

this state, nor shall it affect the rights of persons in good faith acquiring interests in real estate prior to the passage of this act, in reliance upon the records of the new county.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 20, 1925.

CHAPTER 276—S. F. No. 373.

(Secs. 6347-6394, G. S. 1923.)

An act relating to state timber and state lands, defining and prohibiting trespass thereon, providing and prescribing regulations for and the terms and conditions upon which state timber and forest products may be sold, prescribing penalties for violation of this act, fixing rules for interpretation thereof, and repealing inconsistent acts but saving all existing rights thereunder.

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

Section 1. **State Timber Act.**—This act shall be deemed and construed as a revision and expansion of, and is intended to supersede and take the place of, Chapter 204, General Laws of Minnesota for 1905, and acts amendatory thereof and supplemental thereto and other laws relating to the same subject matter, but without in any way abridging or destroying the effect of said laws heretofore in force with respect to any right or obligation arising or any matter or thing occurring prior to the taking effect of this act.

This act may be cited as the State Timber Act.

Sec. 2. **Definitions.**—For the purposes of this act the following words and terms have the following meanings, to-wit:

(a) The word "auditor" means the state auditor.

(b) The term "timber board" means the board of timber commissioners, and their successors in authority by whatever name or title designated.

(c) The term "state appraisers" means the same as in Chapter 162, Session Laws of 1917, creating state appraisers, which includes timber estimators and land examiners.

(d) The term "surveyor general" means the state surveyor general of logs and lumber, and the term "deputy surveyor general" means one of his deputies, as defined in Chapter 440, Session Laws of 1919.

(e) The word "timber" means trees, whether standing or cut or down, logs, posts, poles, ties, paving blocks, laths, shingles, cordwood, and lumber and forest products of every species and description.

(f) The term "merchantable timber" means and includes all

logs or pieces from which lumber or forest products of value can be made.

(g) The term "permit holder" means the person holding the right to cut timber under a permit.

(h) The word "person" means and includes any natural person acting in his own right or in any representative capacity, and any corporation, firm, or association of whatever nature or kind; the masculine includes the feminine, and the singular includes the plural, wherever the context so requires to give full force and effect to all the provisions of this act.

Sec. 3. Trespass—penalties.—Whoever, without valid permit, shall cut any timber upon the lands owned by this state, or remove or carry away any such timber or any other property belonging or appertaining to said lands, or shall commit any other trespass upon said lands, or shall induce or assist another so to do, shall be liable in an action brought by the state, in treble damages, if such trespass is adjudged to have been wilful, but in double damages only if such trespass is adjudged to have been casual and involuntary. But no trespass shall be adjudged casual or involuntary unless some good and sufficient reason shall be shown why the person committing such trespass did not know that the lands on which such timber was unlawfully cut were owned by the state. And any person found to have acquired possession in any manner whatsoever of any timber unlawfully cut on lands owned by this state shall be conclusively presumed to have acquired such timber with knowledge that the same was so unlawfully cut, and shall be liable to the state in a civil action for twice the value thereof, and it shall be no defense in any action to plead or claim a purchase of such timber from anyone other than the auditor, nor shall such defendant be allowed to claim that any other person should be joined as defendant; and he shall have no right whatsoever to any remuneration or allowance for labor or expenses incurred in preparing such timber for market or transporting the same to or towards market. And every such trespass wilfully committed shall be deemed a felony.

Sec. 4. Occupants to be evicted at expiration of lease.—If any person holds or continues in possession of any lands mentioned in this act contrary to the conditions or covenants of any lease, certificate of sale, permit, or other written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery of possession of such lands, and damages for the detention of the same. And the commission of trespass or waste upon said lands, or the destruction or removal therefrom of timber or other property may be restrained, enjoined, or otherwise prohibited by any court of competent jurisdiction at the suit of the state pending final determination of the rights of the state therein, and permanently thereafter, as the facts may warrant. No bond

shall ever be required of the state in any such injunctive proceeding.

Sec. 5. Attorney General shall prosecute.—The attorney general shall prosecute, or cause to be prosecuted by the county attorney, whenever the public interest so requires, any person who may be charged with any indictable offense under this act.

The county attorneys of the several counties shall promptly report to the auditor all trespasses committed upon the lands mentioned in this act which may come to their knowledge, and, when directed by the attorney general, shall prosecute all actions for any trespass or injury thereto, and for the recovery of the possession thereof, or otherwise.

Sec. 6. Disposition of proceeds.—The net proceeds from all sales of timber seized in trespass and from all damages recovered on behalf of the state for any trespass or other injury upon or to any of the lands in charge of the auditor shall be paid over to the state treasurer, for the benefit of the fund to which the same properly belongs.

Sec. 7. Board of Timber Commissioners.—The governor, treasurer, auditor, state forester, and attorney general, shall constitute a board of timber commissioners of which the governor shall be chairman and the state treasurer vice-chairman. The auditor shall be ex-officio secretary of the board, and he or his deputy shall attend each meeting and make full minutes of the proceedings, which shall be signed at the close of each meeting by the commissioners present, and shall be kept subject to public inspection in the office of the auditor. The governor and two other members shall be a quorum for the transaction of business. Before any timber is sold the auditor shall submit to the board, which shall meet from time to time upon the call of the governor, the question of such sale and shall produce a record of appraisal of such timber made jointly or severally by at least two state appraisers, and the board shall examine the same, together with other documents and records and such witnesses as it may require. If the governor and at least two other members of the board shall so determine, they shall enter upon the record of appraisals a statement, dated and signed by them, that a sale of such timber is necessary to protect the state from loss. Thereafter, and not before, the auditor may make such sale. Whenever any member of the board becomes satisfied, before issuance of a permit, that by reason of fraud or misstatement on the part of any person or by reason of any combination or irregularity, the interests of the state so demand, he may withdraw his approval of any sale, by and entry signed by him upon the record of appraisals.

Sec. 8. Powers of board.—A majority of the timber board, at any meeting thereof, shall have power, in addition to all other powers

conferred by this or any other act, to do any of the following things, to-wit:

(a) Determine the number of sections or fractional sections of land to be covered by or described in any one report by state appraisers, or in any one timber permit issued to the purchaser of stumpage on state lands, or in any one contract or other instrument relating thereto and within the jurisdiction of the board; and grant extensions of such timber permits and contracts, whether heretofore or hereafter issued, for and during such period as the board deems advisable, but otherwise subject to all the provisions of this act. But a condition of any extension shall be that the purchaser shall pay to the state interest at the rate of eight per cent (8%) per annum on the unpaid purchase price, as finally computed on the actual scale or count of such timber at the time of cutting thereof, or if not cut then upon the official estimate thereof at the expiration of such extension. No permit shall be extended more than six years from the date of issuance thereof.

(b) Compromise and settle, with the approval of the Attorney General, upon such terms as it may deem just, any claim of the state for casual and involuntary trespass upon state lands or timber where the full stumpage value of such timber so taken in trespass would not exceed one thousand dollars; provided, that no such claim shall be settled in any case for less than the full stumpage value of all timber so taken in casual trespass or the full amount of all actual damage or loss suffered by a state as a result thereof. Said timber board may also make settlement for not less than the full stumpage value of any timber cut by lessees of state lands holding under Chapter 405, Laws of 1919.

(c) Formulate and establish, from time to time, such rules and regulations as it deems advisable for the transaction of the timber business of the state, and abrogate, modify, or suspend such rules and regulations at pleasure.

(d) Appoint one or more agents or cruisers to gather evidence in any action brought by the state or to investigate the correctness of any state appraiser's report or to ascertain whether any timber proposed to be sold is subject to sale, or whether any trespass has been committed on state lands, and may send such agent to examine such timber or lands. Such agents of said timber board, independently of the state auditor and state appraisers, shall report in writing to the Governor, and the money necessary to defray expenses in connection therewith shall be paid upon verified accounts from any funds available for the expenses of said timber board.

Sec. 9. Auditor to make inquiry into timber resources.—The auditor shall make thorough inquiry into the extent, character, and value of the timber on all state lands. He shall take such measures as will protect such timber from damage or loss by fire, trespass, or

otherwise; and he shall make such regulations, in conformity with the other provisions of this act, for the care and control of such lands and for the sale of the timber thereon, as will best protect the interests of the state. The Auditor shall promptly advise the timber board of any information acquired by him concerning any trespass on state lands, giving all details and names of witnesses.

Sec. 10. Auditor to sell timber under certain restrictions.—The auditor may sell the timber on the lands in his charge when authorized to do so by the timber board, and not otherwise. When such sale is made, the auditor shall issue to the purchaser a permit, as hereinafter provided, to cut and remove the same. No sale shall be made before the timber has been estimated and appraised.

But, subject to the restrictions of the state constitution, the auditor with the approval of the state forester or his successor in authority may sell without formalities but for not less than the full appraised value as fixed by any two state appraisers, small amounts of dead, down, dying, or insect infected or diseased timber not exceeding one hundred dollars in appraised value on any forty-acre tract or fractional governmental division of state land; provided, that not more than one such sale shall be made from any one tract in any one calendar year. Every such sale shall be made for cash payable in full in advance, and upon the receipt of such cash the state auditor may informally, by letter or otherwise, authorize the purchaser to cut and remove such timber within one year from the date of sale under the supervision and restrictions as the auditor or any state appraiser by him designated shall deem advisable. The purchaser shall dispose of slashings according to law, shall be liable under this act in trespass for cutting or unnecessarily injuring any timber not included within the sale made to him under this paragraph, and shall be otherwise subject to all the laws governing the sale and removal of state timber so far as practicable.

Sec. 11. State appraisers—appointment.—State appraisers appointed pursuant to Chapter 162, Session Laws 1917, and acts amendatory thereof or supplementary thereto, may perform any of the duties specified in said act and amendments, and in addition thereto shall perform any and all other duties which the state auditor may require of them in connection with state lands and timber. Such appraisers are hereby also empowered to rescale, check-scale, or otherwise test the accuracy of scaling of state timber done by the surveyor general or his deputies as required of the auditor by Section 3 of Chapter 440, Session Laws 1919; to appraise and place a valuation upon any state lands or any state timber or any interest therein anywhere; to cruise and estimate any standing timber, and scale or rescale or check-scale any cut timber, in which the state is interested; to examine any state lands from which timber has been cut and ascertain by count, by scale (either by stump or stump

and top or other appropriate method), by cruise and estimate, or by any other reasonably accurate means, the amount of timber cut and removed from or left cut or standing upon such lands, and to report the same to the auditor; with the consent of the auditor to perform any of the duties of a deputy surveyor or general when designated or requested so to do by the surveyor general; and generally to supervise the cutting and removal of timber on or from state lands so far as may be reasonably necessary to insure compliance with the terms of the permits or other contracts governing the same and protect the state from loss.

The form of reports to be made and books, records, and notes to be kept by state appraisers shall be adequate to record the amounts, kinds, and descriptions of all timber cut from state lands by them reported upon, and otherwise to carry out the provisions of this act, and shall be such as the auditor designates and prescribes. All such reports, books, records, notes, etc. (except such as are made by any appraiser acting as a deputy state surveyor general) shall be filed in and shall become a part of the records of the office of the auditor; and the originals or copies thereof certified by the auditor shall be deemed prima facie true and correct and shall be admissible in evidence in all the courts of this state. The books, records, notes, and reports of any state appraiser, when examined and approved by the surveyor general or when made while acting as deputy surveyor general, may be filed in the office of the state surveyor general and shall be admissible in evidence by certified copy or otherwise to the same extent and shall have the same effect in all respects as though made by a regular deputy surveyor general.

The auditor may designate some properly qualified employe of his department to act as superintendent of state timber, and to perform such duties in that connection as said auditor shall prescribe. Such superintendent of state timber shall give a good and sufficient surety bond, in form to be prescribed by the attorney general and in the penal sum of not less than twenty-five thousand dollars, conditioned upon the faithful and honest performance of his duties as such superintendent of state timber. But the auditor shall also be responsible for the acts of such superintendent, and may remove or replace him at pleasure. At the discretion of the auditor such superintendent may be charged with general supervision over all state appraisers, but subject always to the superior control of the auditor.

Sec. 12. Re-appraisal—Rescale.—Upon complaint of any interested permit holder questioning the accuracy of any scale, count or estimate of timber made by any state appraiser, the auditor, at his discretion, or of his own motion when no complaint is pending, may cause a rescale, recount, or re-estimate thereof to be made jointly by any two or more state appraisers (but shall not be deemed obligated to do so in any case), which, when made, shall supersede

and for all purposes take the place of said original scale, count, or estimate, if and only when the same varies more than ten per cent from said original. But as a condition precedent to the making of any such rescale, recount, or re-estimate, upon the complaint of any person, the auditor at his discretion may require such person to make irrevocably available such sum of money as said auditor deems necessary for the actual expenses thereof, and to forfeit same to the state if such rescale, recount, or re-estimate does not vary more than ten per cent from the original. All such forfeited money shall be paid into the state treasury and credited to the fund or account from which the expenses of such rescale were paid.

In like manner, upon the same conditions, and with like effect, the surveyor general may at his discretion cause a rescale to be made of any timber originally scaled by a deputy surveyor general.

Sec. 13. Timber to be sold at public auction.—No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the record of appraisals. All sales, except as otherwise hereinafter provided, shall be held at the state capitol in St. Paul, Minnesota. The auditor shall give three weeks' published notice thereof in one or more daily newspapers, published in each city of the first class, and also in his discretion may give preliminary or further notice thereof by the publication of display advertisements or other notices in any newspaper, if in his judgment the same will give information of such sale to prospective bidders for such timber.

At least 30 days before the date of sale, the auditor shall compile a list containing a description of each tract of land upon which any timber to be offered is situated, and a statement of the quantity of timber thereon, and of the appraised price of each kind of timber thereon, as shown by the official estimate. No description shall be added after the list is compiled and posted as herein provided, and no timber shall be sold from land not described therein. Copies of the list shall be furnished to all interested applicants. A copy of such list shall be conspicuously posted in the office of the auditor and in the office of the county auditor of each county in which any of said lands are situated at least thirty days prior to the date of sale, and extra copies of such posted lists shall be furnished to each county auditor for distribution to applicants. The published notice of sale shall make reference to the posted lists for a description of the lands from which timber is offered for sale and of the kinds and estimated quantity thereof.

Sec. 14. Timber Board to authorize sale of timber.—The timber board may authorize the auditor to sell the stumpage on any tract of state land at public auction to the highest bidder, at the county seat of the county in which such tract is located. He shall

give three weeks' published notice of any such sale in a paper published at the county seat of the county where such land is situated. He may also give such other published or posted notice as he deems proper to reach prospective bidders or purchasers. The required notice of sale first above mentioned shall contain a description of each tract of land upon which is situated any timber that is to be offered, and a statement of the estimated quantity of each kind of timber thereon, and of the appraised price of each kind of such timber, per M. feet, or per piece, or per cord, as the case may be.

Sec. 15. **One sale in each County per year.**—Except as provided in this and the preceding section, there shall be only one sale of timber in each year, which shall be held not later than November 1st, and may be adjourned from day to day, but no longer, until complete; provided, that in case of emergency, if the timber board shall unanimously determine that it is for the best interests of the state that more sales shall take place before the next regular sale, they shall be held under the same regulations, so far as practicable as are provided for regular sales.

Sec. 16. **Conduct of sale.**—All state timber estimated and appraised as log timber shall be offered and sold by the thousand feet; timber estimated and appraised as tie, or pole or post timber shall be offered and sold by the tie, or pole, or post, as the case may be; timber estimated and appraised as pulpwood, or lath bolts, or mine lagging, or wood for fuel purposes, shall be offered and sold by the cord; all cords to be single cords. The sale shall be made to the party who shall bid the highest price for all the several kinds of timber as advertised. The purchaser at any sale of timber shall immediately upon the approval of his bid pay to the state treasurer 25 per cent of the appraised value, and the treasurer shall issue duplicate receipts therefor, one of which shall be delivered to the purchaser, and the other filed with the auditor. In case any purchaser fails to make such payment he shall be liable therefor to the state in a civil action; and the auditor may reoffer said timber for sale as though no bid therefor had been made.

Sec. 17. **Permits.**—Upon the delivery and filing of the duplicate receipts mentioned in the preceding section, the auditor shall issue a numbered permit to such purchaser, in a form approved by the attorney general, by the terms of which he shall be authorized to enter upon the land, and to cut and remove the timber therein described, according to the provisions of this act. Such permit shall be correctly dated and executed by the auditor, and signed by the purchaser. Such permit shall cover one or more logging seasons as the timber board shall specify, and the timber shall be cut and removed within the time specified therein. No permit shall be issued to any person other than the purchaser in whose name the bid was made. The permit shall state the amount of timber estimated to be thereon, the estimated value thereof, and the price at

which it is sold per thousand feet, per cord, per piece, or by whatever description sold, and shall specify the state marks to be used thereon. Such marks shall be M I N and the permit number. The permit shall provide that the purchaser shall plainly place the specified marks upon the end of every piece of timber cut, and that, in case of any failure to place said marks upon any such piece, the state shall have the right to take possession of the same wherever found. The permit may provide that the purchaser or permit holder may place his own mark upon timber cut under such permit only after the state marks shall have been first plainly placed thereon; but no such mark of the purchaser shall in any way encroach upon, obliterate or obscure the state marks or any part thereof; nor shall any figure be used by the purchaser as his mark or any part thereof. The permit shall contain such other provisions as may be necessary to secure to the state the title of all timber cut thereunder, wherever found, until full payment therefor, and until all provisions of the permit have been fully complied with. The permit shall provide that from the date the same becomes effective until the expiration thereof (including all extensions) the purchaser and his successors in interest shall be liable to the state for the full permit price of all timber covered thereby, notwithstanding and regardless of any subsequent damage or injury thereto or trespass thereon or theft thereof, and without prejudice to the right of the state to pursue such timber and recover the value thereof anywhere prior to payment therefor in full to the state. But upon recovery from any person other than the permit holder, the latter shall be deemed released to the extent of the net amount (after deducting all expenses of collecting same) recovered by the state from such other person. The permit shall also provide that all timber standing on the land and sold shall be cut; that the same shall be cut clean without damage to other timber; that the purchaser shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the state auditor not to be convertible into board measure may be charged for (and shall be paid for) by the piece according to the size, species, or value of each piece or cord, as may be determined by the timber board; that the purchaser shall pay to the state the permit price for all timber authorized to be cut, including timber which he fails to cut and remove, together with all fees of the surveyor general for scaling same; that the purchaser shall, in writing, notify the surveyor general and also the auditor, at least fifteen days before any cutting is done, at which time such cutting will begin, and at least fifteen days before any timber is removed from the land, at what date such removal will begin.

The permit shall provide that the purchaser shall make a report in writing to the auditor under oath, enumerating and stating the amounts of timber cut under such permit; the kinds of timber removed and the amounts of each in board feet, per piece, in cords,

or any other dimension, in the manner and forthwith whenever so required by the auditor. Any false return or report made to the auditor by any such purchaser or permit holder, or by any one representing him, shall constitute a gross misdemeanor.

The permit shall provide that the auditor shall have power to order suspension of all operations under the permit at any time, *and any timber cut or removed during such suspension is hereby declared to be cut in trespass.* The permit shall further provide that the timber board may cancel the permit at any time when in its judgment the conditions thereof have not been complied with, and such cancellation shall constitute repossession of the timber by the state. The purchaser shall remove his equipment from such land within ninety days thereafter. The permit shall further provide that if the purchaser at any time fails to pay any obligations to the state under all or any other permits, then any or all his permits may be cancelled. The permit shall also provide that any timber removed in violation of the terms of the permit or of any law shall constitute trespass. A provision shall be contained in the permit that the statute of limitations shall not prevent the bringing of any action or proceeding, either civil or criminal, growing out of any violation of any provision of this act, and no statute of limitations shall so operate. The permit shall provide that the purchaser and his successors in interest shall burn or otherwise dispose of all slashings, or other refuse resulting from cutting operations, in the manner now or hereafter provided by law. The permit shall further provide that at any time the state may bring an action or suit to restrain, enjoin, and prohibit the further cutting or removal of timber or the further entry of the permit holder or his representatives upon any of the lands covered by the permit, whenever in the opinion of the attorney general any of the terms of the permit are being or have been violated, which suit shall be without prejudice to any other action or proceeding on behalf of the state.

Any permit failing to conform to the requirements of this section shall be void on its face. All permits shall be filed for record with the auditor. The timber board, state forester, attorney general, and state auditor, or any of them, are hereby specifically empowered to enforce all provisions and all conditions contained in any timber permit executed pursuant to the provisions of this act.

Sec. 18. Purchaser to give bond.—The purchaser of any state timber, before any permit to him shall become effective for any purpose, shall give a good and valid bond to the state of Minnesota in double the value of all timber covered or to be covered by said permit, as shown by the sale price bid therefor and the record of appraisal thereof as to quantity, which bond shall be conditioned for and upon the faithful performance by said purchaser and his successors in interest of all the terms and conditions of said permit

and all requirements of law in respect to such sales; and said bond shall be approved in writing by the state auditor and filed for record in his office. No person directly or indirectly interested, in law or in equity, in the purchase of said timber shall be accepted as a surety on such bond.

In case of default in payment by the permit holder, the surety upon his bond may make payment in full to the state of all sums of money due under such permit; and thereupon such surety or sureties shall be deemed immediately subrogated to all the rights of the state in, or to, or in respect of, all the timber so paid for; and such subrogated party may pursue said timber and recover therefor, or have any other appropriate relief in relation thereto, which the state might or could have had if such surety had not made such payment. No assignment or other writing on the part of the state shall be necessary to make such subrogation effective; but the certificate of the state auditor, under his hand and official seal, showing the amount of such timber, the lands from which it was cut or upon which it stood, and the amount paid therefor, shall be prima facie evidence of such facts.

Sec. 19. Permits may be assigned.—Any permit may be assigned, but only as herein provided. The assignment of any permit shall be in writing, signed and acknowledged by the permit holder. No assignment shall be operative without the approval of the auditor, who, if he shall approve the same, shall endorse his approval thereon, and record the assignment in his office. Before any such approval, the assignee shall give to the state a bond which shall be substantially in the form of, and shall be deemed of the same effect as, the bond required of the original purchaser; but the original bond given by the purchaser and any bond given by any prior assignee shall remain in full force. Provided, however, that the auditor in his discretion may accept the agreement of the assignee and any corporate surety upon such original bond, substituting the assignee in the place of such original purchaser and continuing such original bond in full force and effect as to such assignee. Thereupon, but not otherwise, the permit holder making such assignment shall be released from all liability arising or accruing from things done after such assignment became effective.

Sec. 20. Certain sales to be void.—Any sale of timber made by fraud or mistake or in violation of the provisions of this act shall be void, the permit issued thereon shall be of no effect, and the holder shall be required to surrender the same. In case of mistake the amount so paid shall be refunded to the purchaser; or at his request the auditor may credit such refund as payment upon any other timber purchased by said permit holder.

Sec. 21. Purchaser to forfeit purchase money in certain cases.—If the purchaser of any timber, or his assignee, fails to cut and

remove any part thereof before the expiration of the permit, he shall nevertheless pay the price therefor; but under no circumstances shall he cut or remove any such timber after the expiration of the permit or extension thereof.

Sec. 22. Surveyor General shall scale timber.—The surveyor general shall scale all timber cut on lands in charge of the auditor, except as expressly provided otherwise in this act. All scaling shall be done upon the land from which the timber was cut, and all logs scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler. No state timber shall be removed from the land where it was cut, until it has been so scaled or counted. Any person removing any such timber from the land where it was cut before it has been so scaled or counted shall be deemed guilty of a felony, and may be prosecuted criminally therefor.

The surveyor general shall make to the auditor separate reports of all such timber by him scaled, covering the respective permits. Each report shall describe the land on which the timber was cut, and state the names of the persons cutting, the person for whom the cutting was done, and the person hauling the timber, the quantities of each kind or species of timber, the state marks used thereon, the number of logs or pieces, and the total number of feet or other units of measurement as the case may be. Each report shall also state specifically whether the scaling was done upon the land from which such timber was cut; whether the cutting was done without unnecessary waste or damage; whether all timber cut has been scaled and reported and whether said timber has been marked with the state marks specified in the permit. The surveyor general shall also report to the auditor any trespass coming to his knowledge.

Final examination of lands and timber covered by any permit may be made by any state appraiser at or subsequent to the expiration of the permit or of any cutting season, and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on said land or left standing thereon, but he shall not report any timber cut and left which has been marked as scaled by the surveyor general. Such final report of such state appraiser shall be deemed supplementary to the report of the surveyor general, and shall have the same force and effect as though made by the surveyor general.

In the making of any scale of state timber such allowance shall be made for defects therein as will make the same equal to "merchantable" timber as defined in Section 2 of this act.

Sec. 23. Surveyor General may appoint deputies.—For the purposes of carrying out the provisions of this act, the surveyor general may appoint and at pleasure discharge or remove as many deputies as he deems necessary; and any such deputy may do anything required of the surveyor general by this act, but subject to

the limitations, conditions, and penalties set forth in Chapter 440, Session Laws 1919.

Sec. 24. State Auditor may demand rescale.—If the auditor shall question any scale of state timber made by the surveyor general he may demand a rescale, and in such case shall serve upon such surveyor general a written notice containing a description of the tract on which a rescale is demanded. The surveyor general shall thereupon appoint one of his deputies, who, together with one or more state appraisers designated by the auditor for that purpose, shall make a correct scale of all timber authorized to be cut from said tract in question, whether the same has been cut and removed, or remains cut or standing on such land; and a report of such scale shall be made and signed by them, and filed for record with the auditor. Such report, if both such deputy surveyor general and such state appraisers agree upon the scale, shall be final and binding upon the state and the purchaser. The state shall pay the surveyor general the sum of \$5.00 for each day necessarily spent by his deputy in making such rescale, in addition to all necessary expenses incurred by him in traveling to and from such land.

Any rescale of state timber, either by state appraisers or (and) by the surveyor general or his deputies, may be a stump scale or a top and stump scale.

Sec. 25. Fees for scaling.—The fees and charges of the surveyor general and his deputies for scaling state timber shall be as provided in Chapter 440, Session Laws of 1919, and acts amendatory thereof and supplementary thereto, which are hereby confirmed. The surveyor general may bring any legal action or proceeding against any permit holder or the surety on his bond, or either or both of them, to enforce payment of any amount due him from such permit holder. The liability of the permit holder and his predecessors and successors in interest and their respective sureties for payment of such fees and charges of the surveyor general shall be co-extensive with their liability for payment of the purchase price of timber sold under the permit.

Sec. 26. State timber to be scaled only by State scaler.—No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser, or the surveyor general or one of his deputies. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or the surveyor general or any deputy surveyor general shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this act. But reappraisals of unsold state land or timber may be made whenever and as often as deemed advisable by the auditor. Except as herein expressly provided and as generally authorized by Section 67, Revised Laws 1905 (being Section 112, General Statutes 1913), no claim of the state for timber from state lands shall ever be settled

or discharged for less than the full amount thereof as shown by the scale or estimate of the surveyor general, or (and) of state appraisers as the case may be.

Any surveyor general or deputy surveyor general or state appraiser who shall accept any compensation or gratuity for his services as such from any other source except the State of Minnesota, or who shall make any false report of timber scaled, or insert in any such report any false statement, or omit from any such report any statement required by law to be made therein, or who shall fail to report any trespass committed upon state lands which has come to his knowledge, or who shall conspire with any other person in any manner by act or omission or otherwise to defraud or unlawfully deprive the State of Minnesota of any land or timber or the value thereof, shall be guilty of a felony. Any material discrepancy between the facts and the scale returned by any such person scaling timber for the state shall be considered prima facie evidence that such person is guilty of violating this statute.

No state appraiser or surveyor general or deputy surveyor general who has been once discharged for cause shall ever again be appointed. But this provision shall not apply to resignations voluntarily made by and accepted from such employees.

Sec. 27. All timber shall be marked.—Every person who shall cut timber on state lands, and fail to mark the same as provided by law and the permit under which the same was cut, or shall place any other mark thereon except as provided in this act, and every person who shall sell, transfer, or manufacture any timber cut on state lands, before the amount due to the state therefor shall have been paid, shall be guilty of a gross misdemeanor.

Sec. 28. Auditor to keep record of marks.—The auditor shall keep a record of all sales of timber in a book to be known as the timber sales book, and shall enter therein at the time each tract of timber is sold, and before selling another tract, the name of the purchaser, the price, and a description of the tract on which the timber is situated.

Sec. 29. Auditor to keep stumpage book.—The auditor shall keep a stumpage book in which he shall enter a description of each tract of land from which any timber is sold; the name and date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; the date of approval of the sale of the timber; the date of the sale; the price for which the timber was sold; the name of the purchaser; the number, date of issuance and date of expiration of each permit; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds given by the purchaser and assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the surveyor general and state appraisers; the marks used upon the timber

as reported; the names of the deputy surveyor general and the state appraisers who scaled the timber; the amount paid for such timber and the date of payment, together with a specific reference to all correspondence relating to the land covered by the permit.

Sec. 30. Auditor to prepare statements of amounts cut.—Upon receipt of the surveyor general's report of the amount of timber cut under any permit, the auditor shall prepare a statement of the amount due therefor by the terms of the permit, and shall place in the hands of the state treasurer a duplicate thereof. Payment of such amount shall be made by the purchaser or assignee, as the case may be, to the treasurer, who shall give duplicate receipts therefor, one of which shall be filed with the auditor. Any partial payment received may be applied to any items on the statement as the auditor shall determine.

Whenever actual cash in the full amount due under such permit for said timber shall have come into the state treasury in payment thereof, but not before, the title to said timber shall pass from the state.

Sec. 31. Interest on deferred payments.—If the amount of such statement be not paid immediately, it shall bear interest at the rate of eight per cent per annum from date; and, if not paid within thirty days, the treasurer shall place the account in the hands of the attorney general, who shall proceed to collect the same. Whenever the auditor shall deem it for the best interest of the state, he shall take possession of the timber for which such amount is due, wherever the same may be found, and sell the same at public auction. The proceeds of such sale shall be applied, first, to the payment of the expenses of seizure and sale; and second, to the payment of the amount due for such timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay such amounts in full, the balance shall be collected by the attorney general. Neither payment of such amount, nor the recovery of judgment therefor, nor satisfaction of such judgment, nor the seizure and sale of such timber, shall release the sureties on any bond given pursuant to this act, or preclude the state from afterwards claiming that such timber was cut or removed contrary to law, and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally.

Sec. 32. Auditor to take possession of timber unlawfully cut.—The auditor shall take possession of any timber heretofore or hereafter unlawfully cut upon or taken from, any land owned by the state, wherever found, and may sell the same at public auction after giving such notice as he deems reasonable, and after deducting all the expenses of such sale the proceeds thereof shall be paid into the state treasury to the credit of the proper fund; and whenever any timber so unlawfully cut has been intermingled with any other timber or property so that it cannot be identified or plainly

separated therefrom the auditor may so seize and sell the whole quantity so intermingled, and in such case the whole quantity of such timber shall be conclusively presumed to have been unlawfully taken from state land. But when the timber unlawfully cut or removed from state land is so seized and sold such seizure shall not in any manner relieve the trespasser who cut or removed, or caused the cutting or removal of any such timber, from the full liability imposed by this act for the trespass so committed, but the net amount realized from such sale shall be credited on whatever judgment is recovered against such trespasser, and in addition to any other penalty provided by law, any person who shall remove, transport, carry away, conceal or convert to his own use any timber unlawfully cut on state lands, knowing the same to have been so cut, shall be guilty of larceny of the same and may be prosecuted and punished accordingly in the county where said property was cut or in any county into or through which said property or any part thereof may be removed; and when any corporation is guilty of the acts herein declared to be larceny each officer of such corporation shall individually and severally be deemed guilty of such larceny.

So far as permitted by the state constitution, the auditor, or any employe by him authorized, may determine the manner and method of sale or disposal of any timber seized hereunder and said auditor, or any employe by him authorized, may provide for the transportation of all such timber to available markets or places for advantageous sale thereof or to places suitable for storage or preservation thereof, or may do such other things as seem reasonably necessary to realize ultimately the largest net price therefor. All reasonable and necessary expenses so incurred shall be deemed a part of the expenses of sale of such seized timber and shall be paid from the proceeds thereof. The auditor shall keep and enter upon his books a detailed account of all expenses so paid. But the auditor may advance from the moneys appropriated for the expenses of said auditor all reasonable and necessary expenses incident to such transportation, sale, or preservation of such seized timber, but said advances shall be returned to said auditor's appropriation as soon as sufficient money is received therefor from the proceeds of the sale of such timber.

Sec. 33. Auditor to keep record of trespasses.—The auditor shall keep a book in which he shall enter all trespasses reported, with the minutes of all estimates and appraisals and settlements thereof, together with references to any correspondence relating thereto. But such record may be made in connection with the timber sales book or stumpage book required by this act to be kept, if the auditor so elects.

Sec. 34. Rewards for apprehension of trespassers.—The following rewards shall be paid to any person or persons giving to

the proper authorities any information which shall lead to the detection and conviction of any persons violating any of the provisions of this act, to-wit: \$25.00 reward if the value of the timber so unlawfully cut or removed shall not exceed the sum of \$25.00; \$50.00 reward if the value of timber shall not exceed \$50.00; and \$100.00 reward if the value of such timber shall exceed the sum of \$100.00; and the court before whom such person or persons so violating the provisions of this act shall have been tried shall, upon application of any person claiming to be entitled to such reward, examine such claim in a summary manner, and determine whether or not such person claiming said reward is entitled to the same, and if it should appear to the satisfaction of said court that such person claiming such reward is entitled to the same, then and in that case a certificate of such fact shall be made by such court and delivered to said person, which shall be deemed evidence of his right to such reward. The timber board shall pay same from any funds appropriated for expenses of said board.

Sec. 35. Loggers shall post notice.—Every person engaged in the cutting of timber upon any of the land belonging to the state, shall, before cutting any such timber, post in a conspicuous place in any camp or other building occupied by his employes engaged in such cutting, or if there be no such building then on and at the northwest corner of each forty-acre governmental subdivision or at the nearest corresponding point in each fractional subdivision, a notice which shall contain a full description of the lands proposed by him to be cut, the period during which the cutting is proposed to be done, and which said description shall contain the precise description of said land by forty-acre tracts, or fractions thereof by governmental subdivisions, and shall include the section, town, and range; and such person or persons so engaged in cutting timber as aforesaid shall be required to keep said notice conspicuously posted in such place during the entire time that he is engaged in cutting such timber; and before cutting any such timber he shall forward by registered mail a copy of such notice with his postoffice address to the state forester at the state capitol, St. Paul, Minnesota. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) or by imprisonment in the county jail for not less than twenty days nor more than ninety days.

Any person or persons giving to the proper authorities information which shall lead to the conviction of any person guilty of a violation of this section shall receive the sum of twenty-five dollars (\$25.00) reward, to be ascertained and paid in the manner provided herein for the payment of the rewards under the last preceding section (34) of this act.

Sec. 36. Auditors records to be notice.—The records kept by

the auditor pursuant to this act shall be deemed notice of the facts therein set forth. And all such records shall be prima facie true and correct.

Sec. 37. Statute of limitation not to apply.—The statutes of this state limiting the time for bringing either civil or criminal actions shall not apply to any action brought by the state for trespass upon any of its lands, or for violating any of the terms of the permit under which timber is removed from state lands, or for failure to pay the state for all the timber removed under any such permit, or to any criminal prosecution instituted under this act. Any civil action brought under this act may, at the election of the attorney general, be brought in any county in this state.

Sec. 38. Application of act.—Nothing in this act shall be deemed or construed as authorizing the sale, cutting, or removal, or as excusing damage or injury to any timber reserved to the state and set aside for any purpose, including state forests set aside under Section 7 of Article 8 of the constitution of Minnesota and laws enacted in furtherance thereof, except as provided in the laws directly relating to such reserved timber.

All persons cutting or removing state timber shall be subject to all laws now in force or hereafter enacted governing the burning and disposition of slashings or other debris resulting from timber operations, and concerning forest fires, including the setting or spreading or prevention or control thereof or liability therefor.

Sec. 39. Inconsistent acts repealed.—All acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed so far, and only so far, as necessary to give full force and effect to this act.

Sec. 40. Unconstitutionality of one section not to affect another.—If any section or provision of this act shall be held unconstitutional by any court, all other sections and provisions shall nevertheless be deemed as effective as though such unconstitutional section or provision had never been inserted in this act.

Sec. 41. Effective May 25, 1925.—This act shall take effect and be in force from and after May 25, 1925.

Approved April 20, 1925.

CHAPTER 277—S. F. No. 627.

An act to amend Section 6, of Chapter 68, Laws 1917, the same being Section 501 of General Statutes of Minnesota for the year 1923, relating to elections and authorizing voters absent on the day of certain elections from the election district of which they are residents to vote at such election.

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