

THE
STATUTES AT LARGE
OF THE
STATE OF MINNESOTA

COMPRISING
THE GENERAL STATUTES OF 1866
As amended by subsequent Legislation to the close of the Session of 1873
TOGETHER WITH
ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873

WITH REFERENCES TO
JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED
THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA

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CHAPTER XIV. OF THE PUBLIC LANDS.

*(Titles I. and II. of this Chapter are the same Titles of Chapter XXXVIII. of the Statutes of 1866).**

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* The title of chap. xxxviii. G. S. 1866, was changed by Act of March 9, 1867, to "an act for the protection and management of the public lands of the state of Minnesota, and to provide for the punishment of trespassers thereon."

TITLE I.

SCHOOL LANDS.

SECTION 1. *State land office established.*—A state land office is hereby established, which shall be and remain at the seat of government of the state as fixed by law.

SEC. 2. *State auditor is ex officio commissioner of land office—his powers and duties.*—The state auditor shall be, *ex officio*, commissioner of the land office. He shall have the general charge and supervision of all lands belonging to the state, of all lands in which the state has an interest, or which are held in trust by the state, and may superintend, lease, sell, and dispose of the same in such manner as shall be directed by law.

SEC. 3. *Commissioner shall keep record.*—The commissioner shall keep a record of the sales of lands, and of the money received on account either of principal or interest, the date of such sale or payment, the description of the lands sold, with the number of acres thereof and the name of each purchaser or person paying such moneys, and shall credit the proper fund therewith.

SEC. 4. *Shall make annual report.*—He shall annually make a report to the legislature of his official proceedings, showing the quantity of land sold or leased, and the amount received therefor; the amount of interest moneys received to the credit of the several funds, and all such other matters relating to his office as he may think proper to communicate.

SEC. 5. *Shall have custody of maps, books, etc.*—The commissioner of the land office shall have the custody of all maps, books, and papers relating to any of the public lands mentioned in this title. He shall cause books to be opened and records kept of all lands owned or held in trust by the state for schools, public buildings, internal improvements, and for all other purposes, and shall keep a true record of all patents, deeds, and conveyances of such lands made by the state; which record, or a transcript therefrom, properly authenticated, shall be received as legal evidence in all courts and places within the state. He shall also certify upon each instrument recorded by him, the book and page where the same is recorded. He shall have an official seal, with a proper device thereon, and the seal of the land office affixed to any certificate of purchase, receipt, or other instrument issued by the commissioner of the land office, according to the provisions of this title, is *prima facie* evidence of the due execution of such certificate or other paper.

SEC. 6. *Minimum price of school lands.*—The minimum price of the school lands shall be five dollars per acre, and all sales of such lands shall be within the county in which said lands are situated: *provided*, that pine lands may be sold at such place as may be designated by the commissioner of the state land office, but no lands shall be sold for less than the minimum price, nor less than the appraised value.

SEC. 7. *Terms of payment for school lands.*—The terms of payment on the sale of the lands mentioned in the preceding section are: for pine timber lands, the whole amount; for other timber lands, which are chiefly valuable for the timber thereon, seventy-five per cent. to be paid at the time of sale, and for all other lands fifteen per cent. to be paid at the time of sale, and the balance of the purchase money at any time thereafter, from time to time within twenty years,

at the option of the purchaser, with interest annually in advance at the rate of seven per cent. per annum on the unpaid balance, payable on the first day of June, or within six days thereafter in each and every year.

SEC. 8. *Commissioner shall give purchaser certificate.*—At the time of the sale of any such lands, the commissioner shall make out and deliver to the purchaser thereof, a certificate, in which the said commissioner shall certify the description of the lands 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 certificate shall be numbered and made assignable, but no certificate shall be delivered to the purchaser by the commissioner until the sum of money required by this title 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.

SEC. 9. *Certificate to be void, when.*—The said certificate shall further set forth, that in case of the non-payment of the annual interest, due by the first day of June, or within six days thereafter, in each and every year, by the purchaser, or by any person claiming under him, then the said certificate shall, from the time of such failure, be utterly void, and the said commissioner may take possession thereof and re-sell the same as hereinafter provided.

SEC. 10. *Commissioner may change terms of payment as to security required.*—The said commissioner shall, whenever in his opinion the interests of the state will not be secured by the terms of payment in this title required to be made at the time of the purchase, require of the purchaser such further security for the payment of the moneys to become due, and payable according to the terms of the certificate of purchase, as in his judgment will secure the respective funds against loss.

SEC. 11. *Governor to issue certificate of payment and give patents.*—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 of patents for the lands described in the certificate of sale, whenever the same are presented to him, with the further certificate of the commissioner indorsed 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.

SEC. 12. *Title to land to remain in state until full payment is made.*—The fee of each parcel of said land shall be, and remain in the state until patents are issued for the same respectively, upon full payment as aforesaid, and in case of non-compliance by the purchaser, his heirs or assigns, with the terms of the certificate as aforesaid, or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands, after a failure to comply with the terms of the certificate as aforesaid, or with such provisions of law as aforesaid,

without a written permission of the commissioner of the state land office, shall be deemed and held to detain such land forcibly and without right, and to be trespassers thereon.

SEC. 13. *Actions may be brought on security.*—In all cases where security is taken for the purchase moneys pursuant to the provisions of the tenth section of this title, the commissioner may sue for and recover all such sums as have become due and payable for which such security was given.

SEC. 14. *Land may be laid out into lots, when.*—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, the said commissioner may cause the same to be done, and shall cause the same to be appraised as provided in the next section.

SEC. 15. *Appraisers, how appointed.*—The appraisers provided for in this title shall be appointed as follows, viz.: one by the commissioner of the state land office, and the other two by the county commissioners of each county in which lands are to be appraised or sold. Such appraisers shall, before entering upon their duties of office, take and subscribe an oath or affirmation before some person qualified to administer oaths, that they will faithfully and impartially discharge their duties as appraisers according to the best of their ability, and that they are not interested directly or indirectly in any of the school lands or the improvements thereon, and have entered into no combination to purchase the same or any part thereof, which said oath or affirmation shall be attached to the report made of such appraisal as hereinafter provided. Said appraisers shall be allowed as compensation for their services and expenses, three dollars per day to be paid out of the state treasury.

SEC. 16. *Lots, how sold.*—All parcels or lots so appraised shall be subject to sale in the same manner and upon the same terms and conditions, and the certificate of purchase shall have the same effect as in the case of other lands for which provision is made in this title, at the prices at which the same were severally appraised, until a new appraisal is made, which the commissioner may, in his discretion cause to be had, in the manner aforesaid, and with the like effect; but no lots or parcels so appraised shall be sold for less than the minimum price of said lands, established in this title.

SEC. 17. *Effect of certificate of purchase.*—Certificates of purchase issued pursuant to the provisions of law, entitle the purchaser to the possession of the lands therein described, and are sufficient evidence of title to enable the purchaser, his heirs or assigns, to maintain action for injuries done to the same, or any action or proceeding to recover possession thereof, unless such certificate has become void by forfeiture, and all certificates of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded.

SEC. 18. *Money to be paid into state treasury.*—All moneys received for any lands belonging to this state, shall be paid into the state treasury, and for the amount paid, the treasurer shall give his receipt, which shall be countersigned by the auditor, and a statement of all such payments shall be transmitted to the commissioner of the land office by said treasurer, on or before the first Monday in each month, stating explicitly to which fund each entry belongs, and designating between principal and interest.

SEC. 19. *Purchaser in default, may make payment at any time before land is sold at public auction.*—In all cases where the rights of a purchaser have become

forfeited under the provisions of this title by failing to pay the amount due upon his certificate of purchase, if such purchaser, his heirs or assigns, shall, before the time appointed for the sale of the lands described in such certificate at public auction, pay to the state treasurer double the amount of interest then due and payable on such certificate, and all costs which have been incurred in addition thereto, such payment shall operate as a redemption of the rights of such purchaser, his heirs, or assigns; and said certificate, from the time of such payment, shall be in full force and effect as if no such forfeiture had occurred.

SEC. 20. *Price of unimproved forfeited lands.*—The unimproved forfeited lands shall continue at the minimum or appraised value per acre, as established in this title.

SEC. 21. *Duties of assessors.*—The assessors in the several towns and cities shall annually at the time of making the assessment of taxes, appraise all school lands in their several towns and cities, which are occupied and improved by any person, and make a return of the number of acres improved, and all land which is fenced shall be deemed to be improved, and the assessors aforesaid shall enter upon the general assessment roll, the name of the person occupying such school land, the number of acres improved, a full description of the land, and the value of the same per acre: *provided*, that no land for the purpose contemplated by this section, shall be assessed at less than two and 50-100 dollars per acre. The county auditors in the several counties of this state shall extend upon the several personal property tax rolls in their counties upon the assessed valuation of all school lands returned by the several assessors in their respective towns and cities, in accordance with this section, a tax of seven per centum upon such valuation as rents, which tax shall be collected in the same manner that the tax upon personal property is collected, and such tax shall be a lien upon all improvements upon such land, and may be collected of any person occupying the same, in the same manner that any tax upon the personal property of such person is collected by law, and the improvements of any person or persons upon any of the school land of this state, are hereby declared to be personal property, within the meaning of this title, and may be sold as such, for the tax assessed upon such land, in accordance with this title. The several county auditors on or before the last day of December, annually, shall make a return to the state auditor, giving a description of all school land in their respective counties, upon which there are settlers, and the amount of tax assessed, as rents, by virtue of this title.

SEC. 22. *Commissioner may have survey made.*—Whenever it appears to the commissioner necessary, in order to ascertain the true boundaries of any tract or portion of lands mentioned in this title, or to enable him to describe or dispose of the same in suitable and convenient lots, he may cause all such necessary surveys to be made; and the expenses thereof shall be paid out of the state treasury as other incidental expenses of the land office are paid.

SEC. 23 (AS AMENDED BY ACT OF MARCH 5, 1870). *Description of land sold sent to county auditor and placed on tax roll.*—The commissioner shall immediately transmit to the auditor of each county in which any lands mentioned in this title have been sold during the year, a detailed description of each parcel of the land so sold, the names of the purchasers, and the auditor shall extend the same upon his tax duplicate for the purpose of taxation, and the same shall thereupon become subject to taxation the same as other lands, and the taxes assessed thereon collected

and enforced in like manner as against other lands: *provided, however*, that the purchaser of any such lands sold for delinquent taxes, or as forfeited to the state, shall acquire, and shall only acquire, by virtue of such purpose such rights and interest as belong to the holder and owner of the certificate of sale heretofore issued by said commissioner under the provisions of this title, and the right to be substituted in the place of such holder and owner of such certificate of sale as the assignee thereof, and upon the production to the proper officer of the tax certificate given upon said tax sale, in case said lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal or interest then in default upon such school land certificate of sale, as the assignee thereof, prior to the redemption of said lands, and in case such holder and owner of such school land certificate shall fail to redeem said lands within the time allowed by law, and also to pay to said proper officer for the use of the holder of such tax certificate, all payment of principal, and interest, if any, by him made upon such school land certificate, with interest from the time they were so made, at twelve per cent. per annum, then the holder and owner of such tax certificate upon the receipt of his tax deed thereon duly given, and the filing of the same with the said commissioner, a special certificate of purchase of said land, embodying the same terms and conditions, and with the like force and effect as the said original certificate of purchase, and in lieu thereof.

S. L. 1870, 109.

SEC. 24. *Map of lots to be recorded.*—Whenever the commissioner shall lay off any tract of land into small parcels or village lots, as provided in this title, he shall cause a correct map of the same to be entered of record in the county where said lands are situated.

SEC. 25. *Patents may be recorded.*—The registers of deeds of the several counties of this state are authorized to record all patents issued by the governor pursuant to the provisions of this title, and the record thereof shall have the same effect as the record of other conveyances executed according to the laws of the state.

SEC. 26. *Expenses of land office, how paid.*—The necessary incidental expenses of the land office shall be paid out of the state treasury, and, upon satisfactory vouchers therefor, the state auditor shall issue his warrant for the same.

SEC. 27. *Illegal sale, void—money paid, refunded when.*—In case of any sale made by mistake, or not in accordance with law, or obtained by fraud, the same shall be void, and the certificate of purchase issued thereon shall be of no effect, but the holder of such certificate shall be required to surrender the same to the commissioner, who shall, except in cases of fraud on the part of the purchaser, cause the money to be refunded to the holder thereof.

SEC. 28. *Payment for land in what funds made.*—All sales of land made by the commissioner of the land office shall be made for specie or anything made a legal tender by the laws of the United States.

SEC. 29. *Rights of assignees of purchasers same as those of purchasers.*—The legal assignees of all *bona fide* purchasers of any of the lands mentioned in this title are subject to and governed by the provisions of law applicable to the respective purchasers of whom they are the assignees, and they shall have the same rights, in all respects, as original purchasers of the same class of lands.

SEC. 30. *Sales, how made.*—All sales of land by the commissioner shall be made according to the subdivisions thereof by the United States surveys, unless the same are laid off into smaller lots as provided in this title: *provided*, that no lands shall be sold in larger quantities than one-quarter section.

SEC. 31. *Damages paid into state treasury.*—All damages recovered for any trespass or other injury upon or to any of the lands mentioned in this title shall be paid over to the state treasurer for the benefit of the fund to which the same properly belongs.

SEC. 32. *Penalty for willful trespass on school lands.*—Whoever commits any willful trespass upon any of the lands owned or held in trust or otherwise by this state, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or who injures or removes any buildings, fences, improvements, or other property belonging or appertaining to said lands, or aids, directs, or countenances such trespass or other injury, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars, or both such fine and imprisonment, in the discretion of the court.

SEC. 33. *Court to give this act in charge to grand jury at each term.*—It is the duty of every court having jurisdiction of the same, especially to charge the grand jury, at each term of such court, to inquire into all offenses against the provisions of this title, and present any person who may be guilty of any such offense within their county.

SEC. 34. *Trespass on state lands—penalty.*—Whoever commits any trespass upon any of the lands owned or held in trust or otherwise by this state shall be liable in treble damages, in an action of trespass, to be brought in the name of the people of this state, if such trespass is adjudged to have been willful, but single damages only shall be recovered in such action, if such trespass is adjudged to have been casual and involuntary.

SEC. 35. *Person holding lands liable to action, when.*—In case any person holds or continues in possession of any of the lands mentioned in this title, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery of possession of such lands, and damages for the detention of the same.

SEC. 36. *Duty of county attorneys.*—The county attorneys of the several counties shall promptly report to the commissioner all trespasses committed upon any of said lands which may come to their knowledge, and shall, when directed by the attorney general, prosecute all actions for any trespass or injury thereto, or for the recovery of possession thereof, or otherwise.

SEC. 37. *Attorney general to give opinion, when.*—The attorney general, whenever requested by the commissioner, shall advise with and give his opinion upon all questions of law which are submitted to him by said commissioner, relating to the duties of his office, and prosecute or cause to be prosecuted by the county attorneys whenever in his opinion the public interest requires it, any person who may be charged with any indictable offense under this title.

SEC. 38. *Payments may be made, when.*—The purchasers of any of the lands mentioned in this title, or their assigns, may pay to the treasurer of the county in which such lands lie, any amount which may be due from time to time, on their

several certificates, either for principal, interest, or penalty, and for the amount so paid, the said county treasurer shall give to such person his receipt specifying the amount paid, date of payment, whether for principal, interest, or penalty, and the fund to which it is applicable, the number of the certificate, the name of the original purchaser of the land, which receipt shall be countersigned by the auditor of said county, and have the same force and effect as if given by the state treasurer.

SEC. 39. *County treasurer to give bond.*—Before any county treasurer receives moneys under the preceding section, he shall execute and give to the state a bond with sufficient sureties, in an amount to be fixed by the commissioner of the state land office, not less than double the sum liable to come into his hands by virtue of this title, which bond shall be conditioned for the honest and faithful discharge of all trusts and responsibilities imposed by this chapter; and for the faithful payment of and accounting for all moneys received by him under the provisions of this title, to the state treasurer or other person entitled to receive the same; the sureties to be approved by the judge of probate and register of deeds.

SEC. 40. *Shall issue duplicate receipts.*—The county treasurer shall issue duplicate receipts for all moneys received by him under the provisions of this title, one of which he shall without delay deposit with the county auditor.

SEC. 41. *Duty of county auditor.*—The county auditor, on receiving any such duplicate receipt, shall note on the back thereof the date of receiving the same, and shall also enter in a book to be procured by him at the expense of the county, the amount for which such receipt was given, and whether the same was for principal, interest, or penalty, specifying the amount of each, the number of the certificate, the name of the person to whom issued, and the name of the fund to which the money belonged; and on the first Monday of every month, he shall forward all such receipts to the commissioner of the state land office. The county auditor shall act as clerk of school land sales, and immediately after the close thereof shall report to the state treasurer the number of acres of land sold, the amount for which the same sold, the amount of principal and interest paid, and the amount of principal remaining unpaid, and for each and every day so engaged, the county auditor shall be allowed the sum of three dollars, to be paid out of any appropriation for the appraisal and sale of such lands.

SEC. 42. *Commissioner to transmit blank bond to county treasurer.*—The commissioner of the state land office shall transmit to each county treasurer to whom moneys may be paid under this title, a blank bond with the penal sum fixed as provided in the thirty-ninth section aforesaid, which the treasurer shall execute and procure to be approved, as hereinbefore provided, and return to the said commissioner, who shall file and carefully preserve the same in his office.

SEC. 43. *Shall send statement of lands sold.*—On or before the first day of May in every year, the commissioner shall cause to be made out and transmit to such county treasurers as have filed their bonds with him, properly executed and approved, a statement showing the classes of land sold in that county, the number of the certificates of purchase, the name of the person to whom each certificate was issued, and the amount of both principal and interest due on each on the first day of June, together with such directions, instructions, and blanks, as shall enable the county treasurer to carry out the provisions of this title.

SEC. 44. *Moneys received by county treasurer, how held.*—All moneys received by the county treasurer under the provisions of this title, shall be held at all times

subject to the order and direction of the state treasurer, for the benefit of the funds to which such moneys respectively belong; and on the first day of August in each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay over to the said state treasurer all moneys received on account of such funds. And on the 30th day of November in each year, he shall report to the superintendent of public instruction the amount of moneys so received during the year next preceding, and to what fund the same belongs.

§ SEC. 45. *Commissioner may order appraisal of school lands, when.*—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, should be made, he shall appoint an appraiser in the county in which the lands to be appraised are situated, and notify the county commissioners of said county to appoint two appraisers, and thereupon the said county commissioners shall, within ten days, appoint such appraisers, and 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 appraisal, and the minimum price established by such appraisal shall be the minimum for such lands until changed by a subsequent appraisal; but no lands shall be sold for less than the minimum price established by this title, and not more than one hundred thousand acres of school lands shall be sold in any one year.

SEC. 46. *Notice of sale of school lands, how given.*—Before any sale at auction of any of the lands mentioned in this title, the commissioners of the land office shall cause notice of the time and place of such sale to be published in one or more newspapers in each county in which such lands are to be sold, if any; if there is no newspaper printed and published in the county the same shall be published in some newspaper printed and published at the capital of the state, for six successive weeks before said sale.

SEC. 47. *Commissioner to remove persons occupying school lands without authority.*—The commissioner of the land office shall remove from any lands belonging to this state any and all persons who have, since the first day of January, one thousand eight hundred and sixty one, entered upon or made a settlement thereon without authority of law, or who hereafter enters upon the lands aforesaid without such authority, with intent to improve or occupy any part thereof, in the same manner as is provided by law for the removal of trespassers upon the lands of private individuals.

SEC. 48. *Improvements on school lands, when to be paid for.*—If any person purchases any of the lands mentioned in this title upon which other parties have made improvements, they shall be required to pay the owner of said improvements their appraised value as provided for herein, one half to be paid at the time of sale, and the balance within six months thereafter, with interest at seven per cent. per annum: *provided*, that in appraising improvements upon any of the lands aforesaid the appraisers shall take into consideration and deduct from the value of said improvements any waste or drainage to the said lands by the parties making the improvements or occupying the lands.

SEC. 49. *Principal sums derived from sale of school lands to remain a perpetual school fund.*—The principal sums arising from all sales of school lands shall remain a perpetual school fund, and shall not be reduced by any charges or costs of officers, by fees, or by any other means whatever.

SEC. 50. *Interest on such fund to be distributed semi-annually.*—All moneys

received as interest on such permanent fund, or rents of leased lands or penalties, shall constitute the current school fund of the state, and shall be distributed semi-annually as directed by law.

SEC. 51 (AS AMENDED BY ACT OF MARCH 10, 1873). *School fund how invested.*—All moneys received from the sale of any of the lands mentioned in this title, or interest accruing from such sale, shall be paid into the state treasury, and the purchase money so received may be invested in Minnesota bonds (railroad bonds always excepted), or in United States bonds bearing not less than four per cent. interest, or in the bonds of either of the following states, viz.: New York, Pennsylvania, Ohio, Illinois, Michigan, Wisconsin, Iowa, or Missouri, bearing not less than six per cent. interest: *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 dollars, it shall be the duty of said board of commissioners to immediately invest the same according to the provisions of this section, and the state auditor shall be secretary of 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 such stock, 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.

S. L. 1873, 150, repeals all inconsistent acts.

SEC. 52. *Commissioner may grant permit for cutting pine timber on school lands.*—The commissioner of the state land office may, whenever in his opinion the best interest of the school fund will be promoted thereby, grant permits for the cutting of pine timber upon the pine school lands of this state, under such restrictions and regulations as he deems proper, or as may be prescribed by law, but no permit to cut pine timber under this title shall be granted, or such timber offered for sale, until a minimum price per thousand feet for such timber has been fixed by the surveyor general of logs and lumber for the district in which such pine land is situated, and approved by the commissioner of the state land office, and no permit shall be granted for a less price than the minimum so established; and it shall be the duty of the several surveyor generals of logs and lumber, in this state, when requested so to do by the said commissioner, to fix a minimum price upon any pine timber in their several districts, and if to fix such price it is necessary to make a personal examination of such timber land, they shall be allowed the sum of two and 50-100 dollars per day, while so employed, to be paid by the state, and no such

permit shall be granted to any person but at public auction, after notice of such sale at least thirty days before such day of sale, in some newspaper printed and published in the county where such sale is to be made, and if there is none, then in some paper having general circulation in such county, and also in the official paper of the state, published in St Paul, and published for thirty days before such day of sale; and all pine lumber cut upon any school land, by virtue of this title, shall be and remain the property of the state until all money due the state, under permits for cutting the same, is fully paid. All money received for pine timber cut under the provisions of this title, shall be a part of the permanent school fund, and shall be invested in accordance with the provisions of section fifty-one of this title. The commissioner of the land office is authorized to sell, from year to year, the right to cut grass, gather cranberries, and make maple sugar upon the school lands.

TITLE II.

AGRICULTURAL COLLEGE LANDS.

SEC. 53. *Agricultural college lands shall be appraised and sold.*—All lands donated to the state of Minnesota for the purpose of providing colleges for the benefit of agriculture and the mechanic arts, under the act of congress, approved July second, eighteen hundred and sixty-two, an act donating lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts, shall be appraised and sold, and the moneys arising therefrom shall be invested in the same manner as is provided by law for the appraisement and sale and investing the moneys of school lands under the provisions of the foregoing title, except that there shall be written on the bonds, "bonds of the agricultural college of Minnesota, transferable only upon the order of the governor:" *provided*, that no such lands shall be sold for a less sum than five dollars per acre, nor for less than the appraised value thereof.

SEC. 54. *Proceeds of sale, how invested, interest on fund, how expended.*—All moneys derived from the sale of the lands aforesaid shall be invested in stocks of the United States, or of this state, yielding not less than five per centum upon the par value of said stock; and the moneys so invested shall constitute a perpetual fund, the capital of which shall remain for ever undiminished, and the interest of which shall be inviolably appropriated to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as may hereafter be prescribed, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

SEC. 55. *If fund is lost, state shall replace it.*—If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall by any action or contingency be lost, it shall be replaced by the state, so that the capital of the fund shall for ever remain undiminished; and the annual interest shall be regularly applied, without diminution, to the purposes mentioned in the preceding section, except that a sum not exceeding ten per centum upon the

amount received, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the legislature.

SEC. 56. *Fund not to be used to erect or repair buildings.*—No portion of such fund, nor the interest thereon, shall be applied directly or indirectly, under any pretence whatever, to the purchase, erection, preservation, or repair of any building.

SEC. 57 (ADDED BY ACT OF MARCH 5, 1868). *Lands to be appraised and sold—disposition of proceeds.*—All lands donated to the state of Minnesota by the United States by act of congress, entitled an act donating to the states of Minnesota and Oregon certain lands reserved by congress for the territories of Minnesota and Oregon, for university purposes, approved March second, one thousand eight hundred and sixty-one; and an act of congress entitled an act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July second, one thousand eight hundred and sixty-two; and any part or portion of such lands, upon the written request of the board of regents of the university of Minnesota to the commissioner of the state land office, shall be appraised and sold, and the minimum price thereof shall be the same, and permits for the cutting of timber thereon, and upon any part of the same, shall be granted, and the minimum price of such timber shall be fixed, and the right to cut grass and gather cranberries and make maple sugar thereon, or upon any part of the same, shall be sold, and all moneys arising therefrom, except as hereinafter provided, shall be invested, and a full record thereof shall be kept, and a report thereof shall be made annually to the legislature, and all trespasses upon said lands, or any of the same, shall be prosecuted by the same officer or officers respectively, and in the same manner in every respect as is now provided by law respecting school lands, except that there shall be written on the bonds purchased, bonds of the university of Minnesota, transferable only upon the order of the governor; and such officers respectively shall have the same powers and perform the same duties as are provided by law respecting such school lands, and the proceeds of the sale of such lands above mentioned, when so invested, shall constitute a permanent fund, and the same shall be called the university fund; and there shall be and is hereby inviolably appropriated and placed at the disposal of the board of regents of the university of Minnesota, to be drawn from the state treasury in the same manner as the interest and increase of the fund derived from the sales of lands granted to the state of Minnesota by act of congress approved July second, one thousand eight hundred and sixty-two, as now provided by law, all of the interest and increase of such university fund, and also all the proceeds of the sales of such timber and grass.

S. L. 1868, 93.

SEC. 58 (*ib.*). *Not to affect the power conferred by former act.*—Nothing in this act contained shall in any way modify or affect the powers conferred by or the provisions of section eight of an act to reorganize and provide for the government and regulation of the university of Minnesota, and to establish an agricultural college therein, approved February nineteenth, one thousand eight hundred and sixty-eight.

S. L. 1868, 93. As to rights of settlers upon school lands under the pre-emption act *vide* *State v. Batchelder*, 7 Minn. 121.

SEC. 59 (ACT OF MARCH 7, 1867). *Widow entitled to dower in school, etc.,*

land held by her husband at death.—The widow of any deceased person shall be entitled to dower in any school lands or agricultural college lands held by the husband at the time of his death, either as purchaser from the state or as assignee of such purchaser or as purchaser upon a sale thereof, upon execution, decree, or mortgage, although the state may not have made a deed thereof, the same as though the husband had died seized in lee of said lands, and [that] such dower may be assigned, administered, and set off in the same manner as now provided by law in other cases.

SUB-DIV. 2. All sales, transfers, and assignments by the heirs of a deceased person who died leaving a widow, of any interest in the school lands or agricultural college lands held by such deceased person, shall be void unless the assent of the widow be given thereto in writing executed and acknowledged as required by law for the conveyance of real estate.

SUB-DIV. 3. The widow shall pay one-third of the interest due to the state on all the lands out of which her dower was assigned, and the executor, administrator, or heirs shall pay the other two-thirds: *provided*, that when the portion assigned to the widow consists of a separate subdivision, so that the interest can be paid separately, she may pay the interest on the part so assigned to her, and the executor, administrator, or heirs shall pay upon the balance; and in no case shall the widow be required to pay on any more lands than necessary to include that assigned as her dower.

SUB-DIV. 4. In cases where the interest cannot be paid upon such land in subdivisions, as provided in subdivision (section) three of this act, then it shall be the duty of the executor or administrator, until the estate of the deceased is settled and thereafter the heirs, to pay the whole amount of interest due annually on such lands; and the widow shall refund to such executor, administrator, or heirs the one-third part thereof, and if she shall fail so to do for the term of one year, her right of dower in such lands shall be forfeited.

SUB-DIV. 5. When the executors, administrators, or heirs fail to pay the interest in cases provided for in the last preceding subdivision (section), on or before the first day of June in each year, the widow may pay the same, and shall have a lien upon the lands for two-thirds of the whole amount paid, with interest on such amount at twelve per cent. per annum until refunded; and if the same shall not be refunded with the interest thereon, within one year after the youngest heir shall become of age, all the rights and interest of the deceased therein at the time of his death, shall revert to and be conferred upon such widow.

S. L. 1867, 54.

TITLE III.

OF STATE SWAMP LANDS.

(*This Title is the Act of Feb. 13, 1865 (S. L. 1865, 15), and a part of the Act of March 3, 1865. S. L. 1865, 12.*)

SEC. 60. (1). *Commissioner of state land office to select lands for educational and charitable institutions.*—As soon as the title to the swamp lands donated by congress to the state of Minnesota shall become vested in this state, the commis-

sioner of the state land office shall, from the even-numbered sections of any such lands not otherwise disposed of prior to the passage of this act, proceed to select or cause to be selected and set apart for the erection and support of an insane asylum, one hundred thousand acres of swamp lands. For the erection and support of an institution for the education of the deaf and dumb at Faribault, in this state, one hundred thousand acres. For the erection and support of each normal school now established, or hereafter to be established in this state, not exceeding three, seventy-five thousand acres. For the erection and support of a state prison, one hundred thousand acres.

SEC. 61 (2). *Commissioner to keep record of quantity, description, and date of selection.*—The commissioner of the state land office shall cause to be kept in his office a record of the quantity, description, and date of selection of all lands selected and appropriated pursuant to the provisions of section one of this act.

SEC. 62 (3). *Lands so selected to be deemed irrevocably dedicated.*—All lands so selected and set apart by the commissioner of the state land office, shall, from and after said selection, be deemed to be reserved and irrevocably dedicated and set apart for the purposes for which the same were selected, and shall, upon the organization of any of the institutions hereinbefore mentioned, vest in the trustees or other officers having the superintendence or control of any of said institutions in trust for the uses and purposes aforesaid: *provided*, that if from any cause there shall not be a sufficient quantity of such swamp lands, then and in that case said commissioner shall select from the amount of said lands *pro rata* in the proportion of said subdivision in this act for each institution.

SEC. 63 (4). *What to be deemed evidence of title.*—A certificate of the lands so selected, describing them and the purposes for which they were selected, under the hand of the commissioner and seal of the state land office, shall be received in all courts as evidence of title to said lands in the trustees or other superintending officers of the institutions aforesaid.

SEC. 64 (4 OF ACT OF MARCH 3, 1865). *Who, and when to select lands for orphans' asylum.*—As soon as the title to the swamp lands donated by congress to the state of Minnesota shall become vested in the state, and as often as any such lands become so vested, the commissioner of the state land office shall, after selecting the lands, appropriated to the state prison, insane asylum, institution for the education of the deaf and dumb at Faribault, and three normal schools, under the provisions of an act entitled "an act to appropriate swamp lands to certain educational and charitable institutions therein named, and for the purpose of erecting a state prison," approved February thirteen, eighteen hundred and sixty-five, proceed to select and set apart the remainder of the swamp lands not heretofore otherwise appropriated for the erection and support of the asylum created and established in and by this act.*

S. L. 1865, 12.

(5, *ib*). *When said lands to be deemed irrevocably dedicated to said asylum.*—All lands so selected and set apart by the commissioner of the state land office, shall, from and after such selection, be deemed to be irrevocably dedicated to the use of said asylum, and shall vest in the board of directors in and by this act created in trust for the uses and purposes of said institution.

S. L. 1865, 12.

* Soldiers' orphans' home.