

REVISED LAWS OF  
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,  
AND OTHER LAWS OF A GENERAL AND  
PERMANENT NATURE, ENACTED  
BY THE LEGISLATURE IN  
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES  
AND FULL AND COMPLETE NOTES OF ALL  
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY  
FRANCIS B. TIFFANY

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the town where they were killed, and if he shall be satisfied that they were killed within the designated territory, and by the person producing them, he shall certify to the county auditor the number of each kind so killed; and the auditor shall issue thereon a warrant on the county treasurer for the amount the claimant is entitled to receive under the resolution; or the claimant may produce such bodies and evidence to the auditor direct. The official to whom such bodies are produced shall immediately cause the removal of one foot from each animal and bird, and the rattlers from the rattlesnake. Any town board may also offer a bounty for the destruction of blackbirds and adopt rules for the payment thereof. Any board of township supervisors may also offer a bounty for the destruction of the animals, birds and reptiles described in this act, and adopt rules for the payment thereof, which bounty so offered by a township may be in addition to any bounty which may be offered by the board of county commissioners. (R. L. § 2403, as amended by Laws 1909, c. 48, § 2.)

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## CHAPTER 40.

### PUBLIC LANDS.

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#### SALES BY AUDITOR.

##### 2404. School lands—Minimum price—Pine lands.

G. S. 1894, § 3965, cited in *White & Street Townsite Co. v. J. Neils Lum-  
ber Co.*, 100 Minn. 16, 110 N. W. 371.

See note under section [2448—]1.

##### 2405. University lands—Minimum price.

See section 2409.

##### 2407. Swamp lands—Minimum price.

See section 2409.

**In general.**—The purchaser of swamp land, who holds a land commissioner's certificate therefor, has such title as will enable him to maintain an action to have removed a milldam which causes the water to overflow his land. *Scofield v. Scheaffer*, 104 Minn. 123, 116 N. W. 210.

##### 2408. Internal improvement lands—Minimum price.

See section 2409.

**2409. State institutions and capitol lands—Minimum price of certain state lands—Advertisement of sale—Cost of drainage.**—All lands selected for state institutions under an act of the legislature entitled: "An act to appropriate swamp lands to certain educational and charitable institutions and for the purpose of creating a state prison," approved Feb. 13, 1865, and all lands known as state capitol lands, shall be appraised and sold as school lands are sold. Provided, that all lands belonging to the state by virtue of the various congressional acts set forth in sections 2404, 2405, 2407, 2408 and 2409, of the Revised Laws of Minnesota for 1905, the minimum price thereof shall be \$5.00 per acre, and the terms of payment and conditions of sale shall be the same as is now provided by law. Provided, however, that where state lands have been benefited by and assessments paid for drainage, such drainage improvements shall be duly considered by the state land examiner in making appraisals. Provided further, that when such drained lands are sold the principal and interest paid thereon shall be credited by the state auditor

to the proper fund to which the land belongs. (R. L. § 2409, as amended by Laws 1907, c. 366, § 1, and Laws 1909, c. 118, § 1.)

**In general.**—Where, pursuant to Laws 1865, c. 5, the land commissioner set apart swamp lands for the benefit of state institutions, his failure to apportion the lands in his certificate to the several institutions did not render such selection invalid; and where such lands were afterwards duly sold by the commissioner, and a certificate was issued to the purchaser, a deed by the Governor, purporting to convey the lands to a railway company in adjustment of its land grant, was void.—White & Street Townsite Co. v. J. Neils Lumber Co., 100 Minn. 16, 110 N. W. 371.

**2418.** [Superseded in part.]

See section next following, and note thereunder.

[2418—]1. **State lands—Appraisers, how appointed—Oath—Duties—Valuation—Price—Compensation—Notice of sale—Agricultural lands containing timber—Drainage.**—Whenever in the opinion of the land commissioner of the State of Minnesota it will be for the public interest that an appraisal of any of the school or other state lands should be made, he shall appoint one appraiser, who shall be one of the regularly employed state cruisers, and who shall not be a resident of the county in which the lands to be appraised are situated, and notify the governor, who shall appoint one appraiser who may be a resident of such county. The land commissioner shall also notify the commissioners of such county, who shall appoint a third appraiser; such appointments by the governor and county commissioners shall be made within thirty days after such notice. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath, before some person qualified to administer oaths that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested directly or indirectly in any of the school or other state lands or improvements thereon, and has entered into no combination to purchase the same or any part thereof, which said oath shall be attached to the report made of such appraisal, said appraisers after taking oath of office shall proceed to view and appraise such lands and the improvements thereon, and make a report thereof to the land commissioner, as he may direct. The valuation of such lands and the timber shall each be made and stated separately in the appraisal, and the minimum price established by such appraisal shall be the minimum price for such lands until changed by subsequent appraisal. No school or other state lands shall be sold until so appraised, nor for a less price than five dollars per acre. Such appraisers shall receive as compensation for their work the sum of five dollars per day for each day actually employed, which shall include all expenses, except railroad fare, actually expended. The land commissioner shall hold frequent sales of school and other state lands, the time and place of such sales to be publicly posted on the front door of the court house of the county in which said sale is to take place, at least three months in advance of such sale, in addition to the regular notice of sale provided by law. At said sales the land commissioner shall sell such lands as he considers for the public interest. Where land mainly valuable for agricultural purposes, as shown by the appraisements and other reports in the office of the land commissioner, contain only small quantities of pine, tamarack, or other timber, the land commissioner may in his discretion, either sell the timber separately in the manner provided by law for state timber sales, or he may sell the land as agricultural land, requiring the purchaser to pay down as first payment an amount equal to the value of the timber, in addition to the fifteen per cent first payment required on the land. It shall be the duty of the appraisers to report to the land commissioner such lands as in their opinion should be drained. After the state has

constructed or has been assessed for any public ditch or drain, the lands hereby assessed or improved shall thereafter be reappraised before being offered for sale. ('05 c. 162 § 1)

**Historical.**—"An act to provide for the appraisal and sale of school and other state lands and fixing the minimum price therefor." Approved April 13, 1905.

Section 2 repeals inconsistent acts.

So far as this act differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

#### 2419. Notice of sale.

See sections 2409 [2418—] 1, and [2419—] 1.

[2419—]1. **Certain sales validated.**—That in all cases where sales of state school lands, made October 17th, 1902, have been canceled by the state auditor, for the reason that notice of such sale was published in a newspaper at St. Paul, Minnesota, three times instead of four successive weeks, as required by law, and said lands have not been resold to any person, such sales are hereby reinstated and validated, and in all things confirmed in the purchaser, and the state auditor is authorized and directed in all of such cases to complete such sale, by issuing to the purchaser, upon his complying with the terms of payment, a certificate of sale of such lands duly executed, acknowledged and delivered as provided by law. ('05 c. 99 § 1)

**Historical.**—"An act to reinstate and validate sales of school lands made October 17th, 1902, for defect in publishing the notice of sale." Approved March 31, 1905.

[2424—]1. **Conditional sales of certain swamp lands validated.**—That in all cases where sales of state swamp lands made June 29, 1908, have been made in accordance with law, except that the appraised value of the improvements on said lands have not been included in the consideration of the sale, the said lands have not been resold to any person, such sales are hereby reinstated and validated and in all things confirmed in the purchaser, and the state auditor is authorized and directed in all of such cases to complete such sale, by issuing to the purchaser, upon its complying with the terms of payment, a certificate of sale of such lands duly executed, acknowledged and delivered as provided by law. ('09 c. 119 § 1)

**Historical.**—"An act to reinstate and validate conditional sales of swamp lands patented to the state of Minnesota, under the swamp land act of March 12, 1860." Approved March 27, 1909.

[2426—]1. **Refundment of tax certificates upon certain reform school lands.**—Any holder of a tax certificate of sale or state assignment certificate, who became the owner thereof prior to the adoption of chapter 2, General Laws 1902, and which describes reform school lands, so-called, or any tract, lot or subdivision thereof and which was sold by the state upon contract prior to the year 1902, to a purchaser, who has since defaulted in the performance of the conditions thereof, so that the land is now owned in fee simple by the state, may petition the board of county commissioners of the county wherein such lands are situated, setting forth fully and fairly all the facts pertaining thereto and said board of county commissioners shall thereupon inquire into the truth of the facts alleged in said petition, and if they are satisfied that the facts are fully and fairly stated therein, they shall so certify to the state auditor of the state of Minnesota. The state auditor, if he is satisfied that a refundment should be made to the holder of said certificate or certificates, or any of them, for the amount thereof, without interest, shall authorize the refundment of the amount paid therefor together with the amount of other subsequent taxes upon said property paid by the holder thereof, but without interest upon any of said amounts, and

upon the surrender or proper assignment of said certificates the county auditor shall draw an order upon the treasurer of said county, for the sum so authorized to be refunded, the same to be countersigned and paid like other county orders. The several funds,—state, county, town, city, village, school and other funds—shall be charged with their several proportions of the amount thus refunded. ('09 c. 491 § 1)

**Historical.**—"An act authorizing the refundment without interest of the amount of certain tax certificates upon reform school lands where the tax sale occurred and the certificates were acquired prior to the year 1902." Approved April 24, 1909.

#### 2427. Patents.

**In general.**—Plaintiff, to whom a certificate had issued, was entitled to recover for logs subsequently removed from the land by defendants, although the patent was not issued until after the commencement of the action. *White & Street Townsite Co. v. J. Neils Lumber Co.*, 100 Minn. 16, 110 N. W. 371.

One who has a prior equitable right to receive patent superior to that of the patentee may enforce his equity by action, or, when he is defendant, by answer, in which the court may cause regular title to be vested in him and adjudge possession to him. *Holland v. Netterberg*, 120 N. W. 527.

#### 2434. Proceeds of sales—Distribution.

See section 2409.

**2435. Investment of school and university funds.**—The permanent school and university funds shall be invested in the bonds of the United States, or in bonds of this or of any other state, or in bonds of any school district, or county drainage bonds of this state, bearing not less than three per cent interest, and in bonds of any county (other than drainage bonds) and in the bonds of any city, town or village of this state, bearing not less than four per cent interest; as provided by law; but no investment shall be made in bonds issued to aid in the construction of any railroad. The governor, treasurer and auditor are hereby constituted a board of investment, whose duty it shall be to invest all funds derived from the sale of public lands, except as otherwise provided by law. The auditor shall be secretary of said board, keep a record of its proceedings and publish the same with his annual report. The treasurer shall place on credit of the respective funds the interest received on said bonds. They shall not be transferable except upon the order of the governor and auditor, and on each shall be written, "Minnesota School Fund Bond," or "Bond on the University of Minnesota," as the case may require, transferable only upon the order of the governor and state auditor. The auditor shall keep a record showing the name, and amount of each bond, when issued, when redeemable, the rate of interest, when and where payable, by whom executed, when purchased, when withdrawn, and for what purpose. (R. L. § 2435, as amended by Laws 1907, c. 348, § 1.)

**[2435—]1. Board of investment—Loans to municipalities—Purchase and sale of securities.**—The board to have charge of the investment of the money and securities belonging to the permanent school, permanent university, and other permanent trust funds of the State of Minnesota, shall consist of the chief justice of the supreme court, president of board of regents of the state university, governor, state treasurer and state auditor. The governor shall be ex-officio president of said board, and the state auditor shall be secretary. The last three named officers, the governor, treasurer and auditor, are hereby authorized, to act in all matters pertaining to loans made from the state trust funds to counties, townships, cities, villages and school districts in this state, under the provisions of chapter 10, Revised Laws of 1905, or amendments thereto. But for the purchase or sale of all other securities a unanimous vote of the

entire board of investment as herein constituted shall be required. ('07 c. 340 §1)

**Historical.**—"An act pertaining to the board for the investment of the school, university and other trust funds." Approved April 23, 1907.  
Section 2 repeals inconsistent acts.

[2437—]1. **Swamp land fund—Transfer of state institutions funds.**—That the credit balances and securities in the state treasury, and all land contracts arising from the proceeds of the sale of a portion of the state swamp lands, and which is designated in the state records as belonging to the "State Institutions Fund," be and the same are hereby transferred to the "Swamp Land Fund, and the State Institutions Interest Fund," being the accrued interest on said "State Institutions Fund," be and the same is hereby transferred to the "Swamp Land Interest Fund." ('07 c. 385 § 1)

**Historical.**—"An act relating to the swamp land fund of the State of Minnesota." Approved April 24, 1907.

The preamble to said act is as follows:

"Whereas, by chapter 5, of the General Laws of 1865, 525,000 acres of swamp land was directed to be reserved for the benefit of the state institutions then in existence, viz.:

	Acres.
Insane Asylum .....	100,000
School for Deaf, Dumb and Blind.....	100,000
State Prison .....	100,000
Winona Normal .....	75,000
Mankato Normal .....	75,000
St. Cloud Normal.....	75,000

and

"Whereas, By an amendment to the constitution, adopted in 1881, found in section 2, of article 8, of the constitution of the State of Minnesota, it was provided that all swamp lands then held by the state, or that might thereafter accrue to the state, were appropriated, one-half to the common school fund of the state and one-half to the educational and charitable institutions of the state. The principal of the funds derived from the sale of such swamp lands to be forever preserved, inviolate and undiminished, and

"Whereas, No swamp lands were selected under the provisions of the said act of 1865, until several years after the adoption of the constitutional amendment of 1881, which amendment operated to repeal or nullify said act of 1865, and

"Whereas, It appears by the official records that, notwithstanding the constitutional amendment, certain swamp lands have since been selected for the state institutions and the proceeds from the sale thereof have been kept intact in one fund, and that no division whatever has been made, as was provided in the original act of 1865, of either principal or interest. The principal of which fund on July 31, 1906, amounted to \$780,556.25, and the accrued interest thereon the sum of \$57,341.01, and said fund is carried on the state books as 'The State Institutions Fund,' while the proceeds from the sale of all other swamp lands is carried as 'The Swamp Land Fund' and

"Whereas, It was the manifest intent of the people of the state as expressed by the constitutional amendment of 1881, that the proceeds from those lands should be equally divided between the common school fund of the state, and the state educational and charitable institutions, and that all state institutions should share equally in the income from those lands, in the relative ratio of cost of support of such state institutions, therefore, be it enacted," etc.

[2437—]2. **Swamp land interest fund.**—At the close of each fiscal year it shall be the duty of the state auditor and state treasurer to transfer the amount then standing to the credit of the "Swamp Land Interest Fund" to the several funds entitled thereto, as follows, to-wit: The General School Fund one-half, The Revenue Fund, one-half. ('07 c. 385 § 2)

[2437—]3. **Revenue fund.**—The amount credited to the Revenue Fund as herein provided, shall at the end of each fiscal year be credited to the appropriations for the support of the several state educational and charitable institutions in the relative ratio of cost of support of such institutions, reckoned on the cost for the fiscal year next preceding the one in which such distribution is made. ('07 c. 385 § 3)

**2439. Taxation—Sales—Redemption—Special certificate.**—State lands sold by the state auditor shall thereupon become taxable, and a description of each tract so sold, with the names of the purchaser, shall be transmitted to the proper county auditor, who shall extend the same for taxation like other land. Provided, that the interest in said land to be sold for the enforcement of delinquent taxes shall be such only as is vested by the land sale certificate in the holder and owner thereof. Upon production to the county treasurer of the tax certificate given upon tax sale, in case said lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal and interest then in default upon such land sale certificate as the assignee thereof. In order to redeem from any such tax sale, the person redeeming must pay the county treasurer, for the holder and owner of the tax sale certificate, in addition to all sums required to be paid in other cases, all amounts paid by such holder and owner for interest and principal upon such land sale certificate, with interest at twelve per cent per annum. The state auditor upon receipt of said tax certificate to which is attached the certificate of the county auditor of the expiration of the time for redemption, and the receipt of the county treasurer for all delinquent interest and penalty on said land sale certificate, shall issue to the holder and owner of the tax certificate, a special certificate, embodying the same terms and conditions, and with like force and effect, as the said original land sale certificate, and in lieu thereof. (R. L. § 2439, as amended by Laws 1909, c. 114, § 1.)

**2440. Lease of hay privilege.**

See sections [2440—] 1 to [2440—] 3.

Cited in *State v. Evans*, 99 Minn. 220, 108 N. W. 958.

**[2440—]1. Lease for grazing and pasturing.**—After any land belonging to the state has been offered at public sale and no one offers the appraised price, the state auditor may lease the same for a period for not more than five years for grazing and pasturing purposes. The annual rental shall not be less than ten cents per acre and at the end of the term, the lessee may remove all fences or temporary structures thereon. ('09 c. 191 § 1)

**Historical.**—"An act to provide for leasing state swamp and school lands." Approved April 14, 1909.

**[2440—]2. Same—How leased—Termination—Proceeds.**—On the second Tuesday of April of each year the several county auditors shall receive bids for the leasing of state lands in their counties and the lands shall be leased to the highest bidder. The rent shall be paid annually in advance and whenever any lessee fails to so pay his rent before the second Tuesday in April of each year, the county auditor shall declare the lease terminated and again offer the land for rent. The county auditor shall retain ten per cent of the gross amount received for the use of the land and remit the balance to the state auditor, who shall turn it in to the several funds of the state to which the land belongs. ('09 c. 191 § 2)

**[2440—]3. Same—Subject to sale.**—Any lease made under the provisions of this act shall be made subject to a sale of the land at any time as provided by law. ('09 c. 191 § 3)

**TRESPASS ON STATE LANDS.**

**2442-2447.** [Repealed or superseded.]

See sections [2447—] 1 to [2447—] 6, and note under section [2447—] 1.

**[2447—]1. Damages—Penalty—Presumption.**—Whoever, without valid permit, shall cut any timber upon the lands owned by this state, or remove or carry away any such timber, or any other

property belonging or appertaining to said lands, or shall commit any other trespass upon said lands, or shall induce or assist another so to do, shall be liable, in an action brought by the state, in treble damages, if such trespass is adjudged to have been willful, but in double damages, only, if such trespass is adjudged to have been casual and involuntary. But no trespass shall be adjudged casual or involuntary unless some good and sufficient reason shall be shown why the person committing such trespass did not know that the lands on which such timber was unlawfully cut were owned by the state. And any person or corporation found to have acquired possession in any manner whatsoever of any logs unlawfully cut on lands owned by this state, shall be conclusively presumed to have acquired the same with knowledge that they were so unlawfully cut; and shall be liable to the state in a civil action for twice the value of such logs and it shall be no defense in any action, to plead or claim a purchase of such logs from anyone other than the state land commissioner, nor shall such defendant be allowed to claim that any other person should be joined as defendant; and he shall have no right whatsoever to any remuneration or allowance for labor or expenses incurred in preparing the same for market or transporting the same to or towards market. And every such trespass willfully committed shall be deemed a felony. ('05 c. 204 § 1)

**Historical.**—This section and the sections following, designated as sections [2447—] 2 to [2447—] 6, [2481—] 1 to [2481—] 19, [2481—] 21, [2481—] 22, [2481—] 25 to [2481—] 39, are sections 1 to 27 and 29 to 43 (certain sections hereinafter specified being amended by later acts) of an act entitled "An act relating to the sale of timber on state lands, defining trespass thereon and prescribing penalties therefor." Approved April 17, 1905. Section 44 repeals inconsistent acts.

For section 28, see note under section [2481—] 23, post.

So far as the provisions of this act differ from the Revised Laws, they are to be construed, by virtue of section 5504, as amendatory or supplementary. Their effect is to supersede sections 2442 to 2481, although some of the sections of the act do not differ from certain of said sections of the Revised Laws.

**Prior laws—Constitutionality.**—Laws 1895, c. 163, declaring certain acts of trespass upon state lands a crime, imposing a penalty therefor, and fixing the measure of damages to be recovered in a civil action, imposed upon a casual or involuntary trespasser criminal punishment and also double damages for his wrongful acts. So construed, the statute was not obnoxious to constitutional principles, but a valid enactment. In imposing double or treble damages, it did not violate Const. art. 1, § 7, though the same acts of trespass may be punishable as a crime. The state may recover such damages in a civil action, and, though they are in the nature of a penalty, the wrongdoer is not thereby twice put in jeopardy for the same offense. The subject of the act was sufficiently expressed in its title. *State v. Shevlin-Carpenter Co.*, 99 Minn. 158, 108 N. W. 935; *Id.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

Laws 1895, c. 163, § 7, cited in *State v. Rat Portage Lumber Co.*, 106 Minn. 1, 115 N. W. 162.

**Willful trespass.**—Finding that the trespass was willful was not sustained by the evidence. *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

**Statute of limitations.**—In an action under Laws 1895, c. 163, § 7, to recover treble damages for willful trespass, the time limit for bringing the action is three, not two, years. *State v. Bonness*, 99 Minn. 392, 109 N. W. 703.

[2447—]2. **Recovery from tenant, etc.**—If any person holds or continues in possession of any lands mentioned in this chapter, contrary to the conditions or covenants of any lease, certificate of sale, permit or other written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery of possession of such lands, and damages for the detention of the same. ('05 c. 204 § 2)

[2447—]3. **Duties of attorney general.**—The attorney general shall prosecute, or cause to be prosecuted by the county attorney whenever, in his opinion, the public interest so requires, any person who may be charged with any indictable offense under this chapter. ('05 c. 204 § 3)



[2447—]4. **Same—County attorneys.**—The county attorneys of the several counties shall promptly report to the state auditor all trespasses committed upon the lands mentioned in this chapter which may come to their knowledge, and, when directed by the attorney general, shall prosecute all actions for any trespass or injury thereto, and for the recovery of the possession thereof, or otherwise. ('05 c. 204 § 4)

[2447—]5. **Damages to state.**—All damages recovered on behalf of the state for any trespass or other injury upon or to any of the lands in charge of the auditor shall be paid over to the state treasurer, for the benefit of the fund to which the same properly belongs. ('05 c. 204 § 5)

[2447—]6. **Court to charge grand jury.**—Every court having jurisdiction thereof shall charge the grand jury, at each term of such court, to inquire into all offenses against the provisions of this act, and to present any person who may be guilty of any such offense within their county. ('05 c. 204 § 6)

#### TIMBER LANDS.

**2448-2481.** [Repealed or superseded.]

See sections [2481—]1 to [2481—]38, and note under section [2447—]1.

[2481—]1. **Duties of state auditor.**—The auditor shall make thorough inquiry into the extent, character and value of the lands belonging to the state which are chiefly valuable for the timber thereon. He shall take such measures as will protect such timber from damage or loss by fire, trespass or otherwise; and he shall make such regulations, in conformity with the other provisions of this act, for the care and control of such lands, and for the sale of the timber thereon, as will best protect the interests of the state. ('05 c. 204 § 7)

**Timber lands.**—The decision of the commissioner in determining whether land is chiefly valuable for the timber thereon cannot be reviewed in a collateral action after patent issued. *White & Street Townsite Co. v. J. Neils Lumber Co.*, 100 Minn. 16, 110 N. W. 371.

See section 2404.

[2481—]2. **Sale of timber.**—The auditor may sell the timber on the pine lands in his charge, including tamarack and cedar timber thereon suitable for posts, telegraph poles, or railroad ties, when authorized to do so by the board of timber commissioners, and not otherwise. When such sale is made, the auditor shall issue to the purchaser a permit to cut and remove the same. Before any sale is made, the timber shall be estimated and appraised, but no sale shall be made on any estimate or appraisal made more than one year prior thereto. ('05 c. 204 § 8)

Laws 1895, c. 163, § 11, cited in *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

[2481—]3. **State estimators.**—The auditor may appoint such state estimators as may be necessary to examine the lands in his charge, and to estimate and appraise the timber thereon; and he may discharge such estimators from time to time, as he deems best. Each estimator shall be a citizen of the state, an experienced land surveyor, or cruiser, and acquainted with the value of pine lands and stumpage, and shall have at least five years' practice in surveying or cruising and estimating such lands and the timber thereon. Before any person is so appointed he shall file with the auditor an affidavit showing that he possesses all the qualifications aforesaid. At the time of his appointment he shall give a bond to the state in at least the sum of \$5,000.00, conditioned for the faithful performance of his duties, which bond shall be approved by the auditor, and,

with the required oath, filed in his office. The state estimators are hereby authorized to arrest any person found trespassing upon state lands and deliver him to the sheriff of the county, and such estimator shall immediately enter a complaint before a justice of the peace in said county, charging the person so arrested with such trespass, and the person so in custody shall be arraigned and given a hearing on such complaint. Such state estimators shall wear when on duty a badge of office to be designed and provided by the state land commissioner. And it is hereby declared a misdemeanor for any person not a duly appointed and acting state estimator to wear such a badge or to personate or claim to be a state timber estimator. The board of timber commissioners, created by section 13[2481—7] of this act, are hereby authorized to dispose of and settle for, at stumpage value, timber cut by railroad companies upon right of way of land acquired from the State of Minnesota, or cut upon state lands and actually used in the construction of a railroad, also for the timber used in the construction of dams, lumber camps or public improvements of a permanent nature. Provided, however, that no such settlements shall be made until the timber has been scaled or counted and appraised by a duly appointed state land examiner or timber estimator. ('05 c. 204 § 9)

[2481—]4. **Same—Appraisal—Report.**—Whenever the auditor shall call upon any estimator so to do, he shall examine any lands designated, and estimate and appraise the timber thereon, and make report thereof. Such report shall be made from his field notes made on the lands, and be by him entered in his own hand in a book kept in the auditor's office, and known as the record of appraisals. Such entry shall be dated when made, and subscribed and sworn to upon the record. At the same time the estimator shall file in said office all plats and field notes made by him, and affix his signature to each plat and to each page of the field notes. ('05 c. 204 § 10)

[2481—]5. **Contents of report.**—No such report shall embrace more than one section, or fractional section of land, according to the government survey, and shall show the amount of timber upon each 40 acre tract or lot. The report shall state the amount of each kind of timber subject to sale which measures not less than eight inches in diameter twenty-four feet from the ground; the value per thousand feet of all such timber; the amount and value of all timber below such standard, including pine, tamarack, and cedar posts, telegraph poles, and railroad ties; the distance of the timber from the nearest lake, stream or railroad, and the character of the land; what amount, if any, of the timber has been burned, and the extent and character of the burning; the situation of the timber, relative to risk from fire or damage of any kind; the date of examination; the number of hours spent and the expense necessarily incurred in making the same and in going to and returning from the land; and that estimator was actually upon the land when he made his estimate. ('05 c. 204 § 11)

[2481—]6. **False report—Penalty.**—Every state estimator or appraiser who shall make a false report or insert in any such report any false statement, date, estimate, or appraisal, or who shall make any such report without having examined the land embraced therein, or who, in making any affidavit as to his qualifications for appointment, shall insert therein any false statement, shall be deemed guilty of a felony. ('05 c. 204 § 12)

[2481—]7. **Board of timber commissioners.**—The governor, treasurer, auditor and attorney general shall constitute a board of timber commissioners, of which the governor shall be chairman. The auditor shall be ex-officio secretary of the board, and he or his

deputy shall attend each meeting and make full minutes of the proceedings, which shall be signed at the close of each meeting by the commissioners present, and shall be kept subject to public inspection in the office of the auditor. The governor and one other member shall be a quorum for the transaction of business. Before any timber is sold the auditor shall submit to the board, which shall meet from time to time, upon the call of the governor, the question of such sale, and shall produce the record of appraisal of such timber, and the board shall examine the same, together with other documents and records and such witnesses as it may require. If the governor and at least one other member of the board shall so determine, they shall enter upon the record of appraisals a statement, dated and signed by them, that such timber is in danger of being injured, and that a sale thereof is necessary to protect the state from loss. Thereafter, and not before, the auditor may make such sale. Whenever any member of the board becomes satisfied, before issuance of a permit, that, by reason of fraud or misstatement on the part of any estimator, witness or officer, or by reason of any combination or irregularity, the interests of the state so demand, he shall withdraw his approval of any sale, by an entry signed by him upon the record of the appraisals. No sale of timber shall be made until not less than two independent estimates have been made. ('05 c. 204 § 13)

**In general.**—Under Laws 1895, c. 163, § 18, the indorsement upon the appraisal that a sale is necessary to protect the state from loss is jurisdictional to a valid sale; but other omissions and irregularities in the sale proceedings are not jurisdictional. *State v. H. C. Akeley Lumber Co.*, 119 N. W. 387.

Laws 1895, c. 163, § 18, cited in *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

[2481—]8. **Special agent.**—The timber board may appoint one or more agents or cruisers to gather evidence in any action brought by the state or to investigate the correctness of any estimator's report, or to ascertain whether any timber proposed to be sold is subject to sale, or whether any trespass has been committed on state lands, and may send such agent to examine such timber or lands. The employes of said timber board, independently of the state auditor and estimators shall report in writing to the governor, and the money necessary to defray expenses and the rewards provided for in this act, is hereby annually appropriated out of any money in the state treasury not otherwise appropriated, the sum of ten thousand dollars or so much thereof as may be necessary and shall be paid upon verified accounts audited by said board. The auditor shall forthwith advise the timber board of any information acquired by him concerning any trespass on state lands, giving all details and names of witnesses. ('05 c. 204 § 14)

[2481—]9. **Public auction—Notice.**—No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the record of appraisals. All sales, except as provided in the following sections, shall be held at the capitol. The auditor shall give eight weeks' notice thereof published in two daily newspapers, one of which is published in the city of St. Paul and the other in the city of Minneapolis and such notice shall appear in each issue consecutively of each of such papers during said eight weeks of publication, in the following form:

"NOTICE OF SALE OF STUMPAGE ON STATE LANDS.

"Notice is hereby given that I will offer for sale at public auction at the state capitol, in St. Paul, on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_noon, certain timber belonging to the state and liable to waste.

"An official copy of the list of lands upon which said timber is situated will be furnished by me to all applicants on and after the \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_. Said list will be published, in connection with this notice, once a week for three weeks next prior to said sale.

"Dated, St. Paul, Minn., this \_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_.

"\_\_\_\_\_  
"State Auditor."

At least thirty days before the date of sale, the auditor shall compile a list containing a description of each tract of land upon which any timber to be offered is situated, and a statement of the quantity of timber thereon, as shown by the official estimate. No description shall be added after the first publication of the list, and no timber shall be sold from land not described therein. Copies of the list shall be furnished to all applicants. Such list, with a statement that it is the list referred to, shall be published in accordance with said notice. A copy of such list and notice shall be conspicuously posted in the office of the auditor of each county in which any of said lands are situated at least fifteen days prior to the date of sale. ('05 c. 204 § 15)

[2481—]10. **Stumpage in small parcels—Conduct of sale, etc.—**The board of timber commissioners may authorize the auditor to sell the stumpage of pine, spruce, tamarack, cedar, balsam, balm of gilead, birch or poplar, on any tract of state land not exceeding one section in area, where the estimated quantity of log timber thereon does not exceed 100 M. feet, at public auction to the highest bidder, at the county seat of the county in which such tract is located. He shall give three weeks' published notice of any such sale in a paper published at the county seat of the county where such land is situated, instead of eight weeks' notice in papers at St. Paul and Minneapolis, as provided for in section 15 for the sale to be held at the capitol building. Such notice of sale shall contain a description of each tract of land upon which is situated any timber that is to be offered, and a statement of the estimated quantity of each kind of timber thereon, and of the appraised price of each kind of such timber, per M. feet, or per piece, or per cord, as the case may be. Timber estimated and appraised as log timber shall be offered and sold by the M. feet; timber estimated and appraised as tie, or pole or post timber shall be offered and sold by the tie, or pole, or post, as the case may be; timber estimated and appraised as pulp wood, or lath bolts, or mine lagging, or wood for fuel purposes, shall be offered and sold by the cord, all cords to be single cords. The sale shall be made to the party who shall bid the highest price for all the several kinds of timber as advertised. The purchaser of any such timber at any such sale shall immediately pay to the auditor, or the person conducting the sale for him, for delivery by such official to the state treasurer, 50 per cent of the appraised value of such timber, and shall thereupon be entitled to receive from the auditor a permit to enter upon such land and cut and remove such timber. Before receiving such permit, however, he shall execute a bond to the state of Minnesota, with sureties to be approved by the auditor, in an amount at least double the appraised value of such timber, conditioned upon cutting of all of said kinds of timber that there may be upon said land, clean, acre by acre, and paying the state the balance that may be due therefor, and for the faithful performance of all the terms and conditions of the law governing such matters. All timber cut on any of the state lands under any such sale and permit is to be scaled, or counted, as the case may be, by a regularly appointed state land examiner, instead of by a deputy surveyor general. In no case shall any such timber be removed from the land

where it was cut, until it has been so scaled or counted by a regular state land examiner. Any person removing any such timber from the land where it was cut before it has been so scaled or counted by a regular state land examiner shall be deemed guilty of a felony, and may be prosecuted criminally therefor. The purchaser of any such timber shall pay the state for all timber that may be cut upon or removed from such land during the life of his permit, at his purchase price per M. feet, or per piece, or per cord, as the case may be. In all other respects such sale shall be subject to all the restrictions and conditions applicable to the sale of other state timber. (Laws 1905, c. 204, § 16, as amended by Laws 1909, c. 476, § 1.)

**[2481—]11. Annual and emergency sales.**—Except as provided in this and the preceding section, there shall be only one sale of timber in each year, which shall be held not later than November 1st, and may be adjourned from day to day, but no longer, until completed: Provided, that in case of emergency, if the board of timber commissioners shall unanimously determine that it is for the best interests of the state that a second sale shall take place before the next regular sale, it shall be held under the same regulations, so far as practicable, as are provided for regular sales, except that the notice of sale shall contain the description of the tracts on which the timber to be sold is situated, and shall state that the sale is to be held pursuant to the recommendation of the said board, and shall be published daily for at least three weeks next prior to the date of sale under rules prescribed in section 15. ('05 c. 204 § 17)

**[2481—]12. Cash payment.**—The purchaser at any sale of timber, except in the cases provided by section 16, shall immediately upon the approval of his bid pay to the state treasurer 25 per cent of the appraised value, and the treasurer shall issue duplicate receipts therefor, one of which shall be delivered to the purchaser, and the other filed with the auditor. In case any purchaser fails to make such payment, the auditor may immediately reoffer said timber for sale, but no bid shall be received from the person so failing. ('05 c. 204 § 18)

**[2481—]13. Permit.**—Upon the delivery and filing of the duplicate receipts mentioned in the preceding section, the auditor shall issue a permit to such purchaser in a form approved by the attorney general, by the terms of which he shall be authorized to enter upon the land, and to cut and remove the timber, therein described, according to the provisions of this chapter. Such permit shall be correctly dated and executed by the auditor, and signed by the purchaser. No permit shall cover more than two logging seasons, and the timber shall be cut and removed within the time specified therein. Not more than one section, or fractional section of land, according to the government survey, shall be described in any one permit, and no permit shall be issued to any person other than the purchaser in whose name the bid was made. The permit shall state the amount of timber estimated to be thereon, the estimated value thereof, and the price at which it is sold, or the price per thousand feet, in case it is sold by the thousand feet, and shall specify the bark mark to be used. A separate bark mark shall be used on the timber cut under each permit, and, if the permit covers more than one season, it shall specify a separate mark to be used in each season. It shall provide that the purchaser shall place the specified bark mark upon every piece of timber cut, and also plainly upon the end thereof the stamp mark MIN. and that, in case of any failure to place both bark and stump mark upon any such piece, the state shall have the right to take possession of the same wherever found. It shall contain such other provisions as may be necessary to secure

to the state the title of all timber cut thereunder, wherever found until full payment thereof, and until all provisions of the permits have been fully complied with. It shall also provide that all the timber standing on the land and sold shall be cut; that the same shall be cut clean, acre by acre, without damage to other timber; that the purchaser shall pay to the state the permit price for all timber, including timber which he fails to cut and remove, and the amount of fees of the surveyor general; and that he shall, in writing, notify the surveyor general for the district, and also the auditor, at least fifteen days before any cutting is done, at what time such cutting will begin, at least fifteen days before any timber is removed from the land, at what date such removal will begin. Any permit failing to conform to the requirements of this section shall be void on its face. All permits shall be filed for record with such surveyor general. ('05 c. 204 § 19)

**In general.**—A permit to cut timber, showing compliance with Laws 1895, c. 349, as to the sales of such timber, held *prima facie* evidence of a valid sale, in an action by the state for the price. *State v. H. C. Akeley Lumber Co.*, 119 N. W. 387.

Laws 1905, c. 163, § 23, cited in *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

See note under section [2481—] 15.

Laws 1895, c. 163, §§ 23, 24, cited in *State v. Rat Portage Lumber Co.*, 106 Minn. 1, 115 N. W. 162.

[2481—]14. **Bond of purchaser.**—The purchaser, before execution of any permit, shall give bonds to the state, in double the value of timber covered by the permit, as shown by the amount of the bid and the record of appraisals as to quantity, conditioned upon the faithful performance of the terms of said permit and all requirements of law in respect to such sales, which bonds shall be approved in writing by the auditor and filed for record in his office. No member of any firm or corporation which is the purchaser of such timber shall be accepted as a surety. ('05 c. 204 § 20)

[2481—]15. **Extension of permit.**—No permit shall be extended, except for good and sufficient reasons, and by unanimous consent of the board of timber commissioners and no extension shall be for more than one year. When any extension is granted a bark mark shall be agreed upon for the third season. ('05 c. 204 § 21)

**In general.**—By Laws 1895, c. 163, § 24, a permit to remove timber was limited in the first instance to the period of two logging seasons, with authority in the commission, for good and sufficient reasons, to grant one extension, and that for the further period of one year only. *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

See note under section [2481—] 31.

[2481—]16. **Assignment.**—The assignment of any permit shall be executed in the same manner as a deed of land, and shall be acknowledged. No assignment shall be operative without the approval of the auditor, who, if he shall approve the same, shall endorse his approval thereon, and record the assignment in his office. Before any such approval, the assignee shall give to the state a bond, which shall be substantially in the form and subject to the rules provided for the bond to be given by an original purchaser; but the original bond given by the purchaser and any bond given by any prior assignee shall remain in full force. ('05 c. 204 § 22)

[2481—]17. **Void sales.**—Any sale of timber made by fraud or mistake, or in violation of the provisions of this chapter, shall be void, the permit issued thereon shall be of no effect, and the holder shall be required to surrender the same. In case of mistake the amount so paid shall be refunded to the purchaser, the sum necessary for such refund is hereby appropriated. ('05 c. 204 § 23)

[2481—]18. **Failure to cut.**—If the purchaser of any timber, or his assignee, fails to cut and remove any part thereof before the

expiration of the permit, he shall nevertheless pay the price therefor; but under no circumstances shall he cut or remove any such timber after the expiration of the permit or extension thereof. ('05 c. 204 § 24)

**Removal after expiration of permit.**—Under Laws 1905, c. 163, a person to whom a permit was issued had a right to cut and remove the timber only during the life of the permit. After expiration of the permit logs cut, but not removed, were the property of the state; and their removal by him was a conversion. *State v. Rat Portage Lumber Co.*, 106 Minn. 1, 115 N. W. 162, followed in *State v. Le Sure Lumber Co.*, 106 Minn. 534, 115 N. W. 167.

See note under section 4077.

[2481—]19. **Surveyor general—Duties—Reports.**—The surveyor general of each district shall scale all timber cut on pine lands in charge of the auditor. All scaling shall be done upon the land from which the timber was cut, and all logs scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler. On or before May 15th in each year each surveyor general shall make to the auditor separate reports of all such timber by him scaled, covering the different tracts of land embraced in the respective permits. Each report shall describe the land on which the timber was cut, and state the names, of the person cutting, the person for whom the cutting was done, and the person hauling the timber, the kind, character, the amount of the timber, the bark and the stamp marks used thereon, the number of logs or pieces, and the total number of feet. Each report shall also state specifically whether the scaling was done upon the land from which such timber was cut; whether such timber was cut according to the provisions of the permit; whether the land has been cut clean acre by acre, so far as the cutting has been made; whether the cutting was done without unnecessary waste or damage and, if not, the amount of the consequent damage to the state; whether the timber has all been cut, and, if not, how much has been left standing; whether all timber has been scaled and reported; and whether the bark and stamp marks specified in the permit have been plainly placed upon each piece of timber. Each surveyor general shall also report to the auditor every trespass committed upon the state pine lands in his district; and the auditor shall immediately cause such report to be investigated, and, if found true, shall cause such trespass to be estimated, scaled, appraised, and report the same to the attorney general for prosecution. ('05 c. 204 § 25)

See section next following.

[2481—]20. **Duty of surveyor general—Merchantable timber.**—The surveyor general of each district shall scale all timber cut on any of the state lands in charge of the auditor. All such scaling shall be done upon the land from which the timber was cut, and all the pieces scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler. In the making of such scale such allowance shall be made for defects therein as will make the same equal to "merchantable" timber, and the term "merchantable" timber is hereby defined to mean and include all logs or pieces from which lumber of value can be manufactured. ('09 c. 342 § 1)

**Historical.**—"An act pertaining to the duties of the surveyor generals in scaling timber cut from state lands." Approved April 21, 1909.

Section 2 repeals inconsistent acts. See section next preceding.

[2481—]21. **Rescale.**—If the auditor shall question the scale reported by the surveyor general he may demand a rescale and in such case shall serve upon such surveyor general a written notice containing a description of the tract on which a rescale is demanded. The surveyor general shall thereupon appoint one of his deputies, who, together with a state estimator appointed by the

auditor for that purpose, shall make a correct scale of all timber embraced in the permit covering such tract, whether the same has been cut and removed, or remains cut or standing on such land; and a report of such scale shall be made and signed by them, and filed for record with the auditor. Such report, if both such deputy and such estimator agree upon the scale, shall be final and binding upon the state and the purchaser. If it shall appear by said rescale that the first scale was practically correct the state shall pay the said surveyor general the sum of \$5.00 for each day necessarily spent by his deputy in making such rescale, in addition to all necessary expenses incurred by him in traveling to and from such land; but, in case of a material difference in the two scales the surveyor general shall not be entitled to compensation for such rescale. A scale made under this section may be a top and stump scale. ('05 c. 204 § 26)

See note under section [2447—] 1.

**[2481—]22. Violation of duty.**—Any surveyor general who shall fail to scale all the timber cut on state pine lands in his district as required by this chapter, or who shall scale any such timber on land other than that on which the same was cut, or who shall fail to make the complete report of timber scaled by him on each tract of land covered by any permit, or who shall in any such report include timber cut on tracts covered by different permits, or who shall neglect to report any case of trespass or who shall appoint any deputy otherwise than as provided by law, or who shall not comply with any of the provisions of this chapter, shall be guilty of a gross misdemeanor. ('05 c. 204 § 27)

**[2481—]23. Fees—Scaling timber, etc.**—The fees of the surveyor general for scaling timber on state lands shall be paid by the state and shall be fifteen cents per thousand feet on all timber scaled under the permit during any one season up to five hundred thousand feet, and ten cents for each thousand feet in excess thereof, and also five cents for each mile necessarily traveled in going and returning between his office and the place of survey. ('07 c. 314 § 1)

**Historical.**—“An act relating to fees of surveyors general of logs and lumber.” Approved April 23, 1907.

Section 3 repeals inconsistent acts.

This section repeals by implication Laws 1905, c. 204, § 28. See note under section [2447—] 1.

**[2481—]24. Surveying and scaling logs, timber, and lumber.**—The fees and mileage of the surveyor general for surveying and scaling logs, timber, and lumber shall be as follows:

1. Fence posts and farm poles, 20 cents for each hundred pieces, or fraction thereof.
2. Electric wire poles, 10 cents per hundred feet, lineal measure.
3. Logs and other timber, 7 cents per thousand feet.
4. Lumber, 25 cents per thousand feet.
5. Five cents for each mile in excess of four necessarily traveled in going and returning between his office and the place of survey.

Such compensation shall be in full for scale-marking, making and recording scale bills, and posting the same in the ledger. Provided, however, that the fees herein fixed shall not apply in any case where such fees are fixed in any special law of the State of Minnesota heretofore enacted. ('07 c. 314 § 2)

**[2481—]25. Failure to mark—Sale before payment.**—Every person who shall cut timber on state lands, and fail to mark the same as provided by the permit, or shall place any other mark thereon, and every person who shall sell, transfer, or manufacture any timber cut on state lands, before the amount due to the state therefor shall



have been paid, shall be guilty of a gross misdemeanor. ('05 c. 204 § 29)

See note under section [2447—] 1.

**[2481—]26. Deputy surveyors general—Compensation.**—For the purpose of carrying out the provisions of this chapter, the surveyor general of each district may appoint as many deputies as he deems necessary, and he may discharge such deputies at any time, in case of such discharge, shall immediately give written notice thereof to the auditor. No person in the employ of any person transacting a lumbering or logging business shall be so appointed. Each deputy shall be a man of experience and capable of determining, from the description according to the government survey, the location of the land described. Each deputy shall give a bond to the state, in at least the sum of \$1,000, conditioned for the faithful performance of his duties, which bond shall be approved by such surveyor general, and, with the required oath and a duplicate of the appointment, shall be filed with the auditor within thirty days after the appointment is made. Such deputies shall receive compensation for their services directly from the surveyors general, and in no other manner. ('05 c. 204 § 30)

**[2481—]27. Discharge of deputy.**—If the auditor shall be of the opinion that any such deputy has violated any provision of this chapter or is incompetent or unfaithful, he may present the matter to the board of timber commissioners, and, if the board shall determine that such opinion is well founded, it shall give to the surveyor general written notice of such determination, and he shall forthwith discharge such deputy, who shall not be reappointed. ('05 c. 204 § 31)

**[2481—]28. Violation of duty.**—Every deputy surveyor general appointed under the provisions of this chapter, who shall accept any compensation for his services as such or any gratuity, directly or indirectly, from any other person than the surveyor general of the district in which he is appointed or who shall knowingly make any false report of timber scaled or insert in any such report any false statement, or omit from any such report any statement required by law to be made therein, or who shall fail to report to such surveyor general any trespass committed upon the state pine lands in such district which has come to his knowledge, shall be guilty of a felony. ('05 c. 204 § 32)

**[2481—]29. Timber sales book.**—The auditor shall keep a record of all sales of timber in a book to be known as the timber sales book, and shall enter therein at the time each tract of timber is sold, and before selling another tract, the name of the purchaser, the price, and a description of the tract on which the timber is situated. ('05 c. 204 § 33)

**[2481—]30. Stumpage book.**—The auditor shall keep a stumpage book in which he shall enter a description of each tract of land in his charge on which timber is located; the name and date of the report of the estimator; the kind, amount, and value of the timber as shown by such report; the date of approval of the sale of the timber; the date of the sale; the price for which the timber was sold; the name of the purchaser; the number, date and date of expiration of each permit; the bark and stamp marks specified therein; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds given by the purchaser and the assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the surveyor general; the marks used upon the timber as reported; the name of the deputy who scaled the tim-

ber; the amount paid and the date of payment, together with a specific reference to all correspondence relating to the land covered by the permit. ('05 c. 204 § 34)

Laws 1895, c. 163, § 36, cited in *State v. Rat-Portage Lumber Co.*, 106 Minn. 1, 115 N. W. 162.

[2481—]31. **Payments—Bill of sale, etc.**—Upon receipt of the surveyors general's report of the amount of timber cut under any permit, the auditor shall prepare a statement of the amount due therefor by the terms of the permit, including the fees of the surveyor general, and shall place in the hands of the state treasury a duplicate thereof. Payment of such amount shall be made by the purchaser or assignee, as the case may be, to the treasurer, who shall give duplicate receipts therefor, one of which shall be filed with the auditor, whereupon he shall execute a bill of sale of such timber, and a transfer of the mark thereon, to the purchaser or assignee. The bill of sale and transfer shall describe the timber, its quantity and character, and the land from which it was cut, and shall be by such purchaser or assignee filed for record with the auditor and with the surveyor general of the district in which such timber was cut. ('05 c. 204 § 35)

Laws 1895, c. 163, § 37, cited in *State v. Rat-Portage Lumber Co.*, 106 Minn. 1, 115 N. W. 162.

**Estoppel.**—The state is not estopped in a civil action to recover double the value of timber taken by the fact that the commissioner gave defendant to understand that a further extension of the permit would be granted, and by the fact that appellant proceeded in good faith and the state received payment therefor, with interest, and retained the same. *State v. Shevlin-Carpenter Co.*, 102 Minn. 470, 113 N. W. 634, 114 N. W. 738.

[2481—]32. **Same—How enforced.**—If the amount of such statement be not paid immediately, it shall bear interest at the rate of eight per cent per annum from date; and, if not paid within thirty days, the treasurer shall place the account in the hands of the attorney general, who shall proceed forthwith to collect the same. Whenever the auditor shall deem it for the best interests of the state, he shall take possession of the timber for which such amount is due, wherever the same may be found, and sell the same at public auction. The proceeds of such sale shall be applied, first, to the payment of the expenses of seizure and sale; and second, to the payment of the amount due for such timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay such amounts in full, the balance shall be collected by the attorney general. Neither payment of such amount, nor the recovery of judgment therefor, nor satisfaction of such judgment, nor the seizure and sale of such timber, shall release the sureties on any bond given pursuant to this chapter, or preclude the state from afterwards claiming that such timber was cut or removed contrary to law, and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally. ('05 c. 204 § 36)

[2481—]33. **Settlement for trespass.**—The timber board may settle the civil claim for trespass on lands of this state whenever it is for the best interests of the state so to do, but no such settlement shall be made until the timber taken under such trespass has been estimated and appraised or scaled by a state estimator, whose report shall be filed in the office of the land commissioner, and no settlement shall be made for an amount less than double the value of the timber as shown by such report. ('05 c. 204 § 37)

[2481—]34. **Record of trespasses.**—The auditor shall keep a book in which he shall enter all trespasses reported, with the minutes of all estimates and appraisals and settlements thereof, together with references to any correspondence relating thereto. ('05 c. 204 § 38)

**[2481—]35. Seizure of timber, etc.**—The state auditor shall take possession of any timber heretofore or hereafter unlawfully cut upon, or taken from, any land owned by the state, wherever found, and may sell the same at public auction after giving such notice as he deems reasonable, and after deducting all the expenses of such sale the proceeds thereof shall be paid into the state treasury to the credit of the proper fund; and whenever any timber so unlawfully cut has been intermingled with any other timber or property so that it cannot be identified or plainly separated therefrom the auditor may so seize and sell the whole quantity so intermingled, and in such case the whole quantity of such timber shall be conclusively presumed to have been unlawfully taken from state land. But when the timber unlawfully cut or removed from state land is so seized and sold such seizure shall not in any manner relieve the trespasser who cut or removed, or caused the cutting or removal of any such timber, from the full liability imposed by this act for the trespass so committed, but the net amount realized from such sale shall be credited on whatever judgment is recovered against such trespasser, and in addition to any other penalty provided by law, any person who shall remove, transport, carry away, conceal or convert to his own use any timber unlawfully cut on state lands, knowing the same to have been so cut, shall be guilty of larceny of the same and may be prosecuted and punished accordingly in the county where said property was cut or in any county into or through which said property or any part thereof may be removed, and when any corporation is guilty of the acts herein declared to be larceny each officer of such corporation shall individually and severally be deemed guilty of such larceny. ('05 c. 204 § 39)

**[2481—]36. Rewards.**—The following rewards shall be paid to any person or persons giving to the proper authorities any information which shall lead to the detection and conviction of any persons violating any of the provisions of this act, to wit: \$25.00 reward if the value of the timber so unlawfully cut or removed shall not exceed the sum of \$25.00; \$50.00 reward if the value of timber shall not exceed \$50.00; and \$100.00 reward if the value of such timber shall exceed the sum of \$100.00; and the court before whom such person or persons so violating the provisions of this act shall have been tried shall, upon application of any person claiming to be entitled to such reward, examine such claim in a summary manner, and determine whether or not such person claiming said reward is entitled to the same, and if it should appear to the satisfaction of said court that such person claiming such reward is entitled to the same, then and in that case a certificate of such fact shall be made by such court and delivered to said person and the treasurer of the State of Minnesota is hereby directed and required to pay such person such reward upon presentation of such certificate duly authenticated. ('05 c. 204 § 40)

**[2481—]37. Posted notice before cutting—Penalty—Reward.**—Every person, firm or corporation engaged in the cutting of timber of any kind, telegraph poles or fence posts, upon any of the land belonging to this state, or upon any land whatsoever within this state, shall, before cutting such timber, post in a conspicuous place in any camp building or house occupied by his employes engaged in such cutting a notice which shall contain a full description of the lands proposed by him to be cut during such time, and which said description shall contain the precise description of said land by forty-acre tracts, or fractions thereof, of governmental subdivisions, and shall include the section, town and range, and such person or persons so engaged in cutting timber as aforesaid shall be required to keep said notice conspicuously posted in such camp building or house

during the entire time that he is engaged in cutting such timber. Any person, persons, firms or corporation violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall pay a fine of not exceeding one hundred dollars or be imprisoned in the county jail for a period not exceeding ninety days. Any person or persons giving to the proper authorities information which shall lead to the conviction of any person; persons, firm or corporations guilty of a violation of this section, shall receive the sum of twenty-five dollars reward, to be ascertained and paid in the manner provided herein for the payment of the reward provided for in section 40 of this act. Provided, however, that the provisions of this section shall not apply to any person who shall be engaged in cutting cord-wood upon his own land or engaged in cutting timber for clearing any land actually owned or occupied by him. ('05 c. 204 § 41)

[2481—]38. **Timber defined.**—"Timber," as used in this chapter, shall be construed to mean trees, whether standing or cut, logs, posts, poles, ties, paving blocks, laths, shingles and lumber of every description. ('05 c. 204 § 42)

[2481—]39. **Limitation of actions.**—The statutes of this state limiting the time for bringing either civil or criminal actions shall not apply to any action brought by the state for trespass upon any of its lands, or to any criminal prosecution instituted under this chapter, and any civil action brought under this chapter may, at the election of the attorney general, be brought in any county in this state. ('05 c. 204 § 43)

**2482. Records as notice.**

Cited in *Town of Kettle River v. Town of Bruno*, 106 Minn. 58, 118 N. W. 63.

### MINERAL LANDS.

**2483. Reservation of minerals and water powers.**—The state hereby reserves for its own use all the iron, coal, copper, gold and other valuable minerals, and all water powers in or upon all lands which now, or hereafter may, belong to it by virtue of any act of congress. Provided, that this reservation shall not apply to lands granted or contracted to be conveyed by the United States or by this state to aid in the construction of any railroad. (R. L. § 2483, as amended by Laws 1909, c. 109, § 1.)

**Mineral lease act—Constitutionality.**—Laws 1889, c. 22, and the amendments thereto, providing for the issuance of mineral leases and contracts, and substantially re-enacted by R. L. §§ 2483-2495, were constitutional. *State v. Evans*, 99 Minn. 220, 108 N. W. 958.

[2485—]1. **Holder of permit or lease.**—In all cases where state lands have been heretofore, or may hereafter be sold pursuant to the provisions of law, upon which minerals have been reserved, the holder of any mineral permit or lease, subsequently issued thereon, may nevertheless enter upon the same and prospect thereon thereunder. ('07 c. 411 § 1)

**Historical.**—"An act to define the rights of purchasers of state lands and the rights of persons holding mineral permits or leases therein." Approved April 25, 1907.

[2485—]2. **Security for damages—Condemnation.**—Before entering upon the same he shall pay or secure to the owner of such lands all damages which may arise therefrom, and the same may be determined either by mutual agreement or, if the interested parties cannot agree, then the holder of such mineral permit or lease may, in the name of the State of Minnesota, institute proceedings to condemn the same, in accordance with the general provisions of chapter 41, Revised Laws 1905, or amendments thereto; provided, that

the State of Minnesota shall bear no part of the cost of such proceedings, nor pay any part of the damages awarded therein. ('07 c. 411 § 2)

**[2485—]3. Reservation of minerals under meandered lakes, etc.**—That all iron ores and other minerals on, in or under lands within this state, which lie beneath the waters of meandered public lakes and rivers, belong to the state, together with the right to enter upon such lands and explore for and mine and remove such iron ore and other minerals and that the state now has and since its organization has had the right to sell, lease or otherwise use or dispose of such mineral lands and such iron ores and other minerals in the same manner as any other mineral lands, ores or minerals belonging to the state, and that the title of the state to such iron ore or other minerals, together with the right to explore for, mine or remove the same, shall not be affected by the subsequent drying up of such lakes or rivers. ('09 c. 49 § 1)

**Historical.**—"An act relating to mineral and mineral lands lying beneath the waters of meandered public lakes, declaring the ownership of the state therein, and providing for the safekeeping and investment of the funds arising from the sale, or other disposition thereof." Approved March 6, 1909.

**[2485—]4. Same—Pending applications.**—Applications for mineral leases and contracts now pending and on file in the land department of the state auditor's office shall not be recognized as valid or existing by reason of anything contained in this act. ('09 c. 49 § 2)

**[2485—]5. Same—Funds, how disposed of.**—The principal of all funds derived from the sale of other disposition of such minerals and lands so situate shall forever be preserved inviolate and undiminished, but the same may be invested as the Swamp Land fund of the state is now invested, and the proceeds arising therefrom shall be paid into the state road and bridge fund. ('09 c. 49 § 3)

**2486-2488.** [Repealed. Laws 1907, c. 14.]

#### OTHER LANDS.

**[2495—]1. Lands granted by United States.**—Hereafter whenever any lands granted to the state, by the congress of the United States shall be sold by this state, the purchaser shall in the first instance, be given a contract or certificate of sale, which instrument shall contain, among other things, the provisions herein set forth. ('05 c. 299 § 1)

**Historical.**—"An act prescribing terms, limitations and conditions on which lands granted to the state by the congress of the United States shall be sold." Approved April 19, 1905.

**[2495—]2. Same—Contract or certificate of sale—Requirements.**—The state auditor shall insert in every such contract or certificate of sale, a clause providing that the vendee, his heirs, administrators or assigns shall, within five years from the date of such instrument, perform at least one of the following requirements:

1. Fence at least twenty-five per cent of said tract for pasture and convert such portion into pasture land.
2. Cultivate at least five per cent of said tract, or
3. Build a house and actually reside upon said tract for a period of twelve months.

Provided, however, that the fencing for pasture of twenty-five per cent of any contiguous tract sold such vendee by the state under the provisions of this chapter and the conversion of such portion into pasture land, or the cultivation of at least five per cent of such contiguous tract, or the building of a house and actual residence upon any portion of such contiguous tract for a period of twelve months shall be deemed a sufficient performance of such require-

ments with reference to the whole of such contiguous tract, whether heretofore or hereafter sold by the state. (Laws 1905, c. 299, § 2, as amended by Laws 1909, c. 106, § 1.)

**Historical.**—"An act to amend section 2 of chapter 299 of the General Laws of Minnesota for 1905, prescribing terms, limitations and conditions on which lands granted to the state by the Congress of the United States shall be sold." Approved March 25, 1909.

[2495—]3. **Same—Owners of contiguous tracts.**—This act shall take effect and be in force from and after its passage; and, provided further, that if the purchaser is already the owner of a contiguous tract of land, the state auditor, upon a proper showing by affidavit, and in furtherance of justice, may in his discretion dispense with a strict compliance with the foregoing provisions of this section, in respect to sales, whether heretofore or hereafter made by the state. ('09 c. 106 § 2)

[2495—]4. **Same—Proof of compliance—Deed.**—Within five years after the date of such contract or certificate of sale, the vendee, his heirs, administrators or assigns, shall furnish to the state auditor, satisfactory proof that at least one of said provisions has been complied with, said proof shall be attested by two members of the school board in the district wherein the land is located. And upon such proof, and the fulfillment of all the conditions of such contract or certificate of sale, a deed shall issue to the purchaser, his heirs or assigns, to the land in such contract or certificate described. ('05 c. 299 § 3)

[2495—]5. **Same—Failure to make proof—Reverter.**—Upon failure to make and furnish the proof mentioned, in the foregoing section, within five years after the date of such contract or certificate, the state auditor shall cancel said contract or certificate and the land covered thereby shall revert to and become the property of the state, free and clear of any incumbrance or cloud arising out of said transaction or contract or attempted to be contracted, by said vendee, and all moneys paid on account of the purchase price, shall be forfeited to the state. ('05 c. 299 § 4)

[2495—]6. **Same—Not over 320 acres.**—Not more than three hundred and twenty acres of such land shall be sold or contracted to be sold to any one purchaser. ('05 c. 299 § 5)

[2495—]7. **Other lands—How sold—Appraisal.**—All tracts or lots of real property belonging to the state of Minnesota, or that may hereafter accrue to the state, including tracts or lots which have escheated to the state may be disposed of in the following manner, provided, this act shall not apply to school or other trust fund lands, belonging to the state, or that may hereafter accrue to the state, under and by virtue of any act of congress. The sale or disposition of such real estate shall be under the supervision of the governor, attorney general and state auditor, who may authorize and direct a sale, when, in their judgment, it would be advantageous to do so. They shall appoint three appraisers, who shall appraise the real property to be sold. As compensation for their services the said appraisers shall receive five dollars per day. The sale shall be at public auction and shall be made by the state auditor, or such person or persons as he may direct for that purpose. ('09 c. 452 § 1)

**Historical.**—"An act to authorize the sale of certain kind of real property belonging to the state." Approved April 23, 1909.

[2495—]8. **Same—Notice of sale, etc.**—Before any sale shall be made the state auditor shall publish a notice thereof at least once in each week for four successive weeks in a newspaper published in the city or county in which the real property to be sold is situated, and he is also authorized to give such other and additional public-

ity of such notice as he may deem proper, which notice shall specify the time and place in said county at which such sale will commence, a description of the lots or tracts to be offered, and a general statement of the terms of sale. Each tract or lot shall be sold separately, and no lot shall be sold for less than the price thereof as specified in the report of said appraisers. ('09 c. 452 § 2)

[2495—]9. **Same—Terms of payment.**—The terms of payment for all lots or tracts so sold shall be not less than ten per cent of the purchase price thereof at the time of sale, and interest on the unpaid balance, as herein stated, to June 1st, of the following year, and the balance of such purchase price at any time within twenty years, at the option of the purchaser, with interest annually in advance, at the rate of not less than five per cent per annum on such unpaid balance, payable to the state treasury on or before June 1st, in each year. ('09 c. 452 § 3)

[2495—]10. **Same—Certificate of sale.**—The state auditor shall make out and deliver to the respective purchaser thereof a certificate of purchase in which he shall certify the description of the real property sold, and the price thereof, the consideration paid, and to be paid therefor, the rate of interest and time and terms of payment. Such certificate shall be numbered and made assignable. Such purchase certificate shall further set forth that in case of the non-payment of the annual interest due by the purchaser, or any person claiming under him, then the said certificate from the time of such failure will be entirely void, and of no effect, and the said state auditor may take possession of said lot or tract and resell the same, as herein provided. ('09 c. 452 § 4)

[2495—]11. **Same—Record of certificates and assignments—Effect.**—Certificate of purchase issued pursuant to this act or any assignment thereof executed and acknowledged, as provided by law, for the execution and acknowledgment of deeds may be recorded in the office of the register of deeds of any county in the state, in the same manner and in like effect as deeds are therein recorded. Such certificate shall entitle the purchaser thereof, his heirs and assigns to the exclusive possession of the land therein described, provided the terms of said certificate have been in all respects complied with, and the said certificate and the record thereof shall be conclusive evidence of title in such purchaser, his heirs and assigns, for all purposes and against all persons, except the state of Minnesota in case of forfeiture as aforesaid. ('09 c. 452 § 5)

[2495—]12. **Same—Reservation of minerals.**—The state hereby reserves for its own use all the iron, coal, copper and other valuable minerals in or upon all lands which may be sold under the provisions of this act, and the sale certificate and patent herein provided for shall contain a clause reserving all such minerals for the use of the state. ('09 c. 452 § 6)

[2495—]13. **Same — Patents.**—The governor shall sign and cause to be issued under the seal and attestation of the state auditor patents for the lands described in such certificate of purchase whenever the same are presented to him, with the further certificate of said state auditor endorsed thereon, certifying that the amount of principal and interest specified therein, all taxes due on said lands have been paid, and that the holder of such certificate is entitled to such patent. ('09 c. 452 § 7)

[2495—]14. **Same—Funds, how disposed of—Duty of auditor.**—All money received from the sale of such lands or lots shall be credited to the general revenue fund of the state, and it shall be the duty of the state auditor to keep the proper and necessary records per-

taining to the sale of such lands or lots that have been made, and provide the necessary blanks. ('09 c. 452 § 8)

**[2495—]15. Gifts to state for capitol or institutions—Acceptance.**—Whenever any real property or rights or estates therein may be or may have been granted or conveyed or assigned or turned over as a gift by any person or municipality to the state of Minnesota, to be owned, held, occupied or used by the state in connection with the capitol, or any state institution, or the grounds of the same, or any of them, the governor shall issue in duplicate under the great seal of the state a certificate of acceptance, and shall cause all the conditions of such gift to be performed, and the property so given to be improved, maintained and ornamented in the method and so far as the legislature may appropriate money therefor. ('09 c. 464 § 1)

**Historical.**—"An act regulating the acceptance of gifts of real property by the state and their use." Approved April 23, 1909.

**[2495—]16. Same—Lands obtained by condemnation.**—Whenever any corporation, municipal or otherwise, shall convey, assign or turn over to the state any rights it may have obtained by condemnation, the use of the land in which such rights were obtained by the state in any of the ways, or for any of the purposes hereinbefore mentioned, shall not be deemed an abandonment of nor work a forfeiture of the rights obtained by condemnation, but shall be considered a use incidental to and within the purposes of such condemnation. ('09 c. 464 § 2)

**[2495—]17. Same—Certificate of acceptance—Record.**—The certificate of acceptance shall be executed in duplicate and one filed in the office of the secretary of state, and the other filed for record in the office of the register of deeds of the county in which the land is situated, and after being recorded, kept with the records of the institution in connection with which the land is used. Upon said certificates of acceptance being so filed the conveyance and transfer of the rights, interests and estates involved shall be deemed complete. ('09 c. 464 § 3)

### STATE PARKS.

**2496.** [Repealed in part.]

See section next following, and note thereunder.

**[2496—]1. Certain lands added.**—The west one-half ( $W\frac{1}{2}$ ) of the west one-half ( $W\frac{1}{2}$ ) of section twenty (20), and the west one-half ( $W\frac{1}{2}$ ) of the northwest one-quarter ( $NW\frac{1}{4}$ ) of section twenty-nine (29), all in township one hundred forty-three (143) north of range thirty-five (35) west, situated in Hubbard county, is hereby added to and made a part of Itasca State Park. ('05 c. 277 § 1)

**Historical.**—"An act to add certain lands to Itasca State Park." Approved April 18, 1905.

By section 2, Laws 1903, c. 218 (adding to said park the  $W. \frac{1}{2}$  of the  $W. \frac{1}{2}$  of the  $W. \frac{1}{2}$  of sections 20, 29, and 32 in said township 143), is repealed. Laws 1903, c. 218, was repealed by R. L. § 5546; its provisions being incorporated in section 2496. So far as the provisions of Laws 1905, c. 277, differ from the Revised Laws, they are to be construed, by virtue of section 5504, as amendatory or supplementary.

**2497.** [Repealed in part.]

See sections [2497—] 1 to [2497—] 4, and note under section [2497—] 1.

**[2497—]1. Forest reserve—Powers of forestry board.**—Itasca State Park is hereby made a forest reserve, and its management placed under the state forestry board, to be cared for in the same manner as other forest reserves, as provided for in the act establishing said board except as hereinafter provided. The standing appro-



priations for said park shall be expended under direction of the state forestry board, and said state forestry board is hereby vested with all the powers with reference to said park heretofore exercised by any other board or state officer. ('07 c. 90 § 1)

**Historical.**—"An act providing for the care and management of Itasca State Park by the state forestry board, and permitting the maintenance therein of demonstration work in forestry under the direction of the board of regents of the State University and appropriating money therefor." Approved April 4, 1907.  
Section 5 repeals inconsistent acts.

[2497—]2. **Same—Duty of board.**—The state forestry board shall preserve intact the primeval pine forest now growing in Itasca State Park, and shall cut no part thereof except weak, diseased or insect infested trees, or dead and down timber. The net returns from the sales of timber of any description from said park shall be turned into the state treasury. ('07 c. 90 § 2)

[2497—]3. **Same—Power of regents of university—Forest demonstration.**—The board of regents of the state university may, in their discretion, use for their forest demonstrations work in connection with the forestry course in the state university, any suitable tracts of land in Itasca State Park that may be assigned to them for this purpose by the state forestry board, or may undertake forestry work in the said park or elsewhere in conjunction with the state forestry board. ('07 c. 90 § 3)

[2497—]4. **Same—Game preserves.**—Itasca State Park shall be maintained by the state forestry board as a game preserve, and nothing in this act shall be construed as repealing the existing statutes in regard to trespass in Itasca State Park. ('07 c. 90 § 4)

[2497—]5. **Authority to accept donations of land—Reservation of right to cut timber.**—The state forestry board is hereby authorized to accept for the state of Minnesota donations of the hereinafter described land within the limits of the Itasca State Park, and such donors may reserve to themselves the right to cut and remove from the said lands all the white pine, Norway pine, Jack pine, spruce, cedar, tamarack and balsam timber eight inches in diameter and over and four feet and six inches from the ground at the time of cutting; and that the donors of the said land may reserve the right to cut and remove the timber growing on said land for a period not exceeding ten years from the date of such donation. ('09 c. 220 § 1)

**Historical.**—"An act authorizing the state forestry board to make certain contracts and to provide for the payment by the state of Minnesota of the taxes on certain lands in Itasca State Park." Approved April 17, 1909.

[2497—]6. **Same—Taxes—Driving logs—Selection of groves.**—All the taxes levied on such timber which the donors may reserve to themselves under this act shall be paid by the state of Minnesota for a period not exceeding ten years and the said donors shall have the right to drive their logs through Itasca Lake with two foot head of water during such period of ten years for the purpose of getting the timber cut on such lands to market. In addition to the right given to the state forestry board under this act, they shall reserve to the state and it shall be part of the agreement under which such donation is made that the said state of Minnesota by its said forestry board shall have the right to select such groves of timber as it may wish to preserve, to mark such groves and the trees therein with copper nails or white paint at the expense of the donors, and to pay the purchase price for the stumpage selected, which price shall be the same as that awarded the Red River Lumber Company according to size. Provided, that the state forestry board shall have the right to make partial payments for any standing timber which the forestry board may purchase from said donors. ('09 c. 220 § 2)

[2497—]7. **Same—Annual appropriation.**—There is hereby annually appropriated out of any money in the state treasury not otherwise appropriated the sum of eight hundred dollars per annum, or so much thereof as may be necessary for the payment of the taxes on any timber that may come under the provisions of this act. ('09 c. 220 § 3)

[2497—]8. **Same—Lands described.**—The lands referred to in section one [2497—5] of this act are situated in Itasca Park in Becker, Hubbard and Clearwater counties in this state and are described as follows:

Becker county—Lots numbered one (1), two (2) and three (3) and the south half of northeast quarter ( $S\frac{1}{2}$ ,  $NE\frac{1}{4}$ ), the northwest quarter of southwest quarter ( $NW\frac{1}{4}$ ,  $SW\frac{1}{4}$ ), the west half of southeast quarter ( $W\frac{1}{2}$ ,  $SE\frac{1}{4}$ ) and the southeast quarter of southeast quarter ( $SE\frac{1}{4}$ ,  $SE\frac{1}{4}$ ) of section one (1) and lots numbered two (2), three (3), nine (9) and ten (10) of section three (3), all in township one hundred forty-two (142) north of range thirty-six (36) west.

Hubbard County—Lots numbered one (1), two (2), three (3) and four (4) and the southeast quarter ( $SE\frac{1}{4}$ ) of section thirty-one (31), township one hundred forty-three (143) north of range thirty-five (35) west.

Clearwater county—The northwest quarter ( $NW\frac{1}{4}$ ) and south half ( $S\frac{1}{2}$ ) of section nine (9); west half of northwest quarter ( $W\frac{1}{2}$ ,  $NW\frac{1}{4}$ ) and lots numbered five (5), eight (8) and nine (9) of section fifteen (15); west half of northeast quarter ( $W\frac{1}{2}$ ,  $NE\frac{1}{4}$ ), north half of northwest quarter ( $N\frac{1}{2}$ ,  $NW\frac{1}{4}$ ) southeast quarter of northwest quarter ( $SE\frac{1}{4}$ ,  $NW\frac{1}{4}$ ), southeast quarter of southwest quarter ( $SE\frac{1}{4}$ ,  $SW\frac{1}{4}$ ), northwest quarter of southeast quarter ( $NW\frac{1}{4}$ ,  $SE\frac{1}{4}$ ) and the south half of southeast quarter ( $S\frac{1}{2}$ ,  $SE\frac{1}{4}$ ) of section twenty-one (21); lots numbered one (1), two (2) and three (3) and the east half of southwest quarter ( $E\frac{1}{2}$ ,  $SW\frac{1}{4}$ ), southwest quarter of southeast quarter ( $SW\frac{1}{4}$ ,  $SE\frac{1}{4}$ ) of section twenty-three (23); north half of northwest quarter ( $N\frac{1}{2}$ ,  $NW\frac{1}{4}$ ), southwest quarter of northwest quarter ( $SW\frac{1}{4}$ ,  $NW\frac{1}{4}$ ) and southeast quarter ( $SE\frac{1}{4}$ ) of section twenty-five (25); southeast quarter of northeast quarter ( $SE\frac{1}{4}$ ,  $NE\frac{1}{4}$ ), north half of southeast quarter ( $N\frac{1}{2}$ ,  $SE\frac{1}{4}$ ), southeast quarter of southeast quarter ( $SE\frac{1}{4}$ ,  $SE\frac{1}{4}$ ) and west half ( $W\frac{1}{2}$ ) of section twenty-seven (27); lot numbered one (1) of section thirty-three (33) and the north half of northeast quarter ( $N\frac{1}{2}$ ,  $NE\frac{1}{4}$ ), north half of northwest quarter ( $N\frac{1}{2}$ ,  $NW\frac{1}{4}$ ), southwest quarter of northwest quarter ( $SW\frac{1}{4}$ ,  $NW\frac{1}{4}$ ), northeast quarter of southwest quarter ( $NE\frac{1}{4}$ ,  $SW\frac{1}{4}$ ) and northeast quarter of southeast quarter ( $NE\frac{1}{4}$ ,  $SE\frac{1}{4}$ ) of section thirty-five (35), all in township one hundred forty-three (143) north of range thirty-six (36) west, together with such other lands in Itasca Park in addition to those above named as may be donated to the state by the Pine Tree Lumber Company under the provisions of this act. ('09 c. 220 § 4)

**2498. Lands, how acquired—Standing appropriation.**

See section [2497—]1.

**2499. Same—School lands.**

See section [2497—]1.

**2500. Trespasses.**

See sections [2497—]4, [2515—]1 to [2515—]3.

Cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

**2501. Dalles of St. Croix Park.**

See Laws 1909, c. 60, "An act to authorize the commissioner of the Interstate Park of the Dalles of St. Croix to offer for public auction and sell that

certain building now situated thereon commonly known as 'The Old Seymour House.' Approved May 12, 1909.

**2503. Trespasses.**

See sections [2515—] 1 to [2515—] 3.

[2503—]1. **Minneopa state park.**—That the northeast quarter of the northeast quarter of section twenty, township one hundred and eight, range twenty-seven in the county of Blue Earth and State of Minnesota, and the north fourteen acres of the southeast quarter of the northeast quarter of said section twenty, township one hundred and eight, range twenty-seven, or so much thereof as the State of Minnesota is now or (may) hereafter become seized, shall be and hereby is set apart and perpetually used as a public park. ('05 c. 297 § 1)

**Historical.**—"An act to establish and create a public park to be known and designated as the Minneopa State Park, and authorizing the purchase and condemnation of land for park purposes." Approved April 19, 1905.

Section 6 appropriates \$5,000 to carry into effect the provisions of the act.

[2503—]2. **Same—Certain lands added.**—That the boundaries of the Minneopa State park as established and created by chapter two hundred and ninety-seven of the General Laws of the state of Minnesota for 1905, be and the same are hereby enlarged by adding to said park the following territory, to-wit: The north fourteen acres of the southwest quarter of the northwest quarter and the northwest quarter of the northwest quarter all in section twenty-one in township one hundred and eight, of range twenty-seven, except a tract five hundred and forty-five feet square in the northwest corner thereof known and designated as "Minneopa Cemetery" according to the plat of said cemetery on file and of record in the office of the register of deeds of said Blue Earth county, and the said territory shall be, and hereby is set apart perpetually as a public park and is made a part of said Minneopa State park. ('09 c. 409 § 1)

**Historical.**—"An act to add additional territory to the Minneopa State Park and to authorize the purchase and condemnation of land for park purposes, and for the improvement of said park and to appropriate money therefor." Approved April 22, 1909.

Other sections authorize the Attorney General to procure the additional lands, etc.

[2503—]3. **Same—Name and dedication.**—The name of said park shall be The Minneopa State Park, and the same is by this act dedicated to the perpetual use of the people of the State of Minnesota under the proper restrictions herein provided, or which may be hereafter provided by law. ('05 c. 297 § 2)

[2503—]4. **Same—Care and supervision.**—The general care and supervision of The Minneopa State Park, until otherwise provided for, shall be vested in the state auditor, acting as state land commissioner. ('05 c. 297 § 3)

[2503—]5. **Same—Duty of attorney general—Condemnation.**—The attorney general is hereby authorized and directed to take all reasonable necessary steps to procure from the parties owning land within limits of said park, concessions to the State of Minnesota or conveyances thereto for park purposes and for such reasonable consideration as may be agreed upon, subject to the approval of the governor. In case any tract or parcel of land within the limits of said park cannot be secured upon satisfactory terms, the attorney general is hereby authorized to institute for and in behalf of the state proceedings in condemnation, as now provided by law, for condemning and controverting private property within this state to public use. Whenever any proceedings in condemnation are had and taken for the condemnation and conversion of any of said lands, all of the provisions of an act approved March 9th, 1874, and entitled "An act to provide for obtaining title to land, by the State of

Minnesota for the use of the state" and all amendments thereto shall be applicable to all such proceedings, and all other provisions of law properly applicable, shall also be applicable to such proceedings. ('05 c. 297 § 4)

**[2503—]6. Same—Trespasses.**—Any person who shall willfully cut, destroy or mutilate, or cause to be willfully cut, destroyed or mutilated, any tree, shrub, timber, evergreen or plants of any kind, shall be guilty of a misdemeanor, and upon conviction thereof by any court having competent jurisdiction, shall be punished by a fine of not less than ten dollars, and not more than one hundred dollars for each offense, or be imprisoned in the county jail of Blue Earth county, Minnesota, for not less than ten days or more than ninety days for each and every such offense. ('05 c. 297 § 5)

See sections [2515—] 1 to [2515—] 3.

### STATE FOREST RESERVES.

**2505.** [Repealed in part.]

See note under section next following.

**[2505—]1. Members—Terms.**—The governor shall be a member, ex-officio, of the Minnesota State forestry board. Inasmuch as the terms of all of the present members of said board, appointed by the governor, expire at the same time, the terms respectively of three of said members, to be determined by lot, are hereby extended two years. At the next full meeting of the said forestry board after the passage of this act, the members appointed by the governor shall draw lots to determine which three members are to serve two years in addition to their present terms; and a certified record of proceedings, with the names of such members, shall be communicated to the governor. ('07 c. 171 § 1)

**Historical.**—"An act to perfect the organization of the Minnesota State Forestry Board." Approved April 12, 1907.

By section 2 so much of R. L. § 2505, as is inconsistent with this act is repealed.

**[2505—]2. Same—Determination by lot.**—The determination by lot of the expiration of the terms of the members of the Minnesota State Forestry Board, as provided by Section 1 of Chapter 171, General Laws of Minnesota, 1907, may take place at the first meeting of said board when a quorum is present, and the lot of any absent member may be drawn by the president or secretary of the board. ('09 c. 86 § 1)

**[2508—]1. Additional funds.**—The sum of one thousand dollars appropriated by Section 2513, Revised Laws of Minnesota, 1905, for paying the expenses incurred in bringing actions, together with any money which the forestry board may turn into the state treasury is hereby constituted a part of the forest reserves fund, provided by Section 2508 of said Revised Laws, and the proper and necessary expenses of the forestry board shall be paid out of said fund. ('09 c. 87 § 1)

**Historical.**—"An act relating to the forest reserves fund and the forestry board's expenses." Approved March 19, 1909.

Section 2 repeals inconsistent acts.

**2513. Tax title lands, how set apart.**

See section [2508—] 1.

**[2515—]1. Animals and birds in forest reserves, parks, state and national.**—No person shall kill, or pursue with intent to kill, take, snare, or have in possession, by any means, upon the Minnesota state forest reserve lands or parks, national forest lands, or upon any lands that may be designated by the state game and fish commission as game propagating and breeding grounds, any wild

animals or birds protected at any time by law. The killing or having in possession of each such protected animal or bird shall constitute a separate offense. Provided, that this act shall not prohibit the killing or destroying of wolves or other noxious animals by or under the supervision of the state game and fish commission or the state forestry board. (Laws 1907, c. 45, § 1, as amended by Laws 1909, c. 171, § 1.)

**Historical.**—"An act to amend section 1 of chapter 45 of the General Laws of 1907, to prevent the killing of wild animals or birds upon the Minnesota state forest reserve lands and parks and within national forests." Approved April 13, 1909.

See section next following.

**[2515—]2. Same.**—No person shall kill, or pursue with intent to kill, take, snare or have in possession, by any means, upon the Minnesota state forest reserve lands or parks, national forest lands, or upon any lands lying north of the Superior national reserve, established Feb. 13, 1909, located in the counties of St. Louis, Lake and Cook, that may be designated by the state game and fish commission as game propagating and breeding grounds, any wild animals or birds protected at any time by law. The killing or having in possession of each such protected animal or bird shall constitute a separate offense. Provided, that this act shall not prohibit the killing or destroying of wolves or other noxious animals by or under the supervision of the state game and fish commission or the state forestry board. (Laws 1907, c. 45, § 1, as amended by Laws 1909, c. 320, § 1.)

**Historical.**—"An act to amend section 1 of chapter 45 of the General Laws of 1907, to prevent the killing of wild animals or birds upon the Minnesota state forest reserve lands and parks and within national forests." Approved April 21, 1909.

See section next preceding.

**[2515—]3. Penalty.**—Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than thirty days or more than ninety days or both. ('07 c. 45 § 2)

## CHAPTER 41.

### EMINENT DOMAIN.

This chapter is cited in *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

#### 2524. Petition and notice.

See section [2536—] 1, and note thereunder.

#### 2526. Order made thereon—Commissioners.

See section [2536—] 1, and note thereunder.

**In general.**—The power of eminent domain can be exercised by a private individual or corporation only by express legislative authority. Every reasonable doubt as to the authority must be resolved in favor of the landowner. When the purposes stated in the petition are part public and part private, the right to proceed must be denied. *Minnesota Canal & Power Co. v. Koochiching Co.*, 97 Minn. 429, 107 N. W. 405, 5 L. R. A. (N. S.) 638.

See, also, *Minnesota Canal & Power Co. v. Pratt*, 101 Minn. 197, 112 N. W. 395, 11 L. R. A. (N. S.) 105.

#### 2527. Powers and duties of commissioners.

See section [2536—] 1, and note thereunder.

**Damages—Special benefits.**—Special benefits may be set off in proceedings to condemn a railway right of way against the value of land taken and damages shown to have accrued to the remainder. *Mantorville R. & Transfer Co.*