

GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 1.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOT
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COMPILED AND ANNOTATED

BY

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OF THE ST. PAUL BAR.

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CHAPTER 38.

PUBLIC LANDS.

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- 2. SCHOOL LANDS.
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- 4. STATE SALT LANDS.
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Laws 1867, ch. 77, changed the title of this chapter to "An act for the protection and management of the public lands of the state of Minnesota, and to provide for the punishment of trespassers thereon." Act congress February 26, 1857, authorizing state government, granted sections 16 and 36 in each township for the use of schools; seventy-two sections for use and support of university; ten sections for public buildings; and six sections adjoining or contiguous to salt springs. The school lands aggregate 3,000,000 acres, and the swamp lands unappropriated November 8, 1881, the date of adoption of amendment to article 8 of constitution. University lands granted by acts of congress February 19, 1851, February 26, 1857, July 8, 1870, aggregate 169,353 acres. Swamp lands granted by act congress March 12, 1860, aggregate 3,039,774.91 acres; of which 2,969,517.67 have been certified to state. Agricultural college grant July 2, 1862; Internal Improvement of 500,000. Public Building "capitol lands," 6,395 acres, selected in Kandiyohi county. Act congress July 23, 1868, for construction of Meeker Island Dam, 200,000 acres.

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TITLE 1.

PROTECTION AND MANAGEMENT.

Acts 1875, ch. 96, provided for relinquishments to settlers [in land grant to railroad from Winona to Big Sioux river. Acts 1877, ch. 201, Special Laws, required relinquishment of railroad in other cases. Acts 1885, ch. 176, required attorney general to defend actions arising under such relinquishment. Acts 1881, ch. 155, state relinquished all interest to land in Fort Ripley military reservation. 1887, ch. 171, state defend settlers on indemnity lands.

LAND OFFICE.

SEC. 3581. **Established.**— A state land-office is hereby established, which shall be and remain at the seat of government of the state as fixed by law.

G. S. ch. 38, § 1.

SEC. 3582. **Expenses.**— The necessary incidental expenses of the land-office shall be paid out of the state treasury, and, upon satisfactory vouchers therefor, the state auditor shall issue his warrant for the same.

G. S. ch. 38, § 26 (24).

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SECS. 3583-3589.] PUBLIC LANDS — PROTECTION AND MANAGEMENT.

SEC. 3583. **Reconveyance to U. S.**— That in all cases where lands have been erroneously or improperly certified or conveyed to the state of Minnesota, for school or railroad or other purposes, by the proper officers of the general government of the United States, the governor of this state is hereby authorized to reconvey or relinquish, by the execution, under his hand and seal of the state, of such conveyances as will be necessary to convey or relinquish the title or color of title which this state may have to such lands.

1866, ch. 24, § 1: "An act to authorize the governor of Minnesota to make conveyances in certain cases." Approved February 28, 1866.

SEC. 3584. **Title papers to state lands.**— That all abstracts and conveyances of title to the state of Minnesota of any lands now owned or hereafter acquired by the state, whether the said lands be held for penal, educational, charitable or other institutions or purposes shall be, by those in whose charge said conveyances now are, or may come, deposited with and remain in control of the state treasurer.

1889, ch. 25: "An act designating a place of deposit for all abstracts and conveyances of title to the state of Minnesota of lands now owned or hereafter acquired by the state." Approved March 7, 1889.

SEC. 3585. **Meeker Island land grant.**— That the state of Minnesota does hereby accept the said grant of two hundred thousand acres of land so granted by said act of congress for the purpose aforesaid, subject to such conditions and provisions as the legislature of the state of Minnesota may prescribe, not inconsistent with said act of congress making said grant.

1871, ch. 35: "An act accepting a grant of land to the state of Minnesota to 'aid in the improvement of the navigation of the Mississippi river,' made by act of congress approved July 23, 1868." Approved March 6, 1871.

SEC. 3586. **List of railroad land grants.**— The different railroad companies in this state who have received lands from the state to aid in the construction of their respective lines of railroad, shall cause to be prepared at their own expense, and transmit to the register of deeds of the various counties within which their respective lands are situated, full and complete lists, according to government surveys, of the lands so conveyed to them lying within such counties respectively.

1875, ch. 97, § 1: "An act providing for the registering of the title of lands situated in the different counties of this state which have been or are to be conveyed to railroad companies to aid in the construction of their lines of railroad." Approved March 4, 1875.

SEC. 3587. **Same — Auditor to examine.**— Such lists when so prepared shall be carefully examined and compared by the state auditor with the original lists in his office transmitted by the interior department of the general government, and when corrected and revised by him, shall have appended thereto his certificate that the same is a full, correct and accurate list of the lands certified to the state, and by the state conveyed to said railroad companies respectively situated within the limits of such county.

1875, ch. 97, § 2.

SEC. 3588. **Title — Evidence.**— Such lists, when so prepared by said companies and certified by the said state auditor, and by said companies transmitted to the register of deeds of the different counties, shall be by such register kept as a part of the public records of said counties respectively, and shall be *prima facie* evidence of the title of such railroad companies to the lands therein described.

1875, ch. 97, § 3.

SEC. 3589. **Applies to all railroad lands.**— This act shall apply to all lands that have heretofore been conveyed to the different railroad companies of this state, or that may hereafter be conveyed to them for the purpose of aiding in the construction of their different lines of road.

1875, ch. 97, § 4.

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LAND COMMISSIONER.

SEC. 3590. General charge of all lands.—The state auditor shall be, *ex officio*; commissioner of the land-office. He shall have the general charge and supervision of all lands belonging to the state, of all lands in which the state has an interest, or which are held in trust by the state, and may superintend, lease, sell and dispose of the same in such manner as shall be directed by law.* In the absence or inability of the auditor, the deputy state auditor shall perform the several duties required of the auditor in his capacity as land commissioner.

G. S. ch. 38, § 2, as amended 1885, ch. 102, § 1, by adding matter below *. 28 M. 51; 26 M. 289.

SEC. 3591. Same — Powers — Duties — Records.—The commissioner of the land-office shall have the custody of all maps, books and papers relating to any of the public lands mentioned in this title. He shall cause books to be opened, and records kept of all lands owned or held in trust by the state for schools, public buildings, internal improvements, and for all other purposes, and shall keep a true record of all patents, deeds and conveyances of such lands made by the state.

Transcripts.—Which record, or a transcript therefrom* and all township plats on file in his office, or transcripts of such plats,* properly authenticated, shall be received as legal evidence in all courts and places within the state.

Certificate.—He shall also certify, upon each instrument recorded by him, the book and page where the same is recorded.

Seal.—He shall have an official seal, with a proper device thereon; and the seal of the land-office affixed to any certificate of purchase, receipt, or other instrument issued by the commissioner of the land-office, according to the provisions of this title, is *prima facie* evidence of the due execution of such certificate or other paper; and he shall have authority to appoint a clerk, whose salary shall be fixed by law.

G. S. ch. 38, § 5, as amended 1877, ch. 56, § 1; 1885, ch. 97. Amendment of 1877 added authority to appoint a clerk. Amendment of 1895 between **.

SEC. 3592. Surveys.—Whenever it appears to the commissioner necessary, in order to ascertain the true boundaries of any tract or portion of lands mentioned in this title, or to enable him to describe or dispose of the same in suitable and convenient lots, he may cause all such necessary surveys to be made; and the expenses thereof shall be paid out of the state treasury, as other incidental expenses of the land-office are paid.

G. S. ch. 38, § 22 (20). Sections 20 and 21 were repealed by 1877, ch. 56, § 17. The former provided that unimproved forfeited lands continue at value fixed in this title, and the latter provided for annual assessment.

SEC. 3593. Notice of sale of land.—Before any sale at auction of any of the lands mentioned in this title, the commissioner of the land-office shall cause notice of the time and place of such sale to be published in one or more newspapers before said sale, and in one newspaper in each county in which such lands are to be sold, if any; if there is no newspaper printed and published in the county, the same shall be published in some newspaper printed and published at the capital of the state, for six successive weeks before said sale.

G. S. ch. 38, § 46 (42). Sections 47 and 48 repealed 1877, ch. 56, § 17. The former provided for removal of any person from state land, and latter for payment of improvements in certain cases.

SEC. 3594. Sale by United States survey subdivisions.—All sales of land by the commissioner shall be made according to the subdivisions thereof by the United States surveys, unless the same are laid off into smaller lots as

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SECS. 3595-3601.] PUBLIC LANDS — PROTECTION AND MANAGEMENT.

provided in this title: *provided*, that no lands shall be so sold in larger quantities than one-quarter section.

G. S. ch. 38, § 30 (27).

SEC. 3595. **Record of sale.**—The commissioner shall keep a record of the sales of lands, and of the money received on account either of principal or interest, the date of such sale or payment, the description of the lands sold, with the number of acres thereof, and the name of each purchaser or person paying such moneys, and shall credit the proper fund therewith.

G. S. ch. 38, § 3.

SEC. 3596. **Void sales.**—In case of any sale made by mistake, or not in accordance with law, or obtained by fraud, the same shall be void, and the certificate of purchase issued thereon shall be of no effect; but the holder of such certificate shall be required to surrender the same to the commissioner, who shall, except in cases of fraud on the part of the purchaser, cause the money to be refunded to the holder thereof.

G. S. ch. 38, § 27 (25).

SEC. 3597. **Opinion of attorney general.**—The attorney general, whenever requested by the commissioner, shall advise with and give his opinion upon all questions of law which are submitted to him by said commissioner, relating to the duties of his office, and prosecute, or cause to be prosecuted by the county attorneys whenever in his opinion the public interest requires it, any person who may be charged with any indictable offense under this title.

G. S. ch. 38, § 37 (34).

SEC. 3598. **Annual report.**—He shall annually make a report to the legislature of his official proceedings, showing the quantity of land sold or leased, and the amount received therefor, the amount of interest moneys received to the credit of the several funds, and all such other matters relating to his office as he may think proper to communicate.

G. S. ch. 38, § 4.

TRESPASS ON PUBLIC LANDS.

SEC. 3599. **Civil action for.**—Whoever commits any trespass upon any of the lands owned or held in trust or otherwise, by this state, shall be liable in treble damages, in an action of trespass, to be brought in the name of the people of this state, if such trespass is adjudged to have been wilful; but single damages only shall be recovered in such action, if such trespass is adjudged to have been casual and involuntary.

G. S. ch. 38, § 34 (31).

SEC. 3600. **Wilful trespass — Penalty.**—Whoever commits any wilful trespass upon any of the lands owned or held in trust or otherwise by this state, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or who injures or removes any buildings, fences, improvements, or other property belonging or appertaining to said lands, or aids, directs or countenances such trespass or other injury, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars, or both such fine and imprisonment, in the discretion of the court.

G. S. ch. 38, § 32 (29).

SEC. 3601. **Property to be seized.**—That in addition to the penalties provided for in this title, against those committing trespass upon any of the lands owned or held in trust or otherwise by this state, the state auditor, by virtue of his office as commissioner of the land-office, is hereby authorized and empowered, without legal process, to seize and take, or cause to be seized and taken, any and all lumber [timber,] wood, grass, or other property unlawfully

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severed from the said lands, whether the same has been removed from said lands or not; and may dispose of the property so seized and taken either at public or private sale, in such manner as will be most conducive to the interests of the state; and all moneys arising therefrom, after deducting the reasonable and necessary expenses of such seizure and sale, shall be a part of the permanent school fund, and shall be invested in accordance with the provisions of this title.

Defence of suits.— That for the purpose of determining the title to any property seized and taken under the provisions of the preceding section, the commissioner of the land-office is hereby authorized and empowered to defend any and all actions that may be brought for that purpose, and to do and perform those things necessary to protect the interests of the state.

1874, ch. 35, § 1: "An act to amend chapter 38, title 1, of G. S., in reference to the protection and management of the public lands of the state of Minnesota." Approved March 4, 1874. Acts 1877, ch. 56, § 17, enacted, that the acts of 1874, ch. 35, should follow it. 26 M. 239.

SEC. 3602. Damages.— All damages recovered for any trespass or other injury upon or to any of the lands mentioned in this title, shall be paid over to the state treasurer, for the benefit of the fund to which the same properly belongs.

G. S. ch. 38, § 31 (28).

SEC. 3603. Court to charge grand jury.— It is the duty of every court having jurisdiction of the same, especially to charge the grand jury, at each term of such court, to inquire into all offenses against the provisions of this title, and present any person who may be guilty of any such offense, within their county.

G. S. ch. 38, § 33 (30).

SEC. 3604. County attorneys to prosecute and report.— The county attorneys of the several counties shall promptly report to the commissioner all trespasses committed upon any of said lands, which may come to their knowledge, and shall, when directed by the attorney general, prosecute all actions for any trespass or injury thereto, or for the recovery of possession thereof, or otherwise.

G. S. ch. 38, § 36 (33).

TIMBER ON PUBLIC LANDS.

SEC. 3605. Duty of commissioner.— It shall be the duty of the commissioner of the state land-office to make diligent and thorough inquiry and examination into the extent, character and value of the timber lands belonging to the state of Minnesota, and chiefly valuable for the pine timber thereon belonging to the state of Minnesota, whether designated or set apart as school lands or for other purposes.

1885, ch. 269, § 1: "An act to provide for the care and disposition of the timbered lands and the timber thereon belonging to the state." Approved March 7, 1885.

SEC. 3606. Measures to protect timber.— He shall take such measures as will protect the said timber from damage or loss by fire, trespass or otherwise, and make such regulations for the care, control, sale and disposition of the timber lands of the state or the timber thereon as will best protect the interests of the state.

In the prosecution of such measures the commissioner shall have power to employ persons necessary to make the examinations and estimates of timber on all lands held by the state, and to carry out the provisions of this act.

1885, ch. 269, §§ 2, 3.

SEC. 3607. Appraisement.— Before any pine timber is sold from any of the lands of the state the commissioner shall submit the appraisals and esti-

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SECS. 3608, 3609.] PUBLIC LANDS — PROTECTION AND MANAGEMENT.

mates of said timber, and statements regarding liabilities to loss or damage to said timber, to the governor, treasurer, and commissioner, and if a majority of them shall state that it is for the interest of the state that such timber shall be sold, and such statement shall be indorsed on the estimate of said timber and signed by said officers officially, the commissioner may then advertise and sell the timber on said lands so authorized to be sold, in the manner provided by law; *provided*, that no pine timber on any state lands is to be sold under any conditions unless the officers herein named shall state that such sale is necessary to protect the state from loss.

1885, ch. 269, § 4

SEC. 3608. **Sale of.**—The commissioner may sell the timber on the pine lands in this state,* including tamarac and pine suitable for railroad ties, and cedar suitable for posts or telegraph poles,* when the same is liable to waste, as provided in this section, and not otherwise. No such timber shall be sold or disposed of unless the same is liable to waste; and when lands have been cut over according to regular permits, or the timber upon any land may be subject to waste, destruction or damage by windfall, fire or otherwise, he may grant permits to clear such lands, upon full payments of the amount for which the same may be sold; before any permit shall be granted, the timber shall be estimated and appraised by the land commissioner, which estimate and appraisal shall show the amount and the value per thousand feet of all timber measuring not less than eight inches in diameter, twenty-four feet from the ground, and of other timber below this standard, on each tract or lot, with a statement of the situation of the timber relative to risk from fire or damage of any kind, and its distance from the nearest lake, stream or [and] railroad.

G. S. ch. 38, § 52 (47), as amended 1877, ch. 56, § 11; 1883, ch. 6; 1885, ch. 102, § 7. Between * * is amendment of 1883. Acts 1885 struck out the provision requiring the estimate and appraisal by surveyor of logs, and inserted "by the land commissioner."

SEC. 3609. **Permits to cut.**—No permit for such cutting shall be granted to any person by the said commissioner, except upon sale of timber to the highest bidder, at public auction, held at his office at the state capitol, notice of which shall be given at least sixty days prior to [the] date of the same, in one or more daily papers published in Saint Paul; and the minimum price of all timber at such sale shall be the appraised value of the same as fixed by the provisions of this chapter, and approved by the commissioner. Every person purchasing timber at such sale, before the execution of a permit for the same, shall execute a bond to the state of Minnesota for the payment of double the amount of the estimated value of the timber included in the permit, with sufficient surety to be approved by the commissioner, conditioned upon the payment to the state treasurer of the amount that may be found due, under the terms of such permit, and according to the provisions of law. * *Provided*, that if for any reason any person or persons bid more than the estimated price per thousand feet of said timber he shall, before having his bid accepted, deposit with the commissioner a certified check, payable to the order of the state treasurer, for one hundred (100) dollars, as a guaranty that he will execute the necessary bonds and permits to complete the purchase under his bid and in case he does not comply with the law and execute such bonds and permits within thirty (30) days after said bid, then said certified check shall be delivered to the state treasurer, and be by him placed to the credit of the proper permanent fund. If the person depositing such check shall complete the purchase within the specified time of thirty (30) days, then he shall be entitled to have such check returned to him. If any person or persons bid at said sale and purchase timber at the estimated price and fails to execute within thirty (30) days the necessary bonds and permits to entitle them to cut the timber on the land bid for, then said sale shall be canceled by the commissioner; and *provided further*, that whenever any person or persons shall cut or cause to be cut any log or logs upon any of the lands belonging to this state, such person

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or persons shall at the time any such log is cut, in addition to all other marks necessary to designate such log as the property of such person or persons, distinctly mark or cause to be distinctly marked upon each and every log the letters M. I. N., which mark shall be taken, deemed and considered full and complete notice to all persons that the state has or may have the absolute ownership of such log or logs, or has or may have a lien thereto; *provided, however,* that where any person or persons shall have heretofore or shall hereafter purchase the right to clear any of the lands belonging to this state and shall have paid for the same, such person or persons shall not be required to comply with the provisions of this section so far as the same relates to marking the logs, cut from such lands; *and provided further,* that any person or persons who shall cut or cause to be cut upon any lands belonging to this state, any log or logs and who shall fail or neglect to mark or cause to be marked any such log or logs as provided in this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not exceeding one thousand (1,000) dollars or by both.

1877, ch. 56, § 12, as amended 1885, ch. 102, § 8. Acts 1877 added this section, and acts 1885 amended it by striking out "surveyor of logs and lumber" and inserting "provisions of this chapter," and by adding matter below *.

SEC. 3610. Form. — Contents — Record of permits.— All permits under the provisions of this act shall be made according to prescribed form by the attorney general, and shall be signed by the party applying for the same, and the said commissioner. Said permits shall contain a description of the land to be cut upon, the estimated amount of timber upon the same, the price per thousand feet, or the entire value of the timber if the right to clear the land has been sold, for which the same was bid in, the stipulated log-mark, and such other points and agreements as may be necessary to make all logs cut under its provisions the absolute property of the state, until the same are paid for; and such permits, when properly executed, shall be recorded in the office of the surveyor of logs and lumber of the proper district; and the log-mark described therein shall vest the ownership of all logs bearing the same in the state.

1877, ch. 56, § 13, which added this section to this chapter.

SEC. 3611. Survey of timber cut.— The provisions of chapter thirty-two of the general statutes shall apply to all timber or logs cut upon state lands; and the several surveyors of logs and lumber shall scale all logs so cut, and make a detailed report of the same to the commissioner of the state land office on or before the first day of May in each year, showing the name of the party cutting, the description of the land cut upon, the number of logs cut and the mark thereon, the total number of feet and the value thereof per thousand, as shown by the records of his office, stating whether such cutting has been according to the terms of the permit, and if not properly cut, the consequent damage to the state; and such timber or logs shall not be sold, transferred or manufactured into lumber until the amount due the state, according to the report of said surveyor, shall have been paid in full; and it shall be the duty of the surveyors of logs and lumber to report to the commissioner all trespass which has been, or which may hereafter be made upon the state pine lands, and all the logs cut by such trespass shall be disposed of as hereinafter provided.

1877, ch. 56, § 14, as amended 1885, ch. 102, § 9, by striking out word April and inserting May. Acts 1877, ch. 56, added this section to this chapter.

SEC. 3612. Payment.— Upon receipt of such report from the surveyor of logs and lumber, the state auditor shall draw duplicate drafts for the amount found due, one of which shall be placed in the hands of the state treasurer, and the other forwarded to the party from which the stumpage is due, who shall immediately make payment of the required amount to the

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SECS. 3613, 3614.]

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state treasurer, take duplicate receipts therefor, one of which he shall return to the state auditor, who shall thereupon execute a release of the logs, and a transfer of the mark thereon; but in no case shall such release or transfer be made until the lien of the state has been fully satisfied. If the party owning such stumpage shall not pay the amount of such draft within ten days after said draft has been placed in the hands of the state treasurer, it shall be the duty of the said treasurer to take possession of the logs in question, and sell the same at public auction to satisfy the claim due the state, paying the overplus, if any, after defraying the costs and expenses of such sale, to the party entitled thereto, and making return thereof to the state auditor: *provided*, that in lieu of taking possession of the logs upon which stumpage is due, the state treasurer may turn the account over to the attorney general, who shall immediately proceed to collect the same upon the bond hereinbefore provided for; but in no case shall the logs be released until the account is paid; and proceedings upon the bond shall not prevent the state treasurer from seizing the logs at any time before the claim of the state is satisfied.

1877, ch. 56, § 15, which added this section to this chapter.

SEC. 3613. **Fraudulent marks on timber.**—If any person having a contract to cut timber under the provisions of this act, shall, with intent to defraud the state, place any other log-mark upon the logs cut by him under such contract than the one mentioned therein, shall be deemed guilty of a misdemeanor, and shall forfeit to the state the logs upon which any other mark than that agreed upon has been placed. He shall also be liable to indictment for such misdemeanor, and, upon conviction thereof, shall be punished by fine and imprisonment, not less than five hundred dollars, nor more than five thousand dollars, or imprisonment in the penitentiary not less than one year, nor more than three years, or both.

1877, ch. 56, § 16, which added this section to this chapter.

TITLE 2.

SCHOOL LANDS.

Act of congress of March 3, 1849, organizing the territory, reserved sections 16 and 36 in each township "for the purpose of being applied to schools." Act February 26, 1857, authorizing state government, granted said sections for use of schools, "and if any part has been disposed of, other lands equivalent thereto shall be granted." Constitutional amendment to article 8, adopted November 8, 1881, applied remaining unappropriated swamp lands. This amendment refers to the law in this title as well as in title 1, *ante*. Acts 1878, ch. 78, extended time for payment of unpaid purchase money ten years. Acts 1878, ch. 81, abated all penalties for non-payment of interest for years 1877 and 1878. Acts 1881, ch. 100, authorized refunding of purchase money on certificate 12,192. Acts 1879, ch. 105, authorized patents for lands sold in section 16, township 50, range 14 west, in St. Louis county. 1885, ch. 230, lease to Blackmar.

SALE OF.

SEC. 3614. **Minimum price.**—The minimum price of the school lands shall be five dollars per acre, and all sales of such lands shall be within the county in which said lands are situated: *provided*, that pine lands shall not be sold until the timber thereon has been estimated, appraised and sold according to the provisions of this act.* And when said pine timber has been sold and removed the land may be appraised and sold in the same manner and on the same terms as other lands are appraised and sold under the provisions of this chapter.

G. S. ch. 38, § 6, as amended 1877, ch. 56, § 2; 1885, ch. 102, § 2. Amendment of 1877 added the proviso, and that of 1885 the matter below*.

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[SECS. 3615-3618.]

SEC. 3615. Appraisal.—Whenever, in the opinion of the commissioner, it will be for the interest of the people of this state that an appraisal of any of the school lands, or of the improvements thereon, should be made, he shall appoint an appraiser in the county in which the lands to be appraised are situated, and notify the county commissioners of said county to appoint two appraisers; and thereupon the said county commissioners shall, within ten days, appoint such appraisers; and said appraisers shall proceed to appraise such lands and the improvements thereon, if any, as the commissioner may direct, and the valuation of such lands and improvements shall be separately made and stated in the appraisal, and the minimum price established by such appraisal shall be the minimum for such lands, until changed by a subsequent appraisal; but no lands shall be sold for less than the minimum price established by this title, and not more than one hundred thousand acres of school lands shall be sold in any one year.

G. S. ch. 38, § 45 (41).

SEC. 3616. Terms of payment.—The terms of payment of all state lands shall be for lands other than pine lands, which are chiefly valuable for the timber thereon, the value of such timber to be paid at the time of sale, and for all other lands fifteen per cent. of the purchase price thereof to be paid at the time of sale, and the balance of the purchase money of all lands (at any time thereafter from time to time) within thirty years, at the option of the purchaser, with interest annually in advance at the rate of five per cent. per annum on the unpaid balance, payable on the first day of June or six days thereafter in each and every year.

G. S. ch. 38, § 7, as amended 1877, ch. 56, § 3; 1885, ch. 195. Amendment of 1877 struck out "for pine timber lands the whole amount," and struck out "seventy-five per cent.," and inserted "value of such timber." Acts 1885 reduced interest from seven to five per cent. 32 M. 229.

SEC. 3617. Fee in state until full payment.—The fee of each parcel of said land shall be and remain in the state until patents are issued for the same respectively, upon full payment as aforesaid; and in case of non-compliance by the purchaser, his heirs or assigns, with the terms of the certificate as aforesaid, or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands, after a failure to comply with the terms of the certificate as aforesaid, or with such provisions of law as aforesaid, without a written permission of the commissioner of the state land-office, shall be deemed and held to detain such land forcibly and without right, and to be trespassers thereon.

G. S. ch. 38, § 12 (13). Acts 1867, ch. 29, gave dower in land held under certificate. Dower abolished, see chapter on Estates. 21 M. 101, 107; 33 M. 403.

SEC. 3618. Certificate of purchase — Resale.—At the time of the sale of any such lands, the commissioner shall make out and deliver to the purchaser thereof a certificate, in which the said commissioner shall certify the description of the lands sold, the quality thereof, and the price per acre, the consideration paid and to be paid therefor, and the time and terms of payment. Such certificate shall be numbered and made assignable; but no certificate shall be delivered to the purchaser by the commissioner until the sum of money required by this title to be paid at the time of the sale, is paid to the treasurer of the county where said sale takes place.

Resale.—In case the purchaser fails to pay the amount so required to be paid at the time of said sale, said commissioner may again immediately offer said land for sale; but no bid shall be received from the person so failing to pay as aforesaid.

Withdraw lands.—* The commissioner may in his discretion, on or before the day of sale, withdraw any lands that may have been advertised for sale or included in any list to be offered in any county.*

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Extension of payment.—*Provided*, that any holder of one or more certificates mentioned in this section heretofore issued on sales heretofore made, who shall have paid all interest due thereon before the presentation thereof as herein provided, may return to the state land commissioner such certificate or certificates, accompanied by an agreement duly signed and acknowledged by him, in such form as the state land commissioner may prescribe and provide, conditioned that the balance of the purchase price of the land described therein shall not be payable before the expiration of fifteen years from the date of such agreement, and that during all of said time he will pay five per cent. interest per annum in advance on the balance of said purchase price; whereupon the state land commissioner shall indorse on said certificate that the time of payment is so extended, and the rate of interest changed from seven to five per cent. per annum, in consideration of such extension of time, and shall return said certificate so indorsed to said holder, and thereupon said holder of said certificate shall only pay interest at the rate of five per cent. per annum in lieu of seven per cent. per annum, from the first day of June next thereafter.

Payment at any time.—*And provided further*, that in case any holder of a certificate mentioned in this section desires for any reason to pay for said land at any time within fifteen years from the time of sale, or from the time of the change of the terms of the certificate herein provided for, he shall make application to the state land commissioner for leave to make such payment, and such application shall thereupon be granted; *provided*, that said holder of said certificate pay into the state treasury over and above the principal of said purchase money and the interest accrued on said lands, and to accrue thereon during such year two per cent. interest per annum on the purchase price of said land; during all the time in which said holder or purchaser has paid five per cent. interest on said purchase price.

G. S. ch. 38, § 8, as amended 1885, ch. 102, § 3; 1885, ch. 201. Acts 1885, ch. 102, added matter between * *, and ch. 201 added the proviso.

SEC. 3619. Effect of certificate.—Certificates of purchase, issued pursuant to the provisions of law, entitle the purchaser to the possession of the lands therein described, and are sufficient evidence of title to enable the purchaser, his heirs or assigns, to maintain action for injuries done to the same, or any action or proceeding to recover possession thereof, unless such certificate has become void by forfeiture; and all certificates of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded.

G. S. ch. 38, § 17.(18). Section 18, providing for payment into state treasury proceeds of all such sales, was repealed by acts 1877, ch. 56, § 17. 21 M. 101, 107; 33 M. 453; 32 M. 229.

SEC. 3620. Assignees of purchasers.—The legal assignees of all *bona fide* purchasers of any of the lands mentioned in this title, are subject to, and governed by, the provisions of law applicable to the respective purchasers of whom they are the assignees; and they shall have the same rights, in all respects, as original purchasers of the same class of lands.

G. S. ch. 38, § 29 (26). Section 28 repealed 1877, ch. 56, § 17. It provided that sales be made for legal tender only.

SEC. 3621. New certificates.—That whenever the holder of any certificate of purchase of any state or school lands shall surrender the same to the commissioner of the state land-office, with a request to have the same divided into two or more certificates, it shall be lawful for said commissioner to issue the same: *provided*, that if the applicant shall desire new certificates, dividing said land by boundaries other than regular government or state subdivisions, the applicant shall file with his application a plat and survey, showing the lines of the division desired, and the quantity of land in each subdivision: *provided*; that no new certificate shall issue while there is due

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and unpaid any interest, nor in any case where said commissioner shall be of opinion that the security of the state would be impaired and endangered.

1875, ch. 106: "An act to authorize the commissioner of the state land office to issue new certificates of purchase in certain cases." Approved March 4, 1875.

SEC. 3622. Certificate void on failure to pay interest.— The said certificate shall further set forth, that in case of the non-payment of the annual interest due by the first day of June, or within six days thereafter, in each and every year, by the purchaser, or by any person claiming under him, then the said certificate shall, from the time of such failure, be utterly void, and the said commissioner may take possession thereof, and resell the same as hereinafter provided.

G. S. ch. 38, § 9. 32 M. 229.

SEC. 3623. Redemption before resale.— In all cases where the rights of a purchaser have become forfeited under the provisions of this chapter by failing to pay the amount due upon his certificate of purchase, if such purchaser, his heirs, or assigns, shall, before the resale at public auction of the lands described in such certificate, pay to the state treasurer the amount of interest then due and payable on such certificate and all costs which have been incurred in addition thereto, together with interest at the rate of twelve per cent. per annum on the interest and costs so due from date of delinquency to date of payment, such payment shall operate as a redemption of the rights of such purchaser, his heirs, or assigns, and said certificate from the time of such payment shall be in full force and effect as if no such forfeiture had occurred.

G. S. ch. 38, § 19, as amended 1877, ch. 56, § 5; 1885, ch. 64. Amendment of 1877 added a proviso exempting double interest in certain cases. Amendment of 1885 struck out requirement of double interest and inserted twelve per cent. Section 18 of G. S. repealed by acts 1877, ch. 56, § 17.

SEC. 3624. Further security for payment.— The said commissioner shall, whenever in his opinion the interests of the state will not be secured by the terms of payment in this title required to be made at the time of the purchase, require of the purchaser such further security for the payment of the moneys to become due and payable, according to the terms of the certificate of purchase, as in his judgment will secure the respective funds against loss.

G. S. ch. 38, § 10 (11).

SEC. 3625. Action on security.— In all cases where security is taken for the purchase-moneys, pursuant to the provisions of the tenth section of this title, the commissioner may sue for and recover all such sums as have become due and payable for which such security was given.

G. S. ch. 38, § 13 (14).

SEC. 3626. Recovery of possession.— In case any person holds or continues in possession of any of the lands mentioned in this title, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible entry and detainer, or any other proper action for the recovery of possession of such lands, and damages for the detention of the same.

G. S. ch. 38, § 35 (32).

SEC. 3627. Patents for land sold.— The governor shall sign, and cause to be issued under the seal of the state land-office of this state, and attested by the commissioner, patents for the lands described in the certificate of sale, whenever the same are presented to him, with the further certificate of the commissioner indorsed thereon, that the whole amount of principal and interest specified therein, and all rents and taxes due on said lands, have been paid, and that the holder of the certificate is entitled to a patent of the lands described therein; and the governor shall, in like manner, sign and cause to be issued patents of said land, to any purchaser of the right, title and interest of the original purchaser, his heirs or assigns, at an execution or mortgage sale,

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upon presentment to him of the certificate of the commissioner, that the whole amount of principal, interest, rents and taxes due thereon has been paid according to law, and that said purchaser at execution or mortgage sale is entitled to a patent for the land described in such certificate.

G. S. ch. 38, § 11 (12), as amended 1877, ch. 56, § 4. Amendment struck out word "of" between "commissioner" and "patents." 33 M. 452.

SEC. 3628. Record of patents.—The registers of deeds of the several counties of this state are authorized to record all patents issued by the governor pursuant to the provisions of this title; and the record thereof shall have the same effect as the record of other conveyances executed according to the laws of the state.

G. S. ch. 38, § 25 (23).

SEC. 3629. Taxation of lands sold.—The commissioner shall immediately transmit to the auditor of each county in which any lands mentioned in this title have been sold during the year, a detailed description of each parcel of the land so sold, the names of the purchasers; and the auditor shall extend the same upon his tax duplicate for the purpose of taxation, and the same shall thereupon become subject to taxation the same as other lands,* and the taxes assessed thereon, collected and enforced in like manner as against other lands: *provided*, however, that the purchaser of any such lands sold for delinquent taxes, or as forfeited to the state, shall acquire, and shall only acquire, by virtue of such purchase, such rights and interests as belong to the holder and owner of the certificate of sale heretofore issued by said commissioner under the provisions of this title, and the right to be substituted in the place of such holder and owner of such certificate of sale, as the assignee thereof; and upon the production to the proper officer of the tax certificate given upon said tax sale, in case said lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal or interest then in default upon such school-land certificate of sale, as the assignee thereof, prior to the redemption of said lands.

Redemption.—And in case such holder and owner of such school-land certificate shall fail to redeem said lands within the time allowed by law, and also to pay to said proper officer, for the use of the holder of such tax certificate, all payment of principal and interest, if any, by him made upon such school-land certificate, with interest from the time they were so made, at twelve per cent. per annum, then the holder and owner of such tax certificate, upon the receipt of his tax deed thereon duly given, and the filing of the same with the said commissioner, a special certificate of purchase of said land, embodying the same terms and conditions, and with the like force and effect, as the said original certificate of purchase, and in lieu thereof.

G. S. ch. 38, § 23 (21), as amended 1870, ch. 50. Amendment added matter below *.

SALE OF LOTS.

SEC. 3630. When to be made.—Whenever the interest of the state will be promoted, in the opinion of the commissioner, by laying off any portion of the land under his control into small parcels or village lots, the said commissioner may cause the same to be done, and shall cause the same to be appraised as provided in the next section.

G. S. ch. 38, § 14 (15).

SEC. 3631. Appraisal of.—The appraisers provided for in this title shall be appointed as follows, viz: one by the commissioner of the state land-office, and the other two by the county commissioners of each county in which lands are to be appraised or sold. Such appraisers shall, before entering upon their duties of office, take and subscribe an oath or affirmation, before some person qualified to administer oaths, that they will faithfully and

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impartially discharge their duties as appraisers, according to the best of their ability, and that they are not interested, directly or indirectly, in any of the school lands or the improvements thereon, and have entered into no combination to purchase the same or any part thereof, which said oath or affirmation shall be attached to the report made of such appraisal as hereinafter provided. Said appraisers shall be allowed, as compensation for their services and expenses, three dollars per day, to be paid out of the state treasury:

G. S. ch. 38, § 15 (16).

SEC. 3632. Sale of — New appraisement.— All parcels or lots so appraised shall be subject to sale in the same manner, and upon the same terms and conditions, and the certificate of purchase shall have the same effect, as in the case of other lands for which provision is made in this title, at the prices at which the same were severally appraised, until a new appraisal is made, which the commissioner may in his discretion cause to be had, in the manner aforesaid, and with the like effect; but no lots or parcels so appraised shall be sold for less than the minimum price of said lands, established in this title.

G. S. ch. 38, § 16 (17).

SEC. 3633. Map of.— Whenever the commissioner shall lay off any tract of land into small parcels or village lots, as provided in this title, he shall cause a correct map of the same to be entered of record in the county where said lands are situated.

G. S. ch. 38, § 24 (22).

SEC. 3634. Islands platted and sold.— That the state auditor of this state, is authorized to cause to be surveyed and platted, any island belonging to this state, in any river or lake, or within any of the waters of this state, and after such lands shall have been surveyed and platted, the state auditor shall be authorized to sell the same at such times, and in such parcels as to him shall seem best for the interests of the state. *Provided*, that no such sale shall be made without public notice thereof first having been given of the time and place thereof, as in case of sales of other public lands belonging to the state.

1883, ch. 98: "An act to authorize the state auditor to cause to be surveyed and platted and to sell any island belonging to this state lying or being in any river or lake or within any of the waters in this state." Approved March 3, 1883.

PAYMENT OF PURCHASE MONEY.

SEC. 3635. To county treasurer.— The purchasers of any of the lands mentioned in this title, or their assigns, may pay to the treasurer of the county in which such lands lie, any amount which may be due from time to time, on their several certificates, either for principal, interest or penalty; and for the amount so paid, the said county treasurer shall give to such person duplicate receipts, specifying the amount paid, date of payment, whether for principal, interest or penalty, and the fund to which it is applicable, the number of the certificate, the name of the original purchaser of the land, which receipts shall be countersigned by the auditor of said county, and have the same force and effect as if given by the state treasurer.

G. S. ch. 38, § 38 (35), as amended 1877, ch. 56, § 6, by striking out "his receipt" and inserting "duplicate receipts." 28 M. 46.

SEC. 3636. Bond of county treasurer.— Before any county treasurer receives any moneys under the preceding section, he shall execute and give to the state a bond, with sufficient sureties, in an amount to be fixed by the commissioner of the state land-office, not less than double the sum liable to come into his hands by virtue of this title; which bond shall be conditioned for the honest and faithful discharge of all trusts and responsibilities imposed by this chapter, and for the faithful payment of and accounting for all moneys received by him, under the provisions of this title, to the state treasurer or other

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person entitled to receive the same; the sureties to be approved by the judge of probate and register of deeds, and to justify in double the amount of the bond.*

Commission.—County treasurers giving such bonds shall be entitled to a fee of one-half ($\frac{1}{2}$) of one (1) per cent. on each dollar collected or received by them in payment of principal or interest on state lands, which fee shall be payable from the interest fund of the class of lands on which payment is made to said treasurers, and said fee shall not be payable to the county under any provision requiring county treasurers to pay fees received into the treasuries of their respective counties, and the necessary sums for the payment of such fees are hereby annually appropriated from the several interest funds.

G. S. ch. 38, § 39 (36), as amended 1877, ch. 56, § 7; 1885, ch. 102, § 4. The former added the words "and to justify in double the amount of the bond" before *, and the latter the matter after the *. 23 M. 531; 26 M. 186.

Sec. 3637. Blank bond for.—The commissioner of the state land-office shall transmit to each county treasurer to whom moneys may be paid under this title, a blank bond with the penal sum fixed as provided in the thirty-ninth section aforesaid, which the treasurer shall execute and procure to be approved, as hereinbefore provided, and return to the said commissioner, who shall file and carefully preserve the same in his office.

G. S. ch. 38, § 42 (38).

Sec. 3638. Duty of county auditor.—The county auditor shall, at the time he is required by law to return abstracts of settlement to the state auditor, also forward all duplicate receipts of principal, interest or penalty on state lands, with a certified statement of such collections by the county treasurer, specifying the amount of each item; and he shall also make such return at any other time when required by the state auditor.* The county auditor shall act as clerk of land sales made by the commissioner, and he may make such sales when authorized by the commissioner, in which case his deputy shall act as clerk; and immediately after the close of all sales of state lands, the county auditor shall report to the state auditor the number of acres of land sold, the amount for which the same were sold, the amount of principal and interest paid, and the amount of principal remaining unpaid; and for each and every day so engaged, the county auditor shall be allowed the sum of three dollars to be paid out of any appropriation for the appraisal and sale of such lands.

G. S. ch. 38, § 41 (37), as amended 1877, ch. 56, § 8. Amendment above *. Section 40 of G. S. repealed 1877, ch. 56, § 17. It provided that the county treasurer issue duplicate receipts.

Sec. 3639. Duty of state auditor.—On or before the first day of May in every year, the commissioner shall cause to be made out, and transmit to such county treasurers as have filed their bonds with him, properly executed and approved, a statement showing the classes of land sold in that county, the number of the certificates of purchase, the name of the person to whom each certificate was issued, and the amount of both principal and interest due on each on the first day of June, together with such directions, instructions and blanks as shall enable the county treasurer to carry out the provisions of this title.

G. S. ch. 38, § 43 (39).

Sec. 3640. Duty of county treasurer.—All moneys received by the county treasurer, under the provisions of this title, shall be held at all times subject to the order and direction of the state treasurer, for the benefit of the funds to which such moneys respectively belong;* and during the months of March, June and October of each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay into the state treasury all moneys received on account of such funds since the last payment he may have made.

G. S. ch. 38, § 44 (40), as amended 1877, ch. 56, § 9. Amendment below *.

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SEC. 3641. **Distribution of.**— The principal sums accruing from all sales of school, university, internal-improvement, or other state lands, or of pine timber upon the same, shall become a part of the several permanent funds to which they respectively belong, and shall not be reduced by any costs or charges of officers, by fees, or any other means whatever. All moneys received as interest or penalty on such funds shall become a part of the current or general funds to which they respectively belong, and shall be distributed as directed by law: *provided*, that all interest or penalty received on the internal-improvement-land fund shall be compounded with the permanent fund.

G. S. ch. 38, §§ 49, 50 (43), as amended 1877, ch. 56, § 10. Before amendment the principal of fund derived from sales of school lands constituted the perpetual school fund, and the interest, rents and penalties the current school fund.

SEC. 3642. **Investment of.**— All moneys received from the sale of any of the lands mentioned in this title, or interest accruing from such sale, shall be paid into the state treasury, and the purchase-money so received may be invested in Minnesota bonds (railroad bonds always excepted,) or in United States bonds bearing not less than four per cent. interest, or in the bonds of either of the following states, viz: New York, Pennsylvania, Ohio, Illinois, Michigan, Wisconsin, Iowa, Missouri, Alabama, Georgia, Tennessee, bearing not less than 3 per cent. interest: *provided*, however, that no investment of such funds shall ever be made in bonds which may have been issued to aid in the construction of any railroad; and the governor, treasurer, state auditor, president of the board of regents of the state university, and the chief-justice of the state, are hereby constituted a board of commissioners, whose duty it shall be to invest said funds; and whenever there shall have accumulated in the treasury funds belonging to said permanent school fund, or the permanent university fund, or both, to the amount of ten thousand dollars, it shall be the duty of said board of commissioners to immediately invest the same according to the provisions of this section; and the state auditor shall be secretary of said board of commissioners; he shall keep a record of all the proceedings of said board, and shall cause the same to be published with his annual report. It shall be the duty of the state treasurer to place to the credit of the respective funds, when received, the interest accruing on said bonds, and pay over the same as directed by law. The bonds purchased in accordance with this section shall not be transferable, except upon the order of the governor; and on such bonds shall be written, "Minnesota School-Fund Bonds," or "Bonds of the University of Minnesota," as the case may require, "transferable only upon the order of the governor and state auditor." The state auditor and state treasurer shall keep a record of such bonds, stating the name of stock, when issued, when redeemable, rate of interest, when and where payable, number and amount of bond, by whom executed, when purchased, when withdrawn, and for what purpose; and he shall credit the state treasurer for such bonds when purchased, and charge the same to the proper fund.

G. S. ch. 38, § 51 (44), as amended 1873, ch. 33; 1885, ch. 102, § 5.

SEC. 3643. **Appropriation for investment.**— There is hereby annually appropriated all moneys received into the state treasury to the credit of the permanent school fund, permanent university fund, internal-improvement-land fund, sinking fund, inebriate asylum fund, or other funds required to be invested in securities, to be invested in interest-bearing bonds of the United States, or of the state of Minnesota issued since the year eighteen hundred and sixty, or of the bonds, bearing not less than six per cent. interest, of the states of Massachusetts, New York, Pennsylvania, Ohio, Indiana, Illinois, Wisconsin, Michigan, Missouri, Iowa, Alabama, Georgia, and Tennessee.

1875, ch. 105, § 1: "An act in relation to the investment of school, university and other funds," approved March 9, 1875, as amended 1885, ch. 102, § 6.

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SECS. 3644, 3645.] PUBLIC LANDS — UNIVERSITY LANDS.

SEC. 3644. **Appropriation for expenses.**—There is hereby annually appropriated such sums as shall be found necessary for expenses of purchase, and payment of accrued interest at time of purchase, of bonds for permanent school and university funds, payable from general school and university funds, and for expenses and accrued interest of bonds purchased for other funds named in the first section of this act, payable from the funds for which such purchases are made.

1875, ch. 105, § 2.

TITLE 3.

UNIVERSITY LANDS.

Act of congress of February 26, 1857, granted seventy-two sections for the use and support of the state university. Acts of congress of February 19, 1851, and July 8, 1870, made further grants, aggregating 169,353 acres.

SEC. 3645. **Appraisalment — Sale — Investment of proceeds.**— All lands donated to the state of Minnesota by the United States, by act of congress, entitled "An act donating to the states of Minnesota and Oregon certain lands reserved by congress for the territories of Minnesota and Oregon, for university purposes," approved March second, one thousand eight hundred and sixty-one, and an act of congress, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July second, one thousand eight hundred and sixty-two, and any part or portion of such lands, upon the written request of the board of regents of the university of Minnesota to the commissioner of the state land-office, shall be appraised and sold, and the minimum price thereof shall be the same, and permits for the cutting of timber thereon, and upon any part of the same, shall be granted, and the minimum price of such timber shall be fixed, and the right to cut grass and gather cranberries and make maple sugar thereon, or upon any part of the same, shall be sold, and all moneys arising therefrom, except as hereinafter provided, shall be invested, and a full record thereof shall be kept, and a report thereof shall be made annually to the legislature, and all trespasses upon said lands, or any of the same, shall be prosecuted, by the same officer or officers, respectively, and in the same manner in every respect, as is now provided by law respecting school lands; except that there shall be written on the bonds purchased, "bonds of the university of Minnesota, transferable only upon the order of the governor;" and such officers, respectively, shall have the same powers, and perform the same duties, as are provided by law respecting such school lands. And the proceeds of the sale of such lands above mentioned, when so invested, shall constitute a permanent fund, and the same shall be called the university fund; and there shall be and is hereby inviolably appropriated, and placed at the disposal of the board of regents of the university of Minnesota, to be drawn from the state treasury in the same manner as the interest and increase of the fund derived from the sales of lands granted to the state of Minnesota by act of congress, approved July second, one thousand eight hundred and sixty-two, as now provided by law, all of the interest and increase of such university fund; and also, all the proceeds of the sales of such timber and grass.

1868, ch. 55, § 1: "An act to amend title 2, chapter 38, G. S., relating to public lands." Approved March 5th. Section 2 of this act provided that nothing therein should modify or affect the powers conferred by acts 1864, ch. 18; 1866, ch. 11; 1868, ch. 1, § 8, upon regents of university to settle the then outstanding indebtedness.

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PUBLIC LANDS — STATE SALT LANDS.

[SECS. 3646-3649.]

TITLE 4.

STATE SALT LANDS.

Act of congress of February 26, 1857, authorizing a state government, granted to the state "all salt springs within the state not exceeding twelve in number with six sections of land adjoining, or as contiguous as may be to each," to be selected by governor within one year after admission of the state.

SEC. 3646. Transferred to university.— The state lands known as "state salt-lands," donated by the general government to aid in the development of the brines in the state of Minnesota, shall be transferred to the custody and control of the board of regents of the university of Minnesota. By said board of regents these lands may be sold, in such manner, or in such amounts, consistent with the laws of the state of Minnesota, as they may see fit, the proceeds thereof being held in trust by them, and only disbursed in accordance with the law ordering a geological and natural-history survey of the state.

1873, ch. 133, § 1: "An act to aid the geological and natural-history survey of the state, and to amend chapter 30, general laws 1872, authorizing such survey." Approved March 10, 1873.

SEC. 3647. Same.— That the lands granted by congress to this state by an act entitled "An act granting lands to the state of Minnesota in lieu of certain lands heretofore granted to said state," approved March three, one thousand eight hundred and seventy-nine, be and the same are hereby transferred to the custody and control of the board of regents of the university of Minnesota, which lands the said board may sell in such amounts as they may deem most expedient and beneficial, the proceeds thereof being held in trust by them, and only disbursed in accordance with the law ordering a geological and natural-history survey of the state, and the said board shall make report of their doings in the premises, as provided by law.

1885, ch. 215: "An act to transfer to the custody and control of the board of regents of the university of Minnesota the lands granted by congress to the state by an act entitled 'an act granting lands to the state of Minnesota in lieu of certain lands heretofore granted to said state,' approved March third, one thousand eight hundred and seventy-nine, to authorize the said board to sell such lands and dispose of the proceeds of such sales." Approved February 24, 1885.

Of the land transferred by acts 1873, ch. 133, § 1, it was found that certain parcels had been disposed of by the United States, and to replace this the act of congress mentioned in this act was passed.

SEC. 3648. Report of sales.— When the geological and natural-history survey of the state shall have been completed, the final report on the same by the said board of regents shall give a full statement of the sales of the salt lands hereby given into the custody and control of the board of regents of the university of Minnesota, together with the amount of moneys received therefrom, and of the balance, if any, left in the hands of the said board of regents.

1873, ch. 133, § 7.

SEC. 3649. Relinquishment to actual settlers.— That the governor of this state is hereby authorized and required, for and on behalf [of] the state, by deed of conveyance, under his hand, and the seal of the state, to release and relinquish to the United States of America, the title, or color of title, which the state of Minnesota has or may have to any of the lands of said state designated and known as state salt spring lands, in and to which there are any adverse claims, by pre-emption filings, homestead, cash, or scrip entries; *provided*, the United States shall grant to the state of Minnesota other lands within said state in lieu of, and in like quantity as the lands which may be so released and relinquished as aforesaid; *provided*, that this act shall apply only to land upon which pre-emption or homestead claims, and cash or scrip entries were made in good faith by claimants who had no notice or knowledge

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SECS. 3650, 3651.]

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that the lands were state salt spring lands, or other than government lands, open to settlement.

1875, ch. 94: "An act for the relief of settlers on state salt spring lands." Approved March 6, 1875.

SEC. 3650. Defective deeds cured.— All deeds of conveyance heretofore made by or in the name of the university of Minnesota or of the board of regents thereof, by or under the authority of the board under the seal of the corporation and the signature or attestation of one or more of the officers of the university or of the board of regents thereof, of "State Salt Lands," so called, or the indemnity lands granted by congress to the state of Minnesota in lieu of such portions thereof as had been otherwise disposed of by the United States to actual settlers, being the same lands, the control and power of sale, and disbursement of the proceeds of which were conferred upon the board of regents of the university of Minnesota, by two certain acts of the legislature of the state of Minnesota; the one entitled "an act to aid the geological and natural-history survey of the state, and to amend chapter thirty-three of the general laws approved March first, eighteen hundred and seventy-two, authorizing such survey," approved March tenth, eighteen hundred and seventy-three, and the other entitled "an act to transfer to the custody and control of the board of regents of the university of Minnesota the lands granted by congress to the state by an act entitled 'an act granting lands to the state of Minnesota in lieu of certain lands heretofore granted to said state,' approved March third, one thousand eight hundred and seventy-nine; to authorize the said board to sell such lands and dispose of the proceeds of such sales," approved February twenty-four, one thousand eight hundred and eighty-five, or of any tract, piece or parcel of said lands, and hereby ratified and confirmed, and made effectual from the time of their delivery, to pass to and vest in the grantees therein respectively all the title to the lands therein described which the state of Minnesota, or the university of Minnesota, or the board of regents thereof, had at the time of the delivery thereof, as fully to all intents and purposes as the state has power to pass or transmit the title thereof, or empower it to be passed or transmitted or to confirm and ratify its conveyance and transmission in the manner aforesaid.

1839, ch. 267, § 1: "An act confirming and making effectual certain deeds of conveyance of lands heretofore made in the name of the university of Minnesota, or the board of regents thereof, and authorizing the conveyance in the future of certain lands by and in the name of the university of Minnesota." Acts 1876, ch. 93, confirmed conveyance theretofore made by university to Henry Beard for counsel-fees.

SEC. 3651. Same.— The university of Minnesota is hereby authorized and empowered to execute, acknowledge and deliver in its corporate name, under its corporate seal, and the signatures or attestation of the president and secretary of the board of regents, deeds of conveyance for all the lands mentioned or referred to in the two several acts aforesaid, which have heretofore been or shall hereafter be sold under the authority of the board of regents, and all deeds of such lands so executed and delivered shall be effectual to pass to the grantees therein respectively all the title of the state of Minnesota or the university of Minnesota or the board of regents thereof in the lands therein described at the time of such execution and delivery thereof.

1889, ch. 267, § 2.

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PUBLIC LANDS — SWAMP LANDS.

[SECS. 3652-3654.]

TITLE 5.

SWAMP LANDS.

Granted by act of congress March 12, 1860. Two million nine hundred and sixty-nine thousand five hundred and seventeen and sixty-seven one-hundredths acres have been certified to the state, of which 654,944.27 acres have been conveyed to the Lake Superior & Miss. R. R. Co. under act of March 8, 1861; 74,115.97 to the Taylor's Falls & Lake Superior R. R. Co. under act of March 8, 1861; 4,684.17 to the agricultural college under act of March 12, 1861; 4,563.71 to the Madelia & Sioux Falls Wagon Road under act of March 7, 1862; 461,400 to the St. Paul & Chicago Railway Co. under act of March 6, 1863; 118,836.34 to the Minneapolis & St. Cloud R. R. Co. under act of February 11, 1865; 35,242.29 to the Southern Minn. R. R. Co. under act of February 16, 1865; 24,191.45 to the Cannon River Manufacturers' Ass'n under act of March 2, 1865; 144,554.46 to the Minn. Central R. R. Co. under act of March 2, 1865; 92,484.44 to the Duluth & Iron Range R. R. Co. under act of March 9, 1875; 21,751.37 to the Little Falls & Dakota R. R. Co. under act of March 3, 1881. Total, 1,636,768.47 acres. 1887, ch. 19, Land to St. Cloud R. R.

Constitutional amendment to article 8, adopted November 8, 1881, donated all unappropriated swamp lands to educational and charitable institutions.

Acts 1879, ch. 84, relinquished all right of state in such lands then occupied or held by settlers under homestead or timber culture entry. Acts 1881, ch. 154, enacted same provisions.

SEC. 3652. Apportioned to state institutions.—That as soon as the title to the swamp-lands donated by congress to the state of Minnesota shall become vested in this state, the commissioner of the state land-office shall, from the even-numbered sections of any such lands not otherwise disposed of prior to the passage of this act, proceed to select, or cause to be selected, and set apart, for the support of an insane asylum, one hundred thousand acres of swamp-lands; for the support of an institute [institution] for the education of the deaf, dumb and blind, at Faribault, one hundred thousand acres; for the support of each normal school now established or hereafter to be established in this state, not exceeding three, seventy-five thousand acres; for the support of a state prison, one hundred thousand acres.

1865, ch. 5, § 1, as amended 1875, ch. 95, § 1. Act 1865 is entitled "An act to appropriate swamp lands to certain educational and charitable institutions therein named and for the purpose of erecting a state prison." Approved February 13, 1865. 38 M. 266.

SEC. 3653. Record of.—The commissioner of the state land-office shall cause to be kept in his office a record of the quantity, description, and date of selection of all lands selected and appropriated pursuant to the provisions of section one of this act: *provided*, that if from any cause there shall not be a sufficient quantity of such swamp-lands, then and in that case said commissioner shall select from the amount of said lands *pro rata*, in the proportion of said subdivision in this act, for each institution.

1865, ch. 5, § 2, as amended 1875, ch. 95, § 2.

SEC. 3654. Appraisalment — Sale — Proceeds.—All lands so selected and set apart by the commissioner of the state land-office, shall, from and after said selection, be deemed to be reserved and irrevocably dedicated and set apart for the purposes for which the same were selected; and they shall be appraised and sold in the same, and by the same officers, and the minimum price shall be the same, as is provided by law for the appraisalment and sale of the school lands, under the provisions of title one of chapter thirty-eight of the general statutes, with the modification[s] hereinafter mentioned. All moneys derived from the sale of said lands so set apart shall constitute the permanent funds of the several institutions to which the said funds are granted, the principal of which shall remain forever undiminished, and shall be invested in state or United States bonds, the same as the permanent school fund of the state is now required to be invested, and they shall be endorsed as bonds of the endowment fund of the institution to which they belong, transferable only

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SECS. 3655-3658.] PUBLIC LANDS — AGRICULTURAL COLLEGE LANDS.

upon the order of the governor. The interest received upon such bonds, and upon the unpaid principal due the several funds on land-contracts, shall be annually appropriated to the current funds of the institution entitled to receive the same, for their maintenance and support.

1865, ch. 5, § 3, as amended 1875, ch. 95, § 3.

SEC. 3655. Under state control.—All right and title to and interest in the land mentioned in section one of this act, that may have been conveyed or vested in the trustees of the several institutions named in said section one, by sections three and four of said chapter five, are hereby declared subject to the control and disposal of the state, according to the provisions of this act.

1865, ch. 5, § 4, as amended 1875, ch. 95, § 4.

SEC. 3656. Vested rights.—This act shall not be construed to repeal a joint resolution of the legislature of the state of Minnesota, approved March 11, 1873, entitled, "Joint resolution to facilitate the settlement of the title to swamp lands heretofore granted by the state of Minnesota to state institutions and railroads," or any of the provisions thereof, or to impair the effect thereof, or of the actions and proceedings thereby authorized; but any suit or proceeding heretofore commenced or that shall hereafter be commenced under the said joint resolution, may be prosecuted to final judgment in the same manner, by and against the same parties, and with the same effect, as if this act had not been passed.

1875, ch. 95, § 5: "An act to amend ch. 5, general laws 1865," approved March 9, 1875, which amended all the sections of act of 1865, and in addition enacted the above.

TITLE 6.

AGRICULTURAL COLLEGE LANDS.

Granted by act of congress of July 2, 1862. Acts 1878, ch. 78, extended time for payment of unpaid purchase money. Acts 1878, ch. 81, abated penalties for non-payment of interest for 1877 and 1878.

SEC. 3657. Appraisalment and sale.—All lands donated to the state of Minnesota for the purpose of providing colleges for the benefit of agriculture and the mechanic arts, under the act of congress, approved July second, eighteen hundred and sixty-two, "An act donating lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," shall be appraised and sold, and the moneys arising therefrom shall be invested, in the same manner as is provided by law for the appraisalment and sale and investing the moneys of school lands, under the provisions of the foregoing title, except that there shall be written on the bonds, "bonds of the agricultural college of Minnesota, transferable only upon the order of the governor:" *provided*, that no such lands shall be sold for a less sum than five dollars per acre, nor for less than the appraised value thereof.

Taxation.—* *Provided*, that all of the provisions of law relating to the taxation of school lands, and the rights of purchasers at any forfeited tax sale of such lands, as contained in section twenty-one of title one of this act, shall apply to all sales of lands made under the provisions of this title.

G. S. ch. 38, § 53 (55), as amended 1881, Ex. S. ch. 12, by adding after *. The reference is to § 3629, *ante*.

SEC. 3658. Investment of proceeds.—All moneys derived from the sale of the lands aforesaid shall be invested in stocks of the United States, or of this state, yielding not less than four and one-half per centum upon the par value of said stock; and the moneys so invested shall constitute a perpetual

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fund, the capital of which shall remain forever undiminished, and the interest of which shall be inviolably appropriated to the endowment, support and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as may hereafter be prescribed, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life.

Prior investments.— *The purchase of four and one-half per cent. bonds heretofore made with the proceeds of sales of agricultural college lands is hereby legalized.

G. S. ch. 38, § 54 (56), as amended 1893, ch. 15, by striking out five per cent. and inserting four and one-half, and adding below *.

SEC. 3659. **Same — State responsible.**— If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be lost, it shall be replaced by the state, so that the capital of the fund shall forever remain undiminished; and the annual interest shall be regularly applied, without diminution, to the purposes mentioned in the preceding section, except that a sum not exceeding ten per centum upon the amount received, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the legislature.

G. S. ch. 38, § 55 (57).

SEC. 3660. **Use of fund.**— No portion of such fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation or repair of any building.

G. S. ch. 38, § 56 (58).

TITLE 7.

MINING ON PUBLIC LANDS.

Acts 1866, ch. 36, to regulate mining on the public lands, is superseded by acts 1867, ch. 24.

SEC. 3661. **Mineral districts.**— That all mineral districts to be hereafter formed in this state shall conform to the township lines of six miles square.

1867, ch. 24, § 1: "An act to regulate mining upon the public lands of the United States within the state of Minnesota." Approved March 6, 1867.

SEC. 3662. **"Mineral claim" defined.**— That the term "mineral claim," as used in the preceding section, shall be construed to embrace all water-rights, ditches, flumes, timber claimed, or other interest appurtenant, necessary or auxiliary to a mine or mining-claim, or the working thereon.

1867, ch. 24, § 9.

SEC. 3663. **Claims made in person.**— That all mineral claims shall be made in person by the party claiming, and any claim not thus made is invalid.

1867, ch. 24, § 2.

SEC. 3664. **Extent of claim.**— That when a mineral vein or lode or lead, containing gold, silver, cinnabar or copper, is discovered, the party making the discovery shall be entitled to two hundred feet on said vein or lode or lead, as a discovery claim, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working; and he shall also be entitled to an additional claim of two hundred feet on said vein or lode or

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lead, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working, according to the act of congress, passed July 26, 1866.

1867, ch. 24, § 3.

SEC. 3665. **Measurement—Notice.**—That to secure mineral claims, the person making them shall measure off correctly the number of feet allowed by law, and shall post up a notice of said claim, of a substantial nature, upon a stake or tree, at the end of every two hundred feet, upon which shall be written the name of the vein, with date of taking, name of claimant, number of claim, and its general direction.

1867, ch. 24, § 4.

SEC. 3666. **Defacing notices.**—That any person found tearing or mutilating any notice posted on any mineral claim in this state, shall be subject to arrest and imprisonment, and, on conviction, shall be fined not less than \$50, nor more than \$500.

1867, ch. 24, § 8.

SEC. 3667. **Shaft—Certificate.**—That the claimant shall, within three months from the time of posting up a notice of his claim, in compliance with the law, sink a shaft on said claim, three feet deep by five feet square; and shall take from the bottom of the shaft so sunk specimens of the rock, properly labelled, with the name of vein, name of claim, and name of claimant thereon, number of claim, east or west, with a correct description of said claim, and file with the register of deeds of the county in which the mineral district is situated; and the register of deeds, after being satisfied that the said claimant has complied with the requirements of the law, and that he has not exceeded the two hundred feet, shall issue to said claimant, and record the same, a certificate, with description of claim, that said claim has been properly secured under the provisions of the law.

1867, ch. 24, § 5.

SEC. 3668. **Failure to sink shaft.**—That in case the claimant fails to sink a shaft three feet deep by five feet square, within the three months specified, then he shall forfeit all right to the claim, and any other party can come in and take possession.

1867, ch. 24, § 6.

SEC. 3669. **Forfeiture of claim.**—That whenever any citizen of the United States, or those who have declared their intentions to become citizens, shall have complied with the provisions heretofore set forth, then they shall have rightful possession of all claims made under and by virtue of this act, for the space of one year from the date of said claim; and unless a shaft ten feet deep by five feet square is sunk within a year from the date of the claim made, then all right and title to said claim shall be forfeited, and another claimant may come in and take possession, and secure a title under the law.

1867, ch. 24, § 7.

SEC. 3670. **Claim to be recorded.**—That it shall be necessary to place in the hands of the register of deeds a description of each claim, for record, within thirty days from the date of taking.

1867, ch. 24, § 11.

SEC. 3671. **Same.**—That in case any mineral district in this state is located in an unorganized county, the claim shall be recorded in the organized county to which such unorganized county has been attached for judicial purposes; and the register of deeds of said organized county shall perform the duties and receive the fees as provided by law.

1867, ch. 24, § 12.

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SEC. 3672. Fees of register.— That the fees of the register of deeds shall be as follows: recording claim, \$1.00; transfer of claim, 25 cents for each folio of one hundred words; and 25 cents for each certificate.

1867, ch. 24, § 10.

SEC. 3673. Registers to report.— That it shall be the duty of all registers of deeds, in counties where mineral claims are filed, to make a report, every three months, to the secretary of state, of the number of claims taken, number of shafts sunk, and the general condition of the mines.

1867, ch. 24, § 13.

LEASES FOR MINING.

SEC. 3674. Authorized.— The commissioner of the land office of the state of Minnesota is hereby authorized to execute leases and contracts for the mining and shipping of iron ore from any lands now belonging to the state, or from any lands to which the state may hereafter acquire title, subject to the conditions hereinafter provided.

1889, ch. 22, § 1: "An act to regulate the sale and lease of mineral and other lands belonging to the state of Minnesota." Approved April 24, 1889.

SEC. 3675. Valuable minerals.— Should copper or any other valuable mineral be discovered on land and leased as heretofore authorized, the terms and conditions on which the same may be mined, shall be agreed upon by the state land commissioner and the lessee, and in case they are unable to agree, then each shall choose a referee — the two (2) persons thus selected shall choose a third. The decision of said board shall be final and binding on the parties in interest.

1889, ch. 22, § 7.

SEC. 3676. Reservation of mineral rights.— Whenever state lands situated in the counties of St. Louis, Lake and Cook are sold, for which contracts or patents are issued, it shall be proper for the land commissioner of the state land office to indorse across the face of such contracts or patents the following words: "All mineral rights reserved to the state." The effect of such indorsement shall be to reserve to the state all mineral rights.

1889, ch. 22, § 9.

SEC. 3677. Number of acres — Consideration.— The application for a mineral lease as herein provided, shall be in such form as the state land commissioner may prescribe. It shall correctly describe the land desired to be leased, and shall consist of contiguous descriptions, which, in the aggregate, shall not exceed one hundred and sixty (160) acres in any one lease, unless some of the descriptions shall be fractional subdivisions, in which case the acreage may exceed the number above mentioned. Before any lease shall be granted, the applicant shall pay to the state treasurer the sum of twenty-five dollars (\$25), and in case two or more persons shall apply for a lease at the same time, then the one who will pay the largest sum of money therefor shall be entitled to receive the lease first provided for in this act.

Prior claim.— Provided further, that in case any person or persons, whether as owners, lessees or otherwise, shall have sunk, or shall hereafter sink mining shafts, or make other mineral developments, to the amount of not less than five thousand dollars (\$5,000) in good faith under the presumption that the lands belonged to them, or that they had full legal right to operate thereon for iron ore or other minerals, which shall be ascertained to be upon lands belonging to the state or leased under the provisions of this act, such persons shall have a first or prior claim, on the terms above provided, to such developments and to a reasonable area or land to embrace and include such improvements.

Right to prospect.— The holder of a mineral lease, secured as above provided, shall have the right to prospect for iron ore on the lands embraced

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therein, for a period of one (1) year from the date thereof, at which time said right shall terminate. Provided that no iron ore shall be removed therefrom until a contract, as hereinafter provided, shall have been executed.

1889, ch. 22, § 2.

SEC. 3678. Contract for lease.— At any time prior to the expiration of said lease, the lease-holder, or any assignee thereof, shall have the right to obtain from the said commissioner of the state land office a contract, which shall bind the state of Minnesota, as the party of the first part, and the person, persons or corporation to whom said contract shall issue, as the party of the second part, in a mutual observance of the obligations and conditions as specified therein.

1889, ch. 22, § 3.

SEC. 3679. Form of lease.— The contract provided for in section three (3) shall be as follows:

This indenture, made this — day of — A. D. one thousand eight hundred and — (18—), 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, in consideration of the sum of one hundred dollars (\$100), to it in hand paid by the party of the second part, being the first annual payment hereinafter provided for, the receipt whereof is hereby acknowledged, and in further consideration of the covenants and conditions herein contained, to be kept and performed by the part— of the second part, does hereby contract, lease and demise to the part— of the second part for a term of fifty (50) years, from and after the — day of —, one thousand eight hundred and — (18—), the following described land, situated in the county of —, in the state of Minnesota, viz:—, which premises are leased to the part— of the second part for the purpose of exploring for, mining, taking out and removing therefrom, the merchantable shipping iron ore, which is, or which hereafter may be found on, in or under said land, together with the right to construct all buildings, make all excavations, openings, ditches, drains, railroads, wagon roads and other improvements upon said premises, which are or may become necessary or suitable for the mining or removal of iron ore from said premises, with the right, during the existence of this lease, to cut and use the timber found upon said premises for fuel, other than for smelting purposes, and so far also as may be necessary for the construction of buildings required in the operation of any mine or mines, on the premises hereby leased, as also the timber necessary for drains, tramways and supports for such mine or mines. *Provided*, however, that the part— of the second part shall have the right at any time to terminate this agreement in so far as it requires the part— of the second part to mine ore on said lands, or to pay a royalty therefor, by giving written notice to the party of the first part, which shall be served by leaving the same with the commissioner of the state land office, who shall officially, in writing, acknowledge the receipt of said notice, and the foregoing lease shall terminate sixty (60) days thereafter, and all arrearages and sums which may be due under the same up to the time of its termination, as set forth in such notice, shall be paid upon settlement and adjustment thereof.

The party of the first part further agrees that the part— of the second part shall have the right under this agreement to contract with others to work such mine or mines, or any part thereof, or to sub-contract the same, and the use of said land, or any part thereof, for the purposes of mining for iron ore, with the same rights and privileges as are herein granted to the said part— of the second part. The part— of the second part, in consideration of the premises, hereby covenants and agrees to and with the party of the first part, that the part— of the second part will, on or before the twentieth (20th) day of April, July, October and January in each year, during the period hereinbefore stipulated, or during the period this contract continues in force, pay to the treasurer of the state of Minnesota, for all the iron ore mined and

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removed from said land during the three (3) months preceding the first (1st) day of the month in which payment is to be made, as aforesaid, at the rate of twenty-five (25) cents per ton, for all iron ore so taken out, mined and carried away, each ton to be reckoned at twenty-two hundred and forty (2240) pounds.

The part— of the second part, at the time of such payment, shall transmit to the commissioner of the state land office an exact and truthful statement of the amount of iron ore removed during the three (3) months for which such payment shall be made. The iron ore so taken by the part— of the second part from said land, shall be weighed by the railroad company transporting the same from said land; which weight shall determine the quantity as between the parties hereto. Said part— of the second part shall furnish the commissioner of the land office monthly statements showing the aforesaid weights; the right, however, is hereby conceded to the party of the first part, by its duly authorized agents, to inspect, review and test the correctness of said railroad company's scales and weights at any time, and in such manner as may seem proper to adopt, it being understood that any errors in these respects, when ascertained, shall be cognizable and corrected. The part— of the second part agrees to pay all taxes, general or specific upon the land so leased, which may be assessed either against said land and the improvements thereon, or the iron ore product thereof, or any personal property at said mines, during the continuance of this lease; just the same as though the lands herein leased were owned in fee by the said part— of the second part; and at the termination of this lease to quietly and peaceably surrender the possession of said land to the party of the first part.

The part— of the second part further covenants that within five (5) years from the completion of a railroad within one (1) mile of said land there shall be mined and removed therefrom at least one thousand (1,000) tons of iron ore, and at least five thousand (5,000) tons shall be annually thereafter mined and removed therefrom, and in case the said part— of the second part shall not annually remove from said land the five thousand (5,000) tons of ore as above stipulated, the part— of the second part shall pay into the treasury of the state of Minnesota a royalty of twenty-five (25) cents per ton on five thousand (5,000) tons, which payment shall be made quarterly as above specified.

Provided, further, that up to the time when the first one thousand (1,000) tons of iron ore is required to be mined and removed, as hereinbefore specified, there shall be annually paid into the treasury of the state of Minnesota by the part— of the second part the sum of one hundred dollars (\$100), which payment shall be made on or before the first (1st) day of August of each year.

It is mutually understood and agreed that upon the termination of this agreement, whether by the acts of the parties, or either of them, or by limitation, the part— of the second part shall have ninety (90) days in which to remove all engines, tools, machinery, railroad tracks and structures erected or placed by said part— on said land, but shall not remove or impair any supports placed in the mines, nor any timbers or frame work necessary to the use and maintenance of shafts or other approaches to the mines or tramways within the mines.

The part— of the second part shall open, use and work the said mines in such manner only as is usual and customary in the skillful and proper mining operations of similar character when conducted by the proprietors themselves on their own lands, and so as not to do, cause or permit any unnecessary or unusual permanent injury to the same, or inconvenience or hinderance in the subsequent operating of the said mine, and in the working of said mine, the part— of the second part shall deposit all earth, rock and other useless material or rubbish at such places and in such manner as will not conflict with or embarrass the future operating of said mines.

The party of the first part expressly reserves to itself (and the part— of the second part assents thereto) the right, by its duly authorized agents, to enter

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into and upon the above described premises and any part or parts thereof, at any time or times, to inspect and survey the same, and measure the quantity of ores that shall have been mined or removed therefrom, not unnecessarily or unreasonably hindering or interrupting the operations of lessees.

The covenants, terms and conditions of this lease shall run with the land and be in all respects binding and operative upon all sub-lessees and guarantees under the part— of the second (2nd) part.

It is further provided that the present lease is granted upon the express condition that if said royalty or any part thereof, be and remain unpaid after the days and times herein specified, and if the same remain in default for a period of sixty (60) days, or in case the part— of the second part fail to keep and perform any of the covenants or conditions herein expressed to be kept and performed by said part— of the second part, then and from thenceforth and in either of those events, it shall be lawful for the party of the first part, at its own option, to take possession of the said leased premises, with or without any previous notice or process whatever, to re-enter, and the same to have and possess again as fully and completely as though no lease had been given to the said part— of the second part, and they and all parties claiming under them shall be wholly excluded therefrom.

The part— of the first part reserves, and shall at all times have, possess and hold a lien upon all ore mined, and on all improvements made on said premises by the part— of the second part for any unpaid balances due on this contract.

The part— of the first part 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 herein leased, without let or hindrance from the part— of the second part; but such railroad or railroads shall not manifestly or materially interfere with the mining operations carried on on said premises.

1889, ch. 22, § 4.

SEC. 3680. Payments.— All payments under this act shall be made to the state treasurer on the order of the state auditor, and shall be credited to the permanent fund of the class of land to which it properly belongs.

1889, ch. 22, § 5.

SEC. 3681. Forfeiture.— The land commissioner is hereby authorized and empowered, in case the lessee under any lease hereinbefore provided for fails or neglects to fully comply with all the conditions and covenants of such lease, to at once enter upon the premises described in such lease and take possession of the same, any rule of law or equity to the contrary notwithstanding.

1889, ch. 22, § 6.

SEC. 3682. Lease for hay or grass.— The state land commissioner is hereby authorized to lease state lands for hay or grass privileges, subject to such restrictions as he may prescribe; provided that no such lease shall be for more than one calendar year.

1889, ch. 22, § 8.