said lands or real estate in the hands of such city, town or township, or the person holding in its behalf; but it shall not be necessary to advertise said lands for sale for non-payment of any such tax, assessment or water rent now laid or hereafter to be laid, or to sell said lands or real estate therefor, and said taxes, assessments and water rents, with interest at ten per centum per annum, unless such interest shall be fixed by such city at a rate not less than six nor more than ten per centum, shall be and remain a first lien upon said lands or real estate, and shall be paid to such city before said lands or real estate can be redeemed. (a)

Cities, &c., may sell lands bought for taxes, &c., subject to right of redemption.

535. SEC. 2. That any such city, town or township shall have power to sell said lands or real estate, and to direct the transfer of the declaration of sale now authorized by law to be issued, subject to the right of redemption provided for by law, to any person paying the amount of the taxes, assessments or water rents for which said lands or real estate may have been sold, and the subsequent taxes, assessments or water rents assessed and made a lien, pursuant to the provisions of this act, and after the expiration of the time for redemption and the giving of the notices required by law to be given to any mortgagee or other person, such sale or transfer shall vest in such purchaser all the estate which such city, town or township, or the person holding in its behalf, may have in said lands or real estate.

Fees not allowed.

536. SEC. 3. That no fees shall be allowed to or paid to any official for any services connected with the assessing or collecting of any such tax, assessment or water rent.

(a) See *In re Commissioners of Elizabeth*, 20 Vr. 501. *Skinner v. Christie*, 7 Dick. 731.

An act relative to the time of appointing tax assessors in cities.

Approved March 14, 1879. P. L. 1879, p. 315.

WHEREAS, In cities whose charters provide for the appointment of a tax assessor after the charter elections occurring in the spring great inconvenience arises from want of time to prepare suitable lists of ratables to present to the county board of assessors, which meets in the month of June ; therefore,

Preamble.

537. SEC. 1. That in all cities of this state having between five and six thousand inhabitants by the last state census, and whose charters prescribe that a tax assessor shall be appointed by the municipal authorities thereof, said authorities may appoint such tax assessor during the months of February or March in the year of the passage of this act and during said months in every second year thereafter, who shall hold his office for the term of one year from the first day of April of the year during which said appointment is made, such office to be held subject to the provisions of the respective charters of said cities, except as herein provided.

Appointment of tax assessor in cities of 5,000 to 6,000 inhabitants.

538. SEC. 2. That should the powers granted under this act be exercised by the authorities of any city, as above stated, then and in that case all acts or parts of acts, and all and any provision contained in the charter or the supplements thereto of any such city, so far as they relate to said city, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

An act entitled "An act concerning taxes and assessments and arrears of taxes and assessments in towns and townships."

Approved February 19, 1880. P. L. 1880, p. 40.

539. SEC. 1. That it shall be lawful for the town council or township committee of any town or township in this state to authorize and direct the collector or receiver of taxes, or other proper officer or officers of such town or township, to receive and collect upon all taxes and assessments remaining due and unpaid in whole or in part, at the date of the passage of this act, interest at such rate, not exceeding twelve per centum nor less than seven per centum per annum, as shall be determined by said town council or township committee, from the time when such taxes or assessments became by law due and payable.

Town council or committee may authorize collector or receiver of taxes to receive and collect interest on taxes and assessments now remaining due.

540. SEC. 2. That in cases of sales of lands heretofore made for arrears of taxes or assessments in any town or township in this state, where such town or township has become the purchaser, it shall be lawful for the town council or township committee to authorize and direct the treasurer or other proper officer of such town or township to cancel and surrender any certificate of sale held by such town or township, upon the payment to him of the amount of tax or assessment, for or on account of which such sale was made, with interest from the time when such tax or assessment became by law due and payable, at such rate not exceeding twelve per centum nor less than seven per centum per annum, as shall be determined by such town council or township committee, and the costs and expense of selling such land ; *provided, however,* that the provisions of this act shall not apply to cases where such certificate of sale shall be held by any person or persons other than such town or township.

Town council or committee may authorize proper officer to cancel and surrender certificates of sale upon payment of taxes or assessments, &c.

541. SEC. 3. That it shall be lawful for the town council or township committee of any town or township to authorize and direct the collector or receiver of taxes, or other proper officer or officers of such township, to receive and collect upon all taxes and assessments which may hereafter be levied, assessed or imposed by such town or township, and which may remain wholly or partly due at or after the expiration of the time limited by law for the payment thereof, such rate of interest not exceeding twelve per centum nor less than seven per centum per annum as shall be determined by such town council or township committee.

Proviso.

Council or committee may authorize collector or receiver of taxes to collect interest on unpaid taxes and assessments hereafter levied.

542. SEC. 4. That the town council or township committee may, by a general order or resolution, determine what rate of interest, not exceeding twelve per centum nor less than seven per centum per annum, shall be

Rate of interest to be determined by resolution.

charged and collected in the cases set forth in the preceding sections of this act.

Repealer.

543. SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

An act concerning commissioners of appeal.

P. L. 1881, p. 159.

Approved March 22, 1881.

In cities, time of meeting of commissioners of appeal may be changed by ordinance.

544. SEC. 1. That in any incorporated city of this state where the time for the annual meeting of the commissioners of appeal in cases of taxation is now provided for by charter, the city council of such city shall have power to change, by ordinance, the time of meeting of said board to such date as they may deem proper.

An act in relation to the arrears of taxes in cities.

P. L. 1881, p. 161.

Approved March 22, 1881.

In cities, taxes unpaid for one year may be paid in municipal bonds issued in anticipation of taxes. Proviso.

545. SEC. 1. That when in any of the cities of this state taxes shall remain unpaid for the period of one year after the same shall become due and payable, said taxes may be paid in any of the municipal bonds of said city which may have been issued in anticipation of taxes; *provided*, that the bonds issued by any city in anticipation of the collection of the amount of unpaid taxes, for which the city had purchased real estate at the sale for said unpaid taxes, shall only be received by any city in lieu of money payments for the taxes so purchased by any city, and in anticipation of which said bonds had been issued. (a)

Bonds to be received at par.

546. SEC. 2. That such bonds shall be received by said city in lieu of money payments for said taxes at the par or face value, with the interest accrued thereon.

A general act respecting taxes, assessments and water rates.

P. L. 1881, p. 194.

Approved March 23, 1881.

No tax, assessment or water rate shall be set aside in any court for irregularity or defect in form, &c.

547. SEC. 1. That no tax, assessment or water rate, imposed or levied in this state, shall be set aside or reversed in any court of law or equity in any action, suit or proceeding for any irregularity or defect in form, or illegality in assessing, laying or levying any such tax, assessment or rate, or in the proceeding for collecting the same, if the person against whom, or the property upon which such tax, assessment or rate is assessed or laid is, in fact, liable to taxation, or assessment or imposition of such water rate, in respect of the purposes for which such tax, assessment or rate is levied, assessed or laid; and the court in which any action, suit or proceeding is or shall be pending to review any such tax, assessment or water rate is required to amend all irregularities, or errors, or defects, and is empowered, if need be, to ascertain and determine for what sum such person or property was legally liable to taxation, or assessment, or water rate, and by order or decree to fix the amount thereof; and the sum so fixed shall be the amount of tax, assessment or water rate for which such person or property shall be liable, and the same shall be and remain a first lien or charge upon the property and persons, and collectible in the manner provided by law, the same as if such tax, assessment or water rate had been legally levied, assessed or imposed in the first instance by the city, town, township, commission, board or other authority attempting to make, impose or levy the same; it shall be the duty of the court to make a proper levy, imposition or assessment in all cases in which there may lawfully be an assessment, imposition or levy; and such court is hereby given full and ample authority to make a lawful levy, assessment or imposition. (b)

Court required to amend irregularities, &c.

Assessments to remain a lien, and how collected.

(a) See *Sheridan v. City of Rahway*, 15 Vr. 587.
(b) This act should be liberally construed. It was designed to correct the evils arising from the frequent evasions of taxation by means of errors and omissions in the form and manner of assessment. Its provisions apply to taxes assessed before the act was passed. *State v. Montclair and Greenwood Lake E. R. Co.*, 14 Vr. 524. Where the objection was made that the land of W. H. was assessed for taxes in the name of F. B., it was held that if such assessment were irregular and defective, it would be the duty of the court to amend it under the above act. *Clark*

v. Mulford, 14 Vr. 550; affirmed, 15 Vr. 439. *Morgan v. Elizabeth*, 15 Vr. 571. Where the state and county taxes of Plainfield were assessed, by mistake, under the general tax act instead of the city charter, which latter act provides for an assessment, for the meeting of the commissioners of appeal, and for the return of delinquents, at a different time from that mentioned in the general act, it was held that inasmuch as it appeared that the property of the prosecutor was assessed for no more than it would have been under the city charter, and that he had notice of the meeting of the commissioners of appeal, the irregularities

548. SEC. 2. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately. Repealer.

An act exempting firemen from taxation.

Approved March 24, 1881. P. L. 1881, p. 217.

549. SEC. 1. [Amended by Secs. 551 and 554, *post.*]

550. SEC. 2. [Amended by Sec. 552, *post.*]

Supplement.

Approved March 9, 1882. P. L. 1882, p. 74.

551. SEC. 1. [This section amends Sec. 549, *ante*, which is again amended by Sec. 554, *post.*]

552. SEC. 2. That section two of the act to which this is a supplement be amended to read as follows :

[That each fire department that is now organized, or that is hereafter organized, shall cause to be established a fire district, the territorial boundaries of which shall be specified in a detailed description defining the aforesaid boundary line ; *provided*, that where fire departments are within three (3) miles of each other, they shall each appoint two (2) commissioners, the said commissioners to appoint a day of meeting, and at said meeting they shall determine on a boundary line between the aforesaid fire departments ; the decision of said commission shall be final and conclusive ; the expenses of aforesaid commissioners to be defrayed by their respective fire departments, and the aforesaid fire department shall forthwith file the aforesaid description of the boundary lines of their fire district with the clerk of each town, township, city or borough in which the aforesaid boundary lines shall exist, and on or before the first day of June of each year hereafter following the passage of this act, the aforesaid fire department shall also file with the aforesaid clerk a list of the names of the members of aforesaid fire department residents of aforesaid fire district ; *and provided*, if the aforesaid boundary line of aforesaid fire district shall extend beyond the jurisdiction of the town, city, township or borough where the aforesaid fire department is incorporated, such member or members residing within the limits of said fire district, and assessed therein, shall be entitled to receive all the rights, privileges and benefits, heretofore mentioned, from the town, township, city or borough in which they shall reside and are assessed ; *and provided further*, that no part or parts of this act shall be so construed as to impair or in any wise affect the rights of any member of a volunteer fire department of receiving the full amount of

Fire departments to establish fire districts and file descriptions.

Proviso.

Proviso.

Proviso.

were cured by the above act. *Hetfield v. Plainfield*, 17 Vr. 119. The effect of the act is to destroy, root and branch, the power to defeat a tax assessed except upon a meritorious ground. If the person or property be not taxable, the processes of appeal and *certiorari* retain their usual efficacy, but, touching forms and irregularities of procedure, they have been stripped of all force whatever. *Conover v. Honce*, 17 Vr. 348. *Pfeiffer v. Miles*, 19 Vr. 450. Where the lands assessed are imperfectly described in an assessor's duplicate, the court will order the description of the lands intended to be assessed to be so amended as to describe them by their name or location. *Newcomb v. Franklin Township*, 17 Vr. 440. The act is not applicable to proceedings for assessment for a public improvement taken under an unconstitutional law. Such proceedings cannot be rendered valid by act of the legislature. The levying of a special assessment is a judicial act, and unless the body performing it has acquired jurisdiction, its action is and must remain void. *Peckham v. Newark*, 14 Vr. 576. The court of errors, however, has held that where an assessment for street improvements had been laid under a void act, and the same was brought before the supreme court by *certiorari*, and at that time an act had been passed whereby an assessment could be made for such improvement, after setting aside the original assessment, it was incumbent on the supreme court to have a proper assessment made. *Elizabeth v. Meeker*, 16 Vr. 151. *De Witt v. City of Elizabeth*, 27 Vr. 119. See, also, *Sandford v. Kearny*, 19 Vr. 125. Where a sale of land for taxes took place after the expiration of the time limited by law for the continuance of the lien, the court of chancery, on a bill to quiet title, cannot, under the above act, ascertain and determine for what sum the land was legally liable to taxation in the year for which the tax was assessed, and fix the amount. *Field v. West Orange*, 12 Stew. 61. According to this act taxes illegally assessed will not be set aside on *certiorari*, unless it appears that the prosecutor was not subject to taxation in the place where the taxes were levied, or that the taxes exceed the sum for which he was legally liable for taxation. *Stauders v. Morris*, 19 Vr. 89. If an assessor

appraises real estate at its true value and from the value of the personal estate of each person deducts \$500 and appraises the residue at one-third of its value, and on the appraisal so made computes each one's tax, the court will ascertain what would have been a lawful appraisal and correct the levy accordingly. *Childs v. Howland*, 19 Vr. 425. This act does not give the court original power to tax or assess, but only to apply the provisions of existing valid laws to the case before the court. *Reynolds v. Patterson*, 20 Vr. 380. There must be a strict compliance with the direction of a statute requiring notices of sale of land for taxes, and defects in such notices cannot be remedied under this act. *Jones v. Landis Township*, 21 Vr. 374. This act authorizes the apportionment of a tax, setting aside so much as is illegal and affirming that part for which the person or property is legally liable to taxation. *Printing Co. v. Assessors*, 22 Vr. 75. In matter of assessment ordered by this court, upon the coming in of the report, a party affected thereby may be heard on motion as to all matters touching the conduct of the commissioners in the premises. *Sandford v. Kearny Township*, 22 Vr. 473. Where a report is presented by commissioners duly appointed by an order of this court defining their duties and made upon notice, a party cannot, by objecting to the filing of the report, raise any of the questions involved in the making of the original order. *Ib.* If property is not correctly described as real estate in the assessment, that will be amended by the court under this act. *Pipe Line Co. v. Berry*, 23 Vr. 312. The court may direct an assessment to be changed to the proper taxing district where a tax is due, but the tax was erroneously assessed in the wrong place. *Angle v. Lantz*, 24 Vr. 578. The act does not apply to a sale of lands for the enforcement of a tax, and therefore the court may decree such sale illegal, but as the tax itself was lawful, such decree will only be made on terms that the landowner pay the amount of the tax with interest fixed by statute. *Baldwin v. Elizabeth*, 15 Stew. 11. See *Taylor v. Smith*, 21 Vr. 101. *McCartier v. Newark*, 23 Vr. 341. *Provident Institution v. Jersey City*, 23 Vr. 490. *Wilson v. Trenton*, 24 Vr. 651. *Lumberville Bridge Co. v. Assessors*, 26 Vr. 689.

aforesaid exemption, they having complied with all the provisions of this aforesaid act, the certificate of the president, or, in the absence or inability of the president, of the vice president, countersigned by the secretary of the fire department of which the aforesaid member is a contributing member thereof, shall be a sufficient voucher and authority for the assessor or collector of any town, township, city or borough to deduct the sum of five dollars from the aforesaid assessment, as heretofore mentioned in section one (1) of this act; *and provided further*, that the aforesaid certificate shall be received by the aforesaid collector of taxes, when presented to him, as taxes paid by any of the aforesaid members, as hereinbefore provided for.]

Proviso.

Repealer.

553. SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Approved March 22, 1883.

P. L. 1883, p. 133.

554. SEC. 1. That the first section of the act to which this is amendatory [see Secs. 549 and 551, *ante*] be and the same is hereby amended so as to read as follows:

Active members
of volunteer fire
department
exempt from
taxation in the
sum of \$5.

[That all active members of any organized volunteer fire department of any town, city, borough or township of this state, under the control of any town committee, common council, or municipal corporation, which is now or may hereafter be established, shall be exempt from the payment of any taxes to said town, township, city and borough, to the extent and in the manner following, to wit: if the sum at any one time assessed by any assessor upon any active member of said fire department shall not exceed the sum of five dollars, then such member shall be exempt from the payment of taxes upon such assessment; if the sum at any time exceeds the sum of five dollars assessed against such member, then such member shall have credit for the sum of five dollars on the amount assessed against such member, and the amount over and above said five dollars shall be paid by said member, or collected in the same way and manner as directed for the collection of taxes.]

An act relative to sales of lands for delinquent taxes, made in townships of this state.

Approved March 25, 1881.

P. L. 1881, p. 237.

Sales of lands in
townships not
to be set aside
for insufficient
description in
duplicate, &c.

555. SEC. 1. That when any sale of lands for delinquent taxes has been made prior to the year eighteen hundred and eighty, or shall hereafter be made in any township of this state, by any township committee or township officer, under the provisions of any general or special law of this state, such sale, with the proceedings founded thereon, shall not be vacated or set aside by any court of this state, in any suit hereafter brought for the review of such sale or proceedings, on account of any insufficiency of the description of said lands assessed in the assessor's duplicate, or failure of the township clerk to record in the township book of minutes all the proceedings relative to such sales, but such sales, notwithstanding such defects, shall be deemed valid; *provided*, it can be shown by other legal evidence that the lands so sold for taxes were the lands intended to be assessed, and that the sale thereof was made in compliance with the provisions of the law, and it is hereby made and provided that it shall be lawful in all cases to offer such evidence. (a)

Proviso.

Sales to township
not to be set
aside for defects
in proceedings
except on pay-
ment of tax.

556. SEC. 2. That when any such sale has been made to the inhabitants of any township of this state, under the provisions of any general or special law, such sale, and the proceedings thereon, if the assessment itself is valid, shall not be vacated or set aside in any suit hereafter brought in any court of this state, for any of the aforementioned defects, except on conditions that the amount of the tax assessed, with all arrears of interest, be paid or tendered by the party prosecuting such suit, to the treasurer of

(a) The failure of the township committee to cause a copy of the collector's return of delinquents to be recorded in the township clerk's office, is cured by the provisions of the above act. *Eddy v. Woodbridge*, 17 Vr. 109.

the township committee of such township, within such time as the court shall direct, and on failure of the party to make such payment within the time limited, the said sale and proceedings shall be confirmed, with costs.

An act to provide for raising by tax moneys to supply actual deficiencies created by embezzlements and fraudulent misapplication of public funds.

Approved March 9, 1882.

P. L. 1882, p. 79.

557. SEC. 1. That it shall be lawful for and it is hereby made the duty of the governing or legislative body of any municipality in the state, whose moneys have been embezzled by and fraudulently misapplied to the private use of any officer thereof or other person, whereby the payment of its debts, as they mature, may be delayed or prevented unless measures are adopted to supply any actual deficiency created thereby, to provide by proper legislation for raising by tax a sum of money, not exceeding fifty thousand dollars in each year, until the full amount of such actual deficiency, created by said embezzlements or fraudulent misapplications, has been provided for ; and the moneys collected under this act shall be applied only for the purpose for which they are raised as aforesaid ; and where temporary or other bonds have been heretofore issued to raise the moneys so fraudulently abstracted, said bonds may be renewed from time to time as may be necessary, and redeemed and canceled as funds are collected hereunder sufficient for that purpose.

Deficiencies created by embezzlements to be raised by tax.

Moneys collected, how applied.

558. SEC. 2. That this act shall apply to all municipalities to which its provisions are applicable, notwithstanding any provision contained in the charter or law under which they may be governed, limiting the percentage on the valuation of the assessable property therein, for which money may be raised by tax.

Act applicable to all municipalities.

559. SEC. 3. That all acts and parts of acts inconsistent herewith are hereby repealed, and this act shall go into effect immediately.

Repealer.

A further act concerning cities.

Approved March 17, 1882

P. L. 1882, p. 126.

560. SEC. 1. That the common council of any city may fix by ordinance the times and dates within which taxes required by law to be raised in such city, whether state, county, municipal or other taxes, shall be assessed, as well as the times and dates when the same shall become due and within which the same shall be collected, the date of the session of the commissioners of appeal, and the date on which the collector of taxes in said city shall make return of the names of the delinquents in the payment of such taxes, in order to the issue of warrants for the collection of taxes due from such delinquents respectively ; and whenever the common council of any city shall so fix such times, dates and periods as aforesaid, all provisions of law affecting such city, so far as they fix such dates, times and periods otherwise, shall be suspended and of no effect so far as concerns such city, during the continuance of such ordinance unrepealed ; *provided*, that nothing herein contained shall be construed to authorize the fixing of any date, time or period as aforesaid, later than the several corresponding dates, times or periods for the assessment, time of falling due, collection, session of the commissioners of appeal and return of delinquents, which are or shall at any time be fixed by the general law in respect of townships.

Common council in cities authorized to fix by ordinance times and dates when taxes shall be assessed, collected, &c.

Proviso.

561. SEC. 2. That every city shall have full power, through its appropriate officers, to assess and collect its full quotas of state, state school and county taxes, and that said taxes shall, in each city, be assessed and collected by the same officers and in the same manner as municipal taxes in such city are or shall be by law directed or authorized to be assessed and collected, respectively, and the names of delinquents in the payment of such taxes shall also, so far as said taxes shall remain unpaid, be returned, with the sums due from such delinquents, respectively, in the same manner and to the same magistrate, as the names of delinquents in the payment of

By whom state and county taxes shall be assessed and collected, &c.

municipal taxes in such city are by law required to be returned ; every assessor and collector who is by law charged with any duty in respect to the assessment or collection of municipal taxes in any city, is hereby empowered and directed to perform the like duties, in respect to the assessment and collection, respectively, of such city's quotas of state, state school and county taxes, and the common council of such city is hereby empowered and directed to exercise the like authority, supervision and control over and in respect to the assessment, collection and enforcement of such city's quotas of state, state school and county taxes, as well as of its taxes for municipal and other local purposes, as township committees of townships are by law empowered to exercise over and in respect to the assessment, collection and enforcement of state, state school and county taxes required to be raised in townships, and any balance of moneys remaining in the hands of the treasurer of any city, derived from the levy of state, state school or county taxes for any year, shall, after the quota of state, state school and county taxes, due from the taxes of such city for that year, and for all previous years, has been paid in full, be transferred to the general fund, and belong to and be applicable to the general municipal or other purposes of such city.

Magistrate to issue warrant for collection of unpaid taxes.

Taxes may be collected by levy and sale of personal property.

562. SEC. 3. That after the date fixed, pursuant to the provisions of this act, by the common council of any city for the return of the names of delinquents in the payment of any taxes, the magistrate to whom any such return in such city shall have been made, shall thereupon issue his warrant, and if required, shall issue from time to time successive alias and pluries warrants, for the collection of such taxes, to such officer as shall have been or shall be designated by such common council to receive the same, commanding him to collect such taxes, with the interest and costs by law chargeable thereon, by levy and sale of personal property, in like manner as justices of the peace in townships are authorized by law to issue warrants for the collection of taxes in townships, and with the like force and effect ; and such common council may at any time revoke the designation of any such officer, and designate another for the like purpose, who shall have the like powers ; and the officer to whom any such warrant shall have been issued is hereby empowered and directed to collect all taxes by such warrant commanded to be collected, whether such taxes be for state, county, municipal or other purposes, and to this end he is empowered and directed to levy upon and sell personal property of delinquents so far as may be necessary to collect the amounts due from them respectively for such taxes, with the interest and costs by law chargeable thereon, in like manner as is required or authorized by law in respect to or upon similar warrants issued in townships.

Return of names of delinquents to be made by collector.

563. SEC. 4. That whenever, by reason of any ambiguity or inconsistency in or misconstruction of existing laws, or for any other reason, no legal return of the names of delinquents in the payment of any taxes now or heretofore due and payable in any city has been made, then, and in such case, at any time within six months after the passage of this act, a return of the names of delinquents in the payment of such taxes, with the sums due from them respectively, shall be made by the collector for the time being to the magistrate to whom, by the foregoing provisions of this act, returns are required to be made ; *provided*, that the common council of such city shall by resolution so direct ; and upon the receipt of such return and upon the request of such common council, such magistrate shall issue his warrant, and if required, shall issue from time to time successive alias and pluries warrants, for the collection of such taxes, to such officer as shall have been or shall be designated by such common council to receive the same, commanding him to collect such taxes, with the interest and costs by law chargeable thereon, by levy and sale of personal property, in like manner as justices of the peace in townships are authorized by law to issue warrants for the collection of taxes in townships, and with the like force and effect ; and such common council may at any time revoke the designation of any such officer, and designate another for the like purpose, who shall have the like powers ; and the officer to whom any such warrant

Proviso.

shall have been issued is hereby empowered and directed to collect all taxes by such warrant commanded to be collected, whether such taxes be for state, county, municipal or other purposes, and to this end he is empowered and directed to levy upon and sell personal property of delinquents so far as may be necessary to collect the amounts due from them respectively for such taxes, with the interest and costs by law chargeable thereon, in like manner as is required or authorized by law in respect to or upon similar warrants issued in townships. (a)

564. SEC. 5. That the powers conferred and duties imposed by law upon any officer in any city, in respect to the collection or enforcement of taxes in such city, including the power and duty of issuing warrants therefor, shall not lapse or cease to exist by reason of the expiration of his term of office, or by reason of any vacancy which may arise in his said office, but all such powers and duties shall, so far as the same shall not have been executed or performed, devolve upon his successor in office, and be executed and performed by such successor; and if at any time within six years next previous to the passage of this act the power to collect and enforce the payment of any taxes in any such city has lapsed or ceased to exist, solely through the expiration of the term of office of any such officer, then, and in every such case, the time to collect such taxes in such city shall be and hereby is extended and continued for two years next after the passage of this act, and at any time within six months after such passage a return of the names of the delinquents in the payment of such taxes, with the sums due from them, respectively, may be made, and warrants issued by and to the same officers or persons, respectively, and in like manner, and with like effect, as is provided in the last preceding section of this act with reference to the making of returns and the issue of warrants in cases of improper, illegal or inadequate returns, or in case of the absence of any returns, by reason of ambiguity or inconsistency or misconstruction of the law.

565. SEC. 6. That this act shall not take away or impair any power conferred by law upon any city, or any officer thereof, in relation to the assessment, collection or enforcement of taxes, and shall not apply to any city within whose limits state and county taxes are now assessed and collected by officers of a township or townships.

566. SEC. 7. That the term "common council," whenever used in this act, shall be construed to mean the legislative body of any city, whether called "common council" or "board of aldermen," or called or known by any other designation.

An act to enable owners of real estate to redeem their property from tax and assessment sales with greater facility when the liens are held by non-residents.

Approved March 24, 1882.

567. SEC. 1. That whenever the owner of any lands, tenements and hereditaments, lying and being in this state, which shall have been heretofore, or which shall hereafter be sold for non-payment of taxes or assessments, under the laws and ordinances of any city, borough, town or township of this state, is desirous of redeeming the same, but is prevented from doing so by the absence of the tax sale or assessment sale purchaser from this state, such owner shall mail a written notice of his readiness and desire to redeem said lands, tenements and hereditaments from the lien of said tax or assessment sale to said tax sale or assessment sale purchaser, prepaid, directed to him at the post-office nearest his residence, or the post-office at which he usually receives his letters, unless such residence or post-office be unknown and cannot be ascertained upon making diligent inquiry therefor, and at the expiration of two weeks from the mailing of said notice, in case said tax sale or assessment sale purchaser shall not have appeared and accepted the redemption money, the owner of the said lands, tenements and hereditaments shall make an affidavit that such tax sale or assessment sale purchaser is

Powers and duties of certain officers not to lapse or cease by reason of expiration of term of office.

Time in which payment may be enforced extended.

To what cities and officers act not applicable.

Construction of term "common council."

P. L. 1882, p. 175.

How property may be redeemed from tax or assessment sale where purchaser is non-resident or cannot be found.

(a) Tax warrants issued by a city judge and returned to the judge by the collector, by virtue of a resolution of the city council, is in strict conformity with this section. A new procedure

is provided for the collection of the dues of the state, and it cannot be contended that this familiar exercise of legislative action is invalid. *Hetfield v. Plainfield*, 17 Vr. 119.

out of the state or cannot, upon due inquiry, be found therein, and that said owner has mailed the notice of redemption to said purchaser in the manner in this act prescribed, or that said owner, after diligent inquiry, cannot find out the residence and post-office address of said purchaser, and that the said purchaser has failed to appear and receive the redemption money, and said owner shall file said affidavit with the treasurer of said city, borough, town or township, and thereupon it shall be lawful for the said treasurer to receive the said redemption money, with interest and penalties then due, and to take all further proceedings in reference to redemption of said lands, tenements and hereditaments that the said purchaser himself might or could do if he were present.

When redemption money paid, lands, &c., freed and discharged from lien and incumbrance.

568. SEC. 2. That immediately after the payment of said redemption money, interest and penalties then due to the treasurer of said city, borough, town or township, all further interest and penalties on said taxes or assessments shall cease forthwith, and the said lands, tenements and hereditaments shall be entirely free and discharged from the lien and incumbrance thereof.

Compensation of treasurer.

569. SEC. 3. That the treasurer of any city, borough, town or township, into whose hands such redemption money shall be paid, at any time in the manner prescribed by this act, shall have the right to retain one per cent. of said money as compensation for his trouble in taking care of said money for the owner thereof.

Repealer.

570. SEC. 4. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed.

An act exempting from taxation persons who served in the military or naval forces of the United States during the late war.

P. L. 1884, p. 28.

Exemption of soldiers.

Approved February 21, 1884.

571. SEC. 1. That any person who served in the military or naval force of the United States during the late war, and who received an honorable discharge, shall be entitled to the same exemption from taxation as now granted by law to members of the national guard of this state.

Supplement.

P. L. 1887, p. 183.

Poll tax for school purposes not to be assessed on soldiers or sailors.

Repealer.

Approved April 21, 1887.

572. SEC. 1. That hereafter a poll tax for school purposes shall not be assessed upon any person who served in the military or naval forces of the United States during the late war, and who received an honorable discharge.

573. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning the payment of taxes in cities of this state.

P. L. 1884, p. 31.

Certain cities may authorize payment of taxes by offsetting claims of taxpayers.

Proviso.

Proviso.

Proviso.

Repealer.

Passed March 4, 1884.

574. SEC. 1. That it shall be lawful for any city in this state by ordinance to authorize and regulate the payment of taxes levied in any year by offsetting claims held by taxpayers against the city for current expenses of the same year; *provided*, the bills for such current expenses shall be duly ordered paid according to law; *and provided further*, that no such offset shall be made until after the payment of the quota of state and county taxes in full; *and provided further*, that this act shall not apply to cities the financial department of which do not possess the legal power to adopt ordinances.

575. SEC. 2. That all acts and parts of acts, general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to provide for and secure the raising of revenue for the execution of the public duties of maintaining public schools, preventing the destruction of property by fire, preserving the public health, supporting the poor, maintaining police and keeping the highways and streets in a safe condition for public use within the limits of incorporated cities, towns and municipalities in cases where the local or municipal authorities or officers fail to provide for the performance of such duties.

Approved March 20, 1884. P. L. 1884, p. 84.

576. SEC. 1. That whenever, in any incorporated city, town or municipality in this state, the local authorities, boards or officers authorized by law to assess and levy the taxes enumerated and defined in section five hereof shall not be in existence and qualified to act at the time when by law assessments or valuations of taxable property may be commenced; or whenever such local authorities, boards or officers shall for any cause whatever neglect or fail to commence the assessment or valuation of property for the purpose of taxation for the space of ten days after the time fixed by law when taxes become a lien upon land in such city, town or municipality; or shall neglect or fail to levy the taxes specified in section five hereof at the time required by law, it shall be the duty of the governor, in either of the said three cases, to cause a notice to be given the mayor of such city, town or municipality, if there be any such officer, or to the president or chairman of the legislative or governing body, if there be no mayor, calling attention to the fact that the local authorities, boards or officers authorized to levy such taxes are not in existence and qualified to act as aforesaid, or that they have neglected to commence the assessment and valuation of property as aforesaid, or that they have neglected or failed as aforesaid to levy said taxes, which notice shall further state that unless proceedings be duly taken to make the assessment, valuation or levy within ten days after the giving of the notice, that the governor will appoint commissioners of taxation under this act to make the assessment and levy of taxes as herein provided; if the governor, at the expiration of said ten days, shall be satisfied that the said vacancies still exist, or that the said local authorities or boards of officers have not commenced the assessment and valuation of property for taxation, or that said taxes have not been levied at the time required by law, it shall thereupon be the duty of the governor to appoint and commission three freeholders, who shall be residents of such city, town or municipality, to be known as "commissioners of taxation," whose duty it shall be, under the authority of this act, to assess and levy the taxes specified in section five hereof, as herein provided, and to discharge all other duties required hereby. (a)

When local officers in any municipality fail to assess certain taxes, governor may appoint commissioners to assess.

577. SEC. 2. That it shall be the duty of the said commissioners to meet and organize by the election of a chairman and secretary immediately after their appointment, and proceed to assess all the property in the city, town or municipality subject to taxation at its full and fair value; they shall tabulate and arrange lists in suitable books, which shall exhibit in alphabetical order, or otherwise, the names of all persons, firms or corporations liable to be assessed to pay any tax, together with the value, enumerations and assessment of the objects subject to taxation, for which each person, firm or corporation is liable, and complete the same at a date three weeks prior to the annual meeting of the assessors of the county; and at least four weeks prior to the meeting of the assessors of the county, the said commissioners shall give notice by advertisement in at least one newspaper,

Duties of commissioners.

(a) The commissioners of taxation appointed under this act have no power to levy taxes for any purposes other than those particularly specified in the act. They are not the assessors intended by the supplement to "An act respecting executions," approved March 27th, 1878. This act is a general law and applicable to townships. *Beid v. Wiley*, 17 Vr. 478. In townships, the township committee is the legislative or governing body mentioned in the first section of the act. *Ib.* When the local authorities are charged by law with the levying of taxes for only some of the objects specified in the act, or when their failure extends to only some of these objects, the power of the commissioners of taxation will otherwise be circumscribed.

Ib. The commissioners of taxation appointed under this act have no power to levy taxes for any purposes other than those particularly specified in the act. *Thompson v. Wiley*, 17 Vr. 478. Under this act, the power of the commissioners is confined to cases where the local authorities or officers were bound by law to provide for the performance of those public duties to which the title refers, and they have failed so to do. *Allen v. Township of Bernards*, 28 Vr. 303. Where the amount to be raised for the discharge of these public duties is by law committed to the discretion of the local authorities, and they have lawfully exercised their discretion, commissioners of taxation have no power to change the amount so ordered. *Ib.*

published or generally circulating in said city, town or municipality, that the books containing said lists will be open for public inspection, examination and correction, at some suitable place therein, for two weeks, being the second and third weeks preceding the meeting of the assessors of the county, during which time the said commissioners shall consider all complaints touching such assessments and make corrections therein ; but no assessment shall be increased during said period of two weeks without a previous notice in writing of three days to the party interested ; and it shall be lawful for said commissioners to require all parties liable to taxation to render an account of their taxable property in such manner as they shall direct, and to require by summons the attendance of witnesses, and the production of books and papers, and to enforce obedience to such requirements in the manner now provided by law in such city, town or municipality.

Commissioners to attend meetings of assessors of county.

To fix rate of taxation for current year, &c.

578. SEC. 3. That the said commissioners shall attend all the meetings of the assessors of the county, and immediately after the adjournment of the annual meeting of said assessors the commissioners shall proceed to fix such a percentage upon the gross valuation of the taxable property in such municipality for the current year as will produce the amount of tax required to be raised in said year for the purposes specified in this act, which shall be declared by them to be the rate of taxation for said year, and they shall complete the said lists and deliver the same, within three weeks from the time of fixing the rate, to the officer or officers of the city, town or municipality whose duty it is to collect taxes levied therein.

Commissioners to make out tax bills, &c.

579. SEC. 4. That it shall be the duty of the commissioners to make out the bills or notices of demand of the payment of said taxes, and notices of the meeting of said commissioners, as hereinafter provided, and shall forthwith serve, or cause to be served, such bills and notices on all resident taxpayers, and mail the same to all non-resident taxpayers whose residences are known ; and the said commissioners shall meet at the time and place stated in said notice (which shall be within thirty days after the delivery of the said books to the officer or officers whose duty it is to collect taxes), and shall hear and determine, by a vote of a majority of the commissioners, appeals from said assessments by all persons who shall make it appear by affidavit to the satisfaction of the commissioners that they were absent from the municipality or disabled by sickness from appearing during the second and third weeks preceding the meeting of the assessors of the county, and the said commissioners shall meet from day to day, until all applications shall be disposed of, to hear said appeals, and shall deliver a particular statement of all taxes increased or remitted by them to the officer or officers for the collection of taxes.

Shall hear and determine appeals.

Purposes for which taxes shall be assessed.

580. SEC. 5. That the commissioners appointed in pursuance of this act shall have power to levy taxes for such sums as they shall deem expedient for the following and no other purposes :

- I. For the support of public schools and the repair of school-houses ;
- II. For protecting property within such city, town or municipality from fire ;
- III. For the protection and maintenance of the public health within such city, town or municipality ;
- IV. For the maintenance and support of the poor ;
- V. For the support and maintenance of a police force within such city, town or municipality ;
- VI. For keeping the highways and streets within the limits of such city, town or municipality in a safe condition for public use ;
- VII. For the expenses of assessing and collecting the taxes levied under this act, and in addition thereto a sum to meet deficiencies, not exceeding ten per cent. of the sums required to be raised for the above-stated purposes ;

All taxes levied in pursuance of this act shall be applied solely to the purposes for which they were levied ; and it shall be unlawful to appropriate or use, or direct or order their appropriation or use, for any other purpose or purposes whatever.

581. SEC. 6. That no tax, levied in pursuance of this act, in any one year, for all purposes, shall exceed one and one-fourth per cent. of the assessed value of the property subject to taxation in the same year.

Taxes not to exceed one and one-fourth per cent.

582. SEC. 7. That all taxes levied in pursuance of this act shall be collected and received by the appropriate officers of the municipality according to the laws in force for the collection of taxes therein, and they shall give bonds to the state of New Jersey in such sum as the governor shall direct, and with such sureties as he shall approve, for the faithful performance of their duties under this act; it shall be the duty of the officers to whom warrants for the collection of taxes shall be directed and delivered to seize and sell so much of the personal property belonging to any delinquent as may be found on the premises from which any tax is due for either real or personal property, and the tenants or other persons in possession or having the care of any lands or tenements, and their goods and chattels, shall be and they hereby are made liable for the payment of taxes which shall be imposed on the said lands under this act; and in all cases when any tenant shall owe any rent for real estate occupied or rented by him, on which any tax levied in pursuance of this act may be due, said rent shall be paid to the collector of taxes in discharge of said tax, or so much thereof as shall be necessary to satisfy the amount of tax so due; and if any such tenant or other person shall pay, or his goods and chattel shall be levied on and sold to pay, any such tax, it shall be lawful for him to deduct the sum so paid out of the rent, or to recover the same from the landlord or owner by action of debt with costs. (a)

By what officers taxes shall be collected, &c.

583. SEC. 8. That taxes levied for the purposes enumerated and defined in this act shall be valid, notwithstanding they may be assessed or levied by said commissioners prior or subsequent to the time fixed by existing laws.

Taxes levied under act valid.

584. SEC. 9. That taxes levied in pursuance of this act shall be collected, paid over, disbursed, appropriated, apportioned pro rata among the objects herein named and expended by the same officers or bodies, and in the same manner, as if they had been levied by the board of officers whose duty it was under the existing laws to have levied the same, and all taxes levied on real estate shall be a first lien thereon prior to all other incumbrances; this act shall not be construed to repeal, modify or affect the power to collect or the mode of collecting taxes, or of selling real estate for unpaid taxes, or of paying over, holding, disbursing, appropriating, apportioning and expending the same, except so far as is otherwise expressly provided herein.

How collected, paid over, &c.

Act, how construed.

585. SEC. 10. That each commissioner appointed under this act shall, before he enters upon the duties of his office, and within ten days after his appointment, take and subscribe an oath of office faithfully to discharge his duty under this act, and file the same in the office of the secretary of state, and he shall, unless sooner removed by the governor, hold office for the term of one year from the date of appointment, except in case of an appointment to fill a vacancy caused by the death, resignation or removal from the city, town or the municipality of any commissioner, and in such cases the appointment shall be for the unexpired term only, and at the expiration of one year from the time when the commissioners shall be first appointed, and annually thereafter, they shall be eligible to re-appointment, or others may be appointed in their place, as provided in the first section of this act; the governor shall have power to fill all vacancies, whether occasioned by death, resignation or removal.

Commissioners to take and subscribe oath.

Term of office.

586. SEC. 11. That whenever the governor, after the appointment of such commissioners, shall be satisfied that any such city, town or municipality, through its local and proper officers, has duly caused to be levied for the year the said taxes herein enumerated and defined, he shall revoke the commissions of the said "commissioners of taxation" for the said city, town or municipality, and shall not appoint other commissioners until the happening of one or more of the conditions specified in the first section hereof.

Governor to revoke commissions when satisfied taxes have been levied by local officers.

(a) This section of the act does not give the right to seize for taxes all goods found on the premises, but only those of the delinquent or other person in possession or having the care of

the premises. *Noyes v. Finneran*, 12 N. J. L. J. 216. The goods of a wife living with her husband, who is the tenant of the house, are not subject to seizure under this section. *Id.*

Local officers shall not for same year levy taxes for same purposes.

587. SEC. 12. That when commissioners shall be appointed and shall have levied taxes in pursuance of this act for any given year, the local officers or board of such city, town or municipality shall not for the same year levy taxes for any of the purposes for which taxes have been levied under this act.

Officers acting under the provisions of this act to be officers of the state.

588. SEC. 13. That the said commissioners and all officers, bodies or boards who shall be concerned in the collection, holding, disbursing, paying over and expending or directing the expenditure of the taxes or the proceeds of the taxes levied in pursuance of this act, shall be for all purposes of this act, and as respects said taxes and their proceeds, the officers of the state, and any official bonds given or to be given by them shall enure to the benefit of the state as well as to any person or corporation interested therein.

Compensation of commissioners.

589. SEC. 14. That the said commissioners shall be paid for their services such compensation as the governor shall determine, not exceeding six per cent. of the amount of taxes levied under this act in the same year, which compensation shall include disbursement for all clerical assistance, stationery and other necessary expenses; and the officers who shall collect the said taxes shall receive for their services the fees and salaries now allowed to them by law for similar services in the municipality, and in lieu thereof, which compensation, fees or salaries shall be levied and paid out of the taxes collected under this act.

Of collecting officers.

Repealer.

590. SEC. 15. That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Supplement.

Approved April 18, 1894.

P. L. 1891, p. 67.

No tax shall be set aside for informality or irregularity.

Or because it exceeded amount needed for special purposes, or because it differed from the amount ordered to be raised.

591. SEC. 1. That no tax heretofore levied under the act to which this is a supplement shall be set aside or holden to be null and void in any court of judicature or elsewhere, for any informality or irregularity in the levy or assessment of the same, or because such tax exceeded the amount needed for the specific objects for which the same was levied during the year in which the same was so levied, or because the amount levied differed from the amount ordered to be raised by the municipality in which the same was levied; and all such taxes and proceedings to levy and collect the same are hereby ratified and confirmed; *provided, always,* that any such tax does not exceed the percentage limited by the act to which this is a supplement, and that the property upon which the same was levied was liable to taxation in such municipality. (a)

Repealer.

592. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

An act to enforce the payment of taxes in cities of this state.

Approved April 14, 1884.

P. L. 1884, p. 162.

Tax on real estate, unpaid for one year, may be paid by any person other than the owner, which payment shall be a "tax purchase."

593. SEC. 1. That when any tax hereafter levied upon real estate shall remain in arrear and unpaid for the space of one year, it shall be lawful for the collector of taxes to receive from any person other than the owner payment of the amount of said tax, with all arrears of interest due thereon, which payment shall be called a "tax purchase;" such tax purchase shall not discharge said tax, nor the lien thereof, but the collector shall thereupon deliver to the tax purchaser a receipt for the same, and he and his assignees shall be entitled to be reimbursed the amount so paid to the city, with interest at eight per centum per annum, as hereinafter stated; any person interested in such property, or anyone in behalf of such interested person, may, at any time before the sale hereinafter provided for, discharge said tax and the lien thereof by paying the amount paid by such tax pur-

(a) This act is not intended to legalize taxes levied by a body having no authority to impose them. *Allen v. Township of Bernards*, 28 Vr. 303.

chaser, with interest at eight per centum per annum, to the city treasurer for the use of such tax purchaser and his assigns.

594. SEC. 2. That all real estate upon which any tax hereafter levied shall become and be in arrear and unpaid by the owner for the space of five years from the time when such tax became due, shall be sold as hereinafter provided ; such sale may be made at any time after the expiration of said five years, and the lien and the priority thereof given by the charters of said cities respectively, or by any law of this state, for taxes levied in said cities, shall always exist as so given, notwithstanding the changes in the time and manner of sale made by this act.

Real estate upon which tax shall be in arrear for five years, to be sold.

595. SEC. 3. That if such real estate shall, at the time of making such sale, be improved property, it shall be sold for the shortest term for which any person will agree to take the same and pay to the city all arrears of taxes levied after this act takes effect, and due at the date of said sale, with the interest thereon, and all costs, charges and expenses, and the mayor and city clerk shall execute a deed or declaration of sale for said property, under the corporate seal of said city, and deliver the same to the purchaser.

Improved property, how sold.

596. SEC. 4. That if such real estate shall be unimproved property, the smallest portion of the same which any person will take and pay all arrears of taxes levied after this act takes effect, and due at the date of such sale, and interest and costs, upon the whole property, shall be sold to such person so agreeing to take the smallest portion thereof, and a deed shall be executed by the mayor and city clerk, under the corporate seal of the city, and delivered, and it shall convey to said purchaser the portion so sold in fee-simple.

Unimproved property, how sold.

597. SEC. 5. That out of the proceeds of the sale made in either of the methods stated in this act, there shall be paid to any tax purchaser, or his assigns, the amount due to him or them upon any tax purchase of any tax for the payment of which the property has been sold.

Payment to tax purchaser.

598. SEC. 6. That all real estate shall be classed by the assessors as improved or as unimproved property ; improved property is real estate capable, at the time of assessing the tax, of producing an annual rent double the amount of the then last annual tax ; unimproved property is real estate which is not capable, at the time of assessing the tax, of producing such an annual rent ; but if the owner of any real estate shall make affidavit, and deliver the same to the assessors, that it is doubtful whether his property is capable of producing such annual rental, then the assessors shall class such property as unimproved real estate ; or if any owner shall make affidavit that he believes that his property will produce such an annual rent, then the assessors shall class the same as improved real estate ; as far as practicable, real estate shall be assessed in such lots and plots as it is designated by upon some map filed in a public office in the city or county, preference being given to an official city map ; when the property is so situated that one or more vacant lots may be assessed separately from the plot or lots upon which the principal building and its appurtenant buildings stand, such vacant lot or lots shall be so assessed separately, unless the owner shall request such vacant lots to be included with the improved property in one assessment ; no objection shall be heard or entertained to the classification of property as improved or unimproved unless the same is presented to the commissioners of appeal in cases of taxation, or to the supreme court, by certiorari, within one year from the time such tax becomes payable.

Improved and unimproved property defined.

Property, how designated in assessment.

599. SEC. 7. That in selling unimproved property for taxes, when less than the whole of any tract of land, or when less than the whole of any number of lots lying together in one tract and belonging to the same person, shall be sold, it shall be the duty of the city officer to divide the said property for the purpose of sale in such a manner as shall be least detrimental to the portion remaining unsold ; the owner shall be entitled to designate the portions to be first offered for sale and the order in which lots shall be sold ; and if, at such sale, no person shall bid off a part of such tract, or one or more of said lots, for the sum required to pay the amount due upon the whole tract, or the whole number of lots so lying

Sale of unimproved property for taxes in portions.

together, then the whole of said tract or the whole number of lots so lying together shall be offered to the highest bidder for cash ; if more than sufficient to pay the amount due be realized from such sale, the surplus shall be paid into the city treasury, subject to the order of the owner.

When there are no bidders, sale may be made to city.

600. SEC. 8. That if, in either of the cases of sale provided for by this act, there shall be no bidder, or in case of a sale of unimproved property to the highest bidder there shall be no bid of a sufficient sum to pay the amount due, then the sale may be made to the city treasurer for the use of the city, and in such case the city may, after such sale, at any time, without public notice, assign its bid or sell such lands to any person, and deliver to such person a proper deed or assignment.

Proceedings for sale, how conducted, &c.

601. SEC. 9. That the proceedings for sale shall be conducted in like manner and on like notice and advertisement of such proceedings as now conducted in the respective cities ; no sale shall be attacked collaterally, but may be set aside upon certiorari only ; the deed or declaration of sale, duly executed or proved as required by law, shall be, in all proceedings, presumptive evidence of a lawful assessment of tax and of a lawful sale, notwithstanding any error in or omission of any recital in such deed or declaration ; no sale shall be set aside for any irregularity or defect in the proceedings if the property so sold was actually liable for a tax for which, if correctly assessed and unpaid, the property might have been sold under proper proceedings ; *provided*, the court is satisfied that the notice given of such sale was a fair one ; the only causes for which a sale may be set aside shall be a want of fair notice of sale and such other equitable causes as would be sufficient in a court of equity to set aside a sale made by a trustee invested with the legal title for the purpose of sale ; and if set aside it shall be upon such terms as, in the judgment of the court, shall be equitable to the purchaser ; the court may, upon any certiorari to set aside any tax or sale, or upon any application made by a purchaser at a tax sale, on petition to the supreme court or court of chancery, summarily correct any error in the description of the property or in the amount of tax, and may apportion any tax improperly assessed upon any properties which should have been assessed separately ; in case of a reduction of the amount of tax, the city, if it shall have received the full amount, shall refund to the person equitably entitled thereto the sum reduced, with interest.

Proviso.

When sale may be set aside.

602. SEC. 10. That in all cases of sales under the provisions of this act, the property shall be sold for the full amount of all taxes in arrears levied after this act takes effect and before the date of such sale, and the property so sold shall be sold subject to the lien of all taxes, if any, which have been legally levied at the time this act takes effect and that shall be unpaid at the time of said sale, and to all lawful assessments, if any, which have been or shall have been made for public improvements up to the time of such sale, and subject, also, to all water rents due at the time of such sale and which then remain unpaid ; and the lien of such taxes, assessment and water rent shall remain unaffected, and the payment of the same may be enforced in any manner and by any proceedings which might lawfully be used if this act had not been passed.

Property to be sold for full amount of all taxes in arrear, &c.

When and how property may be redeemed.

603. SEC. 11. That the property sold under this act may be redeemed by the owner or any other person interested therein, or by any person in his or their behalf, at any time within one year from the date of said sale, and at any time before the expiration of six months' notice in writing, given to the owner, either personally or (if he is not to be found in the city, then) by mail, addressed to his last-known place of residence, by paying to the treasurer of the city, for the use of the purchaser, the said purchase-money, together with any other sum paid for taxes or other municipal charges, which the said purchaser may have paid, with interest at the rate of eight per centum per annum ; such notice may be given by the purchaser at said sale at any time, and it shall be the duty of the person serving, or causing the same to be served, to file in the city clerk's office a copy of the notice served, together with an affidavit proving the due service of said notice ; and such affidavit shall be evidence in all courts and places of the facts therein contained.

604. SEC. 12. That if any tax shall be set aside, or if any tax title shall, by the judgment of a competent court, be adjudged illegal, any person making a tax purchase of such tax, as provided in section two, or any person purchasing at a sale for such tax, as provided in this act, shall be entitled to receive from the city the amount so paid by him, with lawful interest from the date of such tax purchase or sale, and to recover the same in an action of debt.

If tax set aside or tax title adjudged illegal, purchaser entitled to receive from city the amount paid.

605. SEC. 13. That this act shall not apply to any city until its provisions shall be accepted by the people of such city by a majority of the votes cast at any charter or general election to be held in said city, in pursuance of an ordinance submitting the same to such acceptance; and the words "hereafter levied," wherever used in this act, shall be construed to mean levied after this act shall have been accepted, as herein provided.

Act not to apply until provisions are accepted by majority of votes.

606. SEC. 14. That the board of aldermen or common council of any city may, by ordinance, at any time, submit the question of the acceptance or rejection of this act to the voters at any charter or general election; and if a majority of those who shall vote for the acceptance or rejection shall be in favor of the acceptance of the act, then this act shall go into effect immediately, and the grant of powers herein made to any such city shall be deemed to be accepted by such city, and such city shall be bound by the terms of this act; persons entitled to vote at any charter or municipal election, where this question is submitted to them, shall express their assent or rejection of this act by depositing their ballots in the box provided for depositing ballots at such election in the election precincts or wards of any such city; and those who are in favor of the acceptance of this act, and the grants and powers therein contained, shall each deposit a ballot containing the words "act to collect taxes accepted," written or printed thereon, and those who are opposed shall each deposit a ballot with the words "act to collect taxes rejected," written or printed thereon; and this acceptance or rejection may be expressed upon the ballot on which are the names of the state, city or ward officers, and no separate ballot shall be required for the purpose of this vote; there shall be a canvass, on the return of the votes, upon this question of such acceptance or rejection, made by the election officers in the same way and manner as for officers voted for at such election; and if a majority of the ballots on which there shall be either the words "act to collect taxes accepted" or "act to collect taxes rejected" shall be found to be for the acceptance of this act, it shall then, but not otherwise, go into effect and be binding upon such city wherein such vote shall have been taken.

How question of acceptance or rejection of act may be submitted to voters.

607. SEC. 15. That all acts and parts of acts, general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

An act to authorize the common council or other legislative body of the cities of this state by ordinance to change the time for commencing the assessment of taxes in such cities and also the time for furnishing statements or schedules of indebtedness.

Passed February 25, 1885.

P. L. 1885, p. 50.

608. SEC. 1. That it shall and may be lawful for the common council, or other legislative body of any of the cities of this state having charge of the finances of such cities, to provide and direct by ordinance that the time for commencing the assessment for taxes in such city, and from which the taxes levied or assessed upon property therein shall become a lien thereon, shall hereafter be the first Wednesday in May of each year; and that the statements and schedules of indebtedness, now required to be furnished between the first Wednesday in April and the third Monday in June of each year, shall hereafter be furnished between the first Wednesday in May and the third Monday in June of each year.

Common council, &c., of cities may change time for commencing assessments and furnishing schedules.

An act to provide for the taxation of the property of persons engaging temporarily in business in taxing districts subsequently to the completion of the annual assessment by the local assessors.

P. L. 1885, p. 61.

Taxation of property of persons engaging temporarily in business in any taxing district.

Passed March 9, 1885.

609. SEC. 1. That whenever any person, firm or corporation shall, subsequently to the time fixed by law for the completion of the annual valuation and assessment for local taxes in any taxing district in this state, bring or send into such taxing district any stock of goods or merchandise, to be sold or disposed of in a place of business temporarily occupied for their sale, without the intention of engaging in permanent trade in such place, the owner, consignee or person in charge of the said goods or merchandise shall immediately notify the local assessor or board of assessors, by whatever name such officer or board shall be designated; and thereupon the assessor or board of assessors, as the case may be, shall at once proceed to value the said stock of goods and merchandise at its true value, and upon such valuation the said owner, consignee or person in charge shall pay to the collector of taxes of the township, town, borough or city, as the case may be, a tax at the rate assessed for state, county and local purposes in the taxing district in the year then current; and it shall not be lawful to sell or dispose of any such goods or merchandise as aforesaid in such taxing district, until the assessor or board of assessment shall have been so notified as aforesaid and the tax assessed thereon duly paid to the collector.

Penalty for failing to notify assessor or to pay taxes.

610. SEC. 2. That in case any such owner, consignee or person in charge of such stock of goods and merchandise as is mentioned in the foregoing section, shall fail or neglect to notify the proper assessor or board of assessment, or to pay the said tax as is herein required, or shall proceed to sell or dispose of such stock, or any portion thereof, before the payment of the tax levied on account thereof, the owner of such goods or merchandise shall forfeit to such taxing district a sum equal to twice the amount of tax assessable as aforesaid on account of such stock; such forfeiture may be recovered in an action of debt, in the name of the collecting officer of such taxing district, in any court having jurisdiction in civil causes to the amount thereof, and such action may be commenced by a writ of attachment, which shall issue upon the filing in such court of the affidavit of the collecting officer, showing a cause of forfeiture under this act; the subsequent proceedings in said cause shall be regulated and conducted in the same manner that suits by attachment against non-resident or absconding debtors are conducted; the said penalty shall be preferred before all other debts or claims proved or preferred in such action; any mistake in the name of the owner of the said goods or merchandise shall not affect the right to recover such penalty by an attachment and sale of such stock.

How recovered.

An act to authorize the appointment of additional ward assessors in the cities of this state.

P. L. 1885, p. 90.

Additional ward assessors, how appointed.

Approved March 16, 1885.

611. SEC. 1. That any board or officer authorized in any city to appoint ward assessors or taxing officers in the wards or taxing districts of such city, is hereby authorized to appoint an additional assessor in any ward or taxing district whenever the whole number of assessments in such ward or taxing district shall exceed five thousand; and two additional assessors in any ward or taxing district where the whole number of assessments shall exceed ten thousand in such ward or taxing district; *provided, however,* that no such additional appointments shall be made where the assessors are paid a fixed salary.

Proviso.

An act to declare and establish the intent and meaning, force and effect of the several acts and parts of acts granting to certain active and exempt firemen, to persons who served in the military or naval forces of the United States during the late war, and to all general and staff officers, all commissioned and non-commissioned officers, musicians and privates of the national guard of this state, certain advantages in respect to taxes.

Passed March 16, 1885.

P. L. 1885, p. 94.

612. SEC. 1. That the several acts and parts of acts granting to certain active and exempt firemen, to persons who served in the military or naval forces of the United States during the late war, and to all general and staff officers, all commissioned and non-commissioned officers, musicians and privates of the national guard of this state, certain advantages in respect to taxes, shall not be deemed or held to be cumulative in their action, but that any person claiming any exemption or deduction from taxation by reason of his belonging to any two or more of the three classes above mentioned, shall elect at the time of making such claim for exemption or deduction one only of the three causes for tax exemption aforesaid and shall make his claim thereunder and not otherwise, and shall not be entitled to have or claim by reason of his belonging to more than one of the three classes aforesaid any other or additional tax exemption whatever.

Exemptions of firemen, soldiers and militiamen not to be cumulative.

613. SEC. 2. That in the case of a city, town or borough being or having been set off and incorporated within the bounds of any township, any person claiming tax exemption by reason of his being an active fireman, shall only claim exemption from such taxes as shall be assessed against him or his property, or both, by authority of the municipal corporation under the supervision or control of which he may be doing public fire duty; and if such claim is made by reason of his being an exempt fireman, such exemption shall only be made from taxes assessed against him or his property, or both, by the municipal corporation in the service of which he became an exempt fireman.

Exemption of firemen where city, &c., is incorporated within a township.

614. SEC. 3. That any person whose right to claim any exemption as aforesaid shall accrue prior to the time when such tax shall be due and payable, in any year, shall be entitled to claim such exemption from the taxes assessed during said year, as aforesaid.

When exemption may be claimed.

615. SEC. 4. That the following shall be sufficient evidence to the collector or receiver of taxes of the right of any person to claim exemption as aforesaid, to wit: in case of certain active and exempt firemen, the certificate of the clerk of the city, town, borough or township, or of such other municipal officer as shall have charge of the records showing what persons are such active or exempt firemen, which shall be furnished without charge, stating that the person claiming such exemption is either an active or exempt fireman; in case of persons who served in the military or naval forces of the United States during the late war, an honorable discharge from such service, which discharge shall be the last discharge, or the certificate of the adjutant-general of this state, and in case of all general and staff officers, all commissioned and non-commissioned officers, musicians and privates of the national guard of this state, the following certificates, to wit: of general, staff and commissioned officers, the certificate of the adjutant-general of this state, and of non-commissioned officers, musicians and privates, the certificate of the commandant of the respective company, band or battery to which they belong, as the case may be; which certificates shall specify that the person or persons therein named are in the active service of the national guard of this state.

What sufficient evidence of right to claim exemption.

616. SEC. 5. That in case any two or more persons residing in the same city, town, borough or township, shall be entitled to certificates as above provided, from the same officer, or from the clerk of any city, town, borough or township, such certificates may be combined in the form of a list of the persons residing and entitled as aforesaid, which list shall be certified by such officer or clerk, and filed by him with the collector or receiver of taxes of such city, town, borough or township, at or before the time, in each year, when taxes shall be due and payable therein.

When certificates may be combined.

Repealer.

617. SEC. 6. That this act shall take effect immediately, and that all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

An act providing for the taxation of property in townships in this state in cases where the officers of the township have omitted or neglected to assess the same for taxes.

P. L. 1885, p. 191.

Proceedings to tax property of any person omitted in any township by assessor and commissioners of appeal.

Passed April 2, 1885.

618. SEC. 1. That where, in any township of this state, the assessor has neglected or omitted to assess for taxes for the current fiscal year of such township property in such township which is liable to taxation, and where the commissioners of appeal in cases of taxation have met and adjourned without having received complaint of any such neglect or omission, it shall be lawful for the township committee to file with the commissioners of appeal a complaint in writing setting forth the property so omitted or neglected to be assessed, and the name or names of the owner or owners of such property, if known, and requesting such commissioners to convene and take such action thereon as may be authorized by this act or any other statute of this state.

Commissioners to designate time for hearing complaint.

619. SEC. 2. That within five days after receiving such complaint the said commissioners of appeal shall, by writing, under their hands, designate the time and place, when and where the said commissioners will meet to consider the matters embraced in such complaint, said time to be not more than twenty days after the time of receiving such complaint, and shall, within the time aforesaid, file such written designation with the township clerk.

Township clerk to give public notice of meeting of commissioners.

620. SEC. 3. That the township clerk shall, immediately after the filing with him of the written designation aforesaid, give public notice of the time and place and of the object of the meeting of the commissioners of appeal, by posting written or printed notices thereof in at least six of the most public places in said township at least eight days prior to the time and place appointed for such meeting, and shall also cause to be served copies of such notices upon the owners of the property or any part thereof set forth on the said complaint, personally, if resident in the township, and if non-resident, by mail, at least eight days prior to the time appointed for such meeting; *provided, however,* that no assessment made under the provisions of this act shall be held to be invalid or shall be set aside for or by reason of any mistake in the names of such owners.

Proviso.

Commissioners empowered to assess taxes.

621. SEC. 4. That at the time and place designated as aforesaid the commissioners of appeal shall meet and shall have and exercise all the powers conferred upon commissioners of appeal in and by the act entitled "An act concerning taxes" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, and the several supplements thereto, and shall ascertain and determine whether or not the property mentioned and set forth in the complaint, or any part thereof, has been assessed for taxes, and if said commissioners shall determine that such property, or any part thereof, has not been assessed, and that the same ought to have been assessed by the township assessor, then said commissioners shall make a just valuation and assessment of taxes of and upon such property, and shall file the same with the township collector.

Taxes to be a lien, how collected.

622. SEC. 5. That any tax levied, assessed or imposed as aforesaid shall be a lien upon the property upon which it is so levied, assessed or imposed until paid, and such tax may be collected and the payment thereof enforced in the manner provided by law for the collection and enforcement of taxes.

An act relating to assessors of taxes in cities.

P. L. 1885, p. 244.

Assessors of cities may meet as a board of assessors.

Approved April 17, 1885.

623. SEC. 1. That in all cities in this state where there are by law more than one assessor of taxes, each of whom is charged by law with the making of the valuations and assessments of property for municipal taxation for the particular ward, precinct or district for which he is elected or

appointed, such assessors shall hereafter, at least three days prior to the time fixed by law for completing their annual valuations, meet as a board of assessors, and shall revise, inspect and review the valuations of each of said assessors, and correct the same where necessary, so as to obtain uniformity as nearly as may be in the valuations of property in said city; a majority of assessors shall be a quorum of said board, and all valuations of property shall be approved by a majority of said board, and such approval certified on the assessment-book or record.

624. SEC. 2. That this act shall not apply to any city where by its charter, provision is made for joint action of the assessors upon the valuations or assessments for taxes, and this act shall take effect immediately.

Act not to apply to cities having charter provisions.

An act concerning cities.

Approved April 20, 1885.

P. L. 1885, p. 269.

625. SEC. 1. That it shall and may be lawful for the common council of any city, or other like municipal body with general municipal powers, to order and cause to be assessed and raised by tax, in any one year, for the general purposes of said city, exclusive of school, library, poor, fire and state and county taxes, in lieu of the amount now authorized to be raised for such purposes, any sum not exceeding one-half of one per centum of the assessed valuation of real and personal property in such city; *provided, however,* that nothing herein shall in anywise be construed or held to take away or limit any power now vested in any city to assess and raise by tax for such purposes any larger sum; *and provided further,* that this act shall not apply to or affect any city until the same shall have first been submitted to the legal voters of such city for their approval, at an annual municipal election in said city, and the same shall have been approved by a vote of a majority of all the votes cast at such election.

Municipal authorities may order certain sum to be raised by tax for general city purposes.

Proviso.

Proviso.

626. SEC. 2. That all laws, general or special, so far as they are inconsistent herewith, are hereby repealed, and this act shall take effect immediately.

Repealer.

An act fixing the compensation of commissioners constituting city boards having the control and management of the assessing and revising of taxes in the cities of this state.

Approved April 20, 1885.

P. L. 1885, p. 274.

627. SEC. 1. That the commissioners constituting city boards having the control and management of the assessing and revising of taxes which now or may hereafter exist in any city of this state, and having more than one hundred thousand inhabitants, under the laws thereof and disconnected from the financial department of the city government, shall each receive and be paid, in lieu of any per diem or other compensation which under any general or private act he may now receive, an annual salary of eighteen hundred dollars, said salary to be paid in the same manner and at the same periods as the salaries of other officers of said cities are now paid; *provided, however,* that this act shall not apply where assessors are now paid a fixed salary.

Salary of commissioners to assess and revise taxes in cities having more than 100,000 inhabitants.

Proviso.

628. SEC. 2. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

Repealer.

An act relative to interest on arrears of taxes and assessments in the cities of this state.

Approved February 9, 1886.

P. L. 1886, p. 18.

629. SEC. 1. That at any time after the passage of this act any person or persons may pay to the collector of taxes, or person authorized to receive the same, in any city in this state, the amount of any tax or assessment due upon any real estate belonging to such person or persons, with interest thereon at the rate of seven per centum per annum, to be calculated from the time interest is properly chargeable thereunto to the time of payment, together with the actual expenses theretofore incurred by such city for the enforcement and payment of such taxes or assessments,

Taxes and assessments due and unpaid in cities may be paid with seven per cent. interest and costs.

When paid, to be canceled of record.

Proviso.

Act not to become operative until authorized by common council or other governing body.

Taxes assessed in and after the year 1885 to be paid with ten per cent. interest.

Repealer.

and of all penalties added thereto by virtue of any existing law (except as hereinafter provided), and the collector of taxes, or person authorized to receive the same, shall deliver to the person or persons making such payment a receipt therefor, and cancel the record of such tax or assessment; upon such payment the same shall cease to be a lien upon the real estate or property, and shall be deemed to be paid and satisfied, and there shall be no right to any further interest or penalty by reason of such tax or assessment not having been paid within the time allowed by law, except as hereinafter provided; *provided, however*, that nothing in this act shall authorize the receipt under its provisions of any such tax or assessment in cases where land and real estate have been sold for taxes or assessments and bought in by any other person than the city in which such taxes or assessments are laid, or some officer for the use of such city; nor shall any lien on real estate for such tax or assessment be released or affected, or any sale of real estate for taxes or assessments, or a delivery of such certificate or declaration of sale, or deed therefor, be stayed by anything contained in this act. [See Sec. 634, *post.*] (a)

630. SEC. 2. That this act shall not become operative in any of the cities of this state until the common council, or other governing body having charge of the finances of such city, shall, by resolution, authorize the collector of taxes, or other person authorized to receive the same, to receive and receipt for the same under the provisions of this act.

631. SEC. 3. That in all cases in which the taxes levied during the year one thousand eight hundred and eighty-five, or at any time thereafter, remain unpaid and in arrears for more than six months after the same have been returned to the collector or other officer for collection, interest thereon shall be charged in all cases at the rate of ten per centum per annum from the time the same became due and payable up to the date at which the property upon which the same is a lien shall be sold therefor, and no deduction shall, in any case, be made therefrom by any officer, board or other governing body.

632. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act in relation to the limitation of the power to impose and collect taxes in the cities, boroughs and incorporated towns of this state.

P. L. 1886, p. 28.

Limitation of power to impose and collect taxes not to apply to taxes to pay interest upon or provide a sinking fund to redeem or pay funded debt.

Approved February 15, 1886.

633. SEC. 1. That where, in any city, borough or incorporated town, the right to impose and collect taxes is limited to a certain rate per centum upon the assessed valuation of the property subject to taxation in such city, borough or incorporated town, such limitation shall not be held to apply to or include such part of the taxes imposed, levied and collected therein as is or may be required to pay the interest upon or provide a sinking fund to redeem and pay the funded debt of such city, borough or incorporated town, and that such city, borough and incorporated town shall have full right and authority, in addition to the amount now authorized therein to be raised by taxation, to levy, impose and collect a sum sufficient to provide for such interest and sinking fund.

An act relative to the payment of arrears of taxes and assessments and the interest thereon in incorporated cities.

P. L. 1886, p. 102.

Taxes and assessments levied prior to year 1885 may be paid within one year, with interest at seven per cent. and costs.

Approved March 22, 1886.

634. SEC. 1. That at any time within one year after the passage of this act, any person or persons may pay to the collector of taxes, or other person authorized to receive the same, in any incorporated city in this state, the amount of any tax or assessment due upon any real property belonging to any such person or persons, laid or imposed prior to the year one thou-

sand, eight hundred and eighty-five, and now remaining unpaid, together with interest thereon at seven per centum per annum, to be calculated from the time interest is properly chargeable thereon to the time of such payment, together with the actual expenses theretofore incurred by any such city for the enforcement and payment of said taxes or assessments; and the collector of taxes, or person authorized to receive the same, shall make and deliver to the person or persons making such payment a receipt therefor, and shall forthwith cancel the record of such tax or assessment; upon such payment such tax or assessment shall cease to be a lien upon the real estate or property, and shall be deemed and taken to be fully paid, satisfied and discharged, and there shall be no right to any further interest or penalty by reason of such tax or assessment not having been paid within the time heretofore required by law, or by reason of any statute passed requiring the payment heretofore of any penalty or interest over seven per centum upon any unpaid tax or assessment; *provided, however*, that nothing in this act contained shall authorize the receipt, under the provisions of this act, of any such taxes or assessments in cases where lands and real estate have been sold for taxes or assessments and bought in by any other person than the city in which said taxes and assessments are laid, or some officer for the use of such city; nor shall any lien upon real estate for such taxes or assessments be released or affected; nor shall any sale of any real estate for taxes or assessments, or the delivery of any certificate or declaration of sale, or deed therefor, be stayed by anything in this act contained; *and provided further*, that the provisions of this act shall not become operative in any incorporated city until the common council or other governing body having charge and control of the finances of such city shall, by resolution, authorize the collector of taxes, or other person authorized to receive taxes, to receive and receipt for the same under the provisions of this act.

When paid, to be canceled of record.

Proviso.

Proviso.

635. SEC. 2. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to authorize cities in this state to remit and cancel taxes which appear as liens against property, where the same has been purchased on the faith of searches made by city officers having control of the record of such liens, showing that such liens did not exist at the date of such purchase.

Passed May 4, 1886.

P. L. 1886, p. 240.

636. SEC. 1. That it shall and may be lawful for the cities of this state to authorize the remission and cancellation of any tax or assessment prior to one thousand eight hundred and seventy-five, which appears as a lien upon any property therein, when it shall be shown to the satisfaction of the common council, or other governing board or body having control of the finances therein, that the property upon which such lien exists was purchased on the faith of searches made before the year one thousand eight hundred and seventy-five by an officer of such city having control of the record of such liens, and that such search certified at the date of such purchase such lien did not exist.

When cities may be authorized to remit and cancel tax or assessment imposed prior to 1875.

An act providing for the appointment of collectors of arrears of taxes in towns of this state.

Passed May 4, 1886.

P. L. 1886, p. 241.

[This act is amended by Secs. 637 to 641, *post*.]

Amendatory act.

Approved April 1, 1887.

P. L. 1887, p. 123.

637. SEC. 1. That the act to which this is amendatory be and the same is hereby amended to read as follows:

[That the town council or other governing body of each incorporated town and city in this state may annually, within thirty days after the organization of that body, appoint an officer who shall be known and

Appointment and term of office of "collector of arrears of taxes" in towns and cities.

designated as "collector of arrears of taxes," who shall hold his office for the term of one year from the date of his appointment and until his successor shall be duly appointed and qualified.]

Collector to enter into bond, &c.

638. SEC. 2. That every person appointed to such office shall, within twenty days after the date of his appointment, enter into bond to the town or city (by its corporate name) in such sum and with such sureties as shall be required and approved of by the council, conditioned for the faithful performance of all duties required of him, as such officer, by law; and in case he shall fail or neglect so to do, the council may rescind or vacate such appointment, and shall make a new appointment to said office.

Compensation, how prescribed.

639. SEC. 3. That the council may by ordinance prescribe as compensation for the services of such officer a percentage of the gross amount collected by him, not exceeding two per centum thereof.

Warrants to be delivered to and executed by the collector.

640. SEC. 4. That all warrants hereafter issued in any town or city for the collection of delinquent taxes therein shall be directed and delivered to the collector of arrears of taxes, and the said collector of arrears of taxes shall, in the execution of said warrant or warrants, have the same powers and perform the same duties, and be subject to the same forfeitures, as is prescribed to and imposed upon constables or collectors of taxes in and by the act entitled "An act concerning taxes," approved April fourteenth, one thousand eight hundred and forty-six, and the several supplements thereto; *provided*, that the provisions of this act shall not apply to any city where the circuit court of the county in which such city is situate has appointed commissioners of adjustment of taxes.

Proviso.

Repealer.

641. SEC. 5. That all acts and parts of acts, general, special, local, public or private, inconsistent herewith, be and the same are hereby repealed.

An act to enable cities to elect an assessor for three years.

P. L. 1887, p. 75.

Approved March 31, 1887.

Term of office of assessor in cities where one assessor only is provided for by charter.

642. SEC. 1. That hereafter, in any city in this state where the election of one assessor only is provided for by the charter of such city, or any amendment or supplement thereto, it shall and may be lawful for the common council or other governing body of such city to fix from time to time the term of the office of assessor in such city by resolution not exceeding three years, and thereafter the assessor of such city shall be elected at the regular charter election in such city for said term as so fixed; *provided*, that when said term has been so fixed, the resolution shall not be changed or repealed so as to affect the term of any then incumbent of said office.

Proviso.

An act in relation to past-due taxes.

P. L. 1887, p. 116.

Approved April 1, 1887.

Boards in cities authorized to revise, alter, adjust and settle past-due taxes assessed prior to 1886.

643. SEC. 1. That it shall be lawful for the board of finance and taxation, or other board having control of the financial affairs of any city in this state, or the common council or other legislative body in any city in this state, wherein the taxes laid, levied and assessed upon or on account of any lands or real estate prior to the year one thousand eight hundred and eighty-six, and now remaining due and unpaid, have been irregularly laid, levied and assessed, or where the lien of any city for such taxes shall be questioned or impaired, upon application and petition presented to any such board, common council or legislative body by any person or persons interested in any such lands or real estate, to make such revision, alteration, adjustment and settlement of past-due taxes so laid, levied or assessed, and any and all interest and penalties thereon as such board, common council or legislative body, subject to the approval of the mayor, may and shall deem to be for the best interest of any such city; that upon the making of any such revision, alteration, adjustment and settlement, the collector of taxes, or person authorized to receive the same, shall make and deliver to the person or persons paying for any such taxes so adjusted a receipt therefor, and shall forthwith cancel the record of such tax, and upon such payment such tax shall cease to be a lien upon the real estate or property, and shall be deemed and taken to be fully

Duty of collector.

Tax paid ceases to be a lien

paid, satisfied and discharged ; *provided*, that when any such revision, alteration and adjustment of past-due taxes shall be so made, the same shall be settled for and paid by the person or persons making such application within thirty days after any such revision, alteration, adjustment and settlement ; *provided, further*, that the provisions of this act shall not in anywise affect or impair the interest or lien of any purchaser other than such city, acquired under any sale made for past-due taxes or apply to taxes made, levied or assessed subsequent to the first day of January, one thousand eight hundred and eighty-six ; *provided, further*, that the provisions of this act shall not apply to any city where commissioners of adjustment have been appointed by the circuit court of the county in which such city is situate under the provisions of the act entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages, and to enforce the payment thereof, and to provide for the sale of lands subjected to future taxation and assessment," passed March thirtieth, eighteen hundred and eighty-six.

Proviso.

Proviso.

Proviso.

644. SEC. 2. That all acts, general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act respecting the taxation of personal tangible property used in connection with any business or employment.

Approved March 1, 1888. P. L. 1888, p. 119.

645. SEC. 1. That all personal tangible property used by the owner or owners, or by any lessee, employe or agent for such owner or owners, in connection with any business or employment, unless such business or employment is only temporary, shall be assessed for taxes at the place and within the taxing district where such business or employment is carried on or conducted, and not elsewhere, and shall remain a lien on the same for the term of one year from date of assessment ; *provided*, nothing in this act shall apply to the assessing of ships or sea-going vessels.

Personal property used in business to be assessed where business is carried on.

Proviso.

646. SEC. 2. That this act shall take effect immediately, and that all acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Repealer.

An act in relation to assessments and taxes in cities.

Approved March 26, 1888. P. L. 1888, p. 267.

647. SEC. 1. That in all incorporated cities of this state that now have block maps, it shall be the duty of the taxing officers, in all cases, in making their assessments for taxes upon real estate, to describe the same by block and lot numbers, as shown upon the assessment maps of the city ; but the failure of the taxing officer to so describe any property shall not be deemed to invalidate the assessment.

Real estate in cities having block maps to be assessed as shown upon maps.

An act to authorize cities of this state to change the time fixed for the payment of taxes.

Approved April 2, 1888. P. L. 1888, p. 371.

648. SEC. 1. That it shall and may be lawful for any city of this state in which the time for the payment of the annual taxes is fixed by charter, to change the same by ordinance of the common council, board of aldermen or other governing body of such city, by and with the consent of the board having charge and control of the finances in such cities, to any other time which, in the opinion of the said common council or board of aldermen or other governing body, may be more suitable to the inhabitants of such city.

Time for payment of taxes in cities may be changed by ordinance.

649. SEC. 2. That all acts and parts of acts and charter provisions inconsistent herewith be and they are hereby repealed, and this act shall be deemed a public act and shall take effect immediately.

Repealer.

An act concerning the appointment of commissioners of assessment of taxes in certain cities.

P. L. 1889, p. 152.

Approved April 3, 1889.

In cities of the second class, of 50,000 inhabitants, mayor to appoint commissioners of assessment of taxes.

Term of.

No more than a bare majority to be of one political party.

Vacancies, how filled.

Proviso.

Repealer.

650. SEC. 1. That in all cities of the second class in this state now having, or which may hereafter have a population of not less than fifty thousand inhabitants, there shall be appointed by the mayor, by and with the consent of the board of aldermen or other legislative body of said city, five commissioners of assessment of taxes; such appointment shall be made for not less than one year or more than five years; the term for each such officer shall be appointed to be determined and fixed by the mayor at the time of making such appointment; and when more than one such officer is appointed at one time, the several appointees may be appointed and confirmed to hold their respective offices for different periods of time within the limits aforesaid; no more than a bare majority of such board of assessors or officers shall at any time be members of one political party, and such officers shall hold their respective offices until their successors shall be appointed and qualified.

651. SEC. 2. That the provisions of this act shall apply to the appointment of such officers to fill any and all vacancies arising from death, resignation, removal or other cause that may hereafter arise in any of said cities, and that upon the happening of any such vacancy or vacancies, commissioners of assessment of taxes, commissioners of taxation or assessors of taxes, as such officers are called in any of said cities, may be appointed in the manner and for the period of time in the first section of this act set forth; *provided, however,* that this act shall not determine the term of office of any such officer now holding such office, nor shall it change or affect the duties of any such officer, and, upon being appointed under this act, they shall perform and discharge their duties of any such office as now required by law in the city in which they are appointed.

652. SEC. 3. That all acts, general and special, inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Supplement.

Passed April 15, 1890.

P. L. 1890, p. 260.

Annual salaries of commissioners of assessment may be increased.

Amount.

Commissioners authorized to appoint a clerk.

Salary and term of office.

To take oath.

Repealer.

653. SEC. 1. That in all cities of this state wherein the commissioners of assessment of taxes that have been or may hereafter be appointed under the act to which this is a supplement the board of aldermen or other legislative body of any such city may increase the annual salary of such commissioners, including those now in office, to an amount not exceeding fifteen hundred dollars.

654. SEC. 2. That the said commissioners of assessment of taxes shall have the power to appoint a clerk, to hold office for a term not less than one or more than five years, to be fixed at the time of appointment, and who shall receive a salary of not more than ten hundred dollars per annum, to be fixed and determined at the time of appointment of said officer by said commissioners, the said salary to be provided in the same manner as that of other city officers; said officer shall, before he enters upon the duties of his said office, make oath before the recorder or other police justice of such city faithfully and impartially to discharge the duties of his office, and he shall perform such duties in the way of procuring information, data, statistics and such other clerical duties as may be required of him by the board of commissioners; the said board shall file in the office of the city clerk a certificate of the appointment of such clerk with the date thereof.

655. SEC. 3. That all acts, general and special, so far as they conflict herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to provide for the appointment of an assessor in boroughs of the first class.

Approved April 10, 1889. P. L. 1889, p. 256.

656. SEC. 1. That hereafter the assessor of taxes in and for boroughs of the first class shall be appointed by the mayor and common council of said boroughs.

Mayor to appoint assessors in boroughs of first class.

657. SEC. 2. That the appointment of such assessors shall be made annually at the first regular council meeting after the annual borough election.

Appointment to be made annually.

658. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to establish the rate of interest on arrears of taxes and assessments in cities of this state.

Approved May 7, 1889. P. L. 1889, p. 374.

659. SEC. 1. That it shall be lawful for the common council, or other board having charge and control of the finances in any city in this state, to fix and change, by resolution, the rate of interest on all past-due taxes and assessments of all kinds which were due and unpaid prior to January first, one thousand eight hundred and eighty-eight, at and after the rate of seven per centum per annum; *provided, however,* that such rate, when adopted, shall apply only to such taxes as are still due and unpaid to such city.

Rate of interest on past-due taxes in cities, unpaid prior to January 1st, 1888, may be fixed at seven per cent.

Proviso.

660. SEC. 2. That all laws, general or special, inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to provide for a board of assessors in cities in this state.

Approved May 16, 1889. P. L. 1889, p. 460.

661. SEC. 1. That on and after the first Monday in May next after this act takes effect, there shall be in all cities accepting the provisions of this act a board of assessment of taxes, to consist of three persons; they shall be appointed by the mayor, and shall hold office for three years, and until their successors are appointed; the first appointments to be made under this act shall be for one, two and three years respectively, and all appointments to fill vacancies shall be for the unexpired term only; such assessors shall each receive a salary of twenty-five hundred dollars per annum, payable monthly, and shall give a bond for the faithful performance of their duty, in the penal sum of twenty-five thousand dollars, to be approved by the corporation counsel or attorney; they shall have such clerical force, not exceeding three, as they may appoint, whose appointment and salary, not exceeding one hundred and twenty-five dollars per month each during such time as they may be employed, shall be subject to approval, in writing, by the mayor; they shall perform the duties now devolving by law upon assessors of taxes, or boards for the assessment of taxes, and the offices of such assessors and such boards, now existing in such cities, shall be abolished upon the appointment of assessors under this act; the common council or board of aldermen shall provide an office for said board in the city building, which must be always open during business hours, for the transaction of business; such assessors may be removed by the mayor for cause, and the cause of such removal shall be specified in writing, and filed in the office of the city clerk before the removal shall take effect; any justice of the supreme court may, at chambers, upon application by an assessor so removed, made within thirty days from the time of filing the cause of removal, review in a summary manner the action of the mayor in making such removal.

Board of assessment of taxes, how constituted and appointed in cities accepting this act.

Salary.

Bond.

Clerks.

Duties of board.

Offices abolished. Offices to be provided for board.

How assessors removed.

662. SEC. 2. That it shall be the duty of said board to make an inspection of all property before estimating its value, and before increasing the estimate of the value of any property for the purpose of taxation, to give written or printed notice to the owner thereof, when known, of such intended increase and of a time when they will hear objections to such

Board to inspect property before estimating value. Notice of intended increase.

increase at the office of said board, but no assessment of taxes shall be invalidated by reason of the omission to give such notice or make such inspection; such objections shall be heard and determined by said board at least one month before the final adjournment of the board of commissioners of appeals for said city.

Act may be submitted to voters for acceptance or rejection.

663. SEC. 3. That the board of aldermen or common council of any city may, by resolution, or the mayor of any city may, by proclamation at any time, submit the question of the acceptance or rejection of this act to the voters of such city at any charter or general election; and, if a majority of those who shall vote at such election shall be in favor of the acceptance of the act, then this act shall go into effect immediately, and the grant of powers herein made, to any such city, shall be deemed to be accepted by such city; and such city shall be bound by the terms of this act; persons entitled to vote at any charter or municipal election, where this question is submitted to them, shall express their assent or rejection of this act by depositing their ballots in the box provided for depositing ballots at such election, in the precincts or wards of any such city, and those who are in favor of the acceptance of this act and the grants and powers therein contained, shall each deposit a ballot containing the words "new assessors' act accepted" written or printed thereon, and those who are opposed shall each deposit a ballot with the words "new assessors' act rejected" written or printed thereon; and this acceptance or rejection may be expressed upon the ballot on which are the names of the state, city or ward officers, and no separate ballot shall be required for the purpose of this vote; there shall be a canvass, on the return of the votes, upon this question of such acceptance or rejection, made by the election officers in the same way and manner as for officers voted for at such election; and if a majority of the ballots on which there shall be either the words "new assessors' act accepted," or "new assessors' act rejected" shall be found to be for the acceptance of this act, it shall then, but not otherwise, go into effect and be binding upon such city wherein such vote shall have been taken.

How election conducted.

Repealer.

664. SEC. 4. That all acts and parts of acts, general and special, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act in relation to the appointment of certain subordinates under the control of boards of assessment and revision of taxes in the cities of this state, abolishing the office of assistant, ward or deputy assessor, and regulating the time and manner of making assessments.

P. L. 1889, p. 464.

Approved May 16, 1889.

Ward assessors abolished in certain cities.

665. SEC. 1. That in the cities of this state in which a department or board exists to whom is entrusted the control of the assessment and revision of taxes, the office of assistant, ward or deputy assessor, if any such there is, shall be and the same is hereby abolished.

Board to appoint clerks or assistants.

666. SEC. 2. That in any such city there shall be, from time to time, appointed by said board such clerks or assistants for such department or board as the exigencies of the service may require, but in no case shall the number be greater than twenty.

Duties of clerks or assistants.

667. SEC. 3. That the duties heretofore performed by assistant, deputy or ward assessor in any such city shall be performed by clerks or assistants specially detailed for this purpose by such board or department, who, in making such detail, shall have regard to the qualifications of the person or persons assigned for the duty to be performed, and shall, from time to time, prescribe such duty and supervise the execution of the same, and that the compensation of such clerks shall not be less than eighty dollars, or more than one hundred dollars per month.

Compensation.

Valuation of property and assessment of taxes, when to be considered made, &c.

668. SEC. 4. That the valuation of property and assessment of taxes in any such city, after the taxes of the present year have been levied and assessed, shall be considered as made on the third Wednesday in January

of each year, and shall constitute a lien, as now provided by law, on and from that date, and that it shall not be necessary hereafter in any such city to specify and keep a record of the different items which are included in and make up the rate of taxation therein, but it shall be sufficient to specify the rate fixed, and keep a record of the several amounts collected for each purpose required by law,

669. SEC. 5. That it shall and may be lawful for said board to appoint some competent and suitable person, possessing the requisite skill, to act as surveyor and draughtsman for said board, whose compensation shall be not less than one hundred and twenty-five dollars, or more than two hundred dollars per month; and it shall be the duty of such officer to make the surveys and maps necessary to procure a correct and just assessment of all the real estate situate in such city and taxable therein, and to do and perform all such other services in his department as shall be required by said board.

Board may appoint surveyor and draughtsman. Compensation and duties.

670. SEC. 6. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect on the first day of September, one thousand eight hundred and eighty-nine.

Repealer.

An act relative to past-due taxes and assessments in towns and townships.

Passed March 4, 1890.

P. L. 1890, p. 31.

671. SEC. 1. That it shall be lawful for the township committee of any township or the town council of any town in this state to make such abatement, revision, alteration, adjustment and settlement of past-due taxes and assessments, both of principal and any and all interest and penalties thereon, as such board shall deem equitable and just and to be for the best interest of such township or town; *provided*, that the provisions of this act shall not in any wise affect or impair the interest or any lien of any purchaser other than such township or town, acquired under any sale made for past-due taxes or assessments.

Township committee or town council may adjust past-due taxes, &c.

Proviso.

672. SEC. 2. That it shall be the duty of the township or town collector, upon receiving a certified statement of the amount which the township committee or town council shall have agreed to accept in full satisfaction of such unpaid taxes and assessments, or either, to accept such sum so agreed to be accepted, in full satisfaction of such taxes and assessments, and to give a receipt for the amount paid in satisfaction thereof to the person paying the same; which receipt, accompanied by said statement, shall be sufficient evidence of the payment and satisfaction of such taxes and assessments, and upon presentation thereof, with the tax bill annexed, to the clerk of the county, he shall satisfy the tax or assessment record in the office relating to unpaid taxes and assessments, or either or both of them, as far as relates to the payment of the said tax or assessment.

Duty of collector on receiving certified statement of amount agreed on.

673. SEC. 3. That in case a reduction of any tax, taxes, assessment or assessments be made by the township committee or town council upon any application presented to it under this act, such reduction shall be null and void unless the same be paid within sixty days thereafter.

Reduction, when null and void.

An act providing for the taxation of property in cities, villages, boroughs, townships or other municipal corporations in this state in cases where the assessor or assessors of the same have or may omit or neglect to assess the same for taxes or have or may assess such property at too low a valuation, and the commissioners of appeal in cases of taxation have met and adjourned.

Approved March 24, 1890.

P. L. 1890, p. 108.

674. SEC. 1. That where in any city, village, borough, township or other municipal corporation of this state the assessor has neglected or omitted to assess for taxes for the current fiscal year of such city, village, borough, township or other municipal corporation, property in such city, village, borough, township or other municipal corporation which is liable

Proceedings in case assessors in any municipality have neglected to assess property or have assessed it at too low a valuation.

to taxation, or where such assessor or assessors has or have or may hereafter assess such property which is liable to taxation at too low a valuation, or may neglect or omit to assess the same, and the commissioners of appeal in cases of taxation have met and adjourned without having received complaint of any such neglect, valuation or omission, it shall be lawful for the city council, board of aldermen, township committee or other governing body of such city, village, borough, township or other municipal corporation, or the corporation attorney thereof, to file with the commissioners of appeal a complaint in writing setting forth the property so omitted or neglected to be assessed, or which has or may be assessed at too low a valuation, and the name or names of the owner or owners of such property, if known, and requesting such commissioners to convene and take such action thereon as may be authorized by this act or in any other statute of this state; *provided*, that complaint of such neglect, valuation or omission shall be filed with said commissioners within one year from the time that such taxes become or should become a lien.

675. SEC. 2. That within five days after receiving such complaint the said commissioners of appeal shall, by writing, under their hands, designate the time and the place when and where the said commissioners will meet to consider the matters embraced in such complaint, said time to be not more than twenty days after the time of receiving such complaint, and shall, within the time aforesaid, file such written designation with the clerk of the city, village, borough, township or other municipal corporation.

676. SEC. 3. That such clerk shall, immediately after the filing with him of the written designation aforesaid, give public notice of the time and place and of the object of the meeting of the commissioners of appeal, by posting written or printed notices thereof in at least six of the most public places in said city, village, borough, township or other municipal corporation, or by publishing such notice in a newspaper printed and published or circulating in such city, village, borough, township or other municipal corporation, at least eight days prior to the time and place appointed for such meeting, and shall also cause to be served copies of such notices upon the owner or owners of such property, or any part thereof, set forth on the said complaint, personally, at least eight days prior to the time appointed for such meeting; *provided, however*, that no assessment made under the provisions of this act shall be held to be invalid or shall be set aside for or by reason of any mistake in the name or names of such owner or owners.

677. SEC. 4. That at the time and place designated as aforesaid the commissioners of appeal shall meet and shall have and exercise all the powers conferred upon commissioners of appeal in and by the act entitled "An act concerning taxes" [Revision], approved April fourteenth, one thousand eight hundred and forty-six, and the several supplements thereto, and shall ascertain and determine whether or not the property mentioned and set forth in complaint, or any part thereof, has not been assessed, or has been assessed at too low a valuation, and that the same ought to have been assessed, or differently assessed, by the assessor or assessors of such city, village, borough, township or other municipal corporation, then said commissioners shall make a just valuation and assessment of taxes of and upon such property, and shall file the same with the collector of such city, village, borough, township or other municipal corporation.

678. SEC. 5. That any tax levied, assessed or imposed as aforesaid shall be a lien upon the property upon which it is so assessed, levied or imposed for the period that the taxes of such city, village, borough, township or other municipal corporation are made a lien by the laws governing the same, and such tax may be collected and the payment thereof enforced in the manner provided by law for the collection and enforcement of taxes therein.

Complaint to be filed with commissioners of appeal.

Proviso.

Commissioners of appeal on complaint to designate time and place of meeting.

Notices to be posted and advertised of meeting of commissioners of appeal.

Owners to be served with notice.

Proviso.

Powers of commissioners.

To ascertain and determine property assessed.

To make valuation and assessment.

Taxes levied to remain a lien, &c.

An act respecting arrears of taxes and assessments in towns, townships and boroughs.

Approved March 24, 1890. P. L. 1890, p. 111.

679. SEC. 1. That it shall be lawful for the council or township committee of any town, borough or township in this state to make such abatement, revision, alteration, adjustment and settlement of arrears of taxes and assessments, including all sales for arrears of taxes or assessments where the town, borough or township or any officer for the use thereof has become the purchaser, both of principal and any and all interest, penalties and costs thereon as such council or township committee shall deem just and equitable; *provided, however,* that the provisions of this act shall not in anywise impair or affect the interest or any lien of any purchaser other than such town, borough or township acquired under any sale made for arrears of taxes or assessments.

Council or township committee of any town, borough or township may adjust arrears of taxes.

Proviso.

680. SEC. 2. That it shall be the duty of the collectors of taxes or other officer or officers charged with the collection of arrears of taxes or assessments, upon receiving a certified statement of the amount which the council or township committee shall have agreed to accept in full satisfaction of such taxes or assessments, or either of them, to receive and accept the amount therein mentioned in full satisfaction of such taxes and assessments, and to give a receipt for the amount paid in satisfaction thereof to the person paying the same, which receipt, accompanied by such statement, shall be sufficient evidence of the payment of such taxes and assessments, and upon presentation of the same to the clerk of the county he shall satisfy the tax or assessment record in his office (if any there be) relating to unpaid taxes and assessments, or either or both of them, as far as relates to the payment of the said tax or assessment.

Duty of collector of taxes on receiving certified statement of amount agreed on.

681. SEC. 3. That this act shall not be operative unless the owner or owners of property in arrears as aforesaid shall apply for a reduction of their tax, taxes, assessment or assessments, within one year from the passage of this act, and in case any reduction shall be made as aforesaid, a default in the payment of the full amount which the council or township committee shall have agreed to accept in full satisfaction as aforesaid, for the period of sixty days, shall render inoperative and void all the proceedings had under such application.

Act not to be operative unless owners shall apply for reduction within one year.

An act in relation to the assessment and revision of taxes by boards of assessment and revision of taxes, in the cities of this state.

Passed March 25, 1890. P. L. 1890, p. 116.

682. SEC. 1. That it shall and may be lawful for the common council or other governing body in the cities of this state, by ordinance, to regulate and fix the time within which statements of the taxable property shall be made and delivered to the taxing authorities therein, and the time during which the board of appeal in cases of taxation shall sit as such boards to hear and determine appeals in such cases.

Common council may, by ordinance fix time within which statements of taxable property shall be made and board of appeals to meet.

683. SEC. 2. That such boards shall assess all persons coming, or property brought within any such city, on or before the third Wednesday in July of any year, from any foreign state, or from any other taxing district in this state, unless it shall be made to appear to the satisfaction of such boards that such persons and property have been assessed for taxes in this state within the year in which such assessments may be made, and such assessment has been paid; any person assessed or whose property may be assessed under this section may appeal to such board, at its meeting held on the second Monday in September, from the assessment so made.

Persons and property from a foreign state or other taxing district in the state, when taxed.

684. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect January first, one thousand eight hundred and ninety-one.

When act to take effect.

An act in relation to the appointment of members of boards of assessment and revision of taxes in the cities of this state and fixing the salary of the same.

P. L. 1890, p. 141.

Passed March 31, 1890.

Appointment and term of office of members of boards of assessment and revision of taxes in certain cities.

685. SEC. 1. That where in any of the cities of this state boards exist having the control of the assessment and revision of taxes, and the duties of assessment and revision are imposed upon the same board or body, the members of such board may, at the discretion of the mayor and common council or other governing body of such city, be hereafter selected and appointed as follows: at the expiration of the term of office of any member or members of such board, the mayor of such city may nominate and, by and with the advice and consent of the said council or other governing body, appoint one or more members to fill the vacancy or vacancies so occasioned, and continue to so nominate and appoint until all the members of the said boards are in this manner chosen and appointed; and the term of office of the persons so appointed shall be so arranged that the term of one member shall expire each year, and thereafter the term of office of each member so appointed shall be five years; and the annual salaries of such officers shall be the sum of twenty-five hundred dollars, payable in equal monthly installments; *provided*, that this act shall not apply to any city that by popular vote has accepted the provisions of the act approved April sixth, one thousand eight hundred and eighty-nine, entitled "An act concerning the government of cities of this state."

Annual salaries.

Proviso.

Powers and duties of members and boards.

686. SEC. 2. That the qualifications, powers and duties of the said board and the members thereof so appointed shall be the same as those now required from, conferred or imposed on boards for the assessment and revision of taxes and the members thereof in the city or cities in and for which the members of said boards are or may be so appointed.

Appointments to be made from two political parties, &c.

687. SEC. 3. That in nominating and appointing the members of the said boards under the authority of this act, the appointment so made shall be made, as near as may be, both as to number and term of service, from the two political parties casting the largest number of votes at the last preceding municipal election.

Vacancies, how filled.

688. SEC. 4. That vacancies which may happen for any cause during the term of any member so appointed may be filled in the manner herein provided, for the unexpired term, and the member so appointed to fill any such vacancy shall have the same qualifications and be selected from the same party as the member for whose unexpired term he is appointed.

Vacancies in board now in office, how filled

689. SEC. 5. That if for any cause a vacancy may happen in the term or terms of any member or members of the said board now in office, such vacancy or vacancies may be filled in the manner herein provided, and in every such case the appointment so made shall be deemed and taken as an original appointment under this act, to the same extent as if the appointment had been made at the expiration of the term or terms of office of the member or members so appointed.

Appointments to be made as provided by this act.

690. SEC. 6. That where in any city members of the said board are or may be appointed in the manner herein provided, no other method of appointment or selection shall be lawful therein, and that all acts and parts of acts inconsistent with this be and they are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to provide for the appointment of an assessor in incorporated towns and cities of the third class, in counties of the first class, by the governing body thereof, and limit the compensation for performance of duty therefor.

P. L. 1890, p. 242.

Passed April 8, 1890.

Appointment of assessors in towns and cities of the third class in counties of the first class.

691. SEC. 1. That in any incorporated town or city of the third class, in counties of the first class, which is divided into wards so-called, and where now it is provided and required by law that the assessors for such town or city shall be elected annually in and for such wards, such mode and manner of election of assessors is hereby abolished; and hereafter it

shall be lawful for the common council or other governing body of such town or city to appoint, by the vote of a majority of all its members, one assessor, who, when so appointed, shall perform all the duties as now required by law of each and all the assessors as heretofore elected annually in and for the various wards of such town or city; and he shall hold office for a term of three years and until his successor is appointed, and as compensation for the performance of his duties as such assessor he shall receive a stated annual salary, which shall be fixed at the time of his appointment and shall not be increased or reduced during the term of his office, which salary or compensation shall not exceed the amount or sum of four-hundredths of one per centum of the total assessed valuation of the taxable values, real and personal, of and in such town or city at the time of his appointment, and such salary or compensation shall be in lieu of all fees heretofore allowed to assessors in such town or city for the performance of their duties.

Term of office,
salary and com-
pensation.

692. SEC. 2. That the said assessor may be appointed by the common council or other governing body of such town or city any time after the passage of this act, but shall not enter upon the discharge of his duties nor shall his term of office begin until the expiration of the term of office for which the present assessors in and for such town or city were elected; and the appointment of said assessor by the common council or governing body of such town or city shall be taken to be and is hereby declared to be the election of the successor of each of the before-mentioned assessors elected in and for the various wards of such town or city as aforesaid.

When assessor
may be appointed
and when to enter
upon his duties.

693. SEC. 3. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to provide for a board of assessors in cities of the third class.

Passed May 12, 1890.

P. L. 1890, p. 327.

694. SEC. 1. That in all cities of the third class of this state, it shall and may be lawful for the common council or other governing board of such city to pass ordinances or resolutions to take effect therein, for the following purposes, to wit: to provide for a board of assessment of taxes, to consist of five members, which board shall be created as follows, viz.: by the appointment of four of its members by the city council or other governing board of such city upon the nomination of the mayor thereof, no more than two of whom shall belong to the same political party, and the fifth member to be elected by the legal voters on a general ticket, at the annual charter election of such city, in the same manner as other officers thereof are elected, whereof at least two days' public notice shall be given; and no two of which members so appointed shall be selected from the same ward of such city, and shall hold their office for the period of two years, and until their successors are appointed; and the elected member shall hold his office for three years from the date of election; the first appointments to be two for one year, and the other two for two years; and the said appointments to be so made that the time of one member of each political party shall expire at the same time, and all appointments made to fill vacancies to be for the unexpired term only; and in case of the death, resignation or disability of the elected member, such vacancy shall be filled by the city council or other governing body, in the same manner as the original appointments are made, until the next charter or annual election, when such vacancy shall be filled by the legal voters; such assessors shall receive such salary as the city council or other governing board of such city shall, by ordinance, prescribe, and shall each give a bond in such an amount as the said city council or other governing board may direct, for the faithful performance of their duties; and the said board of assessors shall select one of their number to be clerk thereof, and he shall receive such additional compensation as the city council or other governing board may, by ordinance, prescribe, which board shall perform the duties now devolving or which may hereafter devolve by law upon assessors of taxes

Cities of the third
class authorized
to pass ordinance
to provide a board
of assessment.

Number and
appointment of
members.

Term of office.

Vacancies, how
filled.

Salary.

Office of assessor and existing boards abolished. or boards for the assessment of taxes, and the offices of such assessors and such boards now existing in such cities shall be abolished upon the appointment and election of assessors under this act; the said city council or other governing board shall provide an office for said board, which shall be open during such hours for the transaction of business as the said council or other governing board may direct; such assessors may be removed by the mayor or other chief magistrate for cause, and the cause of such removal shall be specified in writing and filed in the office of the city clerk before the removal shall take effect, and any justice of the supreme court may, at chambers, upon application by any assessor so removed, made within thirty days from the time of filing the cause of removal, review in a summary manner the action of such mayor or other chief magistrate in making such removal; *provided*, that in cities having three wards or less no more than two such assessors shall be appointed from the same ward. *(a)*

Assessors, how removed.

Proviso.

Duties and powers of boards of assessment.

Board of assessment to make assessment of damages for laying out and opening of streets, &c.

Board may examine witnesses, view property and make report of estimate and assessment.

Report, where deposited.

Notice to be published.

On filing report, application may be made to court for confirmation.

695. SEC. 2. That such board of assessment of taxes shall also have exclusive control and charge of all awards for damages in the taking, injuring or damaging of lands for public improvements in such city, and shall make all assessments for benefits acquired by any land or lands by reason of such improvement, or by reason of the laying out or opening of any street, road, highway, alley, public park or square within such city, or the causing any street, road, highway or alley already laid out, or which shall hereafter be laid out, to be vacated, straightened, altered, widened or extended, or by reason of the laying or constructing of sewers or drains, or the grading, graveling, paving, flagging, macadamizing, planting of shade trees, or otherwise in the improving and regulating of any street or section of a street in such city.

696. SEC. 3. That whenever the city council or other governing board of such city shall determine, by ordinance, to lay out and open any street, road, highway, alley, public park or square within such city, or to alter, widen, straighten or extend any street, road, highway or alley, or to make any sewer or drain in any part of such city, and to take and appropriate for such purpose any lands and real estate, the said board of assessment of taxes shall make an assessment of the damages that any such owner or owners will sustain by the taking and appropriating, in the manner aforesaid, such lands and real estate, and in estimating and assessing such damages the said board shall have due regard both to the value of the lands and real estate and to the injury to the owner or owners thereof by making such improvement as aforesaid, and after such award shall be made the remaining lands and real estate of any such owner or owners shall be liable to assessment for the payment thereof, to be levied and imposed in the manner hereinafter provided.

697. SEC. 4. That the said board shall have power to issue writs of subpoena ad testificandum to and to examine witnesses under oath, to be administered by any one of them, to enter upon and view the premises if they shall deem it necessary, and to adjourn from time to time, and shall make a just and true estimate and assessment as aforesaid, and sign a report of such estimate and assessment, and deposit the same in the office of the city clerk for examination by all parties interested therein; and the said board shall give ten days' notice, by publication in at least two newspapers printed and published or circulating in such city, that such report has been deposited as aforesaid, and also of the time and place when and where the parties interested can be heard by the said board; and after hearing the parties the said board shall proceed and complete the report and sign the same, and file the said report, with all objections in writing which shall be presented to and left with them by any of the parties interested, in the office of the city clerk of such city; and upon the filing of such report, signed by the members of said board, or a majority of them, application shall be made to the circuit court of the county in which such city is located for confirmation of such report; and the said court shall

(a) This act is a general act and constitutional. *In re Sewer Assessment for Passaic*, 25 Vr. 156.

direct a time and place of hearing any objections that may be made to the assessments so fixed and certified by the said board, and after hearing any matter that may be alleged against the same, the said court shall, by rule or order, either confirm the said report or refer it to the same board to reconsider the subject-matter thereof, and the said board to whom the said report may be so referred, shall return the same, corrected and revised, or a new report to be made by them in the premises to the said court without unnecessary delay, and the same, on being so returned, shall be confirmed or again referred by the said court, in the manner aforesaid, as right and justice may require, and so from time to time until a report shall be made or returned in the premises which said court shall confirm; any member of such board who shall refuse to sign such report shall file with the same a statement of his reasons for so refusing, for the information of the court; said report, upon being so confirmed, shall be final and conclusive upon the said city and upon all persons owning or having any interest in or lien upon the said lands, and against all persons whomsoever.

Confirmation of report final and conclusive.

698. SEC. 5. That in order to provide for the payment of the costs, damages and expenses of executing any of the improvements herein mentioned, or in the laying of sewers or drains, or grading, graveling, paving, flagging, widening, planting of shade trees, or otherwise improving and regulating any street or section of a street in said city, the city council or other governing board thereof shall ascertain the whole amount of costs, damages and expenses thereof, and the said board shall cause to be made a just and equitable assessment thereof upon the owners of the lands and real estate benefited thereby, in proportion, as nearly as may be, to the advantage each shall be deemed to acquire; *provided*, that no owner or owners shall be assessed beyond the benefits received by his or their lands and real estate; and in cases where such cost, damages and expenses exceed the benefits, the excess shall be paid out of the city treasury; and the said board shall make a report in writing of the assessment so made, and the excess, if any, of the costs over benefits, to be paid out of the city treasury; and before proceeding to sign said report shall deposit the same in the office of the city clerk of such city for examination, and shall give the same public notice and proceed to the confirmation thereof in the same manner as hereinbefore provided for the assessment of damages.

Assessment for improvements to be made upon owners of lands benefited.

Proviso.

699. SEC. 6. That such award of damages and assessments of benefits shall be paid and collected in the same manner as is now provided by law for the paying and collecting of any awards or assessments in such city.

Award of damages and assessments, how collected.

An act to provide for collecting taxes in cities.

Approved June 21, 1890.

P. L. 1890, p. 510.

700. SEC. 1. That in all cases where any taxes in any city of this state are or shall become delinquent, it shall be lawful for the board or body having charge or control of the finances of such city, by resolution, to authorize and empower the comptroller or other officer charged by law with the duty of collecting taxes in such city, to issue a warrant or warrants, under his hand and seal, for collecting such taxes; such warrant shall contain the name of the person from whom any such taxes are claimed to be due, and the amount of the same; and if such taxes are a lien upon real estate, the warrant shall contain a description thereof, or a reference to the lot and block numbers of such land, as the same are laid down on the tax maps of the city, if any there be, together with a statement of the amount due from each lot or tract of land; all warrants issued in pursuance of this act shall be directed either to a deputy comptroller, or a deputy tax collecting officer, or to a constable of such city, commanding him to make, levy and collect such delinquent taxes, and, for that purpose, to seize and sell any personal property liable to be taken and sold for the purpose of making or collecting any such taxes; such property to be advertised for sale by posting at least four notices, signed by the officer to whom the warrant is issued, and posted for at least five days in four of the most public places in the ward or district of the city in which the property to be sold is

Warrant, how to issue for collecting delinquent taxes in cities.

Form of warrant.

To contain a description of real estate.

Who to collect and sell.

Property to be advertised.

Delinquents to be arrested.

Certified copy sufficient to keep delinquents in custody.

Warrant may contain name of more than one person.

Time warrant is made returnable.

Remedy contained herein cumulative.

Costs.

situate; and in case no personal property can be found in any such city subject to be sold for the purpose aforesaid, it shall be lawful for any such deputy comptroller, collecting officer or constable, by virtue of such warrant, to take the body of any person delinquent for a poll tax, or for any tax levied or assessed on, or on account of, any personal property, if such person can be found in the county in which such city is situate, and deliver him to the sheriff or warden of the jail of the county, to be kept in close and safe custody until payment shall be made of the said taxes, with interest and costs; and a true copy of such warrant, certified by such comptroller or other collecting officer, shall be sufficient authority for such sheriff or warden to receive and keep in custody any person so taken for delinquent taxes, until the same shall be paid, with interest and costs.

701. SEC. 2. That any such warrant may contain the name of one person or more, or a description of the delinquent land, by reference to the lot and block number, or otherwise, of one or more lots or tracts of land subject to taxes or assessments, as such comptroller or other collecting officer may determine; and any warrant issued in pursuance of this act shall be made returnable to the constable or other collecting officer who shall issue the same, within ninety days from its date, and alias and pluries warrants may be issued as often as required to collect the delinquent taxes.

702. SEC. 3. That the remedy for the collection of delinquent taxes herein provided, shall be construed to be additional or cumulative to all other methods and remedies for collecting such taxes now in force.

703. SEC. 4. That the cost for collecting taxes in pursuance of this act shall be as follows, namely: for serving the warrant, fifty cents; for making a levy, seventy-five cents; for advertising sale, fifty cents; for selling, one dollar; for making an arrest, fifty cents, and in addition two per centum on the amount of taxes collected.

An act to authorize the correction of errors and mistakes in the tax and assessment records of the cities of this state, and to authorize the cancellation of taxes and assessments by error or mistake imposed upon the wrong property, and authorizing the charging thereof to be made against the property actually taxed or assessed.

F. L. 1891, p. 74.

Correction of errors and mistakes in the tax and assessment records in any city.

Approved March 4, 1891.

704. SEC. 1. That where in any city of this state it shall be made to appear to the satisfaction of the common council or other governing body that through an error or mistake a lot or tract of land has been wrongly described, or incorrectly numbered, whereby a tax or assessment would appear to be imposed upon a lot not intended to be assessed, and in fact not so assessed, and thus causing a duplicate assessment to be made against the said property, it shall and may be lawful for the common council or other governing body of such city to cause all such mistakes and errors to be corrected, and lots or tracts of land actually assessed to be properly described, in such manner that no lot or tract shall be subject to a duplicate assessment, and no lot assessed shall escape proper taxation and assessment by reason of such error and mistake.

705. SEC. 2. That if in any case by reason of such error or mistake any person has paid a tax or assessment upon the property of another, intending to pay upon his own property, in every such case it shall be lawful for the common council or other governing body to cause the tax or assessment wrongly paid to be reinstated and properly entered upon the records of such city, and the same shall be and remain a lien upon the land upon which it was intended to be and was imposed, and shall be collectible as other taxes and assessments are by law collectible therein, and when so collected shall be paid by such city to the person who by mistake paid to the said city the amount of said tax or assessment; *provided*, that the provisions of this act shall not apply to any case where, subsequent to the levying of such tax or assessment, the property has changed ownership.

When tax, &c., paid by mistake upon land of another, city may cause same to be reinstated and charged against land liable.

Proviso.

An act providing for the appointment of a clerk to assist the assessor in certain cities of this state.

Approved March 17, 1891.

P. L. 1891, p. 175.

706. SEC. 1. That in any city of this state in which there is not more than one assessor appointed or elected, and in which the total assessed value of the real and personal property now exceeds, or shall hereafter exceed, the sum of eighteen millions of dollars, the said assessor shall be and hereby is authorized to appoint a clerk, who shall be under the direction and control of such assessor, and shall render such assistance as may be necessary in the assessment of property in such city; the salary of such clerk shall be fixed and paid by the common council of such city, and shall not in any case exceed twelve hundred dollars per annum.

Clerk to assist assessor may be appointed in certain cities.

707. SEC. 2. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed.

Repealer.

An act enabling cities to return taxes, assessments and water rents paid in error.

Approved April 14, 1891.

P. L. 1891, p. 894.

708. SEC. 1. That it shall be lawful for the board having charge and control of the finances of any city in this state, to return, without interest, the amount of any tax, assessment or water rent paid or to be paid in error by any person upon any real estate situate therein, and to cancel the record of such payment; *provided*, that no transfer, mortgage or incumbrance shall have been placed upon record against said property since the date of such payment in error.

Cities may return taxes, assessments, &c., paid in error.

Proviso.

An act relative to the payment of arrears of taxes and assessments and the interest thereon in incorporated cities.

Approved April 14, 1891.

P. L. 1891, p. 414.

709. SEC. 1. That at any time within one year after the passage of this act, any person or persons may pay to the collector of taxes or other person authorized to receive the same in any incorporated city in this state, the amount of any tax or assessment due upon any real property belonging to any such person or persons, laid or imposed prior to the year one thousand eight hundred and ninety, and now remaining unpaid, together with interest thereon at seven per centum per annum, to be calculated from the time interest is properly chargeable thereon to the time of such payment, together with the actual expenses theretofore incurred by any such city for the enforcement and payment of said taxes or assessments; and the collector of taxes, or person authorized to receive the same shall make and deliver to the person or persons making such payment a receipt therefor, and shall forthwith cancel the record of such tax or assessment; upon such payment such tax or assessment shall cease to be a lien upon the real estate or property, and shall be deemed and taken to be fully paid, satisfied and discharged, and there shall be no right to any further interest or penalty by reason of such tax or assessment not having been paid within the time heretofore required by law, or by reason of any statute passed requiring the payment heretofore of any penalty or interest over seven per centum upon any unpaid tax or assessment; *provided, however*, that nothing in this act contained shall authorize the receipt, under the provisions of this act, of any such taxes or assessments in cases where lands and real estate have been sold for taxes or assessments, and bought in by any other person than the city in which said taxes and assessments are laid, or some officer for the use of such city; nor shall any lien upon real estate for such taxes or assessments be released or affected, nor shall any sale of any real estate for taxes or assessments, or the delivery of any certificate or declaration of sale, or deed therefor, be stayed by anything in this act contained; *and provided further*, that the provisions of this act shall not become operative in any incorporated city until the common council or other governing body having charge and control of the finances of such

When arrears of taxes and assessments, with interest, may be paid in cities.

Upon payment, tax shall cease to be a lien.

Proviso.

Proviso.

city shall, by resolution, authorize the collector of taxes, or other person authorized to receive taxes, to receive and receipt for the same under the provisions of this act.

An act respecting the election and terms of office of the clerk, and collector or receiver of taxes in certain towns, boroughs and townships.

P. L. 1891, p. 417.

Approved April 14, 1891.

Repealer.

710. SEC. 1. [Amended by Sec. 712, *post.*]

711. SEC. 2. That all acts and parts of acts, general, special, local, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed.

Amendatory act.

P. L. 1892, p. 258.

Approved March 24, 1892.

Terms of office of clerks and collectors or receivers of taxes in certain towns, boroughs and townships.

Any legal voter eligible to offices.

712. SEC. 1. That section one of the above-recited act be and the same is hereby amended so that the said section shall read as follows, viz.:

[That in all towns and boroughs and in all townships governed by or under a special charter, the terms of office of the clerk and of the collector and receiver of taxes hereafter elected or appointed therein shall be the period of two years, and all persons who shall be hereafter elected or appointed to said offices or any of them, shall hold office for two years and until their successors in office shall have been duly elected or appointed, and shall have duly qualified; and any legal voter of any such town, borough or township shall be eligible to the said offices of clerk or collector or receiver of taxes.] (a)

An act relative to the salary of assessors in certain towns and townships.

P. L. 1891, p. 483.

Approved April 16, 1891.

Township committees in townships having 10,000 inhabitants may fix salary of assessors.

Proviso.

Repealer.

713. SEC. 1. That it shall be lawful for the council or township committee of any town or township of this state, containing more than ten thousand inhabitants, in which the duties of the office of assessor of taxes are performed by one officer only, to annually fix by ordinance the salary and compensation to be paid to the assessor of taxes; *provided, however,* that the amount so fixed shall not exceed one thousand dollars.

714. SEC. 2. That all acts and parts of acts, general, special, local, public or private, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act providing for boards of appeal in cases of taxation in cities of the first class.

P. L. 1892, p. 38.

Approved February 25, 1892.

Mayor to appoint a board of appeals in cases of taxation in cities of the first class.

Salary.

Jurisdiction.

715. SEC. 1. That in each city of the first class in this state it may be lawful for the mayor thereof to appoint a board of appeals in cases of taxation; such board shall consist of three members, who shall hold office for a term of three years, and until their successors are appointed and shall have qualified; any vacancy by resignation, removal from the city or other cause shall be filled for the unexpired term only; they shall perform the duties and exercise the powers provided by law for the board, commissioners or other body now exercising the powers of commissioners or boards of appeals in cases of taxation in such city; the members shall each receive an annual salary of one thousand dollars; they shall organize annually by the election of one of their members as president of said board, and may appoint a clerk, who shall receive an annual salary not exceeding six hundred dollars, to be fixed by such board; the board having charge and control of the finance of such city shall provide for the payment of such salaries, and the other expenses of such board; the jurisdiction of the board first appointed in any city under the provisions of this act shall

(a) This act, so far as it applies to townships, is unconstitutional. The classification of townships into those "governed by or under a special charter" and those not so governed, is not

of such a nature as to require or sustain exclusive legislation for each class. *Goldberg v. Dorland*, 27 Vr. 364.

extend to all unpaid assessments for taxation made after the first day of January, one thousand eight hundred and ninety-one; *provided*, that the members of said board shall not hold any other municipal or county office whatever.

Proviso.

716. SEC. 2. That upon the appointment of a board of appeals in cases of taxation, in any city as aforesaid, the board, commissioners or other officers now exercising the powers or performing the duties of a board of appeals in cases of taxation in such city, shall cease to perform such duties or exercise such powers; no commissioner, assessor, assistant assessor, or other officer acting as an assessor, shall be appointed a member of any board created by this act.

Upon appointment of board, other like boards abolished.

717. SEC. 3. That the commissioners of appeal authorized and appointed under this act may be removed by the appointing power at any time, and others appointed in their places, or in the place of any one of them, but for the unexpired term only.

May be removed by appointing power.

718. SEC. 4. That all appeals made to said commissioners shall be filed within three months after the confirmation of said taxes and shall be acted upon by said commissioners within four months after such confirmation; *provided*, that said commissioners shall have two months from and after their appointment to consider and act upon appeals from taxes confirmed before the passage of this act, and after the first day of January, one thousand eight hundred and ninety-one.

Appeals, when to be acted upon.

Proviso.

An act respecting the election and term of office of the assessor and collector of taxes in boroughs and towns.

Passed March 8, 1892.

P. L. 1892, p. 65.

719. SEC. 1. That the term of office of the assessor and collector of taxes in boroughs shall hereafter be three years, and that all persons hereafter elected to either of said offices shall hold such office for said term of three years from and after the date fixed by law for such term of office to commence; *provided, however*, that collectors shall renew their bonds annually, between the first day of April and May in each year, and in default thereof the office shall be deemed vacant and shall be filled by appointment by the mayor and council until the next annual election.

Term of office of assessor and collector in boroughs and towns.

Proviso.

720. SEC. 2. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

An act concerning cities of the first class in this state, and to facilitate the collection thereby of arrears of taxes assessed on personal property.

Approved March 17, 1892.

P. L. 1892, p. 142.

721. SEC. 1. That it shall be the official duty of the receiver or collector of taxes in all cities of the first class in this state, within ten days after the expiration of each fiscal year of such city, to cause to be made out and delivered to the comptroller of such city, a full and complete list of the names and amounts due such city from all persons residing in the various wards or aldermanic districts of such city, for arrears of taxes assessed on the personal property of such persons, respectively, during such previous fiscal year; and such list of delinquent taxpayers for the fiscal year previous to the passage of this act, shall be made and delivered by such receiver or collector of taxes as aforesaid before the fifteenth day of April next after the passage of this act.

Receiver or collector of taxes in every first-class city, within ten days after the expiration of the fiscal year, to make a list of all persons in arrears for taxes.

722. SEC. 2. That it shall be the duty of the comptroller of such city aforesaid, immediately after the delivery to him of the list of delinquent taxpayers mentioned in the first section of this act, to cause a true copy of such list to be made and published in a daily newspaper published in such city, once each week for two weeks, allowing two weeks to intervene between the first and second publication of such list, and erasing from such list between the first and second publication thereof as aforesaid, the names of all delinquent taxpayers thereon who shall pay their said arrears

List to be published in a daily newspaper.

Rate and cost of publication. of taxes, with cost of publication, before the second publication of said list as aforesaid ; that the daily newspaper publishing such list of delinquent taxpayers aforesaid, shall be entitled to charge, and shall be paid by such city, the sum of twenty cents per name of each delinquent taxpayer for each insertion aforesaid, to be paid for by such city in the same manner as advertisements of sale of real estate for arrears of taxes are paid by such city, and the said cost of publication as aforesaid shall be added to the said arrears of taxes due from such delinquent taxpayer to such city and collected by such receiver or collector of taxes, together with the amount then due the city from such person for arrears of taxes assessed on the personal property of such delinquent.

Repealer. **723. SEC. 3.** That all acts and parts of acts, general, special or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and this act shall take effect immediately.

An act to provide for and regulate the election of assessors in incorporated towns, townships and boroughs divided into wards.

P. L. 1892, p. 229.

Approved March 24, 1892.

Preamble.

WHEREAS, In municipalities that have been or may hereafter be divided into wards pursuant to chapter fourteen of the laws of one thousand eight hundred and eighty-six, the labor of assessing the annual taxes is too extensive to be done by a single assessor ; therefore,

Ward assessors to be elected in towns, townships and boroughs divided into wards.

724. SEC. 1. That in every incorporated town, township and borough which now is or hereafter shall be divided into wards under the provisions of chapter fourteen of the laws of one thousand eight hundred and eighty-six, the legal voters of each ward at the annual municipal election shall elect an assessor for such ward, who shall hold office for the term of one year ; who, as to such ward, shall have all the powers, perform all the duties and be liable to all the penalties now prescribed by law with respect to the assessor of incorporated town, township or borough ; and who shall receive a salary to be fixed by the town council, township committee or other governing body of such municipality ; *provided*, that such salary shall not exceed the sum of five hundred dollars.

Powers and duties.

Salary.

Proviso.

Meeting of assessors to form board.

725. SEC. 2. That the said assessors shall meet in some convenient place to be appointed by the town council, township committee or other governing body of such municipality, on the third Tuesday in June of each year with the power to adjourn from day to day as they may see fit ; and that when so met they shall constitute a board of assessors for the said municipality ; and that it shall be their duty as such board to review the several assessments made in their respective wards, and to diminish, increase, alter or confirm the same in such manner as to render the assessments through the whole municipality as just and as nearly equal as possible ; and that such assessments when so reviewed and approved by the said board shall be the assessments of the said several wards, subject to review as heretofore, by said town council, township committee, commissioners of appeal in cases of taxation or other revisory body provided by law.

Duties of board.

Assessments subject to review.

Repealer.

726. SEC. 3. That all acts and parts of acts, general, special, local or public, inconsistent with the provisions of this act, be and the same are hereby repealed.

An act in relation to the election of collectors of taxes in cities of the second class having a population of less than fifteen thousand inhabitants at the last census.

P. L. 1892, p. 285.

Approved March 26, 1892.

Term of office of collectors in cities of second class containing less than 15,000 inhabitants.

727. SEC. 1. That all collectors of taxes in cities of the second class of this state having a population of less than fifteen thousand inhabitants at the last census, elected after the passage of this act, shall hold their office for the term of three years.

Repealer.

728. SEC. 2. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act in relation to interest upon assessments collectible in or by any town or township of this state, or by any officer thereof, whether laid under general or special act.

Approved March 29, 1892. P. L. 1892, p. 339.

729. SEC. 1. That it shall be lawful for the township committee of any township or the governing body of any town in this state, to authorize and direct the collector of any assessment collectible by such township or town or any officers thereof, to receive and collect upon all such assessments remaining due and unpaid, in whole or in part, on the passage of this act, such interest less than that prescribed by any general or special act relating to such assessment, as such township committee or governing body of any town shall fix and direct, and as shall be deemed for the best interest of such township or town; *provided*, that this act shall not be operative unless the owner or owners of property in arrears as aforesaid shall apply for a reduction of interest on their assessment or assessments within two years from the passage of this act; *and provided, further*, that in case any reduction shall be made as aforesaid, a default in the payment for sixty days of the full amount which the township committee or governing body of any town shall have authorized the collector to accept, shall render inoperative and void all the proceedings had under such application.

Township committee and governing body of any town may reduce rate of interest on unpaid assessments.

Proviso.

Proviso.

730. SEC. 2. That this act shall only apply to assessments where the land on which the assessment is levied has been sold for the payment of the same and bought in by the township, and where no sale has been made under the assessment.

Act limited to certain assessments.

An act to authorize the correction of errors and mistakes in the tax and assessment records of any public road board, or other public body, or municipality, in this state, and in the payment of any tax or assessment, made by error or mistake by any person upon the property of another.

Approved April 7, 1892. P. L. 1892, p. 409.

731. SEC. 1. That whenever any tax or assessment shall have been levied, made or imposed upon any lot, tract or parcel of land, by authority of any public road board, or other public body or municipality in this state, and it shall thereafter appear to the satisfaction of the said board, or other public body or municipality, that by or through any error or mistake such lot, tract or parcel of land was or has been wrongly, incorrectly or improperly described, numbered or designated, whereby any such tax or assessment would appear by any map or record of the same to have been levied, made or imposed upon a lot, tract or parcel of land, not intended to have been so taxed or assessed, and in fact not so assessed, it shall be lawful for such board, or other public body or municipality, under authority of which any such tax or assessment was levied, made, or imposed, to cause any and all such mistakes and errors to be corrected, and any and all such lots, tracts or parcels of land to be rightly, correctly and properly described, numbered and designated in such manner that no lot, tract or parcel of land and property shall appear to be wrongly, incorrectly or improperly described, numbered or designated, or shall escape proper taxation or assessment by reason of any such error or mistake, and any such board, or other public body or municipality, may adjust and apportion any such tax or assessment in such manner as in its judgment may be necessary and proper for the correction of any such error or mistake.

Errors in tax and assessment made by public road boards or municipality, how corrected.

732. SEC. 2. That whenever in any case any person by reason of any such error or mistake as aforesaid has paid any tax or assessment upon any lot, tract or parcel of land and property of any other person, intending at the time to have paid such tax or assessment upon any lot, tract or parcel of land and property of which he was the owner, or in which he had any interest justifying the same, at the time of making such payment, in every such case it shall be lawful for any such board, or other public body

Such tax and assessment may be reinstated and charged against property liable.

or municipality, to cause any such tax or assessment so paid by error or mistake upon the property of another, to be reinstated, and charged and properly entered upon the records and maps of such board, or other public body or municipality, against the property upon which any such payment was made by error or mistake, and the said tax or assessment shall thereupon be and remain a lien upon the land upon which it was intended to be and was levied, made or imposed, and shall thereupon be collectible by any such board, or other public body or municipality, by authority of which any such tax or assessment was levied, made or imposed, and thereupon the said board, or other public body or municipality, shall have power to discharge the property intended to have been discharged by any such payment, from the lien of any such tax or assessment thereon which it was the intention of the parties making and receiving such payment to have discharged from any such lien at the time of making any such payment by error or mistake.

An act in relation to assessments of taxes in cities.

P. L. 1893, p. 87.

In cities having block maps, real estate to be assessed as shown upon maps.

New owners of property shall have the change properly noted on the books and maps.

Deeds shall not be recorded unless it shall be duly certified thereon that the same have been presented at the office of the officer having charge of the assessment of taxes.

Proviso.

Repealer.

Approved March 1, 1893.

733. SEC. 1. That in all incorporated cities of this state that now have or may hereafter have block maps, it shall be the duty of the taxing officer or officers in all cases, in making their assessments for taxes upon real estate, to describe the same by block and lot numbers as shown upon the assessment maps of the city. [See Sec. 787, *post.*]

734. SEC. 2. That when any change occurs in the ownership of property in any such city, it shall be the duty of the new owner to present his deed, or other evidence of title, to the officer, officers or department having charge of the assessment of taxes therein, that the change of ownership may be properly noted on the books and maps kept by the said taxing officer or officers.

735. SEC. 3. That no register of deeds, county clerk or other officer whose duty it shall be to record deeds, shall record any deed which conveys any property in cities of this state that now have or may hereafter have block maps, unless it shall be duly certified thereon that the same has been presented at the office of the officer, officers, or other department having charge of the assessment of taxes, for the purpose of recording or noting such changes as may have been made thereby in the property lines and ownership of the property; *provided*, that nothing in this act shall prevent the recording of such deed in case a fee of twenty cents is paid at the time any such deed is deposited for record to the register of deeds, county clerk, or other officer whose duty it is to record the same, upon which payment having been made it shall be the duty of said register of deeds, county clerk or other officer, within five days thereafter to present such deed or an abstract thereof to the officer, officers or department having in charge the assessment of taxes, for the purpose of having such changes in lines of ownership as may be made thereby recorded or noted.

736. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act providing for a chief clerk or secretary to the board of tax commissioners or board of assessment and revision of taxes in cities of the first class.

P. L. 1893, p. 100.

In cities of first class, board of tax commissioners authorized to appoint chief clerk or secretary. Term of office. Salary.

Duties of chief clerk or secretary.

Passed March 7, 1893.

737. SEC. 1. That in cities of the first class, the board of tax commissioners or board of assessment and revision of taxes shall have power to appoint a chief clerk or secretary for a term of three years from the date of his appointment, at a salary to be fixed by such board at the time of such appointment, not less than eighteen hundred dollars nor more than twenty-five hundred dollars per annum, payable monthly.

738. SEC. 2. That such chief clerk or secretary shall, in addition to such other duties as may be imposed upon him by said board, have charge of the records, books and papers of said department, subject, however, to the direction of said board.

739. SEC. 3. That should there be no appropriation or fund for the payment of such salary, then and in such case the board, or other authority having the charge and control of the finances in any such city, shall make provision therefor in such manner as they may deem proper, and if money is borrowed for such purpose the amount so borrowed shall be placed in the next tax levy of such city.

Provision for payment of salary.

An act to provide for the appointment of a collector of arrears of personal taxes in cities of the first class.

Approved March 8, 1893. P. L. 1893, p. 119.

740. SEC. 1. That it shall and may be lawful for the board having charge and control of the finances and the confirmation of the annual tax levy in any city of the first class in this state to appoint an officer to be known as "the collector of arrears of personal taxes" for such city; each appointment shall be for the term of three years from the date thereof, and said officer shall receive for his services a salary to be fixed by such board, not to exceed the sum of fifteen hundred dollars per annum, payable monthly.

Appointment of collector of arrears of personal taxes in cities of the first class.

Salary.

741. SEC. 2. That all warrants and other processes for the collection of personal taxes in such city shall be directed to and executed by such collector, who shall have all the power in relation thereto now vested by law in any constable of the state of New Jersey.

Powers of such collector.

An act concerning the collection of arrears of taxes in cities of this state.

Approved March 9, 1893. P. L. 1893, p. 133.

742. SEC. 1. That in any city of this state in which the collection of arrears of taxes is now performed by deputy collectors of arrears of taxes, it shall and may be lawful for the receiver of taxes of such city, or other officer who has heretofore appointed the said deputy collectors in said city, to appoint, with the sanction and consent of the finance committee or board of finance of said city, such additional deputy collectors as may from time to time be necessary for the prompt and efficient collection of the arrears of taxes in said city; and said additional deputies shall have the same powers, perform the same duties and be subject to the same requirements as the said deputy collectors of arrears of taxes are now subject to in said city.

Appointment of additional deputy collectors of arrears of taxes in cities.

An act to fix the term of office of assessors of taxes in townships of this state.

Approved March 10, 1893. P. L. 1893, p. 176.

743. SEC. 1. That every assessor of taxes hereafter elected in any township in counties of the first class in this state shall hold his office for a term of three years, and until the qualification of his successor.

Term of office of township assessor in counties of the first class.

744. SEC. 2. That all acts or parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act concerning the tenure of office of city collectors in cities of the third class.

Approved March 10, 1893. P. L. 1893, p. 178.

745. SEC. 1. That the term of office of the city collector or other officer charged with the collection of taxes and assessments in any city of the third class shall be three years.

Term of office of collector of taxes in cities of the third class.

746. SEC. 2. That all acts and parts of acts, either general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Repealer.

An act to establish the rate of interest on arrears of taxes and assessments in cities of this state.

P. L. 1893, p. 183.

Common council, &c., may fix rate of interest on past-due taxes due prior to January 1st, 1892.

Proviso.

Repealer.

Approved March 10, 1893.

747. SEC. 1. That the common council or other board having charge and control of the finances of any city in this state may by the same vote required to expend moneys, fix and change by resolution, the rate of interest on all past-due taxes and assessments of all kinds which were due prior to January first, one thousand eight hundred and ninety-two, at and after a rate of not less than seven per centum per annum; *provided, however,* that such rate shall apply only to such taxes and assessments as are still due and unpaid to said city, and shall not apply to any taxes or assessments that have been or may be adjusted under the act of the legislature entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages and to enforce the payment thereof, and to provide for the sale of lands subjected to further taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six. [See Secs. 762 and 801, *post.*]

748. SEC. 2. That all acts or parts of acts so far as they conflict herewith be and the same are hereby repealed, and that this act shall take effect immediately.

An act providing for the sale of lands for unpaid taxes and assessments heretofore levied or imposed, or which may be hereafter levied or imposed, in towns of this state.

P. L. 1893, p. 352.

In towns, warrant may be issued, after expiration of one year, for collection of unpaid taxes or assessments.

Proviso.

Lands heretofore sold to town and not redeemed, taken to be lands upon which taxes are in arrears.

Warrant may be issued after the expiration of three years, for collection of unpaid taxes.

Sale to be public.

Proviso.

Approved March 16, 1893.

749. SEC. 1. That where in any town of this state taxes or assessments for public improvements heretofore levied or imposed upon any lands or real estate therein which now remain due and in arrears shall remain due and unpaid for the period of one year after the passage of this act it shall be lawful for the town council or other governing body of such town at any time after the expiration of said period to issue its warrant under the corporate seal of the town, signed by the chairman thereof and attested by the town clerk, directed to the treasurer of the town, therein and thereby commanding him to sell such lands and real estate at public auction to the highest bidder, in the manner prescribed by this act, which warrant shall include all lots and parcels of land and real estate subject to liens for taxes or assessments, or both, at the time of the passage of this act which shall not then have been fully paid or discharged; *provided, however,* that no lot or parcel of land shall be sold for less than the amount due thereon, and interest, penalties and costs of sale.

750. SEC. 2. That all lands and real estate which have been heretofore sold for a term of years, for, or on account of, the non-payment of any tax or assessment to any board or officer of such town for the use or benefit thereof, and which shall not have been redeemed therefrom at the time of issuing said warrant, shall be deemed and taken to be lands and real estate upon which taxes or assessments, as the case may be, are unpaid and in arrears, within the meaning of the first section of this act.

751. SEC. 3. That where, in any town of this state, taxes or assessments hereafter levied or imposed upon any lands or real estate therein, shall remain unpaid and in arrears for the period of three years after the time limited or appointed by law for the payment thereof, it shall be lawful for the town council or other governing body of such town, at any time after the expiration of said period, to issue its warrant under the corporate seal of the town, signed by the chairman thereof and attested by the town clerk, directed to the treasurer of the town, commanding him to sell at public auction, to the highest bidder, in the manner provided by this act, each and every lot and parcel of land and real estate upon which such taxes or assessments shall remain unpaid and in such warrant mentioned and described; which said warrant shall include all lots and parcels of lands in arrears for the same taxes or assessments; *provided, however,* that

no lot or parcel of land shall be sold for less than the amount of the tax or assessment due thereon, and interest, penalties and costs of sale.

752. SEC. 4. That the warrants provided to be issued by the first and third section of this act shall contain a brief description of each lot or parcel of land directed to be sold, adding thereto the lot and block number thereof on the official map of the town, if any, and shall set forth, in connection with each lot or parcel of land, the amount of each tax and assessment due thereon.

What warrants shall contain.

753. SEC. 5. That on receiving said warrant, it shall be the duty of the town treasurer to give notice of such intended sale by advertisements published in two newspapers published in the county in which such town is situated and circulating in such town for four weeks successively, at least once in each week, next preceding the time appointed for such sale; said advertisements shall specify and set forth the time and place of sale, and shall briefly describe the property affected, adding the lot and block number of the same on the official map of the town, if any, and shall specify and set forth the amount due for taxes and assessments upon each lot or parcel so advertised to be sold.

Notice of sale to be given, and what to contain.

754. SEC. 6. That it shall be the duty of said town treasurer to attend at the time and place specified in the notice of sale, and to expose for sale at public auction, separately, all the lots and parcels of land and real estate described and set forth in the notice of sale, and shall sell to the highest bidder, but not for less than the amount due on each lot or parcel as aforesaid; *provided, however,* that in case any of the lots or parcels advertised to be sold shall remain unsold for want of purchasers, the said treasurer shall adjourn the sale of the unsold lots or parcels for a period not less than three weeks nor more than six weeks; notice of such adjournment shall be published in the newspapers in which the notice of sale shall have been published, at least once in each week next preceding the adjourned day of said sale; affidavits of the publication of the notice of sale, and, in case of adjournment, of the notice thereof in the manner above provided, made by the publishers of the newspapers, or by some person or persons in their employ having cognizance of such publication, shall be filed in the office of the town clerk, and shall constitute prima facie evidence of the matters stated therein in all courts and places.

Sale to be at public auction.

Proviso.

Adjournment.

755. SEC. 7. That on receipt of the purchase-money on any sale the said treasurer shall deliver to the purchaser a certificate of such sale; upon surrendering such certificate of sale and filing proof with said treasurer of the publication of the notice thereof and proof of the service or mailing thereof, or of due inquiry, as hereinafter provided, the said treasurer shall at the expiration of six months from the date of the last publication of such notice execute and deliver to the purchaser, his heirs, devisees or assigns a deed for the lot or parcel purchased by him; which deed shall be signed by said officer, be sealed with the corporate seal of the town and attested by the town clerk, and be proved or acknowledged in the usual manner; which deed shall convey, and said purchaser, his heirs, legal representatives or assigns shall take and hold thereunder a good and sufficient title to the lands and real estate sold in fee-simple absolute, free of all incumbrances, except taxes and assessments levied subsequently to the taxes or assessments mentioned and set forth in the notice of sale, of which the said deed shall be presumptive evidence in all courts and places and in any proceeding or action to be by such purchaser, his heirs, legal representatives or assigns taken, prosecuted or defended for the recovery of the possession of the property sold as aforesaid, or in the establishment or defense of his title shown as aforesaid by such deed, the title shall not fail or be defeated by reason of any irregularity or formal defect in the procedure taken under this act; from and after the delivery of the deed to him as aforesaid, the said purchaser shall be entitled to the possession of the premises described therein.

Certificate of sale to be delivered to purchaser.

Deed, when to be delivered.

Deed, what to convey.

756. SEC. 8. That when any lots or parcels of land so advertised as aforesaid shall be exposed for sale on any adjourned day, and the same shall then remain unsold for want of purchasers, it shall be lawful for

What council or governing body may purchase.

such town acting by the chairman of its town council or other governing body, to purchase such unsold lots or parcels with the same right, title and effect as any other purchaser, and the certificate of such sale shall be delivered to said chairman of the town council or other governing body of such town, who shall, in behalf of the town, cause notice of the sale to be published and given as hereinafter provided, and upon filing with the town treasurer proof thereof as hereinafter provided; and at the expiration of six months from the date of the last publication of such notice the town, by its corporate name, shall be entitled to a deed the same as any other purchaser; the town council or other governing body of such town, at any time before the delivery of the deed, are hereby authorized and empowered to sell and assign the certificate of sale, and at any time after the delivery of the deed said town council or governing body are hereby authorized and empowered to grant, sell and convey by good and sufficient deed, either by private sale or by public auction to any person or persons any lot or parcel or land so purchased by it; *provided, however,* that no such sale, assignment or conveyance shall be made for less consideration than the amount of taxes or assessments or both, on account of which the lot or parcel was sold, with interest and costs.

757. SEC. 9. That the owner, or any incumbrancer, of any lot or parcel of land or real estate sold by virtue of the provisions of this act, may, at any time before the expiration of six months from the date of the last publication of the notice hereinafter provided for, or before a deed for the same shall have been delivered, redeem such lot or parcel by paying to the town treasurer of such town, for the use of the purchaser, his heirs, legal representatives, or assigns, the sum paid by him at such sale, with interest at the rate of ten per centum per annum from the date of the sale, together with the cost of publishing the notice of the sale, and one dollar for each copy thereof served as hereinafter provided; and upon such redemption, the town treasurer shall pay to the purchaser, his legal representatives or assigns, the amount received from the person redeeming; such notice shall be advertised in a newspaper published in the county in which such town is situated for the period of six weeks, at least once in each week, and, in addition to other appropriate particulars, shall specify the date of sale, the name of the purchaser, the place where redemption from the sale may be made, and shall describe the lot or parcel of land sold, by metes and bounds, and also by reference to the lot and block numbers of the same on the official map of the town (if any); within thirty days after the first publication of such notice a copy thereof shall be served personally on the owner or owners and all mortgagees and incumbrancers of record, if resident in the county in which the town is situated, and in case any owner, mortgagee or incumbrancer shall be non-resident of the county, a written or printed copy of such notice shall, within the same period, be deposited in a post-office inclosed in a wrapper, postage prepaid, directed to such owner, mortgagee or incumbrancer at his last-known post-office address; and in case the post-office address of any such owner, mortgagee or incumbrancer is unknown, or cannot, upon due inquiry, be ascertained, or in case any such owner, mortgagee or incumbrancer, his or her heirs, devisees or legal representatives shall be unknown, then the publication of the notice, above provided for, shall be continued for the further period of six weeks so that such notice shall be published for twelve weeks successively instead of six weeks as hereinabove provided; inquiry for the name, residence, or post-office address of any owner, mortgagee or incumbrancer as aforesaid, shall be made upon the lands purchased at the sale, if the same are occupied, and wherever else in the town the same may be likely to be ascertained, and also by examination of the record of the deed, mortgage or incumbrance on account of which such notice is given; an affidavit shall be made by the purchaser or his agent, setting forth the manner and particulars of the service of the notice and what inquiry was made to ascertain the name, residence and post-office address of the owner, mortgagee or incumbrancer, and how and where and to whom such notice was mailed, and an affidavit of the publication of

Authorized to sell
or assign certifi-
cate of sale.

Proviso.

When owner may
redeem.

Duty of town
treasurer upon
redemption.

such notice shall be made by the publisher of the newspaper or some one in his employ having cognizance of such publication ; all of said affidavits shall be filed in the office of the town treasurer within one month after the date of the last publication of the notice, and shall be prima facie evidence in all courts and places of the matters stated therein ; any mortgagee or incumbrancer redeeming from such sale shall have a lien on the property so redeemed for the amount paid by him prior to all other liens and incumbrances whatsoever, and on any sale of such property to satisfy any lien or incumbrance thereon, shall be entitled to be first paid out of the proceeds of sale the amount paid by him, with legal interest.

Mortgagee or incumbrancer redeeming shall have lien on property.

758. SEC. 10. That any surplus of the purchase-money paid for any lot or parcel of land sold under the provisions of this act, shall be held for the use of, and be paid over to the person legally entitled thereto, upon his establishing his right to the same, but no interest shall be recoverable from the town ; *provided, however,* that in case any mortgagee or other incumbrancer shall, in writing, notify the town council of the nature and extent of his lien or incumbrance at any time before the deed is delivered, the town shall, immediately after the delivery of the deed, pay such surplus into the circuit court of the county, which court, on application of any party interested, may make such order in relation to the disposition and distribution of the same as shall be just and equitable.

Surplus of purchase-money to be held for use of person legally entitled thereto.

Proviso.

759. SEC. 11. That the town clerk shall keep a record in a book to be provided for that purpose, which shall be a public record, of all sales made under this act and of the names and residences of the purchasers, and in case of redemption, the time of redemption and the name and residence of the person redeeming.

Clerk to keep record of redemption.

760. SEC. 12. That in any deed given under this act, it shall not be necessary to set out at length the proceedings taken under this act, but it shall be sufficient to state generally therein that such deed is made and executed upon proceedings taken under authority of this act.

Form of deed.

761. SEC. 13. That all acts and parts of acts, local, general or special, inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to establish the rate of interest on arrears of taxes in cities of this state.

Approved March 17, 1893.

P. L. 1893, p. 383.

762. SEC. 1. That it shall be lawful for the common council or other board having charge and control of the finances of any city in this state to fix and change, by resolution, the rate of interest on all past-due taxes which were due and unpaid prior to January first, one thousand eight hundred and ninety-two ; *provided, however,* that such rate when adopted shall apply only to such taxes as are still due and unpaid to such city. [See Sec. 747, *ante.*]

Common council &c., of cities, may fix rate of interest on past-due taxes unpaid prior to January 1st, 1892

Proviso.

763. SEC. 2. That if any taxes shall have been paid within four months prior to the passage of this act the said common council or other proper board shall have power to refund any excess of interest and costs that may have been paid, over and above the rate of interest that may be fixed, under the authority of the first section of this act.

Power to refund excess of interest and costs.

Repealer.

764. SEC. 3. That all laws, general or special, inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning cities of the fourth class.

Approved March 17, 1893.

P. L. 1893, p. 409.

765. SEC. 1. That it shall be lawful for cities of the fourth class, to elect an assessor for each of the respective wards in said city, whose duties shall be the same for his respective ward as are now imposed by law upon the assessor of the city at large.

Cities of fourth class may elect an assessor for each ward.

Have equal representation in county board

766. SEC. 2. That each of the said ward assessors shall have equal representation at the county board of assessors and shall comply with the law in every respect as the assessor of the city now is required.

When ward assessors to meet to revise duplicates.

767. SEC. 3. That the respective ward assessors shall meet in the council chamber of such city ten days before the meeting of the county board of assessors, and shall then and there at the hour of ten o'clock in the forenoon of said day organize as a city board of assessors by electing one of their number chairman, and another one of their number secretary, and immediately after organization they shall proceed to examine and compare their respective duplicates, and if in the opinion of a majority of said assessors it shall appear that any duplicate may need revision or correction, such correction shall then and there be made.

Compensation.

768. SEC. 4. That the said ward assessors shall receive in addition to the fees now allowed to them by law, the sum of three dollars per diem during the session of said city board of assessors; *provided*, they shall not sit for a longer period than five days.

Proviso.

Repealer.

769. SEC. 5. That all acts inconsistent with the provisions of this act are hereby repealed and that this act shall take effect immediately.

An act to exempt from taxation real and personal property of exempt firemen's associations and of firemen's relief associations.

P. L. 1893, p. 422.

Real and personal property of firemen's relief and exempt associations exempt from tax.

Approved March 17, 1893.

770. SEC. 1. That the real and personal estate of any exempt firemen's association and of all firemen's relief associations incorporated under the laws of this state, and which is used exclusively for the purposes of such association, shall be exempt from all state, county and municipal taxation, so long as such property is used exclusively for such purpose.

Repealer.

771. SEC. 2. That all acts or parts of acts inconsistent herewith be and they are hereby repealed, and that this act shall be a public act and take effect immediately.

An act to provide for the appointment of assessors in certain cities of the second class.

P. L. 1893, p. 425.

In cities of the second class, having less than 35,000 inhabitants, mayor to appoint board of assessors.

Approved March 17, 1893.

772. SEC. 1. That in any city of the second class of this state having a population of less than thirty-five thousand inhabitants, wherein it is now provided by law that the assessors for such city shall be elected by the voters of such city, such mode and manner of election of assessors is hereby abolished; and hereafter it shall be lawful for the mayor of such city to nominate and by and with the advice and consent of the common council or other governing body of such city (to be expressed by a vote of a majority of all its members) appoint a board of assessors in and for such city to consist of one assessor in and for each of the wards of such city, who when so appointed, shall perform all the duties as now required by law of the assessors as heretofore elected in such city, and they shall hold office for the term of three years, and until their successors are appointed, and in case of vacancy in the office of any such assessors during such term, either by death or other cause, such vacancy may be filled by the mayor of such city in the manner aforesaid; and as compensation for the performance of their duties as such assessors, they shall receive a stated annual salary, which shall be fixed at the time of their appointment and shall not be increased or reduced during the term of their office, and such salary and compensation shall be in lieu of all fees heretofore allowed to assessors in such city for the performance of their duty.

Term of office.

Vacancy, how filled.

Salary.

When to enter upon discharge of their duties, &c.

773. SEC. 2. That the said assessors may be appointed by the mayor and common council or other governing body of such city, in manner aforesaid, at any time after the passage of this act, but shall not enter upon the discharge of their duties nor shall their term of office begin until the expiration of the term of office for which the present assessors in such city were elected, and the appointment of said assessors by the mayor and common council or other governing body of such city in manner aforesaid, shall be taken to be and is hereby declared to be the election of the successors of the before-mentioned assessors elected in and for such city as aforesaid.

774. SEC. 3. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately. Repealer.

An act concerning the office of receiver of taxes in cities of the second class of this state.

Approved May 8, 1894.

P. L. 1894, p. 228.

775. SEC. 1. That in all cities of the second class in this state having not less than fifty thousand inhabitants there shall be an officer known as the receiver of taxes, whose duty it shall be to collect all the taxes assessed in such city, who shall be elected by the qualified voters of such cities every second year at the regular charter election thereof, and who shall hold office for the term of two years and until the election and qualification of his successor, and who shall receive such compensation for his services as the common council, board of aldermen or other governing body of such cities shall by ordinance prescribe.

In cities of second class, having 50,000 inhabitants, receiver of taxes to be elected for two years.

776. SEC. 2. That the first election hereunder shall take place at the annual or charter election to be held in the year one thousand eight hundred and ninety-five, and that the person now holding such office of receiver of taxes in such cities, no matter how designated, shall continue in such office until the election of his successor, as herein provided.

When first election shall be held.

777. SEC. 3. That this act shall not affect the existing term of any receiver or collector of taxes who may have been elected by the people. [And that this act shall not apply to any city where by the charter provisions of such city such officer of receiver of taxes is appointed.] (a)

Shall not affect existing terms.

778. SEC. 4. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect on the eighth day of May, anno domini one thousand eight hundred and ninety-four.

Repealer.

An act relating to the assessment of taxes in counties of the first class.

Approved May 9, 1894.

P. L. 1894, p. 247.

779. SEC. 1. That in all the cities, towns, townships, villages and boroughs in counties of the first class of this state, it shall be lawful for the governing authorities to have maps made of their several and separate municipalities for the purpose of making the assessment for taxes upon real estate and to describe thereon the said real estate by blocks and parcels.

In cities, &c., in counties of the first class, taxes to be assessed by block maps.

780. SEC. 2. That when any change is made in the ownership of property in any such city, town, township, village or borough it shall be the duty of the new owner to present his deed or other evidence of title to the officer, officers, assessor, assessors or department having charge of the assessment of taxes therein, that the change of property lines and ownership may be properly noted on the books and maps kept for that purpose.

Changes in ownership to be noted on maps, &c.

781. SEC. 3. That no register of deeds, county clerk or other officer whose duty it shall be to record deeds, shall record any deed which conveys any property in any city, town, township, village or borough within counties of the first class, unless it shall be duly certified thereon that the same has been duly presented at the office of the officer, officers, assessor or assessors, or other department having charge of the assessment of taxes, for the purposes of recording or noting such change as may have been made thereby in the property lines and ownership of property; *provided*, that nothing in this act shall prevent the recording of such deed in case a fee of twenty cents is paid at the time any such deed is deposited for record, to the register of deeds, county clerk or other officer whose duty it is to record the same, upon which payment having been made it shall be the duty of the said register of deeds, county clerk or other officer within five days thereafter, to present such deed or abstract thereof to the officer, officers, assessor or assessors or other department having in charge the

No deed to be recorded unless certified thereon that such change has been made.

Proviso.

(a) This act, upon comparison with the original in the secretary of state's office, shows the bracketed addition herein printed is not in the pamphlet laws of 1894.

assessment of taxes, for the purpose of having such changes of property lines and ownership as may be made thereby recorded or noted.

Repealer.

782. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act concerning the tenure of office of city assessor in cities of the third class.

P. L. 1894, p. 403.

Approved May 17, 1894.

783. SEC. 1. [Amended by Sec. 785, *post.*]

Repealer.

784. SEC. 2. That all acts and parts of acts, either general or special, inconsistent with the provisions of this act, be and the same are hereby repealed.

Amendatory act.

P. L. 1895, p. 130.

Approved February 26, 1895.

785. SEC. 1. That the first section of the act entitled "An act concerning the tenure of office of city assessors in cities of the third class," approved May seventeenth, one thousand eight hundred and ninety-four, be and the same is hereby amended so as to read as follows :

Term of office of assessor in cities of third class three years.

[That the term of office of the city assessor or other officer charged with the assessment of taxes in any city of the third class, hereafter elected, shall be three years.]

An act concerning taxes and the equalization of values with reference thereto.

P. L. 1894, p. 463.

Approved May 22, 1894.

Equalization of values of real estate between the assessment districts of cities, towns, &c., how made.

786. SEC. 1. That hereafter, in any case, in any county of this state where any increase or diminution of the whole or aggregate value of the real estate contained in any assessment or taxing district or division of such county, as the same shall be returned or made to appear to the board, body or authorities hereinafter mentioned, by or from the returns or abstracts of ratables thereof presented by any assessor, assessors, tax board or other like authority or body in such county, authorized and empowered to make assessment of taxes upon real estate therein, shall be made or effected by, through or by any means of any board of commissioners, tax or assessment board or other authority or body whatever, authorized by any law of this state to make any increase or diminution of such real estate value, for the purpose of effecting an equalization of values or valuation of such real estate between the several assessment districts, cities, towns or townships of such county, no notice thereof shall be necessary or requisite to be sent to any taxpayers of such district, but the action so authorized, and hereby authorized for such purpose, shall be regarded as final and conclusive without such notice ; in all cases, however, where any such increase or change shall be made respecting the value of any particular piece or portion of real estate within any such assessment or taxing district, notice shall be given to any and all taxpayers affected, and they shall be heard, by way of appeal or otherwise, in relation thereto, as the law in such case may direct.

Action of assessment board shall be final.

Appeal shall be heard in certain cases.

An act in relation to assessments of taxes in cities, towns and townships.

P. L. 1894, p. 431.

Approved May 22, 1894.

In all cities, towns, &c., having block maps, assessments to be made as shown on map.

787. SEC. 1. That in all cities, towns and townships of this state that now have or may hereafter have block maps, it shall be the duty of the taxing officer or officers in all cases, in making their assessments for taxes upon real estate, to describe the same by block and lot numbers, as shown upon the assessment maps of such city, town or township. [See Sec. 733, *ante*, and Sec. 798, *post.*]

Change of ownership shall be noted.

788. SEC. 2. That when any change occurs in the ownership of property in any such city, town or township it shall be the duty of the new owner to present his deed, or other evidence of title, to the officer, officers or department having charge of the assessment of taxes therein, that the

change of ownership may be properly noted on the books and maps kept by the said taxing officer or officers.

789. SEC. 3. That no register of deeds, county clerk or other officer, whose duty it shall be to record deeds, shall record any deed which conveys any property in cities, towns or townships of this state, that now have or may hereafter have block maps, unless it shall be duly certified thereon that the same has been presented at the office of the officer, officers or other department having charge of the assessment of taxes, for the purpose of recording or noting such changes as may have been made thereby in the property lines and ownership of the property; *provided*, that such officer, officers or other department having charge of the assessment of taxes shall have filed with the register of deeds, county clerk or other officer, whose duty it shall be to record deeds, a notice in writing, signed by such officer or officers, that such city, town or township has adopted block maps for the purposes of taxation; *and provided further*, that nothing in this act shall prevent the recording of such deed in case a fee of twenty cents per folio for the abstract hereinafter mentioned is paid at the time any such deed is deposited for record to the register of deeds, county clerk, or other officer whose duty it is to record the same, upon which payment having been made, it shall be the duty of said register of deeds, county clerk or other officer, within five days thereafter, to present an abstract of such deed to the officer, officers or department having in charge the assessment of taxes, for the purpose of having such changes in lines of ownership as may be made thereby recorded or noted.

No deed to be recorded unless certified thereon that such change has been made.

Proviso.

Proviso.

790. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act respecting cities of the first class, and providing for the collection of personal taxes therein.

Approved February 26, 1895.

P. L. 1895, p. 119.

791. SEC. 1. That it shall be the duty of the receiver of taxes, or other officer for the collection of personal taxes in cities of the first class in this state, within twenty days after the twentieth day of January in each year, to make out in books, which may be used as warrants, a list of names of delinquents in the payment of personal taxes for the previous year and deliver the same to the comptroller of such city.

Receiver of taxes in cities of the first class shall furnish list of personal tax delinquents.

792. SEC. 2. That it shall be the duty of the comptroller of such city, to whom such list of delinquents shall be returned as aforesaid, immediately upon the receipt thereof to administer to the receiver of taxes, or other officer for the collection of taxes in such city returning the same, an oath that the moneys in said list mentioned have been duly demanded or due notice thereof given or left at the usual place of residence of each delinquent who can be found or who may reside in said city, and thereupon as comptroller to issue his warrant directed to the receiver of taxes, or other officer for the collection of taxes in such city, containing a list of the names of the several persons and the sum due from each respectively, either in figures or in words at length as the same shall have been returned to him as aforesaid, and shall thereby command the said collector to cause the said several sums, with interest thereon as aforesaid, and all lawful costs and fees, to be levied and made of the goods and chattels of the several persons named therein and the date the same are due respectively, by selling the same at public auction, giving at least four days' notice of the time and place of such sale by advertisements set up in five public places in such city, and in case the receiver of taxes, or other officer for the collection of taxes in such city, to whom such warrant is directed, cannot find sufficient goods and chattels of the said persons whereof the tax or taxes so due from them respectively with all costs and fees can be made, then the said warrant shall further direct the said receiver or collector of taxes shall take his or her body, if to be found in the county in which such city is located, and deliver the same to the sheriff of such county, or his jailer, to be kept in close and safe custody until payment

Receiver shall make oath that money has been demanded or notice served.

Collector shall levy on goods and chattels of delinquents and sell the same.

In case of failure to find goods, body of delinquent shall be committed to jail.

Comptroller's warrant shall be sufficient.

Comptroller not entitled to fees.

When warrants shall be returnable.

Warrants may be extended.

Repealer.

be made of the said tax with costs ; and the warrant of the said comptroller shall be of like force and effect as if the comptroller of such city were a justice of the peace duly authorized to make such warrant, and for the purposes of this act the comptrollers of the respective cities of the first class of this state shall have and possess all of the powers of justices of the peace ; it shall not, however, be necessary for such comptrollers to have or keep a docket or to enter the name of the delinquent taxpayer or copies of their warrants in any docket ; and such comptrollers shall not be entitled to any fees for services performed under this act.

793. SEC. 3. That the said warrants shall be made returnable by the receiver of taxes, or other collecting officer thereof, on the first Monday of November next ensuing, at which date the said warrants shall be returned to said comptroller with a full statement of all the taxes collected by virtue of said warrant, and the said comptroller shall thereupon, under his hand and seal, extend said warrant for such time not less than one year as he shall by indorsement thereon determine, and shall have power thereafter to extend the said warrant from time to time as he shall by further indorsement thereon determine.

794. SEC. 4. That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act shall take effect immediately.

An act to authorize the inhabitants of the several boroughs of this state to elect their commissioners of appeal of taxes for the term of three years.

P. L. 1895, p. 144.

Approved March 1, 1895.

Term of commissioners of appeal in boroughs fixed at three years.

795. SEC. 1. That in the several boroughs of this state the commissioners of appeal in case of taxation shall hereafter be elected for the term of three years ; *provided, however,* that at the first annual borough election held in such borough after the passage of this act, the said commissioners of appeal shall be elected for one, two and three years respectively, and at each succeeding election thereafter one commissioner of appeal shall be elected for the term of three years.

Proviso.

Repealer.

796. SEC. 2. That all acts or parts of acts inconsistent with this act are hereby repealed.

An act relating to assessors in the cities of this state.

P. L. 1895, p. 154.

Approved March 5, 1895.

Assessing districts of personal property may be changed in cities.

797. SEC. 1. That whenever in any city of this state there are assessors, elected or appointed from districts, whose duty it is to assess personal property only, the board of aldermen, common council, or other legislative body in said city shall have power to establish or change the said assessing districts at any time by resolution ; *provided, however,* that no change of districts shall be made within thirty days of any election at which district assessors are to be elected.

Proviso.

An act respecting the assessment of taxes in cities of the first class in this state.

P. L. 1895, p. 193.

Approved March 6, 1895.

Assessments may be made by block numbers in cities of first class.

798. SEC. 1. That it may be lawful in cities of the first class for the board having charge of the assessment of taxes for said city, with the approval of the mayor of said city, to make such assessments by numerical block numbers, irrespective of the existence of ward or district lines.

An act to authorize the correction of mistakes in the assessment and collection of taxes, and in the sale of lands for alleged non-payment of taxes.

P. L. 1895, p. 275.

Approved March 14, 1895.

Mistakes in the assessment and collection of taxes, and in the sale of land for alleged non-payment of taxes, may be corrected.

799. SEC. 1. That in case the owner of any lands shall have duly paid taxes according to the tax bills presented to him from year to year, and it shall subsequently appear that through mistake or inadvertence the said tax bill or bills for any year so presented to such owner and paid by him shall contain an erroneous lot number or other misdescription not affecting

the valuation of his said land or the amount of tax payable thereon, and that by reason of such misdescription or other mistake or inadvertence the said land of such landowner shall have been sold for supposed non-payment of taxes, whereby such landowner shall have been compelled to pay for the redemption of such land from the said sale, it shall be lawful, and shall be the duty of the municipal corporation in which such land is situated, upon the production by such landowner of both the tax receipt and the certificate of redemption relating to the same premises, and for the taxes of the same year, and upon satisfactory evidence that such sale for alleged non-payment of taxes was made by mistake or inadvertence, to refund and repay to such landowner the amount so paid by him for the redemption of such land.

800. SEC. 2. That all acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect immediately. Repealer.

An act to establish the rate of interest on arrears of taxes and assessments in cities of this state.

Approved March 19, 1895.

P. L. 1895, p. 343.

801. SEC. 1. That the common council or other board having charge and control of the finances of any city in this state may, by the same vote required to expend moneys, fix and change by resolution the rate of interest on all past-due taxes and assessments of all kinds which were due prior to January first, one thousand eight hundred and ninety-four, at and after a rate of not less than seven per centum per annum; *provided, however,* that such rate shall apply only to such taxes and assessments as are still due and unpaid to said city, and shall not apply to any taxes or assessments that have been or may be adjusted under the act of the legislature, entitled "An act concerning the settlement and collection of arrearages of unpaid taxes, assessments and water rates or water rents in cities of this state, and imposing and levying a tax, assessment and lien in lieu and instead of such arrearages and to enforce the payment thereof, and to provide for the sale of lands subjected to further taxation and assessment," passed March thirtieth, one thousand eight hundred and eighty-six.

Common council, &c., may fix and change rate of interest on past-due taxes, &c., due prior to January 1st, 1894.

Proviso.

802. SEC. 2. That all acts or parts of acts, so far as may conflict herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act in relation to exemptions from taxation of soldiers and sailors.

Approved March 22, 1895.

P. L. 1895, p. 450.

803. SEC. 1. That the receiver or collector of taxes of any city in this state shall deduct from the taxes payable by honorably-discharged soldiers or sailors of the late war of the rebellion, upon the production of his discharge, the amount of exemption now allowed in all cases wherein the commissioners of assessment or other officers charged with the duty of making assessments of taxes have failed to make such an allowance.

Receiver or collector of taxes in cities may deduct exemption allowed soldiers and sailors.

An act concerning assessors.

Approved March 22, 1895.

P. L. 1895, p. 460.

804. SEC. 1. That the assessors of all cities of the third class and incorporated towns having but one assessor, who have authority to assess taxes for county purposes, shall represent such city or town in the county board of assessors.

Assessors of third-class cities and towns shall be members of county board of assessors.

An act to exempt volunteer fire companies from taxation.

Approved March 22, 1895.

P. L. 1895, p. 497.

805. SEC. 1. That the real and personal estate of any volunteer fire company incorporated under the laws of this state and which is used exclusively for the purposes of such company, shall be exempt from all state, county and municipal taxation so long as such property is used exclusively for such purposes.

Real and personal estate of volunteer fire companies exempt from tax.

An act to provide for the appointment, term of office and salary of assessors in certain cities in this state, to fix the time for making assessments and for the meeting of the board of assessors in such cities, and to vacate the office of all assessors now holding office in such cities.

P. L. 1895, p. 563.

In cities having a population between 15,000 and 35,000 inhabitants, mayor to appoint three assessors-at-large.

Vacancies, how filled.

Compensation.

Common council to divide such city into three assessment districts.

Within what time assessment to be made.

Assessors may be appointed at any time after passage of this act.

Office of existing assessors abolished.

Proviso.

Proviso.

Repealer.

Approved March 22, 1895.

806. SEC. 1. That in any city of this state now or hereafter having within its territorial limits a population of more than fifteen thousand and less than thirty-five thousand inhabitants, it shall be lawful for the mayor of such city to appoint in and for such city three assessors-at-large, who, when so appointed, shall perform and discharge the same duties as are now required by law of assessors heretofore elected or appointed in such city, and they shall hold office for the term of three years from the date of their appointment and until their successors are appointed and qualify; and in case of vacancy in the office of any such assessors during such term, either by death, resignation or other cause, such vacancy shall be filled by the mayor of such city by appointment for the unexpired term only; the said assessors appointed under the provisions of this act shall each receive as compensation for the performance of their duties as such assessors an annual salary, which shall be fixed by the common council or other governing body of such city, but which shall not be less than five hundred nor more than one thousand dollars, which said salary shall be in lieu of all other compensation or fees heretofore allowed to assessors in any such city for the performance of their duties, and shall not be increased or decreased during their said term of office.

807. SEC. 2. That within fifteen days after the first and every subsequent appointment of assessors in any such city under the provisions of this act, the common council or other governing body of such city shall, by resolution, divide such city into three assessment districts of substantially equal area and shall, by the same resolution, assign one of the assessors so appointed to each of said districts for the term of his office.

808. SEC. 3. That the said assessors shall make in their respective assessment districts, the assessment required by law, between the twentieth day of May and the last Tuesday in July in each year, and that they shall meet as a board of assessors on and after the last Tuesday of July in each year.

809. SEC. 4. That the said assessors may be appointed by the mayor of such city at any time after the passage of this act, and upon their appointment shall immediately enter upon the discharge of their duties, and the offices and terms of office of all assessors existing in any city wherein the provisions of this act may be adopted and assessors-at-large be appointed as aforesaid, shall cease and be abolished and vacated upon the appointment of the said assessors under this act, who shall be taken to be and are hereby declared to be the successors of the assessors whose offices are vacated by this act; *provided*, that in any such city having more than three wards there shall not be more than one of the said assessors-at-large appointed from the same ward; *and provided, further*, that such city shall have as many votes in the board of county assessors in the county in which such city is located as there shall be wards in any such city.

810. SEC. 5. That all acts and parts of acts, general, special, public or local, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act in relation to the election of commissioners of appeal in certain townships and boroughs.

P. L. 1895, p. 689.

Preamble.

Approved March 25, 1895.

WHEREAS, In numerous townships and boroughs in this state, at the annual township and borough elections lately held, all of the voters or a majority of them failed to specify on their ballots the length of the term for which each commissioner of appeal was to be elected; therefore,

811. SEC. 1. That in all such townships and boroughs the three persons receiving the highest number of votes for the office of commissioners of appeal shall and are hereby declared to be the legally-elected commissioners of appeal for their respective townships and boroughs, although the length of the term for which it was intended to elect them may not have been designated on said ballots.

Act legalizing election of commissioners of appeal in certain townships and boroughs.

812. SEC. 2. That said three commissioners of appeal hereinbefore declared to be the legally-elected commissioners of appeal shall, in cases mentioned in the preamble to this act, at their first meeting held after the passage or approval of this act, determine by lot which one of said commissioners of appeal shall serve for one year, which for two years and which for three years, and each of said commissioners shall hold said office of commissioner of appeal and have, possess and enjoy all the powers and emoluments thereof for the term so determined by lot as aforesaid.

Official terms to be assigned by lot.

An act concerning taxes.

Approved March 28, 1895.

P. L. 1895, p. 731.

813. SEC. 1. That all real property in this state not now by statute exempt from taxation shall be assessed for taxation at its true value, and the full tax thereon shall be paid to the collector of taxes or other proper officer authorized by law to collect the same, and no deductions shall be made from the taxable value of such real estate to any owner thereof on account of the indebtedness of such owner to any national or state bank; *provided*, that nothing in this act contained shall be construed in any way to alter or amend the method of taxing bonds and mortgages or real property which is subject to mortgage or the method of taxing the property of railroad, canal and banking companies, or the method of taxing the surplus of insurance companies in this state.

Real property not exempt from taxation to be assessed at its true value, and no deduction allowed for indebtedness to any bank.
Proviso.

An act directing the collectors of taxes of townships and boroughs to surrender all official books and papers to the proper authorities.

Approved March 28, 1895.

P. L. 1895, p. 740.

814. SEC. 1. That hereafter the several collectors of taxes of the townships and boroughs of this state, and their successors, shall, upon the expiration of their terms of office and within sixty days after a settlement has been made with the township committee or governing bodies of the various boroughs, surrender to said township committee or governing bodies of boroughs, all tax duplicate books and papers of their respective offices pertaining to the collection of said taxes.

Township and borough collectors of taxes to surrender books and papers within a certain time.

815. SEC. 2. That any collector of taxes failing to surrender said tax duplicate books and other papers, shall forfeit and pay the sum of five dollars per day for each day's failure beyond said sixty days, to be sued for and recovered in any court of law by any taxpayer residing in any such township or borough, for the use of said township or borough.

Penalty.

816. SEC. 3. That the township or borough clerk, after the surrender of said books, shall be authorized to give all certificates in cases of taxation that the several collectors of taxes are now authorized by law to give.

Township or borough clerk authorized to give certificates.

817. SEC. 4. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Repealer.

A general act concerning taxes.

Approved March 28, 1895.

P. L. 1895, p. 818.

818. SEC. 1. That hereafter all real estate except such real estate as is subject to assessment under the provisions of an act of the legislature of New Jersey, entitled "An act for the taxation of railroad and canal property," approved April tenth, one thousand eight hundred and eighty four, and the supplements and amendments thereto, shall be assessed in the township, borough or taxing district in which the same may be situate; when the line between taxing districts divides a farm, each part thereof shall be assessed to the owner thereof in the taxing district in which the

Real estate, with certain exceptions, to be assessed in districts where it is located.

same may be located, and this whether such division line be a township, borough or county line. (a)

Repealer.

819. SEC. 2. That all acts and parts of acts, whether general, special or local, inconsistent with this act, be and the same are hereby repealed, and that this act shall take effect immediately.

An act to provide for the abolition of poll taxes assessed for county purposes in counties of the first class in this state.

P. L. 1895, p. 786.

Passed June 4, 1895.

Poll tax assessed for county purposes abolished in counties of first class.

820. SEC. 1. That there shall hereafter be no poll tax or tax upon the person assessed upon any inhabitant of any county of the first class in this state for any county purpose, and that all poll taxes or taxes against the person now authorized to be assessed for such purpose in any such county, whether the same is authorized by general, special or local law of this state, be and the same are hereby abolished.

Money for special purposes to be raised by taxation.

821. SEC. 2. That in all cases where the statute providing for the imposition of poll taxes or taxes upon the person in any county of the first class in this state for any county purpose provides that such taxes shall be used for any special county purpose, whether the purpose be the redemption of bonds, the payment of interest on the same or otherwise, it shall be lawful to provide the necessary moneys for such special purpose by raising the same by taxation in the same manner and at the same time as other taxes are now raised and assessed in the county for whose benefit said poll tax has heretofore been assessed and collected.

When act to become operative.

822. SEC. 3. That this act shall apply to the taxes to be raised for the year one thousand eight hundred and ninety-five, and all subsequent years.

Repealer.

823. SEC. 4. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

(a) This act repeals and supersedes Secs. 63 and 66, *ante*, in so far as said sections have been construed by the supreme court, as to the mode of taxing real estate divided by county, city or township lines. For the decisions of the supreme court upon the law as it stood prior to 1895, see the following cases:

State, Appgar v. Hoffman, 1 Vr. 346. *State, Cosset v. Reinhardt*, 2 Vr. 218. *State, Boyer v. Hay*, 2 Vr. 275. *State, Edgar v. Jewett*, 5 Vr. 259. *State, Tullman v. Britton*, 13 Vr. 103. *State, Colwell v. Abbott*, 13 Vr. 111. *Ackerson v. Washer*, 22 Vr. 122. *Stewart v. Flummerfelt*, 24 Vr. 540.

Telegraph, Telephone and Electric Light Companies.

1. Operators, &c., exempt from militia and jury duty.
2. Telegraph companies, how incorporated.
3. When building may be commenced.
4. Election of officers.
5. Charges.
6. Taxation.
7. Offices to be established.
8. Willful injury to lines punishable.
9. Poles may be put on highways.
10. Stockholders not responsible beyond subscription.
11. Act not to apply to certain subscriptions.
12. Companies may consolidate.
13. Dispatches must be kept secret.
14. Penalty for revealing dispatches.
15. Common council, &c., may designate in what streets telegraph or telephone poles shall be placed.

16. Amended by section 23.
17. How telegraph companies may construct lines by means of underground cables.
18. Amended by section 21.
19. Amended by section 22.
20. Designation of route to be made by ordinance.
21. Proceedings for designation of route of telegraph or telephone company.
22. Unlawful to construct lines unless designation obtained.
23. Proceedings in case owner, &c., refuses to give right of way, &c.
24. Provisions of certain act extended to telephone companies.
25. If wires be attached to buildings, &c., no lapse of time to justify prescription, &c.

An act in relation to operators and others in the employment of telegraph companies in this state.

P. L. 1862, p. 69.

Approved February 27, 1862.

Operators, &c., exempt from militia and jury duty.

1. That the operators and assistant operators, superintendents, managers, linemen and those directly engaged in the business of receiving and forwarding messages by telegraph, shall be exempt from militia duties and serving on juries, and from any fine or penalty for neglect thereof.