

130278

1941 Supplement

To

**Mason's Minnesota Statutes**

**1927**

**1939 to 1941**

**(Supplementing Mason's 1940 Supplement)**

Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

Edited by  
the  
Publisher's  
Editorial Staff

*Minnesota State Library  
St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

five dollars in any one year. This section shall not apply to any railway company, to any person who has already received such compensation, nor to any person planting trees in compliance with an act of Congress approved March 3, 1873, relating to the growth of timber on western prairies, or any act

amendatory thereof. The sum of \$2,500 for the fiscal year ending June 30, 1942, and the sum of \$2,500 for the fiscal year ending June 30, 1943, is hereby appropriated for the purposes of making such payments. (As amended Act Apr. 22, 1941, c. 365, §1.)

## CHAPTER 40

### Public Lands

#### SALES BY AUDITOR [DEPARTMENT OF CONSERVATION]

##### 6261. School lands—Price.

Transfer state owned lands between state departments authorized. Laws 1941, c. 387.

##### 6262. University lands—Minimum price.

Administration of university permanent trust fund lands by Department of Conservation may not be transferred to the university under existing law. Op. Atty. Gen. (618a-2), Feb. 17, 1941.

##### 6267. Terms of payment—Interest—Separate appraisal of buildings—Default—Improvements.—

Subdivision 1. The terms of payment on the sale of all state public lands shall be as follows: The purchaser shall pay in cash at the time of sale the appraised value of all timber. At least 15 per cent of the purchase price of the land exclusive of timber shall be paid in cash at the time of sale and the balance in not to exceed 20 equal annual installments, payable on June 1 each year following that in which the purchase was made, with interest at four per cent per annum on the balances remaining from time to time unpaid, payable with the installments or principal. Any installment of principal or interest may be paid in advance, but part payment of an installment shall not be accepted, and for the purpose of computing interest any installment of principal not paid on June 1 shall be credited as of June 1 next following.

Subdivision 2. In case there are any buildings or other improvements upon the land the value thereof shall be appraised separately and included in the purchase price. No person shall remove, injure, or destroy any such building or other improvement until an amount equal to such appraised value has been paid on the purchase price of the premises, in addition to the payment required for timber, if any. Violation of this provision shall be a gross misdemeanor.

Subdivision 3. Failure to make any payment required under any certificate of sale within 60 days from the date on which such payment becomes due shall constitute default, and thereupon the certificate of sale shall be deemed cancelled, and all right, title, and interest of the purchaser, his heirs, representatives, or assigns in the premises shall terminate without the doing by the state of any act or thing whatsoever. A record of such default shall be made in the state land records kept by or under the direction of the commissioner of conservation, and a certificate of such default may be made by or under the direction of the commissioner and filed with the county treasurer or recorded in the office of the register of deeds of the county in which the premises are situated. Any such record or certificate shall be prima facie evidence of the facts therein stated, but the making of such record or certificate shall not be essential to the taking effect of such cancellation and termination. The provisions of this subdivision shall not apply to any sale made before May 1, 1941.

Subdivision 4. If there are any improvements upon the land made by one who, in the opinion of the commissioner of conservation, settled upon the land in good faith, believing it to be land subject to homestead entry under the laws of the United States, and

such settlement was made before the land was certified to the state, or if the improvements were made in good faith by a lessee of the state under a proper permit or other lawful authority, the value of such improvements shall be appraised separately, and if at the sale of such land such settler or lessee shall be the purchaser, he shall not be required to pay for such improvements. If a person other than such settler or lessee shall purchase the land, such purchaser shall pay to the state at the time of the sale, in addition to all other required payments, the full amount for which the improvements were appraised, and the amount so received by the state for such improvements shall be paid over to such settler or lessee, his heirs, representatives or assigns, by warrant drawn by the state auditor upon the state treasurer. All amounts received for such improvements are hereby appropriated for making such payments. The provisions of this subdivision shall not apply unless the person seeking the benefit thereof shall make a verified application to the commissioner of conservation, showing that he is entitled thereto, before the first state public sale at which the land is offered for sale, and shall appear at such sale and offer to purchase the land for at least the appraised value thereof and all timber thereon, and make such purchase if no higher bid be received, nor unless all actions or other proceedings involving the land in question instituted prior to the sale shall have been determined. (As amended Act Apr. 22, 1941, c. 374, §2.)

##### 6277. Appraisal of school or other state lands—Appointment of appraisers—Appraisals—Sales.—

Subdivision 1. Whenever in the opinion of the commissioner of conservation it will be for the public interest that an appraisal of any of the school or other state lands should be made, he shall designate therefor one or more of the regularly appointed and qualified state appraisers. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested directly or indirectly in any of the state lands to be appraised or the timber or improvements thereon or in the purchase thereof, and has entered into no combination to purchase the same or any part thereof, which oath shall be attached to the report of such appraisal.

Subdivision 2. The appraiser, after taking oath of office, shall proceed to view and appraise such lands and the timber and improvements thereon and make a report thereof to the commissioner of conservation as he may direct. The valuation of such lands and the timber and improvements thereon shall each be made and stated separately in the appraisal, and the minimum price established by such appraisal shall be the minimum price for such lands until changed by subsequent appraisal. No school or other state lands shall be sold until so appraised, nor for a less price than \$5.00 per acre.

Subdivision 3. The commissioner of conservation shall hold frequent sales of school and other state lands, the time and place of such sales to be publicly posted on the front door of the court house in the county in which the sale is to take place at least 30

days in advance of such sale, in addition to the regular notice of sale provided by law. At said sale the commissioner of conservation shall sell such lands as he considers for the public interest.

Subdivision 4. Where land mainly valuable for agricultural purposes, as shown by the appraisalment and other reports in the office of the commissioner of conservation, contains only small quantities of pine, tamarack, and other timber the commissioner of conservation may in his discretion either sell the timber separately in the manner provided by law for state timber sales, or he may sell the land as agricultural land, requiring the purchaser to pay down as first payment an amount equal to the value of the timber, in addition to the first payment required on the land.

Subdivision 5. It shall be the duty of the appraisers to report to the commissioner of conservation such lands as in their opinion should be drained. After the state has constructed or has been assessed for any public ditch or drain, the lands assessed or improved shall thereafter be re-appraised before being offered for sale. (As amended Act Apr. 22, 1941, c. 374, §3.)

Act Apr. 14, 1941, c. 222, authorizes sale of certain school lands in St. Louis county having frontage on public lake.

#### **6285. Certificate—Default in interest—Resale—Application of the act—Validation.—**

Subdivision 1. Upon cancellation of any certificate of sale the commissioner of conservation may, without notice, take possession of the lands therein described and resell the same at public auction in the same manner and under the same rules as provided for the first sale. When the commissioner of conservation shall have reappraised and advertised and publicly offered for sale such lands, a re-entry shall be deemed to have been made on the part of the state, without any other act or deed whatsoever, but this shall not be essential to cancellation of the certificate of sale nor extend thereafter any rights of any person claiming under such certificate. The purchaser at such sale shall be entitled to immediate possession. If the land is not again sold after cancellation of a certificate of sale, it shall be deemed to be unsold land of the state, free and clear of any and all rights claimed by any person under such certificate, whether in actual or constructive possession thereof.

Subdivision 2. The provisions of Mason's Supplement 1940, Section 6285, as the same existed before the passage of this act, shall apply to all state lands of any kind therein referred to sold after the passage of Extra Session Laws 1933-1934, Chapter 39, January 5, 1934, and prior to May 1, 1941. The provisions of Mason's Minnesota Statutes of 1927, Section 6285, as the same existed prior to the passage of said Chapter 39, shall apply to all such state lands sold prior to the passage of said Chapter 39, with like effect as if said Chapter 39 and this act had not been enacted. Said Section 6285, as amended by this act, shall apply to all state lands sold on or after May 1, 1941.

Subdivision 3. In any case where any state lands sold prior to the passage of Extra Session Laws 1933-1934, Chapter 39, January 5, 1934, have been repossessed or re-entered prior to the passage of this act in accordance with the provisions of Mason's Minnesota Statutes of 1927, Section 6285, as the same existed prior to the passage of said Chapter 39, such re-entry or repossession shall be valid and effectual for all purposes as provided by said Section 6285. (As amended Act Apr. 22, 1941, c. 374, §4.)

#### **6291. Delinquent purchasers—Redemption—Cancellation of certificate.—**

Subdivision 1. In any case where the rights of the holder of a certificate of sale of any state public land sold before January 6, 1934, have become forfeited by a failure to pay the amount of interest due under the certificate, if the certificate holder before resale

at public auction of the lands described in the certificate, shall pay to the state treasurer the amount of interest then due and payable on such certificate, with interest thereon from the time when the same became due at four per cent, such payment shall operate as a redemption of the rights of the certificate holder, and shall reinstate the certificate in full force, provided, however, as follows:

(a) If the default in payment occurred before July 1, 1941, the amount required for redemption shall be paid not later than December 31, 1941;

(b) If the default in payment occurred on or after July 1, 1941, the amount required for redemption shall be paid within six months after the occurrence of the default;

(c) If the time for payment of the principal specified in the certificate has expired but an extension of said time by law has not expired, the full amount due on the principal together with interest as herein provided and all other sums due the state on the land shall be paid, and thereupon a patent for the land shall be issued to the certificate holder as provided by law;

(d) No such redemption shall be permitted in any case where the time for payment of the principal as specified in the certificate and all extensions thereof provided by law have expired, nor in any case where the certificate of sale has been absolutely terminated and made void without right of redemption under any prior or existing law, nor in any case where the land has become absolutely forfeited to the state for delinquent taxes:

(e) The provisions of this section shall not suspend or otherwise affect any proceedings for the resale of state public land unless redemption is made before sale of the land to an actual purchaser.

Subdivision 2. In every case where a certificate of sale of state public land sold before January 6, 1934, has been or shall be cancelled after default by re-appraisal and re-offer of the land for sale, and where the default shall not be redeemed and the certificate reinstated, as provided by this section, the certificate shall be deemed absolutely cancelled and void, and all right, title, and interest of the purchaser, his heirs, representatives, or assigns, in the land shall terminate without further act on the part of the state; provided, that this shall not preclude any other method of termination prescribed by law. (As amended Apr. 22, 1941, c. 375, §5.)

This section must be read in conjunction with §6285, and is applicable only to trust fund land, and does not confer upon purchaser or assignee of land sold under Laws 1909, chapter 452, any right to reinstate certificate. Op. Atty. Gen., (423), Sept. 20, 1939.

Laws 1939, c. 353, amending this section, did not authorize redemption and payment of unpaid principal of state lands where time for payment of principal has expired. Op. Atty. Gen., (423k), Feb. 19, 1940.

**6291-1. Definitions.**—The term "state public lands" or "state lands" as used in this act [6267, 6277, 6285, 6291, 6291-2 to 6291-8, 6296] shall mean school, swamp, university, internal improvement, and other lands granted to the state by acts of Congress. (Act Apr. 22, 1941, c. 374, §1.)

#### **6291-2. Extension of time—Cancellation.—**

Subdivision 1. The time for payment of the principal on every certificate of sale of state public land which has expired or will expire before July 1, 1943, is hereby extended to December 31, 1943, subject to payment of interest as provided by law and to all other conditions of the certificate, and upon payment of such principal and interest and all other sums due the state upon the land within said extended time a patent for the land shall be issued to the holder of the certificate as provided by law.

Subdivision 2. The time for payment of the principal on every certificate of sale of state public land sold before May 1, 1941, which expires on or after July 1, 1943, is hereby extended for a period of six months after the time specified in the certificate, subject to the payment of interest as provided by law

and to all other conditions of the certificate, and upon payment of such principal and interest and all other sums due the state upon the land within said extended time a patent for the land shall be issued to the holder of the certificate as provided by law.

**Subdivision 3.** The provisions of this section shall not apply in any case where the certificate of sale has been absolutely terminated and made void without right of redemption under any prior or existing law, nor in any case where the land has become absolutely forfeited to the state for delinquent taxes.

**Subdivision 4.** In every case where the full amount of principal with interest and all other sums required for obtaining a patent under a certificate of sale of state public land sold before May 1, 1941, are not paid before the expiration of the time allowed by law for payment of the principal, the certificate shall be deemed absolutely cancelled and void, and all right, title, and interest of the purchaser, his heirs, representatives, or assigns, in the land shall terminate without further act on the part of the state; provided, that this shall not preclude any other method of termination provided by law. (Act Apr. 22, 1941, c. 374, §6.)

**6291-3. Presumption of abandonment.**—In any case where full payment of the amount due the state for any state public land sold before May 1, 1941, shall not have been made before the expiration of the time prescribed in the certificate for full payment of the principal or any extension of such time provided by law, it shall be presumed that the purchaser and all persons claiming under him have left and abandoned the land and all right, title, and interest therein and claim thereto, and have released the same absolutely to the state and its assigns. (Act Apr. 22, 1941, c. 374, §7.)

**6291-4. Time to bring action for recovery limited.**—In any case where full payment of the amount due the state for any state public land sold before May 1, 1941, shall not have been made before the expiration of the time prescribed in the certificate for full payment of the principal or any extension of such time provided by law, no action for the recovery or possession of the land or for the enforcement of any right, title, or interest therein or claim thereto shall be maintained by the purchaser or any one claiming under him unless such action is commenced within one year after the expiration of such prescribed time or extension. (Act Apr. 22, 1941, c. 374, §8.)

**6291-5. Land to be held as unsold public land.**—In every case where the interest of the purchaser of a tract of state public land has heretofore or shall hereafter become forfeited to the state for delinquent taxes, the certificate shall be deemed cancelled and terminated, and the land shall be held by the state as unsold public land, free from any right, title, interest, or claim of the purchaser, his heirs, representatives, or assigns, and free from any trust in favor of any taxing district. (Act Apr. 22, 1941, c. 374, §9.)

**6291-6. Cancellation of unpaid taxes and assessments.**—In every case where the rights of a purchaser of state public land, his heirs, representatives, or assigns, have been or shall hereafter be absolutely terminated in any manner, all unpaid taxes and assessments against the land at the date of such termination shall be cancelled, and the county auditor shall make entry thereof upon his records of such lands. (Act Apr. 22, 1941, c. 374, §10.)

**6291-7. Certain acts validated.**—Every appraisal and public sale of state public land made by the state auditor or by any appraiser or other officer or employee appointed by the state auditor from July 1, 1931, to December 31, 1932, inclusive, and every other act of the state auditor or of any such appraiser, officer, or employee with respect to any such land during said time, is hereby validated and made effective as if made or performed by the commissioner of conservation or other proper officer or employee thereto

authorized by law, provided such sale, appraisal, or other act was otherwise made or performed in the manner and under the conditions prescribed by law. (Act Apr. 22, 1941, c. 374, §12.)

**6291-8. Not to affect preceding actions.**—The provisions of this act shall not apply so as to prejudice the rights of any person involved in or affected by any action or proceeding heretofore commenced in any court. (Act Apr. 22, 1941, c. 374, §13.)

**6296. Payment—Receipts.**—The holder of any certificate of sale may pay to the treasurer of the county in which the land therein described is situated any amount due on such certificate. For the amount so paid such treasurer shall issue quadruplicate receipts, specifying the name and address of the person making the payment and the date and amount thereof, whether for principal, or interest, the fund to which it is applicable, and the number of the certificate, which receipt shall be countersigned by the auditor of such county, and shall have the same force and effect as if given by the state treasurer. The county treasurer shall deliver one copy to the holder of the certificate, one to the county auditor, and one to the commissioner of conservation, and shall retain one copy. (As amended Act Apr. 22, 1941, c. 374, §11.)

## INVESTMENT

**6303. Investment of permanent school fund.**—The permanent school fund, permanent university fund, swamp land fund, internal improvement land fund, and all other permanent trust funds of the State of Minnesota, may be invested in the bonds of the United States or of the State of Minnesota, and each of said funds, except the internal improvement land fund, may be invested in the bonds of any other state of the Union, yielding not less than one per cent interest, or in the bonds of any school district, county, city, town or village of this state, yielding not less than three per cent interest. Such funds shall be invested by a board of commissioners consisting of the governor, treasurer, auditor, attorney general and one commissioner to be appointed by the regents of the University of Minnesota from among their members, which shall be known as the state board of investment, and which shall hold regular meetings on the first and third Wednesdays of each month. The governor shall be ex-officio president of said board, which shall have a permanent secretary, who shall keep a record of its proceedings. Both the secretary of the board and the auditor shall keep a record showing the trust fund to which each bond belongs, the number and amount of each bond, when issued, the rate of interest, when and where payable, by whom executed, when purchased, when withdrawn and for what purpose. No loan shall be made and no bonds shall be purchased, sold, exchanged or transferred from one trust fund to another except upon a majority vote of all members of said board of investment. In investing the permanent school fund preference shall be given to applications for loans from school districts and priority shall be accorded such loans of \$25,000 and less. The board of investment shall have the power to fix and change the rate of interest on loans to municipalities within the state, provided such rate is never less than three per cent, and whenever such rate is changed after any municipality has voted its bonds to the state such municipality is hereby authorized to pay the new rate so fixed and to issue its bonds bearing such rate upon approval and acceptance thereof by resolution of its governing body. (As amended Act Apr. 10, 1941, c. 172, §1.)

Bonds of another state payable solely from state gasoline tax are not authorized investments for state trust fund. Op. Atty. Gen., (928B), April 2, 1940.

Administration of university permanent trust fund lands by Department of Conservation may not be transferred to the University under existing law. Op. Atty. Gen. (618c-2), Feb. 17, 1941.

## MISCELLANEOUS

**6328. Lands to be leased by state auditor.**

Commissioner of conservation may enter into leases, easements or permits to allow passage of telephone, telegraph and electrical power or light lines across state lands. Laws 1941, c. 145.

**6328-1. Leases for electrical power, telegraph, and telephone lines.—**Commissioner of Conservation.—The commissioner of conservation may at public or private vendue and at such prices and under such terms and conditions as he may prescribe, lease, or grant easements or permits over and across any portion of any unsold school, university, internal improvement, swamp, tax forfeited or other lands subject to sale by or jurisdiction or control of the state, for the purpose of permitting the passage over or across such lands of telephone, telegraph and electrical power or light lines; provided all such agreements shall be made subject to sale and leasing of land for mineral or other legal purposes, and shall contain a provision for their cancellation at any time by the commissioner of conservation upon three months written notice. All money received therefrom shall be credited to the fund to which the land belongs. (Act Apr. 9, 1941, c. 145, §1.)

**6340-1. Executive council to acquire and dispose of lands.**—In all acquisitions of land, made under authority of the executive council, involving flood control, water supply, water diversion, control of erosion, reforestation, afforestation and recreation and not presently needed for such purpose or purposes, which may be or have been purchased or acquired under the terms of Extra Session Laws 1937, Chapter 89, Laws 1935, Chapter 51, or Extra Session Laws 1935-1936, the executive council is hereby authorized to lease, rent, sell, or otherwise dispose of or deal with, upon such terms and conditions as it may deem advisable, any and all of the lands, buildings or improvements thereon so acquired, and it may make necessary repairs to any buildings, fences, wells, ditches, roads, or other structures or improvements thereon, and may construct a road over and across a strip of land running north and south, twenty-five (25) feet in width, on each side of the West line of the Southeast Quarter (SE¼) of Section Nineteen (19), and of the Northwest Quarter of the Northeast Quarter (NW¼ NE¼) of Section Thirty (30), Township One Hundred Twenty (120), Range Forty-three (43), Swift County, in fulfillment of an agreement made by the state in acquisition of said lands and adjoining lands from John B. Sturm and George Wilson, the owners thereof. (As amended Apr. 9, 1941, c. 142, §1.)

**6340-2. Receipts to be credited to revolving fund.**—All money hereafter received from such leasing, sale or disposition of said lands or improvements thereon shall be credited to a special fund to be known as the Lac Qui Parle revolving fund, which is hereby created, and all money heretofore received by the executive council from such sources, now remaining in the treasury, are hereby transferred to and shall form a part of said fund, which is hereby appropriated to the executive council for the maintenance and conduct of the activities authorized by this act. (As amended Apr. 9, 1941, c. 142, §2.)

**6340-3. Authority of Conservation Commissioner to lease land.**—The commissioner of conservation is hereby authorized at public or private vendue and at such prices and under such terms and conditions as he may prescribe, to lease any buildings or lands not now authorized to be leased, acquired in the name of the state of Minnesota by any of the several divisions of the department of conservation which are not presently needed for the use and purposes of any of the divisions of the department. The purpose for which such leases may be executed shall be in the furtherance of the interests of conservation and such uses shall not result in any permanent injury to the land; provided, that no such lease shall be made for a term

to exceed two years and shall contain a provision for cancellation at any time by the commissioner of conservation upon three months' written notice. All money received from leases under this act shall be credited to the fund from which the property was acquired. (Act Apr. 17, 1941, c. 291, §1.)

**6340-4. Commissioner may rent cabins to employees.**—The commissioner of conservation is hereby authorized to rent or lease to employees of the various divisions of the conservation department such cabins, buildings or living quarters as are now or may hereafter be constructed upon state-owned lands under the control of the several divisions of the conservation department, when said occupancy is found to be necessary or beneficial to the work of the department. Said leases or rental agreements shall be upon a month to month basis and shall provide for surrender by the lessee upon demand at any time his services with the state may be terminated, without the necessity of any written notice. All receipts from rents shall be paid in to the state treasurer and credited to the fund charged with the cost of maintenance of such buildings and are hereby appropriated for such use. (Act Apr. 17, 1941, c. 291, §2.)

**6340-5. Approval by Attorney General.**—All instruments and transactions negotiated hereunder shall be approved as to form, validity and execution by the attorney general. (Act Apr. 17, 1941, c. 291, §3.)

## TIMBER LANDS

**6356. State appraisers—Bond—Duties—Badge—Reports.**

A state appraiser is a subordinate officer of the state department, which may require fidelity insurance in place of an official bond, but a fidelity policy must be conditioned as is a statutory bond. Op. Atty. Gen., (640), Nov. 1, 1939.

## STATE TIMBER ACT

**6394-3. Trespass on state lands; etc.**

Act Feb. 27, 1941, c. 25, gives executive council power to extend certain timber permits upon recommendation of Conservation Commissioner.

Willful trespass on state timber lands forfeited for non-payment of taxes is a felony. Op. Atty. Gen. (412a-24), June 6, 1940.

**6394-14. Sale of stumpage—Notices.**

Holder of a permit under §§6394-14 to 6314-40 to cut and remove timber from state land may be considered a general contractor of state so as to be liable to pay workmen's compensation to employee of a sub-contractor who cuts and removes timber without carrying insurance as provided by §4290(4). Nylund v. T., 295NW411. See Dun. Dig. 10391.

**6394-17. Permits to purchasers to cut and remove timber; etc.**

Executive Council may extend timber permits upon recommendation of Conservation Commissioner. Laws 1941, c. 25.

**6394-32. Timber unlawfully cut or removed, etc.**

Prosecution for larceny may be instituted by county attorney for cutting timber on state lands forfeited for non-payment of taxes. Op. Atty. Gen. (412a-24), June 6, 1940.

## MINERAL LANDS

**6404. Division of lands into mining units.**—The commissioner of conservation shall divide all lands belonging to the state, or in which the state has an interest, excepting lands situate under the waters of any public lake or river, into mining units of not to exceed in the aggregate two contiguous forty-acre tracts of land, unless some of the descriptions are fractional subdivisions according to the government survey thereof, in which case the acreage may exceed eighty acres, but shall not exceed a total of ninety acres, provided that in case of lands containing taconite or low grade magnetite ore deposits, the total area shall not exceed three contiguous units. No mining unit herein provided for shall contain lands belonging to more than one permanent trust fund. (As amended Act Apr. 28, 1941, c. 546, §1.)

**6405. Annual sale of permits by Commissioner of Conservation.—Notice — Publication — Contents.**—A sale of permits may be held semi-annually at the discretion of the commissioner of conservation, but for all such sales he shall give public notice of sale of permits by four weekly publications in a daily paper printed and published in each of the cities of Saint Paul, Minneapolis, Duluth, Hibbing, Virginia. The same notice of sales may be published in not to exceed two additional newspapers and two trade magazines as the commissioner of conservation may from time to time direct. The last publication above provided for shall be not less than seven days before June 1 and December 1 of each year. Said published notice shall contain the following information:

1. Time and place of holding said sales.
2. The general requirements provided by law as to the purchasers of permits.
3. Place where list of lands, arranged in mining units upon which applications for permits to prospect for iron ore may be obtained. (As amended Act Apr. 28, 1941, c. 546, §2.)

**6406. Applications for permits—Bids—Acceptance or rejection—Awards.**—Applications for permits to prospect for iron ore shall be presented to the commissioner of conservation in writing in such form as he may prescribe at any time prior to the time of opening the bids as hereinafter provided. The application shall be accompanied by a certified check payable to the state treasurer in the sum of \$50.00 for each mining unit as set out above. Each application shall be accompanied also by a sealed bid setting forth the amount of royalty per gross ton of ore based upon the iron content of such ore when dried at 212 degrees Fahrenheit, in its natural condition or when concentrated, as set out in detail hereafter, that the applicant proposes to pay to the state of Minnesota in case the permit shall be awarded to him. A separate sealed bid shall be required for each mining unit as established by the commissioner of conservation, covered by the application, and be accompanied by a certified check made payable to the state treasurer in the sum of \$200.00 as a guarantee that the applicant will carry out and perform in good faith all the covenants set out in such permit. The envelope containing each bid shall be plainly marked on the outside showing the date of application, date received by the commissioner of conservation, and the name of the applicant.

The commissioner of conservation shall endorse upon each application and sealed bid the exact time of presentation, and shall preserve the same unopened in his office. On the second Monday of June and the second Monday of December of each year, beginning with June, 1941, at eleven o'clock in the forenoon, in the office of the governor in the state capitol, in St. Paul, the commissioner of conservation shall publicly announce the number of applications and bids received. The commissioner of conservation, together with the executive council, shall then publicly open said bids and announce the amount of each bid separately, and shall award the permits to the highest bidder, but no bids shall be accepted that shall not equal or exceed the amounts provided for in Mason's Minnesota Statutes of 1927, Section 6409 as amended, nor shall any bid be accepted that shall not comply with the law and be accompanied by a certified check for the faithful performance of the terms of each permit as hereinbefore set out. The right is herein reserved to the state to reject any and all bids. All applications for permits and bids not accepted at such sale shall become void at the close of such sale; and the checks accompanying such applications and bids shall be returned to the applicants entitled to them. (As amended Act Apr. 28, 1941, c. 546, §3.)

**6408. Leases to permit holders—Royalties.**—At any time prior to the expiration of any prospecting permit the original holder, or any assignee thereof, shall have the right to receive from the commissioner

of conservation a mining lease, which shall bind the state and the person to whom it shall be issued to the mutual observance of the obligations and conditions thereof. As a condition precedent to the issuing of such mining lease, the holder of the permit shall file a full report properly verified, of all work of exploration done under such permit, in accordance with the provisions of Section 5, or an affidavit in case no work was done stating such facts, and shall pay to the state treasurer a sum of money based on the quarterly royalty payment of \$312.50 for the first year, as set out in the lease, in the ratio that the unexpired portion of the quarter bears to the full quarter. Provided that the holder of any permit to prospect for taconite ore shall be entitled to a lease in the form set out in Mason's Minnesota Statutes of 1927, Section 6409 as amended, except that the rental for the first ten years shall be \$400.00 per mining unit per year, payable quarterly in advance, and at the close of such period of ten years the annual rental shall be \$1,600 per mining unit as provided for hereinafter. If the permit holder shall fully comply with all terms and conditions therein contained the commissioner of conservation shall return to him or his assigns the amount of the certified check which accompanied his bid. (As amended Act Apr. 28, 1941, c. 546, §4.)

**6409. Form of lease—Rental and royalties.**—The lease provided for in Section 6 shall be as follows:

This indenture made this.....day of....., 19...., by and between the state of Minnesota, party of the first part, and.....party.....of the second part.

Witnesseth: That the party of the first part, for and in consideration of the sum of.....dollars to it in hand paid by the part.....of the second part, being the first quarterly payment hereinafter provided for, the receipt whereof is hereby acknowledged, and in further consideration of the covenants and conditions hereof, to be kept and performed by the part.....of the second part, does hereby lease and demise unto the part.....of the second part for the term of 50 years from and after the.....day of.....19...., the following described land, situated in the County of....., in the state of Minnesota, to-wit: .....which premises are leased to the part.....of the second part for the purpose of exploring for, mining, taking out and removing the iron ore found on or in said land, together with the right to construct or make such buildings, excavations, openings, ditches, drains, railroads, wagon roads and other improvements upon said premises as may be necessary or suitable for such purposes. The party of the first part reserves the right to sell and dispose of under the provisions of law now or hereinafter governing the sale of timber on state lands, all the timber upon the land hereby leased, and reserves to the purchaser of such timber, his agents and servants, the right at all times to enter thereon, and to cut and remove any and all such timber therefrom, according to the terms of the purchaser's contract with the state, and without let or hindrance from the part.....of the second part; but such purchaser shall not unnecessarily or materially interfere with the mining operations carried on thereon. And the party of the first part further reserves the right to grant to any person or corporation the right-of-way necessary for the construction and operation of one or more railroads over or across the land thereby leased, without let or hindrance from the part.....of the second part; but such railroads shall not unnecessarily or materially interfere with the mining operations carried on thereon. The party of the first part further reserves the right to grant leases, permits or licenses to any portion of the surface of the demised premises to any person or corporation under authority of Laws of 1919, Chapter 405 or as such law may be further amended or enlarged without let or hindrance from the part.....of the second part, but such leases, permits or licenses shall not unnecessarily or materially

interfere with the mining operations carried on thereon. And the party of the first part agrees that the part . . . . . of the second part shall have the right to contract with others for the working of such mines, or any part thereof, or for the use of such land or any part thereof, for the purpose of mining iron ore with the same rights and privileges as are hereby granted to the part . . . . . of the second part, provided that three duplicate originals of all such contracts shall be filed with the commissioner of conservation before they shall become effective for any purpose.

The part . . . of the second part covenants and agrees with the party of the first part that the part . . . of the second part will on or before the 20th day of April, July, October and January during the first year of this lease, pay to the treasurer of said state a rental of \$312.50 for the quarter preceding the first day of the month in which such payment is made, and a quarterly rental thereafter during the entire term this lease remains in force of \$1,250; provided, that the total amount of royalty due on iron ore removed and accounted for during said first year as provided for hereafter does not equal or exceed the sum of \$1,250 during the first year as above provided, and the sum of \$5,000 per annum thereafter, it being the purpose of this covenant to secure a regular annual income from the demised premises of not less than \$1,250 during the first year and \$5,000 thereafter in rentals or royalty on iron ore, or both except only in case of leases for the mining of taconite ore as defined in Schedule 7 herein the annual payments for the first ten years shall be \$400.00 per annum per mining unit, payable quarterly in advance, and a quarterly rental thereafter during the entire term this lease remains in force of \$400.00, provided that the total amount of royalty due on taconite ore removed and accounted for during the first ten years as provided for hereafter does not equal or exceed the sum of \$400.00 per annum per mining unit and the sum of \$1,600 per annum per mining unit thereafter, it being the purpose of this covenant to secure a regular annual income from the demised premises of not less than \$400.00 per mining unit during the first ten years and \$1,600 per mining unit thereafter in rentals or royalty or both on taconite ore.

And it is further understood and agreed that the schedules of minimum royalties to be paid by the part . . . of the second part to the party of the first part shall be as follows:

Schedule 1. On a gross ton of direct shipping open pit crude ore in its natural state, before beneficiation of any kind, other than crushing or dry screening, averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 12 cents. For a ton of ore averaging 26 per cent in iron dried at 212 degrees Fahrenheit, 12 cents, with a five per cent increase over 12 cents, or a royalty of 12.6 cents per ton. For a ton of ore averaging 27 per cent iron dried at 212 degrees Fahrenheit, 12.6 cents plus five per cent increase or a royalty of 13.23 cents; and so on, adding five per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Direct shipping open pit crude ore shall be understood to mean all ore lying beneath the final stripped area of the particular mine in which it shall be situated and lying within reasonably safe mining slopes therein, that is shipped in its natural state without beneficiation of any kind other than crushing or dry screening.

Schedule 2. On a gross ton of open pit wash ore concentrates averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 12 cents. For a ton of ore averaging 26 per cent iron dried at 212 degrees Fahrenheit, 12 cents with a four and one-half per cent increase over 12 cents or a royalty of 12.54 cents. For a ton of ore averaging 27 per cent

iron dried at 212 degrees Fahrenheit, 13.10 cents; and so on, adding four and one-half per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Open pit wash ore concentrates shall be understood to mean all concentrates produced from open pit ore which, in accordance with good engineering and metallurgical practice, requires treatment by straight washing to make it suitable for blast furnace use.

Schedule 3. On a gross ton of open pit concentrates (except concentrates defined under Schedule 2), averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 12 cents. For a ton of ore averaging 26 per cent iron dried at 212 degrees Fahrenheit, 12 cents with a four per cent increase over 12 cents or a royalty of 12.48 cents. For a ton of ore averaging 27 per cent iron dried at 212 degree Fahrenheit, 12.98 cents; and so on, adding four per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Open pit concentrates covered by Schedule 3 shall be understood to mean all concentrates produced from open pit ore which, in accordance with good engineering and metallurgical practice, requires treatment by roasting, sintering, agglomerating, or drying through the use of fuel, or by jigging or by heavy medium separation to make them suitable for blast furnace practice.

Schedule 4. On a gross ton of underground direct shipping crude ore in its natural state, before beneficiation of any kind, other than crushing or dry screening, averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 11 cents. For a ton of ore averaging 26 per cent iron dried at 212 degrees Fahrenheit, 11 cents with a three and one-half per cent increase over 11 cents, or a royalty of 11.39 cents per ton. For a ton of ore averaging 27 per cent iron dried at 212 degree Fahrenheit, 11.78 cents, and so on, adding three and one-half per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Underground direct shipping crude ore shall be understood to mean all ore in any particular mine other than open pit ore that is shipped in its natural state without beneficiation of any kind other than crushing or dry screening.

Schedule 5. On a gross ton of underground wash ore concentrates averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 11 cents. For a ton of ore averaging 26 per cent iron dried at 212 degrees Fahrenheit, 11 cents with a three per cent increase over 11 cents, or a royalty of 11.33 cents. For a ton of ore averaging 27 per cent iron dried at 212 degrees Fahrenheit, 11.67 cents; and so on, adding three per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Underground wash ore concentrates shall be understood to mean all concentrates produced from underground ore which, in accordance with good engineering and metallurgical practice, requires treatment by straight washing to make it suitable for blast furnace use.

Schedule 6. On a gross ton of underground concentrates (except concentrates defined under Schedule 5), averaging in iron, when dried at 212 degrees Fahrenheit, 25 per cent or less, 11 cents. For a ton of ore averaging 26 per cent iron dried at 212 degrees Fahrenheit, 11 cents with a two per cent in-



crease over 11 cents, or a royalty of 11.22 cents. For a ton of ore averaging 27 per cent iron dried at 212 degrees Fahrenheit, 11.44 cents; and so on, adding two per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Underground concentrates covered by Schedule 6 shall be understood to mean all concentrates produced from underground ore which, in accordance with good engineering and metallurgical practice, requires treatment by roasting, sintering, agglomerating, or drying through the use of fuel, or by jigging, or by heavy medium separation to make them suitable for blast furnace practice.

Schedule 7. On a gross ton of taconite concentrates averaging in iron, when dried at 212 degrees Fahrenheit, 40 per cent or less, 11 cents: For a ton of ore averaging 41 per cent iron dried at 212 degrees Fahrenheit, 11 cents with a one per cent increase over 11 cents, or a royalty of 11.11 cents. For a ton of ore averaging 42 per cent iron dried at 212 degrees Fahrenheit, 11.22 cents; and so on, adding one per cent to the amount of royalty for a given grade for the next higher per cent, disregarding all thousandths of one cent that do not equal five and counting those that are five thousandths or above as one hundredths of a cent.

Taconite ore shall be understood to mean a ferruginous chert or ferruginous slate in the form of compact siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron-bearing particles of merchantable grade are smaller than 20 mesh.

Taconite concentrates shall be understood to mean the merchantable product suitable for blast furnace use, which, in accordance with good engineering and metallurgical practice, has been produced from taconite ore, and shall not include any of the ores defined in Schedules 1 to 6, inclusive.

The part . . . of the second part hereby covenant . . . and agree . . . with the party of the first part that the part . . . of the second part will, on or before the twentieth day of April, July, October and January in each year, during said term or during the period this lease continues in force, pay to the treasurer of said state, for all the iron ore mined and removed from said land during the three months preceding the first day of the month in which such payment is to be made, a royalty as hereinbefore provided.

Each ton shall be reckoned at 2,240 pounds. The part . . . of the second part at the time of such payment shall transmit to the commissioner of conservation of said state an exact, truthful and verified statement of the amount of iron ore removed during the three months for which such payment is made. Such statement shall show the tonnage of the several grades of ore in accordance with the following plan:

Each railroad car loaded with such ore shall be sampled in such a manner as to show the true grade of the ore contained. Ten cars when thus sampled shall constitute a "sample" or shipment, except where a smaller number becomes imperative. The samples of ore taken from such "sample" or shipment shall be mingled and split into two portions, both of which shall be properly marked for identification. One portion shall be delivered to the commissioner of conservation or his authorized agent and the other reserved by the part . . . of the second part. Each sample shall be analyzed for iron, silica, phosphorus, alumina and manganese at the sole cost and expense of the part . . . of the second part, by a competent chemist approved in writing by the commissioner of conservation, and the results certified to the commissioner of conservation in the statement above referred to together with the weight of each carload and "sample."

The iron ore so taken and shipped by the part . . . of the second part from said land shall be weighed by the railroad company transporting the same from said land, and the part . . . of the second part shall transmit monthly statements showing the aforesaid grades and weights. Such grades and weights shall prima facie determine the quantity as between the parties, but the party of the first part shall have the right at any time, and in such manner as it may see fit, to sample the ore, check the analyses and inspect, review and test the correctness of the methods and books of the part . . . of the second part in sampling, analyzing, recording and reporting such grades and weights and to inspect, review and test the correctness of the railroad company's scales and of the aforesaid weights, it being understood that any errors in these respects, when ascertained, shall be corrected.

For the purpose of determining the grade of ore and royalty on same, all open pit and underground direct shipping ore taken from the demised premises shall be sampled in their crude state before being treated or beneficiated in any way, other than crushing or dry screening. All open pit and underground concentrate shall be sampled in its concentrated form. Such samples, when dried at 212 degrees Fahrenheit, shall be analyzed for iron, silica, phosphorus, alumina and manganese. The percentages of iron shall determine the amount of royalty to be paid, provided that when the manganese content shall equal or exceed four per cent, it shall be paid for separately under agreement as hereinafter provided for by law.

Part . . . of the second part shall have the right to beneficiate and treat, for the purpose of improving the character or quality thereof, any iron ore which without such treatment or beneficiation will not meet general market requirements during the year in question. Subject to the approval of the commissioner of conservation, such ore may be so beneficiated or treated either upon the demised premises or upon adjacent or nearby lands. Part . . . of the second part agree . . . that any treatment or beneficiation of ore conducted hereunder shall be done with suitable and proper machinery and appliances, and in a careful, good and workmanlike manner, according to good engineering practice, and so as not to cause any greater waste of the ore mined than is necessary in order to produce an ore concentrate of proper composition and character for satisfactory furnace use. No ore shall be treated or beneficiated which, without treatment or beneficiation, will meet general market requirements in the year in question. As to any ore so beneficiated or treated during any quarter year, royalty at the rates per ton hereinbefore provided shall be paid upon the merchantable product of such beneficiation or treatment and not upon the ore as mined. The residue of such treatment or beneficiation may be deposited upon the demised premises, in such place or places as shall not unnecessarily hinder or embarrass the future operation of said mine or mines therein, or on other state-owned lands conveniently located for the purpose, or may be otherwise disposed of in such manner as the commissioner of conservation may approve. The merchantable product of such beneficiation shall be sampled and weighed as hereinbefore provided for direct shipping ore.

It is understood and agreed that should the part . . . of the second part desire to stockpile concentrates off the demised premises or on land not owned by the state, the parties shall agree upon a method of sampling and weighing such concentrated ore for the purpose of determining the amount of royalty due, and in case they are unable to agree, each shall choose a referee and the two referees so chosen shall choose a third. The decision of such board of referees shall be binding on the parties in interest as to the methods to be employed in such sampling and weighing only.



The party of the first part shall have the right to enter upon and into said premises at any time, and to inspect and survey the same, and to measure the quantity of ore which shall have been mined or removed therefrom, not unreasonably hindering or interrupting the operations of the part . . . of the second part, and the part . . . of the second part covenant . . . and agree . . . to furnish the commissioner of conservation with copies of all exploration reports, concentrating plant reports, mine maps, analysis maps, cross-sections and plans of development made and used in the operations on said leased premises.

The part . . . of the second part further covenant . . . and agree . . . to furnish the commissioner of conservation with the following: At least a quarter portion of all exploration samples; when requested to do so in writing, a quarter portion of mine and mill samples; monthly report showing the estimated weight and analysis of all ore material stockpiled according to each classification—that is, merchantable, concentratable or non-merchantable; monthly report showing the estimated weight and analysis of concentrated ore when stockpiled on state-owned land; monthly report of all ore beneficiated, showing the tonnage and analysis of crude or treated, the tonnage and analysis of concentrates recovered, and a record of any analysis made of tailings and rejects.

The part . . . of the second part further covenant . . . and agree . . . to provide upon written requests from the commissioner of conservation a suitable room in the dry or wash house, or in some other suitable place, with water, light and heat free, to the agents of the commissioner of conservation for their use in the work of inspection on said premises, such room to be equal in size and equipment to that furnished for the use of the mining captain or superintendent at such mines. And the part . . . of the second part further covenant . . . and agree . . . as follows: That during said term the part . . . of the second part will pay all taxes, general and specific, which may be assessed against said land, and the improvements thereon made, used or controlled by said part . . . of the second part, and the iron ore product thereof, and any personal property at said mines, in all respects as if said lands were owned in fee by the part . . . of the second part; and that the part . . . of the second part will open, use and work said mines in such manner only as is usual and customary in skillful and proper mining operations of similar character when conducted by the proprietors on their own land and in accordance with the requirements of good mining engineering, and in such manner as not to cause any unnecessary or unusual permanent injury to the same, or inconvenience or hindrance in the subsequent operation of the same, and, subject to the approval of the commissioner of conservation, will deposit all lean ore, paint rock, taconite, tailings, earth, rock or useless materials and rubbish at such places and in such manner as will not embarrass such subsequent operations, and that upon the termination of this lease the part . . . of the second part will quietly and peaceably surrender the possession of said land to the party of the first part.

Provided, however, that the part . . . of the second part shall have the right at any time to terminate this lease in so far as it requires the part . . . of the second part to mine ore on said land, or to pay royalty therefor, by delivering written notice of such intention to terminate to the commissioner of conservation who shall in writing acknowledge receipt of such notice, and this lease shall terminate sixty days thereafter, and all arrearages and sums which shall be due under this lease up to the time of such termination shall be paid upon settlement and adjustment thereof by the part . . . of the second part.

Provided, further, and this lease is granted upon the express condition, that if any quarterly payment, or any payment for royalties or any part of such payments or any tax or portion thereof, shall remain

unpaid after the expiration of sixty days from the time when the same was payable as herein provided, or in case the part . . . of the second part shall fail to perform any of the covenants or conditions herein expressed to be performed by said part . . . of the second part, then it shall be the duty of the commissioner of conservation to cancel this lease, first having given to the part . . . of the second part at least twenty days notice in writing thereof, whereupon the party of the first part shall re-enter and again possess said premises as fully as if no lease had been given to the part . . . of the second part, and the part . . . of the second part and all persons claiming under such part . . . shall be wholly excluded therefrom, but such re-entry shall not work a forfeiture of the rents, royalties or taxes or other sums to be paid at the time of such re-entry.

It is mutually agreed that upon the termination of this lease, whether by act of either party or by limitation, the part . . . of the second part shall have ninety days in which to remove all engines, tools, machinery, railroad tracks and structures placed or erected by the part . . . of the second part upon said land, but the part . . . of the second part shall not remove or impair any supports placed in said mines, or any timber or frame work necessary to the use or maintenance of shafts or other approaches to the mines, or tramways within the mines. The party of the first part reserves, and shall at all times have a lien upon all ore mined, and upon all improvements made by the part . . . of the second part upon the premises, for any unpaid balances due under this lease.

The covenants, terms and conditions of this lease shall run with the land and be in all respects binding upon all sublessees and grantees under the part . . . of the second part. (As amended Act Apr. 28, 1941, c. 546, §5.)

**6413. Mining of ores other than iron.**—Should gold, copper, silver, cobalt, coal, graphite, or manganese (4% or over, dried) or any other valuable mineral be believed to exist on lands included within a prospecting permit or leased as heretofore authorized, the terms and conditions on which the same may be mined, shall be agreed upon by the Commissioner of Conservation and the permit holder or lessee, and in case they are unable to agree, each shall choose a referee. The two persons thus selected shall choose a third. The decision of said board shall be final and binding on the parties in interest. (As amended Act Apr. 21, 1941, c. 329, §1.)

**6416. Assignments, etc., affecting permits or leases—Record of.**—All assignments, agreements, contracts, underlying, overriding or operating agreements affecting any such permit or lease shall be made in writing and signed by both parties thereto, witnessed by two witnesses and properly acknowledged and shall contain the postoffice addresses of all parties having an interest; and when so executed shall be presented in triplicate to the commissioner of conservation for record. The commissioner of conservation shall then record such assignments, agreements, contracts, underlying, overriding or operating agreements at length in his office in record books kept and provided for that purpose and a certificate of such record showing the date thereof and the book and page shall be endorsed on the assignments, agreements, contracts, underlying, overriding or operating agreements; a copy of which shall then be returned to the party entitled thereto. (As amended Act Apr. 28, 1941, c. 546, §6.)

**6417. Approval of instruments by commissioner of conservation—Fees.**—All instruments by virtue of which the title to any permit or lease herein provided for, is in any way affected shall receive, as to form and execution, the approval of the commissioner of conservation, which approval shall be endorsed thereon and such instrument when so approved shall be duly recorded as provided in Section 6416, Mason's

Minnesota Statutes of 1927, as amended. For recording any assignment or other instrument affecting the title to any permit or lease, or for furnishing certified copies of the records, the commissioner of conservation may charge a fee of ten cents per folio. All such fees shall be turned into the state treasury. (As amended Act Apr. 28, 1941, c. 546, §7.)

**6417-1. Separability clause.**—The provisions of this act [6404 to 6406, 6408, 6409, 6416, 6417] shall be severable, and if any provisions or application hereof be held invalid, it shall not affect any other provision or application which can be given effect without the invalid provision or application. (Act Apr. 28, 1941, c. 546, §8.)

#### OTHER LANDS

##### **6442. Certain other lands—How sold—Appraisal.**

This and succeeding sections furnish procedure for sale by the state of land which it has acquired on execution sale on judgment for personal property taxes. Op. Atty. Gen., (421a-8), Sept. 25, 1939.

**6442-1. Sale of escheated property.**—The state auditor shall report immediately to the state board of investment all property other than money received by the state of Minnesota as escheated property. Whenever the state board of investment shall determine that it is for the best interest of the state to sell such property, it shall direct the state treasurer to sell the same to the highest bidder in such manner and upon such terms and conditions as it may prescribe. (Act Apr. 10, 1941, c. 198, §1.)

##### **6445. Certificate of sale.**

State auditor's certificate of escheated real estate re-instated in certain city of the fourth class. Act Feb. 28, 1941, c. 40.

##### **6452-7. Lands to be held by estate.**

Ditch liens upon forfeited lands within a conservation area are to be cancelled. Op. Atty. Gen., (921g), Sept. 28, 1939.

##### **6452-13. Provisions separable.**

Act Apr. 21, 1941, c. 357 authorizes the county board of Roseau county to sell certain tax forfeited lands within the boundaries described in the above act in the same manner as provided by law for the sale of agricultural lands in the same area.

#### STATE PARKS, STATE PUBLIC CAMP GROUNDS AND STATE MONUMENTS

##### **6508-31. Act void under certain conditions.**

Agreement by county board pursuant to construction of a dam as a W.P.A. project in connection with estab-

lishment of a state park to hold harmless to state and federal government from any and all claims of any kind, was ultra vires and county was not liable for damages to crops caused by collapse of dam. Op. Atty. Gen. (844C), Feb. 14, 1941.

**6508-34. Father Hennepin State Memorial Wayside.**—There is hereby created Father Hennepin State Memorial Wayside. Said park shall consist of the following described lands lying in Township 42 North, Range 25 West, County of Mille Lacs, State of Minnesota, when and as acquired in accordance with the terms of this act, more fully described as follows:

Government Lots 2, 3, 4 and 5, Section 3, Township 42 North, Range 25 West, all of the above described lands comprising 129.75 acres. (Act Apr. 28, 1941, c. 520, §1.)

**6508-35. Same—Dedication of lands.**—All lands within the area described in Section 1 which have forfeited to the state for non-payment of taxes, are hereby declared vested in the State of Minnesota, free of any trust or interest in favor of the taxing units thereof and are hereby dedicated to the purposes of said State Memorial Park. (Act Apr. 28, 1941, c. 520, §2.)

**6508-36. Same—Control and management.**—Said State Memorial Wayside shall be under the control and management of the division of state parks, department of conservation. (Act Apr. 28, 1941, c. 520, §3.)

**6508-37. Same—Acceptance of funds and services for state.**—The director of the division of state parks is hereby authorized to accept in the name of the state of Minnesota any funds or services donated for the purpose of improvement of said lands for park purposes. (Act Apr. 28, 1941, c. 520, §4.)

**6508-38. Same—State funds—Expenditure delayed.**—No funds of the state of Minnesota shall be expended upon the maintenance of said park for a period of five years. (Act Apr. 28, 1941, c. 520, §5.)

#### STATE FORESTS

##### **6513-9 to 6513-12. [Repealed.]**

Repealed. Laws 1941, c. 548.

##### **6536-2. May expend money on leased land.**

Act Apr. 14, 1941, c. 215 approves and ratifies leases covering Beltrami and Pine Island areas and provides for Conservation projects in such areas.

## CHAPTER 41

### Eminent Domain

##### **6537. Right of eminent domain.**

Pike Rapids Power Co. v. M., (CCA8), 99F(2d)902. Cert. den., 59SCR362, 488. Reh. den., 59SCR487. Judgment conforming to mandate aff'd, 106F(2d)891.

There is no expressed legislative authority for an independent school district to exercise right of eminent domain for play ground and recreational purposes, if property involved is separated from, and cannot be made a part of school house site. Op. Atty. Gen., (817o), Feb. 5, 1940.

County board in establishing a county road under §2582 should proceed entirely under that section, and not under this statute. Op. Atty. Gen. (377B-3), Nov. 2, 1940.

##### **6551. Judgment—Possession.**

If property taken was actually occupied by former owner between filing of first award and payment of damages, rental value may be offset against award. Op. Atty. Gen. (817r), Sept. 16, 1940.

##### **6552. Interest—Award, when payable; etc.**

Proceeding to condemn a right of way for highway purposes may be abandoned and discontinued by state in exercise of its legislative function at any time prior to making of an award where state has not entered into possession of the property or appropriated it to its purposes. State v. Appleton, 294NW418. See Dun. Dig. 3091.

**6555. Notice of condemnation proceedings in certain cases to be filed with the register of deeds of the county.**—Whenever the State of Minnesota or any city, county, village, town, board of park commissioners or board of public works in this state shall hereafter take or acquire, by condemnation proceedings or dedication, any land or lands or any easement or interest therein for laying out, opening, widening, extending or establishing any public street, road, highway or alley, or for public parks, parkways or other public purposes, or shall vacate or abandon any public street, road, highway, alley, park or public grounds or any portion thereof, or any easement or interest therein, a notice in writing of the completion of every such condemnation proceeding and of every such dedication, vacation or abandonment of any public street, road, highway, alley, park or public grounds or any portion thereof, shall be forthwith filed for record with the register of deeds of the county within which the lands and premises are located. Provided that such notice shall first be presented to the county auditor who shall enter the same in his