

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 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 Law Review Articles and digest of all common law decisions.

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not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than sixty days nor more than six months, or both such fine and imprisonment; provided, that the provisions of this section shall not be deemed to supersede or to exclude the operation of any other penal law which

may be applicable. (As amended Mar. 27, 1943, c. 200, §3.)

**6260. What must be produced, etc.**

Resolution for bounties on groundhogs should not limit benefits to residents of county. Op. Atty. Gen. (47g), Aug. 16, 1943.

## 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.

Land, soil and contents therein of trust fund lands within state forests are available for use and maintenance of such forests, as in construction of roads, under jurisdiction of director of forestry, and it is not necessary to obtain permission from division of lands and minerals. Op. Atty. Gen., (983m), May 21, 1941.

**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.

**6266. State institutions and capitol lands, etc.**

Minimum price per acre is fixed by statute and covers land including improvement. Op. Atty. Gen., (700d-28), July 25, 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 cancella-

tion 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.)

All payments upon principal are to be credited as of June 1, next succeeding time of payment, and this basis is to be used for computation of interest where unpaid balance of principal with interest is tendered at a time following June 1 when due. Op. Atty. Gen. (700d-28), Feb. 8, 1943.

**6269. Sales by subdivisions.**

Op. Atty. Gen. (700A-3), Jan. 13, 1942; note under §6270.

**6270. Subdivision into lots.**

In subdividing trust fund lands into small parcels or lots, Commissioner of Conservation has authority to dedicate streets and alleys to public. Op. Atty. Gen., (700d-26), July 25, 1941.

Law does not authorize subdivision of a tract after sale as long as certificate remains in force, and it would be incorrect upon issuing a patent to deduct or omit from tract described in certificate of sale any land covered by an easement taken in the meantime, and amount awarded for easement is presumed to compensate for damages resulting from taking of easement to tract as a whole, and must be applied on entire obligation owing on certificate. Op. Atty. Gen. (700A-3), Jan. 13, 1942.

Area covered by an easement taken before sale by condemnation should not be deducted from that of a larger tract of which it is a part, but entire tract should be sold as a unit, subject to the easement, unless best interests of state would be served by separating area covered by easement from remainder by process of subdivision. Id.

Certificates of sale under Laws 1941, c. 374, were terminated by default in payment of installment and holder of certificate who happened to have constructed improvements under a previous lease with the state cannot repurchase land at subsequent sale without payment for improvements. Op. Atty. Gen. (700d-6), Dec. 1, 1943.

**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 appraisement 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.

Under Laws 1941, c. 222, Commissioner of Conservation has authority to dedicate streets and alleys to public. Op. Atty. Gen., (700d-26), July 25, 1941.

When interest of certificate holder of trust fund land reverts to the state by virtue of Laws 1935, c. 386, prior existing ditch liens are extinguished and should be expunged from the record. Op. Atty. Gen. (700d), May 27, 1943.

(2). Minimum price per acre is fixed by statute and covers land including improvement. Op. Atty. Gen. (700d-28), July 25, 1941.

**6284. Certificate of sale—Default—Resale.**

When interest of certificate holder of trust fund land reverts to the state by virtue of Laws 1935, c. 386, prior existing ditch liens are extinguished and should be expunged from the record. Op. Atty. Gen. (700d), May 27, 1943.

**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, with-

out 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.)

Certificates of sale under Laws 1941, c. 374, were terminated by default in payment of installment and holder of certificate who happened to have constructed improvements under a previous lease with the state cannot repurchase land at subsequent sale without payment for improvements. Op. Atty. Gen. (700d-6), Dec. 1, 1943.

**6285-1. Contracts relating to tax forfeited lands with members of armed forces may not be cancelled for duration.—**No contract entered into by persons in the army, navy, marine corps, or Women's Auxiliary Army Corps of the United States prior to their induction or enlistment for the purchase of tax forfeited or other lands from the State of Minnesota on the installment plan shall be terminated or cancelled for non-payment of installments except as provided herein. (Act Apr. 7, 1943, c. 341, § 1.) [282.171]

Installments of interest are included within moratorium. Op. Atty. Gen. (700d-28), May 27, 1943.

**6285-2. Affidavit to be filed.—**Any person in the army, navy, marine corps, or Women's Auxiliary Army Corps of the United States, who, as vendee, in any contract with the State of Minnesota for the purchase of tax forfeited or other lands, is in default on any installment, or is unable to pay any installment or installments thereafter becoming due, and desires to retain his or her rights under said contract, shall within 90 days after passage of this act, or 90 days after his or her enlistment or induction, whichever is the later date, file, or cause to be filed by an adult, with knowledge of the facts, with the county auditor or other state agency, having charge of said contract, an affidavit, giving the legal description of said lands, and the number, if any, of said contract, and stating that the vendee in said contract is in the military service of the United States, the branch of the service, the date of enlistment or induction, and that said vendee desires to retain his or her rights under said contract. If said affidavit is filed within the time

herein limited and provided, said contract shall remain in full force and effect, notwithstanding any default or nonpayment of any instalment or instalments thereunder, for six months after the vendee's discharge from the military service or six months after the official proclamation terminating the present war between the United States and its Allies, and Germany, Japan, Italy and their Allies, whichever is the later date. Provided, however, if said vendee fails to pay all delinquent installments within six months after his or her discharge or within six months after the present war between the United States and its Allies, and Germany, Japan, Italy and their Allies is terminated by official proclamation, whichever is the later date, then in such event said contract may be cancelled and terminated as provided by law. (Act Apr. 7, 1943, c. 341, §2.)

[282.171]

**6286. Assignment—Extensions of payment.**

Where defendant purchased school land, making only part payment, and then sold part of land to plaintiff, who paid in full therefor, and placed assignment of state contract in escrow to be delivered to plaintiff at end of two years if a good and sufficient deed had not then been delivered, and plaintiff obtained the assignment and paid all obligations due by defendant to the state, assignment of state contract and subsequent delivery thereof could not be considered a mortgage with attendant right to redeem, though assignment of state auditor's certificate was "security for" delivery of promised adequate deed. *Saxton v. Campbell*, 210M29, 297NW 348. See Dun. Dig. 6151.

**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.)

[92.01]

**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.)

[92.211]

**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.)

[92.212]

**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.) [92.213]

**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.) [92.214]

**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.) [92.215]

Ditch lien of county is protected by distribution of proceeds of sale of land. Op. Atty. Gen. (425c-3), Sept. 9, 1943.

**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.)

**6291-9. Certificate of sale.**—Subdivision 1. **Extension for payment of principal on state land certificates.**—The time for payment of the principal of any certificate of sale of state public land sold prior to May 1st, 1941, which has expired or will expire hereafter, shall be extended as herein provided.

Subd. 2. **Certificate holder to file application.**—Before the expiration of the time for the payment of principal specified in the original certificate of sale, or any extension thereof by law, the holder of the certificate shall file with the commissioner of conservation an application for an extension of time of payment in such form as the commissioner shall prescribe. The applicant shall also submit to the commissioner the certificate of sale or an affidavit of the circumstances if the same has been lost or destroyed, or cannot be produced for any other reason, together with such other proof of the applicant's rights as the commissioner may require. At least 15 per cent of the unpaid principal shall be paid with the application, together with all unpaid interest and penalties accrued to date. The remaining unpaid principal, with interest, shall be payable in like manner as provided by Mason's Minnesota Statutes 1927, Section

6267, as amended by Laws 1941, Chapter 374, and the rights of the certificate holder, and all other proceedings in the matter shall be subject to the provisions of said section and other applicable laws, as if the land has been sold thereunder on the date of the filing of the application for extension.

Subd. 3. **Commissioner to issue certificate of extension.**—Thereupon the time for payment shall be extended and the commissioner shall issue a certificate of extension in form approved by the attorney general, and the original certificate shall be deemed modified in accordance with the provisions of such extension certificate. The duplicate of the certificate shall be attached to the duplicate original certificate of sale on record in the office of the commissioner of conservation.

Subd. 4. **Application of act.**—The provisions of this act shall not apply in any case where the certificate of sale has heretofore been absolutely terminated and made void, without right of redemption, nor in any case where the land has become forfeited to the state for delinquent taxes. (Act Apr. 16, 1943, c. 469, § 1.)

**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.)

**6299. Fees of treasurer—Standing appropriation.**—County treasurer is entitled to receive his fee of one-half of one per cent on each dollar received on account of the certificate of sale whether such payment is received by him before or after the certificate is issued. Op. Atty. Gen. (450E), Dec. 15, 1943.

## INVESTMENT

**6303. Investment of permanent trust funds.**—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 two 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 two 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 Apr. 10, 1941, c. 172, §1; Mar. 18, 1943, c. 152, §1.)

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

State board of investment may not be compelled to accept full payment of bonds before they are due by a county which desired to obtain a lower interest rate by refinancing. Op. Atty. Gen. (37A-7), Aug. 27, 1941.

Profits on sale of bonds should be treated as income of trust funds. Op. Atty. Gen. (454E), Sept. 8, 1941.

State's current surplus funds, such as the trunk highway fund, may not be invested in U. S. bonds. Op. Atty. Gen. (454e), Oct. 8, 1942, Oct. 15, 1942.

#### MISCELLANEOUS

##### 6323. Taxation—Sales—Redemption, etc.

Taxability of land sold under contract by United States or the state. S.R.A., Inc., 213M487, 7NW(2d)484; note under Const. Art. 9, §1.

##### 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.

Land, soil and contents therein of trust fund lands within state forests are available for use and maintenance of such forests, as in construction of roads, under jurisdiction of director of forestry, and it is not necessary to obtain permission from division of lands and minerals. Op. Atty. Gen., (983m), May 21, 1941.

State may not eliminate 90-day cancellation clause in lease between state and a city. Op. Atty. Gen. (700d-18), May 18, 1942.

Certificates of sale under Laws 1941, c. 374, were terminated by default in payment of installment and holder of certificate who happened to have constructed improvements under a previous lease with the state cannot repurchase land at subsequent sale without payment for improvements. Op. Atty. Gen. (700d-6), Dec. 1, 1943.

##### 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.)

[84.415]

Leases or use permits across trust fund lands for power lines may not be issued without consideration. Op. Atty. Gen., (700d-18), July 23, 1941.

Generally speaking, county board has no authority to grant easements or permits for electric power lines over tax forfeited lands. Op. Atty. Gen. (700A-3), Aug. 21, 1941.

6328-2. Same—License to be in form prescribed by attorney general.—The license to be granted shall be in a form to be prescribed by the Attorney General; shall describe the location of the easement or permit thereby granted and shall continue until cancelled by the commissioner upon 90 days' notice. (Act Apr. 9,

1941, c. 145, §2; added by Act Apr. 20, 1943, c. 540, §1.)

[84.415]

6328-3. Same—Fees for licenses.—Such licenses or permits shall provide for a fee of not more than \$4.00 per mile or proportionately for each fraction of a mile, but not less than \$1.00.

In the event the construction of such lines causes damage to merchantable timber on or along such easement, the easement or permit shall also provide for payment to the State Treasurer of the amount thereof as may be determined by the commissioner. (Act Apr. 9, 1941, c. 145, §3; added by Act Apr. 20, 1943, c. 540, §1.)

[84.415]

##### 6337. Actual cost to be apportioned. [Repealed.]

Repealed. Laws 1943, c. 321, §2.

6338. Sale of lands improved.—Lands improved under this act shall be sold as are other state lands. (As amended Apr. 6, 1943, c. 321, §1.)

Cost of improvements and not value thereof are to be added to sale price of land. Op. Atty. Gen., (983m), May 23, 1941.

##### 6339. Terms of purchase price. [Repealed.]

Repealed. Laws 1943, c. 321, §2.

##### 6340. Revolving fund to be credited from proceeds of sale. [Repealed.]

Repealed. Laws 1943, c. 321, §2.

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.) [84.153]

**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.) [84.153]

Appropriation of receipts from rent to maintenance fund was not repealed by implication by Laws 1941, c. 548, requiring that receipts of all departments should be deposited in general revenue fund. Op. Atty. Gen., (640a), June 18, 1941.

**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.) [84.153]

**6340-6. Commissioner of Conservation may sell buildings.**—The Commissioner of Conservation may sell, at public or private vendue, at their fair salvage value, any buildings or lands under the jurisdiction of the Division of Forestry which were constructed during the years 1933 to 1937, as improvements to subsistence farms and for which buildings no use has been found. (Act Feb. 5, 1943, c. 8, §1.)

**6340-7. To be sold—When.**—Before offering such buildings for sale, the Commissioner of Conservation shall find upon the recommendation of the Director of Forestry that no present conservation use for such buildings exists or is likely to occur. (Act Feb. 5, 1943, c. 8, §2.)

**6340-8. Commissioner to execute transfers.**—The Commissioner of Conservation is hereby authorized to execute such instruments as may be necessary to transfer ownership of such buildings upon forms approved by the Attorney General. (Act of Feb. 5, 1943, c. 8, §3.)

**6340-9. Proceeds to general revenue fund.**—The proceeds of all such sales shall be credited to the General Revenue Fund of the state. (Act Feb. 5, 1943, c. 8, §4.)

**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**

**6394-2a. Commissioners may grant permits to search for lost properties.**—Subdivision 1. Upon application therefor the commissioner of administration, hereinafter referred to as the commissioner, is hereby

authorized to grant a permit to search upon lands owned by the state for abandoned or lost property.

Subd. 2. The commissioner may grant such permit upon such terms and conditions, including the division between the state and finder of the proceeds from such property, if unclaimed by the rightful owner, as he may deem proper. The commissioner may require from the applicant a bond conditioned upon the payment to the state of any damage to the premises whereon such search is to be conducted and for the faithful performance of the terms and conditions upon which such permit is granted. (Act Apr. 9, 1943, c. 357, §1.) [16.021]

**6394-2b. Commissioner to have custody of property if found.**—Subdivision 1. All such lost or abandoned property, if found, shall be placed in the custody of the commissioner and held by him subject to the following provisions. If the rightful owner of such property is known to the commissioner, no publication of notice of the finding of such property shall be necessary. Notice shall be given to such owner by registered mail of the finding of such property and upon the payment by the owner of all expenses incurred in the search therefor such property shall be turned over to him. If the owner of such lost or abandoned property is unknown, the commissioner shall give two weeks' published notice in the county where such property is found of the finding thereof and elsewhere as the commissioner may determine. If within six months after the publication of such notice or the giving of notice by him the rightful owner thereof claims the property, it shall be turned over to him upon payment of the expenses incurred in finding the same and the cost of the publication of such notice.

Subd. 2. If such property is not claimed within the time provided in Subdivision 1 hereof, the commissioner, if such property is not money, is authorized to have such property sold at public sale after two weeks' published notice thereof in the county wherein such property has been found and in such other newspapers as he may deem advisable. (Act Apr. 9, 1943, c. 357, §2.) [16.022]

**6394-2c. State's share of property to be placed in revenue fund.**—All lost or abandoned moneys found under the permit granted hereunder, and the proceeds from the sale of other abandoned or lost property found under such permit, shall be deposited in the general revenue fund. The commissioner shall authorize in a manner provided by law the payment to the finder of the share due him under the terms and conditions provided when permission to search therefor was granted. There is hereby appropriated from the general revenue fund such amounts as may be necessary to pay to the finder the amount to which he is entitled under the terms and conditions of the permit granted to him. (Act Apr. 9, 1943, c. 357, §3.) [16.023]

**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.

**6394-10. Sales of state timber; etc.**

Laws 1943, c. 224, provides that: "the Executive Council, upon application of the holders of any incompleated permits still in effect which were issued on October 31, 1935, September 9, 1936, September 11, 1936, October 27, 1936, August 17, 1937, October 1, 1937, October 20, 1937, February 15, 1938, May 12, 1938, August 23, 1938, September 15, 1938, and October 26, 1938, may for good and sufficient reason and upon the recommendation of the Conservation Commissioner, extend the same for and during such period of this and the succeeding calendar year as the council deems advisable. Permits so extended will be subject to 6% interest, and destruction of timber will not relieve purchase.

Statutory requirement that purchaser of small lot of timber settle on the scale implies that adjustment of any difference shall be made, whether against purchaser or in his favor, and where purchaser is entitled to a refundment state auditor should draw his warrant therefor against amount deposited in advance, and for that purpose there should be established a suspense fund. Op. Atty. Gen. (27H), Oct. 7, 1941.

Purchaser of small lot of timber may be required to make an advance payment sufficient to cover estimated scaling fees, and should not be required to furnish bond or mark timber. Id.

#### 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.*, 209M79, 295NW 411. 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.

Purchaser of small lot of timber may be required to make an advance payment sufficient to cover estimated scaling fees, and should not be required to furnish bond or mark timber. Op. Atty. Gen. (27H), Oct. 7, 1941.

#### 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

#### 6395. Reservation of minerals and water powers.

Mineral reservation to the state on registration of land title. Op. Atty. Gen. (311f), Dec. 2, 1942.

#### 6402-2. Prospect for minerals under water, etc.

Division of lands and minerals may grant a permit authorizing removal of sand and gravel by means of dredges and dragline equipment from bed of Minnesota river, but commissioner of conservation must first adopt rules and regulations governing issuance of such permit or lease. Op. Atty. Gen. (311G), Mar. 5, 1942.

#### 6402-8. Right of lessee to prospect for minerals.

Joint consent of federal and state governments is required to permit a change of the cross section of a navigable river such as the Minnesota over which both have concurrent jurisdiction. Op. Atty. Gen. (370), June 26, 1942.

**6402-12. Purposes of act.**—The purpose of this act is to encourage prospecting for iron ores in sections of the state classified as not known to contain merchantable deposits of such ores, in an attempt to assure continued production from Minnesota of a raw material essential to the economic security of the country in time of peace and its defense in time of war. It shall be liberally construed to carry out that purpose. (Act Apr. 2, 1943, c. 277, §1.)

[93.283]

**6402-13. Prospecting permits and mining leases issued for certain lands.**—All parts of the State of Minnesota except St. Louis, Lake, Itasca, Crow Wing and Fillmore Counties are hereby classified as areas in which no merchantable deposits of iron ore are known to exist and with respect to which prospecting permits and mining leases may be issued hereunder covering lands belonging to the state or lands in the minerals of which the state has an interest. Provided that at any time prior to the receipt by him of an application for a permit thereon in accordance with the provisions of this act, the Commissioner of Conservation may withdraw for such time as he sees fit from the operation of this act any designated townships or portions thereof by publishing notice of such withdrawal in a legal newspaper published in the county in which the lands so withdrawn are situated. Provided, further, that the Commissioner of Conservation, with the approval of the Executive Council, may classify as being subject to this act particular areas in St. Louis, Itasca, Crow Wing, Lake, or Fillmore Counties situated more than five miles from any known occurrence of iron ore or iron-bearing formation, and thereupon lands in such areas shall be subject hereto. (Act of Apr. 2, 1943, c. 277, §2.)

[93.283]

**6402-14. Commissioner of Conservation to issue permits.**—The commissioner of conservation may execute permits to prospect for iron ore under lands belonging to the State or lands in the minerals of which the State has any interest, in trust or otherwise, within the areas classified by or in accordance with Section 2 hereof as not known to contain merchantable deposits of iron ore, including lands in conservation areas, game refuges, forest areas, or state or national forests, but excluding lands within any state park, and upon compliance with the provisions of such permits may issue leases for the mining of such ore subject to the conditions hereinafter provided. The powers and duties vested in or imposed upon such commissioner by this act are hereby declared to be cumulative and in addition to the powers and duties vested in or imposed upon him by any other law of this State, and such powers and duties so invested or imposed by this act shall not be limited by any other such law. Provided the Commissioner may refuse to issue permits on any lands being used at the time of the application for permit for tree plantation, nursery, administrative purposes or similar uses essential for the operation and maintenance of any state forest area or game refuge, or may impose such conditions upon the issuance of any permit covering lands used for such purposes as he deems necessary. (Act Apr. 2, 1943, c. 277, §3.)

[93.283]

**6402-15. Rights under permit.**—Permits hereunder shall confer the same rights to prospect for iron ore on the lands described therein and shall be subject to the same conditions with respect to prospecting and reporting thereon as are provided under Mason's Minnesota Statutes of 1927, Section 6407, with respect to holders of permits granted in accordance therewith, but shall otherwise be in form appropriate to the provisions of this act. Provided that the term of such permit shall be for a period of two years and the work of prospecting thereunder shall begin within six months from the date thereof. It shall contain provisions requiring the payment of any damages sustained by the state to timber, structures or other improvements belonging to the state. The requirements for prospecting work thereunder may be satisfied by work performed upon either the lands covered by the permit or on lands included in other permits issued to the same permit holder hereunder in the same general mineral formation or area as those covered by the permit and in the same section according to the United States Government survey or in an adjoining section; provided work done under one permit cannot be credited upon other permits hereunder located in more than one adjoining section. In case the prospecting work is not performed on the lands covered by the permit the holder's reports on the progress of the work shall show work performed on other lands within the limitations above set forth sufficient to constitute compliance with the foregoing provisions. (Act Apr. 2, 1943, c. 277, §4.)

[93.283]

**6402-16. Applications—Fees.**—Applications for permit to prospect for iron ore hereunder shall be presented to the commissioner of conservation either by the applicant or his agent in person or by mail. The application shall describe the lands to be embraced in the permit, which shall consist of contiguous descriptions and shall not exceed one hundred sixty acres unless some of the descriptions are fractional subdivisions, in which case the acreage may exceed that number by not more than the amount by which any one or more of such fractional subdivisions shall exceed forty acres each. The lands covered by any such permit are herein referred to as a "mining unit", and no such mining unit shall contain lands belonging to more than one permanent trust fund, or shall intermingle tax-forfeited lands not held in trust for taxing districts with tax-forfeited lands held in trust for taxing districts, or intermingle either with

permanent trust fund lands. Each application shall be accompanied by a certified check or a cashier's check on a national or state bank in Minnesota, payable to the State Treasurer, in the sum of \$25.00. The commissioner of conservation shall endorse upon each application the exact time of presentation and shall preserve the same in his office. The first applicant for permit on any land whose application hereunder, with accompanying fee, is filed with the commissioner of conservation in accordance herewith shall be entitled to receive a permit hereunder. (Act Apr. 2, 1943, c. 277, §5.) [93.283]

Applications for permits filed with commissioner of conservation before June 2, 1943, the effective date of the act, are ineffectual. Op. Atty. Gen. (311g), May 21, 1943.

**6402-17. Permit holders may receive mining leases.**

—At any time prior to the expiration of any such 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, and the mining lease shall be in the form set forth in Mason's Minnesota Statutes of 1927, Section 6409 as amended, and require the payment of the rentals and royalties set forth in said form, except that said form shall be modified so as to provide that the annual rate of rental for the first five years shall be \$500.00 per year, and thereafter shall be \$5,000.00 per year. 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 the permit, or an affidavit in case no work was done, stating such facts, and pay to the State Treasurer a sum of money based on the quarterly royalty payment of \$125.00 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. (Act Apr. 2, 1943, c. 277, §6.) [93.283]

**6402-18. Leases on tax forfeited lands.**—In the event that any lands covered by any lease hereunder shall be tax-forfeited lands held by the state under trust for the taxing districts, the rentals and royalties paid under any such permit or lease shall be held by the State Treasurer in a special fund subject to disposition thereof as may be provided by any law hereafter enacted. In the event that with respect to any lands leased hereunder the State owns or has an interest in the minerals only, without ownership of the surface of such lands, such lessee shall make proper compensation to the owner of the surface rights for any damage caused thereto. In the event that the state shall own only a fractional undivided interest in the minerals in any land leased hereunder, the royalty and annual rental to be paid the State under such lease shall be such fractional part of the royalty or annual rental payable in the event the State had the entire interest in said minerals that the interest owned by the State bears to the entire interest therein. Except as herein otherwise provided, royalty and rental payable hereunder shall be paid into the same fund as if the particular lands had been leased or sold under existing laws. (Act Apr. 2, 1943, c. 277, §7.) [93.283]

**6402-19. Effective date.**—This act shall take effect sixty days after its adoption and approval. (Act Apr. 2, 1943, c. 277, §8.)

**6402-20. Lands may be grouped into mining units**—Leases.—Lands, or minerals and mineral rights, including fractional undivided interests therein, becoming the absolute property of the state under the tax laws, may be grouped into mining units, permits to prospect for iron ore thereon shall be awarded, and mining leases thereon issued as provided by Mason's Minnesota Statutes of 1927, Sections 6403 to 6424, inclusive, as amended by Laws 1941, Chapter

546, and other laws amendatory thereof, and except as otherwise specifically provided herein, all the terms, conditions and provisions of such laws shall be applicable thereto, regardless of whether or not such lands or minerals and mineral rights are held in trust for taxing districts. Leases issued hereunder shall be in the form provided by law, with only such changes as the Commissioner of Conservation shall find necessary to indicate the specific interest covered by the lease and the proportion of the stipulated royalty or rental payable under Section 2 hereof. (Act Apr. 2, 1943, c. 287, §1.) [93.335]

**6402-21. Undivided interests.**—If the interest in lands or minerals and mineral rights acquired by the state under the tax laws is an undivided part of the whole interest therein, the quarterly and annual rentals and minimum royalty to be bid and paid to the state upon the leasing thereof shall be such proportion of the amounts stipulated in the laws under which such leases are executed as the undivided part owned by the state bears to the whole interest in such lands, or minerals and mineral rights. The specification in any such lease issued in the form provided by such laws that the interest covered thereby is a fractional undivided interest shall be a sufficient statement that the quarterly rentals, annual rentals, and minimum royalties to be paid thereunder shall be such proportion of the amount stated in the lease as the undivided interest covered thereby bears to the whole interest in such lands or minerals and mineral rights. (Act Apr. 2, 1943, c. 287, §2.) [93.335]

**6402-22. Lease to be for mineral rights only in certain cases.**—If, because of having sold the surface of such lands, reserving the minerals and mineral rights, or from any other cause, the state owns only the minerals and mineral rights in any lands leased hereunder, the Commissioner of Conservation shall confine such lease to such minerals and mineral rights. The amount of the quarterly rentals, annual rentals, and minimum royalties to be bid and paid to the state upon such leases shall not be reduced by reason of that fact, and the lessee shall acquire all such rights to use the surface of such lands as were reserved or are owned by the state under its reservation of minerals and mineral rights. Any specification of rights to the surface in such lease shall be construed as limited by this section. (Act Apr. 2, 1943, c. 287, §3.) [93.335]

**6402-23. Rentals and royalties to be held in trust by State Treasurer, in certain cases.**—If the lands or minerals and mineral rights covered by any such lease are held by the state in trust for the taxing districts, the rentals and royalties paid under any such lease shall be held by the state treasurer in a special fund, subject to disposition thereof as may be provided by any law hereafter enacted. (Act Apr. 2, 1943, c. 287, §4.) [93.335]

**6402-24. Disposition of funds.**—Except as provided by Sec. 4 hereof, and except where the disposition of proceeds of the lands involved may be otherwise directed by existing law, all rentals and royalties payable hereunder shall be paid into the general revenue fund of the state. (Act Apr. 2, 1943, c. 287, §5.) [93.335]

**6403. Permits to prospect for iron and other ores, etc.**

Tax forfeited lands. Laws 1943, c. 287.  
Title is sufficiently broad to include iron ore in land acquired through tax forfeiture proceedings. Op. Atty. Gen. (311D-8), Mar. 20, 1942.

**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 included in a mining unit may be larger but shall not exceed three contiguous units as otherwise hereinbefore limited. The land so included by the commissioner in a single unit at the time an application for a permit to prospect for iron ore thereon is received shall constitute one mining unit within the meaning hereof. No mining unit herein provided for shall contain lands belonging to more than one permanent trust fund. (As amended Apr. 28, 1941, c. 546, §1; Mar. 30, 1943, c. 233, §1.)

Whether an unmeandered lake containing 51 acres upon a section of school land is a "public lake or river" is a question of fact. Op. Atty. Gen. (311G), Jan. 14, 1942.

**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.)

A bid which fails to include a bid on each of the seven schedules is not a legal bid. Op. Atty. Gen. (311G), Nov. 26, 1941.

**6407. Rights and duties of permit holders, etc.**  
Exploration in certain areas. Laws 1943, c. 277.

**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 Mason's Minnesota Statutes of 1927, Section 6407, 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, if the holder of any such permit shall indicate in an application for a lease that he considers the lands covered by his permit to be principally valuable for the taconite thereon, or that he desires a taconite lease thereon, then the commissioner of conservation, on the basis of all available information in his possession, including information acquired as the result of exploratory work under such permit, if any, shall determine whether the lands covered by such permit are principally valuable for the taconite thereon and have no substantial value because of merchantable deposits of ores of the kinds defined in Laws 1941, Chapter 546, Section 5, schedules 1 to 6, inclusive, and, if he shall so determine, such applicant 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 in said section in case of leases for the mining of taconite ore. In such cases the commissioner shall designate said lease as a "Taconite Ore Mining Lease" and shall insert in the blank provided for the amount of the first quarterly payment in the form of lease set forth in said Section 6409, as amended, the figure representing the reduced quarterly rental for taconite leases as herein specified.—Provided that, if, following the issuance of a lease so designated as a taconite iron ore mining lease, additional information acquired by the commissioner of conservation shall disclose that such lands have merchantable deposits of ore of the classes defined in schedules 1 to 6, inclusive, of said section, which deposits, without reference to the taconite upon such lands, would give substantial value to such unit, the commissioner shall report the facts to the executive council. If the executive council, after hearing upon reasonable notice to the holder of such lease, shall determine that

the lands covered by such lease contain merchantable deposits of iron ores which, without reference to taconite ores upon said lands, would give substantial value to the unit covered by such lease, then it may order the rental stipulated in such lease to be increased to the rate of \$5,000 per year, and such increased rental shall be payable for the period from and after the date of such order so made and until the merchantable deposit or deposits of such ores, other than taconite ores, so found to exist on such lands have been exhausted; after which time said lower rates of annual rental shall be reinstated and again effective. 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 Apr. 28, 1941, c. 546, §4; Mar. 30, 1943, c. 233, §2.)

**6408-1. Payment of royalties.**—All ores or concentrates shipped from the lands covered by any lease under Laws 1941, Chapter 546, shall be classified and paid for under and in accordance with the particular schedule of Section 5 of said law properly applicable thereto. The royalty provided for taconite concentrates in schedule 7 of Section 5 of said law shall be applicable to concentrates produced from taconite ores which, in accordance with good engineering and metallurgical practice, require treatment by fine grinding, magnetic separation, flotation, or some other method or methods other than or in addition to one or more of the methods specified in schedules 1 to 6, inclusive, of said section to make them suitable for blast furnace use. (Act Mar. 30, 1943, c. 233, §3.) [93.201]

**6408-2. Taconite lease.**—In any case where, pursuant to a permit holder's application for a lease in which he has indicated that he considers the lands covered by his permit to be principally valuable for the taconite thereon or that he desires a taconite lease thereon, the commissioner of conservation heretofore shall have issued a lease in which he inserted in the blank provided for the amount of the first quarterly payment the figure representing the reduced quarterly rental for taconite leases, as herein provided, and shall have designated such lease a "Taconite Lease" or a "Taconite Iron Ore Mining Lease" upon the lease or upon his records, such act shall be construed as a determination that such lands were principally valuable for the taconite thereon and had no substantial value because of merchantable deposits of ores of the kinds defined in Laws 1941, Chapter 546, Section 5, schedules 1 to 6, inclusive, and such lease so issued shall be valid as a lease designated a "Taconite Iron Ore Mining Lease," and subject to the right of the Executive Council to redetermine the classification of the mining unit covered thereby in the manner provided by Section 2 hereof, and subject to the provisions of Sections 1 and 3 hereof. Provided that any lessee desiring the protection of this section shall file with the commissioner of conservation, within ninety days from the approval of this act, written consent to the application of all the provisions of this act to said lease. (Act Mar. 30, 1943, c. 233, §4.) [93.202]

**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 pur-

pose 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 increase 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.)

Op. Atty. Gen. (311g), Nov. 26, 1941; note under §6406. Method of computing iron ore royalties down to one hundredth of one percent and disregarding the thousandth decimal in figuring percentage of iron ore content is approved. Op. Atty. Gen. (311H), Feb. 16, 1942.

**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.)

**6428. Contracts for removing ore, etc. [Repealed.]**  
Repealed. Laws 1943, c. 208, §8.  
Whether an unmeandered lake containing 51 acres upon a section of school land is a "public lake or river" is a question of fact. Op. Atty. Gen. (311G), Jan. 14, 1942.

**6429 to 6430. [Repealed.]**  
Repealed. Laws 1943, c. 208, §8.

**6430-1 to 6430-3. [Repealed.]**  
Repealed. Laws 1943, c. 208, §8.

**6430-4. Commissioner of Conservation may sell permits to prospect for iron ore in state waters.**—The Commissioner of Conservation may, in his discretion, semi-annually give public notice of sale of permits to prospect for iron ore situate in the bed of any public lake or river within the state of Minnesota in the same manner and at the same time as provided for sale of permits to prospect for iron ore under the provisions of Mason's Supplement 1940, Section 6405, as amended. (Act Mar. 27, 1943, c. 208, §1.) (93.351)

**6430-5. Application for permits to prospect.**—Applications for permits to prospect for iron ore shall

conform in all respects to the requirements set forth in Mason's Statutes 1927, Section 6406, as amended, and the permits issued thereunder shall be issued in the same manner and upon the same conditions as therein provided. (Act Mar. 27, 1943, c. 208, §2.) [93.352]

**6430-6. Rights of permit holders.**—The holder of any such permit shall have the right to prospect for iron ore on the land described therein for one year from the date thereof, and no longer; but no ore shall be removed therefrom until a lease has been executed. The work of prospecting under such permit shall begin in a substantial manner as soon after the date thereof as conditions will permit and shall be continued until the permit expires, is surrendered or a lease asked for. The holder of such permit shall report in writing to the Commissioner of Conservation on the first business day of each April, July, October and January, the progress of the work of prospecting and accompany such reports with maps showing the character and extent of the work done, the nature of materials encountered in such work and the analysis for iron, silica, phosphorus, alumina, and manganese of all iron bearing formation encountered. The permit holder shall split all samples taken and furnish the commissioner or his representative from time to time as the commissioner or his representative shall direct, with a portion of such samples, properly marked for identification. The work done by the permit holder shall be subject to inspection at all reasonable times by the commissioner or his representatives. The permit to prospect for ore is granted upon the express condition that if the permit holder shall fail to perform any of the terms, covenants or conditions in such permit to be performed by him, then it shall be the duty of the commissioner to cancel such permit, first having given said permit holder at least twenty days' notice in writing thereof. (Act Mar. 27, 1943, c. 208, §3.) [93.353]

**6430-7. Permit holders may receive leases—Royalties.**—At any time prior to the expiration of any such prospecting permit, the original holder or any assignee thereof shall have a right to receive from the Commissioner of Conservation a mining lease which shall bind the state and the person to whom it is issued to the mutual observance of the obligations and conditions thereof. The minimum royalty provided in any such lease to be paid to the state of Minnesota as a consideration for its issuance shall be not less than the minimum royalty upon a gross ton which would be required by the existing law to be paid for such ore if located in state lands not under any such waters and the royalty on manganese (four per cent or over dried) shall be arrived at by the methods prescribed for determining such royalty on manganese as provided in Laws 1941, Chapter 329. Such leases for the mining, removing and disposing of such iron ore may contain provisions permitting the beneficiation by the lessee or purchaser of any ore not merchantable in its natural conditions, and for the payment of royalties at not less than such minimum rates per ton, upon the merchantable product of such beneficiation instead of upon the ore as mined. Such leases may further provide for the drainage of such lake or river, or the diversion of the waters thereof to a new bed or channel. Before any mining or drainage operations are commenced under the provisions of any such lease, the lessee shall furnish such security as the Commissioner of Conservation, with the approval of the executive council, may require to assure the payment of any injury or damage which may be occasioned to any riparian owners affected by such operations. The Commissioner of Conservation with the approval of the executive council, upon the written request of the lessee or his successor in interest and at his sole expense, shall have power to institute condemnation proceedings to pay for the interests of

private persons or corporations who may be injured or whose rights may be destroyed by the carrying on of such operations, and such contract, lease or agreement for mining, removing or disposing of such iron ore may contain a covenant on the part of the second party to return the waters of such lake or river to their former beds as nearly as possible after the ore shall have been removed. Any such contract, lease or agreement shall expressly provide that all persons engaged in exploring, mining, or removing any ores or minerals thereunder, shall comply with all laws, lawful orders or regulations relating to or affecting the safety of those engaged in such operations. (Act Mar. 27, 1943, c. 208, §4.) [93.354]

**6430-8. Payments on leases.**—Such contracts, lease, or agreements shall provide for an annual minimum rental payable quarterly in such sum as shall be determined by the Commissioner of Conservation with the approval of the executive council, and shall contain a provision requiring the lessee to assume and agree to pay all damages sustained by riparian owners occasioned by operations under such lease. (Act Mar. 27, 1943, c. 208, §5.) [93.355]

**6430-9. Disposition of funds.**—All revenues derived from any permits, contracts, leases or agreements issued hereunder shall be paid into the permanent school fund of the state. (Act Mar. 27, 1943, c. 208, §6.) [93.356]

**6430-10. Instruments must be approved by Commissioner of Conservation.**—All instruments affecting the title or ownership of any interest granted by the state hereunder shall be invalid and ineffectual for any purpose, unless approved by the Commissioner of Conservation and filed with him within 30 days of the execution thereof. (Act Mar. 27, 1943, c. 208, §7.) [93.357]

**6430-11. Laws repealed.**—Mason's Statutes 1927, Sections 6428, 6429 and 6430, and Mason's Supplement 1940, Sections 6430-1, 6430-2 and 6430-3, are hereby repealed. (Such repeal shall not be construed as repudiating any valid provisions of existing leases or permits to drain or divert public waters heretofore issued pursuant to said laws. (Act Mar. 27, 1943, c. 208, §8.)

#### OTHER LANDS

**6433-2a. Commissioner of Conservation authorized to sell certain lands.**—The Commissioner of Conservation is hereby authorized to offer for sale at public sale during the year 1943 the following described state trust fund land:

That part of Lot 5, Section 36, Township 143, Range 32, Hubbard county, lying north of state highway number 85, consisting of 2.64 acres more or less.

This land may be sold notwithstanding the fact that the original government lot has frontage on a public stream, provided that such part of said lot lying south of said highway and bordering the stream is reserved by the state. (Act Apr. 5, 1943, c. 299, §1.)

**6433-2b. Commissioner of Conservation to withdraw certain lands in Cook County.**—The Commissioner of Conservation is hereby authorized to withdraw from the Grand Portage Forest, and to offer for sale and to sell during 1943 the following described land to-wit:

Commencing at the corner to Sections 27, 28, 33 and 34, Township 62 North, Range 3 East; thence due south along the section line between Sections 33 and 34 for a distance of 1585.6 feet to an iron pin (one inch square and 12 inches long) being the meander corner to Sections 33 and 34, Township 62 North, Range 3 East; thence at an angle of 81 degrees and

24 minutes to the left (being South 81 degrees and 24 minutes East) for a distance of 469.4 feet to an "X" mark on a ledge rock, being the point of beginning of this survey; thence at an angle of 35 degrees and 46 minutes to the left (being North 62 degrees and 50 minutes East) for a distance of 677.3 feet to a 4" x 4" cedar post; thence at an angle of 18 degrees and 20 minutes to the right (being North 81 degrees and 10 minutes East) for a distance of 228.3 feet; thence at an angle of 18 degrees and 27 minutes to the left (being North 62 degrees and 43 minutes East) for a distance of 375.4 feet to a 4" x 4" cedar post; thence at an angle of 13 degrees and 13 minutes to the right (being North 75 degrees and 56 minutes East) for a distance of 333.8 feet to a 4" x 4" cedar post; thence at an angle of 32 degrees and 50 minutes to the left (being North 43 degrees and 06 minutes East) for a distance of 150.0 feet to a 4" x 4" cedar post; thence at an angle of 72 degrees and 36 minutes to the right (being South 64 degrees and 18 minutes East) for a distance of 99.6 feet to a ¾ inch iron pipe; thence at an angle of 115 degrees and 42 minutes to the left (being North 0 degrees and 00 minutes West) and paralleling the West line of Section 34, for a distance of 992.5 feet to the section line, being the North line of Government Lot 1; thence at an angle of 90 degrees and 00 minutes to the left (being North 90 degrees and 00 minutes West) along the North line of Government Lot 1 for a distance of 210.5 feet to the center line of former trunk highway No. 61; thence at an angle of 55 degrees and 28 minutes to the left (being South 34 degrees and 02 minutes West) for a distance of 1331.8 feet along the center line of said former trunk highway; thence deflect to the right on a 6 degree and 00 minute curve, delta angle 58 degrees and 30 minutes, for a distance of 911.70 feet along the center line of said highway, thence leaving the center line of said highway at this point and turning to the left (being South 20 degrees and 24 minutes East) for a distance of 139.9 feet to an "X" mark on a ledge rock to the point of beginning, and here terminating; containing 16.66 acres in Government Lot 1, which includes .99 acres right-of-way (33 feet in width to the South and East of center line of road); Government Lot 2 contains 1.31 acres of this survey which includes .71 acres right-of-way (33 feet in width to the South and East of center line of road), excepting therefrom that part of former Trunk Highway No. 61 contained in said description.

In the same manner as provided for the sale of other State School land. (Act Apr. 6, 1943, c. 305, §1.)

[89.021]

**6438. Not over 320 acres.**

Rabbit Lake lease and drainage provisions construed with respect to use of lake bed as a stripping dump. Op. Atty. Gen. (311d-5) May 26, 1943.

**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-3), Sept. 25, 1939.

Proceedings for sale of lands acquired under foreclosure of lien for old age assistance are had under §6442 et seq. but proceeds are disposed of as provided in §3199-27. Op. Atty. Gen. (521p-4), Aug. 21, 1943.

Care and management of property acquired by county through foreclosure of old age assistance lien is with the commissioner of conservation, until the sale of the land, and he has authority to lease the same and is charged with all of the responsibilities. Op. Atty. Gen. (521p-4), Aug. 26, 1943.

**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.)

[11.08]

Commissioner of administration has nothing to do with sale of cheated property. Op. Atty. Gen., (700d-23), Apr. 30, 1941.

Act relates to escheated property other than lands, and there is no transfer of powers of governor, Attorney General and State Auditor. Op. Atty. Gen. (700d-2), Nov. 28, 1941.

**6445. Certificate of sale.**

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

**6452-1. Reforestation areas to be set off.**

Repair of drainage ditches. Laws 1943, c. 626, §3.

**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**

**6467-3. Commission may lease boat livery rights.** Op. Atty. Gen. (34g-2), Apr. 24, 1942; note under §5480.

**6487. Leasing of buildings.**—The commissioner of conservation is hereby authorized to lease Douglas Lodge and the adjacent cottages and buildings situated in Itasca State Park for a term not exceeding ten years, upon condition that the lessee shall, during the term of the lease, keep all said buildings in good condition and repair, operate the same for a period during the summer of each year, as shall be agreed upon by the commissioner of conservation, director of state parks and the lessee prior to the commencement of the season, as a first-class orderly hotel and lunch room, pay the state as rental therefor not less than twenty-five per cent of the net profits arising in connection therewith, or a sum fixed by the commissioner, and surrender the premises to the state at the expiration of said rental period. The foregoing conditions shall be included with the terms of the lease, and, upon thirty days' notice, said lease may be terminated for breach of any of said conditions. (As amended Mar. 26, 1943, c. 178, §1.)

Even if commissioner of conservation has authority to accept a surrender of lease on Douglas Lodge, there is no authority or fund to purchase equipment in the lodge. Op. Atty. Gen. (333), Mar. 4, 1942.

**6487-1. Termination of lease of Douglas Lodge.**—

The commissioner of conservation is hereby authorized to accept surrender of the Douglas Lodge lease, if tendered by lessee, and upon termination of such lease, he is hereby authorized to operate Douglas Lodge and appurtenant cabins and other buildings within Itasca State Park as a first class retreat hostelry in conjunction with the other state park service facilities, by the use of any fund provided for operation of such facilities: (Act Apr. 5, 1943, c. 301, §1.)

[85.07(8)]

**6487-2. Commissioner of Conservation may purchase equipment, etc.**—The commissioner of conservation, with the approval of the executive council, is hereby authorized to purchase on behalf of the state, such stock, equipment and fixtures as are now in Douglas Lodge, which he deems necessary for its operation, which are not now the property of the State of Minnesota, and which the owner is willing to sell, at the fair and reasonable market price as determined by the Commissioner of Administration. The commissioner may agree with the owner of such property for terms of payment over a period not to exceed three years. (Act Apr. 5, 1943, c. 301, §2.)

[85.07(9)]

**6487-3. Payment.**—Payment for such property shall be made from the profits of the state park revolving fund so as to carry out the terms of such agreement. So much of the profits of said fund, or which shall be credited to such fund during the period of the agreement for payment, as may be necessary to carry out the purposes of this act, are hereby appropriated therefor. (Act Apr. 5, 1943, c. 301, §3.)  
[85.07(10)]

**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 establishment 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.)  
[85.171(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.)  
[85.171(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.)  
[85.171(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.)  
[85.171(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.)  
[85.171(5)]

**6508-45. St. Croix State Park established—May accept lands from the United States government.**—The Director of State Parks is hereby authorized to accept on behalf of the state from the United States, upon the conditions contained in the act of Congress approved June 4, 1942 (Public Laws 594, 77th Con., 2d Sess.), such title as the United States can convey to any lands in Pine County lying south of state trunk highway number 48, and within the area known as the St. Croix Recreational Demonstration Area. Such grant or deed may contain the express condition that the state as grantee shall use the property exclusively for public park, recreational, and conservation purposes, and that the United States shall assume no obligation for the maintenance or operation of the property after the acceptance of the deed. (Act Apr. 5, 1943, c. 293, §1.)  
[85.085]

**6508-46. Same—Lands withdrawn from sale.**—All lands so received from the United States, together with all lands owned by the state, whether they be school or other trust fund lands, or lands which have

forfeited to the state, or which hereafter become forfeited for non-payment of taxes, which are located within sections 32 and 34, township 41 north, range 17 west; sections 25, 26, 27, 28, 33, 34, 35 and 36, township 41 north, range 18 west; sections 5, 8, 10, 11, and 16, township 40 north, range 18 west; sections 14, 16, 18, 19, 20, 21, 30 and 31, township 40 north, range 19 west; sections 5 and 8, township 39, north, range 19 west, are hereby withdrawn from sale and the same are set apart and established as a state park. (Act Apr. 5, 1943, c. 293, §2.)  
[85.085]

**6508-47. Same—Name.**—The name of said park shall be the St. Croix State Park, and the same by this act hereby is dedicated to the perpetual use of the people as a public park. (Act Apr. 5, 1943, c. 293, §3.)  
[85.085]

**6508-48. Same—Director of state parks to quiet title to land.**—The Director of State Parks is hereby authorized to initiate any legal action which in his opinion is desirable upon the advice of the Attorney General to cure any defects in title or perfect the title to any of the lands affected hereby and he may enter into negotiations to acquire any outstanding interests in such lands or the title to any privately owned lands completely surrounded by the lands dedicated to state park purposes hereby, and he may purchase such interests or lands with any funds made available to him for land acquisition by appropriation or by donation for that purpose. (Act Apr. 5, 1943, c. 293, §4.)  
[85.085]

STATE FORESTS

**6509 to 6513. [Repealed.]**

Repealed. Laws 1943, c. 171, §10.  
Land, soil and contents therein of trust fund lands within state forests are available for use and maintenance of such forests, as in construction of roads, under jurisdiction of director of forestry, and it is not necessary to obtain permission from division of lands and minerals. Op. Atty. Gen., (983m), May 21, 1941.

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

Repealed. Laws 1941, c. 548.  
Repealed. Laws 1943, c. 171, §10.  
Where trust fund land was sold under contract and was tax forfeited and classified as state forest land and buildings erected by purchaser were declared fire hazards and sold and removed, money received should be credited to the permanent school fund. Op. Atty. Gen. (454e), Dec. 2, 1941.

State Forest Fund is abolished by Laws 1941, c. 548. Op. Atty. Gen. (983E), Mar. 6, 1942.

State forest fund created by Laws 1933, c. 313, and appropriation of fifty percent of certain revenues and disbursements to counties contained in such act were abolished and repealed as of July 1, 1941, rather than upon date when act was approved. Op. Atty. Gen. (9a-16), Apr. 23, 1942.

**6514 to 6516. [Repealed.]**

Repealed. Laws 1943, c. 171, §10.

**6517. Animals and birds in state forests and parks—Prohibition—Penalty.**—No person shall kill, or pursue with intent to kill, take, snare, or have in possession, by any means upon any Minnesota state parks, or upon any lands that may be designated by the director of game and fish as game propagating and breeding grounds, any wild animals or birds protected at any time by law. The killing or having in possession of each of such protected animal or bird shall constitute a separate offense.

Provided, that this act shall not prohibit the killing or destroying of wolves or other noxious animals by or under the supervision of the director. (As amended Act Feb. 20, 1943, c. 57, §1.)

**6522-2. Certain lands specified as state forests. [Repealed.]**

Repealed. Laws 1943, c. 171, §10.

**6522-4 to 6522-6. [Repealed.]**

Repealed. Laws 1943, c. 171, §10.

## UNITED STATES LANDS

**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.

Funds available for repair of machinery to be used as sponsor's contribution in Beltrami Island project development work. Op. Atty. Gen. (208B-4), Aug. 15, 1941.

Fifty-year lease from government construed and effect of presidential proclamation concerning Beltrami Island resettlement area discussed. Op. Atty. Gen. (983g), Apr. 24, 1942.

**6536-3. Not to create debt.**

Methods of acquiring federal lands for state park purposes and operation thereof defined. Op. Atty. Gen. (330a), Feb. 7, 1942.

**6536-11. Expenditure of state's percentage of proceeds of sale of land to the United States.**—Subdivision 1. All sums heretofore or that may hereafter be received from the United States government, on account of an act of Congress approved May 23, 1908 (35 Stat. 260), or any amendments thereof hereafter enacted shall be expended as follows:

One-half for public schools and the remainder for public roads in the counties in which the national forests are situated; provided, however, that any county coming within the provisions of said act of Congress is hereby authorized to borrow money from the Federal government or any of its agencies and to use moneys received pursuant to the provisions of said act of Congress or amendments thereto for the purpose of repaying any loan or loans made to such coun-

ty by the Federal government or any of its agencies. In the case of the Superior National Forest, the counties of Cook, Lake, Koochiching and St. Louis shall share in the distribution of the sum received from that source in the same proportion that the federally owned lands in each county which are within the boundaries of said forest bear to the total number of acres of federally owned lands in said forest area. In the case of the Chippewa National Forest, the counties of Cass, Itasca and Beltrami shall share in the distribution of the sum received from that source in the same proportion that the federally owned lands in each county, which are within the boundaries of said forest bear to the total number of acres of federally owned lands in said forest area.

Subdivision 2. Any distribution made by the state of moneys received from the United States government on account of said act of congress is hereby legalized and made valid and effective to the same extent as though the method of distribution used was provided for by legislative enactment prior to the distribution thereof. (As amended Apr. 22, 1943; c. 569, §1.)

Half of funds received from national government must be expended on roads and half for benefit of public schools. Op. Atty. Gen. (159A-10), Mar. 25, 1942.

**6536-13. Same—use for schools and roads; etc.**

Distribution for school purposes should take population into consideration rather than number of acres, and in matter of roads number of miles involved would be an important factor in distributing funds for roads. Op. Atty. Gen. (203k), June 1, 1942.

## 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.

The construction and maintenance by a citizen of a rock garden upon a small triangular tract purchased by a city immediately adjoining one of its streets, garden being accessible to public at all times except at night, when gates of an ornamental fence around the tract are locked, is a public use and does not constitute an abandonment of the tract for public purposes. Kendrick v. City of St. Paul, 213M283, 6NW(2d)449. See Dun. Dig. 1.

Though a condemnation has been treated as a purchase and sale for various purposes, a condemned condemnation by highway department of land for a highway was not a "sale" of the property within meaning of act permitting former owners of tax forfeited land to repurchase it if not already sold by the state. State v. Flach, 213M353, 6NW(2d)805. See Dun. Dig. 3013.

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.

A village operating under Laws 1885, c. 145, should follow procedure provided by that act in condemning land. Op. Atty. Gen., (234b), May 27, 1941.

A village operating under 1885 laws can acquire a right-of-way for a new street as provided by that law, or by exercise of power of eminent domain under general statutes. Op. Atty. Gen. (396g), Aug. 7, 1942.

When city charter provides actual payment of compensation is prerequisite to right of possession of land condemned it must be followed. Op. Atty. Gen. (59a-14), Sept. 18, 1942.

A city with a charter providing a method for acquisition of property for public purposes cannot proceed under this chapter, and city of Austin desiring to condemn land for an airport site must proceed under its charter. Op. Atty. Gen. (59a-14), Apr. 14, 1943.

Tuberculosis Sanatorium Commissioners do not possess power of eminent domain, and whether taking of additional private property for public use is necessary is a question of fact to be determined in proceedings in eminent domain, which must be instituted by county boards. Op. Atty. Gen. (556a-3), June 16, 1943.

After obtaining approval of site by commissioner of aeronautics, city may condemn land for an airport and take possession at any time after the filing of the report

of the commissioners under the general law, but charter provisions concerning condemnation must control procedure. Op. Atty. Gen. (234b, 817f), July 30, 1943.

Condemnation of land by county for county aid road purposes, where land involved belongs to the state and has been sold by the state under contract. Op. Atty. Gen. (817f), Oct. 22, 1943.

**6540. Entry for surveys, etc.**

Condemnor may survey premises prior to commencement of condemnation proceedings without consent of owners. Op. Atty. Gen. (59a-14), Apr. 14, 1943.

**6541. Petition and notice.**

**1. Proceedings generally.**  
Practice and procedure in condemnation proceedings in federal court must be according to the forms and modes provided in the state where the proceedings are had. U. S. v. Federal Land Bank of St. Paul, (C.C.A.8), 127 F. (2d) 505. See Dun. Dig. 3748a.

Tuberculosis Sanatorium Commissioners do not possess power of eminent domain, and whether taking of additional private property for public use is necessary is a question of fact to be determined in proceedings in eminent domain, which must be instituted by county boards. Op. Atty. Gen. (556a-3), June 16, 1943.

**6543. Order made thereon—Commissioners.**

An order appointing commissioners in eminent domain proceedings by the state is not a final one and is not appealable. State v. Simons, 212M452, 4NW(2d)361. See Dun. Dig. 3129.

Proceedings to condemn property may be abandoned before commissioners are appointed, under Austin City Charter. Op. Atty. Gen. (817c), Apr. 17, 1943.

**6546. Payment—Tender—Deposit in court.**

Deposit of money with clerk where land forfeited to state for tax is condemned for highway and former owner is claiming right of repurchase. State v. Flach, 213M353, 6NW(2d)805. See Dun. Dig. 3119.

Where lands which have been forfeited to the state for delinquent taxes are taken by the state for trunk highway purposes, and the award of damages deposited with the clerk of the district court in the county where the land is situated, the county may petition the district court for an order directing the clerk to pay this award to the county treasurer, and the court will then determine whether he is entitled to the award. Op. Atty. Gen., (229d-3), July 24, 1941.

If the owner of land who has confessed judgment on certain delinquent taxes is not in default on the judgment by confession and if taxes not covered by the judgment are not delinquent there is no objection to the coun-