

tion incorporated in the minutes. Whether the land is to be acquired from the state by action of the tax commissioner, or from another source, is immaterial so far as the action of the school is concerned. The resolution should describe the land to be acquired. It should state the purchase price, if any. If the land is to be acquired from the commissioner of taxation, the procedure must conform to the procedure which the law requires before a conveyance is made. Approval of the commissioner of conservation should be obtained under the provisions of section 89.41. OAG Sept. 19, 1951 (983-E).

The state teachers college is not an entity and cannot hold title to real property. The title to the real property which comprises a state teachers college is vested in the state. In order that tax-forfeited land might be appropriated for the use of a state teachers college the college board must approve the establishment and maintenance of a forest upon the lands for use by the college; or the commissioner of conservation must approve the establishment and maintenance of such forest and appropriate action must be taken by the county board as required by section 282.01, subdivision 1, with reference to such lands. OAG Dec. 31, 1953 (983-E).

## 89.42 SALE OF FOREST PRODUCTS

HISTORY. 1949 c 431 s 2.

There is no authority authorizing a school district which maintains a school forest to prevent F. F. A. members to sell timber and give proceeds to F. F. A. OAG July 29, 1953 (159-A-10).

## CHAPTER 90

### TIMBER LANDS

#### 90.01 DEFINITIONS

HISTORY. 1862 c 62 s 32, 34, 36-38; 1864 c 15 s 1, 2; 1867 c 77 s 8, 9, 11, 14, 15, 31, 33-37, 45-52; 1873 c 33 s 1; 1874 c 35 s 1; 1877 c 56 s 4, 10-16; 1905 c 204 s 1-27, 29-43; 1909 c 342; 1909 c 476; 1911 c 194; 1913 c 114; 1913 c 383; 1913 c 530; 1917 c 162 s 1; 1925 c 276 s 2.

90.02 Unnecessary.

#### 90.07 TRESPASS ON STATE LANDS

HISTORY. 1862 c 62 s 32-37; 1864 c 15 s 1; 1895 c 163; 1905 c 204 s 1-6; 1925 c 276 s 3; 1937 c 368 s 1.

#### 90.11 POWERS OF EXECUTIVE COUNCIL

HISTORY. 1919 c 488 s 1; 1925 c 276 s 8; 1933 c 375 s 1; 1937 c 368 s 2; 1939 c 32.

NOTE: See Laws 1951 c 69 s 1.

#### 90.125 TIMBER DEVELOPMENT, FUNDS

HISTORY. 1951 c 365 s 1-3.

#### 90.13 STATE TIMBER, SALES

HISTORY. 1925 c 276 s 10; MS 1927 s 6394-10; 1939 c 352; 1949 c 182 s 1; 1951 c 662 s 1.

90.14 Repealed, 1943 c 60 s 12.

### 90.21 PERMITS TO CUT AND REMOVE TIMBER

HISTORY. 1919 c 488 s 1; 1925 c 276 s 17; 1937 c 368 s 3.

### 90.215 PRESERVATION AND PROTECTION OF TIMBERED AREAS

The preference of lumber and timber management for state rather than federal control of timber cutting regulations, together with the well known need for conservation of standing timber and encouragement of timber growth, led to the passage of Laws 1943, Chapter 290. 31 MLR 44.

The provisions of a statute regulating logging operations and prohibiting the cutting of oak trees with stump diameters of less than ten inches did not render illegal the vendor's cutting and taking of oak trees including some of less than such diameter from land sold for a custom manufacture of wagon poles, sleds and farm machinery in the vendor's woodworking shop, under reservation of the sale contract of the right to cut and remove oak trees large enough to run through the saw mill and make timbers. *Karger v Wangerin*, 230 M 110, 40 NW(2d) 846.

### 90.22 SURETY BONDS BY TIMBER PURCHASERS

Right of subrogated insurer to recover under the Federal Tort Claims Act. 32 MLR 846.

### 90.35 TIMBER UNLAWFULLY CUT OR REMOVED FROM STATE LANDS; POSSESSION AND SALE

Laws 1885, an act to establish a penal code approved March 9, 1885, effective January 1, 1886, abolished the common law as it relates to crimes, and from and since January 1, 1886, no act or omission is deemed criminal or punishable except as prescribed by statute. Sections 622.05 to 622.07 define and designate the degrees and prescribe the punishment for larceny. A wilful trespass performed in the unlawful entry and cutting and removing of standing timber from the land is deemed larceny. Section 90.35 prohibits the unlawful taking of timber from the lands of that state. Section 621.25 defines the crime of unlawful taking of timber and prescribes a punishment. Apparently prosecution may be had under any of the above quoted sections. Treble damages are now provided for the cutting and carrying out of timber from the lands of another under sections 548.05 and 561.04. OAG April 5, 1948 (133-B-64).

## CHAPTER 91

### LOGS AND LUMBER

#### 91.01 SURVEYOR GENERAL

HISTORY. 1858 c 80 s 11 s 1, 6; 1858 c 80 s 1 s 3-6; 1861 c 51 s 3; 1862 c 74 s 1; 1863 c 22 s 1; 1868 c 42 s 2; 1871 c 28 s 1; 1874 c 77 s 1; 1874 c 81 s 1; 1877 c 18 s 1; 1881 c 64 s 2; Ex1881 c 45 s 1; 1885 c 11 s 1; 1903 c 346 s 1; 1919 c 440 s 1; 1949 c 739 s 24; 1951 c 713 s 12.

#### 91.05 ACTUAL EXPENSE, PAYMENT

HISTORY. 1919 c 440 s 5; 1951 c 662 s 2.

#### 91.08 ALLOWANCE FOR DEFECTS; RECORD

HISTORY. 1858 c 80 t 2 s 2; 1878 c 19 s 1.

#### 91.09 POSTING SCALES; SCRIBNER'S RULE

HISTORY. 1858 c 80 t 2 s 3.