

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General; construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1938

The notice required by this section must be inserted in each advertisement constituting an offer for sale of securities. Op. Atty. Gen., Dec. 3, 1931.

3996-33. Notice to be printed on stock certificate.
Amended and renumbered §3996-29. See note under §3996-32.

3996-34. Inconsistent acts repealed.—All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to and give full force and effect to the provisions of this act. (Act Apr. 25, 1931, c. 382, §6.)

3996-35. Effective July 1, 1931.—This act shall take effect and be in force from and after July 1, 1931. (Act Apr. 25, 1931, c. 382, §7.)

3996-36. Sale of liquor warehouse receipts declared to be sale of securities.—The sale of Warehouse Receipts for the storing of liquor during the aging or processing period of liquor in a duly bonded warehouse in any state other than the state of Minnesota, is hereby declared to be a sale of securities and/or investment contracts as defined by Section 3996-1 of Mason's Minnesota Statutes, 1927, and that the sale of such Warehouse Receipts is hereby permitted and legalized by duly licensed brokers and/or agents without having to procure a liquor license, when such liquor is not to be shipped nor imported into the State of Minnesota, except as authorized by law. (Apr. 6, 1937, c. 145, §1.)

Act is constitutional. Op. Atty. Gen. (218j-18), Apr. 26, 1937.

Warehouse receipts are securities for all purposes of registration and license under the securities law. Id.

3996-37. Same.—The sale of Warehouse Receipts for the storing of liquor during the aging or process-

ing period in bonded warehouses within the state, is hereby declared to be a sale of securities and/or investment contracts, as defined by Section 3996-1 of Mason's Minnesota Statutes, 1927, and sales thereof are hereby permitted as provided in Section 2 hereof. (Apr. 6, 1937, c. 145, §2.)

3996-38. Brokers must obtain licenses.—Any Broker and/or Agent, before offering for sale or selling such Warehouse Receipts, shall obtain a Broker's and/or Agent's License, for the sale of securities, from the Commission, under the rules and regulations of the Department of Commerce. (Apr. 6, 1937, c. 145, §2.)

3996-39. Violation a gross misdemeanor.—Any person violating the provisions hereof, shall be guilty of a gross misdemeanor. (Apr. 6, 1936, c. 145, §3.)

Sec. 4 of Act Apr. 6, 1937, cited, provides that the Act shall take effect from its passage.

3997. Bank applications must be approved by state securities commission.

Trust companies may engage in banking business only upon compliance with this section. Op. Atty. Gen. (29a-30), Jan. 23, 1937.

3997-1. Department of Commerce need not give notice in certain cases.—That the Department of Commerce of this State may, at its discretion, dispense with the notice and hearing provided for by General Statutes 1923, Section 3997, in cases where application is made for the incorporation of a new bank to take over the assets of one or more existing banks, or where the application contemplates the re-organization of a national bank into a state bank in the same locality; Provided this act shall not increase the number of banks in the community affected. (Act Apr. 10, 1929, c. 146.)

CHAPTER 22

Forestry and Forest and Prairie Fires

Laws 1931, c. 186, ante, §§53-23a to 53-23i, creates a new department of conservation, to which is transferred the power of the commissioner of forestry and fire prevention.

FORESTRY ACT

4031-1. Codification of forestry laws.

It was competent for the Legislature to classify counties and to impose more drastic regulations for prevention of fires in certain counties than in others. 176M 472, 223NW912.

The subject of chapter 407, Laws 1925, known as the Forestry Act is sufficiently expressed in its title. 176M 472, 223NW912.

4031-6. Same—Officers—State forester—Etc.

In a criminal prosecution before a justice of the peace or in municipal court in a misdemeanor case, a forest ranger or patrolman may assist in presenting the evidence in behalf of the state by examination of the witnesses. Op. Atty. Gen., May 27, 1931.

It is not necessary for state employees to be accompanied by a companion while in forest. Op. Atty. Gen., July 6, 1933.

4031-10½. County board may establish conservation zones.—For the purpose of consolidating the holdings of land owned by the state absolutely or in trust which were acquired under the delinquent tax laws, and for the purpose of decreasing the expenses of local governmental units by reducing the number of scattered and isolated private holdings, the County Board of any County with the approval of the Conservation Commission of the State may establish conservation zones and agricultural zones. Conservation zones shall be areas which are to be devoted primarily to timber growing and other conservation purposes. Agricultural zones shall be areas devoted primarily to agricultural purposes. (Act Apr. 22, 1933, c. 418, §1.)

4031-10½a. Exchange of lands authorized.—The Executive Council upon recommendation of the Conservation Commission, and of the County Board of the

County affected, may authorize the exchange of lands; to which the State shall have acquired absolute title, in its own right, or in trust under the delinquent tax laws, within the agricultural zone for privately owned lands in the same county within the conservation zone, in the manner hereinafter provided. (Act Apr. 22, 1933, c. 418, §2.)

Conservation Commission has no authority to exchange lands outside conservation zones in exchange for lands within such zones without concrete action of executive council and county board. Op. Atty. Gen., Sept. 28, 1933.

Commission is not authorized to exchange lands acquired by state under rural credit act for lands within conservation or forest areas. Id.

4031-10½b. Owner to file request.—Any owner desiring to effect an exchange of lands hereunder shall file a request with the Commissioner of Conservation on forms furnished by him, giving legal descriptions of his land and the description of the state land for which he desires to exchange the same. With such request he shall present an abstract of title to his land and an affidavit by him that there are no liens or incumbrances of any kind affecting the title thereto except such as appear upon such abstract, and that there is no person in possession of any part of said land claiming any interest therein who has not joined in such request, and that no improvements have been made thereon for which any person has the right to assert any lien. (Act Apr. 22, 1933, c. 418, §3.)

4031-10½c. Commissioner to file application.—The Commissioner of Conservation shall thereupon record with the register of deeds of the county in which such owner's lands are situated a certified setting forth that an application for the exchange of such lands (describing them) has been made in accordance with this Act, and in the event that such exchange shall be consummated hereunder the title of

the state shall be superior to any lien or incumbrance, except tax or local assessment liens, attaching subsequent to the recording of such certificate. (Act Apr. 22, 1933, c. 418, §4.)

4031-10 ½ d. Examination of title.—The Commissioner of Conservation shall forward such abstract of title to the Attorney General, who shall designate an attorney not a member of his staff to examine such abstract and the records of the county relative to said land. Such attorney shall give his opinion in writing as to the title thereto, for which opinion he shall be entitled to receive a fee of \$5.00 to be paid as hereinafter provided. No lands shall be traded hereunder unless such attorney shall have given his opinion in writing that the person offering to trade such land has good and marketable title to the land which he agrees to trade, free and clear of any incumbrance or lien disclosed by such abstract or the records of the county or known to such attorney. (Act Apr. 22, 1933, c. 418, §5.)

4031-10 ½ e. Appraisal of lands.—The Commissioner of Conservation shall thereupon have the lands offered to be traded for such state lands and the lands of the state for which the same are proposed to be traded appraised in the manner provided for the appraisal of state school lands. He shall thereupon submit such request and the attorney's opinion on the title to such lands, and the report of the appraisers, and his recommendation, and the recommendation of the Conservation Commission and the County Board, thereon to the Executive Council, who may approve or reject such proposition to trade, or authorize the making of a counter proposal to trade, other similar lands of the state within such county, or to make such trade upon any condition as to payment of further compensation to the state which it may deem proper, and if payment of further compensation is required such payment shall be made in such manner and upon such terms as the Executive Council shall determine, subject to the following limitations. If payment is not made at the time of the exchange the unpaid balance shall be secured by a contract for deed on the land of which the state is disposing payable in twenty equal annual installments with interest at two per cent per annum, payable annually, the first installment and the first interest to be due on October 31st, following the date of the exchange. (Act Apr. 22, 1933, c. 418, §6.)

4031-10 ½ f. Minerals shall be reserved.—The Executive Council shall reserve the minerals on any lands so traded and the sites where water power can be developed in commercial quantities and the land subject to flowage by such development of water power, and the minerals and power sites so reserved shall be held by the state in trust for the taxing districts interested therein, and the Executive Council shall determine all the terms and conditions of such trade; but no money shall be paid out by the state to such private owners to secure such trade; provided, however, that the Conservation Commission may authorize payment for any improvements which in their opinion would be valuable for conservation purposes within the conservation areas. (Act Apr. 22, 1933, c. 418, §7.)

4031-10 ½ g. Conveyance of property.—Upon the conclusion of an agreement satisfactory to the state as herein provided, the Commissioner of Conservation shall take from the owner a warranty deed to such property, free and clear of all incumbrances and the Governor and Commissioner of Conservation shall execute and deliver to such owner the deed of the state or the contract for deed of the state, as the case may be, to the lands agreed to be traded therefor, which deed or contract for deed shall convey, or contract to convey, as the case may be, all the interest of the state therein except such interest as the Executive Council shall have determined to reserve, free and clear of any tax or assessment liens in favor of

the state or any local governmental subdivision thereof. (Act Apr. 22, 1933, c. 418, §8.)

4031-10 ½ h. Funds to be deposited with state treasurer.—All moneys paid by such private owner to the state to secure such transfer shall be deposited immediately with the state treasurer, who shall deposit the same to the credit of a "Land Exchange Fund," and all moneys so deposited are hereby appropriated to the Commissioner of Conservation, and shall be distributed as follows: First, to pay all the expenses of the state in connection with such exchanges of land, including the appraiser's fees and the attorney's fees for examining such abstracts.

Second, such portion of such fund as shall have been derived from the exchange of lands under this Act in any county, shall within fifteen days after January 1st and July 1st of each year, be paid by the state treasurer to the treasurer of such county in an amount sufficient, if the amount available for distribution makes this possible, to equal the aggregate amount of the outstanding taxes and special assessments held by the county, the towns, and the school districts therein, against the lands acquired by the state for taxes and disposed of under this Act. Not later than January 31st and July 31st thereafter such county treasurer shall distribute such money among the various funds of the county and the several towns and school districts therein in proportion to their respective interest therein. The amount of the share of the county, towns, and school districts shall be figured as of the date when the state acquired tax title but without interest thereafter.

Third, when the local taxing units shall have been paid in full, any surplus in the Land Exchange Fund shall be distributed at the times and in the manner hereinbefore set forth except that such surplus shall thereafter be distributed among the various funds of the county and the several towns and school districts therein, wherein the lands disposed of by the state under this Act are situated, on the same basis as if such payment had been received as taxes on such lands payable in the current year. (Act Apr. 22, 1933, c. 418, §9.)

4031-10 ½ i. Eighty per cent to be kept in separate fund.—Eighty per cent of the gross proceeds from all the lands within the conservation zone in each county acquired by the state for delinquent taxes or by exchange under this Act shall be paid into the state treasury into a fund to be designated "Conservation Zone Tax Fund of County." Within fifteen days after January 1st and July 1st of each year the State Treasurer shall pay to the treasurer of each county entitled to share in such distribution all of the money in the Conservation Zone Tax Fund of such county on said dates. Not later than January 31st and July 31st thereafter each such county treasurer shall distribute such money to the various taxing units in the county as follows:

First, to the various funds of the county and the various towns and school districts owning a share in the taxes and special assessments against the land acquired by the state under this Act, and from which such proceeds are derived, the amount of such share in such taxes and special assessments, without interest, providing the amount available for distribution is sufficient therefor; if not, their prorata share of such amount.

Second, if there is an undistributed surplus, the county treasurer shall distribute such surplus among the various funds of the county and the several towns and school districts therein wherein such lands lie on the same basis as if such payment had been received as taxes on such lands payable in the current year.

In case any town or school district within the conservation zone shall cease to have an organization by reason of depopulation or otherwise, the sum which would otherwise have been distributed to such town or school district shall be paid by the County Treasurer to apply on the indebtedness of such town or

school district, and when such indebtedness shall have been paid in full all distribution to such disorganized town or school district shall cease, and the distributive share of such disorganized town shall be paid to the county and the distributive share of such disorganized school district shall be paid to the fund for unorganized school territory of the county. (Act Apr. 22, 1933, c. 418, §10.)

4031-10 ½j. Twenty per cent to state revenue fund.—Twenty per cent of the gross proceeds from all lands within the conservation zone shall be paid into the state treasury. (Act Apr. 22, 1933, c. 418, §11.)

4031-10 ½k. Lands to become part of state forest.—The lands hereafter acquired by the state under this Act and by tax sales in the conservation zones established by this Act, shall become a part of the state forests and be subject to the same laws, rules, and regulations except as herein otherwise provided. (Act Apr. 22, 1933, c. 418, §12.)

4031-10 ½l. Inconsistent acts repealed.—Laws 1931, Chapter 32 and all Acts or parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 22, 1933, c. 418, §13.)

4031-10 ½. State forests created.—For the purpose of vesting the state with title to lands in the area hereafter described which are suitable primarily for state use and development for the purpose of preserving, propagating and breeding wild life of all suitable kinds, including all species of game, fish and fur bearing animals and birds of rare and useful species, and especially for the developments of forests and the prevention of forest fires, and for the preservation and development of rare and distinctive species of flora native to such area, including the state flower, and for the protection of watershed areas, valuable for domestic and commercial uses, and for the establishment and development of recreational areas, there are hereby created and established certain state forests, to be managed in the same manner as other state forests, comprising all lands and waters within the following described areas now owned by the state, or hereafter acquired by the state, in the counties and townships described as follows:

Beltrami Island State Forest. Lake of the Woods County. The west ½ of Townships 158 and 159, and all of Township 157, Range 32; Townships 157, 158 and 159, Range 33; Townships 157, 158, 159 and 160, Range 34; Townships 157, 158, 159 and 160, Range 35; Townships 159 and 160, Range 36; all west of the 5th principal meridian. **Roseau County.** The south ½ of Township 161, Range 35; the south ½ of Township 161, Range 36; Townships 159 and 160, Range 7; the south 2/3 of Township 161, Range 37; the east 2/3 of Township 160, Range 38; all west of the 5th principal meridian.

Cloquet Valley State Forest—St. Louis County. The north ½ of township 53, range 12; township 54, range 12, and township 55, range 12 except sections 1, 2, 3, 11 and 12 and the portions of sections 4, 9, 10, 13, 14 and 15 lying north and east of the present main line right-of-way of the Duluth and Iron Range Railroad; the north half of township 53, range 13; townships 54 and 55, range 13; the north half of township 53, range 14; townships 54 and 55, range 14; the north half of township 53, range 15; townships 54 and 55, range 15; all west of the 4th principal meridian.

Finland State Forest—Lake County. Section 6, township 57, range 6; sections 6, 7, 18, 19, 30 and 31, township 58, range 6; sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17, the east ½ of section 18, the north ½ of sections 20 and 21, township 57, range 7; township 58, range 7; section 1 and the east ½ of sections 2 and 12, township 57, range 8; sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, 25, 26, 35, 36 and the east ½ of section 15, township 58, range 8; all west of the 4th principal meridian.

Fon du Lac State Forest—Carlton County. Township 49 north, range 19; the west ½ of township 49 north, range 18; all of township 49 north, range 20 except the south ½ of sections 25, 26, 27, 28, 29 and 30, and all of sections 31, 32, 33, 34, 35 and 36 inclusive; all of township 48 north, range 19, except sections 25 and 36 inclusive; all west of the 4th principal meridian. **St. Louis County.** The south ½ of township 50 north, range 19 and the south ½ of township 50 north, range 20, all west of the 4th principal meridian.

Foot Hills State Forest—Cass County. Townships 137, 138, 139, 140 and 141, Range 31; Township 137, Range 32; all west of the 5th principal meridian.

George Washington Memorial State Forest—St. Louis County. The north 2/3 of township 59, range 21; township 60, range 21; the south ½ of township 61, range 21; all west of the 4th principal meridian. **Itasca County.** Townships 59 and 60, range 22; the south ½ of township 61, range 22; townships 59, 60, 61 and 62, range 23; townships 59, 60, 61 and 62, range 24; townships 59 and 60, range 25; and township 61, range 25; except sections 4, 5, 6, 7, 8, 9, 17 and 18; all west of the 4th principal meridian.

Grand Portage State Forest—Cook County. Townships 61, 62, 63, 64 and 65, range 3 except the portions of sections 7, 8, 17, 18, 19, and 30 in twp. 64, range 3 now within the boundary of the Superior National Forest; townships 62, 63, 64, range 4; townships 62, 63 and 64, range 5; townships 63 and 64, range 6; township 64, range 7; all east of the 4th principal meridian.

Kabetogama State Forest—St. Louis County. Townships 61, 62, 63, 64, 65, 66, 67, 68 and 69, range 17; townships 63, 64, 65, 66, 67, 68, 69 and 70, range 18; townships 63, 64, 65, 66, 67, 68, 69 and 70, range 19; townships 64, 65, 66, 67, 68, 69, 70 and 71, range 20; townships 64, 65, 66, 67, 68, 69, 70 and 71, range 21; all west of the 4th principal meridian.

Land O'Lakes State Forest—Cass County. Townships 139 and 140, range 26; townships 139 and 140, range 27; all west of the 5th principal meridian.

Pine Island State Forest—Koochiching County. All that portion of township 153, ranges 26 and 27; township 154, ranges 25 and 26; township 155, range 25 lying west of the present location of trunk highway number 4; that part of townships 156 and 157, range 25, lying west of the Big Fork River; that part of sections 31, 32 and 33, township 158, range 25, lying on the south side of the Black River; townships 155, 156, 157 and that part of 158, range 26, lying south of the Black River; townships 154, 155, 156, 157 and that part of 158, range 27, lying south of the Black River; townships 153, 154, 155 and 156, range 28; townships 153, 154, and 155, range 27; all west of the 5th principal meridian.

Savanna State Forest—Aitkin County. That portion of township 48, range 22, north of the present location of the Northern Pacific Railroad right-of-way; townships 49, 50, 51 and 52, range 22; that portion of township 48, range 23, north of the present location of the Northern Pacific Railroad right-of-way; townships 49 and 50, range 23; that portion of townships 51 and 52, range 23, lying east of the Mississippi River; that portion of townships 50 and 51, range 24, lying east of the Mississippi River; all west of the 4th principal meridian.

Third River State Forest—Itasca County. The north half of township 147, range 29, except that portion of sections 1 and 12 lying east of Third River; township 148, range 29; the south ½ of township 149, range 29; all west of the 5th principal meridian. Providing, however, that no game refuge shall be established in said Third River State Forest other than by petition of three-fourths of the persons owning land and residing therein addressed to the Commissioner of Conservation. Except as herein provided such game refuge shall be established in accordance with

the procedure prescribed in Mason's Minnesota Statutes of 1927, Section 5610.

White Earth State Forest—Clearwater County. Sections 7, 18, 19, 30, and 31, township 144, range 36; township 143, range 37; sections 10 to 36 except sections 17 and 20 inclusive in township 144, range 37; townships 143, range 38 and all of township 144, range 38 except that part of the township lying north of the state aid highway running from Zerkel to Roy Lake; all west of the 5th principal meridian.

Becker County. Township 142, range 37, township 142, range 38, and the east half of township 142, range 39 west of the fifth principal meridian. **Mahnomen County.** Sections 25, 35, 36 and East half of section 34, township 143, range 39; section 1, East half of section 12, township 144, range 39. (Act Apr. 21, 1933, c. 419, §1; Jan. 18, 1936, Ex. Ses., c. 54, §1; Jan. 24, 1936, Ex. Ses., c. 75, §1; Mar. 8, 1937, c. 61, §§1, 2.)

Act Jan. 18, 1936, Ex. Ses., c. 54, amended this section by omitting certain lands from the White Earth State Forest, but that act was impliedly repealed by the later act of Jan. 24, 1936, c. 75, passed at the same session amending the entire section to read as above.

See §4031-10 ¾ h, and note thereunder.

Authority to scale state timber is still vested in the surveyor general of logs and lumber, but is now subject to supervision of commissioner of conservation and director of division of forestry instead of state auditor. Op. Atty. Gen., June 27, 1933.

Where in 1919 X purchased land from state, paying part of purchase price, but failing to pay any interest or taxes thereafter and Y, not knowing that title was in the state instead of X, purchased the property at tax sale in 1922 and in 1925 caused statutory notice of expiration of redemption upon X, and had paid all taxes up to 1931, is entitled to redeem the land from the state, though the state in 1931 because of X's default reappraised property and offered it for sale and then made it a part of the state forest. Op. Atty. Gen. (423d), May 9, 1934.

Laws 1935-36, Sp. Sess., cc. 54 and 75, are in irreconcilable conflict and later acts must be governed. Op. Atty. Gen. (700d-28), June 29, 1936.

Area described in §4031-10 ¾ is not excluded from operation of §2176-8. Id.

County auditor may sell or assign trust fund lands in state forest which has been sold under contract by the state, pursuant to Laws 1935, c. 387, but purchaser or assignee acquires only the interest held by contract holder. Op. Atty. Gen. (700d-1), July 15, 1936.

Conservation commission with approval of executive council is authorized to acquire by purchase or by use of right of eminent domain any land within state forest tax delinquent for at least three years which commission shall deem necessary for state ownership and use in order to carry out purposes of act, and awards for land so acquired must be applied to payment of taxes and assessments on land, but land can also be acquired by purchase or gift, taxes and assessments thereon to be paid by the state, and each county, town and school district receiving such taxes to apply the money to pay outstanding indebtedness, and conservation commission may accept gift of land within state forests and make suitable acknowledgment therefor. Op. Atty. Gen. (700d-21), July 18, 1936.

4031-10 ¾ a. Lands to be under control of conservation commission.—Said lands shall be under the management and control of the Conservation Commission which shall have and is hereby given full power and authority to make, establish, promulgate and enforce all necessary rules and regulations not inconsistent with the laws of the state for the care and management of state forests and fire prevention and the establishment and management of public shooting grounds and game refuges. (Act Apr. 21, 1933, c. 419, §2.)

Counties have no authority to permit cutting of timber upon tax delinquent lands within boundaries of state forests or game refuges, even though contract is let for purpose of obtaining money for relief of poor. Op. Atty. Gen. (27g), Dec. 10, 1936.

4031-10 ¾ b. Funds reappropriated.—All moneys received as gifts to the state; all income which may be received from the operation, development, management and use of such state forests, all income which may be derived from the sale of birds, animals, fish and flora therefrom and from the sale of lands and timber thereon owned by the state within such area, other than timber from university, school and swamp lands and from state forest lands set apart pursuant

to Section 7 of Article 8 of the Constitution and from state lands acquired under the system of rural credits, and all moneys of the state which may hereafter be transferred thereto under any law of this state shall be paid into the state treasury and credited to the state forest fund and the same is hereby annually appropriated for the purposes of this Act. There is hereby annually appropriated from that one half of the state game and fish fund appropriated by Laws 1929, Chapter 332, Section 6 [§5536-13], for the acquisition and maintenance of public hunting grounds, game farms and game refuges such an additional amount as may be necessary, in addition to the foregoing appropriation for the condemnation and/or purchase of said lands. (Act Apr. 21, 1933, c. 419, §3.)

Diversion of funds. Op. Atty. Gen., Sept. 27, 1933.

4031-10 ¾ c. Conservation commission may acquire land.—The Conservation Commission, with the approval of the Executive Council of the State, is hereby authorized and empowered to acquire, by exercise of the right of eminent domain, which right is hereby given it, to be exercised in the manner provided in Chapter 41, General Statutes 1923, as amended, or by purchase, any lands or interests in lands in the state forests herein created, which the Conservation Commission shall deem necessary for state ownership, use and development for the purposes of this Act, where the taxes and/or assessments have been delinquent for at least three years, provided that all moneys to be used for the purposes specified in this section, shall be expended from the funds created or appropriated in Section 3 of this Act. Provided, further, that any award to be paid for any tract of land so acquired by exercise of the right of eminent domain, shall first be applied to the payment of any taxes and/or assessments that may be outstanding against said tract; and provided, further, no such tract shall be acquired by purchase or gift without payment or settlement of taxes and/or assessments outstanding against the same. Each county, township, and school district receiving such taxes, shall apply such moneys towards any outstanding indebtedness against such county, township, or school district. Provided, further, that the Conservation Commission is hereby authorized and empowered to acquire any lands or interests in lands in state forests herein created subject to mineral reservations. (Act Apr. 21, 1933, c. 419, §4.)

Where mineral rights are reserved by vendor, it is permissible to put into warranty deed a standard mineral clause that owner of mineral right shall pay to state all damages to improvements, structures, timber or young trees and also a fixed amount per acre for lands used in mining operations. Op. Atty. Gen., Nov. 6, 1933.
The state may not accept a quitclaim deed from vendor and subsequently settle delinquent taxes with taxing units. Id.

4031-10 ¾ d. State lands to become state forest.—The state swamp, school, and other public lands owned by the State of Minnesota included within the boundaries of the state forests herein provided that have not heretofore been established as such are hereby created and established as state forests, and shall be governed, operated, managed and controlled in the same manner as other state forests. (Act Apr. 21, 1933, c. 419, §5.)

4031-10 ¾ e. May receive gifts of land, etc.—The Conservation Commission is hereby authorized and empowered to receive for and in behalf of the State, including lands from the Federal Government, and to make suitable acknowledgments of, any gift, bequest, devise or grants of land or interests in lands in any such state forest, or of money or personal property of any kind, which it may deem suitable for use in connection with the operation, control, development or use of any or all of such state forests. (Act Apr. 21, 1933, c. 419, §6.)

4031-10 ¾ f. Provisions separable.—This Act shall be held unconstitutional only in the event that some major provisions of the Act are found unconstitutional and invalid that would make the Act unworkable. If

any minor provisions of this Act be held unconstitutional it shall in no way affect or invalidate any other provision or part hereof. (Act Apr. 21, 1933, c. 419, §7.)

4031-10 3/4 g. Application of act.—This Act shall not be construed as repealing or amending Laws 1929, Chapter 258 [§§5620-1 to 5620-13], and Laws 1931, Chapter 407 [§§6452-1 to 6452-13], but shall be regarded as supplementary thereto. (Act Apr. 21, 1933, c. 419, §8.)

4031-10 3/4 h. State forest created.—For the purpose of vesting the state with title to lands in the area hereafter described which are suitable primarily for state use and development for the purpose of preserving, propagating and breeding wild life of all suitable kinds, including all species of game, fish and fur bearing animals and birds of rare and useful species, and especially for the development of forests and prevention of forest fires, and for the preservation and development of rare and distinctive species of flora native to such area, including the state flower, and for the protection of watershed areas, valuable for domestic and commercial uses, and for the establishment and development of recreational areas, there are hereby created and established certain state forests, to be managed in the same manner as other state forests, and subject to all of the provisions of Laws 1933, Chapter 419 [§§4031-10 3/4 to 4031-10 3/4 g], comprising all lands and waters within the following described areas now owned by the state or hereafter acquired by the state, in the townships described as follows:

Bay Lake State Forest: Townships 45 and 46, Range 28; fractional Township 47, Range 28; fractional Township 47, Range 29; fractional Township 47, Range 30; all west of the 4th Principal Meridian.

Buena Vista State Forest: Township 147, Range 32; Township 148, Range 32; Sections 1 and 2 and the west 1/2 of Section 11, Township 146, Range 33; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 23, 24, 25, 35, and 36, Township 147, Range 33; all of Township 148, Range 33; all west of the 5th Principal Meridian.

Crow Wing State Forest: Fractional Townships 134, 135 and 136, and full Townships 137, all in Range 27; Townships 134, 135, 136 and 137, Range 28; the east 1/2 of Townships 134, 135 and 136, Range 29, West of the 5th Principal Meridian.

Mille Lacs State Forest: That portion of Township 42, Range 26, lying west of Highway No. 169; the west 2/5 of Township 45, Range 26; Townships 42, 44 and 45, Range 27; Townships 42, 43, and 44, Range 28, all west of the 4th Principal Meridian.

Mississippi Headwaters State Forest: The north 1/2 and Sections 16, 17, 18, 19, 20, 21, 29 and 30 of Township 146, Range 34; Township 147, Range 34 except Sections 1, 2, 3, 4, 5 and 6; the west 1/2 and Sections 2, 3, 10 and 11, Township 145, Range 35; all of Township 146, Range 35, except Sections 3, 4, 5, and 6; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 24, 25, 35 and 36, Township 147, Range 35; Sections 19, 20, 21, 22 and the south 1/2 of Township 148, Range 35; Sections 1, 12, 13, 24, 25 and 36, Township 145, Range 36; Sections 12, 13, 24, 25 and 36, Township 146, Range 36; all west of the 5th Principal Meridian.

Nemadji State Forest: Townships 44, 45 and 46, Range 15; the south 1/2 of Township 47, Range 15; Townships 44, 45 and 46, Range 16; the south 1/2 of Township 47, Range 16; Townships 44, 45 and 46, Range 17; Sections 1, 12, 13, 24, 25 and 36 in Townships 44, 45 and 46, Range 18; all west of the 4th Principal Meridian.

Northwest Angle State Forest: Townships 166, 167 and 168, Range 33; Townships 166, 167 and 168, Range 34; Townships 165, 166, 167 and 168, Range 35, all west of the Fifth Principal Meridian. Provided, however, that no game refuge shall be established in such Northwest Angle State Forest other

than by petition of three-fourths of the persons owning land and residing therein addressed to the commissioner of conservation and the procedure to establish such refuge shall be in accordance with Mason's Minnesota Statutes of 1927, Section 5610. Provided, further, that the division of forestry of the department of conservation shall be authorized to charge a fee not to exceed the sum of ten dollars of each hunter seeking admission into such state forest for the purpose of hunting big game therein.

Paul Bunyan State Forest: West 1/2 of Section 2, all of Sections 3, 4, 5, 6, 7 and 8, Township 141, Range 32; Township 142, Range 32; Sections 7, 18 and 19, Township 143, Range 32; Sections 1, 2, 3, 4, 9, 10, 11 and 12, Township 141, Range 33; Township 142, Range 33 except Sections 19, 20, 29, 30, 31 and 32; Township 143, Range 33; Sections 28, 29, 30, 31, 32, 33 and 34, Township 144, Range 33; Townships 143 and 144, Range 34; all west of the 5th Principal Meridian.

Pillsbury State Forest: That portion of Township 133, Range 29, lying north of the Northern Pacific Railroad in Cass County; that portion of Township 133, Range 30, lying north of the Northern Pacific Railroad; the west 1/2 of Township 134, Range 29; all of Township 134, Range 30; all west of the 5th Principal Meridian.

Rum River State Forest: The west 2/3 of Township 40, Range 25; Townships 41 and 42, Range 25; the east 1/3 of Township 40, Range 26, all west of the 4th Principal Meridian.

Smoky Hills State Forest: Sections 5, 6, 7 and 8, Township 140, Range 36; Township 141, Range 36; the north 5/6 of Township 139, Range 37; Township 140, Range 37 except Sections 3, 4, 5, 6, 10, 11, 12, 13, and 14; the east one sixth of Township 141, Range 37; Township 140, Range 38; the west 2/3 of Township 141, Range 38; all west of the 5th Principal Meridian.

Waskish State Forest: Townships 153 and 154, Range 29; the east 5/6 of Township 153, Range 30; the south 1/2 of Township 154, Range 30, and Lots 2, 3, and 4 of Section 8; the S 1/2 of the NW 1/4, and the SW 1/4 of Section 9, NW 1/4 of Section 16, all of Section 17, all in Township 154, Range 30; all west of the 5th Principal Meridian.

Blackduck State Forest: Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, and 18 in Township 149, Range 31; the west 2/3 of Township 150, Range 31; Sections 27 to 34, inclusive, Township 151, Range 31; Township 149, Range 32; all of Township 150, Range 32; and all of Township 151, Range 32, lying south and east of the reservation line.

Additions to present State Forests:

Foothills State Forest: The south 2/3 and Sections 1, 2, 3, 10, 11 and 12 of Township 139, Range 32; Township 138, Range 33; that portion of Township 139, Range 33, lying south of the highway and east of the Crow Wing River; the east 1/2 of Township 138, Range 34; all west of the 5th Principal Meridian.

Land O'Lakes State Forest: Townships 139 and 140, Range 25; all west of the 5th Principal Meridian.

White Earth State Forest: All that portion of Sections 4, 5 and 6, Township 144, Range 38 not previously included in the Forest; all that portion of the west 1/2 of Township 145, Range 38, lying south of the Wild Rice River; the east 1/3 of Township 145, Range 39; all west of the 5th Principal Meridian. (Act Apr. 29, 1935, c. 372, §1.)

The last three paragraphs of this section, under the heading: "Additions to present State Forests," seem to be impliedly repealed by the later act of Jan. 24, 1936, Ex. Ses. c. 75, §1, set forth, ante, as §4031-10 3/4, purporting to restate the boundaries of the three state forests to which the additions are made by this section.

4031-10 3/4 i. Lands not to be acquired unless indebtedness is paid.—Provided, however, that no land shall be acquired under the provisions of this act or

any existing law unless the pro rata share of all outstanding indebtedness for which such lands are chargeable in whole or in part shall be paid to the county treasurer of the county wherein such lands are situated; and provided further that the state shall not purchase any lands within any school district or township in any state forest, except for administrative purposes, where the pro rata share of the outstanding public indebtedness chargeable against such lands exceeds 60 cents per acre. (Act Apr. 29, 1935, c. 372, § 2.)

4031-11. Cooperation with state highway, etc.

The "fire fund" cannot be used for any other purpose. Op. Atty. Gen., Apr. 24, 1930.
Statutory provisions which permit forestry department to recover for extinguishing fires does not permit the enforcement of such a claim against the state or a political subdivision thereof, though it would be legal for county to recognize a claim for extinguishing a fire which was destroying a road. Op. Atty. Gen., June 16, 1931.

Forester cannot force towns to pay forestry department for the cost of disposing of slashings left along town roads. Op. Atty. Gen., June 16, 1931.

Town board may not transfer money from fire fund to any other fund. Op. Atty. Gen., Feb. 27, 1933.

It is discretionary with town board whether fire wardens be paid by the month or on the basis of the reasonable value of their services for the time actually spent in fighting fires. Op. Atty. Gen., Mar. 23, 1933.

Fire warden may exclude all persons from fire area, including owner of land. Op. Atty. Gen., Sept. 26, 1933.

Towns, villages and cities in the southern portion of the state may use their funds for fire fighting either independently or under the jurisdiction of forest service. Op. Atty. Gen. (476b-1), June 14, 1934.

In cases where township has no fire fund money may be taken from general fund or road and bridge fund for fighting forest fire. Id.

Town board may not employ fire wardens and pay their salaries out of general town funds, but fire protection must be provided only under provisions of §1027-1, §4031-11. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

A village has no power to levy a special tax for fire equipment except as authorized by this section. Op. Atty. Gen. (481b-7), Jan. 5, 1935.

Department of conservation should first get proper permission from local authorities before proceeding to clear right of way or develop road bed in connection with emergency conservation work. Op. Atty. Gen. (377a-4), Aug. 26, 1935.

Town may appropriate money to co-operative telephone company if necessary for fire prevention. Op. Atty. Gen. (916b), Feb. 21, 1936.

4031-11½. Conservation commission may clean up road sides.—That all highways, roads and trails within forest areas are declared to be established fire breaks, and for that purpose the State of Minnesota, through the Division of Forestry, Department of Conservation, is authorized to clean up all dead and/or down timber, all underbrush, rotting logs, and stumps, and all other inflammable refuse and debris along each side of such highways, roads and trails, for a distance of two hundred feet on each side from the center thereof, all of such material as above stated to be burned or disposed of under the supervision of a forestry officer in such manner as not to injure the growing timber.

That all dead and usable timber taken out of such road sides shall be piled for the immediate removal thereof by the owners of the land from which the same was removed. (Act Apr. 17, 1933, c. 320, §1; Mar. 25, 1937, c. 113, §1.)

Preamble.—"Whereas, it is the established policy of the State of Minnesota to develop and conserve forests, and

Whereas, it is desirable and necessary in meeting the exigencies of recent Federal legislation as well as in following out the established state program to provide adequate means of controlling the spread of fires within the forest areas of this state, and

Whereas, it is within the police powers reserved in the state to enact necessary and adequate laws to protect the forests of this state, and

Whereas, adequate fire breaks are a prerequisite to the perpetuation and protection of forest areas and an asset to the beautification of highways, roads and trails.

Now, Therefore, in view of the above stated, it is declared that there is sufficient need for calling upon the use of the police powers reserved in the State of Minnesota, and it is enacted." (Preamble to Act Apr. 17, 1933, c. 320, §1, as amended by Act Mar. 25, 1937, c. 113, §2.)

Sec. 2 of Act Apr. 17, 1933, cited, provides that the act shall take effect from its passage and repeals all laws in conflict.

4031-11½a. May permit removal of dead and down timber, etc.—The Director of the Division of Forestry may permit under his direct supervision and control, any Civilian Conservation Corps, Works Progress Administration, or other State or Federal relief agency, actually engaged in the improvement and conservation of State Trust fund lands within the boundaries of any state forest, to clean up and remove all dead and/or down timber, underbrush, rotting logs, stumps, and all other inflammable refuse and debris which is deemed to be a fire hazard or the removal of any trees in forest stand improvement and cultural operations which is advisable in the interest of good forest management; and to use so much of said cuttings for firewood and other forest development needs while said camps are thus actively engaged in the improvement and care of said forests. (Added to Act Apr. 17, 1933, c. 320, §1 by Act Mar. 25, 1937, c. 113, §2.)

Section 2 of Act Mar. 25, 1937, cited, provides: "That this law is to take effect from and after the date of its passage and all laws in conflict herewith are, for the purpose of this Act, hereby declared repealed."

4031-14a. May acquire lands for fire protection.—Sec. 1. That the Director of the Division of forestry, department of conservation, be and he hereby is authorized, on behalf of the State of Minnesota, to accept as gifts to the state the title to any tract of land, not exceeding forty acres in area, or to accept any easement in or upon any tract of land, which he deems necessary or convenient for the use of the state as locations for watch towers, warehouses or other buildings of any kind, or as locations for firebreaks, or for any other use in connection with his duties as Director of the Division of forestry. ('27, c. 329, §1; Apr. 17, 1929, c. 220, §1; Apr. 17, 1933, c. 302, §1.)

4031-14b. May acquire site for towers.—Sec. 2. That said Director of the Division of forestry, department of conservation, is also authorized, on behalf of the State of Minnesota, to purchase small tracts or parcels of lands not exceeding 40 acres in area, nor costing more than \$400 for any single tract, to be used as locations for watch towers, warehouses, or other buildings of any kind, or as locations for firebreaks, or for any other use in connection with his duties as Director of the Division of forestry—also to acquire by condemnation any tract of land not exceeding 40 acres for said purposes; also to acquire by gift, purchase, or condemnation any easement or right of way that may be necessary to provide access to any tract of land acquired under this Act. ('27, c. 329, §2; Apr. 17, 1929, c. 220, §2; Apr. 17, 1933, c. 302, §2; Apr. 29, 1935, c. 332.)

4031-18. Notices of cutting of timber, etc.

A justice of the peace, where the prescribed punishment is in the alternative as between a fine or jail sentence, may impose a straight jail sentence without the option of a fine, but where a defendant is sentenced to pay a fine and an alternative jail sentence is imposed in default of payment of the fine, the commitment should so state because the defendant is entitled to pay his fine to the sheriff any time after he is committed, and thereupon be released. Op. Atty. Gen., Feb. 28, 1931.

4031-19. Forester may require slashings and debris to be disposed of.—Where and whenever in the judgment of the forester or any district ranger there is or may be danger of starting and spreading of fires from slashings and debris from the cutting of timber of any kind and for any purpose, or from any accumulation of sawdust, shavings, chips bark, edgings, slabs, or other inflammable refuse from the manufacture of lumber or other timber products, the forester or district ranger shall order the person by or for whom the said timber or timber products have been or are being cut or manufactured to dispose of such slashings, debris, or refuse as said state employe may direct. Where conditions do not permit the burning of the slashings, debris or refuse over the entire area so covered, the forester may require such person to dispose of the same in such a way as to establish a safe fire line around the area requiring such protection, the said fire line to be of a width and of a character satis-

factory to the forester, or otherwise to dispose of the same so as to eliminate the fire hazard therefrom.

When any person who has been directed by the forester or district rangers to dispose of such slashings, debris, or refuse fails to comply with such directions, the said person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution; and each day during which such failure to comply with said requirements of the forester continues shall be deemed a separate and distinct violation of this act, but any number of such offenses may be prosecuted as separate counts of one charge or information.

When any such slashings, debris, or refuse are not disposed of or are left unattended, contrary to the instructions of the forester or district ranger, the forester or any district ranger or patrolman may go upon the premises with such force of men as may be necessary and burn or otherwise dispose of the same, and the expense thereof shall be a lien upon the land on which they are situated and upon all contiguous lands of the same owner, and also upon all logs and other timber products cut or manufactured upon all said lands. Such lien shall have the same effect and may be enforced in the same manner as a judgment in favor of the state for money. An itemized statement verified by the oath of the forester or district ranger of the amount of such costs and expenses incurred in burning or otherwise disposing of such slashings, debris, or refuse shall be filed, within ninety days from the time said disposal thereof is completed, in the office of the register of deeds of the county in which said timber or timber products were cut or manufactured; and the amount of such lien shall also be a valid claim that may be collected in a civil action from the person who cut or manufactured the wood, timber, or timber products from which the said slashings, debris, or refuse were produced. Any moneys so collected shall be paid into the state treasury and credited to the forest service fund.

Any person who cuts or fells trees or bushes of any kind in clearing land for any road bed or right-of-way for any railroad, highway or trail shall in the manner and at the time as above prescribed burn the slashings and all combustible material, except fuel and merchantable timber which shall be promptly removed.

Any person who cuts or fells trees or bushes of any kind in clearing land for any purpose is hereby prohibited from setting fire to the slashings, brush, roots, or excavated stumps or other combustible material on such land and letting the fire run; but the same must be disposed of pursuant to the regulations or directions of the forester.

Any contractor who enters into a contract for the construction of a public road or other work, which involves the cutting or grubbing of woods, standing timber, or brush, shall pile in the middle of the right-of-way all the slashings and debris so cut or grubbed therefrom and shall burn and dispose of such slashings and debris without damage to adjoining timber or woods, which burning shall be done in a manner and at a time satisfactory to the forester; provided, however, that the foregoing provision shall not prevent the leaving of such trees along roads as will be useful for ornamental and shade purposes, and which will not interfere with travel.

Every contract made by or on behalf of any municipality or political subdivision of this state, which involves the cutting of any timber on the right-of-way of a public highway, shall provide in terms for compliance with the foregoing provisions, but that the failure to include such provision in the contract shall not relieve said contractor from the duty to burn and dispose of said slashings as aforesaid.

In all cases not herein provided for, where timber is cut in, upon or adjoining any forest land and no specific directions are given by the forester or district ranger for the disposal of slashings and debris resulting therefrom, all such slashings and debris within two hundred feet of any adjoining timber land or (and) any public highway, railroad, portage, or lake shore, shall nevertheless be piled in separate and compact piles ready for burning, which piling shall be done by the person by or for whom such timber was cut within fifteen days after such timber was cut, and such person shall thereafter make such further disposition of such slashings and debris as the forester or district ranger may direct.

No sawdust, shavings, chips, bark, edgings, slabs, or other inflammable refuse from the manufacture of lumber or other timber products shall be made or deposited upon any public highway, portage, railroad, or lake shore, or within one hundred feet thereof. ('11, c. 125, §§15, 16; '13, c. 159, §§4, 5; G. S. '13, §§3797, 3798; G. S. '23, §§4015, 4016; '25, c. 407, §19; Apr. 24, 1929, c. 360.)

Forester cannot force towns to pay forestry department for the cost of disposing of slashings left along town roads. Op. Atty. Gen., June 16, 1931.

Removal of trespasser's shack constituting fire hazard to state forest lands was proper, whereabouts of trespasser being unknown. Op. Atty. Gen., Jan. 17, 1934.

4031-21. Fires to be extinguished before leaving.

—Every person who, when the ground is not covered with snow, starts a fire in the vicinity of forest or prairie land shall exercise every reasonable precaution to prevent such fire from spreading, and shall, before lighting the same, clear the ground of all branches, brushwood, dry leaves and other combustible material within a radius of five feet from the fire and shall keep such fire under his immediate personal supervision and control at all times, and shall carefully extinguish the fire before quitting the place. ('11, c. 125, §21; G. S. '13, §3803; G. S. '23, §4021; '25, c. 407, §21; Apr. 19, 1929, c. 261, §1.)

Burden of proof in action for damages. Questions for jury. 178M271, 226NW932.

4031-22. Starting fires—Where unlawful without permission—Fire breaks—Reports of fires.

This act does not offend the equality provisions of the Constitution. 176M472, 223NW912.

Expense of extinguishing fires in townships outside of designated ranger districts cannot be charged in any manner against land until after a judicial determination has definitely established persons' negligence. Op. Atty. Gen., Nov. 13, 1933.

There is no authority for local warden to make charge for issuing burning permits. Op. Atty. Gen. (202), May 17, 1934.

4031-23. Permission to start fires.

This act does not offend the equality provisions of the Constitution. 176M472, 223NW912.

4031-25. Neglect or refusal to perform duty—

penalty.—Every forestry employe of the state who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest, brush or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stumps, dry grass, field stubble, or other material and fail to extinguish the same before it has endangered the property of another, every person who shall negligently or carelessly set on fire or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, upon any such land or in the vicinity thereof, or on or along any public or private road, trail, path, railroad right of way or road bed, or other public or private way of any kind running over or along or in the vicinity of any such land, shall throw or drop any burning match, ashes of pipe, lighted cigar, or cigarette, or any other burning substance, and who

fails to extinguish the same immediately; every person who drives upon or over forest lands in a motor vehicle with an open cutout or without a muffler on the exhaust pipe; and every person who shall deface, destroy, or remove any notice posted under this act; shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days and not exceeding ninety days. ('11, c. 125, §18; G. S. '13, §3800; G. S. '23, §4018; '25, c. 407, §25; Apr. 19, 1929, c. 261, §2.)

Section applied to fire started by owner on premises where no effort was made to extinguish it except by trenching around fire. Op. Atty. Gen., Aug. 15, 1933.

4031-27. Locomotive ash pans and spark arresters.
—Subsection (1) * * *

(a) Except when the ash pan is being cleaned, the hopper opening for removal of cinders on ash pans constructed with hoppers shall be kept closed while the engine is in use by a cast slide supported by cast guides; and there shall be no opening greater than 5/16 of an inch between the slide and hopper; or such openings in hoppers for removal of cinders may be closed by what is known as the "radial type of hopper bottom," the general design of which shall be improved in writing by the forester. (As amended Apr. 20, 1931, c. 266, §1.)

(c) Openings in ash pans of draught purposes shall be protected by screens bolted firmly and securely over such openings, or by the use of deflector plates in place of screens, provided that any deflector plate used for such purpose shall extend above or below (as the case may be) the opening to be protected a distance at least equal to the width of such opening, and provided further, that any such deflector plate so used shall be closed in at each end thereof. All screens so used and the bolting in place thereof shall conform to the specifications for spark arrestors, as contained in this act. (As amended by Laws 1929, c. 349, which was amended Apr. 20, 1931, c. 266, §2.)

(d) On locomotive engines where there is an opening between ash pan and the foundation ring, protection shall be furnished by flaring the ash pan and bringing the flare up level with the bottom of the foundation ring, and the opening between the bottom of the foundation ring and flare of pan, measured horizontally, shall not be greater than eight (8) inches at any point, provided, however, that for any distance the flare of pan extends above the bottom of foundation ring, the flare may be extended out horizontally an equal distance in excess of eight (8) inches. Or such opening between ash pan and foundation ring may be protected by deflector plates, provided that any deflector plates used for such purposes shall extend above or below (as the case may be) the opening to be protected a distance at least equal to the width of such opening, and provided further that any such deflector plate so used shall be closed in at each end thereof. (As amended by Laws 1929, c. 349, §2., which was amended Apr. 20, 1931, c. 266, §3.)

(e) Openings in ash pans for entry of grate connections must be fully protected; and the openings around the rods where they enter the ash pan must not be greater than 5/16 of an inch in width, or the grate connections outside the ash pan must be boxed in for their full length so that no sparks or cinders can possibly escape. (As amended Apr. 20, 1931, c. 266, §4.)

(f) Plates and angle irons used in ash pans, including all fire protective devices attached thereto, shall not be less than one-fourth of an inch in thickness, and the ash pans, including all fire protective devices attached thereto, shall be so constructed, and maintained in such condition, that there shall be no opening in excess of five-sixteenths (5/16) of an inch in width.

Material used in construction or repair of ash pans shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos, or other material or substance other than iron and/or steel shall be applied to, laid on, attached to or used in any way in connection with or made a part of ash pans.

From and after May 1, 1933, the spacing of bolts, rivets, studs and other fastening devices in sheet iron and steel plates whether fastened to other plates, castings, forgings or other parts when used in the construction or repair of ash pans and all fire protective appliances attached thereto, shall not be greater than three and three-fourths (3 3/4) inches center to center.

The spacing of bolts, rivets, studs and other fastening devices in castings, used in the construction of ash pans and all fire protective appliances attached thereto, shall be such as to hold the casting securely in place. (As amended by Laws 1929, c. 349, §3, which was amended Apr. 20, 1931, c. 266, §5.)

(g) Such ash pans shall be equipped with swipes, injector overflow or other sprinkling devices, and ashes and coals therein shall be kept extinguished and dampened at all times between April 15 and October 31, both dates inclusive, of each year, and during such additional period, in any particular territory, as may be specified in writing by the forester. (As amended Apr. 20, 1931, c. 266, §6.)

(h) Spark arrestor screens shall be either square mesh wire screen or oblong mesh wire screen or perforated plate, and shall conform to the following specifications:

SQUARE MESH WIRE SCREEN		
Mesh per lineal inch in either direction	Least diameter of wire when new	Condemning limit of opening in mesh in either direction
2 1/4 by 2 1/4	0.134 inch	19/64 inch
2 1/2 by 2 1/2	0.134 "	19/64 "
3 by 3	0.105 "	17/64 "
4 by 4	0.092 "	0.204 "
5 by 5	0.072 "	0.164 "
6 by 6	0.063 "	0.1355 "
7 by 7	0.063 "	0.1115 "

Fractional mesh shall not be used except as above specified.

OBLONG MESH WIRE SCREENS		
Size of opening in mesh	Least diameter of wire when new	Condemning limit of opening in mesh
3/16 by 1/4 inch	0.134 inch	1/4 by 13/16 inch
1/2 by 1/4 inch	0.134 "	3/16 by 13/16 "

The openings in perforated plates when new shall be oblong, not exceeding 3/16 of an inch in width nor 3/4 of an inch in length, and there shall not be less than 1/2 of an inch in width of plate between the meshes, and such plate shall not be less than 0.085 of an inch in thickness. The condemning limit of the openings in perforated plate shall be 1/4 of an inch in width and 13/16 of an inch in length. (As amended Apr. 20, 1931, c. 266, §7.)

(k) Plates used in the construction or repair of spark arrestors wherever attached, shall not be less than three-sixteenths (3/16) of an inch in thickness.

From and after May 1, 1931, angle irons used in spark arrestors shall be of sections in size not less than one-fourth of an inch by two inches by two inches (1/4"x2"x2"), on all locomotive engines unless otherwise authorized in writing by the forester. The spacing of rivets, bolts, studs and other fastening devices used in spark arrestors shall not be greater than set forth in the following specifications.

- Fastening screens—3 1/2 inches center to center.
- Fastening angle irons to smoke arch—8 inches center to center.
- Fastening plates—5 inches center to center.
- Fastening angle irons to flue sheet—8 inches center to center.

Material used in the construction or repair of spark arrestors shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos, or other material or substance other than iron and/or steel shall be applied to, laid on, attached to or used in any way in connection with or made a part of spark arrestors except upon written approval of the forester. No opening anywhere in the spark arrestor device, other than the openings herein specified for wire screen and perforated plate, shall be larger than one-fourth ($\frac{1}{4}$) of an inch in width. (As amended Apr. 24, 1929, c. 349, §4.)

(I) Devices and appliances differing from those specified in this subsection may be used for experimental purposes only by written permission of the commissioner of forestry and fire prevention during such limited periods and upon such terms and conditions as he may prescribe. Such written permission shall be subject to revocation by the commissioner at any time, and such experimental devices or appliances shall not be permanently adopted unless authorized by law. (Laws 1929, c. 349, §8(1)(1), added Apr. 20, 1931, c. 266, §8.)

Subsection (3) (a) The master mechanic or corresponding employe shall be held responsible for the good condition of the ash pan and spark arrestor device, but without relieving the person owning or operating such locomotive engine from his responsibility hereunder. The word person in the subsection shall not be construed to mean engine crew.

(b) Any locomotive inspector appointed by the forester, is authorized to inspect any locomotive engine operated in the vicinity of forest, brush, peat or grass lands, and to enter upon any property for such purpose whenever he may deem it necessary in order to see that all the provisions of this act and of other acts relating to the subject matter hereof are duly complied with. Such inspector shall have access to the records of every person operating a railroad for any purpose, and authority to make copies thereof, showing the locations and movements of all locomotive engines within this state, and is authorized to use such methods as he may deem advisable in making up his records and substantiating his findings. No locomotive shall be operated in the vicinity of forest, brush, peat or grass lands after being found defective by such inspector and after notice of such condition has been given to the person in charge thereof, until the repairs specified by the inspector have been made, except where locomotive is found defective on line it may proceed to the first terminal or point where repairs can be made.

(c) Any violation of the provisions of this subsection shall be a gross misdemeanor; provided, that the provisions of this subsection shall not relieve anyone from any duty or liability under any provision of this act or any other statute. (As amended Apr. 20, 1931, c. 266, §10.)

Subsection (6) * * * *

(d) No donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler shall be operated in vicinity of forest, brush, peat or grass lands and no gas tractor or internal combustion engine shall be operated in the vicinity of peat roads or loose peat lands, after being found defective by such inspector and after notice of such condition has been given the person in charge thereof, until the repairs specified by the inspector have been made. Any violation of the provisions of this paragraph shall be a gross misdemeanor; provided, that the provisions of this paragraph shall not relieve anyone of any duty or liability under any other provisions of this act or any other statute. (As Amended Apr. 20, 1931, c. 266, §11.)

Subsection (9) Any person operating a railroad for any purpose shall make written report to the commissioner of forestry and fire prevention, in such form as the commissioner may prescribe, covering each fire in the open on or adjacent to the right of way of such railroad—within one week after the occurrence of such fire, unless such time shall be extended by written permission of the commissioner; provided, that the provisions of this subsection shall not be construed to relieve any person from duty or reporting such fire as required by any other law. (As amended Apr. 20, 1931, c. 266, §9.)

* * * *

4031-28. Violations of law—Penalty.

This act does not offend the equality provisions of the Constitution. 176M472, 223NW912.

Evidence held to sustain finding that fire destroying automobile was caused by hot furnace debris negligently deposited by defendant on adjoining property, and then negligently allowed to escape to property on which automobile was parked. *Hammerstad v. A.*, 196M561, 265NW 433. See Dun. Dig. 3764.

4031-30. Appeals in prosecutions—etc.

In a criminal prosecution before a justice of the peace or in municipal court in a misdemeanor case, a forest ranger or patrolman may assist in presenting the evidence in behalf of the state by examination of the witnesses. Op. Atty. Gen., May 27, 1931.

4031-34. Partial invalidity of law.

Defendant can attack the validity of only those provisions of the act which affect him. 176M472, 223NW 912.

4031-34a. Director of division of forestry may close roads and trails in forest areas.—Whenever the Director of the Division of Forestry, Department of Conservation, shall determine that conditions conducive to forest fire hazards exist in the forest areas of the state as defined by the Forestry act and that the presence of persons in the forest areas tend to aggravate such forest fire hazards, render forest trails impassible by driving thereon during wet seasons and hamper the effective enforcement of state timber trespass and game laws, he may by written order with the approval of the Commissioner of Conservation close any road or trail which may have been constructed by the Division of Forestry, Department of Conservation, over tax delinquent land or state trust fund lands or where easements granting such authority have been obtained, on privately owned lands. Provided further that any of the above roads and trails may not be legalized as township or country roads except as provided in Section 7, Chapter 263, Laws 1931 [§6513-7]. (Mar. 25, 1937, c. 114 §1.)

WHITE-PINE BLISTER-RUST

4031-35½. Definitions.—That for the purpose of this act the following words, names and terms shall be construed respectively, to mean:

(a) Commissioner: The commissioner of forestry and fire prevention.

(b) Cultivated black currants: Plants, roots, cuttings or scions of *Ribes nigrum* L.

(c) Currants and Gooseberries: Plants, roots, cuttings of scions belonging to the genera *Ribes* L. and *Grossularia* (Tourn.) Mill.

(d) Blister-rust control area: An area established by state authority wherein the planting or possession of currant and gooseberry plants is prohibited for the purpose of protecting the white pines on such area from damage by white-pine blister-rust.

(e) White-pine: Plants of any species belonging to the genus *Pinus* which bear their needles in clusters of five.

(f) White-pine blister rust: The fungus disease caused by *Cronartium ribicola* Fischer. (Act Apr. 17, 1929, c. 218, §1.)

4031-35½a. Certain diseases declared pests.—The fungus disease commonly known as the white-pine blister-rust, *Cronartium ribicola* Fischer is hereby declared to be a dangerous forest pest in all its stages; and it shall be the duty of the commissioner of the

forestry and fire prevention to prosecute the measures hereinafter specified for the control of this pest. (Act Apr. 17, 1929, c. 218, §2.)

4031-35 ½ b. Diseased plants may be destroyed.—Any white-pines or currants or gooseberries within the state which are found to be infected with white-pine blister-rust are hereby declared a public menace, and any such diseased plants and any and all wild plants of the genera Ribes and Grossularia, may be destroyed forthwith by order of the commissioner or his agents. Any currants, gooseberries or white-pines not infected with white-pine blister-rust may be destroyed by the commissioner or his agents where necessary for carrying out the purposes of this act. (Act Apr. 17, 1929, c. 218, §3.)

4031-35 ½ c. Commissioner of Forestry to promulgate information.—The commissioner is hereby authorized and empowered to promulgate by letter, publication, poster or other means, information concerning the white-pine blister-rust and to designate by the aforesaid means of promulgations blister-rust control areas within the state in which control measures are necessary or advisable. It shall be the duty of every land owner within such designated area, to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all wild cultivated currants and gooseberries or white-pines and no currants or gooseberries shall be planted within such blister-rust control area without written permission from the commissioner. If the owner fails to destroy the above named plants within the time specified by the commissioner, the commissioner shall cause said plants to be destroyed and the expense thereof shall be a lien upon the owners land. Such lien shall have the same effect and may be collected in the same manner as taxes on such land. Any moneys so collected shall be paid into the state treasury and credited to the fund provided for this work. (Act Apr. 17, 1929, c. 218, §4.)

4031-35 ½ d. Owners may be reimbursed for plants not infected.—If currants, gooseberries or white-pines, which are not infected with white-pine blister-rust, are destroyed by the specific order of the commissioner or his agents, the owner may be compensated therefore, the damages to be assessed by the commissioner or his agent at and not to exceed the actual value of the material destroyed and paid to said owner by the state treasurer upon authorization of the commissioner, provided that any and all wild currants and gooseberries are hereby declared noxious weeds and no compensation shall be paid therefor. (Act Apr. 17, 1929, c. 217, §5.)

4031-35 ½ e. Commissioner and agents may enter private and public lands.—The commissioner and his agents shall have the right to enter upon any private or public lands to determine the presence or absence of the white-pine blister-rust in any of its stages and to carry out measures for its control. (Act Apr. 17, 1929, c. 218, §6.)

4031-35 ½ f. Commissioner may cooperate with Federal Government.—The commissioner may cooperate with the departments of the federal government, the state department of agriculture, the agricultural experiment station and with counties, townships, associations and individuals (in the state generally) for the suppression and control of white-pine blister-rust and for carrying out such investigations of the disease and its control as are deemed advisable by the commissioner. (Act Apr. 17, 1929, c. 218, §7.)

4031-35 ½ g. State inspector of nurseries to have same powers as commissioner.—The state inspector of nurseries and his agents, under direction of the commissioner of agriculture, shall have the same power and duties for suppression and control of the white-pine blister-rust on land within or contiguous to any nursery in the state as is vested in the commissioner and his agents. The expenses necessary for carrying out

Section 9 [§4031-35 ½ h] of this act shall be paid from the appropriation for nursery inspection or other funds of the department of agriculture. (Act Apr. 17, 1929, c. 218, §8.)

4031-35 ½ h. Inspection to regulate importation or exportation.—The state inspector of nurseries is hereby authorized and empowered to prohibit and prevent or regulate the entry into or movement within the state from any part thereof to any other part of any white-pines or any plants of the genera Ribes or Grossularia when such plants are to be shipped into blister-rust control areas, and may be enforced in like manner to that prescribed in Section 2, Chapter 198, Session Laws 1927. (Act Apr. 17, 1929, c. 218, §9.)
The reference "Section 2, Chapter 198, Session Laws 1927" seems to be an error in enactment.

4031-35 ½ i. Violation a misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 218, §10.)

FISHING RESTRICTIONS

4031-35 ½ j. Fishing for brook trout in certain seasons.—(a) Whenever after investigation the commissioner of forestry and fire prevention shall determine that conditions conducive to forest fire hazards exist at any place in the forest areas of the state as defined by the forestry act in the vicinity of any waters frequented by persons taking or attempting to take brook trout and that the presence of persons attracted by the opportunities for taking brook trout in such vicinity tends to aggravate such fire hazards, he may by written order, with the approval of the commissioner of game and fish, prohibit or restrict, upon such conditions as he may prescribe, the taking of brook trout in such waters during such period in any year as he may deem necessary for the purpose of reducing such fire hazards.

(b) Every such order, together with the written approval of the commissioner of game and fish appended thereto, shall be filed in the office of the commissioner of forestry and fire prevention, and a duplicate thereof shall be filed in the office of the commissioner of game and fish. The commissioner of forestry and fire prevention shall cause a copy of such order and approval to be published at least once in a qualified legal newspaper published at the county seat, of each county affected by such order, or in some other legal newspaper of the county, if there be none published at the county seat, and such order shall take effect and be in force in each such county from and after the date of such publication therein.

(c) After the taking effect of any such order it shall be unlawful to take or attempt to take brook trout in violation thereof, and any person who shall do so shall be guilty of a misdemeanor.

(d) Any such order may be modified or rescinded at any time. (Act Apr. 25, 1931, c. 372, §1.)

4031-35 ½ k. Acts modified.—All acts and parts of acts inconsistent herewith are hereby superseded, modified, and amended so far as may be necessary to give full force and effect to the provisions of this act. Otherwise this act shall not be deemed to supersede or repeal any existing act relating to the taking of brook trout, but shall be construed as supplementary thereto. No act relating to the taking of brook trout hereafter enacted shall be construed as inconsistent herewith unless it is expressly provided therein that this act shall be superseded, amended, modified, or repealed in whole or in part, or unless such future act shall specifically relate to the subject matter of this act. (Act Apr. 25, 1931, c. 372, §2.)

AFFORESTATION AND REFORESTATION

4031-65. Rate of tax—Special taxes.—(a) From and after the filing of the contract creating any tract of land an auxiliary forest under this act the surface of the land therein (exclusive of merchantable timber thereon at the time of making such contract and of

mineral or any thing of value thereunder) shall be taxed annually at the rate of 5 cents per acre. Said tax shall be levied and collected and the payment thereof enforced in the same manner as other county taxes and shall be credited to the funds of the taxing districts affected in the proportions of their interests in the taxes on said land if it had not been so made an auxiliary forest. Failure to pay when due any tax so levied shall be cause for cancellation of the contract.

The levy upon the land of the taxes provided for by Section 4, Subdivision (e) [§4031-63(e)], thereof, upon the cancellation of a contract, shall discharge and annul all unpaid taxes levied or assessed under the provisions of this Subdivision.

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

(c) In addition to the foregoing taxes each auxiliary forest, except those in the nature of wood lots guarded or protected by resident owners or their tenants actually living on the land or immediately adjacent thereto, shall be assessed and shall pay a special state tax of three cents per acre annually for fire protection of such auxiliary forest. Such special tax shall be levied and collected in the same manner as other state taxes, shall be transmitted to and paid into the state treasury intact, and shall there constitute and be a special fund hereby created and designed as the "Auxiliary Forest Fire Fund." All moneys accruing to said fund are hereby appropriated for and made available to the commissioner for fire protection work and shall be used by the commissioner as far as practicable for patrol work and similar protective service pro rata in or about the auxiliary forests created under this act. Failure to pay said tax when due shall be cause for cancellation of the contract.

(d) In determining the assessed value of property within any taxing district the value of the surface of lands within any auxiliary forest therein as determined by the county board under the provisions of Section 3, Subdivision (c) [§4031-62(c)] of this act shall, for all purposes except the levying of taxes on lands within any such forest, be deemed the true and full value thereof. (27, c. 247, §6; Apr. 19, 1929, c. 245, §1.)

4031-73. Commissioner of forestry to establish nurseries.—That the commissioner of forestry and fire prevention, be, and he hereby is, authorized to establish, maintain and operate nurseries for the production of forest tree planting stock in this state. Such nurseries may be established at such place, as will in the judgment of said commissioner best promote the purpose of this act; but at no time shall any indebtedness be created hereunder beyond the limits of appropriations expressly provided and available at such time for such purpose. (Act Apr. 21, 1931, c. 281, §1.)

4031-74. Stock to be used on state lands.—Said commissioner may purchase or collect coniferous forest planting stock indigenous to Minnesota or grow the same; and shall supply the same for use on state owned land; but no such plantings shall be sold or given away. (Act Apr. 21, 1931, c. 281, §2.)

Sec. 3 of the act makes an appropriation for years ending June 30, 1932, and June 30, 1933.

Nursery stock can be supplied to Rural Credit Department for planting on rural credit lands, though such land may be later sold. Op. Atty. Gen. (2031-9), June 17, 1936.

4031-75. State reforestation projects established.—For the purpose of vesting and revesting the state with title to lands suitable primarily for the development of

forests and prevention of forest fires, and for experimenting in and practically advancing afforestation and reforestation, and for the purpose of impounding, controlling and regulating the water of meandered lakes and the flow of natural streams of the state, and for the purpose of creating and establishing wild game and fishing reserves, or for either or any of such purposes, or for any other public state purpose, the board of county commissioners of any county within which such lands are located, and in which on January 1, 1933 the taxes on more than 25 per cent of the acreage of the lands in any townships in said county, as shown by the tax books thereof, are delinquent, and in which on January 1, 1933 the taxes or ditch assessments on more than 50 per cent of the acreage of the lands included in the area or project herein provided for, as shown by the tax books of said county, are delinquent, and of which on January 1, 1933 the bonded ditch indebtedness of any county wherein any of said lands are located equals or exceeds 15 per cent of the assessed value of the county for the year 1932 as fixed and determined by the Minnesota Tax Commission, exclusive of moneys and credits, may by resolution duly adopted, propose to the State of Minnesota that any "area in said county consisting of one or more townships, or part of any township, containing such lands be taken over by the state for afforestation, reforestation, flood control projects, wild game and fish reserves, or other public state purpose, to be managed, controlled and used for the development of forests and prevention of forest fires, and for the purpose of experimenting in and practically advancing afforestation, reforestation, or for the purpose of impounding, controlling and regulating the waters of meandered lakes and the flow of natural streams, or for the purpose of creating and establishing wild game and fishing reserves, or for either or any such purposes," or for any other public state purpose, on lands to be acquired by the state within such projects as hereinafter set forth. Each such area shall include lands which have been assessed for all or part of the cost of the establishment, construction or repair of public drainage ditches under the laws of this state, and on which such assessments or installments thereon are overdue, delinquent and unpaid. A duly certified copy of such resolutions of the county board shall be submitted to and filed with the Department of Conservation of the State of Minnesota, or such department as shall be established in lieu thereof, and considered and acted upon by that department; if approved by that department it shall then be submitted to, considered and acted upon by the Executive Council of the state, or such department as shall be established in lieu thereof, and if approved by that department such proposition shall be formally accepted by the Governor and his acceptance shall be communicated in writing to and filed with the county auditor of such county. State school, swamp, indemnity and institutional lands which have heretofore or shall hereafter be sold as provided by law, and for which certificates of sale have been issued at the time of the passage of said resolution by the county board, and all lands owned by the Rural Credit Bureau of said state, shall be considered taxable lands within the meaning of this section and if the taxes or ditch lien installments on such lands or the interest of the purchaser therein are delinquent, shall be considered lands on which the taxes are delinquent within the meaning of this section. (Act Apr. 22, 1933, c. 402, §1.)

Preamble.

Whereas, the laws of the State of Minnesota, in force prior to the year 1925, relating to public drainage ditches authorized the establishment of such ditches upon petitions signed by a small number of property owners, and upon hearings held thereon, the general tax payers were not adequately represented; and

Whereas, upon the establishment of each of such ditches it was found and determined by the constituted authorities that the establishment and construction thereof would be a public utility or benefit or would promote the public health; and

Whereas, under such laws it was mandatory upon the boards of county commissioners and other county officials to issue and sell the general obligation bonds of the county secured by the pledge of the full faith, credit and resources and unlimited taxing powers of such county to the extent necessary to pay the cost of establishment, construction and repair of such ditches; and

Whereas, pursuant to such laws certain counties have heretofore incurred obligations to finance and refinance the cost of the construction and repair of such ditches upon lands which it now appears were and are not now primarily suitable for agriculture, and the special assessment levied upon lands supposedly benefited by said ditches cannot be collected in a sum sufficient to pay such bonds, and the payment of such bonds by the use of the taxing powers of such counties would result in confiscatory rates to the extent that taxes so levied would not be paid; and

Whereas, default in the payment of such bonds by certain counties is imminent, and the general credit of the State of Minnesota and all its political subdivisions and municipal corporations is thereby damaged, resulting in greatly added interest charges on all public financing for many years to come; and

Whereas, certain lands in such counties will become available for state ownership by reason of delinquent tax liens thereon, and such lands are suitable for state ownership and administration for use as and for afforestation, reforestation, flood control projects, wild game and fish reserves, or other public state purposes, and will produce revenue to assist in relieving the tax burdens and preventing such bonds' default: (Preamble of Act Apr. 22, 1933, c. 402.)

4031-76. Definitions.—The word 'taxes' as used in this Act shall be held to include taxes of every kind, including special assessments of every kind. The word 'bonds' or 'bonded indebtedness' as used in this Act shall be held to include bonds and accumulated interest thereon of every nature issued to finance or refinance the construction, maintenance or repair of public drainage ditches. (Act Apr. 22, 1933, c. 402, §2.)

4031-77. Forest to be under management of department of conservation.—Each of such projects, so approved and accepted, shall be under the management and control of the Department of Conservation, which shall have and is hereby given full power and authority to make, establish, promulgate and enforce all necessary rules and regulations not inconsistent with the laws of this state for the care, preservation, protection and development of forests and for experimenting in and practically advancing afforestation and reforestation therein, and impounding, controlling and regulating the waters of meandered lakes and the flow of natural streams, or for other public state purposes, and for the prevention of forest fires therein, and for the sale of merchantable timber from lands acquired by the state therein when and where, in the opinion of such department, the same may be sold and removed without damage or injury to the purposes of such projects; provided, however, that no such rules or regulations shall in any manner interfere with, destroy or damage any private owned property without just compensation being made to the owner of such private property by purchase or in condemnation proceedings duly instituted pursuant to the laws of this state. Such rules and regulations may relate to the care, preservation, protection, breeding, propagation and disposition of any and all species of wild life therein and the regulation, issuance, sale and revocation of special licenses or special permits for hunting, fishing, camping or other uses of said areas not inconsistent with the terms of this Act, or of other laws of the state now or hereafter applicable thereto. The Department of Conservation may provide for the policing of each of such projects in such manner as may be needful for the proper development, use and protection thereof, and of its purpose, and all supervisors, guards, custodians and caretakers assigned to duty in any such project shall have and possess the authority and powers of peace officers while in its employment. All lands within the boundaries of such project shall be subject to such rules and regulations, whether owned by the state or privately, consistent with the constitutional rights of such private owners or with the laws of this state now or

hereafter applicable thereto; provided, however, that the department may exclude from the operation of any such rules or regulations any lands owned by private individuals, upon which taxes are delinquent for three years or less. All such rules and regulations shall be published once in the official newspaper of each county affected and shall take effect thirty day after such publication, and shall be, in addition thereto, posted on each of the four corners of each township of each project affected. In the management, operation and control of such areas as may be taken for afforestation, reforestation, flood control projects and wild game and fish reserves, nothing shall be done which will in any manner directly or indirectly obstruct or interfere with the operation of any ditches or drainage systems existing within such areas, nor shall anything be done which will in any manner directly or indirectly damage or destroy any of the existing roads or highways within said areas or projects, unless such ditches, drainage systems, roads or highways be first taken under the right of eminent domain and compensation made to the property owners and municipalities affected and damaged. Each such area or project shall contribute from the funds and moneys of the project, in proportion of the State Land within the project for the construction and maintenance of such roads and highways as may be necessary within such areas and projects in order to give the settlers therein and owners of privately owned lands within such areas access to their land. The Department of Conservation and its successors may construct and maintain such roads and highways within such areas and projects as it may deem necessary. (Act Apr. 22, 1933, c. 402, §3.)

4031-78. Proceeds to be paid into state treasury.—The proceeds of all certificates of indebtedness issued under the provisions of this Act, all moneys received from redemption as hereinafter provided, all moneys received as gifts to the state for the purpose of any such projects, and all income which may be received from the operation, development, management and use of such projects, including fees received from the sale of all birds, animals, fish and flora therefrom and the sale of all lands and timber thereon owned by the state within such area, other than University, school, swamp, indemnity or institutional lands, and state forests set apart pursuant to Article 8, Section 7, of the Constitution, and state lands acquired under the system of Rural Credits, and all moneys of the State which may hereafter be transferred thereto under any law of this State shall be paid into the State Treasury and credited to the project to which the same pertains and same are hereby annually appropriated for the purposes thereof; provided, that under the provisions of this act, the aggregate or total of all certificates of indebtedness issued shall not exceed the sum of Seven Hundred fifty Thousand Dollars. (\$75,000.00). (Act Apr. 22, 1933, c. 402, §4.)

4031-79. County auditors to certify tax delinquent lands.—As soon as practicable after the approval of and acceptance of any such project, the county auditor of each county in which the same is situated shall certify to the State Auditor a list of all lands within the boundaries of any such project, except lands lying within the boundaries of any incorporated city or village, upon which taxes are delinquent for three years or more, which have been bid in for the State at any delinquent tax sale heretofore or hereafter held in the nonpayment of taxes, and which have not been redeemed or assigned to any actual purchaser, and which certificates shall contain the following information:

- (A) The legal description of each parcel of such land.
- (B) The name and number of the ditch and the amount of the principal and interest of each delinquent drainage assessment as it appears on the tax

books of said county for all years prior to the date of such certificate against each such parcel of land, together with interest thereon at six per cent per annum since the due date of said installment.

And on or before the 15th day of June in each year thereafter such county auditor shall certify to the State Auditor a list of all lands within the boundaries of any such project, except lands lying within the boundaries of any incorporated city or village, and except lands which have been described in any previous certificate, and upon which taxes are delinquent for three years or more and which have been bid in for the state at any delinquent tax sale heretofore or hereafter held for the nonpayment of taxes, and which have not been redeemed or assigned to an actual purchaser and which certificate shall contain the following information:

(C) The legal description of each parcel of such land, contained in any prior certificate upon which all taxes have been redeemed.

(D) The legal description of each parcel of such lands which on May 14th of the year in which said certificate is furnished is delinquent for three years or more.

(E) The name and number of the ditch and the amount of the principal and interest of each delinquent ditch assessment installment as it appears on the tax books of said county for all years prior to the date of such certificate against each such parcel of land, together with interest thereon at the rate of six per cent per annum since the due date of each said installment; provided, however, that said certificate shall not contain the delinquent drainage assessment installments included in any certificate heretofore furnished.

Whenever the delinquent drainage assessment installment on any such parcel of land included in any such certificate of the county auditor is redeemed, paid, or assigned to any person, the County Auditor shall forthwith report the same to the State Auditor, and the County Treasurer shall forthwith remit to the State Treasurer the amount so paid in the County Treasury on account of any such delinquent drainage assessment installment or installments.

Forthwith upon the approval and acceptance of any such project and thereafter, after each distribution has been made of the tax collections for the June and November tax settlements, such county auditor shall certify to the State Auditor the following information relating to bonds issued to finance or refinance public drainage ditches lying wholly or partly within such projects, and the collection of assessments levied on account of such ditches:

(F) The amount of principal and interest to be said ditches, not already transmitted to the state treasurer as provided in this Act.

(G) The amount of moneys collected from such drainage assessments and credited to the funds of said ditches, not already transmitted to the state treasurer as provided in this Act.

(H) The amount of the deficit in the ditch fund of said county chargeable to such ditches.

Forthwith upon the approval of such certificate of the county auditor by the state auditor he shall draw a warrant or warrants on the State Treasurer, payable out of the Fund herein provided for and transmit the same to the County Treasurer of said county, and said moneys shall be credited to the proper ditch of said county and placed in the 'Ditch Bond Fund' of said county, which is hereby created, and shall be used to pay the ditch bonded indebtedness of said county assumed by the state under this Act and for no other purpose; provided, further, that the total amount of such warrants so to be drawn by the State Auditor shall not exceed in any one year the total amount of the deficit hereinafter provided for under subdivision 'H' of this section.

The state shall be subrogated to all title, right, interest or lien of said county in or on the lands so certified within said projects.

As to all public drainage ditches which lie wholly within any such project, the maximum amount of money which shall be paid to or for the benefit of said county in the manner above provided shall never exceed the principal and interest of the bonds issued to finance or refinance any such ditch outstanding at the time of the passage and approval of this Act, less moneys on hand in the county ditch fund, to the credit of any such ditch, and such liabilities shall be reduced from time to time by the amount of any and all payments of assessments hereafter extended, made by the owners of lands heretofore assessed for benefits on account of such ditches. As to all public drainage ditches which lie partly within and partly without the boundaries of any such project, the maximum amount which shall be paid from the fund pertaining to such project to or for the benefit of such county shall never exceed the percentage of bonds issued to finance and refinance any such ditch so outstanding, less moneys on hand in the county ditch fund to the credit of any such ditch at the time of the passage and approval of this Act, which bears the same proportion to the whole amount of such bonds as the original benefits assessed against said lands within the project bear to the original total benefited assessed to the entire system for any such ditch, and such liability shall be reduced from time to time by the payments of all assessments hereafter extended, made by the owners of lands within such project of assessments for benefits heretofore assessed on account of any such ditch.

The State Auditor shall have authority to provide and prescribe the forms for any reports required by this Act to be made to him and to require any further and additional information from any officials of any such county which he deems necessary for the proper administration of this Act. (Act Apr. 22, 1933, c. 402, §5.)

4031-80. State auditor to sell certificates of indebtedness.—For the purpose of anticipating the annual revenues of the fund pertaining to any such project, the State Auditor is hereby authorized and directed, upon the acceptance and approval of each such project and upon there being certified to him the information relating to bonds contemplated by Section 5 of this Act, to issue and sell certificates of indebtedness in an aggregate sum not exceeding the maximum amount of money payable to or for the benefit of the county in which such project is located, as prescribed by said Section 5, payable from said fund pertaining to such project, such certificates to be numbered serially and to be of such denominations and bear such dates of issue and of maturity and bear interest at such rate, not to exceed five per centum per annum, as the State Auditor shall determine; provided that none of such certificates of indebtedness shall run beyond the tax settlement dates for the next annual tax levy thereafter to be made by such auditor, as hereinafter required in anticipation of the collection of which such certificates of indebtedness are issued, except that such certificates of indebtedness are required by this Act to be issued during the calendar years of 1933 and 1934 shall bear maturity dates subsequent to the last settlement date for the annual tax levy for the year 1935, and no taxes shall be levied pursuant to this Act in either of the years 1933 or 1934, other than for such amounts as shall be sufficient, together with the funds otherwise available under this Act, for the payment of interest which shall become due and payable on said certificates during the years 1933 and 1934 respectively. In the year 1935 there shall be levied in the manner provided by this Act an amount sufficient for the payment of the principal of such certificates of indebtedness and interest to accrue and become payable thereon, in addition to such other amounts as shall be required under this

Act to be levied in said year. Such certificates shall be so issued from time to time as the proceeds thereof are needed for the demands of said fund. The interest on such certificates of indebtedness shall be payable with the principal thereof. Said certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of this Act as the State Auditor shall determine, shall be signed by the Governor and attested by the State Auditor and shall be sold for not less than par. Such certificates may be purchased by the State Board of Investment for the Permanent School Fund, Swamp Land Fund, Internal Improvement Fund or any other trust fund of the State of Minnesota, shall be deemed "authorized securities" within the provisions of General Statutes 1923, Section 7714, and Acts amendatory thereof or supplementary thereto. (Act Apr. 22, 1933, c. 402, §6.)

4031-81. Tax levies.—Whenever the State Auditor shall approve the certificate of the county auditor as specified in Section 5 of this Act, he shall compute the portion thereof which will exceed cash on hand in the fund pertaining to any such project available for its payment and shall make an entry in this record that such excess, plus the amount required to pay interest on certificates of indebtedness, to be issued to provide money for the payment thereof, is to be extended upon the tax rolls for the next succeeding tax year, and there is hereby levied for the year in which such entry is made the aggregate of the sums so entered for collection up to the time of the certification of state taxes for such year and for each year thereafter, until the maximum state liability prescribed by Section 5 hereof has been exhausted, the aggregate of such entries made since the last preceding certification of state taxes, which taxes shall be extended and collected in the same manner as other state taxes, and the proceeds of such levies are hereby appropriated and pledged to the payment of the principal and interest of the certificates of indebtedness issued pursuant to this Act. (Act Apr. 22, 1933, c. 402, §7.)

4031-82. Lands to be held by state in fee.—The title to all parcels of land lying within any such project, except lands lying within the boundaries of any incorporated city or village, which shall be acquired by the State under the provisions of Laws 1927, Chapter 119 [§§2139 to 2139-5], or any amendments thereof, shall be held by the state free from any trust in favor of the taxing districts specified in said chapter, and shall be held and used or disposed of in accordance with the provisions of this Act or any other law of this state. (Act Apr. 22, 1933, c. 402, §8.)

4031-83. State auditor to certify list to department of conservation.—Upon receipt by the State Auditor of the reports of the county auditor specified in Section 5 hereof, he shall certify a copy thereof to the Department of Conservation which shall classify all such lands as to their suitability for agriculture or for afforestation, reforestation, or for the purpose of impounding, controlling and regulating the waters of meandered lakes and flow of natural streams, or for other public state purposes; and after the title to any such land has been acquired by the state in the manner herein provided, such lands may be reclassified from time to time. All such lands which become the absolute property of the state under the provisions of this Act which have been classified as suitable for agriculture, and timber from any lands so acquired, shall be subject to sale or rental by the state as provided by law. (Act Apr. 22, 1933, c. 402, §9.)

4031-84. Department of conservation to receive gifts or bequests in behalf of the state.—The Department of Conservation is hereby authorized and empowered to receive for and in behalf of the state, and to make suitable acknowledgment thereof, any gift, bequest, devise or grant of land or interests in lands in any such project, or of money or personal property of any

kind, which it may deem suitable for use in connection with the operation, contr. l, development or use of any or all such projects. (Act Apr. 22, 1933, c. 402, §10.)

4031-85. Department shall have right of eminent domain.—The Department of Conservation is hereby authorized and empowered to acquire, by exercise of the right of eminent domain, which right is hereby given it, to be exercised in the manner provided in General Statutes 1923, Chapter 41 [same in Mason's Statutes 1927], and any amendments thereof, or by purchase, any privately owned lands or interests in lands within the boundaries of any such project which said department shall deem necessary for State ownership, use or development for the purposes of this Act; provided, however, that no moneys shall be used for the purposes specified in this section until and unless such department and the State auditor shall have determined that such moneys will not be required to meet the requisitions of the counties authorized under Section 5 of this Act or for the payment of certificates of indebtedness and interest thereon herein provided for. (Act Apr. 22, 1933, c. 402, §11.)

4031-86. County may assume bonds.—Any county wherein any such project or portion thereof is located, may voluntarily assume in the manner hereinafter specified the obligation to pay that portion of the principal and interest of the bonds issued before the approval and acceptance of such project and remaining unpaid at maturity, of any school district or township situated in said county and wholly or partly lying within said project, which portion bears the same proportion to the whole of said unpaid principal and interest as the last assessed valuation, prior to the acceptance of said project, of lands then acquired by the state pursuant to this Act in such school districts or townships bears to the total assessed valuation for the same year of such school district or township. Such assumption shall be evidenced by a resolution of the county board of said county, a copy of which shall be certified to the state auditor within one year after the acceptance of such project; and thereafter, if any of such bonds shall remain unpaid at maturity the county board shall upon demand of the governing body of such school district or township or of the holder of any such bond provide for the payment of the portion thereof so assumed, and such county shall levy general taxes on all the taxable property of the county therefor, or shall issue its bonds to raise such sum as may be needed, conforming to the provisions of law respecting the issuance of county refunding bonds. The proceeds of such taxes or bonds shall be paid over by the county treasurer to the treasurer of the school district or township; provided, however, that no such payments shall be made by the county to such school district or township until such time as the moneys in the treasury of such school district or township together with the moneys so to be paid by said county shall be sufficient to pay in full each of said bonds as each may become due.

In the event that any such county shall fail or neglect so to adopt and certify such resolution, the state auditor shall withhold from the payments to be made to such county under the provisions of Section 3 of this Act, a sum equal to that portion of the principal and interest of such outstanding bonds which bears the same proportion to the whole thereof as the above determined assessed valuation of lands acquired by the State within such project bears to the total assessed valuation for the same year of such school district or township. Moneys so withheld from the county shall be set aside in the State Treasury and shall not be paid to the county until the full principal and interest of such school district and township bonds shall have been paid.

In the event that any such bonds remain unpaid at maturity, upon the demand of the governing body of such school district or township, or the holder of

any such bonds, the State Auditor shall issue to the Treasurer of such school district or township a warrant on the State Treasurer for that portion of such past due principal and interest computed as in the case of the county's liability hereinbefore authorized to be voluntarily assumed. All moneys received by any school district or township pursuant to this section shall be applied to the payment of such past due bonds and interest. (Act Apr. 22, 1933, c. 402, §12.)

4031-87. Violation of rules a misdemeanor.—Any person who within the limits of any such project shall wilfully violate or fail to comply with any rule or regulation of the Department of Conservation adopted

and promulgated in accordance with the provisions of this Act shall be deemed guilty of a misdemeanor. (Act Apr. 22, 1933, c. 402, §13.)

4031-88. Provisions separable.—This Act shall be held unconstitutional only in the event that some major provisions of the Act are found unconstitutional and invalid that would make the Act unworkable. If any minor provisions of this Act are held unconstitutional it shall in no way affect or invalidate any other provision or part thereof; and this Act shall be deemed workable if Section 5 thereof is constitutional. (Act Apr. 22, 1933, c. 402, §14.)

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4039. Hours public sessions—Proceedings.

Any person having an interest present or prospective is entitled to inspect and make copies of orders, suggestions or notices served under 4159, but not report filed under 4197. Op. Atty. Gen. (851j), July 23, 1935.

4041. Secretary—Salary—Duties.

Salary of secretary placed at maximum of \$3600 may be fixed under Laws 1935, c. 391, §37, at \$3000, notwithstanding that that was the amount he was receiving at the passage of the act. Op. Atty. Gen. (231a), July 19, 1935.

4042. May appoint division heads, assistants, etc.

A chief factory inspector need not pass a competitive examination. Op. Atty. Gen., Dec. 21, 1931.

Industrial commission has power without restriction or restraint to appoint and remove certain designated employes or officials. Op. Atty. Gen., May 10, 1933.

4044. Powers of department of labor and industries transferred to commission.

G. S. 1913, §§3940-3946 are still applicable under this section.

4046. Powers and duties.

State regulations providing minimum wage in excess of that fixed under industry codes under the NRA are controlling. Op. Atty. Gen., Oct. 28, 1933.

Strikes and boycotts—right to picket in non-labor disputes. 19MinnLawRev817.

4048. Qualifications of inspectors.

Op. Atty. Gen., May 10, 1933; note under §4042. In view of Laws 1921, c. 81, a chief factory inspector need not pass a competitive examination. Op. Atty. Gen., Dec. 21, 1931.

4049. Terms defined.

Section 9193(3), limiting the time to sue for damages, "caused by a milldam," to two years after the cause of action accrues, applies to an action to recover damages for flooding caused by a dam erected by a public service corporation for the purpose of generating electric current to be distributed and sold to the public for lighting, heating and power purposes. Zamani v. O., 182M355, 234 NW457. See Dun. Dig. 5605(79), 5655.

4050. Enforcement of labor laws by labor department.

Industrial commission has power to gather wage data and to examine wage records of adult women. Op. Atty. Gen., June 26, 1933.

4050-1. Industrial commission to make study of conditions.—For the purpose of improving the State employment offices and other employment agencies under its supervision, and to enable it to more efficiently perform the duties imposed upon it, and in cooperation with the federal authorities in an intelligent, long-time employment program, the State Industrial Commission is hereby authorized to make a thorough, comprehensive, scientific and objective study of labor conditions, and to gather and record authentic and scientific data in relation thereto, and in this connection to operate a laboratory experiment or demonstration station or stations. (Act Jan. 29, 1931, c. 5, §1.)

4050-2. May receive gifts.—The industrial commission is hereby authorized to receive and accept gifts or contributions of funds to be used in carry-

ing out the purposes of Section 1 [§4050-1] hereof, and to assist in the supervision and conduct of said study, and to defray, in whole or in part, the cost of said work. (Act Jan. 29, 1931, c. 5, §2.)

4050-3. Supervision of funds.—Any funds or contributions so made shall be under the exclusive supervision and control of said industrial commission, may be deposited in such bank or banks as it may select, and may be disbursed in such manner and for such purposes as said industrial commission shall determine, consistent however, with the provisions of this act and with the conditions and purposes of any such gift or contribution. (Act Jan. 29, 1931, c. 5, §3.)

Sec. 4 provides that the act shall take effect from and after its passage.

FOUNDRIES

4075. Various definitions.

See §1630-4(12).

HOURS OF, AND RESTRICTIONS ON, LABOR

4087. Ten hours to constitute one day's work, etc.

Employee working over time limits is not particeps criminis. Thibault v. N., 198M246, 269NW466. See Dun. Dig. 5812a.

An adult workman may agree to work in any employment a longer or shorter period than 10 hours each day for any compensation acceptable to him. Id.

Where an adult man agrees to serve as manager of a store at a stipulated weekly salary which is paid at end of each week, he cannot after employment terminates, recover extra pay for time he worked in excess of ten hours a day. Id. See Dun. Dig. 5817.

4091. Locomotive engineers, etc.—Hours.

Law restricting hours of continuous labor more than do federal regulations prescribed by sections 61 and 62, ch. 3, Tit. 45 of the U. S. Code, is unconstitutional. Op. Atty. Gen., Mar. 21, 1933.

The purpose of House File No. 23 of Special Session of 1932 which would amend §4091 and 4092 is to regulate intrastate commerce and not interstate commerce, and thus construed would be constitutional. Op. Atty. Gen., Dec. 21, 1933.

4092. Certain railroad employees—Hours.

Op. Atty. Gen., Mar. 21, 1933; note under §4091. Op. Atty. Gen., Dec. 21, 1933; note under §4091.

4094. Employment of children under fourteen years.—No child under fourteen (14) years of age shall be employed, permitted or suffered to work at any time, in or in connection with any factory, mill or workshop, or in any mine; or in the construction of any building, or about any engineering work; it shall be unlawful for any person, firm or corporation, to employ or exhibit any child under fourteen (14) years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session. ('07, c. 299; '12, c. 8, §1; G. S. '13, §3839; '13, c. 516, §1; Apr. 18, 1929, c. 234, §1.)

No exception in favor of agricultural employment. Op. Atty. Gen., June 21, 1929.

"While school is in session," means hours from 9:00 A. M. to 4:00 P. M. each day and not full school year. Op. Atty. Gen., Apr. 22, 1933.