

CHAPTER 162.

H. F. No. 468.

An act to provide for the extension of the work of the State Experiment Station and to appropriate money therefor.

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

SECTION 1. The board of regents of the University of Minnesota are hereby authorized to procure, on as good terms as possible, equip and establish two (2) sub-experiment farms or stations each farm to be not less than one-half ($\frac{1}{2}$) section.

Sub-experiment farms.

SEC. 2. The sum of twenty thousand (20,000) dollars, or such part thereof as may be required is hereby appropriated out of any money in the treasury, not otherwise appropriated for the year eighteen hundred and ninety-five (1895), to provide for procuring and equipping said experiment farms, and ten thousand (10,000) dollars, or such part thereof as may be required, is appropriated for the biennial period eighteen hundred and ninety-five (1895) and eighteen hundred and ninety-six (1896) to be used in the management of these experiment farms and for conducting such experiments of the State Experiment Station as the said board of regents may deem proper and of greatest value to the farmers of the state.

Appropriation

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

Approved April 16th 1895.

CHAPTER 163.

H. F. No. 359.

An act regulating state lands and the product of the same, and to repeal certain acts and parts of acts.

95 C 163
97 - 302

State lands.

Be it enacted by the Legislature of the state of Minnesota.

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99-M - 158
102-M - 470
113-NW 634
115-NW 102

SECTION 1. That at the time of the sale of any school lands the commissioner shall execute under his hand and official seal, a certificate of sale which shall be signed, sealed and acknowledged by the commissioner which said certificate shall be delivered to the purchaser.

Certificates of sale.

The said commissioner shall certify the description of the land sold, the quality thereof, and the price per acre, the consideration paid and to be paid therefor, and the time and terms of payment.

Such certificates shall be numbered and made assignable, but no certificates shall be delivered to the purchaser by the commissioner until the sum of money required by law to be paid at the time of the sale, is paid to the treasurer of the county where said sale takes place, and in case the purchaser fails to pay the amount so required to be paid at the time of said sale, said commissioner may again immediately offer said land for sale; but no bid shall be received from the person so failing to pay as aforesaid.

Assignment.

SEC. 2. Whenever any certificate is assigned, the assignment shall be made in writing, and shall be signed, sealed and acknowledged by the assignor, and executed in the presence of two witnesses, in case of any extension of the time of payment provided for in any such certificates, such extension shall be made in writing and under the hand and seal of the said land commissioner, in such a manner as to show the date when the extension is made, and the period and terms thereof, and such extension shall be recorded in the office of said land commissioner in a book provided for that purpose.

Withdrawal from sale.

The commissioner may, in his discretion, on or before the day of sale, withdraw any lands that may have been advertised for sale and included in any list to be offered in any county.

Default in interest.

SEC. 3. The said certificate shall further set forth that, in case of the non-payment of the annual interest by the first day of June, or within six (6) days thereafter, in each and every year, by the purchaser, or by any person claiming under him, then the said certificate may at any time during said default be by the commissioner declared void, and the said commissioner may take possession of the land therein described, and re-sell the same at public auction, and in the same manner and under the same rules and regulations as provided for the first sale.

Patents.

SEC. 4. The governor shall sign and cause to be issued under the seal of the state land office of this state, and attested by the commissioner, patents for the lands described in the certificate of sale, whenever the same are presented to him, with the further certificate of the commissioner endorsed thereon, that the whole amount of principal and interest specified therein, and all rents and taxes due on said lands have been paid, and that the holder of the certificate is entitled to a patent of the lands described therein; and the governor shall, in like manner sign and cause to be issued patents of said land, to any purchaser of the right, title and interest of the original purchaser, his heirs or

assigns, at an execution or mortgage sale, upon presentment to him of the certificate of the commissioner, that the whole amount of principal, interest, rents and taxes due thereon has been paid according to law, and that said purchaser at execution or mortgage sale is entitled to a patent for the land described in such certificate, and said patent shall be recorded in the office of said land commissioner, in a book to be provided for that purpose.

SEC. 5. Whenever, the interest of the state will be *promoted, in the opinion of the commissioner, by laying off any portion of the land under his control into small parcels or village lots, said commissioner may cause the same to be done, and shall cause the same to be appraised as provided in the next section:* Platting.

Provided, however, that whenever a petition in writing is presented to said land commissioner, requesting him to have the land therein described subdivided into small parcels or village lots, and said petition is signed by at least ten (10) legal voters of the county in which the land therein described is situated, the said petition shall be submitted to the board of timber commissioners, hereinafter constituted, which shall meet for the consideration thereof, and if the subdivision as prayed in such petition shall be recommended by the governor and at least one other member of the board, the request of such petitioners shall be granted. The action of said board shall be endorsed upon the back of such petition in writing and signed officially by the members of said board.

Whenever such petition is made, and whether the same be granted or refused, it shall be filed in the office of said land commissioner, and the date of filing noted thereon.

SEC. 6. The appraisers provided for by law shall be, Appraisers. appointed as follows, viz.: One (1) by the governor, one (1) by the commissioner of the state land office, and the other by the county commissioners of each county in which the lands to be appraised or sold, are situated, or if such county is unorganized the county to which it is attached for judicial purposes. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath, before some person qualified to administer oaths, that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested, directly or indirectly, in any of the school lands or improvements thereon, and has entered into no combination to purchase the same or any part thereof, which said oath shall be attached to the report

made of such appraisal, as hereinafter provided. Each appraiser shall be allowed, as compensation for his services and expenses, three (3) dollars per day, to be paid out of the state treasury.

The appointment of such appraisers shall be made in writing, and shall, together with their oaths and the written appraisals made by them, be filed in the office of said land commissioner.

Lumber thieves

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SEC. 7. If any person, firm or corporation, without a valid and existing permit therefor, cuts or employs, or induces any other person, firm or corporation to cut, or assist in cutting any timber of whatsoever description, on state lands, or removes or carries away, or employs, or induces or assists any other person, firm or corporation to remove or carry away any such timber, or other property, he shall be liable to the state in treble damages, if such trespass is adjudged to have been willful; but double damages only in case the trespass is adjudged to have been casual and involuntary, and shall have no right whatsoever to any remuneration or allowance for labor or expenses incurred in removing such other property, cutting such timber, preparing the same for market, or transporting the same to or towards market.

Penalty.

Whoever cuts or removes, or employs or induces any other person, firm or corporation to cut or remove any timber or other property from state lands, contrary to the provisions of this act, or without conforming in each and every respect thereto, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding one thousand (1,000) dollars, or by imprisonment in the state prison not exceeding two (2) years, or by both in case the trespass is adjudged to have been willful.

Confiscation.

Whenever any timber so cut is intermingled with any other timber, or whenever other property taken from state lands is intermingled with other property, the state may seize and sell the whole quantity so intermingled, pursuant to the provisions of section forty (40) of this act, and such other timber or property shall be presumed to have been also cut from state lands.

Provided the intermingling of timber above referred to shall only apply to cases having been adjudged as willful trespass.

Appointment of appraisers.

SEC. 8. Whenever, in the opinion of the commissioner, it will be for the interest of the people of this state that an appraisal of any of the school lands, or of the improvements thereon, shall be made, appraisers shall be appointed as provided by section six (6) of this act,

who shall qualify and be paid according to the provisions thereof.

Said appraisers shall proceed to appraise such lands and the improvements thereon, if any, as the commissioner may direct, and the valuation of such lands and improvements shall be separately made and stated in the appraisement, and the minimum price established by such appraisal shall be the minimum price for such lands until changed by a subsequent appraisal; but no lands shall be sold for less than the minimum price established by law, and not more than one hundred thousand (100,000) acres of school lands shall be sold in any one (1) year.

Duties.

The appraisals so made, as aforesaid, shall be filed in the office of said commissioner; *provided*, however, that no sale shall be made upon any appraisal that was made more than four (4) years prior to the date of sale.

SEC. 9. Before any sale of any school lands is made, the commissioner of the land office shall cause notice of the time and place of such sale to be published in one newspaper printed and published at St. Paul, and one newspaper printed and published in each county in which such lands are to be sold, if any newspaper is printed and published in such county.

Notice of sale.

Said notice shall be published once a week for four (4) successive weeks prior to said sale, and shall contain the description of such piece or parcel of land to be sold.

In case there is no newspaper published in said county, said commissioner shall also cause such notice to be posted in three (3) conspicuous places in said county at least four (4) weeks prior to said sale.

SEC. 10. All moneys received from the sale of any school or university lands, or the timber or other property coming therefrom, or interest accruing from such sales, shall be paid into the state treasury, and the purchase money so received shall be loaned as provided by law, or invested in Minnesota bonds (railroad bonds always excepted) or in United States bonds, bearing not less than three (3) per cent interest, or in bonds of any state.

Proceeds—how invested.

Provided, however, that no investment of such funds shall ever be made in bonds which may have been issued to aid in the construction of any railroad; and the governor, treasurer, state auditor, president of the board of regents of the State University, and the chief justice of the state, are hereby constituted a board of commissioners, whose duty it shall be to invest said funds; and whenever there shall have accumulated

in the treasury funds belonging to said permanent school fund, or the permanent university fund, or both, to the amount of ten thousand (10,000) dollars, it shall be the duty of said board of commissioners to immediately invest the same according to the provisions of this section. The state auditor shall be secretary of the said board of commissioners.

He shall keep a record of all the proceedings of said board, and shall cause the same to be published with his annual report. It shall be the duty of the state treasurer to place to the credit of the respective funds, when received, the interest accruing on said bonds, and pay over the same as directed by law.

The bonds purchased in accordance with this section shall not be transferable, except upon the order of the governor; and on such bonds shall be written "Minnesota School Fund Bonds," or "Bonds of the University of Minnesota," as the case may require, "transferable only upon the order of the governor and state auditor."

The state auditor shall keep a record of such bonds, stating the name of bonds, when issued, when redeemable, rate of interest, when and where payable, number and amount of bond, by whom executed, when purchased, when withdrawn, and for what purpose; and he shall credit the state treasurer for such bonds when purchased, and charge the same to the proper fund.

SEC. 11. The commissioner may sell the pine timber or the pine lands in this state, and tamarac and cedar suitable for posts, telegraph poles or railroad ties, when the same is liable to waste, and not otherwise. No such timber shall ever be sold or disposed of unless the same is liable to waste, when such sales are made said commissioner shall execute and deliver to the purchaser a permit to enter upon the land upon which the timber is growing and to take and remove such timber. Before any permit shall be granted, the timber shall be estimated and appraised but no sale shall be made on any estimate or appraisal more than three (3) years old. The land commissioner is hereby authorized and empowered to appoint such competent persons as may be necessary to examine such lands for the purpose of estimating and appraising the timber thereon; they shall be known as state estimators; the commissioner may discharge them from time to time as he deems best. At least one of such estimators shall make a thorough and exhaustive examination, whenever and as often as called upon by said commissioner so to do, of every piece or parcel about to be sold and prior to the sale.

SEC. 12. Each estimator shall enter his report of such

May sell timber

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examination in a book to be provided and kept for that purpose by said land commissioner in his office.

Such book shall be known as the record of appraisals, and is hereby expressly made the original record of such examinations, estimates and appraisals.

Each estimate and appraisal shall be entered in said record by the estimator who has made the examination, in his own handwriting, and said record shall be signed and dated by him at the time of such entry.

Estimates—
what to contain.

Said record shall be made from the original notes of said estimator, which he shall make upon the ground where said timber is grown.

Such record shall show the amount of each kind of timber upon the land examined which measures not less than eight (8) inches in diameter twenty-four (24) feet from the ground which is subject to sale under the provisions of section eleven (11) of this act, the number of logs per thousand (1,000) feet, and the value per thousand (1,000) feet thereof, and also the amount and value of all other kinds of timber thereon below this standard, including the number of pine, tamarac and cedar posts, telegraph poles and ties, and their value.

SEC. 13. Each estimate shall be made by governmental subdivisions, and no estimate shall relate to more than forty (40) acres of land, save and except where the smallest governmental subdivisions show more than that number of acres.

Each estimate shall state the situation of the timber referred to therein relative to its risk from fire or damage of any kind, and its distance from the nearest lake, stream or railroad, the character of the haul, and whether or not any of said timber has been burned, and the extent and character of the burning if any.

It shall also show the true date when the examination was made, the exact number of hours spent in making the examination; that the estimator was actually upon the ground when he made said estimate, the expense necessarily incurred in making such examination and in going to and returning from said tract.

Each estimate shall be sworn to by the estimator upon the record thereof before the secretary of state, or a notary public employed in his office.

Each estimator, at the time he makes the entry of his estimate, as aforesaid, shall file in the office of said land commissioner, all the plats and field notes made by him on the ground during his examination, and he shall affix his signature to each plat and to each page of field notes, together with the date of filing the same.

No information, estimate or appraisal relating to standing timber upon any public lands shall be paid for

out of the state treasury, or shall be furnished by any person other than the estimator herein provided for, or in any other manner than as herein provided.

Estimators,

SEC. 14. Each estimator shall be a citizen of the State of Minnesota, and shall be thoroughly qualified by actual experience to carefully and accurately run the lines of the various subdivisions of land, according to the government survey thereof, to determine courses and distances, to locate corners, meander posts and witness trees, to correctly read the same when found, to correctly locate himself when in the woods, and to make accurate and complete estimates and appraisals of the timber on such lands. No person shall be appointed as such estimator who has not had at least five years actual practical experience in the woods in the direct line of the work hereby required. Before any person shall be appointed as such estimator, he shall make and verify a statement setting forth that he possesses all the qualifications required by this act, and such verified statement shall be filed in the office of said commissioner.

SEC. 15. No person, other than those appointed and who shall qualify as herein provided, shall be allowed to act as such estimator or be paid by the state for making any estimate or appraisal.

Oath—bond.

Each estimator at the time of his appointment, and before entering upon his duties, shall take and subscribe an official oath, and give a bond with at least two (2) sureties in at least the sum of five thousand (5,000) dollars for the faithful performance of his duties. Said bond, together with the sureties thereon, shall be approved by the land commissioner who shall endorse his approval thereon. Said bond and oath shall be filed in the office of said land commissioner. Whenever and as often as any reports shall be signed by the estimators, as herein provided, the land commissioner shall furnish to the governor written lists containing a description of the land examined, and the value, quantity and character of the timber thereon, which list shall be filed in the office of the governor.

All estimates or purported estimates now on file in the office of the land commissioner and upon which valid permits are not now in force, are hereby cancelled and declared null and void.

False estimate.

SEC. 16. Any estimator who shall make or cause to be made any false or fraudulent estimate of the timber upon any such land, or who shall insert in any estimate any false statement whatsoever, or who shall falsely date any record, or who shall make any false statement as to his experience and qualifications for the work, to

the land commissioner, or who shall fail to make a personal examination of each subdivision of land, as required by law, before making the record of such estimate, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand (1,000) dollars for each offense, or by imprisonment in the county jail for a term not exceeding one (1) year, or by both.

SEC. 17. It shall be the duty of said commissioner to make a thorough inquiry and examination into the extent, character and value of the lands belonging to the state, and chiefly valuable for the timber thereon.

He shall take such measures as will protect such timber from damage or loss by fire, trespass or otherwise, and make such regulations for the care and control of said timber lands and sales of the timber thereon subject to sale under the provisions of section eleven (11) of this act as will best protect the interests of the state; *provided*, however, that he shall do nothing which shall conflict with the provisions of this chapter.

SEC. 18. There is hereby established the board of timber commissioners, to be composed of the governor, auditor and treasurer of this state.

The governor shall be the chairman of said board and shall preside at all meetings.

Before any timber shall be sold the land commissioner shall submit to said board, which shall meet from time to time for such business as may be laid before it, the records of estimates and appraisals, and said board shall carefully examine the same together with such other papers, documents, records or witnesses as the commissioners may require, in order to properly determine the questions submitted to them.

The governor is hereby authorized and empowered to administer an oath, in the usual form, to each witness brought before such board, and each commissioner is hereby authorized and empowered to examine such witnesses relative to the matters under advisement.

The land commissioner shall act as secretary of said board, and shall keep a record thereof containing the full minutes of each meeting, and all the proceedings thereof, which minutes shall be dated at the time when such meeting occurs, and shall be signed by the commissioners present.

Whenever the question of the sale of any timber on such land is submitted to said board, it shall determine whether or not such timber is subject to sale under the provisions of section eleven (11) of this act, and if it is for the best interests of the state that such timber shall be sold, and whether or not a sale is necessary to pro-

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Protection
from fire.

Board of timber
commissioners.

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tect the state from loss, the determination of the board shall be preserved in the records of the meeting, together with the evidence showing that such timber is subject to sale under the provisions of section eleven (11) of this act.

The governor and one other member of said commission shall constitute a quorum for the transaction of business. In case the governor, and at least one other member of said board, shall determine by their votes that any such sale is necessary to protect the state from loss, and before any timber shall be advertised or sold, or any permit issued for entering upon or cutting the timber from any such land, they shall endorse upon the record of each and every estimate of timber so to be advertised and sold, the statement that such sale is necessary to protect the state from loss. Said statement shall be signed by them officially, and the date of such signing affixed thereto, and unless this is done the land commissioner shall have no jurisdiction whatsoever to make such sale.

Special agent.

SEC. 19. The governor is hereby authorized to appoint a competent agent of his own selection, to properly investigate the correctness of any such estimate and appraisal, and to send such agent to examine any of the timber proposed to be sold, for the purpose of ascertaining if same is subject to sale under the provisions of section eleven (11) of this act, and to ascertain if any trespass has been committed on state lands or to ascertain the correctness of the weight and quantity of ore mined on state lands, whenever and as often as in his judgment it is for the interest of the state so to do.

Said agent shall act independently of the land commissioner and the estimators, and shall make his report in writing to the governor.

The governor is hereby authorized to pay such agent out of his contingent fund.

Whenever any member of the board of timber commissioners shall be satisfied, prior to the issuance of a permit, that by reason of any fraud or misstatement on the part of any estimator, or of any witness, or of any state officer, or by reason of any combination or irregularity, the interests of the state demand it, he is hereby authorized and required to withdraw his approval of such sale by stating the fact of the withdrawal of such approval in writing upon the margin of the record of said estimate and appraisal over his official signature.

Void sales.

SEC. 20. In case any sale of such timber is made by fraud or mistake, or contrary to the provisions of the statute, the same shall be void, and the permit issued

thereon shall be of no effect, and the holder of such permit shall be required to surrender the same.

SEC. 21. No timber on such land shall be sold except to the highest bidder at public auction. All sales shall be held at the capitol building in the city of Saint Paul.

Timber to be sold at public auction.

The land commissioner shall give notice of each and every sale by publishing a notice thereof in the following form in a daily newspaper printed and published at the city of Saint Paul, once in each week for five (5) successive weeks, the first publication to be made at least fifty-six (56) days before the date of sale.

NOTICE OF SALE OF STUMPAGE ON STATE LANDS.

Notice.

Notice is hereby given that I will offer at public auction at the state capitol in Saint Paul, on..... the..... day of, at..... o'clock in the..... noon, certain timber belonging to the state and liable to waste.

An official copy of the list of lands upon which said timber is situated will be furnished by me to any and all applicants on and after the day of..... Said list will be published in the paper once a week for three successive weeks prior to said sale.

Dated Saint Paul, Minn., this day of, A. D.

.....
Commissioner of the state land office.

At least thirty (30) days prior to the date of said sale a list of lands upon which the timber so to be sold is situated, shall be compiled by the land commissioner, and thereafter shall be published in connection with the notice of sale, and a statement that it is the list referred to in said notice, once a week for three (3) successive weeks prior to the day of said sale, in a daily newspaper printed and published at Saint Paul.

A copy of said list, together with said notice and statement, shall be conspicuously posted in the office of the county auditor in each county in which any lands therein described, are situated, at least fifteen (15) days prior to the date of such sale. In case such county has no auditor, the said list shall be so posted in the office of the county auditor of the county to which the county in which said lands are situated is attached for judicial purposes. Said list shall contain a description of the tract of land upon which each and every parcel of timber to be offered at such sale, is situated, together with a statement of the quantity of timber thereon, as shown by the official estimate. No description shall be added to said list after the date of its compilation, and no

timber shall be sold from any tract of land not contained in said list. *Provided*, that the state land commissioner may sell at public auction at the county seat to the highest bidder for cash, the stumpage on tracts of pine land not exceeding one section in area, where such stumpage does not exceed one hundred thousand feet on any one section; the whole of the purchase money to be paid at the time of the sale; and for the sale of such stumpage the notice shall be printed and published once in each week for three consecutive weeks in a newspaper published in the county in which such pine stumpage is located and if there is no newspaper published in the county, then in a newspaper published in an adjoining county and all pine stumpage so sold shall be estimated and appraised as provided in section eleven (11) of this act, and shall be subject to all the restrictions and conditions hereinbefore provided.

The land commissioner shall furnish a copy of such list to each and every applicant.

Annual sales.

SEC. 22. There shall be but one sale of such timber each year and the same shall be held not later than the fifteenth (15th) day of November, and may be adjourned by the commissioner from day to day (but no longer) until the sale is finished;

Provided, however, that in case of emergency, if said board of timber commissioners shall deem it for the best interests of said state that a second sale shall take place before the expiration of twelve months from the date of the first sale in any year, and they shall unanimously, decide, and recommend in writing, that such second sale is for the best interests of said state, the same shall be held by the commissioner under the conditions and regulations, so far as practicable, as herein provided for the regular sales, except that the notice containing the description of the land shall state that said sale is to be held pursuant to the recommendation of said board of commissioners and shall be published at least once a week for three successive weeks next prior to the date of sale. The minimum price of any timber sold at any such sale shall be the appraised value thereof, as fixed by the estimate and approved by the board of commissioners as hereinbefore provided.

Appraised
value to be
minimum price

Earnest
money.

SEC. 23. At the time of making his bid for the purchase of any timber sold under the provisions of this act, the purchaser shall pay to the state treasurer twenty-five per cent of the appraised value of the timber sold, and the treasurer shall issue duplicate receipts therefor, one of which shall be delivered to the purchaser, and the other filed in the office of the land commissioner. Thereupon the land commissioner shall issue to such

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purchaser a permit in such form as may be prescribed by the attorney general, by the terms of which said purchaser shall be authorized and empowered to enter upon and cut and remove from the land therein described, the timber sold, according to the provisions of this act. Said permit shall be signed and sealed by the land commissioner and by the purchaser. It shall contain a description of the land upon which the timber is situated, a statement of the amount of timber estimated to be upon the same, the estimated value thereof, the price at which it is sold, or the price per thousand feet for which the same was sold, in case it is of such a character as to be sold by the thousand feet, and the bark mark which shall be placed upon the timber taken from said land. A separate and distinct bark mark shall be used on the timber cut under each permit; and in case the permit shall cover a period of more than one season, it shall specify the mark to be used each season; and the same bark mark shall not be used for more than one season. No more than one section or the fractional part thereof, according to the government survey, shall be described in any one permit. Said permit shall also provide that every piece of timber cut upon the land therein described shall have in addition to the bark mark hereinbefore provided for, the stamp mark MIN plainly placed upon the end thereof, and it shall contain the provision that in case of the failure of the purchaser to place both said bark mark and stamp mark upon each and every piece of timber cut under and by virtue of said permit, the state shall have the right to seize and take possession of any timber which the purchaser has failed to so mark wherever the same may be found. Said permit shall be dated as of its true date, and shall state the time of its expiration, and that it cannot be extended except as provided in section twenty-four (24.) It shall contain such other and further provisions as may be requisite and necessary to secure to the state the title to all the timber cut under and by virtue of its provisions wherever the same may be found, until the same shall be fully paid for, and until the provisions of the permit shall have been complied with in all respects by the purchaser; it shall provide that all the timber standing upon the land described and sold by its terms to the purchaser, shall be cut; that the same shall be cut clean, acre by acre, without waste or damage to other timber; and it shall contain the stipulation that the purchaser or his assignee, if any, shall and will notify in writing the surveyor general of logs and lumber for the district in which the land therein described is situated, and also the said land commissioner, at least fifteen (15) days

before any cutting is done, at which time said purchaser, or his assignee, if any, intends to begin cutting thereunder, and shall again notify such officers and each of them in writing at least fifteen (15) days before any timber is removed from said land, of the date at which said purchaser, or his assignee, if any, intends to commence such removal. Said permit shall also provide that the purchaser shall pay the state the permit price for all the timber which he fails to cut and remove.

Extension of
permits.

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SEC. 24. No permit shall be issued to cover more than two logging seasons. The timber shall be cut and removed within the time prescribed by such permit. No permit shall be extended except by unanimous consent of the board of timber commissioners, and under no circumstances shall an extension be granted for more than one year, and then only for good and sufficient reasons. In case an extension is granted a log mark shall be agreed upon for the third season. Each permit shall be assignable, but all assignments must be in writing and signed, sealed and acknowledged by the assignor before they shall be valid or in any manner operative. They shall also be filed in the office of the land commissioner, and he shall endorse thereon his approval of the assignment, in case he approves it, and the same together with the approval shall be recorded in a book to be provided for that purpose. In case he fails to approve it such assignment shall be void. Before any assignment shall be of any effect whatsoever, and before the land commissioner shall approve the same, the assignee shall give a bond to be approved by said commissioner by endorsement thereon, and in the same form and subject to the same terms and conditions as the original bond given prior to the issuance of the permit; but neither the original purchaser or either of his sureties, shall be in any manner released or discharged from liability by reason of the fact that an assignment has been made and a new bond given and said original bond shall remain of full force and effect until all provisions of the permit shall have been fully complied with, anything herein contained to the contrary notwithstanding. No permit shall be issued to any person, firm or corporation, other than the one in whose name the purchase is made at the time of such sale. Each permit shall be recorded in the office of the surveyor general of logs and lumber for the district in which the land described in the permit is situated; and the marks in such permit designated and described shall vest the ownership of all timber bearing the same in the state. Any permit which fails to contain any of the requirements provided for in this section shall be

Assignments of
permits.

void on its face. In case any purchaser fails to pay the amount required to be paid at the time his bid is made, said commissioner may again immediately offer said timber for sale, but no bid shall be received from the person so failing to pay as aforesaid.

SEC. 25. Every person, firm or corporation purchasing timber at any such sale, before the execution of the permit hereinbefore provided for, shall sign, seal, acknowledge and deliver to the state, a bond with at least two sureties, in double the amount of the value of the timber included in the permit, as shown by the amount bid, and the official estimate as to quantity. Said bond shall be conditional upon the complete and faithful performance of all and singular the covenants and agreements in said permit contained, the requirements of law in respect to such sales, and the payment to the state treasurer of any amount that may be found due according to the terms of such permit, or by law. Each surety on such bond shall justify in double the amount thereof. The bond herein provided for shall be approved by the land commissioner in writing filed in his office, and recorded in a book to be kept for that purpose. No member of any firm or corporation which is the purchaser of the timber covered by the permit, the faithful performance of which such bond is given to secure, shall be accepted as surety thereon.

Bond of purchaser.

SEC. 26. In case the purchaser at any such sale, or his assignee, if any, fails or neglects to cut and remove the timber, or any part thereof, purchased by him, prior to the time when the permit, issued on the sale thereof, expires, he shall, nevertheless, pay the state the permit price for all the timber which he fails to cut and remove, but under no circumstances shall he cut or remove said timber, or any part thereof, after the expiration of such permit. The sureties on the bonds given at the time of the purchase, or the assignment, if any, of the permit issued on such sale shall be liable therefor.

Failure to cut.

SEC. 27. The surveyor general of logs and lumber in each district shall scale all timber cut on state lands in his district, and make a detailed report thereof to the land commissioner on or before the fifteenth (15) day of May in each year. Such report shall show the name of the party cutting, the name of the party for whom the cutting was done, and the name of the party hauling the same, the kind and character of the timber cut, and the number of logs or pieces cut, the bark marks and stamp marks used thereon, and the total number of feet. Such report shall give the description of the land upon which the timber referred to therein was cut, and no other, and shall state the true and correct

Scaling timber cut.

Report of surveyor general.

amount cut thereon. In no instance and under no circumstances shall timber cut on different sections be reported together. Such report shall also state specifically whether such timber has been cut according to the provisions of the permit, whether the land has been cut clean acre by acre, as far as the cutting has been made, whether the cutting has been done without unnecessary waste, or damage; whether the timber has all been cut, and if not, how much has been left standing, and whether all timber cut has been scaled and reported; whether the bark marks and stamp marks stipulated in the permit have been placed upon each and every log cut from said land, and whether the stamp mark MIN has been plainly stamped on each and every piece of timber.

Duties.

It shall also be the duty of the surveyor general of logs and lumber for each district to report to the land commissioner all trespass which may be hereafter committed upon land belonging to the state, and said commissioner shall thereupon immediately cause such report to be investigated and if found true he shall cause such trespass to be estimated, scaled and appraised, and report the same to the attorney general for prosecution. All scaling shall be done by the surveyor general upon the land from which the timber is cut, instead of on the bank as has been heretofore the custom and each log so scaled shall be numbered consecutively, and the number of such log entered upon the minutes of the scaler.

Provided, however, that the land commissioner may question the sale of any number cut on state lands and scaled by any of the surveyor generals or their deputies, by serving a written notice on such surveyors general demanding a rescale. Such notice shall give a full and accurate description of the tract or tracts of land on which a rescale is demanded.

Upon securing such notice the surveyor shall appoint one of his deputies who shall act with one of the state land examiners appointed by the land commissioner to conduct such rescale. The said deputy surveyor general, and the said state land examiner shall thereupon proceed to make a correct scale of all such timber cut and hauled, and removed, or remaining in the woods, or on skids, or standing, as the case may be, and whatever amount they shall agree upon shall be final and binding on the state and on the purchaser or purchasers, and a report made and signed by both the scalers above referred to shall be filed and recorded in the office of the land commissioner.

If it shall be found that the first scale as reported by

the surveyor general was practically correct, then the state shall pay such surveyor general the sum of five (\$5) dollars for each and every day necessarily spent in making such rescale in addition to all necessary expenses incurred in traveling to and from such tract or tracts of land, but in the case of a material difference in the two scalers, the surveyor general shall be entitled to no extra compensation for such rescaling. Scales made under this proviso may be what is known as a top and stump scale.

SEC. 28. Any surveyor general who shall fail to make full and complete reports in each and every instance, as herein provided, containing each and every requirement hereinbefore specified, including the statement of whether or not he has made his scale upon the land on which the timber was cut, who shall report timber cut from different sections in one report, who shall fail to scale the timber upon the land from which it has been cut, who shall neglect to report cases of trespass, as herein provided, who shall make any other or different scales than as herein provided, who shall fail to scale all timber cut, who shall fail to comply with any and all of the provisions of this section, or who shall appoint in any other manner than as herein prescribed any deputy surveyor general who shall do work herein provided for, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment in the county jail for a term not to exceed one year, or by both.

Neglect of duty

SEC. 29. The state shall pay the surveyor general for surveying timber cut on state lands when the same is scaled on the land from which it was cut, ten (10) cents per thousand feet on all timber cut and scaled under one permit up to five hundred thousand (500,000) feet in amount and five (5) cents per thousand feet on all timber cut and scaled under his permit which scales over five hundred thousand (500,000) feet.

Compensation of surveyor general.

Provided, however, that the purchaser or his assignee, if any shall pay the state treasurer the amount of the fees of the surveyor general for such scaling, and the same shall be included in the drafts drawn by the state auditor as hereinbefore provided.

SEC. 30. No timber cut from such land shall be sold, transferred or manufactured until the amount due the state, according to the report of the surveyor general shall have been paid in full. Any person who shall sell, transfer or manufacture any timber cut from such lands before the amount due the state therefor, according to such report, shall have been paid in full, or who shall

Lien of state on timber cut.

cut any timber upon any such land and shall fail or neglect to mark or cause to be marked any such timber, as provided by the permit issued therefor, or shall place any other mark or marks upon the timber cut by him under such permit, than the ones prescribed thereby, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one thousand (1,000) dollars and imprisonment in the county jail for a term not exceeding one year or by both.

SEC. 31. For the purpose of carrying out the provisions of this act, the surveyor general of logs and lumber for each district is hereby authorized and empowered to appoint as many deputy surveyors general as he may deem necessary.

Deputies.

Each of such deputies shall be a man of experience and capable of determining correctly the description of land from which any timber is being cut, according to the government survey thereof.

Each deputy shall take and subscribe an oath for the faithful performance of his duties and the protection of the interests of the state, and he shall give a bond in at least the sum of one thousand (1,000) dollars with two (2) sureties conditioned upon the proper and faithful discharge of his duties as such deputy. Said bond and the sureties thereon shall be approved by the surveyor general who appointed the deputy, and the same together with the oath shall be filed in the office of the land commissioner within thirty (30) days after the appointment is made.

Each deputy shall be appointed by instrument in writing, signed and sealed by the surveyor general who appoints him, and a duplicate copy of such appointment shall be filed by said surveyor general in the office of said land commissioner within ten (10) days after such appointment is made.

Any deputy may be discharged by the surveyor general who appointed him, at any time, and in case of his discharge, written notice of such discharge shall be given to the land commissioner immediately thereafter. No one in the employ of any person, firm or corporation transacting a lumbering or logging business shall be appointed as such deputy. No deputy shall be paid for his services or receive any remuneration or compensation whatsoever, either directly or indirectly, from any person, firm or corporation, which has cut or has received a permit to cut from state lands any timber sealed or to be sealed by him.

He shall receive the compensation for such services directly from the surveyor general and through his office, and in no other manner whatsoever.

SEC. 32. It shall be the duty of each deputy to assist the surveyor general of the district in which he is appointed in carrying out the provisions of this chapter in every manner faithfully and completely, so far as they relate, to the duties of his office. Duties of deputies.

Each deputy shall receive his instructions from and work under the immediate direction of the surveyor general in whose district he is appointed; he shall make his reports of all work done at such times and in such manner as the surveyor general of the district in which he is appointed may direct;

Provided, always, that such reports shall conform in each and every respect to the provisions of this chapter; and shall contain all the information requisite and necessary to enable the surveyor general for whom the work is done to make his report to the commissioner of the land office, under, pursuant to and as required by this chapter.

SEC. 33. Any deputy surveyor general who shall fail, neglect or refuse to carry out any of the provisions of this act, or who shall accept an appointment as such deputy in any other manner than as herein prescribed, or who shall receive any compensation or remuneration for his services as such deputy or any gratuity of any kind, either directly or indirectly from any other person or source whatsoever than the surveyor general who has appointed him, or who shall fail to properly determine the description of any land from which any timber he may scale is cut, or who shall fail to report correct amount of timber, or the correct number of feet cut from any particular piece of land, according to the scale, as herein provided, together with all marks used thereon, both stamp marks and bark marks; or who shall fail, neglect or refuse to scale any timber upon the land where the same was cut or who shall fail, neglect or refuse to note the fact whether the MIN is stamped upon each and every piece of timber cut, and to embody the same in his report, or who shall fail, neglect or refuse to report the amount cut from any section or subdivision thereof in separate amounts as herein provided, or who shall fail, neglect or refuse to inform himself as to the provisions and conditions of the permit under which the cutting was done, and to faithfully and honestly report whether such timber has been cut according to the provisions of such permit, or who shall fail, neglect or refuse to report each and every violation of the provisions of each and every such permit together with any trespass that may hereafter come to his attention or who shall fail to number consecutively the logs scaled by him as hereinbefore provided. Unfaithful deputies.

Penalty.

Shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred (500) dollars, or by imprisonment in the county jail for a term not exceeding six (6) months or by both.

SEC. 34. In case the land commissioner shall at any time be of the opinion that any deputy surveyor general is incompetent or is not acting for the best interests of the state in the performance of his duties, or that he has in any manner violated any of the provisions of this act, he shall lay the matter before the board of timber commissioners, and if said board shall decide by a majority vote thereof, that the opinion of said land commissioner is well founded, said board shall authorize and direct the land commissioner to recommend to the surveyor general who appointed such deputy that he be discharged, and upon such recommendation in writings said surveyor general shall forthwith discharge said deputy and notify said land commissioner in writing immediately, of the fact of such discharge, and such deputy shall not be reappointed.

SEC. 35. The land commissioner shall keep a general index of all instruments, documents, and papers filed or recorded in his office, showing the date of filing, and the book and page where the same are recorded.

All papers, letters, documents and instruments coming into his hands relating in any manner to such lands or to the timber thereon, shall be filed by him, and, together with copies of all letters written by him, shall be preserved as part of the records of his office.

He shall keep a stumpage record book, showing the number of the permit, its date, the date of its expiration, the bark and stump marks prescribed therein, the date of the sale of the timber covered thereby, the date of the approval of such sale, the description of the land on which the timber is located, the date of the estimate, the name of the estimator who made it the amount kind and value of the timber as shown by such estimate, the price for which the same was sold, the name of the purchaser, the amount of timber taken from the land, the date of the report of the same by the surveyor general, the amount paid, the date of payment, the marks used upon the timber and reported, the name of the deputy who scaled the timber, the date of the assignment of the permit, if any, the name of the assignee, if any, the date of filing the bond given at the time of the assignment, the amounts of the bonds, the names of all sureties on the bonds accompanying the permit, the date of the record of such bonds, together with a specific reference to all correspondence in any manner relat-

ing to the description of the land covered by each permit.

The land commissioner shall keep a record of all sales of timber made by him, in a book to be provided for the purpose, and known as the sales book.

He shall enter in ink in such book at the time each tract of timber is sold and before selling another description, the name of the purchaser, the price to be paid, and a description of the land on which such timber is situated.

SEC. 36. Upon receipt of any report from the surveyor general of the amount of timber cut under any permit, the state auditor shall draw a sight draft on the purchaser named in the permit, or on his assignee, if any, as the case may be for the amount due by the terms of such permit for such timber; and at the same time shall place in the hands of the state treasurer a duplicate thereof.

Collecting for
timber cut.

Payment of such draft shall be made to the state treasurer, who shall give duplicate receipts therefor, and thereupon one of such duplicate receipts shall be filed in the office of the state auditor, and upon the filing thereof he shall execute under his hand and seal a bill of sale of the timber so paid for, and a transfer of the mark thereon, to such purchaser or his assignee. Such bill of sale and transfer shall describe the timber paid for, its quantity and character, and the land upon which the same is cut. It shall be recorded in the office of the land commissioner in a book to be kept for that purpose, and also in the office of the surveyor general of the district in which such timber is cut.

In no event whatever shall such land commissioner execute any such bill of sale or transfer until the state has been fully paid for the timber therein described, including the fees of the surveyor general for scaling.

SEC. 37. If the party on whom such draft is drawn shall not pay the same immediately, it shall bear interest at the rate of eight (8) per cent per annum from its date, and if it is not paid within thirty (30) days from its date the state treasurer shall place the same in the hands of the attorney general for collection, and he shall proceed forthwith to collect the same.

Same--seizing
the timber.

95 C 163 §37
102-M - 476
113-NW 636

Provided, however, that in case the land commissioner shall at any time deem it for the best interests of the state to take possession of the timber, for the payment of which such draft is drawn, he shall immediately proceed to seize said timber wherever the same may be found, and sell the same to the highest bidder at public auction. The proceeds of such sale shall be first applied to the payment of the expenses incurred by the

commissioner in seizing said timber and making such sale; and the remainder shall be applied to the payment of such draft and interest.

In case a sufficient sum is not realized on the sale of such timber to pay such expenses and said draft in full, the balance remaining due on such draft with interest, shall be collected by the attorney general as herein provided.

In case there shall be realized on such sale a sum more than sufficient to pay the expenses incurred by the land commissioner in making such seizure and sale, and paying said draft, the entire sum so realized shall belong to the state.

Provided, however, that neither the making of said draft, the payment thereof, the bringing suit thereon, the seizure of such timber or the sale thereof, as herein provided, shall in any manner be construed to release or discharge any surety upon any bond given pursuant to the terms of this act, anything herein contained to the contrary notwithstanding, nor to in any manner bar or estop the state from afterwards claiming that the timber for which said draft was given was cut or taken, or removed contrary to the law, and recovering for the same, in any civil action, or prosecuting the offender criminally under the provisions of this act, or both.

Compromising
trespasses.

SEC. 38. The land commissioner is hereby authorized and empowered to compromise and settle any case of trespass upon such lands, whenever, in his judgment, it is for the best interests of the state to make such settlement; *provided*, however, that in no event shall he settle any case of trespass on such lands until he has had the timber taken under such trespass scaled and appraised by a state estimator, and the written report thereon made and filed in the office of said commissioner, as herein provided; and *provided, further*, that he shall not make any such settlement for an amount less than double the value of such timber, as shown by such scale and appraisal.

Record of
trespasses.

SEC. 39. It shall be the duty of the land commissioner to keep a record book which shall contain a record of all trespass reported, of all scales of trespass, of all correspondence relating thereto and of all settlements thereof.

Confiscation of
stolen lumber.

SEC. 40. The land commissioner is hereby authorized and empowered to seize and take possession of any timber or other property wrongfully taken from such lands, wherever it may be found, and in the event of such seizure to sell such timber or other property to the highest bidder at public auction.

In case the state either by action or through the land commissioner, shall seize or take possession of any timber or other property taken from such lands, and shall proceed to sell the same, the expenses incurred in making such seizure and sale may be deducted from the proceeds thereof.

SEC. 41. The records kept in the office of the land commissioner, pursuant to this act, shall be taken and deemed notice of the facts therein set forth.

Records as notice.

SEC. 42. The word "timber," as used in this act, shall be construed to mean trees, logs, ties, posts, poles, paving blocks, lumber, lath and shingles.

Timber—definition.

SEC. 43. Sections eight (8), nine (9), twelve (12), fifteen (15), sixteen (16), thirty-one (31), forty-one (41), forty-two (42), forty-four (44), forty-seven (47), forty-eight (48), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), fifty-three (53) and fifty-four (54) of chapter thirty-eight (38), general statutes of eighteen hundred and seventy-eight (1878), any and all amendments thereto, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sections repealed.

SEC. 44. This act shall take effect and be in force from and after June first (1st) 1895.

Approved April 22nd 1895.

CHAPTER 164.

H. F. No. 20.

An act entitled "An act to appropriate moneys for the purpose of opening of closed water courses leading into the Red River and its tributaries, and for opening existing streams in the Red river valley in the counties of Wilkin, Clay, Norman, Polk, Marshall, Kittson, Grant, and Traverse, for the purpose of draining land owned by the state of Minnesota therein; and also for the purpose of reclaiming swamp lands granted to the state of Minnesota by act of congress approved September twenty-eighth (28th) A. D. one thousand eight hundred and fifty (1850)."

Drainage of state lands.

"Whereas, the State of Minnesota is the owner of large tracts of low, wet and marshy lands of great value in the counties of Wilkin, Clay, Norman, Polk, Marshall, Kittson, Grant and Traverse, which will be greatly increased in value by drainage, and,

Whereas, there was granted to the State of Minnesota by the United States of America, by act of congress, approved September twenty-eighth (28th), one thousand eight hundred and fifty (1850), upwards of