

**Section 1. State forests created.**—All lands now owned by the State of Minnesota; and situated within the boundaries of the Minnesota National Forest, established within this state by act of Congress of the United States, shall hereafter constitute and be state forests, and shall be governed, operated, managed, and controlled in the same manner as other state forests.

The state authorities may cooperate with the federal authorities in respect of the government, operation, management and control of such state forests along with such national forests, to any extent and in any manner not inconsistent with the laws of this state.

**Sec. 2.** This act shall take effect and be in force from and after July 1st, 1927.

Approved April 16, 1927.

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#### CHAPTER 247—H. F. No. 1328.

*An act providing a comprehensive plan for afforestation and reforestation of lands in this state under limited and special taxation as contemplated by Article 18 of the State Constitution, commonly known as the Forestation Amendment, adopted at the general election in November, 1926; also creating offenses and prescribing penalties.*

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

**Section 1. Afforestation and reforestation of certain lands—**

(a) Any tract of land in this state containing not less than 160 acres, generally suitable for the planting, culture and growth of trees, for the production of timber or forest products, and having an actual or market value (exclusive of timber thereon and of minerals or any thing under the surface thereof) not in excess of ten dollars per acre nor less than three dollars per acre, may be made an auxiliary forest subject to taxation only in accordance with the provisions of this act.

(b) Any tract of land in this state containing not less than 20 nor more than 40 acres, generally suitable for the planting, culture, and growth of trees for the production of timber, or forest products, being in the nature of wood lots guarded or protected by the owners or their tenants actually living on the land or immediately adjacent thereto may, regardless of value, be made an auxiliary forest subject to limited and special taxation only in accordance with the provisions of this act.

**Sec. 2. Owners may make application to county board.—**

(a) The owner of any tract or contiguous tracts of land that he deems suitable for an auxiliary forest may make written application to the county board of the county in which such land is situate, setting forth the description thereof by governmental subdivisions or other proper survey, the estimated value, per acre thereof (exclusive of timber thereon and all minerals or any thing under the surface thereof), a brief statement of the facts showing its suitability for the production of timber or forest products, a statement of the kinds of timber growing and proposed to be grown thereon and the kind and quantity of merchantable timber thereon, the methods of timber culture proposed to be followed, and a request that such land be made an auxiliary forest under and subject to the provisions of this act.

(b) The application shall be upon a form prescribed by the commissioner and shall be verified by the applicant.

**Sec. 3. Application to be filed with county auditor—records.—**(a) Such application shall be filed with the county auditor of the county in which the land described therein is situate, who shall present the same to the county board at its first meeting held after the lapse of a period of ten days after such filing.

(b) The county auditor shall upon receipt of such application and prior to the meeting of the county board at which it is presented publish once in the official newspaper of said county notice of such presentation at the expense of the applicant and mail a copy of such notice to the clerk of the town in which lies the land therein described.

(c) Upon the presentation to it of such application the county board shall consider the same and shall hear any matter that may be offered in support of or in opposition to the application. It shall then determine whether the land covered by such application is suitable for the planting, culture and growth of trees for the production of timber or forest products, the actual or market value thereof (exclusive of timber thereon and of minerals or any thing under the surface thereof), and the amount of annual tax provided for in Section 6, subdivision (a) hereof and shall make an itemized estimate of the kinds and quantities of merchantable timber growing or standing thereon.

(d) The county board shall make proper record of its action upon the application.

If the application be rejected the county auditor shall indorse such rejection on the application and return it to the applicant within 30 days by registered mail at the address given by him in the application; or if the application is dis-

approved as to a part only of the lands described therein the county auditor shall in like manner notify the applicant who may, within sixty days after the mailing of such notice, amend his application accordingly, and if it be not so amended the application shall be deemed rejected.

If the application be accepted the county auditor shall in like manner notify the applicant thereof and shall transmit such application with the record of the approval thereof to the commissioner. It shall be the duty of the Commissioner to approve or disapprove such application within ninety days from receipt thereof, to make proper record of such action and to give notice thereof to the applicant in the manner hereinbefore provided, and to the county board.

(e) Within 60 days after the mailing of notice of acceptance by the commissioner, the applicant shall furnish to the county attorney of the county in which the lands described in the contract lie an abstract of the title to said lands, or a certificate of title if the same be registered, including certificates by the county auditor and county treasurer that there are no unpaid taxes thereon and a certificate of judgment search by the clerk of district court. The county attorney shall examine such abstract and certify to the commissioner the name of the owner of the fee title thereto and the names of all other persons having any interest therein or lien thereon. The applicant shall pay the county attorney a reasonable fee for such examination, not exceeding, however, five dollars for each 640 acres or fraction thereof of contiguous lands included in any one abstract.

Sec. 4. Forestry commissioner to prepare contracts.—(a) Whenever it shall have been determined as hereinbefore provided that any land may be made into an auxiliary forest the commissioner shall prepare a contract therefor, which contract shall be executed by the commissioner in behalf of the state of Minnesota and by the owner of the fee title and by all other persons having any interest therein or lien thereon, and shall be witnessed and acknowledged as provided by law for the execution of recordable deeds of conveyance. Notices sent by registered mail to the owner in fee, at the address given by him in the application, shall be deemed notice to all persons executing such contract.

(b) Such contract shall be prepared by the commissioner and the Chief of the Division of Forestry of the University of Minnesota on a form approved by the attorney general and shall prescribe such terms and conditions as will reasonably tend to produce merchantable timber upon the lands described therein and shall specify the kind or species of seeds to be planted or seedlings to be set out and the quantity or number

thereof or other acts or steps that the commissioner shall deem necessary in respect of afforestation or reforestation of such land; the time or times when the same shall be done; the kind and amount, if any, of culture or other attention to be given in aid of the growth of timber thereon; the uses, if any, which may be made of the land while the same remains an auxiliary forest; the period of time, not exceeding 50 years, during which such land may continue to be an auxiliary forest, with privilege of renewal, by mutual agreement between the owner and the state acting through the commissioner with the approval of the county board and the executive council, for an additional period not exceeding 50 years; the rate of taxation which may be levied annually on such land, exclusive of merchantable timber growing thereon at the time of the making of such contract and exclusive of mineral or other things of value thereunder, said rate to be determined as hereinafter provided; and such other conditions, provisions and stipulations as the commissioner, in the exercise of his scientific knowledge and business judgment, shall deem necessary or proper. Every such contract shall be approved by the executive council.

Provided, however, that as far as practicable all contracts shall be uniform and equal in respect of all lands or classes of lands substantially similar in capacity for, or adaptability to, any particular kind or species of tree culture or forest growth.

(c) The commissioner shall submit such contract to the owner of the land covered thereby. If the owner shall indicate to the commissioner his unwillingness to execute the same or if he or any of the persons having an interest therein or lien thereon fail to execute it within sixty days from the time of its submission to the owner, all proceedings relating to the making of such land into an auxiliary forest shall be at an end.

When the contract shall have been executed it shall forthwith be recorded in the office of the register of deeds at the expense of the owner, in a permanent book or record which shall be designated "record of auxiliary forests" and shall always be open to public inspection, and if the title to the land be registered there shall, in addition to such record, be filed with the registrar of titles a duplicate of such contract. At the time such contract is filed with the register of deeds for record the owner shall furnish to the register of deeds a certificate from the county attorney to the effect that no change in the record title thereof has occurred, that no liens or other encumbrances have been placed thereon, and that no taxes have accrued thereon since the making of his previous certifi-

cate. It shall be the duty of the county attorney to furnish such certificate without further compensation.

All the provisions of such contract shall be deemed covenants running with the land from the date of the filing of such contract for record.

(d) Upon the filing of such contract for record the land therein described shall become and during the life of such contract shall remain and be an auxiliary forest entitled to all the benefits and subject to all the restrictions of this act, all of which shall be deemed a part of the obligation of such contract and shall be inviolate, subject only to the police power of the state, to the right of eminent domain, and to the right of the parties thereto by mutual agreement to make applicable to such contract any laws of the state enacted subsequent to its execution and filing. But this provision shall not be so construed as to prevent amendatory or supplementary legislation which does not impair such contract rights of the parties thereto, or as to prevent amendatory or supplementary legislation in respect of the culture, care or management of the lands included in any such contract.

(e) Upon failure of the owner faithfully to fulfill and perform such contract or any provision thereof, or any requirement of this act, or any rule or regulation adopted by the commissioner thereunder, the commissioner may cancel such contract in the manner herein provided. The commissioner shall give to the owner, in the manner prescribed in Section 3, Subdivision (d), sixty days' notice of a hearing thereon at which the owner may appear and show cause, if any, why the contract should not be cancelled. The commissioner shall thereupon determine whether such contract should be cancelled and make an order to that effect. Notice of such determination and the making of such order shall be given to the owner in the manner provided in Section 3, subdivision (d). If the commissioner determines that the contract should be cancelled, and no appeal therefrom be taken, the commissioner shall send notice thereof to the county auditor of the county and to the town clerk of the town affected and shall file with the register a certified copy of such order, who shall forthwith note such cancellation upon the record thereof, and thereupon the land therein described shall cease to be an auxiliary forest and shall together with the timber thereon become liable to all taxes and assessments that otherwise would have been levied against it had it never been an auxiliary forest from the time of the making of such contract any provisions of the statutes of limitation to the contrary notwithstanding, less the amount of taxes paid under the provisions of Section 6, subdivision (a) hereof, together with

interest on such taxes and assessments at 6 per cent per annum, but without penalties.

The commissioner may at his discretion in like manner and with like effect cancel such contract upon written application of the owner.

Whenever the execution of any contract creating an auxiliary forest shall have been procured through fraud or deception practiced upon the county board or the commissioner or any other person or body representing the state it may be cancelled upon suit brought by the attorney general at the direction of the executive council. Such cancellation shall have the same effect as the cancellation of a contract by the commissioner.

(f) For the purpose of levying such taxes the county auditor shall, immediately upon receipt of notice of the cancellation of any contract creating an auxiliary forest, direct the local assessor to assess the lands within such forest, excluding, however, the value of merchantable timber and minerals and other things of value taxed under the provisions of Section 6, subdivision (b), hereof, as of each of the years during which said lands have been included within the auxiliary forest. The local assessor shall forthwith make such assessment and certify the same to the county auditor. The county auditor shall thereupon levy a tax on the assessable value of such land as fixed by General Statutes 1923, section 1993, for each of the years during which such land has been within an auxiliary forest, at the rate at which other real estate within the taxing district was taxed in such years. The tax so assessed and levied against any land shall be a first and prior lien upon such land and upon all timber and forest products growing, grown or cut thereon or removed therefrom. Such taxes shall be enforced in the same manner as other taxes on real estate are enforced, and in addition thereto the lien of such tax on forest products cut or removed from said land shall be enforced by the seizure and sale of such forest products.

No person shall, after the mailing by the commissioner as provided in section 4, subdivision (e), hereof, of notice of hearing on the cancellation of a contract making any lands an auxiliary forest, cut or remove from said lands any timber or forest products growing, grown or cut thereon until all taxes levied under this subdivision shall have been paid or, in the event such levy shall not have been completed, until the owner shall have given a bond payable to the county with sureties approved by the county auditor in such amount as the county auditor shall deem ample for the payment of all taxes that may be levied thereon under this subdivision, conditioned for the payment of such taxes.

Any person who shall violate any of the provisions of this subdivision shall be guilty of felony.

(g) The owner may appeal from any cancellation order of the commissioner to the district court of the county wherein the land is situate by serving notice of appeal on the commissioner and filing the same with the clerk of the district court within thirty days after the date of mailing of notice of such order.

The appeal shall be tried between the State, of Minnesota and the owner by the court as a suit for the rescision of a contract is tried, and the judgment of the court shall be substituted for the cancellation order of the commissioner and shall be final.

(h) If cause for the cancellation of any contract shall exist, the commissioner may, in lieu of cancelling such contract, perform the terms and conditions, other than the payment of taxes, required by such contract or by law or by the rules and regulations of the commissioner to be performed by the owner, and may for that purpose use any available moneys appropriated for the maintenance of his division and any other lawful means. The commissioner shall, on December 1 of each year, certify to the county auditor of each county the amount of moneys thus expended and the value of services thus rendered in respect of any lands therein since December 1 of the preceding year. The county auditor shall forthwith assess and levy the amount shown by such certificate against the lands described therein. Such amount shall bear interest at the rate of 6 per cent per annum and shall be a lien upon the lands described therein and the collection thereof enforced in the same manner as taxes levied under section 6, subdivision (a) hereof; and, if such tax be not sooner paid, it shall be added to and the payment thereof enforced with the yield tax imposed under section 7, subdivision (b), hereof.

**Sec. 5. Taxation of auxiliary forests.**—Every auxiliary forest in this state shall be taxed in the manner and to the extent hereinafter provided, and not otherwise. Except as expressly permitted by this act, no auxiliary forest shall be taxed for, or in any manner whatsoever directly or indirectly made to contribute to or become liable for the payment of, any tax or assessment, general or special, or any bond, certificate of indebtedness or other public obligation of any name or kind, made, issued or created subsequent to the filing of the contract creating such auxiliary forest. Provided, however, that in any proceeding for the making of a special improvement under the laws of this state by which any auxiliary forest will be benefited the owner thereof may subject the lands therein to assessment therefor in the manner provided

by law by filing his consent in writing to the making of such assessment in the tribunal in which such proceeding is pending, whereupon such lands shall for the purposes of such improvement and assessment be treated as lands not in an auxiliary forest; but the lien of any assessment so levied on lands in any auxiliary forest shall be subject to the provisions of the contract creating such auxiliary forest and subordinate to the lien of any tax imposed under the provisions of this act.

**Sec. 6. Rate of tax—special taxes.**—(a) From and after the filing of the contract creating any tract of land an auxiliary forest under this act the surface of the land therein (exclusive of merchantable timber thereon at the time of making such contract and of mineral or any thing of value thereunder) shall be taxed annually at the rate of 8 cents on each dollar or fraction thereof of the assessed value of such land as determined by the county board under the provisions of Section 3, subdivision (c) of this act (such assessed value to be one-third of the true and full value thereof determined by the county board under the provisions of said Section 3 (c)). Said tax shall be levied and collected and the payment thereof enforced in the same manner as other county taxes and shall be credited to the funds of the taxing districts affected in the proportions of their interests in the taxes on said land if it had not been so made an auxiliary forest. Failure to pay when due any tax so levied shall be cause for cancellation of the contract.

The levy upon the land of the taxes provided for by Section 4, subdivision (e), hereof, upon the cancellation of a contract, shall discharge and annul all unpaid taxes levied or assessed under the provisions of this subdivision.

(b) Merchantable timber standing or being upon the land at the time it is made into an auxiliary forest shall be taxed separately from the surface as standing timber separately owned is taxed. Minerals, mineral reservations, or any other thing of value under the surface of the land in any auxiliary forest shall not be included within the terms of this act and shall be taxed separately in the same manner as mineral interests or minerals separately owned are taxed.

(c) In addition to the foregoing taxes each auxiliary forest, except those in the nature of wood lots guarded or protected by resident owners or their tenants actually living on the land or immediately adjacent thereto, shall be assessed and shall pay a special state tax of three cents per acre annually for fire protection of such auxiliary forest. Such special tax shall be levied and collected in the same manner as other state taxes, shall be transmitted to and paid into

the state treasury intact, and shall there constitute and be a special fund hereby created and designated as the "Auxiliary Forest Fire Fund." All moneys accruing to said fund are hereby appropriated for and made available to the commissioner for fire protection work and shall be used by the commissioner as far as practicable for patrol work and similiar protective service pro rata in or about the auxiliary forests created under this act. Failure to pay said tax when due shall be cause for cancellation of the contract.

(d) In determining the assessed value of property within any taxing district the value of the surface of lands within any auxiliary forest therein as determined by the county board under the provisions of Section 3, subdivision (c) of this act shall, for all purposes except the levying of taxes on lands within any such forest, be deemed the true and full value thereof.

**Sec. 7. Merchantable timber may be cut.**—(a) The merchantable timber in any auxiliary forest, other than merchantable timber growing thereon at the time of the filing of the contract creating such auxiliary forest, may be cut at any time during the life of the contract at the election of the owner; and in any event such merchantable timber shall either be cut, or the yield tax next hereinafter mentioned shall be paid upon its value as standing timber, at the expiration of the period fixed in such contract for the duration of such auxiliary forest or at the expiration of any renewal of such contract.

(b) Whenever such merchantable timber shall be cut or otherwise removed from the land, the owner shall pay a special tax thereon (which is hereby designated as a yield tax) equal to 10 per cent of the full and true value of such merchantable timber on the stump at the time of such cutting or removal.

(c) Whenever any timber growing or standing in any auxiliary forest shall have become suitable for merchantable forest products the commissioner shall at the written request of the owner, a copy of which shall at the time be filed in the office of the county auditor, make an examination of said timber and designate for the owner the kind and number of trees most suitable to be cut if in the judgment of the commissioner there be any, and the cutting and removal of said trees so designated shall be in accordance with the instructions of the commissioner. The commissioner shall inspect such cutting or removal and determine whether it or the manner of its performance constitutes a violation of the terms of the contract creating the auxiliary forest or of the laws applicable thereto or of the instructions of the commissioner

relative to such cutting and removal. Any such violation shall be ground for cancellation of the contract by the commissioner; otherwise the contract shall continue in force for the remainder of the period therein stated, regardless of such cutting and removal.

Upon the filing of such notice the county board shall with the assistance of the commissioner determine the kinds, quantities and value on the stump of timber proposed to be cut, such kinds and quantities to be determined in accordance with rules adopted by the commissioner for the measurement or scaling of forest products, which rules shall determine the log rule and method of scaling logs, and the grades and sizes of ties, poles, posts, dimensions of cords, and other units of measurement in which forest products so cut and removed shall be measured.

The county board shall before such cutting is to begin file with the county auditor a report showing the kinds, quantities and value of the timber proposed to be cut or removed. The county auditor shall assess and levy the yield tax thereon and make proper record of such assessment and levy in his office, and shall notify the owner of the auxiliary forest of the amount thereof. Such owner shall before any timber in such forest is cut or removed give a bond in a sum equal to the amount of such tax plus 25 per cent thereof, payable to the State of Minnesota, conditioned for the payment of all taxes on the timber to be so cut or removed. The county board shall, either while the timber is being cut or after such cutting is completed, check the scale made thereof and file a report thereof in the office of the county auditor; and if the value shown in such report of the timber cut or removed is either greater or less than that assessed, the county auditor shall make a supplemental assessment so as to increase or reduce the original assessment to conform to the value of the timber actually cut or removed and shall notify the owner of the amount thereof. The county auditor shall certify each assessment to the county treasurer who shall collect all taxes so assessed and shall credit the proceeds thereof to the funds of the taxing districts affected in the proportions of their interest in the taxes on said land if it had not been so made an auxiliary forest unless otherwise provided in the contract whereby the same was made an auxiliary forest.

The owner shall on or before the 15th day of January in each year file with the county auditor on a form prepared by the commissioner a report showing the quantity of each kind of forest products cut or removed from any auxiliary forest during the next preceding calendar year. The auditor shall

compare such reports with the records in his office, and if he shall find that any timber so cut or removed has not been assessed he shall forthwith assess the same as hereinbefore provided and certify such assessment to the county treasurer for collection and notify the owner of the amount thereof. Such tax shall be paid on or before March 1 next following and if not so paid shall be levied and collected in the same manner as taxes imposed under the provisions of Section 6, subdivision. (a), hereof. Provided, however, that no such report shall be required of timber cut and used by the owner for his own domestic uses, such as for fuel, fencing or building, when the same is so used on land owned by him and contiguous to or within the limits of the auxiliary forest from which the timber is cut.

The owner of any lands or timber upon which a yield tax is assessed and levied as provided in this section may, within fifteen days after mailing of notice of the amount of such tax as herein provided, file with the county auditor a demand for hearing thereon before the county board. The county auditor shall thereupon fix a date of hearing, which shall be held within thirty days after the filing of such demand, and mail to the owner notice of the time and place of such hearing. The owner may appear at such hearing and present evidence and argument as to the amount of such tax and as to any matter relating thereto. The county board shall thereupon determine whether the tax as levied is proper in amount and shall make its order thereon. The county auditor shall forthwith mail to the owner a notice of such order. If the amount of the tax is increased or reduced by such order, the county auditor shall make a supplemental assessment and levy thereof as hereinbefore in this subdivision provided.

(d) Throughout the life of any such auxiliary forest the yield tax accruing thereon shall constitute and be a first and prior lien upon all the merchantable timber and forest products growing or grown thereon, and if not paid when due such yield tax, together with interest thereon at one per cent per month and all expenses of collecting same, shall continue to be a lien upon such timber and forest products, and every part and parcel thereof, wherever the same may be or however much changed in form or otherwise improved, until such yield tax is fully paid.

(e) The owner may at any time, having given thirty days' notice in writing to the county auditor of the county in which the land is situate, cut and remove from an auxiliary forest any timber standing or being thereon which was merchantable timber at the time of the filing of the contract creating such auxiliary forest; subject, however, to the pro-

visions of General Statutes 1923, sections 2203, 2204, and 2205, as amended.

**Sec. 8. Holdings not restricted.**—Any corporation, association, or organization may acquire and hold any amount of land, without restriction and without limit as to acreage or quantity, for the purpose of including same within and holding same as an auxiliary forest under the provisions of this act. And whenever the same shall cease to be such auxiliary forest, such owners shall have five years within which to dispose of such land, any provisions of general law to the contrary notwithstanding.

**Sec. 9. Commissioner to make rules and regulations.**—The commissioner shall make rules and regulations and shall adopt and prescribe such forms and procedure as shall be necessary in carrying out the provisions of this act; and the commissioner and every county board, register of deeds, registrar of titles, assessor, tax collector, and every other person in official authority having any duties to perform under or growing out of this act are hereby severally vested with full power and authority to enforce such rules and regulations, employ help and assistance, acquire and use equipment and supplies, or do any other act or thing reasonably necessary to the proper performance of his duties under or arising from the administration and enforcement of this act. It shall be the duty of the commissioner to cause periodic inspections to be made of all auxiliary forests for the purpose of determining whether contract and statutory provisions relative thereto are being complied with.

**Sec. 10. To be subject to forestry act.**—Auxiliary forests shall be subject to all applicable provisions of Chapter 407, Laws 1925, known as the Forestry Act, and acts amendatory thereof or supplementary thereto, except as expressly provided otherwise in this act.

**Sec. 11. Violation a felony.**—Any person who:  
Wilfully or knowingly cuts or removes any timber or forest product contrary to the provisions of this act; or  
Wilfully or knowingly makes any false statement or representation in any application, certificate, or other paper or document required by or purporting to be made pursuant to this act; or

Wrongfully and intentionally falsifies or changes any such application, certificate, or document; or

Uses any artifice, trick, scheme, or device, or who conspires with others so to do, under color of this act, for the purpose of wrongfully evading or escaping the levy, assessment or payment of any taxes, assessments, or claims of the state or any political subdivision or agency thereof,—shall be guilty of a felony.

**Sec. 12. Provisions separable.**—If any section or provision of this act shall be held unconstitutional or invalid by any court, it shall not be deemed to invalidate the whole of this act if that which remains can be construed as providing a workable plan for the accomplishment of the general purposes of this act.

**Sec. 13. Definitions.**—In this act the following words and terms have the following meanings, to-wit:

The term "auxiliary forest" is used in relation to state forests, and it means and includes any privately owned tract of land set apart for, and chiefly devoted to, the production of timber or forest products under the restrictions and subject to the provisions of this act.

The word "timber" means and includes trees, saplings, bushes and sprouts from which trees may grow, of every size, nature, kind and description.

The term "forest products" means and includes all products derived from timber as above defined.

The term "merchantable timber" means and includes all timber and all forest products (as above defined) having any commercial value.

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.

The word "owner" means and includes the person or persons owning the fee title to any tract of land but does not include an owner of timber thereon or of minerals or any other thing therein when such ownership is separate from the ownership of the surface.

The word "commissioner" means the commissioner of forestry and fire prevention of the state of Minnesota and his successor in authority.

The term "register of deeds" means and includes the register of deeds of the county in which the land referred to is situate, or the registrar of titles in case the title to the land has been registered.

**Sec. 14. Effective July 1, 1927.**—This act shall take effect and be in force from and after July 1, 1927.

Approved April 18, 1927.

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#### CHAPTER 248—H. F. No. 1329.

*An act authorizing and directing the conservation commission through the Commissioner of Forestry and Fire Prevention to*