

this limitation shall not be extended by the non-residence of any plaintiff or defendant or any party interested in the land upon which said mortgage is a lien in any action commenced to foreclose such mortgage, nor by reason of any payment made after such maturity, nor by reason of any extension of the time of payment of said mortgage or the debt or obligation thereby secured or any portion thereof, unless such extension shall be in writing and shall have been recorded in the same office in which the original mortgage is recorded, within the limitation period herein provided, or prior to the expiration of any previously recorded extension of such mortgage or debt, nor by reason of any disability of any party interested in said mortgage.

**To run from date of first publication.**—Sec. 2. The time within which any such action or proceeding may be commenced shall begin to run from the date of such mortgage, unless the time of the maturity of the debt or obligation secured by such mortgage shall be clearly stated in such mortgage.

Any action or proceeding to foreclose a real estate mortgage whether by action, by advertisement or otherwise, commenced within the period of limitation herein provided, may be prosecuted to completion notwithstanding the expiration of said period of limitation, and proceedings to foreclose a real estate mortgage by advertisement shall be deemed commenced on the date of the first publication of the notice of sale.

Sec. 3. Nothing herein contained shall apply to any action or proceeding now pending.

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 All acts or parts of acts inconsistent herewith are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after November 1, 1909.

Approved April 13, 1909.

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· CHAPTER 182—H. F. No. 76.

*An Act to amend sections 1782, 1784, 1785 and 1787 of chapter 22, Revised Laws of Minnesota 1905, as amended by Session Laws of 1905, chapter 82, also to amend section 2087 of said Revised Laws, relating to the prevention and suppression of forest and prairie fires, and for appropriating money for the prevention and suppression of such fires.*

WHEREAS, the Hinckley forest fire of 1894, and the Chisholm forest fire of 1908, are examples of the distress and injury resulting from negligent use of fire in the vicinity of forest lands.

Forest and prairie fires discourage new settlements and retard the development of vacant lands.

It will promote the public welfare to have safeguards for the prevention of such fires more strictly observed. Therefore,

Be it enacted by the Legislature of the State of Minnesota :

**County auditors to furnish information to commissioner—Appropriation—Destruction of slashings—Duties of each fire warden—Locomotive spark arrester.**—Section 1. That sections 1782, 1784, 1785, 1787 and 2037, Revised Laws of Minnesota 1905, are hereby amended so as to read as follows:

Section 1782. The supervisors and clerks of towns, mayors of cities and presidents of village councils are hereby constituted fire wardens for their respective districts, and shall be held responsible that their districts are exempt from dangerous forest and prairie fires.

Upon request of the commissioner, county auditors shall immediately furnish the names and addresses of the chairmen of town boards, the names of towns, and the numbers and ranges of the townships in their respective counties.

The commissioner may appoint fire wardens for unorganized territory, and additional wardens wherever he may deem necessary; and he may direct any warden to perform duties at a point outside of his district.

The wardens shall enforce the provisions of this chapter.

They shall divide their town into districts and assign one of their number to each district.

In case of absence from their districts in dry seasons, they shall designate someone to act in their place; also notify the warden of the adjoining district.

They shall take energetic precautions to prevent forest and prairie fires, visit all parts of roads, trails, camps and frequented places, warn campers or other users of fire, and extinguish small or smoldering fires.

They shall patrol their districts in dry seasons, immediately inform the commissioner when there is need of patrolling, and, with the approval of the commissioner, employ patrols to guard against carelessness in the use of fire.

They shall, within ten days after receiving the same, post warning notices furnished them by the commissioner, give verbal warning, when they deem it necessary, against causing fires, and take all other suitable precautions for the prevention of fires.

They shall take measures to suppress or control fire they have reason to think is being neglected in any adjoining or neighboring district or town.

They shall promptly investigate each forest and prairie fire within their respective districts, follow the track of the fire to the place where it started, fix responsibility therefor, if possible, and within three days report the cause thereof, the property destroyed, its value, the lives lost, if any, the means used to combat such fire, and any additional facts required by the commissioner.

They shall make such other reports as he may require, and promptly comply with his instructions.

Each warden shall co-operate with the warden in any adjoining district or town, and in his absence assume control therein.

Each may arrest, without a warrant, any person found violating any provision of this chapter, and take him before a magistrate, and there make complaint; and when a warden shall have information that such violation has been committed, he shall, without delay, make similar complaint and endeavor to have the case vigorously prosecuted.

He shall not be required to give security for costs of prosecution, nor to pay any cost of prosecution.

Wardens shall go to the place of danger to control or prevent fires, and in emergencies may employ or compel assistance.

Section 1782a. The commissioner shall divide into districts the territory exposed to forest or prairie fires, and, in a dry and dangerous season, employ for each district a ranger who shall have the power and perform the duties of fire wardens, go quickly over his district to see that fires are prevented or extinguished, and shall inspect, assist or compel the activity of local wardens.

He shall by frequent reports keep the commissioner informed of his movements.

He shall inform himself of the location of timber, belonging to the state and use efforts to protect it from fire and trespass.

In the employment of rangers, preference shall be given to cruisers or woodsmen, game wardens and forestry students who are known for reliability and efficiency.

Each shall perform service in any district to which he is assigned.

Rangers shall be paid for their services by the state out of the emergency fund, on verified vouchers, approved by the commissioner, at the rate of not exceeding five (\$5.00) dollars per day for the time actually employed and necessary and reasonable traveling expenses, and for which receipts shall be attached to their vouchers, the same to be filed in the state auditor's office.

Section 1784. In any dry and dangerous season, the commissioner may use such means as he shall deem necessary to prevent or suppress forest and prairie fires, the cost whereof, not exceeding fourteen thousand dollars in any one year, shall, with ap-

proval of the state auditor and forestry commissioner, be paid by the state.

And whenever the local officials shall neglect to prosecute violators of any law relating to forest and prairie fires, the commissioner shall prosecute the same, and the cost of such prosecution, not exceeding two thousand dollars in any year, shall be paid by the state.

Sixteen thousand dollars, as an emergency fund, or so much thereof as may be necessary, are hereby appropriated annually for the purposes of this section.

Section 1785. Each fire warden shall be paid for actual service at the rate of twenty-five cents per hour and actual and necessary traveling expenses, and each employe or patrol at the rate of twenty cents per hour.

A fire warden or employe shall receive pay for use of team when plowing for the control of a fire or in hauling water.

In an ordinary season the expense incurred for fire warden service and in suppressing fires shall be paid out of the state treasury on duly verified vouchers, approved by the proper town board and the commissioner; and one-half ( $\frac{1}{2}$ ) the amount shall be reimbursed to the state by the county in which the expense occurred.

The state auditor shall notify the proper county auditor of the one-half ( $\frac{1}{2}$ ) amount that has become due from his county under the foregoing provisions, and such county auditor shall immediately draw and transmit to the state auditor a warrant on the county treasurer of his county in favor of the state for such amount.

For forest preservation, including the compensation and expense of the forestry commissioner's department and one-half the pay, in an ordinary year, of fire wardens and of persons assisting in preventing and suppressing forest and prairie fires, there is hereby annually appropriated out of any money in the treasury not otherwise appropriated, the sum of five thousand dollars, or so much thereof as may be necessary.

Section 1787. Every warden or patrol, and every person lawfully commanded to assist in enforcing any of the provisions of this chapter, who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stumps, dry grass, field stubble or other material and fail to extinguish the same before it has endangered the property of another; every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any

fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, in the vicinity of such land, shall throw or drop into combustible material any burning match, ashes of pipe, lighted cigar or any other burning substance, and who fails to immediately extinguish the same, and every person who shall deface, destroy or remove any abstract or notice posted under this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than thirty days and not exceeding ninety days, or by both fine and imprisonment.

Any person who maliciously sets on fire, or causes to be set on fire, any woods, prairie, or other combustible material, whereby the property of another is destroyed and lives sacrificed, shall be punished by a fine of not over five hundred dollars, or be imprisoned in the state prison for a term not exceeding ten years, or both such fine and imprisonment.

Section 1787a. Every person who, in a dry season, starts a camp, or other fire, in the vicinity of forest or prairie land for cooking, obtaining warmth or for any industrial purpose, shall exercise every reasonable precaution to prevent such fire from spreading, and shall, before lighting the same, clear the ground from all branches, brushwood, dry leaves or other combustible material within a radius of ten feet from the fire, and shall carefully extinguish the fire before quitting the place.

Section 1787b. When it shall be shown in evidence from the appearance of the track of fire, or otherwise, that a fire, which spread from the land of one owner or occupant to land of another, had its origin on a tract upon which, at any time within three weeks previously to such spreading, the owner or occupant of the tract or his agent or any employe was using fire in clearing land or otherwise, the same shall be prima facie evidence that such owner, occupant, agent or employe was guilty of having by negligence caused such fire to spread, and on conviction he shall be deemed guilty of a misdemeanor.

No appeal shall be allowed from a judgment in justice's court in any prosecution under this chapter unless the person appealing shall, within the legal time prescribed, enter into a recognizance with two sufficient sureties, surety company or cash bail, in twice the amount of the fine and costs, to be approved by the justice, conditioned to appear before the district court on the first day of the general term thereof next to be held in and for the same county, and abide the judgment of said court therein.

The justice may examine the proposed sureties under oath, and in such case shall make and keep a record of their answers in respect to the kinds and amount of their property that is not exempt from execution, and furnish a copy of the same to the commissioner.

Section 1787c. Every road inspector or assistant of a road inspector, or other officer having charge of the highway, who during a dry season has reason to believe that any traveler or wayfarer has left a camp fire on any roadside in his district, shall without delay go to the place of such camp and examine whether any fire has been left burning or smoldering; and if he finds fire in any such camp, he shall extinguish the same; also take prompt measures to prosecute the person or persons who so left such fire.

It shall be the duty of every such highway officer, when requested by the warden, to render every assistance possible in preventing or extinguishing fires, and his pay for actual service shall be the same as that of a warden.

Section 1787d. Any person or corporation who cuts or fells or causes to be cut and felled timber or wood or trees of any kind for commercial purposes, shall pile and, under charge of a competent person or persons, burn the slashings (by which is meant the branches, tops and refuse); said burning shall be done as soon as practicable at a time when it can be done without danger and before the first day of May next following.

It shall be the strict duty of each fire warden, under the orders of the commissioner, to see that the provisions of this section are faithfully complied with.

Any person or corporation who cuts or fells trees or bushes in clearing land for roadbed or right of way for any railroad, highway or trail, shall in the same manner pile and burn the slashings and all combustible material except fuel and merchantable timber.

In every above instance of piling and burning, care in proportion to the danger shall be exercised to prevent injury to remaining standing timber or woods.

Any person or corporation who cuts or fells trees or bushes in clearing land for agricultural or pasturage purposes is prohibited from setting fire to the slashings, brush, roots or excavated stumps or other combustible material on such land before having piled the same.

Every owner or occupant of land is prohibited from setting fire to any such slashings, brush, roots, stumps (whether excavated or otherwise), or other combustible material in a dry season, and is prohibited from using fire or allowing fire to be burning or smoldering on such land in any such season.

Any person or corporation who violates any of the foregoing provisions of this and the three preceding sections shall be deemed guilty of a misdemeanor, and, on conviction thereof, be punished for each offense by fine not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or imprisonment in the county jail not less than thirty days nor more than ninety days.

The person other than the forestry commissioner upon whose complaint a conviction is had for violation of any of the provisions of this chapter shall be entitled to one-half the fine recovered upon sentence therefor.

Section 1787e. Whenever an arrest shall have been made for violation of any of the provisions of this chapter, or whenever information of such violation shall have been lodged with him, the county attorney of the county in which the criminal act was committed shall prosecute the accused with all diligence and energy.

If any such county attorney shall fail to comply with the provisions of this section, he shall be guilty of a malfeasance in office, and shall be removed therefrom, and be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed, and shall forfeit not less than one hundred dollars nor more than five hundred dollars, which amount may be recovered in an action against him personally or on his official bond.

The penalties of this section shall apply to any magistrate with proper authority who refuses or neglects to cause the arrest and prosecution of any person or persons when complaint under oath of violations of any provisions of this act has been lodged with him.

Section 2037. Every company operating a railroad shall use upon each locomotive engine a good and efficient spark arrester, which the master mechanic shall cause to be examined, and the same shall be examined by the locomotive engineer, each time before leaving round house, and the master mechanic and locomotive engineer shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder.

Every such company shall keep its right of way clear of combustible materials, except ties and other materials necessary for the maintenance and operation of the road, from April 15 to December 1.

No company shall permit any of its employes to leave a deposit of fire, live coals or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor or trainman discovering fire adjacent to the

track shall report the same promptly at the first telegraph or telephone station reached by him.

In dry seasons every such company shall give its employes particular instructions for the prevention and extinguishment of fires, and shall cause warning placards furnished by the forestry commissioner to be conspicuously posted at every station in the vicinity of forest and grass lands, and, when a fire occurs near the line of its road, shall concentrate such help and adopt such measures as shall be available for its extinguishment.

In dry seasons every such company shall employ at least one patrolman for each mile of its road through lands liable to be overrun by fire to discover and extinguish fires occurring near the line of the road, by which is meant a distance within which a fire could usually be set by sparks from a passing locomotive.

Any company violating any provision of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars and not exceeding one hundred dollars and costs of prosecution for each offense, and any railroad employe violating the same shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail not exceeding ninety days.

Approved April 13, 1909.

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#### CHAPTER 183—S. F. No. 15.

*An Act to amend the title and sections one (1), twelve (12), and eighty-one (81) of chapter three hundred and five (305) of Laws of Minnesota for nineteen hundred and five (1905), entitled: "An Act concerning the registration of land and the title thereto in counties of this state having more than seventy-five thousand (75,000) inhabitants," and sections thirty-three hundred and seventy (3370), thirty-three hundred and eighty-one (3381) and thirty-four hundred and fifty-one (3451) Revised Laws of Minnesota 1905, which are the same as said sections one (1), twelve (12) and eighty-one (81), so that the same shall apply to all counties.*

Be it enacted by the Legislature of the State of Minnesota:

**Change of title.**—Section 1. That the title of chapter three hundred and five (305) of the General Laws of Minnesota for the year 1905, be and the same is hereby amended so as to read as follows: An act concerning the registration of lands and the title thereto in the state of Minnesota.