

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
GEORGE B. YOUNG.

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CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF  
THE LEGISLATIVE SESSION OF 1883.

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## CHAPTER XXXVIII.

## PUBLIC LANDS.\*

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## TITLE 1.

## SCHOOL LANDS.

§ 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.

§ 2. State auditor to be land-commissioner. 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.

§ 3. Commissioner to 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,

\*By Laws 1867, c. 77, the title of this chapter is changed 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."

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.

§ 4. **To 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.

§ 5. **To have custody of maps, etc.—to keep books and records—seal—certificates as evidence—clerk.** 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; and he shall have authority to appoint a clerk, whose salary shall be fixed by law. (*As amended 1877, c. 56, § 1*)

§ 6. **School lands—minimum price—sales—pine 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 shall not be sold until the timber thereon has been estimated, appraised and sold according to the provisions of this act. (*As amended 1877, c. 56, § 2.*)

§ 7. **Terms of payment for state lands sold.** The terms of payment of all state lands shall be: for lands, other than pine lands, which are chiefly valuable for the timber thereon, the value of such timber, to be paid at the time of sale; and for all other lands fifteen per cent. of the purchase price thereof to be paid at the time of sale; and the balance of the purchase-money of all lands at any time thereafter from time to time, within thirty 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. (*As amended 1877, c. 56, § 3.*)

§ 8. **Certificate to be given purchaser—failure to make cash payment—resale.** 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.

§ 9. **Certificate to be void on failure to pay interest.** 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 resell the same as hereinafter provided.

\*§ 10. Surrender and division of certificates. That whenever the holder of any certificate of purchase of any state or school lands shall surrender the same to the commissioner of the state land-office, with a request to have the same divided into two or more certificates, it shall be lawful for said commissioner to issue the same: *provided*, that if the applicant shall desire new certificates, dividing said land by boundaries other than regular government or state subdivisions, the applicant shall file with his application a plat and survey, showing the lines of the division desired, and the quantity of land in each subdivision: *provided*, that no new certificate shall issue while there is due and unpaid any interest, nor in any case where said commissioner shall be of opinion that the security of the state would be impaired and endangered. (1875, c. 106, § 1.)

§ 11. (SEC. 10.) Further security may be required of purchaser. 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.

§ 12. (SEC. 11.) Governor to issue certificates of payment, and 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, 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. (As amended 1877, c. 56, § 4.)

§ 13. (SEC. 12.) Fee to remain in state until full payment. 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.

21 M. 101, 107.

NOTE.—By Laws 1867, c. 29, the widow of the holder of a school land certificate is given the same right of dower in such school land as in land of which he held the legal title.

§ 14. (SEC. 13.) Action may be brought on security for purchase-money. 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.

§ 15. (SEC. 14.) Land may be laid out in 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.

§ 16. (SEC. 15.) Appraisalment of land laid out in lots. 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.

§ 17. (SEC. 16.) **Sale of lots—reappraisal.** 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.

§ 18. (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.

<sup>21 M. 101, 107.</sup>

§ 19. **Purchaser in default, may make payment before resale—rate of interest.** 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: *provided*, that if any purchaser has been unable to pay such interest at the proper time, because of destitution, or by reason of accident or misfortune, then, upon the representation of such facts by the county auditor and treasurer of the county in which the interest is due, to the land-commissioner, he may authorize the county treasurer to receive such interest, with seven per cent. interest thereon from the time it became due, in lieu of double interest. (*As amended 1877, c. 56, § 5.*)

§ 20. (SEC. 22.) **Commissioner may have surveys 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.

§ 21. (SEC. 23.) **Proceedings to subject lands to taxation when sold—sales for taxes—redemption.** 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 pur-

chasers; 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 purchase, such rights and interests 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. (*As amended 1870, c. 50, § 1.*)

§ 22. (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.

§ 23. (SEC. 25.) **Record of patents.** 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.

§ 24. (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.

§ 25. (SEC. 27.) **Illegal sale to be void—refunding of purchase-money.** 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.

§ 26. (SEC. 29.) **Rights of assignees 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.

§ 27. (SEC. 30.) **Sales to be made by legal subdivisions.** 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.

§ 28. (SEC. 31.) **Damages to be 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.

§ 29. (Sec. 32.) **Penalty for wilful trespass on state lands.** Whoever commits any wilful 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.

§ 30. (Sec. 33.) **Court to give this title in charge to grand jury.** 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 offences against the provisions of this title, and present any person who may be guilty of any such offence, within their county.

§ 31. (Sec. 34.) **Trespass on state lands—damages.** 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 wilful: but single damages only shall be recovered in such action, if such trespass is adjudged to have been casual and involuntary.

§ 32. (Sec. 35.) **Recovery of lands from tenants, etc.** 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.

§ 33. (Sec. 36.) **County attorneys to report and prosecute trespasses.** 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.

§ 34. (Sec. 37.) **Duties of attorney general.** 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 offence under this title.

§ 35. (Sec. 38.) **Payments to county treasurer—receipts.** 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 duplicate receipts, 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 receipts shall be countersigned by the auditor of said county, and have the same force and effect as if given by the state treasurer. (*As amended 1877, c 56, § 6.*)

§ 36. (Sec. 39.) **Bond of county treasurer.** Before any county treasurer receives any 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, and to justify in double the amount of the bond. (*As amended 1877, c. 56, § 7.*)

§ 37. <sup>23 M. 531.</sup> (SEC. 41.) **County auditor to return duplicate receipts to state auditor.** The county auditor shall, at the time he is required by law to return abstracts of settlement to the state auditor, also forward all duplicate receipts of principal, interest or penalty on state lands, with a certified statement of such collections by the county treasurer, specifying the amount of each item; and he shall also make such return at any other time when required by the state auditor. The county auditor shall act as clerk of land sales made by the commissioner, and he may make such sales when authorized by the commissioner, in which case his deputy shall act as clerk; and immediately after the close of all sales of state lands, the county auditor shall report to the state auditor the number of acres of land sold, the amount for which the same were 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. (*As amended 1877, c. 56, § 8.*)

§ 38. (SEC. 42.) **Blank bond to be sent to county treasurer—to be executed and returned.** 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.

§ 39. (SEC. 43.) **State auditor to 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.

§ 40. (SEC. 44.) **County treasurer to pay over moneys to state treasurer.** 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 during the months of March, June and October of each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay into the state treasury all moneys received on account of such funds since the last payment he may have made. (*As amended 1877, c. 56, § 9.*)

§ 41. (SEC. 45.) **Appraisal of school lands, etc.—minimum price—limit of sales.** 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.

§ 42. (Sec. 46.) *Notice of sale of lands, how given.* Before any sale at auction of any of the lands mentioned in this title, the commissioner of the land-office shall cause notice of the time and place of such sale to be published in one or more newspapers before said sale, and in one newspaper 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.

§ 43. (Secs. 49 & 50.) *Distribution of moneys received from land-sales.* The principal sums accruing from all sales of school, university, internal-improvement, or other state lands, or of pine timber upon the same, shall become a part of the several permanent funds to which they respectively belong, and shall not be reduced by any costs or charges of officers, by fees, or any other means whatever. All moneys received as interest or penalty on such funds shall become a part of the current or general funds to which they respectively belong, and shall be distributed as directed by law: *provided*, that all interest or penalty received on the internal-improvement-land fund shall be compounded with the permanent fund. (*As amended 1877, c. 56, § 10.*)

§ 44. (Sec. 51.) *Investment of moneys received from land-sales.* 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 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. (*As amended 1873, c. 33, § 1.*)

\*§ 45. *Appropriation of moneys for investment.* There is hereby annually appropriated all moneys received into the state treasury to the credit of the permanent

school fund, permanent university fund, internal-improvement-land fund, sinking fund, inebriate-asylum fund, or other funds required to be invested in securities, to be invested in interest-bearing bonds of the United States, or of the state of Minnesota issued since the year eighteen hundred and sixty, or of the bonds, bearing not less than six per cent. interest, of the states of Massachusetts, New York, Pennsylvania, Ohio, Indiana, Illinois, Wisconsin, Michigan, Missouri and Iowa. (1875, c. 105, § 1.)

\*§ 46. **Appropriation for expenses of investment.** There is hereby annually appropriated such sums as shall be found necessary for expenses of purchase, and payment of accrued interest at time of purchase, of bonds for permanent school and university funds, payable from general school and university funds, and for expenses and accrued interest of bonds purchased for other funds named in the first section of this act, payable from the funds for which such purchases are made. (*Id.* § 2.)

§ 47. (SEC. 52.) **Regulations for sale of timber on pine-lands.** The commissioner may sell the timber on the pine lands in this state when the same is liable to waste, as provided in this section, and not otherwise. No such timber shall be sold or disposed of unless the same is liable to waste; and when lands have been cut over according to regular permits, or the timber upon any land may be subject to waste, destruction or damage by windfall, fire or otherwise, he may grant permits to clear such lands, upon full payments of the amount for which the same may be sold; before any permit shall be granted, the timber shall be estimated and appraised by the surveyor of logs and lumber of the said district in which the land is situated, upon the request and subject to the approval of the said commissioner, which estimate and appraisal shall show the amount and the value per thousand feet of all timber measuring not less than eight inches in diameter, twenty-four feet from the ground, and of other timber below this standard, on each tract or lot, with a statement of the situation of the timber relative to risk from fire or damage of any kind, and its distance from the nearest lake, stream or [and] railroad. (*As amended 1877, c. 56, § 11.*)

§ 47. See 1883 Sup't., p. 66.

\*§ 48. **Permits for cutting timber, how issued.** No permit for such cutting shall be granted to any person by the said commissioner, except upon sale of timber to the highest bidder, at public auction, held at his office at the state capitol, notice of which shall be given at least sixty days prior to [the] date of the same, in one or more daily papers published in Saint Paul; and the minimum price of all timber at such sale shall be the appraised value of the same as fixed by the surveyor of logs and lumber, and approved by the commissioner. Every person purchasing timber at such sale, before the execution of a permit for the same, shall execute a bond to the state of Minnesota for the payment of double the amount of the estimated value of the timber included in the permit, with sufficient surety to be approved by the commissioner, conditioned upon the payment to the state treasurer of the amount that may be found due, under the terms of such permit, and according to the provisions of law. (1877, c. 56, § 12.)

\*§ 49. **Form and contents of permits—recording.** All permits under the provisions of this act shall be made according to prescribed form by the attorney general, and shall be signed by the party applying for the same, and the said commissioner. Said permits shall contain a description of the land to be cut upon, the estimated amount of timber upon the same, the price per thousand feet, or the entire value of the timber if the right to clear the land has been sold, for which the same was bid in, the stipulated log-mark, and such other points and agreements as may be necessary to make all logs cut under its provisions the absolute property of the state, until the same are paid for; and such permits, when properly executed, shall be recorded in the office of the surveyor of logs

and lumber of the proper district; and the log-mark described therein shall vest the ownership of all logs bearing the same in the state. (1877, c. 56, § 13.)

\*§ 50. **Duties of surveyors of logs and lumber—reports.** The provisions of chapter thirty-two of the General Statutes shall apply to all timber or logs cut upon state lands; and the several surveyors of logs and lumber shall scale all logs so cut, and make a detailed report of the same to the commissioner of the state land-office on or before the first day of April in each year, showing the name of the party cutting, the description of the land cut upon, the number of logs cut and the mark thereon, the total number of feet and the value thereof per thousand, as shown by the records of his office, stating whether such cutting has been according to the terms of the permit, and if not properly cut, the consequent damage to the state; and such timber or logs shall not be sold, transferred or manufactured into lumber until the amount due the state, according to the report of said surveyor, shall have been paid in full; and it shall be the duty of the surveyors of logs and lumber to report to the commissioner all trespass which has been, or which may hereafter be made upon the state pine lands, and all the logs cut by such trespass shall be disposed of as hereinafter provided. (*Id.* § 14.)

\*§ 51. **Collection of stumpage due the state.** Upon receipt of such report from the surveyor of logs and lumber, the state auditor shall draw duplicate drafts for the amount found due; one of which shall be placed in the hands of the state treasurer, and the other forwarded to the party from which the stumpage is due, who shall immediately make payment of the required amount to the state treasurer, take duplicate receipts therefor, one of which he shall return to the state auditor, who shall thereupon execute a release of the logs, and a transfer of the mark thereon; but in no case shall such release or transfer be made until the lien of the state has been fully satisfied. If the party owning such stumpage shall not pay the amount of such draft within ten days after said draft has been placed in the hands of the state treasurer, it shall be the duty of the said treasurer to take possession of the logs in question, and sell the same at public auction to satisfy the claim due the state, paying the overplus, if any, after defraying the costs and expenses of such sale, to the party entitled thereto, and making return thereof to the state auditor: *provided*, that in lieu of taking possession of the logs upon which stumpage is due, the state treasurer may turn the account over to the attorney general, who shall immediately proceed to collect the same upon the bond hereinbefore provided for; but in no case shall the logs be released until the account is paid; and proceedings upon the bond shall not prevent the state treasurer from seizing the logs at any time before the claim of the state is satisfied. (*Id.* § 15.)

\*§ 52. **Fraudulent log-marks—penalties.** If any person having a contract to cut timber under the provisions of this act, shall, with intent to defraud the state, place any other log-mark upon the logs cut by him under such contract than the one mentioned therein, shall be deemed guilty of a misdemeanor, and shall forfeit to the state the logs upon which any other mark than that agreed upon has been placed. He shall also be liable to indictment for such misdemeanor, and, upon conviction thereof, shall be punished by fine and imprisonment, not less than five hundred dollars, nor more than five thousand dollars, or imprisonment in the penitentiary not less than one year, nor more than three years, or both. (*Id.* § 16.)

\*§ 53. **Seizure of logs, etc., of trespassers.** That in addition to the penalties provided for in this title, against those committing trespass upon any of the lands owned or held in trust or otherwise by this state, the state auditor, by virtue of his office as commissioner of the land-office, is hereby authorized and empowered, without legal process, to seize and take, or cause to be seized and taken, any and all lumber [timber,] wood, grass, or other property unlawfully severed from the said lands, whether the same has been removed from said lands or

not; and may dispose of the property so seized and taken, either at public or private sale, in such manner as will be most conducive to the interests of the state; and all moneys arising therefrom, after deducting the reasonable and necessary expenses of such seizure and sale, shall be a part of the permanent school fund, and shall be invested in accordance with the provisions of this title. (1874, c. 35, § 1.)

\*§ 54. Defence of suits for seizure of logs, etc. That for the purpose of determining the title to any property seized and taken under the provisions of the preceding section, the commissioner of the land-office is hereby authorized and empowered to defend any and all actions that may be brought for that purpose, and to do and perform those things necessary to protect the interests of the state. (*Id.* § 1.)

## TITLE 2.

### AGRICULTURAL-COLLEGE LANDS.

§ 55. (SEC. 53.) Agricultural-college lands to 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.

§ 56. (SEC. 54.) Investment of proceeds of sales—appropriation of interest. 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 forever 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. (See *ante*, §§ 44, 45; see, also, c. 37, § 7.)

§ 57. (SEC. 55.) State to replace lost funds—interest—purchase of farms. 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 forever 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.

§ 58. (SEC. 56.) Fund not to be used for 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.

\*§ 59. Appraisement and sale of university lands—investment 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. (1868, c. 55, § 1.) (See *ante*, §§ 44, 45.)

\*§ 60. *Saving of powers conferred by act of 1868.* 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 nineteen, one thousand eight hundred and sixty-eight. (*Id.* § 2.)

#### REGULATION OF MINING ON THE PUBLIC LANDS.\*

\*§ 61. *Size of mineral districts.* That all mineral districts to be hereafter formed in this state shall conform to the township lines of six miles square. (1867, c. 24, § 1.)

\*§ 62. *Mineral claims, by whom to be made.* That all mineral claims shall be made in person by the party claiming, and any claim not thus made is invalid. (*Id.* § 2.)

\*§ 63. *Rights of discoverer of mineral vein.* That when a mineral vein or lode or lead, containing gold, silver, cinnabar or copper, is discovered, the party making the discovery shall be entitled to two hundred feet on said vein or lode or lead, as a discovery claim, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working; and he shall also be entitled to an additional claim of two hundred feet on said vein or lode or lead, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working, according to the act of congress, passed July 26, 1866. (*Id.* § 3.)

\*§ 64. *Measurement and notice of claim.* That to secure mineral claims, the person

\*To regulate mining upon the public lands of the United States within the state of Minnesota. Approved March 6, 1867. (Laws 1867, c. 24.)

See, also, Laws 1866, c. 36.

making them shall measure off correctly the number of feet allowed by law, and shall post up a notice of said claim, of a substantial nature, upon a stake or tree, at the end of every two hundred feet, upon which shall be written the name of the vein, with date of taking, name of claimant, number of claim, and its general direction. (1867, c. 24, § 4.)

\*§ 65. **Shaft to be sunk, etc.—certificate of claim.** That the claimant shall, within three months from the time of posting up a notice of his claim, in compliance with the law, sink a shaft on said claim, three feet deep by five feet square; and shall take from the bottom of the shaft so sunk specimens of the rock, properly labelled, with the name of vein, name of claim, and name of claimant thereon, number of claim, east or west, with a correct description of said claim, and file with the register of deeds of the county in which the mineral district is situated; and the register of deeds, after being satisfied that the said claimant has complied with the requirements of the law, and that he has not exceeded the two hundred feet, shall issue to said claimant, and record the same, a certificate, with description of claim, that said claim has been properly secured under the provisions of the law. (*Id.* § 5.)

\*§ 66. **Effect of failure to sink shaft.** That in case the claimant fails to sink a shaft three feet deep by five feet square, within the three months specified, then he shall forfeit all right to the claim, and any other party can come in and take possession. (*Id.* § 6.)

\*§ 67. **Rights of claimholder—how lost.** That whenever any citizen of the United States, or those who have declared their intentions to become citizens, shall have complied with the provisions heretofore set forth, then they shall have rightful possession of all claims made under and by virtue of this act, for the space of one year from the date of said claim; and unless a shaft ten feet deep by five feet square is sunk within a year from the date of the claim made, then all right and title to said claim shall be forfeited, and another claimant may come in and take possession, and secure a title under the law. (*Id.* § 7.)

\*§ 68. **Penalty for defacing notices of claims.** That any person found tearing or mutilating any notice posted on any mineral claim in this state, shall be subject to arrest and imprisonment, and, on conviction, shall be fined not less than \$50, nor more than \$500. (*Id.* § 8.)

\*§ 69. **“Mineral claim,” defined.** That the term “mineral claim,” as used in the preceding section, shall be construed to embrace all water-rights, ditches, flumes, timber claimed, or other interest appurtenant, necessary or auxiliary to a mine or mining-claim, or the working thereon. (*Id.* § 9.)

\*§ 70. **Fees of register.** That the fees of the register of deeds shall be as follows: recording claim, \$1.00; transfer of claim, 25 cents for each folio of one hundred words; and 25 cents for each certificate. (*Id.* § 10.)

\*§ 71. **Description of claim to be recorded.** That it shall be necessary to place in the hands of the register of deeds a description of each claim, for record, within thirty days from the date of taking. (*Id.* § 11.)

\*§ 72. **Claims in unorganized counties.** That in case any mineral district in this state is located in an unorganized county, the claim shall be recorded in the organized county to which such unorganized county has been attached for judicial purposes; and the register of deeds of said organized county shall perform the duties and receive the fees as provided by law. (*Id.* § 12.)

\*§ 73. **Registers of deeds to report.** That it shall be the duty of all registers of deeds, in counties where mineral claims are filed, to make a report, every three months, to the secretary of state, of the number of claims taken, number of shafts sunk, and the general condition of the mines. (*Id.* § 13.)

## APPROPRIATION OF SWAMP-LANDS TO STATE INSTITUTIONS.\*

\*§ 74. **State auditor to select lands for state institutions.** That as soon as the title to the swamp-lands donated by congress to the state of Minnesota shall become vested in this state, the commissioner 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 support of an insane asylum, one hundred thousand acres of swamp-lands; for the support of an institute [institution] for the education of the deaf, dumb and blind, at Faribault, one hundred thousand acres; for the support of each normal school now established or hereafter to be established in this state, not exceeding three, seventy-five thousand acres; for the support of a state prison, one hundred thousand acres. (1865, c. 5, § 1, as amended 1875, c. 95, § 1.)

\*§ 75. **Auditor to keep record—provision in case of deficiency.** 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: *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. (*Id.* § 2, as amended 1875, c. 95, § 2.)

\*§ 76. **Irrevocable dedication—appraisal and sale—disposition of proceeds.** 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 they shall be appraised and sold in the same, and by the same officers, and the minimum price shall be the same, as is provided by law for the appraisal and sale of the school lands, under the provisions of title one of chapter thirty-eight of the General Statutes, with the modification[s] hereinafter mentioned. All moneys derived from the sale of said lands so set apart shall constitute the permanent funds of the several institutions to which the said funds are granted, the principal of which shall remain forever undiminished, and shall be invested in state or United States bonds, the same as the permanent school fund of the state is now required to be invested, and they shall be endorsed as bonds of the endowment fund of the institution to which they belong, transferable only upon the order of the governor. The interest received upon such bonds, and upon the unpaid principal due the several funds on land-contracts, shall be annually appropriated to the current funds of the institution entitled to receive the same, for their maintenance and support. (*Id.* § 3, as amended 1875, c. 95, § 3.)

\*§ 77. **Lands subject to control and disposal of state.** All right and title to and interest in the land mentioned in section one of this act, that may have been conveyed or vested in the trustees of the several institutions named in said section one, by sections three and four of said chapter five, are hereby declared subject to the control and disposal of the state, according to the provisions of this act. (*Id.* § 4, as amended 1875, c. 95, § 4.)

## CONDEMNATION OF LAND FOR STATE.†

\*§ 78. **When and for what purpose land may be taken.** Whenever it shall be determined by the officers in charge, or designed to be in charge, of any state institution, that it is necessary for the state to acquire, for the use of such institution, any real estate, whenever the same shall not be acquired by agreement, the title to

\*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 13, 1865. (Laws 1865, c. 5)

†An act to provide for obtaining title to lands by the state of Minnesota, for the use of the state, Approved March 9, 1874, (Laws 1874, c. 36.)

the same may be acquired by the state as hereinafter provided. (1874, c. 36, § 1.)

\*§ 79. **Proceedings to condemn.** The attorney general may, on behalf of the state, and for the use of any institution requiring for its uses such lands, give notice of his intention to apply for the appointment of three commissioners to appraise said real estate and the damage for taking the same, to the district court in and for the county where such lands shall be situated, or to a judge of said court, giving a general description of the lands to be appraised or taken, and specify the time and place of such application; which said notice shall be published at least once in each week for three successive weeks, in a newspaper published in the county where the lands to be taken shall be situate, or if no newspaper shall be published in said county, then in a newspaper published in the city of St. Paul. At the time and place named in said notice, the attorney general, for and on behalf of the state, may present an application to said district court, or to a judge thereof, setting forth the name of the institution requiring said lands, and the general purposes for which the same are desired to be taken, and particularly describing said lands, for the appointment of such commissioners; and thereupon the court, or a judge thereof, may proceed to appoint three commissioners, who shall have cognizance of all cases named in such application, and shall have power to appraise the value of all such land, and the damages for the taking of the same; and said commissioners, before entering upon the duties of their office, shall severally take and subscribe an oath to the effect that they will faithfully perform their duty as such appraisers, without partiality, and to the best of their knowledge and ability, which oath shall be filed in the office of the clerk of the district court of the county in which the lands to be appraised shall be situate; and thereupon such commissioners shall proceed to examine the premises, in each lot or parcel of land separately, having given such notice as they may deem reasonable to the owner, owners, or persons interested in said lands, and to the guardian of any minor or insane person, which notice shall be in writing, and shall be served on such owner, interested person or guardian, if such person shall be a resident of the county where such lands are situated; and if such person or persons shall not reside in said county, then by publishing such notice in such newspaper as such commissioners may select, and for such time as they may choose; and at the time and place named in notice, the commissioners shall proceed, or a majority of them shall proceed, in each case or parcel of land, to an appraisal thereof, and of the damages sustained or to be sustained by reason of the taking and use of such land, and shall make award, in writing, of such damages; and shall deliver one copy of such award, signed by the commissioners, or a majority of them, to the clerk of the district court in and for such county, to be by him filed in his office, and shall deliver another copy of such award to the attorney general, to be by him filed in his office. (*Id.* § 2.)

\*§ 80. **Proceedings on appeal.** Either party may appeal from such award at any time within thirty days from the filing said award in the office of the attorney general, by filing with the clerk of said court a notice of appeal, signed by the party claiming such damage, or by the attorney general on behalf of the state; and in case of appeal by either party, the clerk shall enter the appeal as an action in such court, naming the owner of such lands as plaintiff, and the officer or officers of the state representing the institution for the benefit of which such property is taken; and thereafter such appeal shall be tried as other causes in such court are tried, and a judgment rendered therein. (*Id.* § 3.)

\*§ 81. **Costs of appeal.** In case such appeal shall be taken by the claimant of damages, and upon the trial the award of the commissioners shall be raised, then the appellants shall recover costs, otherwise such appellants shall pay costs; and if



such appeal shall be taken on behalf of the state, and upon trial the award shall be decreased, then the said plaintiff shall pay costs; but if on trial such award shall be raised, then the plaintiff shall recover costs. (1874, c. 36, § 4.)

\*§ 82. **Payment of award or judgment, etc.** The award or the judgment rendered in case of appeal shall be and remain a claim against the state, and shall be paid out of any money in the treasury not otherwise appropriated, pursuant to special appropriation therefor; and in all cases such award, if not appealed from, or the judgment rendered thereon in case of appeal, shall be and the same is hereby declared sufficient security for value and damage by reason of taking such property for public use, within the true meaning and intent of the constitution; and if no appeal shall be taken within the time prescribed in this act, or where an appeal has been taken and judgment shall have been rendered therein, the state, by its proper officers, may thereafter enter upon and take possession of said property, and appropriate the same to the uses and purposes named in the application. (*Id.* § 5.)

\*§ 83. **Judgment roll—its contents.** In case judgment shall be rendered on appeal, the clerk shall attach the application, the award of the commissioners, and copies of all notices, and proof of publication or service thereof, together with the verdict and final judgment in the case, and the same shall constitute the judgment roll, to be filed in the office of the clerk of said court. (*Id.* § 5 a.)

\*§ 84. **Title in fee to be acquired by state.** Title to land acquired under this act shall be absolute, and vest in the state of Minnesota the absolute title in fee-simple to such land. (*Id.* § 6.)

#### CONDEMNATION OF LAND FOR UNITED STATES.\*

\*§ 85. **Governor to act on application by United States.** The governor of the state of Minnesota is hereby authorized and empowered to seize and take possession of any lands, for the purpose of conveying the same to the United States, for use in river or harbor improvements, or for the erection and maintenance of light-houses thereon, not exceeding one hundred and sixty acres for any one light-house, whenever the general government shall signify its intention to use the land for the above-described purposes, by an application to the governor, accompanied by a plat and description of the land required, as near as the same can be platted and described without actual survey by the general government. (1874, c. 37, § 1.)

\*§ 86. **Commissioners to be appointed—their powers and duties.** Whenever any such application shall be made to the governor, he shall appoint three commissioners, whose duty it shall be, in the name of the state of Minnesota, to enter upon and take possession of any land so described and platted, for the purpose of conveying the same to the United States, and to cause the same to be surveyed, and a plat thereof to be made and filed in the office of the secretary of state, whenever an actual survey has not been made by the general government. (*Id.* § 2.)

\*§ 87. **Commissioners to appraise lands—notice to owners.** It shall be the duty of said commissioners to appraise the said land, and, for that purpose, they shall give notice to the claimant or owners of said land, or of any interest therein, of the time and place when and where said claimant or owner may appear before said commissioners to have their claims and interest adjusted, and the compensation to be paid by the state for such land fixed and determined. (*Id.* § 3.)

\*§ 88. **Service of notice—publication.** The notice required to be given to said claimants or owners shall be given personally to such claimant as can be found within this state, at least twenty days before the meeting of said commissioners, informing them of the time and place of meeting of said commissioners, and the object thereof. And in case any of the said claimants or owners cannot

\*An act to authorize the seizure and condemnation of lands to be used by the United States for river and harbor improvements, and for light-house purposes. Approved March 9. 1874. (Laws 1874, c. 37.)

be found, after using due diligence for that purpose, the commissioners shall cause such notice to be published for four successive weeks in one paper published at St. Paul, and one paper published within the county where such lands seized as aforesaid are situate, should one be published therein. (1874, c. 37, § 4.)

\*§ 89. **Powers of commissioners—effect of their decision.** The said commissioners, or a majority of them, shall have full power to do all acts necessary to be done for the purpose of carrying out the objects of this act, to hear, examine and determine of and concerning the rights, interests and title of all and any of the claimants of said land, and also to assess the value thereof, and fix the compensation to be paid by the state therefor, as fully and effectually as if all the power necessary for the purposes aforesaid were herein specifically enumerated in this act; and the decision of such commissioners shall be final and conclusive in the premises, unless an appeal from the decision of such commissioners shall be taken within sixty days after the filing thereof in the office of the clerk of the district court of the county within which the said land lies, and the office of the secretary of state, and the service of the notices of such filing, as hereinafter provided. (*Id.* § 5.)

\*§ 90. **Decision to be filed and notice thereof given.** It shall be the duty of the commissioners appointed under the provisions of this act, within twenty days after their decision is made, to file the same in the office of the clerk of the district court within whose district the said land lies, and transmit a copy of such decision to the secretary of state, to be by him filed in his office; and notice of the filing of such decision shall be served by said commissioners on the parties interested, and on the governor of the state; and the time of taking the appeal hereinafter provided for shall commence to run, as against each party entitled to take the same, from the time of such service on him of the notice of such filing of the decision of said commissioners. (*Id.* § 6.)

\*§ 91. **Appeal, how taken—trial.** The owners or claimants of said land, or of any interest therein, or the state of Minnesota, shall be entitled to appeal from the decision of said commissioners to the district court of the judicial district in which the land lies within sixty days from the filing of the same as aforesaid, and the service of the notices hereinbefore provided for; and such appeal shall be heard and determined in like manner as appeals from the report of commissioners for condemning lands for the use of railroad corporations, so far as the same may be applicable: *provided*, that the appellant or appellants shall make and file in said court, at the time of such appeal, an oath or affirmation that injustice has been done them by such decision: *and provided*, that if such appeal is taken by any other party to such proceedings than the state of Minnesota, the party so appealing shall execute, and file with the clerk of the district court aforesaid, an undertaking, with sufficient sureties, to be approved by the county clerk, for the payment of all costs and disbursements incurred by the state arising from such appeal, which undertaking shall be in the name of the state of Minnesota. (*Id.* § 7.)

\*§ 92. **Costs of appeal.** If, upon the trial of such appeal, in case the same shall be taken by any owner or claimant, and the appellant or appellants shall fail to recover a judgment for sum greater than the amount awarded to them by the decision of the commissioners aforesaid, not including interest, the said appellant or appellants shall pay all costs and disbursements arising on such appeal, and which shall be deducted from the sum awarded by the decision of the commissioners; and in case such sum is not less than the amount awarded by said commissioners, then the appellant or appellants shall recover costs as in like cases in the district court; and in case such appeal shall be taken by the state, and the amount of such award is not decreased by said trial, costs shall be recovered against the state as aforesaid. But if the amount of such award is decreased by said trial, the claimant or owner against whom such appeal

was taken shall pay all costs and disbursements arising from such appeal, and which shall be deducted from the sum awarded by verdict of the jury. (1874, c. 37, § 8.)

\*§ 93. **Payment of award or judgment.** The sum awarded by the decision of said commissioners, or finally adjusted and awarded by an appeal, to be paid by this state to the owners and claimants of the lands aforesaid, shall be paid from the treasury of this state to such owners or claimants, in proportion to their rights and interests in such lands, subject, however, in case of an appeal, to the provisions of section seven of this act: *provided*, that such money shall in no case be paid till the United States has formally signified its acceptance of the lands so appraised, and desire to purchase the same at the price awarded therefor. (*Id.* § 9.)

\*§ 94. **Vesting of title in the state.** Upon the filing of the final award under such proceedings in the office of the clerk of the district court aforesaid, and of the surety of the state, and the formal acceptance of the same by the United States, provided for in section nine. the title to the lands so seized and appraised, and accepted by the United States, shall immediately thereupon become vested absolutely in this state, free and clear from all incumbrances, and adverse titles or claims of any kind or nature whatsoever. (*Id.* § 10.)

\*§ 95. **Compensation of commissioners, etc.** The commissioners appointed under the provisions of this act shall each receive three dollars per day for each day actually engaged in the service required of them, and their actual expense of travel and subsistence while so engaged; and witnesses required to attend before them shall receive the same per diem and mileage as now allowed by law for witnesses attending the district courts of this state. (*Id.* § 11.)

\*§ 96. **Conveyance to United States.** The governor of Minnesota is hereby authorized and empowered to convey to the United States any lands that may have been seized under the provisions of this act, upon the payment of the United States, to the state of Minnesota, the amount awarded, and all expenses incurred by this state in seizing the land. (*Id.* § 12.)

\*§ 97. **Exemption from taxation.** The lands aforesaid, when so ceded, shall forever be exempt from all taxes and assessments, so long as the same shall remain the property of the United States. (*Id.* § 13.)

\*§ 98. **Jurisdiction ceded to the United States.** The jurisdiction of this state is hereby ceded to the United States of America over all such pieces or parcels of land as shall be hereafter conveyed to the United States for the purpose of erecting light-house buildings thereon: *provided*, that this cession is upon the express condition that the state of Minnesota shall so far retain a concurrent jurisdiction with the United States, in and over the tracts of land aforesaid, that all civil and criminal process, issued under the authority of the state, or any officer thereof, may be executed on said lands, and in the buildings that may be erected thereon, in the same way and manner as if jurisdiction had not been ceded as aforesaid. (*Id.* § 14.)

#### CONSENT TO PURCHASE OF LAND BY UNITED STATES.\*

\*§ 99. **Consent to purchase by United States—record of papers.** That the consent of the state of Minnesota be and the same is hereby given to the purchase, by the government of the United States, or under the authority of the same, of any tract, piece or parcel of land, from any individual, individuals, or bodies politic or corporate, within the boundaries or limits of the state, for the purpose of erecting thereon light-houses, signal stations, and other needful public buildings whatever pertaining to the light-house board; and all deeds, conveyances of like papers for the same shall be recorded, as in other cases, upon the land records of the county in which the land so conveyed may lie; and in like

\* An act giving the consent of the state of Minnesota to the purchase by the United States of land within this state for public purposes. Approved March 6, 1871. (Laws 1871, c. 36.)

manner may be recorded a sufficient description, by metes and bounds, courses and distances, of any tract or tracts, legal division of any public lands belonging to the United States, which may be set apart by the general government for any or either of the purposes before mentioned, by an order, patent, or other official document or papers so describing such land; the consent herein and hereby given being in accordance with the seventeenth clause of the eighth section of the first article of the constitution of the United States, and with the acts of congress in such cases made and provided. (1871, c. 36, § 1.)

\*§ 100. **Exemption from taxation.** The lots, parcels or tracts of lands so selected, together with the tenements and appurtenances for the purposes before mentioned, shall be held exempt from taxation by the state of Minnesota. (*Id.* § 2.)

#### JURISDICTION CEDED TO UNITED STATES.

\*§ 101. **Jurisdiction over site for custom house, etc.** That jurisdiction is hereby ceded to the United States over so much land as may be necessary and appurtenant to a site for the erection, construction and maintenance of a United States custom-house and post-office in the city of Saint Paul, state of Minnesota, not to exceed ten acres, the same to be selected by an authorized agent of the United States, and the selection to be approved by the governor. (1867, c. 79, § 1.)

\*§ 102. **Map to be filed.** That upon such selection a map of the territory selected, definitely showing the boundaries thereof, with the approval of the governor required in section one of this act endorsed thereon, shall be filed in the office of the secretary of state of the state of Minnesota, and by him recorded. (*Id.* § 2.)

\*§ 103. **Conditions of cession.** The cession of jurisdiction aforesaid is granted upon the following express conditions and restrictions, to wit: The state of Minnesota shall have and hereby does retain a concurrent jurisdiction with the United States in and over the tract aforesaid, so far as that all civil and such criminal process as may issue under authority of this state against any person or persons charged with crimes committed without the bounds of said tract, may be served and executed thereon, in the same manner and to the same extent as though the said cession of jurisdiction had not been made. (*Id.* § 3.)

\*§ 104. **Reconveyance of lands erroneously certified to state.** That in all cases where lands have been erroneously or improperly certified or conveyed to the state of Minnesota, for school or railroad or other purposes, by the proper officers of the general government of the United States, the governor of this state is hereby authorized to reconvey or relinquish, by the execution, under his hand and seal of the state, of such conveyances as will be necessary to convey or relinquish the title or color of title which this state may have to such lands. (1866, c. 24, § 1.)

See 1883 Sup't, pp. 63, 69.

And \*§ 109, 110, 111.

\*§ 105 to 108, incl. See 1881 Sup't, p. 86.