

MASON'S MINNESOTA STATUTES

1927

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THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE
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tificates, etc. — Investigations — Inspections, etc. — Reports — Injunctions — Searches and seizures — Civil or criminal proceedings—Certiorari from supreme court —The provisions of sections eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-three (23), twenty-four (24), and twenty-seven (27) of Chapter 192, Laws 1925, as now existing or hereafter amended, are hereby incorporated into and made a part of this act and shall have full force and effect herein. But for the purposes of this act the word "security" and the word "securities," wherever the same appear in said sections incorporated from said other law, shall be deemed stricken therefrom and the words "oil or gas lands, and lands represented to contain or be a prospect for oil or gas, and interests in or under such lands and royalties therefrom," shall be deemed substituted therefor; the term "issuer of securities" or any term of like import in said sections incorporated from said other law shall be here construed to mean and include the maker or grantor of any deed or conveyance or like instrument coming within the purview of this act; and the phraseology of said sections incorporated from said other law shall be so construed generally in this act as to make the same most effective here. ('27, c. 68, § 4)

Explanatory note—For Laws 1925, c. 192, §§ 8 to 16, 18 to 21, 23, 24, 27 see §§ 3996-8 to 3996-16, 3996-18 to 3996-21, 3996-23, 3996-24, 3996-27 herein.

4000-5. Licensed brokers—Brokers and agents licensed under Chapter 192, Laws 1925, as now existing or hereafter amended, shall be deemed licensed under this act. ('27, c. 68, § 5)

Explanatory note—For Laws 1925, c. 192, see §§ 3996-1 to 3996-28, herein.

4000-6. Violations of law or orders—Penalty—Any person who violates any of the provisions of this act, or any registration or license or any lawful order of

the commerce commission, shall be guilty of a gross misdemeanor and shall be fined not more than five thousand dollars, or imprisoned for not more than three years, or both fined and imprisoned in the discretion of the court. ('27, c. 68, § 6)

4000-7. Sales excepted from operation of law—This act shall not apply to any isolated sale not made or occurring in the course of repeated or successive sales; nor to any judicial sale, or any transaction lawfully ordered, authorized, or approved by any court in the due course of its proceedings; nor to any sale to any bank, savings institution, trust company, insurance company, or licensed broker. ('27, c. 68, § 7)

4000-8. Definitions—As used in this act the words "person," "sale," "sell," "sold," "broker," "agent," and any other word or words requiring a definition thereof, shall mean the same as in Chapter 192, Laws 1925, commonly known as the blue sky law. ('27, c. 68, § 8)

Explanatory note—For Laws 1925, c. 192 see §§ 3996-1 to 3996-28, herein.

4000-9. Laws applicable to regulated transactions—Any transaction involving or relating to oil or gas lands, or lands represented to contain or be a prospect for oil or gas, or any interest in or under such lands, or royalties therefrom, which comes within the purview of the blue sky law, being Chapter 192, Laws 1925, as now existing or hereafter amended, shall be controlled by said blue sky law; but any transaction or offense fairly coming within the provisions of both said blue sky law and this act may be dealt with by the commerce commission, or prosecuted by the proper public officers, under either of said laws. ('27, c. 68, § 9)

Explanatory note—For Laws 1925, c. 192 see §§ 3996-1 to 3996-28, herein.

4000-10. Laws repealed—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed so far as necessary to give full force and effect to this act. ('27, c. 68, § 10)

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Further as to state forests, see *infra*, §§ 6509 to 6522.

4001 to 4031. [Codified, revised, expanded, supplemented, and superseded, with existing rights, obligations, liabilities and penalties not abridged or destroyed.]

These sections, consisting of Laws 1911, c. 125 (as amended by Laws 1913, c. 159) and Laws 1919, Sp. Sess. c. 32, are codified, revised, expanded, supplemented, and superseded by Laws 1925, c. 407. See §§ 4031-1 to 4031-72, and particularly by § 1 thereof, § 4031-1, Laws 1915, c. 325 (referred to in note to § 4012), and Laws 1919, Sp. Sess. c. 33 (§ 4912) are included in this codification, etc.

Laws 1911 (G. S. '13, § 3783, et seq.) superceded 1907 c. 171. Minnesota Forest Relief Commission, '19 c. 37. Appropriation covering expense of fighting forest fires of 1922. '23 c. 361.

Laws 1925, c. 426, art. IV., § 1, creates a Department of Conservation under the control and supervision of a

commission consisting of a commissioner of forestry and fire prevention, a commissioner of game and fish, and a commissioner of lands and timber (see § 53-19). Section 2 of said art. IV provides for the appointment, etc., of the commissioner of forestry and fire prevention (see § 53-20). Section 3 of said art. IV provides that the commissioner of forestry and fire shall be chairman of the conservation commission and have and exercise all the powers and rights and perform all the duties by law vested in and imposed upon the state forester and the state forestry board, except as otherwise provided in said chapter 426 (see § 53-21). Section 4 of said art. IV rests in the Department of Conservation all the rights, powers and duties imposed upon and visited in the state auditor, the state forestry board, and the state forester in so far as they apply to state parks, state public camp grounds, etc. (see § 53-22). Section 2 of art. XVIII of said Laws 1925, c. 426 abolishes the office of state forester (see § 53-45).

FORESTRY ACT.

See notes to §§ 4001 to 4031, herein.

4031-1. Codification of forestry laws—Application of new law—Forest areas defined—Proof of existence of areas—Short title of law—This act shall be deemed and construed as a codification, revision and expansion of, and as supplementary to and taking the place of, the existing laws relating to forestry and to forest and prairie fires, including Chapter 125, General Laws of 1911, and acts amendatory thereof and supplementary thereto, Chapter 159, General Laws 1913, Chapter 325, Session Laws 1915, Chapter 32, Special Session Laws 1919, and Chapter 33, Special Session Laws 1919, but without abridging or destroying any rights, obligations, liabilities or penalties arising from or under any of said laws prior to the taking effect of this act.

This act shall apply only to the forest areas of this state. Every county now or hereafter having within its boundaries any tract or area of one thousand or more contiguous acres of standing or growing timber or of unbroken prairie land or of cut-over timber land not cleared or otherwise denuded of combustible or inflammable growth, is hereby declared to be a forest area within this act; and every other county is hereby declared not to be such forest area nor within this act. But in the prosecution of any civil or criminal action or proceeding under this act, it shall not be necessary to prove that any county comes within the purview of this act; but the contrary may be proven by any party to such action or proceeding.

This act may be cited as the Forestry Act. ('25, c. 407, § 1)

Explanatory note—For the laws referred to in this section see notes to §§ 4001 to 4031, herein. For changes in this law by Laws 1925, c. 426 see notes to §§ 4001 to 4031, herein.

4031-2. Definitions—For the purpose of this act the following words and terms have the following meanings, to-wit:

(a) The word "board" means the State Forestry Board and its successors in authority by whatever name or title designated.

(b) The word "forester" means the State Forester and his successors in authority by whatever name or title designated.

(c) The word "person" means and includes a natural person acting either for himself or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind. The masculine shall include the feminine and the singular shall include the plural, and vice versa; wherever necessary to give full force and effect to all the provisions of this act.

(d) The word "timber" means and includes trees,

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| 4031 ¹ | 4031 ¹ |
| 31 — 283 | 29 — 218 |
| 176m 472 | 223nw 912 |
| | See |
| | sub secs |
| | 22, 23, |
| | 28 & 34 |
| | 4031 ¹ |
| | 31 — 281 |
| | 31 — 372 |

saplings, bushes, and sprouts from which trees may grow, of every size, nature, kind and description.

(e) The term "forest" or "forest land" means and includes swamps, peat-bogs, cut-over lands, and every other area where timber (as defined in this act) grows or exists.

(f) The words or term "back-fire" means a fire intentionally started ahead of, or in the path of, an approaching forest or prairie fire for the purpose of burning back toward said forest or prairie fire so that when said two fires meet both will die out for lack of fuel. ('25, c. 407, § 2)

Explanatory note—Laws 1925, c. 426, art. IV, § 1, creates a Department of Conservation under the control and supervision of a commission consisting of a commissioner of forestry and fire prevention, a commissioner of game and fish, and a commissioner of lands and timber (see § 53-19, herein).

Section 2 of said art. IV provides for the appointment, etc., of the commissioner of forestry and fire prevention (see § 53-20, herein). Section 3 of said art. IV provides that the commissioner of forestry and fire prevention shall be chairman of the Conservation Commission and have and exercise all the powers and rights and perform all the duties by law vested in and imposed upon the state forester and the state forestry board, except as otherwise provided in said chapter 426 (see § 53-21, herein). Section 4 of said art. IV vests in the Department of Conservation all the rights, powers and duties imposed upon and vested in the state auditor, the state forestry board, and the state forester in so far as they apply to state parks, etc (see § 53-22, herein). Section 2 of art. XVIII of said Laws 1925, c. 426 abolishes the office of state forester and the state forestry board (see § 53-45, herein).

4031-3. State forestry board—Members—Until otherwise provided by law, the state forestry board shall consist of nine members composed of the director of the forestry school and the dean and director of the college of agriculture of the University of Minnesota and seven others appointed by the governor for a term of four years and until their successors qualify. Two of said appointive members shall be appointed upon the recommendation of the regents of the University and one each upon the respective recommendations of the state agricultural society, the state horticultural society, and the state game and fish commissioner, provided suitable persons shall have been so recommended to the governor not later than January 31 of the year in which such terms expire, or within ten days after any vacancy occurs during any term. All vacancies shall be filled in the same manner as the original appointments. So far as practical, all such appointees shall be interested in and have knowledge of the planting and cultivation of trees in prairie regions, the preservation of natural forests, reforestation, and protection of the sources of streams. ('25, c. 407, § 3; '11, c. 125, § 1; '13, c. 159, § 1; G. S. '13, § 3783; G. S. '23, § 4001)

Explanatory note—See note to § 4031-2, herein.

4031-4. Same—Secretary—The board may appoint a secretary at a salary not to exceed eighteen hundred (\$1,800.00) dollars per annum, whose duties shall be prescribed by the board. ('25, c. 407, § 4; '11, c. 125, § 2; G. S. '13, § 3784; G. S. '23, § 4002)

See ch. 5A.

Explanatory note—See note to § 4031-2, herein.

4031-5. Same—Powers and duties—The board shall have the management of the state forests and of all other property acquired therefor, supervise all matters of forest protection and reforestation and have charge of all moneys appropriated therefor or accruing therefrom, including the state forest fund and the forest service fund. It shall ascertain and observe the best

methods of reforesting cut-over and denuded lands, foresting waste and prairie lands, preventing destruction of forests and lands by fire, administering forests on forestry principles, encouraging private owners to preserve and grow timber for commercial purposes, and conserving the forests around the head waters of streams and on the water-sheds of the state, and shall collect information regarding the timber lands owned by the state. Biennially and on or before the first Monday in December of each even-numbered year the board shall report its doings, conclusions, and recommendations, and any damage caused by forest and prairie fires and any trespassing upon state lands to the governor, which report shall be printed and distributed to the members of the legislature and otherwise as the board may direct. ('25, c. 407, § 5; '11, c. 125, § 3; G. S. '13, § 3785; G. S. '23, § 4003)

Explanatory note—See note to § 4031-2, herein.

4031-6. Same—Officers—State forester—Assistant forester, etc.—Equipment and supplies—Accounts of receipts and expenditures—Rules and regulations—Notices—The board shall elect a president and vice-president annually. It may appoint an executive committee on which it may confer authority to act for it in minor details which cannot conveniently be acted upon by the board. The board shall appoint a state forester, who shall be a trained forester, at a salary not to exceed four thousand (\$4,000) dollars per annum, and he shall be allowed necessary traveling and field expenses incurred in the conduct of his official duties. The office of the forester shall be at the state capitol, and the board is hereby authorized to employ such office assistants as may be necessary and to fix their compensation. The forester, with the approval of the board, may appoint an assistant forester and such other employes, outside of the office assistants, as may be necessary in carrying out the provisions of this act, and may fix the amount of their compensation; and the forester shall have the power to remove any subordinate officers and employes so appointed by him. He shall be authorized under the direction and approval of the board to purchase all necessary equipment, instruments, and field supplies. A full and accurate account of all receipts and expenditures incurred in the carrying out of the provisions of this act, with such vouchers and forms as may be approved by the state public examiner, shall be kept in a system of books prescribed by such examiner. The forester shall execute all rules and regulations issued by the board pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire; shall investigate the origin of all forest fires, and prosecute all violators of this act; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules and regulations as may be formulated by the board. He shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places, and shall furnish same to the railroad companies, whose duty it shall be to post them in such places as he may direct. ('25, c. 407, § 6; '11, c. 125, § 4; G. S. '13, § 3786; G. S. '23, § 4004)

See ch. 5 A.

Explanatory note—See note to § 4031-2, herein.

4031-7. Forester's duties—The forester shall become familiar with the location and area of all state timber and cut-over lands and prepare maps of state forests and each of the timbered counties showing

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the state lands therein, and shall supply such maps to the district rangers, to the officials of the state and counties requiring them, and in all ways that are practical and feasible shall protect such lands from fire and the illegal cutting of timber; he shall report, from time to time to the board, such information as may be of benefit to the state in the care and management of its timber. It shall be his duty to inquire into the extent, kind, value, and condition of all timber lands; the amount of acres and value of timber that is cut or burned, and he shall also report the quantity and species of second-growth timber, and shall, not later than the first of December of each year, make a written report to the board upon all such data ascertained by him, and shall recommend therein plans for improving the state system of forest protection, management, and reforestation. ('25, c. 407, § 7; '11, c. 125, § 5; G. S. '13, § 3787; G. S. '23, § 4005)

Explanatory note—See note to § 4031-2, herein.

4031-8. Fire damages reported to Attorney General—Claims for—Settlement—Damage by fire heretofore or hereafter occurring to state timber or lands, when coming to the knowledge of the board or its employes, shall be promptly reported to the attorney general, who, at his discretion, may either enforce collection of such demands directly or may employ private attorneys therefor on such terms (not contingent) as he deems for the best interests of the state. The amount so collected, after deducting therefrom the fees of such attorneys, if any, and other necessary expenses incurred in investigation, preparation for trial, and trial, shall be paid into the state treasury and credited to the fund that would have been entitled to receive the sale price of said lands or timber if sold; or if there be no such fund, then such money shall be credited to the general revenue fund.

The attorney general, either in or out of court, may compromise and settle state claims for fire damage to state lands or timber, on such terms as he deems for the best interests of the state. ('25, c. 407, § 8)

Explanatory note—See note to § 4031-2, herein.

4031-9. Cooperation with state auditor and other departments of government—The forester shall co-operate with the state auditor and with the several departments of the state and federal governments, or with counties, towns, corporations, and individuals, in the preparation of plans for forest protection, management, replacement of trees, wood lots and timber tracts, using his influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state. ('25, c. 407, § 9; '11, c. 125, § 6; G. S. '13, § 3788; G. S. '23, § 4006)

Explanatory note—See note to § 4031-2, herein.

4031-10. State forests—Lands eliminated from or added to—When any tract or tracts of land that have been included in areas set apart as state forests are found to be more valuable for the production of farm crops than for forestry purposes, the forester shall recommend to the board that the same be eliminated from the state forests; and the board by resolution may adopt or otherwise approve such recommendation, whereupon said lands shall be subject to sale the same as other lands not reserved.

When any state lands not reserved or set aside are found by the state auditor to be more valuable for the production of timber than for agriculture, said auditor may recommend to the board that said lands be re-

served and set aside for forestry purposes; and the board by resolution may adopt or otherwise approve said recommendation, whereupon said lands shall become a part of the state forests. ('25, c. 407, § 10)

Explanatory note—See note to § 4031-2, herein.

4031-11. Cooperation with state highway authorities, etc.—Fire-breaks—Powers of towns, cities and villages—Tax levies—Fire fund—The forester shall co-operate with the state highway authorities and with the supervising officers of the various towns, cities and villages in the construction of fire-breaks along section lines and public highways.

All villages and cities in the state situated in any forest area are hereby authorized to clear off all combustible material and debris and create at least two good and sufficient fire-breaks of not less than ten feet in width each, which shall completely encircle such municipalities at a distance of not less than twenty rods apart, between which back-fires may be set or a stand made to fight forest fires in cases of emergency.

All towns, villages, and cities are hereby authorized and directed to take necessary precautions to prevent the starting and spreading of forest or prairie fires and to extinguish the same; and are hereby further authorized to levy a tax of not more than five mills annually upon the taxable property of such municipalities, but in no municipality to exceed a total of Three Thousand Dollars (\$3,000.00) in any one year, which tax, when collected, shall be known as the "Fire Fund" and shall be kept separate and apart from all other funds and used only in paying all necessary and incidental expenses incurred in enforcing the provisions of this act. But not to exceed Five Hundred Dollars (\$500.00) shall be expended in any one year from any such "Fire Fund" for the support of any municipal fire department. No such municipality shall make any levy for its "Fire Fund" at any time when the same contains Five Thousand Dollars (\$5,000.00) or more, consisting of cash on hand or uncollected taxes not delinquent, or both.

In all townships constituted within any of the forest patrol districts which may be established by the board, the respective town and village officers and employes shall co-operate with, and be under the general supervision and direction of, the state forestry officers. ('25, c. 407, § 11; '11, c. 125, § 7; G. S. '13, § 3789; G. S. '23, § 4007)

Explanatory note—See note to § 4031-2.

4031-12. Education in forestry—The forester may advance, as he deems wise, education in forestry within the state by publications and lectures, and upon the invitation of the director of the college of forestry of the University of Minnesota may co-operate with the said college as far as his time will permit, and such college shall furnish such aid to him as in the circumstances is consistent with its own proper functions. ('25, c. 407, § 12; '11, c. 125, § 8; G. S. '13, § 3790; G. S. '23, § 4008)

Explanatory note—See note to 4031-2, herein.

4031-13. Audit of bills for salaries and expenses—It shall be the duty of the forester to audit and inspect all bills for salary and expenses incurred by the district rangers and by fire patrolmen and other employes for the prevention, suppression, checking, and control of fires, and to recommend to the board the amounts justly due and which should be paid. ('25, c. 407, § 13; '11, c. 125, § 9; G. S. '13, § 3791; G. S. '23, § 4009)

Explanatory note—See note to § 4031-2, herein.

4031-14. Patrol districts—Cooperation with county aeroplane patrol men—Existing districts—The forester may, with the approval of the board, create and establish patrol districts, including all lands of both state and private ownership, upon which there is a probability of forest and brush fires starting, and establish rangers and patrolmen over the said districts. Such rangers and patrolmen may co-operate with aeroplane patrolmen acting under authority of Chapter 34, Session Laws 1923. All such patrol districts heretofore established and now in existence are hereby continued until and unless hereafter abolished by the forester with the approval of the board. ('25, c. 407, § 14; '11, c. 125, § 10; G. S. '13, § 3792; G. S. '23, § 4010)

See note to § 4031-2, herein.

For Laws 1923, c. 34 see §§ 669-3 to 669-7, herein.

'23 c. 34 provides for aeroplane service in fire patrol work. See §§ 669-3 to 669-7, herein.

4031-14a. Land for watch towers, warehouses, etc.—Gifts of—That the commissioner of forestry and fire prevention, department of conservation, be and he hereby is authorized, on behalf of the State of Minnesota, to accept as gifts to the state the title to any tracts of land not exceeding one acre in area which he deems necessary or convenient for the use of the state as locations for watch towers, warehouses, or other buildings of any kind, or for any other use in connection with his duties as commissioner of forestry and fire prevention. ('27, c. 329, § 1)

4031-14b. Same—Purchase of—That said commissioner of forestry and fire prevention, department of conservation, is also authorized, on behalf of the State of Minnesota, to purchase small tracts or parcels of land not exceeding one acre in area, nor costing more than \$10.00 per acre, to be used as locations for watch towers, warehouses, or other buildings of any kind, or for any other use in connection with his duties as commissioner of forestry and fire prevention. ('27, c. 329, § 2)

4031-15. District rangers and patrolmen—Duties—Arrests—Under the direction of the forester, the district rangers are charged with preventing and extinguishing forest fires in their respective districts, and the performance of such other duties as may be required by the forester. They may arrest without warrant any person found violating any provisions of this act, take him before a magistrate and there make complaint. When the district rangers shall have information that such violation has been committed, they shall without delay make similar complaint and have the same prosecuted. The district rangers and other forest officers shall not be liable in civil action for trespass committed in the discharge of their duties.

Any district ranger or patrolman may serve any warrant for the arrest of any person violating any provision of this act; and for that purpose all district rangers and patrolmen are hereby vested with the same powers as constables or other similar officers of the courts issuing such warrants. ('25, c. 407, § 15; '11, c. 125, § 11; G. S. '13, § 3793; G. S. '23, § 4011)

Explanatory note—See note to § 4031-2, herein.

4031-16. Fire patrolmen—Summoning aid for extinguishment of fires—Refusal to obey summons—Commandeering property—At any time district rangers, with the approval of the forester, may employ suitable persons to be known as fire patrolmen, permanently to remain upon and patrol any territory (whether comprising public or private lands or both) as may be assigned to them as long as required to prevent and

extinguish any fires. Each such patrolman so employed shall be supplied with the necessary equipment. The forester or any district ranger or fire patrolman may summon any male person of the age of eighteen years and upward to assist in stopping any fire burning in the district under the care of such state employe, and may incur any other necessary and reasonable expense for such purpose, but shall promptly report said matter to his next superior officer or other state employe over him.

Any able-bodied person so summoned, who refuses or neglects or otherwise fails to assist in extinguishing such fire or who fails to make all reasonable efforts to that end until released by such state employe who summoned him, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 and not more than \$50.00 and the costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days. Such forester, ranger, or patrolman, as the case may be, shall also have power to commandeer for the time being any team, automobile, tools, appliances, or other property in the possession of any person either summoned to assist in extinguishing such fire or in the vicinity thereof, and himself to use, and to require such persons summoned to his assistance to use such commandeered property in the fighting and extinguishing of such fire. But the owner of any property so commandeered shall be promptly paid just compensation for such use thereof, and all damages done to such commandeered property while in such use by said forester, ranger or patrolman, from any money available for such expenses under this act. ('25, c. 407, § 16; '11, c. 125, § 12; G. S. '13, § 3794; G. S. '23, § 4012)

Explanatory note—See note to § 4031-2, herein. See '15 c. 325 consumptives to have preference in employment.

4031-17. Compensation of persons employed to fight fires—Emergency expenses—The wages and expenses of men employed to fight forest fires shall be fixed and paid by the forester and the labor reckoned and paid for at not more than 35 cents per hour. The board is authorized to draw from the state treasury, out of any money at any time appropriated for the purposes of this act, a reasonable sum, not to exceed five thousand dollars (\$5,000) at any one time, and to place the same in the hands of the forester to be used by him in paying emergency expenses, including just compensation for services rendered by persons summoned, and for private property used, damaged, or appropriated under this act. The state auditor is authorized to draw his warrant for such sum when duly approved by the president and secretary of said board. The forester shall take proper sub-vouchers or receipts from all persons to whom such moneys are paid, and after the said sub-vouchers have been approved by the board they shall be filed with the state auditor. Said sum of \$5,000, or such lesser amount as may be placed in the hands of the forester at any one time, shall be deposited (subject to withdrawal by check or otherwise by said forester at any time) in some bank authorized and bonded to receive state deposits; and the bond of such bank to the state shall cover and include such deposit. Any part of said money forwarded by the forester to any ranger or other employe shall likewise be deposited in some such bonded bank, if practicable, and shall likewise be deemed covered by the bond of such bank. ('25, c. 407, § 17; '11, c. 125, § 17; G. S. '13, § 3799; G. S. '23, § 4017)

Explanatory note—See note to § 4031-2, herein.

4031-17a. Contracts for services for forestry or fire prevention work—Commissions to persons employed—The commissioner of forestry and fire prevention under Chapter 426, Laws 1925, is hereby authorized and empowered to contract for or accept the services of any and all persons whose aid is available, temporarily or otherwise, in forestry or fire prevention work either gratuitously or for compensation not in excess of the limits now or hereafter provided by law with respect to the employment of labor by such commissioner. Said commissioner may issue a commission, or other written evidence of authority, to any such person whose services are so arranged for; and may thereby employ such person to act, temporarily or otherwise, as fire warden, patrolman, or in any other capacity, with such powers and duties as may be specified in such commission or other written evidence of authority, but not in excess of the powers conferred by law on district rangers by Chapter 407, Laws 1925, and laws amendatory thereof or supplementary thereto. ('27, c. 280, § 1)

For Laws 1925, c. 46 see §§ 53-1 to 53-51, herein. For Laws 1925, c. 407 see §§ 4031-1 to 4031-35, herein.

4031-18. Notices of cutting of timber, etc.—Posting, etc.—Penalty—Before any person shall cut, or cause to be cut, any timber upon any land in, upon, or adjoining any forest or wild land area within this state, such person shall post in a conspicuous place in some camp building on the premises where such cutting is to be done (or if there be no such building, then on and at the northwest corner of each forty-acre governmental subdivision or at the nearest corresponding point in each fractional subdivision of such lands) a notice in the English language containing the name and postoffice address of such person, and also containing a full description of all the lands upon which such cutting is to be done, designating the same by each forty-acre governmental subdivision or fraction thereof with the proper section, town and range; which said notice shall be kept continuously so posted during the entire time that such cutting is being done. And each year before any such timber is cut, such person shall send a true and correct copy of each such notice, together with a statement of the kind of products proposed to be cut, and who is to be responsible for the disposal of slashings and debris resulting from such cutting, by registered letter, properly enveloped, sealed, postage prepaid, and addressed to the State Forester, State Capitol Building, St. Paul, Minnesota.

Any person who fails to post and send such notice as in this section required shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) or imprisoned in the county jail for not less than twenty days. Provided, however, that the provisions of this section shall not apply to any person who shall be engaged in cutting cord wood or other fuel wood upon his own land or engaged in cutting timber for clearing any land actually owned and occupied by him.

Any person who, and any municipality or political subdivision of this state which cuts or fells timber or brush of any kind in clearing land for any public road bed or right-of-way, or for any other purpose, shall, before starting such operations, notify the forester in writing, describing such intended operations, which notice shall be sent by registered letter, properly enveloped, sealed, postage prepaid and addressed to the State Forester, State Capitol Building, St. Paul, Minnesota. ('25, c. 407, § 18)

Explanatory note—See note to § 4031-2, herein.

4031-19. Slashings and debris—Disposition of—Penalty—Where and whenever in the judgment of the forester or any district ranger there is or may be danger of starting and spreading of fires from slashings and debris from the cutting of timber of any kind and for any purpose, the forester or district ranger shall order the person by or for whom the said timber has been or is being cut to dispose of the slashings and debris as said state employe may direct. Where conditions do not permit the burning of the slashings and debris over the entire area so covered, the forester may require such person to dispose of such slashings and debris in such a way as to establish a safe fire line around the area requiring such protection, the said fire line to be of a width and of a character satisfactory to the forester.

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

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

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

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

Any contractor who enters into a contract for the construction of a public road or other work, which in-

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

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

In all cases not herein provided for, where timber is cut in, upon or adjoining any forest land and no specific directions are given by the forester for the disposal of slashings and debris resulting therefrom, all such slashings and debris within two hundred feet of any adjoining timber land or (and) any public highway, railroad, portage, or lake shore, shall nevertheless be piled in separate and compact piles ready for burning, which piling shall be done by the person by or for whom such timber was cut and immediately after said cutting is done and while such slashings are still green. ('25, c. 407, § 19; '11, c. 125, §§ 15, 16; '13, c. 159, §§ 4, 5; G. S. '13, §§ 3797, 3798; G. S. '23, §§ 4015, 4016)

Explanatory note—See note to § 4031-2, herein 125-17, 145+403.

4031-20. Camp fires—Extinguishing—Prosecution of persons responsible for—Every road overseer or assistant of a road overseer or other local officer having charge of any highway or highway patrolman, who finds that any person has left a camp fire burning in his district shall extinguish the same and take prompt measures to prosecute the person or persons who so left such fire. ('25, c. 407, § 20; G. S. '13, § 3802; G. S. '23, § 4020)

4031-21. Lighting and extinguishing fires—Every person who, when the ground is not covered with snow, starts a fire in the vicinity of forest or prairie land, shall exercise every reasonable precaution to prevent such fire from spreading, and shall, before lighting the same, clear the ground of all branches, brushwood, dry leaves and other combustible material within a radius of five feet from the fire, and shall carefully extinguish the fire before quitting the place. ('25, c. 407, § 21; '11, c. 125, § 21; G. S. '13, § 3803; G. S. '23, § 4021)

4031-22. Starting fires—Where unlawful without permission—Fire-breaks—Reports of unauthorized fires—It shall be unlawful, when the ground is not snow-covered, in any place where there are standing or growing native coniferous trees, or in areas of ground from which native coniferous trees have been cut, or where there are slashings of such trees, or native brush, timber, slashings thereof, or excavated stumps, or where there is peat or peat roots excavated or growing, to start or have any open fire, except for domestic purposes, or any back fire, without the written permission of the forester or other authorized forest officer, unless a fire-break sufficient to check the spread of such fire shall have been freshly made or

plowed around the place or area wherein said fire is set.

But furrows plowed in peat lands or bogs shall not be deemed a sufficient fire-break as required by this section.

The occupant of any premises upon which any unauthorized fire is burning in the vicinity of forest lands, whether such fire was started by said occupant or otherwise, shall promptly report the said fire to the forester or to the nearest district ranger, patrolman, or fire warden. Failure to make such report shall be deemed a violation of this act; and the occupant of such premises shall be deemed prima facie guilty of negligence if such unreported fire spreads from said premises to the damage, loss, or injury of the state or any person. ('25, c. 407, § 22; '19, Ex. Sess. c. 32, § 1; G. S. '23, § 4022)

Explanatory note—See note to § 4031-2, herein.

4031-23. Permission to start fires—Prosecutions for unlawfully starting, etc., fires—Evidence and burden of proof—Permission to set fire to any grass, stubble, peat, brush, slashings or woods for the purpose of clearing and improving land or preventing other fire shall be given whenever the same may be safely burned, upon such reasonable conditions and restrictions as the forester may prescribe to prevent same from spreading and getting beyond control. Such permission shall be in the form of a written permit signed by a regular forest officer or a member of the town board, designated by the forester, or some other suitable person to be designated by the forester as township fire warden, said permits to be on blanks furnished by the forester. Provided, however, that the forester or any of his assistants or the township fire warden may at his discretion, in cases of extreme danger, refuse, revoke, or postpone the use of permits to burn when such act is clearly necessary for the safety of life and property. Any person setting any fire or burning anything under such permit shall keep such permit on his person while so engaged, and shall produce and exhibit said permit to any district ranger, patrolman, or other employe of the forestry service, or township fire warden, when and as often as requested to do so by any of them.

In any prosecution under this act for unlawfully starting or setting or having or permitting the continuation or spread of any fire or back-fire, proof upon the part of the prosecution that such fire or back-fire originated upon, or was permitted to burn upon, or that it spread from, lands or premises occupied by the person charged with such offense, and that such person had knowledge of such fire and made no effort to put it out, shall be prima facie evidence that he is guilty. And the burden of proof as to any matter in refutation of such prima facie guilt, or in extenuation or excuse, shall be and rest upon the person so appearing prima facie to be guilty. ('25, c. 407, § 23; '19 Ex. Sess. c. 32, §§ 2, 3; G. S. '23, §§ 4023, 4024)

Explanatory note—See note to § 4031-2, herein.

4031-24. Fire wardens—Appointment—Duties—The forester may appoint supervisors, constables, and clerks of towns, mayors of cities, and presidents or presiding officers of village councils, to be fire wardens for their respective districts; and they shall do all things reasonably necessary to protect the property of such municipalities from fire and to extinguish the same. ('25, c. 407, § 24; '11, c. 125, § 24; G. S. '13, § 3806; G. S. '23, § 5027)

Explanatory note—See note to § 4031-2, herein.

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4031-25. Neglect or refusal to perform duties—Other offenses—Penalties—Every forestry employe of the state who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest, brush or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stumps, dry grass field, stubble, or other material and fail to extinguish the same before it has endangered the property of another; every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, in the vicinity of such land or on or along any highway or trail thereover, shall throw or drop into combustible material any burning match, ashes of pipe, lighted cigar or cigarette, or any other burning substance, and who fails to extinguish the same immediately; every person who drives upon or over forest lands in a motor vehicle with an open cutout or without a muffler on the exhaust pipe; and every person who shall deface, destroy, or remove any notice posted under this act; shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days and not exceeding ninety days. ('25, c. 407, § 25; '11, c. 125, § 18; G. S. '13, § 3800; G. S. '23, § 4018)

4031-26. Railroad fire patrolmen—Employment—Failure to provide—Penalty—Patrol of railroad rights of way—Penalties—When in the judgment of the forester there is danger of the setting and spreading of fires from locomotive engines, he shall order any railroad company to provide patrolmen to follow each train throughout such fire patrol district or districts as he deems necessary to prevent fires. When the forester has so notified a railroad company to provide such patrol after trains, the said railroad company shall immediately comply with requirements of such notice throughout the territory designated; and upon its failure so to do, the forester may employ patrolmen with the necessary equipment to patrol the rights-of-way of said railroad, and the expense of the same shall be charged to the said railroad company and may be recovered in a civil action in the name of the State of Minnesota, and in addition thereto the said company shall be guilty of a misdemeanor. All moneys so recovered shall be paid into the state treasury and credited to the appropriation from which such expenses were paid.

The forester may prescribe such other measures as are considered by him to be essential for the immediate control of fire.

It is also made the duty of any railroad company acting independently of such forester, to patrol its right-of-way after the passage of each train when necessary to prevent the spread of fires and to use the highest degree of diligence to prevent the setting and spread of fire, to cause the extinguishment of fires set by locomotives or found existing upon their respective rights-of-way; and any failure of such railroad company, its officers and patrolmen to comply with this section shall be a misdemeanor and shall be

punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and costs, and in addition thereto such railroad company shall be liable for all expenses and damages caused by or resulting from such failure of duty. ('25, c. 407, § 26; '11, c. 125, § 13; '13, c. 159, § 2; G. S. '13, § 3795; G. S. '23, § 4013)

Explanatory note—See note to § 4031-2, herein. Applicable to Director General of Railroads. 150-530, 185+299.

Sections 4911 to 4913, herein, are superceded by this section, and the following section.

4031-27. Locomotive ash pans and spark arresters—Inspections and examinations—Operation of locomotives, etc., with unlawful or defective devices—Leaving deposits of live coals or ashes—Instructions to railroad employes—Reports by railroads—Combustible material in proximity to railroads—Penalties—Subsection (1). Every person operating a railroad for any purpose shall equip and use upon each locomotive engine a practical and efficient ash pan and spark arrestor device, which the master mechanic or corresponding skilled employe of such operator shall cause to be examined each time before such locomotive leaves the roundhouse or starts on any trip, between the dates of March 1 and November 30, both dates inclusive, of each year, provided however that it shall not be required to make more than one such examination of any one engine with a period of 24 hours. Between the dates of December 1 and February 28, both dates inclusive, of each year, such inspection shall be made at intervals of not more than seven days. Such ash pan and spark arrestor device shall be constructed and operated in conformity and in compliance with all the following specifications and rules, to-wit:

(a) Except when the ash pan is being cleaned, the hopper opening for removal of cinders on ash pans constructed with hoppers shall be kept closed while the engine is in use by a cast slide supported by cast guides; and there shall be no opening greater than 5/16 of an inch between the slide and hopper bottom. Upon written authority of the forester, guides of angle iron may be used, or such openings in hoppers for removal of cinders may be closed by what is known as the "radial type of hopper bottom", the general design of which shall be approved in writing by the forester; or such openings in hoppers for removal of cinders may be closed by such other device, or in such other manner, as may be approved in writing by the forester. All such locomotive engines shall be equipped as provided in this subsection (a) within a period of 4 years from and after the passage of this act.

(b) Ash pans commonly known as solid or swipe pans shall have the ends, if open, covered either with a substantially constructed solid damper or screen damper, which shall extend at least 1¼ inches inside or outside the pan when closed, leaving no opening greater than 5/16 of an inch in width, so arranged that it can be fastened down, and kept fastened down when the engine is in use. If a screen is used, it shall conform to the specifications for use in spark arrestors, as contained in this act.

(c) Openings in ash pans for draught purposes shall be protected by screens bolted firmly and securely over such openings, or such openings may be protected by such other methods as may be approved in writing by the forester. All screens so used shall conform to the specifications for spark arrestors, as contained in this act.

(d) On locomotive engines where there is an opening between ash pan and foundation ring, protection

shall be furnished by flaring the ash pan and bringing the flare up level with the bottom of the foundation ring, or otherwise by guards approved in writing by the forester.

(e) Openings in ash pans for entry of grate connections must be fully protected; and the openings around the rods where they enter the ash pan must not be greater than 5/16 of an inch in width, or the grate connections outside the ash pan must be boxed in for their full length so that no sparks or cinders can possibly escape, or the openings must be protected in such other manner as may be approved in writing by the forester.

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

(g) Within a period of two years from and after the passage of this act, such ash pans shall be equipped with swipes, injector overflow or other sprinkling devices, and ashes and coals therein shall be kept extinguished and dampened at all times between April 15 and October 31, both dates inclusive, of each year, and during such additional period, in any particular territory, as may be specified in writing by the forester.

(h) Spark arrestor screens shall be either square mesh wire screen or oblong mesh wire screen or perforated plate. The mesh of square mesh wire screens when new shall not be larger than 2½ meshes per lineal inch in either direction and made of wire not less than 0.134 of an inch in diameter; provided also that square mesh wire screen of 3 meshes and 4 meshes per lineal inch in either direction shall be made of wire not less than 0.105 of an inch in diameter and that square mesh wire screen of 5, 6 and 7 meshes per lineal inch in either direction shall be made of wire not less than 0.063 of an inch in diameter. The mesh of oblong mesh wire screens when new shall not be greater than 3/16 of an inch in width nor ¼ of an inch in length, and made of wire not less than 0.134 of an inch in diameter; the openings in perforated plates shall, within one year from and after the passage of this act, be oblong not exceeding 3/16 of an inch in width nor ¼ of an inch in length, and there shall not be less than ½ of an inch in width of plate between the meshes, and such plate shall not be less than 1/16 of an inch in thickness. The condemning limit of the mesh in the square mesh screen shall be 5/16 of an inch in either direction, and of the mesh in the oblong mesh screen or perforated plate shall be ¼ of an inch in width and 13/16 of an inch in length.

(i) The spark arrestor screen shall have a manhole door with a substantial rigid frame, large enough to allow the entry for purposes of inspection and repair.

(j) All angle irons and plates used for the purpose of attaching or supporting any part of the spark arrestor device shall be so placed as to fit closely and continuously to the smoke arch, plates, angle irons, and other parts.

(k) Plates used in spark arresters shall not be less than 3/16 of an inch in thickness, except that plates not less than ¼ of an inch in thickness may be used in spark arresters in certain cases, and in the manner and for the purpose as prescribed in writing by the forester. After four years from the date of passage

hereof angle irons used in spark arresters shall be of sections in size not less than one-fourth of an inch by two inches by two inches (¼"x2"x2"), on all locomotive engines unless otherwise authorized in writing by the forester. The spacing of rivets, bolts and studs used in spark arresters shall not be greater than set forth in the following specifications:

Fastening screens—3½ inches center to center.

Fastening angle irons to smoke arch, 8 inches center to center.

Fastening plates—5 inches center to center.

Fastening angles irons to flue sheet—8 inches center to center.

Material used in the construction or repair of spark arresters shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos or other material or substance other than iron and/or steel shall be applied to, laid on, attached to or used in any way in connection with or made a part of spark arresters except upon written approval of the forester. No opening anywhere in the spark arrester device, other than the openings herein specified for wire screen and perforated plate shall be larger than ¼ of an inch in width.

Subsection (2). A record shall be kept of all examinations required by this section, in a book to be furnished by every person operating a railroad for any purpose, showing:

(a) The place and number of each engine inspected.

(b) The date and hour of day of such inspection.

(c) A detailed statement signed by the employe making the inspection, giving location and size of openings greater than permitted by this act and of any and all defects found in the ash pan or spark arrestor device, and of the condition thereof, the word person in this subsection shall not be construed to mean the engine crew.

(d) A detailed statement, signed by the employe making the same, of any and all repairs, replacements or renewals, made at any time on or in connection with the ash pan or spark arrestor device.

The said book shall always be open for inspection by the forester or other authorized officer appointed by him.

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

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

locomotive is found defective on line it may proceed to the first terminal or point where repairs can be made.

Subsection (4). Every person operating a railroad for any purpose shall keep its right-of-way clear of grass, brush, combustible materials, logs, poles, lumber and wood, except ties and material for shipment and other material necessary for the maintenance and operation of the road, from March 15 to December 1. During particularly dry and dangerous periods the forester may prohibit any and all burning along part or all of any railroad right-of-way for a definite period.

Subsection (5). Every person operating a railroad for any purpose shall establish and maintain such fire-breaks along the route of its railway as can be constructed and maintained at not excessive expense. The intention shall be to adjust the protective measures to the local conditions, and to make the expense proportionate to the fire risk and the possible damage.

Subsection (6) (a) Except when the ground is covered with snow, no donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler (except any locomotives conforming to all the requirements of this act) shall be operated in the vicinity of forest, brush, peat or grass lands, unless and until the same is provided with a practical and efficient spark arrester device.

(b) No gas tractor or internal combustion engine shall be operated in the vicinity of peat roads or loose peat lands, unless and until the same is provided with a practical and efficient spark arrester device.

(c) The person in charge of such engine and/or boiler shall be held responsible for the good condition of the spark arrester device, but without relieving the person owning or operating such engine from his responsibility hereunder. Any locomotive inspector appointed by the forester is authorized to inspect any donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler operated in the vicinity of forest, brush, peat or grass lands and also gas tractors and internal combustion engines operated in the vicinity of peat roads or peat lands and to enter upon any property for such purpose whenever he may deem it necessary in order to see that all the provisions of this act and of other acts relating to the subject matter hereof are duly complied with and is authorized to use such methods as he may deem necessary in making up his records and substantiating his findings.

(d) No donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler shall be operated in the vicinity of forest, brush, peat or grass lands, and no gas tractor or internal combustion engine shall be operated in the vicinity of peat roads or loose peat lands, after being found defective by such inspector and after notice of such condition has been given to the person in charge thereof, until the repairs specified by the inspector have been made.

(e) No person operating a donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler shall leave a deposit of fire, live coals or ashes in the immediate vicinity of forest lands or lands liable to be overrun by fire.

Subsection (7). No person operating a railroad for any purpose shall leave a deposit of fire, live coals or

ashes in the immediate vicinity of forest land or lands liable to be overrun by fire; and every engineer, conductor or trainman discovering a fire adjacent to the track shall report the same promptly to the agent at the first telegraph or telephone station reached by him, whose duty it shall be, as representative of such company, at once to take necessary steps to put out such fire.

Subsection (8). Every person operating a railroad for any purpose shall give its employes particular instructions for the prevention and extinguishment of fires, and shall cause warning placards such as are approved by the forester to be conspicuously posted at every station in the vicinity of forest, peat, brush and grasslands, and when a fire occurs on the right-of-way of its road, shall immediately concentrate such help and adopt such measures as shall be available for its extinguishment.

Subsection (9). Any person operating a railroad for any purpose shall make such reports to the forester as are deemed necessary and required by the forester covering all fires on or adjacent to the right-of-way of such railroad.

Subsection (10). Whenever any combustible material shall be left in proximity to any railroad, either without proper protection or so as to constitute a fire menace, it shall be the duty of the owner of such material, upon being notified in writing by the forester or any forest ranger, as to the nature and extent of the protection required, forthwith to comply with all the terms of such notice so as properly to protect such material, or remove the same; and upon default of the owner, such protection or removal may be accomplished under the direction of the forester and the expense thereof collected from such owner.

Subsection (11). Every person operating a railroad for any purpose who shall fail to equip and use upon each locomotive engine a practical and efficient ash pan and spark arrester device, constructed and operated in conformity with all the specifications and requirements set forth in this act, shall be liable to a penalty of five hundred dollars (\$500.00) per day for each and every day on which such defective locomotive is run within this state. Upon receipt of duly verified information disclosing that a violation has occurred, the attorney general may bring suit in the district court of Ramsey County, or of any other county at his election, for the recovery of such penalties, which when so collected shall be credited to the general revenue fund of the state. ('25, c. 407, § 27; amended as to subsection 1 par. k, and subsections 3 and 6 by '27, c. 310, §§ 1 to 3; '11, c. 125, § 14; '13, c. 159, § 3; G. S. '13, § 3796; G. S. '23, § 4014)

Explanatory note—See note to § 4031-2, herein. See, also, note to preceding section.

162-256, 292+483, note under § 9280.

Clearing out ash pit is work in furtherance of interstate commerce. 151-253, 186+943.

Evidence examined, and held not to sustain findings because of the failure to identify the railroad fire, alone or in union with other fires, ever reaching plaintiff's premises. 158-146, 197+93.

Baxter v. Great Northern Ry. Co., 73 Minn. 189, 75 N. W. 1114, followed. 158-146, 197+93.

4031-28. Violations of law—Penalty—Civil liability—Injunctions—Any person who violates any of the provisions of this act for which no specific penalty is herein prescribed shall be guilty of a misdemeanor and shall be punished accordingly.

Failure by any person to comply with any provision or requirement of this act to which such person is subject shall be deemed a violation of this act.

4031²⁸
176m 472
223nw 912
See
4031³⁴

Any person who violates any provision of this act, in addition to being subject to any penalties herein prescribed for such violation, shall also be liable in full damages to any and every person suffering loss or injury by reason of such violation of this act, including liability to the state of Minnesota and any of its political subdivisions for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by or resulting from such violation of this act. Whenever a fire set by any person spreads to and damages or destroys property belonging to another, the person setting the fire shall be prima facie guilty of negligence in setting and allowing the same to spread.

At any time the state or any political subdivision thereof, either of its own motion or at the suggestion or request of the board or the forester, may bring an action in any court of competent jurisdiction to restrain, enjoin, or otherwise prohibit any violation of this act (whether here described as a crime or not), and likewise to restrain, enjoin, or prohibit any person from proceeding further in, with, or at any timber cutting or other operations without complying with the provisions of this act or the requirements of the forester pursuant thereto; and the court may grant such relief, or any other appropriate relief, whenever it shall appear that the same may prevent loss of life or property by fire or may otherwise aid in accomplishing the purpose of this act. ('25, c. 407, § 28; '19 Ex. Sess. c. 32, § 3; '11, c. 125, § 22; G. S. '13, § 3804; G. S. '23, §§ 4024, 4025)

Explanatory note—See note to § 4031-2, herein.

4031-29. Fines and penalties—Disposition of—Except as otherwise expressly provided in this act, all moneys received as penalties for violations of the provisions of this act, less the cost of collection, shall be paid into the treasury of the county in which the penalties for said violation of the provisions of this act were imposed; provided, however, that fines collected for violations of this act, where prosecutions are instituted upon the complaint of township, city, or village officers duly appointed by the forester as fire wardens, shall be paid into the treasury of the township, city, or village where the offense was committed. ('25, c. 407, § 29; '11, c. 125, § 25; '13, c. 159, § 7; G. S. '13, § 3807; G. S. '23, § 4028)

4031-30. Appeals in prosecutions—Recognizances or cash bail—Duties of county attorneys—No appeal shall be allowed from a judgment in any court of a justice of the peace, or a municipal court, or other similar court, to the district court in any prosecution under this act, unless the person appealing shall, within the time prescribed by law, enter into a recognizance with sufficient sureties or deposit cash bail in twice the amount of the fine and costs, to be approved by the justice, conditioned to appear before the district court on the first day of the next general term thereof to be held in and for the same county, and abide the judgment of said court therein.

The justice or judge may examine the proposed sureties under oath, and in such case shall make and keep a record of their answers in respect to the kinds and amount of their property not exempt from execution, and he shall furnish a copy of the same to the forester.

Whenever an arrest shall have been made for violation of any of the provisions of this act, or whenever information of such violation shall have been lodged with him, the county attorney of the county in which

the offense was committed shall prosecute the accused with diligence and energy. ('25, c. 407, § 30; '11, c. 125, § 23; '13, c. 159, § 6; G. S. '13, § 3805; G. S. '23, § 4026)

Explanatory note—See § 4031-2, herein.

4031-31. Rewards—Upon conviction of any person for violation of any of the provisions of this act, the forester at his discretion may pay from any money placed at his disposal under this act a reward of not more than twenty-five dollars (\$25.00) to the person or persons giving the information leading to such conviction. ('25, c. 407, § 31)

Explanatory note—See note to § 4031-2, herein.

4031-32. Administration of law—Delegated powers and duties—The board is hereby empowered and directed to administer and enforce this act; and to that end the board, and the forester with the approval of the board, may make and enforce all necessary or convenient rules and regulations not inconsistent with the provisions and purposes of this act.

In every case the powers delegated to, and the duties imposed upon the board, the forester, and other state or municipal representatives by this act shall be exercised and performed in good faith, without undue oppression, and in a manner as reasonable as the exigencies of the situation will permit. ('25, c. 407, § 32)

Explanatory note—See note to § 4031-2, herein.

4031-33. Laws not repealed or abrogated—Constitutional amendment—Nothing in this act shall be construed as abrogating the laws specifically governing state parks or other public parks, or state or municipal forests. But the provisions of all such laws and of this act shall be harmonized and both given effect wherever possible.

Nothing in this act shall be construed as restricting the state or any political subdivision thereof in the exercise of any power, right or privilege which may be conferred by separate enactment of the legislature under authority of the so-called "Forest Fire Prevention" amendment to the state constitution, approved by vote of the electors of this state at the general election held in November, 1924. ('25, c. 407, § 33)

Explanatory note—See § 4031-2, herein.

4031-34. Partial invalidity of law—The sections and provisions of this act are separable. And if any section or provision shall be held unconstitutional by any court, all other sections and provisions shall nevertheless be and remain in full force and effect. ('25, c. 407, § 34)

Explanatory note—See § 4031-2, herein.

4031-35. Laws repealed—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed so far, and only so far, as necessary to give full force and effect to this act. ('25, c. 407, § 35)

Explanatory note—See § 4031-2, herein.

PREVENTION OF FOREST FIRES IN COUNTIES, TOWNS, CITIES AND VILLAGES.

4031-36. Law divided into parts—This act is divided into three parts. Part I relates exclusively to counties. Part II relates exclusively to towns, cities and villages. Part III contains provisions relating both to counties and to towns, cities and villages. ('25, c. 263, § 1)

PART I.

4031-37. Jurisdiction and powers granted to county boards—It is hereby declared to be the purpose of this

act to grant to the county boards of the several counties of this state, jurisdiction within their respective counties to exercise all the powers and authority by this act contemplated relative to the prevention and abatement of forest fires and the clearing and improvement of land by the removal from such land of trees, brush, stumps and all other similar substances which contribute to the danger of forest fires; including the power to make any given area of improvement under this act impervious to fire by any means now known or hereafter invented or discovered. ('25, c. 263, § 2)

4031-38. Clearing and improvement of lands—Petition—Bonds—Before any improvement authorized by this act shall be ordered or caused to be constructed by the county board of any county, there shall first be filed with the county auditor of such county a petition signed by two or more parties owning land in said county, which land shall be described in said petition. Said petition shall describe each tract of land of which any portion is to be improved by 40-acre tracts or by number of lots as designated under government survey; and shall specify the number of acres of each tract that it is proposed to improve, which shall be not less than five nor more than twenty acres in each 40-acre tract and a proportionate amount in smaller subdivisions; and said petition shall further set forth the nature of the title of the petitioners to each particular tract in general terms, specifying whether said land is held by the petitioners as owners or under contract, and if the latter, with whom, and the balance remaining unpaid of the purchase price. Said lands described in said petition must be situated in the same locality or part of the county, but not more than 40 acres in any quarter section owned by the same petitioner shall be improved under the provisions of this act except by unanimous consent of all the members of the county board. Said petition shall further set forth a general description of the proposed improvement. Upon the filing of said petition duly verified with the county auditor of said county, together with a bond by said petitioners or by one or more of them, or someone in their behalf, with sufficient security in a sum of not less than \$500 conditioned to hold the county harmless from all expense in the event the improvement petitioned for is not granted, the county auditor shall designate such proceeding as "County Land Improvement No.," and in all subsequent proceedings in relation thereto the same may be designated and referred to by such title and number.

Any petition heretofore filed under Chapter 155, Session Laws 1921, and any proceedings taken thereunder may be continued and completed in conformity with the provisions of this act, at the discretion of the county board. No lands shall be improved under this act except upon petition of the owner or owners thereof. ('25, c. 263, § 3)

Explanatory note—Laws 1921, c. 155 held unconstitutional in 154 Minn. 371.

4031-39. Same—Surveys and plats made by engineer—Bond of engineer—Upon the filing of the petition and bond as provided in Section 3 of this act with the county auditor of any county, said county auditor shall notify the county board of said county, and said county board shall within 30 days thereafter appoint a competent civil engineer and direct him to proceed to examine the land described in said petition and make the necessary surveys to enable him to report and file with the county auditor of said county a

plat, therein describing each 40-acre tract or governmental lot covered by said petition and marking thereon the portion of said land proposed to be cleared and improved. Said engineer shall, as a part of his report, describe the kind of trees, brush, stumps or other similar materials or debris located upon said land and proposed to be removed by said proceedings, together with his estimate of the cost thereof, and the probable value of such material, if any, when removed, and shall accompany his report with specifications as to the manner of performing and completing said improvement. He shall also specifically describe the nature of the soil of each tract and any other conditions affecting the value, location or use of said land. Said report shall be in tabulated form and shall furnish said county board with an estimate of the cost of the improvement of each particular tract of land described, which report by the engineer shall be filed with the county auditor of said county within 30 days after his appointment, unless for good cause shown further extension of 30 days is granted him by the county auditor. Said engineer, before entering upon his duties, shall execute to the county board a bond in the sum of \$1,000 conditioned for the faithful performance of his duties. ('25, c. 263, § 4)

Explanatory note—For section 3 see § 4031-38, herein.

4031-40. Same—Appraisers—Appointment, oath, powers and duties—Assessment of benefits and damages—Statements and reports filed—At the time of the appointment of the engineer as provided in Section 4 of this act by the county board or within 30 days thereafter, said board shall appoint three appraisers, residents of the State of Minnesota, but not interested in any of the land described in said petition or affected by the proposed improvement, who, upon the filing of the engineer's report or within ten days thereafter, shall be furnished by the county auditor with a copy of such report and, after taking oath as such appraisers to faithfully perform their duties in making said appraisals and report, shall personally visit the several tracts of land and examine the trees, brush, timber or similar material thereon to be removed, and shall especially examine the nature and quality of the soil and the benefits or damages resulting or to result from such improvement. Said appraisers, within 30 days from the date of their appointment or from the date of filing the engineer's report, shall make and file in the office of the county auditor a tabulated statement and report, therein describing each 40-acre tract or governmental lot described in the petition, reporting the condition thereof and the amount thereof already cleared or under cultivation; the amount proposed to be cleared; the value of said land at the time of the appraisal; the value after the completion of said improvement; and the aggregate benefits or damages that will result to each 40-acre tract or governmental lot in consequence of said improvement; and shall by said report show the total cost of such improvement and the total benefits or damages that will result therefrom, together with any other facts affecting the value or use of said land or the advisability of the proposed improvement. ('25, c. 263, § 5)

Explanatory note—For section 4 see § 4031-39, herein.

4031-41. Same—Notice of hearing on petition—Service—Date for hearing—Adjournments—Upon the filing of such report with the county auditor of said county, he shall within ten days thereafter fix a date for a final hearing on said petition and engineer's and appraisers' reports and call a special meeting of the

county board of said county for such date by giving notice as required by law therefor, which hearing shall be not less than 30 days from the date of said notice. Said notice shall specify the time and place for such hearing upon said petition and the reports of said engineer and appraisers, and shall notify and require all parties in any manner interested to show cause before said county board at the time and place specified in said notice why an order should not be made confirming the reports of the engineer and appraisers and ordering and directing that the improvement petitioned for be made, and fixing and determining the amount and extent of such improvement and the amount and value of the benefits or damages resulting to any land in consequence of said improvement. Said notice shall contain the names of the owners of the land as shown in the petition, together with a description of the land by 40-acre tracts or governmental lots, the amount of the estimated benefits and damages to each tract or parcel, and shall state that the engineer's and appraisers' reports have been filed in the office of said county auditor subject to inspection by any parties interested. Copies of such notice shall be mailed by the county auditor to all parties named in said petition, if their addresses are known to the auditor, at least 15 days prior to the date of said hearing. Said notice shall also be served by publication for three successive weeks in any legal newspaper published in said county, which newspaper shall be designated by the county auditor.

In all cases in which for any cause said notice shall not be given or is legally defective as given, the auditor shall fix another date for hearing in accordance with the provisions of this act so that the hearing upon the petition and the engineer's and appraisers' reports may be held at the earliest possible date, at either a special or regular meeting of said county board. Whenever any final order of the county board in any case shall have been set aside, annulled, or declared void by any court by reason of failure to give proper notice of said hearing, the county board may at any time within one year after the rendering of such judgment, upon application of the petitioners, order a special hearing before said county board upon said petition and reports, and thereupon the county auditor shall cause a new and proper notice to be published and mailed as hereinbefore specified for re-hearing upon such petition and reports; and at such re-hearing the county board may proceed as in cases of original hearing.

Any hearing may be adjourned from day to day until completed. ('25, c. 263, § 6)

4031-42. Same—Hearing on petition—Elimination of lands—Upon due publication and mailing of notice of hearing as herein provided, the county board of said county shall have jurisdiction of all matters named or referred to in said petition as originally presented, or as afterwards amended, and of each tract of land and of all parties in any manner interested therein, as named or described in said petition and said engineer's and appraisers' reports. Said county board may, at the time and place specified in said notice, receive all evidence offered relative to matters contained in said petition and said reports, including the amount of benefits and damages reported by the appraisers; and said county board shall have authority to amend or modify such reports, and may amend or permit the amendment of said petition to conform to any requirements of the statute, and may order stricken therefrom and from the reports of the engineer and

appraisers any land found by the county board not suitable for the required purposes or for other reasons not suitably adapted to said improvement. The elimination of any such land or the names of any such petitioners or the withdrawal thereof shall not in any manner affect the jurisdiction of said county board; but the original petitioners, at any time before the date of hearing, may cause the dismissal of said proceedings upon the payment of all costs and expenses. ('25, c. 263, § 7)

4031-43. Same—Re-reference of petition—If at such hearing after the presentation of the evidence on behalf of all parties interested, it shall appear to the satisfaction of the county board that the appraisers have made unequal or improper assessments or estimates of benefits or damages, or for any reason the estimates of benefits or damages as reported by the appraisers are not fair and just, or are not in the proper proportion, or that the engineer's report is incorrect or for any reason not according to facts, said board may refer back to the appraisers and the engineer, or either of them, such reports for correction and amendment; or said board at said hearing may order them amended to conform to the facts, and upon such amendments being made the amended reports shall be treated as the final reports of the engineer or appraisers as the case may be. ('25, c. 263, § 8)

4031-44. Same—Order for improvements—If at said final hearing or adjournment thereof, the county board after due consideration of such original or amended reports of the engineer and appraisers and of such other evidence as may be produced, shall find that said proposed improvements will be of public benefit and aid in preventing or abating forest fires, then said county board may order such improvements to be made in accordance with said petition and said reports. Such order shall fix and determine the rights of all persons connected with or affected by said proposed improvements subject to the right of appeal as herein provided. ('25, c. 263, § 9)

4031-45. Same—Appeals from orders for improvements—Any person aggrieved thereby may appeal from any such order of any county board upon any of the following matters:

First: The amount of benefits to any property in which such person so appealing is interested.

Second: The amount of any damages allowed in which such person so appealing is interested.

Third: The refusal of said county board to establish or order the improvement to be made.

Such appeal shall be made and taken to the district court in and for said county under the conditions and in the manner provided by law for like appeals in county ditch proceedings, particular reference being made to Section 5534, General Statutes 1913 (being Section 6687, General Statutes 1923); and such appeal shall be determined with like effect as provided in said section. ('25, c. 263, § 10)

4031-46. Same—Contracts for improvements—Duties of county auditor—Seeding of cleared lands—Within ten days after the filing in the office of the county auditor of the order of the county board establishing and ordering any improvement under the provisions of this act, the county auditor shall give notice of a time and place for receiving bids for the making of said improvement in accordance with the provisions of Section 5536, General Statutes of 1913 (being Section 6689, General Statutes 1923), and the provisions of said section so far as applicable shall govern the receiving of bids and the letting of contracts for the

making of said improvement. Said county auditor may let separate contracts for each separate tract upon which any part of such improvement is to be made, or may let one contract for the whole thereof, or for the clearing of land on the whole or on any number of such tracts. Such contract shall specifically provide for the removal of the trees, brush, stumps and other similar material located on the tracts of land covered by such contract, and shall specify what disposition shall be made of all such clearing debris in accordance with the direction of the county board. The county board may order and require that such contract shall contain provisions for the burning or destruction of all such debris or materials, or for the removal thereof, or for the use of said material where use can be made thereof. Where the material removed from any tract of land can be utilized for any purposes that will result in advantage to the owner of such land, the county board in such contract may provide for making such use of the trees or other products, and the assessment against such tract of land shall be lessened accordingly. To prevent the return of the land to its wild state and the consequent danger of forest fires, the county board may require that the land so cleared shall be seeded to grasses and clover, when it appears that the owner does not contemplate cropping the land so cleared at the next planting season following the completion of the clearing thereof. ('25, c. 263, § 11)

4031-47. Same—Work of improvement—Duties of engineer—Payments to contractors—It shall be the duty of the engineer, from time to time as occasion may require, to visit the premises and examine the work performed by the contractor, and whenever and as often as 10% or more of such work is completed, said engineer may issue a certificate to the contractor and a duplicate to the county auditor, therein certifying the amount of work that has been done by the contractor and the value thereof. Upon the filing by the contractor of such certificate with the county auditor, he may draw his warrant in favor of the contractor for a sum not to exceed 75% of the contract price of the work done since the last report. When the contractor shall have notified the engineer that he has completed the work, the engineer shall make careful examination and report to the county auditor the facts as he finds them; and if he finds said contract to be completed in accordance with the terms thereof, he shall so certify. Thereupon the county auditor shall notify the owners of said land that a hearing will be had upon the report of the engineer that said contract is completed, which hearing shall be held by the county board at the next meeting following the filing of such report, if not less than 15 days thereafter; otherwise, as soon as possible. At such hearing all parties interested may appear before said county board; and if said county board shall find said contract fully completed they shall order payment of the balance owing under the contract. ('25, c. 263, § 12)

4031-48. Same—Bond issues to pay for improvements—Laws applicable—The county boards of each and every county wherein any improvement is ordered constructed under the provisions of this act is hereby authorized to issue the bonds of their respective counties in such amount as may be necessary to defray in whole or in part the expense incurred or to be incurred in establishment and completion of said improvement, together with all expenses incidental thereto; and the provisions of Section 5542, General Statutes of 1913 (being Section 6696, General Statutes

1923) shall apply thereto, and the county board is hereby authorized to exercise all the authority specified in said section in providing the funds for the completion of any improvement authorized by the provisions of this act; and wherever the term "drainage ditch" or "drainage bond" appears in said section, the same for the purposes of this act shall be construed as reading "improvement" or "land improvement bond" as the case may be. In the event that the bonds authorized under the terms of this act are not sold at advertised sale, the county board may let contractors as herein provided whenever the contractor is willing to accept payment for such contract in bonds *à par*. Provided, however, that no county may incur any indebtedness for the purpose of this act in excess of 5% of its taxable valuation, exclusive of money and credits. ('25, c. 263, § 13)

4031-49. Same—Tabular statements by county auditors—Powers and duties of county auditors, treasurers and registers of deeds—Laws applicable—At as early a date as possible after letting the contract or contracts under any improvement authorized by this act, and as soon as the cost of said improvement and expenses connected therewith can be ascertained, the auditor of the county shall make in tabular form a list and statement as provided by Section 5543 of the General Statutes of 1913 (being Section 6703, General Statutes 1923), and the cost of making the improvement of each tract together with its proportionate share of the total expenses shall be assessed against such tract, and the provisions of said section so far as applicable shall govern the proceedings under this act. The county auditor is hereby authorized to exercise all the rights and authority granted by such section, and in all places where the term "ditch" or "drainage ditch" shall appear in said section, the same for all purposes of this act shall be construed as reading "improvement" and said section used and applied accordingly. Said county auditor, after preparing the said statement, shall cause a duplicate thereof to be filed in the office of the register of deeds in and for said county as provided in Section 5544, General Statutes of 1913 (being Section 6705, General Statutes 1923), and the provisions of said section shall apply to the proceedings under this act. The county auditor and register of deeds are hereby authorized to exercise the rights and authority and perform the duties here specified, and the provisions of Sections 5546 to 5548, General Statutes of 1913, both inclusive (being Sections 6712 and 6713, General Statutes 1923), shall apply to and govern the proceedings under this act. The county auditor, the county treasurer, and the register of deeds are each hereby authorized and required to perform in all proceedings under this act the duties specified in said sections of the General Statutes of 1913 and 1923; and in all cases where the terms "ditch" or "ditches" or any other similar term appears in said sections of the General Statutes, the same for all purposes of this act shall be construed as reading "improvement." ('25, c. 263, § 14)

PART II.

4031-50. Improvements by towns, cities and villages—Limitation on indebtedness—All towns, cities and villages are hereby authorized and empowered to contract debts and pledge the public credit for, and to engage in, any work reasonably tending to prevent or abate forest fires. Provided, however, that the amount of such indebtedness so contracted or as-

sumed shall never be such as to increase the total public indebtedness of any such town, city, or village beyond the limits now or hereafter fixed by the laws specifically relating thereto, except in case of actual emergency to be declared (at or subsequent to the time) by resolution or other appropriate action of the town board, city or village council, or other governing body, as the case may be. And for such emergencies the total public indebtedness shall never be increased at any time so as to be more than five per cent in excess of the maximum provided by general law. ('25, c. 263, § 15)

4031-51. **Fire-breaks—Clearing of lands**—The governing body of any town, village, or city may construct and continuously maintain good and sufficient fire-breaks for the protection of life and property within such municipality. And for such purposes any village or city may completely clear all land and remove all combustible or inflammable materials therefrom within 1,000 feet next beyond and outside of the boundary lines of such village or city, whenever and wherever such improvement will reasonably tend to prevent or abate forest fires. ('25, c. 263, § 16)

4031-52. **Benefits — Lien on property — Assessment of benefits—Laws applicable**—If any clearing or other improvement of land made by any town, village or city benefits any person, or benefits some and damages others, then the amount of both such benefits and damages shall be ascertained in the same manner as provided by law with respect to damages in condemnation proceedings by right of eminent domain. And all provisions of law relating to the determination of the amount of damages in condemnation proceedings shall also apply to the determination of the value of benefits under this section, as far as practicable. Any benefits so found shall be assessed against, and shall be a lien upon, the real property so benefited, and shall be noted upon the public records and collected upon the same terms and in substantially the same manner as now provided by Chapter 113, General Laws 1911 (particular reference being made to Sections 8, 9 and 10 thereof), relating to ditch and drainage assessments. ('25, c. 263, § 17)

Explanatory note—For Laws 1911, c. 113 see §§ 6780 to 6796, herein.

PART III.

4031-53. **Bond issues, notes, or certificates of indebtedness by municipalities for purposes authorized by law—Tax levies**—For any of the purposes authorized in this act, and within the limits herein fixed, any county, town, city, or village may borrow money and issue bonds for the payment thereof with the approval of a majority of the voters, as provided by the general laws relating to bond issues; may make all necessary, proper, and convenient provisions for sale of such bonds at not less than par, for payment of interest thereon at not more than six per cent per annum, and of the principal thereof at maturity or contingently at an earlier date; may issue promissory notes or certificates of indebtedness as far as reasonably necessary to procure funds in case of emergency not affording time to submit the matter to the voters; and for such purposes may levy and collect taxes annually upon all the taxable property of such municipality. As to counties, the powers conferred by this section shall be deemed supplementary to, but in no way lessening or detracting from, the powers and authority conferred by Section 13 of this act. ('25, c. 263, § 18)

4031-54. **Acquisition of property by condemnation, gift, or purchase**—Whenever necessary in the exercise of the powers and authority conferred by this act, any county, town, city, or village may acquire property or property rights by gift, by purchase, or by condemnation in any manner now or hereafter provided by law. ('25, c. 263, § 19)

4031-55. **Governing bodies of municipalities to be mediums of procedure—Cooperation with state officers, etc., in suppression of fires**—Counties doing anything under this section shall act by and through county boards; towns by and through town boards; and cities and villages by and through their councils or other governing bodies. And it shall be the duty of all such municipalities and their officials and employes to co-operate as far as possible with the state forester and other state employes in the forestry service. In all cases where forest fires are actually burning, the orders and directions of the state forester and district rangers shall be binding upon, and must be obeyed by, all officials and employes of any municipality until such fires shall have been extinguished. ('25, c. 263, § 20)

Explanatory note—See note to § 4031-2, herein.

4031-56. **Laws applicable**—Wherever in this act it is provided that any section or provision of the General Statutes for 1913 or 1923 or any session laws or general laws shall be deemed applicable in this act for any purpose, the said sections and provisions of said other laws so incorporated in this act by such reference shall include all existing amendments thereto made prior to the year 1925, but not thereafter. And if any such law so incorporated by reference shall be hereafter repealed, the same shall nevertheless be and remain a part of this act unless such repeal expressly and explicitly provides to the contrary through direct reference to this act. ('25, c. 263, § 21)

4031-57. **Definitions**—For the purposes of this act, the following words and terms have the following meanings, to-wit:

(a) The word "person" means and includes a natural person acting either for himself or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind. The masculine includes the feminine and the singular includes the plural, and vice versa, wherever necessary to give full force and effect to all the provisions of this act.

(b) The term "county board" means the board of county commissioners; and the term "town board" means the board of town supervisors.

(c) The term "improvement" means and includes any act or thing done or which may be done, and any construction made or structure erected or which may be made or erected, and any removal from any land of trees, brush, stumps or other debris, which reasonably tends to prevent or abate forest fires.

(d) The term "forest" means every area where coniferous or evergreen trees at any time are growing or existing, including swamps, peat-bogs and cut-over lands. ('25, c. 263, § 22)

4031-58. **Partial invalidity of law**—The parts, sections and provisions of this act are separable. If any part, section, or provision shall be held unconstitutional, all other parts, sections, and provisions shall nevertheless be and remain in full force and effect. ('25, c. 263, § 23)

4031-59. **Laws repealed**—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed so far, and only so far, as necessary to give full force and effect to this act. ('25, c. 263, § 24)

AFFORESTATION AND REFORESTATION.

Ad interim commission for study and investigation of afforestation and reforestation, see Laws 1927, c. 244, which reads as follows:

"Section 1. There is hereby created an interim commission which shall consist of five members of the House of Representatives appointed by the speaker thereof, five members of the Senate appointed by the president thereof, and one other person appointed by the Governor, together with the president of the Senate and speaker of the House, who shall be ex-officio members, all of whom shall be members of such commission until its report hereinafter mentioned shall have been made to and received by the Legislature at the next regular session thereof. Of the members of the Legislature appointed to such commission, one shall be appointed from each Congressional district in the state. Said commission shall select from its members a chairman and a vice-chairman, and may employ and pay a secretary who shall not be a legislative member of the commission. No member of the commission shall receive compensation for his services as such member; but all personal expenses of members of the commission reasonably necessary for carrying out the purposes of this act shall be paid as hereinafter provided.

"Sec. 2. Such commission shall make a thorough study and investigation in respect to afforestation and reforestation of lands, delinquent real estate taxes, and the finances of counties and taxing districts, in the forest area of this state.

For any of such purposes the commission shall have power to issue subpoenas or like process requiring the attendance and testimony of witnesses and the production of books and documents before the commission, or any member thereof, at any time and place designated by the commission; and, upon application by the commission the District court shall punish as for a contempt of court any person who refuses to respond to such subpoena or process within the county or judicial district where such application is made. All witnesses shall be paid by the commission the same fees and mileage required by law to be paid to witnesses in civil actions in the District court; but such fees need not be paid in advance unless so ordered by the commission.

The commission is further vested with full power and authority to employ expert and clerical aid or assistance; to purchase stationery and other supplies; to rent or otherwise provide for the use of officers and equipment; and to do any and all other things reasonably necessary or convenient in carrying out the purposes of this act.

"Sec. 3. The commission shall make a report at the opening of the next regular session of the Legislature, embodying the results of the study and investigation made pursuant to this act; setting forth all data and information in connection therewith which the commission deems of importance to the Legislature; and containing all recommendations which the commission deems proper in respect to legislation concerning any and every matter covered by said report.

"Sec. 4. There is hereby appropriated, out of any moneys in the State Treasury not otherwise appropriated, the sum of \$20,000, or so much thereof as may be necessary to pay all expenses incurred pursuant to this act. For the payment of such expenses the commission shall draw its warrants upon the State Treasurer, which warrants shall be signed by the chairman or vice chairman and attested by the secretary of the commission; and the State Auditor shall then approve and the State Treasurer shall pay such warrants as and when presented, but not exceeding in the aggregate the amount herein appropriated. A general summary or statement of expenses so incurred and paid shall be included in the above mentioned report of the commission to the Legislature."

4031-60. Auxiliary forests—Lands which may be designated as—Taxation of—(a) Any tract of land in this state containing not less than 160 acres, generally suitable for the planting, culture and growth of trees for the production of timber or forest products, and having an actual or market value (exclusive of timber thereon and of minerals or anything under the surface thereof) not in excess of ten dollars per acre nor less than three dollars per acre, may be made an auxiliary forest subject to taxation only in accordance with the provisions of this act.

(b) Any tract of land in this state containing not less than 20 nor more than 40 acres, generally suitable for the planting, culture, and growth of trees for the production of timber or forest products, being in the

nature of wood lots guarded or protected by the owners or their tenants actually living on the land or immediately adjacent thereto may, regardless of value, be made an auxiliary forest subject to limited and special taxation only in accordance with the provisions of this act. ('27, c. 247, § 1)

Explanatory note—This act takes effect July 1, 1927. by § 14, thereof.

4031-61. Same—Application to county board by owner of lands—Form and contents—(a) The owner of any tract or contiguous tracts of land that he deems suitable for an auxiliary forest may make written application to the county board of the county in which such land is situate, setting forth the description thereof by governmental subdivisions or other proper survey, the estimated value per acre thereof (exclusive of timber thereon and all minerals or anything under the surface thereof), a brief statement of the facts showing its suitability for the production of timber or forest products, a statement of the kinds of timber growing and proposed to be grown thereon and the kind and quality of merchantable timber thereon, the methods of timber culture proposed to be followed, and a request that such land be made an auxiliary forest under and subject to the provisions of this act.

(b) The application shall be upon a form prescribed by the commissioner and shall be verified by the applicant. ('27, c. 247, § 2)

4031-62. Same—Filing and publication of application—Hearing by county board on application—Rejection or acceptance of application—Abstract of title of lands accepted—(a) Such application shall be filed with the county auditor of the county in which the land described therein is situate, who shall present the same to the county board at its first meeting held after the lapse of a period of ten days after such filing.

(b) The county auditor shall upon receipt of such application and prior to the meeting of the county board at which it is presented publish once in the official newspaper of said county notice of such presentation at the expense of the applicant and mail a copy of such notice to the clerk of the town in which lies the land therein described.

(c) Upon the presentation to it of such application the county board shall consider the same and shall bear any matter that may be offered in support of or in opposition to the application. It shall then determine whether the land covered by such application is suitable for the planting, culture and growth of trees for the production of timber or forest products, the actual or market value thereof (exclusive of timber thereon and of minerals or anything under the surface thereof), and the amount of annual tax provided for in Section 6, subdivision (a) hereof, and shall make an itemized estimate of the kinds and quantities of merchantable timber growing or standing thereon.

(d) The county board shall make proper record of its action upon the application.

If the application be rejected the county auditor shall indorse such rejection on the application and return it to the applicant within 30 days by registered mail at the address given by him in the application; or if the application is disapproved as to a part only of the lands described therein the county auditor shall in like manner notify the applicant, who may, within sixty days after the mailing of such notice, amend his application accordingly, and if it be not so amended the application shall be deemed rejected.

If the application be accepted the county auditor shall in like manner notify the applicant thereof and

shall transmit such application with the record of the approval thereof to the commissioner. It shall be the duty of the commissioner to approve or disapprove such application within ninety days from receipt thereof, to make proper record of such action and to give notice thereof to the applicant in the manner hereinbefore provided, and to the county board.

(e) Within 60 days after the mailing of notice of acceptance by the commissioner, the applicant shall furnish to the county attorney of the county in which the lands described in the contract lie an abstract of the title to said lands, or a certificate of title if the same be registered, including certificates by the county auditor and county treasurer that there are no unpaid taxes thereon and a certificate of judgment search by the clerk of district court. The county attorney shall examine such abstract and certify to the commissioner the name of the owner of the fee title thereto and the names of all other persons having any interest therein or lien thereon. The applicant shall pay the county attorney a reasonable fee for such examination, not exceeding, however, five dollars for each 640 acres or fraction thereof of contiguous lands included in any one abstract. ('27, c. 247, § 3)

4031-63. Same—Contracts with owners of land accepted as auxiliary forests—Form and contents—Recording—Covenants in contracts—Effect of contracts as making lands included therein auxiliary forests—Cancellation of contracts—Rights, duties and liabilities of owners of lands—Cancellation of contracts—Taxation of lands after cancellation of contracts—Cutting or removing timber—Penalties—Appeals from cancellations—Procedure in lieu of cancellation—(a) Whenever it shall have been determined as hereinbefore provided that any land may be made into an auxiliary forest the commissioner shall prepare a contract therefor, which contract shall be executed by the commissioner in behalf of the state of Minnesota and by the owner of the fee title and by all other persons having any interest therein or lien thereon, and shall be witnessed and acknowledged as provided by law for the execution of recordable deeds of conveyance. Notices sent by registered mail to the owner in fee, at the address given by him in the application, shall be deemed notice to all persons executing such contract.

(b) Such contract shall be prepared by the commissioner and the Chief of the Division of Forestry of the University of Minnesota on a form approved by the attorney general and shall prescribe such terms and conditions as will reasonably tend to produce merchantable timber upon the lands described therein and shall specify the kind or species of seeds to be planted or seedlings to be set out and the quantity or number thereof or other acts or steps that the commissioner shall deem necessary in respect of afforestation or reforestation of such lands; the time or times when the same shall be done; the kind and amount, if any, of culture or other attention to be given in aid of the growth of timber thereon; the uses, if any, which may be made of the land while the same remains an auxiliary forest; the period of time, not exceeding 50 years, during which such land may continue to be an auxiliary forest, with privilege of renewal, by mutual agreement between the owner and the state acting through the commissioner with the approval of the county board and the executive council, for an additional period not exceeding 50 years; the rate of taxation which may be levied annually on such land, exclusive of merchantable timber growing thereon at the time of the making of such contract and exclusive of mineral

or other things of value thereunder, said rate to be determined as hereinafter provided; and such other conditions, provisions and stipulations as the commissioner, in the exercise of his scientific knowledge and business judgment, shall deem necessary or proper. Every such contract shall be approved by the executive council.

Provided, however, that as far as practicable all contracts shall be uniform and equal in respect of all lands or classes of lands substantially similar in capacity for, or adaptability to, any particular kind or species of tree culture or forest growth.

(c) The commissioner shall submit such contract to the owner of the land covered thereby. If the owner shall indicate to the commissioner his unwillingness to execute the same or if he or any of the persons having an interest therein or lien thereon fail to execute it within sixty days from the time of its submission to the owner, all proceedings relating to the making of such land into an auxiliary forest shall be at an end.

When the contract shall have been executed it shall forthwith be recorded in the office of the register of deeds at the expense of the owner, in a permanent book or record which shall be designated "record of auxiliary forests" and shall always be open to public inspection, and if the title to the land be registered there shall, in addition to such record, be filed with the registrar of titles a duplicate of such contract. At the time such contract is filed with the register of deeds for record the owner shall furnish to the register of deeds a certificate from the county attorney to the effect that no change in the record title thereof has occurred, that no liens or other encumbrances have been placed thereon, and that no taxes have accrued thereon since the making of his previous certificate. It shall be the duty of the county attorney to furnish such certificate without further compensation.

All the provisions of such contract shall be deemed covenants running with the land from the date of the filing of such contract for record.

(d) Upon the filing of such contract for record the land therein described shall become and during the life of such contract shall remain and be an auxiliary forest entitled to all the benefits and subject to all the restrictions of this act, all of which shall be deemed a part of the obligation of such contract and shall be inviolate, subject only to the police power of the state, to the right of eminent domain, and to the right of the parties thereto by mutual agreement to make applicable to such contract any laws of the state enacted subsequent to its execution and filing. But this provision shall not be so construed as to prevent amendatory or supplementary legislation which does not impair such contract rights of the parties thereto, or as to prevent amendatory or supplementary legislation in respect of the culture, care or management of the lands included in any such contract.

(e) Upon failure of the owner faithfully to fulfill and perform such contract or any provision thereof, or any requirement of this act, or any rule or regulation adopted by the commissioner thereunder, the commissioner may cancel such contract in the manner herein provided. The commissioner shall give to the owner, in the manner prescribed in Section 3, Subdivision (d), sixty days' notice of a hearing thereon at which the owner may appear and show cause, if any, why the contract should not be cancelled. The commissioner shall thereupon determine whether such contract should be cancelled and make an order to that effect. Notice of such determination and the making of such

order shall be given to the owner in the manner provided in Section 3, Subdivision (d). If the commissioner determines that the contract should be cancelled, and no appeal therefrom be taken, the commissioner shall send notice thereof to the county auditor of the county and to the town clerk of the town affected and shall file with the register a certified copy of such order, who shall forthwith note such cancellation upon the record thereof, and thereupon the land therein described shall cease to be an auxiliary forest and shall together with the timber thereon become liable to all taxes and assessments that otherwise would have been levied against it had it never been an auxiliary forest from the time of the making of such contract any provisions of the statutes of limitation to the contrary notwithstanding, less the amount of taxes paid under the provisions of Section 6, subdivision (a) hereof, together with interest on such taxes and assessments at 6 per cent per annum, but without penalties.

The commissioner may at his discretion in like manner and with like effect cancel such contract upon written application of the owner.

Whenever the execution of any contract creating an auxiliary forest shall have been procured through fraud or deception practiced upon the county board or the commissioner or any other person or body representing the state it may be cancelled upon suit brought by the attorney general at the direction of the executive council. Such cancellation shall have the same effect as the cancellation of a contract by the commissioner.

(f) For the purpose of levying such taxes the county auditor shall, immediately upon receipt of notice of the cancellation of any contract creating an auxiliary forest, direct the local assessor to assess the lands within such forest, excluding, however, the value of merchantable timber and minerals and other things of value taxed under the provisions of Section 6, subdivision (b), hereof, as of each of the years during which said lands have been included within the auxiliary forest. The local assessor shall forthwith make such assessment and certify the same to the county auditor. The county auditor shall thereupon levy a tax on the assessable value of such land as fixed by General Statutes 1923, Section 1993, for each of the years during which such land has been within an auxiliary forest at the rate at which other real estate within the taxing district was taxed in such years. The tax so assessed and levied against any land shall be a first and prior lien upon such land and upon all timber and forest products growing, grown or cut thereon or removed therefrom. Such taxes shall be enforced in the same manner as other taxes on real estate are enforced, and in addition thereto the lien of such tax on forest products cut or removed from said land shall be enforced by the seizure and sale of such forest products.

No person shall, after the mailing by the commissioner as provided in Section 4, subdivision (e), hereof, of notice of hearing on the cancellation of a contract making any lands an auxiliary forest, cut or remove from said lands any timber or forest products growing, grown or cut thereon until all taxes levied under this subdivision shall have been paid or, in the event such levy shall not have been completed, until the owner shall have given a bond payable to the county with sureties approved by the county auditor in such amount as the county auditor shall deem ample for the pay-

ment of all taxes that may be levied thereon under this subdivision, conditioned for the payment of such taxes.

Any person who shall violate any of the provisions of this subdivision shall be guilty of felony.

(g) The owner may appeal from any cancellation order of the commissioner to the district court of the county wherein the land is situate by serving notice of appeal on the commissioner and filing the same with the clerk of the district court within thirty days after the date of mailing of notice of such order.

The appeal shall be tried between the State of Minnesota and the owner by the court as a suit for the rescission of a contract is tried, and the judgment of the court shall be substituted for the cancellation order of the commissioner and shall be final.

(h) If cause for the cancellation of any contract shall exist, the commissioner may, in lieu of cancelling such contract, perform the terms and conditions, other than the payment of taxes, required by such contract or by law or by the rules and regulations of the commissioner to be performed by the owner, and may for that purpose use any available moneys appropriated for the maintenance of his division and any other lawful means. The commissioner shall, on December 1 of each year, certify to the county auditor of each county the amount of moneys thus expended and the value of services thus rendered in respect of any lands therein since December 1 of the preceding year. The county auditor shall forthwith assess and levy the amount shown by such certificate against the lands described therein. Such amount shall bear interest at the rate of 6 per cent per annum and shall be a lien upon the lands described therein and the collection thereof enforced in the same manner as taxes levied under Section 6, subdivision (a) hereof; and, if such tax be not sooner paid, it shall be added to and the payment thereof enforced with the yield tax imposed under Section 7, subdivision (b), hereof. ('27, c. 247, § 4)

Explanatory note—For sections 3, 4, 6 and 7, see §§ 4031-62, 4031-63, 4031-65, 4031-66, herein.

4031-64. Same—Taxation—Every auxiliary forest in this state shall be taxed in the manner and to the extent hereinafter provided, and not otherwise. Except as expressly permitted by this act, no auxiliary forest shall be taxed for, or in any manner whatsoever directly or indirectly made to contribute to or become liable for the payment of, any tax or assessment, general or special, or any bond, certificate of indebtedness or other public obligation of any name or kind, made, issued or created subsequent to the filing of the contract creating such auxiliary forest. Provided, however, that in any proceeding for the making of a special improvement under the laws of this state by which any auxiliary forest will be benefited the owner thereof may subject the lands therein to assessment therefor in the manner provided by law by filing his consent in writing to the making of such assessment in the tribunal in which such proceeding is pending, whereupon such lands shall for the purposes of such improvement and assessment be treated as lands not in an auxiliary forest; but the lien of any assessment so levied on lands in any auxiliary forest shall be subject to the provisions of the contract creating such auxiliary forest and subordinate to the lien of any tax imposed under the provisions of this act. ('27, c. 247, § 5)

4031-65. Same—Taxation—Auxiliary Forest Fire Fund—(a) From and after the filing of the contract creating any tract of land an auxiliary forest under this act the surface of the land therein (exclusive of merchantable timber thereon at the time of making

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such contract and of mineral or any thing of value thereunder) shall be taxed annually at the rate of 8 cents on each dollar or fraction thereof of the assessed value of such land as determined by the county board under the provisions of Section 3, subdivision (c) of this act (such assessed value to be one-third of the true and full value thereof determined by the county board under the provisions of said Section 3 (c)). Said tax shall be levied and collected and the payment thereof enforced in the same manner as other county taxes and shall be credited to the funds of the taxing districts affected in the proportions of their interests in the taxes on said land if it had not been so made an auxiliary forest. Failure to pay when due any tax so levied shall be cause for cancellation of the contract.

The levy upon the land of the taxes provided for by Section 4, subdivision (e), hereof, upon the cancellation of a contract, shall discharge and annul all unpaid taxes levied or assessed under the provisions of this subdivision.

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

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

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

Explanatory note—For sections 3 and 4, see §§ 4031-62, 4031-63, herein.

4031-66. Same—Cutting timber—Taxation of timber—(a) The merchantable timber in any auxiliary forest, other than merchantable timber growing thereon at the time of the filing of the contract creating such auxiliary forest, may be cut at any time during the life of the contract at the election of the owner; and in any event such merchantable timber shall either be cut, or the yield tax next hereinafter mentioned shall be paid upon its value as standing timber, at the expiration of the period fixed in such contract for the duration of such auxiliary forest or at the expiration of any renewal of such contract.

(b) Whenever such merchantable timber shall be cut or otherwise removed from the land, the owner shall pay a special tax thereon (which is hereby designated as a yield tax) equal to 10 per cent of the full and true value of such merchantable timber on the stump at the time of such cutting or removal.

(c) Whenever any timber growing or standing in any auxiliary forest shall have become suitable for merchantable forest products the commissioner shall at the written request of the owner, a copy of which shall at the time be filed in the office of the county auditor, make an examination of said timber and designate for the owner the kind and number of trees most suitable to be cut if in the judgment of the commissioner there be any, and the cutting and removal of said trees so designated shall be in accordance with the instructions of the commissioner. The commissioner shall inspect such cutting or removal and determine whether it or the manner of its performance constitutes a violation of the terms of the contract creating the auxiliary forest or of the laws applicable thereto or of the instructions of the commissioner relative to such cutting and removal. Any such violation shall be ground for cancellation of the contract by the commissioner; otherwise the contract shall continue in force for the remainder of the period therein stated, regardless of such cutting and removal.

Upon the filing of such notice the county board shall with the assistance of the commissioner determine the kinds, quantities and value on the stump of timber proposed to be cut, such kinds and quantities to be determined in accordance with rules adopted by the commissioner for the measurement or scaling of forest products, which rules shall determine the log rule and method of scaling logs, and the grades and sizes of ties, poles, posts, dimensions of cords, and other units of measurement in which forest products so cut and removed shall be measured.

The county board shall before such cutting is to begin file with the county auditor a report showing the kinds, quantities and value of the timber proposed to be cut or removed. The county auditor shall assess and levy the yield tax thereon and make proper record of such assessment and levy in his office, and shall notify the owner of the auxiliary forest of the amount thereof. Such owner shall before any timber in such forest is cut or removed give a bond in a sum equal to the amount of such tax plus 25 per cent thereof, payable to the State of Minnesota, conditioned for the payment of all taxes on the timber to be so cut or removed. The county board shall, either while the timber is being cut or after such cutting is completed, check the scale made thereof and file a report thereof in the office of the county auditor; and if the value shown in such report of the timber cut or removed is either greater or less than that assessed, the county auditor shall make a supplemental assessment so as to increase or reduce the original assessment to conform to the value of the timber actually cut or removed and shall notify the owner of the amount thereof. The county auditor shall certify each assessment to the county treasurer who shall collect all taxes so assessed and shall credit the proceeds thereof to the funds of the taxing districts affected in the proportions of their interest in the taxes on said land if it had not been so made an auxiliary forest unless otherwise provided in the contract whereby the same was made an auxiliary forest.

The owner shall on or before the 15th day of January in each year file with the county auditor on a

form prepared by the commissioner a report showing the quantity of each kind of forest products cut or removed from any auxiliary forest during the next preceding calendar year. The auditor shall compare such reports with the records in his office, and if he shall find that any timber so cut or removed has not been assessed he shall forthwith assess the same as hereinbefore provided and certify such assessment to the county treasurer for collection and notify the owner of the amount thereof. Such tax shall be paid on or before March 1 next following and if not so paid shall be levied and collected in the same manner as taxes imposed under the provisions of Section 6, subdivision (a), hereof. Provided, however, that no such report shall be required of timber cut and used by the owner for his own domestic uses, such as for fuel, fencing or building, when the same is so used on land owned by him and contiguous to or within the limits of the auxiliary forest from which the timber is cut.

The owner of any lands or timber upon which a yield tax is assessed and levied as provided in this section may, within fifteen days after mailing of notice of the amount of such tax as herein provided, file with the county auditor a demand for hearing thereon before the county board. The county auditor shall thereupon fix a date of hearing, which shall be held within thirty days after the filing of such demand, and mail to the owner notice of the time and place of such hearing. The owner may appear at such hearing and present evidence and argument as to the amount of such tax and as to any matter relating thereto. The county board shall thereupon determine whether the tax as levied is proper in amount and shall make its order thereon. The county auditor shall forthwith mail to the owner a notice of such order. If the amount of the tax is increased or reduced by such order, the county auditor shall make a supplemental assessment and levy thereof as hereinbefore in this subdivision provided.

(d) Throughout the life of any such auxiliary forest the yield tax accruing thereon shall constitute and be a first and prior lien upon all the merchantable timber and forest products growing or grown thereon, and if not paid when due such yield tax, together with interest thereon at one per cent per month and all expenses of collecting same, shall continue to be a lien upon such timber and forest products, and every part and parcel thereof, wherever the same may be or however much changed in form or otherwise improved, until such yield tax is fully paid.

(e) The owner may at any time, having given thirty days' notice in writing to the county auditor of the county in which the land is situate, cut and remove from an auxiliary forest any timber standing or being thereon which was merchantable timber at the time of the filing of the contract creating such auxiliary forest; subject, however, to the provisions of General Statutes 1923, Sections 2203, 2204 and 2205, as amended. ('27, c. 247, § 7)

4031-67. Same—Quantities of land which may be acquired and held as—Disposition thereof after ceasing to be auxiliary forests—Any corporation, association, or organization may acquire and hold any amount of land, without restriction and without limit as to acreage or quantity, for the purpose of including same within and holding same as an auxiliary forest under the provisions of this act. And whenever the same shall cease to be such auxiliary forest, such owners shall have five years within which to dispose of such

land, any provisions of general law to the contrary notwithstanding. ('27, c. 247, § 8)

4031-68. Same—Rules and regulations—Forms and procedure—The commissioner shall make rules and regulations and shall adopt and prescribe such forms and procedure as shall be necessary in carrying out the provisions of this act; and the commissioner and every county board, register of deeds, registrar of titles, assessor, tax collector, and every other person in official authority having any duties to perform under or growing out of this act are hereby severally vested with full power and authority to enforce such rules and regulations, employ help and assistance, acquire and use equipment and supplies, or do any other act or thing reasonably necessary to the proper performance of his duties under or arising from the administration and enforcement of this act. It shall be the duty of the commissioner to cause periodic inspections to be made of all auxiliary forests for the purpose of determining whether contract and statutory provisions relative thereto are being complied with. ('27, c. 247, § 9)

4031-69. Same—Laws applicable to—Auxiliary forests shall be subject to all applicable provisions of Chapter 407, Laws 1925, known as the Forestry Act, and acts amendatory thereof or supplementary thereto, except as expressly provided otherwise in this act. ('27, c. 247, § 10)

Explanatory note—For Laws 1925, c. 407, see §§ 4031-1 to 4031-35, herein.

4031-70. Same — Offenses — Penalties —Any person who:

Wilfully or knowingly cuts or removes any timber or forest product contrary to the provisions of this act; or

Wilfully or knowingly makes any false statement or representation in any application, certificate, or other paper or document required by or purporting to be made pursuant to this act; or

Wrongfully and intentionally falsifies or changes any such application, certificate, or document; or

Uses any artifice, trick, scheme, or device, or who conspires with others so to do, under color of this act, for the purpose of wrongfully evading or escaping the levy, assessment or payment of any taxes, assessments, or claims of the state or any political subdivision or agency thereof,—shall be guilty of a felony. ('27, c. 247, § 11)

4031-71. Same—Partial invalidity of law—If any section or provision of this act shall be held unconstitutional or invalid by any court, it shall not be deemed to invalidate the whole of this act if that which remains can be construed as providing a workable plan for the accomplishment of the general purposes of this act. ('27, c. 247, § 12)

4031-72. Same—Definitions—In this act the following words and terms have the following meanings, to-wit:

The term "auxiliary forest" is used in relation to state forests, and it means and includes any privately owned tract of land set apart for, and chiefly devoted to, the production of timber or forest products under the restrictions and subject to the provisions of this act.

The word "timber" means and includes trees, saplings, bushes and sprouts from which trees may grow, of every size, nature, kind and description.

The term "forest products" means and includes all products derived from timber as above defined.

The term "merchantable timber" means and includes all timber and all forest products (as above defined) having any commercial value.

The word "person" means and includes any natural person acting in his own right or in any representative capacity, and any corporation, firm, or association of whatever nature or kind; the masculine includes the feminine, and the singular includes the plural, wherever the context so requires to give full force and effect to all the provisions of this act.

The word "owner" means and includes the person or persons owning the fee title to any tract of land but

does not include an owner of timber thereon or of minerals or any other thing therein when such ownership is separate from the ownership of the surface.

The word "commissioner" means the commissioner of forestry and fire prevention of the state of Minnesota and his successor in authority.

The term "register of deeds" means and includes the register of deeds of the county in which the land referred to is situate, or the registrar of titles in case the title to the land has been registered. ('27, c. 247, § 13)

CHAPTER 23

DEPARTMENT OF LABOR AND INDUSTRIES

| | Sec. | | Sec. |
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| Industrial Commission, §§ 4032-4050. | | Hours of, and Restrictions on Labor, §§ 4087-4126. | |
| Office of commissioner of labor abolished | 4032 | Ten hours to constitute one day's work, except persons over 16 years may labor extra hours for extra pay | 4087 |
| Industrial commission | 4033 | Eight-hour labor law not to apply to road work | 4088 |
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1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and
amendatory, and notes showing repeals, together with annotations from the
various courts, state and federal, and the opinions of the Attorney
General, construing the constitution, statutes, charters
and court rules of Minnesota together with digest
of all common law decisions.



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

3996-39. Violation a gross misdemeanor.—Any person violating the provisions hereof, shall be guilty of a gross misdemeanor. (Apr. 6, 1936, c. 145, §3.)
Sec. 4 of Act Apr. 6, 1937, cited, provides that the Act shall take effect from its passage.

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

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

3997-1. Department of Commerce need not give notice in certain cases.—That the Department of Com-

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

SALE OF OIL AND GAS LANDS OR INTERESTS THEREIN

4000-1. Registration of lands or interests before sale by department of commerce.

A syndicate for acquisition of oil lands or interest therein may be organized without necessity of registration, but repeated or successive sales of interests must be registered. Op. Atty. Gen. (616d-8), Aug. 25, 1938.

CHAPTER 22

Forestry and Forest and Prairie Fires

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the power of the commissioner of forestry and fire prevention.

FORESTRY ACT

4031-1. Codification of forestry laws.

County commissioners in counties having state or federal forests, may establish districts and regulate the use of the lands therein. Laws 1939, c. 340.

Commission for study of forestry. Laws 1939, c. 418. It was competent for the Legislature to classify counties and to impose more drastic regulations for prevention of fires in certain counties than in others. 176M 472, 223NW912.

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

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

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

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

4031-10½ to 4031-10¾l. [Repealed.]

Repealed Apr. 21, 1939, c. 382, §9, post §4031-10¾u. The repealed sections consisted of Act April 22, 1933, c. 418, §§1-13.

ANNOTATIONS UNDER REPEALED SECTIONS

4031-10½a. Exchange of lands authorized.

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

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

4031-10½m. Land exchange commission created.—

There is hereby created a Land Exchange Commission, in this act called the Commission, which shall consist of the Governor, the Attorney General and the State Auditor. (Act Apr. 21, 1939, c. 382, §1.)

4031-10½n. Same—May exchange land to consolidate holdings.—For the purpose of consolidating the holdings of land owned by the state the Commission may, by unanimous approval, exchange any lands to which the state now holds title or to which title shall be acquired by the state, including lands held in trust for any purpose, for lands of equal value and kind owned by the United States or lands owned by private citizens or corporations. Provided, however, that the lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The Commission is hereby author-

ized to convey in behalf of the state, title by deed attested by the commissioner of conservation, to any such lands so exchanged, provided, however, that in the deed of conveyance there shall be reserved to the state all minerals and all water power rights in the said state lands. Provided further that the exchange program under this act will be conducted in a manner that will not materially decrease but rather which will increase the state's total holdings of timber, and of water frontage desirable for public use and enjoyment. (Act Apr. 21, 1939, c. 382, §2.)

4031-10¾o. Commission may make terms of exchange.—Any exchange of land made under this act, may be made upon any condition as to payment of further compensation to the state which said commission may deem proper, and if payment of further compensation is required, such payment shall be made in such manner and upon such terms as the said commission shall determine, subject to the following limitations: if payment is not made at the time of the exchange, the unpaid balance shall be secured by contract for deed on the land of which the state is disposing, payable in ten equal annual installments with interest at 3 per cent per annum, payable annually, the first installment and the first interest to be due on December 1, following the date of the exchange. (Act Apr. 21, 1939, c. 382, §3.)

4031-10¾p. Owner may file proposal for exchange.—Any owner desiring to effect an exchange of lands hereunder shall file with the commissioner of conservation on a form furnished by said commissioner a proposal of exchange giving the legal description of his land and the state land for which he desires to exchange. With such proposal he shall present his affidavit describing fully any liens or encumbrances affecting the title thereto and that there is no person in possession of any part of said land claiming interest therein who has not joined in such request, and that no improvements have been made thereon for which any person has the right to assert a lien. (Act Apr. 21, 1939, c. 382, §4.)

4031-10¾q. Owner to furnish abstract of title.—Such proposal shall be reviewed by the Commissioner of Conservation and if he finds the proposed exchange would effect a desirable consolidation of state land holdings he shall require the applicant for exchange to furnish an abstract evidencing marketable title. Said commissioner shall thereupon cause an examination and appraisal to be made by men qualified as land or timber appraisers under existing laws, of the

state lands to be exchanged and of the lands to be received and shall make a complete report thereon. Such report shall be in a form approved by the Commission and shall contain the legal description of the land, the location of the lands with reference to other state lands, a statement of the use for which his land is best suited, the value of the land exclusive of timber and improvements, the amount and value of timber including both immature and mature timber, value of improvements on the land, total value of land, timber and improvements, reasons for making exchange and any other pertinent information.

Provided, however, that no land shall be exchanged hereunder unless the Attorney General shall have given his opinion in writing that the person offering to trade such land has good and marketable title to the land he agrees to trade, free and clear of any encumbrances or lien.

Provided, however, that the provisions of this act shall in no way affect, modify or invalidate Mason's Minnesota Statutes of 1927, Section 6463, and Laws 1933, Chapter 412.

The Commissioner of Conservation shall submit such report and the Attorney General's opinion to the Commission. (Act Apr. 21, 1939, c. 382, §5.)

4031-10¾r. Meetings of commission to be open to public.—The meetings of the commission at which it considers the exchange of lands under this act shall be open to the public and any person shall be permitted to state his objections to any such exchange. The commissioner shall set the date for any such meeting at least 15 days in advance. Lists of all lands considered for exchange shall be posted in the office of the county auditor of the county in which the lands are located for at least 10 days in advance of such meeting and a notice of such meeting shall be published in the legal newspaper for said county at least one week in advance thereof, in which notice it shall not be necessary to give the legal description of the lands proposed to be exchanged. (Act Apr. 21, 1939, c. 382, §6.)

4031-10¾s. Powers of commission.—The Commission shall approve or reject the exchange or authorize the making of a counter proposal. If approved the Commission shall prepare a deed conveying title to the state land and receive a deed to the land which is to be received in exchange. Such deeds shall be approved as to form and execution by the Attorney General. (Act Apr. 21, 1939, c. 382, §7.)

4031-10¾t. Appropriation.—There is hereby appropriated out of any money in the state treasury, not otherwise appropriated for the purposes of carrying out the provisions of this act, the sum of \$15,000.00. (Act Apr. 21, 1939, c. 382, §8.)

4031-10¾u. Laws repealed.—The 1933 Supplement to Mason's Minnesota Statutes of 1927, Sections 4031-10½, 4031-10½a, 4031-10½b, 4031-10½c, 4031-10½d, 4031-10½e, 4031-10½f, 4031-10½g, 4031-10½h, 4031-10½i, 4031-10½j, 4031-10½k and 4031-10½l are hereby repealed. (Act Apr. 21, 1939, c. 382, §9.)

4031-10¾. State forests created.—For the purpose of vesting the state with title to lands in the area hereafter described which are suitable primarily for state use and development for the purpose of preserving, propagating and breeding wild life of all suitable kinds, including all species of game, fish and fur bearing animals and birds of rare and useful species, and especially for the developments of forests and the prevention of forest fires, and for the preservation and development of rare and distinctive species of flora native to such area, including the state flower, and for the protection of watershed areas, valuable for domestic and commercial uses, and for the establishment and development of recreational areas, there are hereby created and established certain state forests, to be managed in the same manner as other state forests,

comprising all lands and waters within the following described areas now owned by the state, or hereafter acquired by the state, in the counties and townships described as follows:

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

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

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

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

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

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

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

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

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

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

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

Third River State Forest—Itasca County. The north half of township 147, range 29, except that portion of sections 1 and 12 lying east of Third River; township 148, range 29; the south ½ of township 149, range 29; all west of the 5th principal meridian. Providing, however, that no game refuge shall be established in said Third River State Forest other than by petition of three-fourths of the persons owning land and residing therein addressed to the Commissioner of Conservation. Except as herein provided such game refuge shall be established in accordance with the procedure prescribed in Mason's Minnesota Statutes of 1927, Section 5610.

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

Becker County. Township 142, range 37, township 142, range 38, and the east half of township 142, range 39 west of the fifth principal meridian. Mahanomen County. Sections 25, 35, 36 and East half of section 34, township 143, range 39; section 1, East half of section 12, township 144, range 39. (Act Apr. 21, 1933, c. 419, §1; Jan. 13, 1936, Ex. Ses., c. 54, §1; Jan. 24, 1936, Ex. Ses., c. 75, §1; Mar. 8, 1937, c. 61, §§1, 2.)

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

See §4031-10¼h, and note thereunder:
Authority to scale state timber is still vested in the surveyor general of logs and lumber, but is now subject to supervision of commissioner of conservation and director of division of forestry instead of state auditor. Op. Atty. Gen., June 27, 1933.

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

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

Area described in §4031-10¼ is not excluded from operation of §2176-8. Id.

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

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

Tax delinquent lands located within boundaries of state forests created by Laws 1933, c. 419, and Laws 1935, c. 372, and also lands in forest area created by Laws 1917, c. 448, suitable for forest purposes, are not subject to sale after title has reverted to state in fee under Laws 1935, c. 386, §6. Op. Atty. Gen. (700a-9), Aug. 17, 1937.

4031-10¼a. Lands to be under control of conservation commission.—Said lands shall be under the management and control of the Conservation Commission which shall have and is hereby given full power and authority to make, establish, promulgate and enforce all necessary rules and regulations not inconsistent with the laws of the state for the care and management of state forests and fire prevention and the establishment and management of public shooting grounds and game refuges. (Act Apr. 21, 1933, c. 419, §2.)

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

4031-10¼b. Funds reappropriated.—All moneys received as gifts to the state; all income which may be received from the operation, development, management and use of such state forests, all income which may be derived from the sale of birds, animals, fish and flora therefrom and from the sale of lands and timber thereon owned by the state within such area, other than timber from university, school and swamp lands and from state forest lands set apart pursuant to Section 7 of Article 8 of the Constitution and from state lands acquired under the system of rural credits, and all moneys of the state which may hereafter be transferred thereto under any law of this state shall be paid into the state treasury and credited to the state forest fund and the same is hereby annually appropriated for the purposes of this Act. There is hereby annually appropriated from that one half of the state game and fish fund appropriated by Laws 1929, Chapter 332, Section 6 [§5536-13], for the acquisition and maintenance of public hunting grounds, game farms and game refuges such an additional amount as may be necessary, in addition to the foregoing appropriation for the condemnation and/or purchase of said lands. (Act Apr. 21, 1933, c. 419, §3.)

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

All income received from the 13 state forests created by this act is to be paid into state treasury and is appropriated annually for purposes set forth in this act, while income from other state forests is appropriated and to be used as provided in §6513-10. Op. Atty. Gen. (700d-21), Jan. 3, 1938.

Receipts from leases or timber sales on tax forfeited lands within state forests are to be distributed in manner provided for distribution of receipts from other lands in state forest areas. Op. Atty. Gen. (700a-9), May 26, 1938.

Structures on tax forfeited lands within state forests may be sold, leased, or razed, pursuant to regulations established by commissioner of conservation, at public or private sale, money to be paid into designated funds, and where no designation is made are required to be paid into general revenue fund. Op. Atty. Gen. (700d-21), Aug. 31, 1938.

4031-10¼c. Conservation commission may acquire land.—The Conservation Commission, with the approval of the Executive Council of the State, is hereby authorized and empowered to acquire, by exercise

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

Where mineral rights are reserved by vendor, it is permissible to put into warranty deed a standard mineral clause that owner of mineral right shall pay to state all damages to improvements, structures, timber or young trees and also a fixed amount per acre for lands used in mining operations. Op. Atty. Gen., Nov. 6, 1933.

The state may not accept a quitclaim deed from vendor and subsequently settle delinquent taxes with taxing units. Id.

4031-10 ¼ d. State lands to become state forest.—The state swamp, school, and other public lands owned by the State of Minnesota included within the boundaries of the state forests herein provided that have not heretofore been established as such are hereby created and established as state forests, and shall be governed, operated, managed and controlled in the same manner as other state forests. (Act Apr. 21, 1933, c. 419, §5.)

4031-10 ¼ e. May receive gifts of land, etc.—The Conservation Commission is hereby authorized and empowered to receive for and in behalf of the State, including lands from the Federal Government, and to make suitable acknowledgments of, any gift, bequest, devise or grants of land or interests in lands in any such state forest, or of money or personal property of any kind, which it may deem suitable for use in connection with the operation, control, development or use of any or all of such state forests. (Act Apr. 21, 1933, c. 419, §6.)

4031-10 ¼ f. Provisions separable.—This Act shall be held unconstitutional only in the event that some major provisions of the Act are found unconstitutional and invalid that would make the Act unworkable. If any minor provisions of this Act be held unconstitutional it shall in no way affect or invalidate any other provision or part hereof. (Act Apr. 21, 1933, c. 419, §7.)

4031-10 ¼ g. Application of act.—This Act shall not be construed as repealing or amending Laws 1929, Chapter 258 [§§5620-1 to 5620-13], and Laws 1931, Chapter 407 [§§6452-1 to 6452-13], but shall be regarded as supplementary thereto. (Act Apr. 21, 1933, c. 419, §8.)

4031-10 ¼ h. State forest created.—For the purpose of vesting the state with title to lands in the area hereafter described which are suitable primarily for state use and development for the purpose of preserving, propagating and breeding wild life of all suitable kinds, including all species of game, fish and fur bearing animals and birds of rare and useful species, and especially for the development of forests and prevention of forest fires, and for the preserva-

tion and development of rare and distinctive species of flora native to such area, including the state flower, and for the protection of watershed areas, valuable for domestic and commercial uses, and for the establishment and development of recreational areas, there are hereby created and established certain state forests, to be managed in the same manner as other state forests, and subject to all of the provisions of Laws 1933, Chapter 419 [§§4031-10 ¼ to 4031-10 ¼ g], comprising all lands and waters within the following described areas now owned by the state or hereafter acquired by the state, in the townships described as follows:

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

Buena Vista State Forest: Township 147, Range 32; Township 148, Range 32; Sections 1 and 2 and the west ½ of Section 11, Township 146, Range 33; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 23, 24, 25, 35, and 36, Township 147, Range 33; all of Township 148, Range 33; all west of the 5th Principal Meridian.

Crow Wing State Forest: Fractional Townships 134, 135 and 136, and full Townships 137, all in Range 27; Townships 134, 135, 136 and 137, Range 28; the east ½ of Townships 134, 135 and 136, Range 29, West of the 5th Principal Meridian.

Mille Lacs State Forest: That portion of Township 42, Range 26, lying west of Highway No. 169; the west ¾ of Township 45, Range 26; Townships 42, 44 and 45, Range 27; Townships 42, 43, and 44, Range 28, all west of the 4th Principal Meridian.

Mississippi Headwaters State Forest: The north ½ and Sections 16, 17, 18, 19, 20, 21, 29 and 30 of Township 146, Range 34; Township 147, Range 34 except Sections 1, 2, 3, 4, 5 and 6; the west ½ and Sections 2, 3, 10 and 11, Township 145, Range 35; all of Township 146, Range 35, except Sections 3, 4, 5, and 6; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 24, 25, 35 and 36, Township 147, Range 35; Sections 19, 20, 21, 22 and the south ½ of Township 148, Range 35; Sections 1, 12, 13, 24, 25 and 36, Township 145, Range 36; Sections 12, 13, 24, 25 and 36, Township 146, Range 36; all west of the 5th Principal Meridian.

Nemadji State Forest: Townships 44, 45 and 46, Range 15; the south ½ of Township 47, Range 15; Townships 44, 45 and 46, Range 16; the south ½ of Township 47, Range 16; Townships 44, 45 and 46, Range 17; Sections 1, 12, 13, 24, 25 and 36 in Townships 44, 45 and 46, Range 18; all west of the 4th Principal Meridian.

Northwest Angle State Forest: Townships 166, 167 and 168, Range 33; Townships 166, 167 and 168, Range 34; Townships 165, 166, 167 and 168, Range 35, all west of the Fifth Principal Meridian. Provided, however, that no game refuge shall be established in such Northwest Angle State Forest other than by petition of three-fourths of the persons owning land and residing therein addressed to the commissioner of conservation and the procedure to establish such refuge shall be in accordance with Mason's Minnesota Statutes of 1927, Section 5610. Provided, further, that the division of forestry of the department of conservation shall be authorized to charge a fee not to exceed the sum of ten dollars of each hunter seeking admission into such state forest for the purpose of hunting big game therein.

Paul Bunyan State Forest: West ½ of Section 2, all of Sections 3, 4, 5, 6, 7 and 8, Township 141, Range 32; Township 142, Range 32; Sections 7, 18 and 19, Township 143, Range 32; Sections 1, 2, 3, 4, 9, 10, 11 and 12, Township 141, Range 33; Township 142, Range 33 except Sections 19, 20, 29, 30, 31 and 32; Township 143, Range 33; Sections 28, 29, 30, 31, 32, 33 and 34, Township 144, Range 33; Townships 143 and 144, Range 34; all west of the 5th Principal Meridian.

Pillsbury State Forest: That portion of Township 133, Range 29, lying north of the Northern Pacific Railroad in Cass County; that portion of Township 133, Range 30, lying north of the Northern Pacific Railroad; the west ½ of Township 134, Range 29; all of Township 134, Range 30; all west of the 5th Principal Meridian.

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

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

Waskish State Forest: Townships 153 and 154, Range 29; the east 5/6 of Township 153, Range 30; the south ½ of Township 154, Range 30, and Lots 2, 3, and 4 of Section 8; the S ½ of the NW ¼, and the SW ¼ of Section 9, NW ¼ of Section 16, all of Section 17, all in Township 154, Range 30; all west of the 5th Principal Meridian.

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

Additions to present State Forests:

Foothills State Forest: The south 2/3 and Sections 1, 2, 3, 10, 11 and 12 of Township 139, Range 32; Township 138, Range 33; that portion of Township 139, Range 33, lying south of the highway and east of the Crow Wing River; the east ½ of Township 138, Range 34; all west of the 5th Principal Meridian.

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

White Earth State Forest: All that portion of Sections 4, 5 and 6, Township 144, Range 38 not previously included in the Forest; all that portion of the west ½ of Township 145, Range 38, lying south of the Wild Rice River; the east 1/3 of Township 145, Range 39; all west of the 5th Principal Meridian. (Act Apr. 29, 1935, c. 372, §1.)

The last three paragraphs of this section, under the heading: "Additions to present State Forests," seem to be impliedly repealed by the later act of Jan. 24, 1936, Ex. Ses., c. 75, §1, set forth, ante, as §4031-10¾, purporting to restate the boundaries of the three state forests to which the additions are made by this section.

Tax delinquent lands located within boundaries of state forests created by Laws 1933, c. 419, and Laws 1935, c. 372, and also lands in forest area created by Laws 1917, c. 448, suitable for forest purposes, are not subject to sale after title has reverted to state in fee under Laws 1935, c. 386, §6. Op. Atty. Gen. (700a-9), Aug. 17, 1937.

4031-10¾1. Lands not to be acquired unless indebtedness is paid.—Provided, however, that no land shall be acquired under the provisions of this act or any existing law unless the pro rata share of all outstanding indebtedness for which such lands are chargeable in whole or in part shall be paid to the county treasurer of the county wherein such lands are situated; and provided further that the state shall not purchase any lands within any school district or township in any state forest, except for administrative purposes, where the pro rata share of the outstanding public indebtedness chargeable against such lands exceeds 60 cents per acre. (Act Apr. 29, 1935, c. 372, §2.)

4031-11. Cooperation with state highway, etc.

The "fire fund" cannot be used for any other purpose. Op. Atty. Gen., Apr. 24, 1930.

Statutory provisions which permit forestry department to recover for extinguishing fires does not permit the

enforcement of such a claim against the state or a political subdivision thereof, though it would be legal for county to recognize a claim for extinguishing a fire which was destroying a road. Op. Atty. Gen., June 16, 1931.

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

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

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

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

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

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

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

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

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

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

This section would authorize town board to construct water mains and street hydrants to prevent starting and spreading of forest fires in the towns. Op. Atty. Gen. (427c-5), Sept. 20, 1937.

It is permissible for town board to contract with a rural telephone company for use of its lines for fire protection purposes, compensation therefor to be paid out of fire fund, and if there is no fire fund one may be created by transferring surplus from some other fund. Op. Atty. Gen. (98c-2), Oct. 5, 1937.

Township maintaining telephone lines mainly for fire protection may pay switching charges out of fire fund. Op. Atty. Gen. (98a-23), Nov. 30, 1938.

Act is only applicable to forest areas. Op. Atty. Gen. (203e-3), August 19, 1939.

4031-11¾. Conservation commission may clean up road sides.—That all highways, roads and trails within forest areas are declared to be established fire breaks, and for that purpose the State of Minnesota, through the Division of Forestry, Department of Conservation, is authorized to clean up all dead and/or down timber, all underbrush, rotting logs, and stumps, and all other inflammable refuse and debris along each side of such highways, roads and trails, for a distance of two hundred feet on each side from the center thereof, all of such material as above stated to be burned or disposed of under the supervision of a forestry officer in such manner as not to injure the growing timber.

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

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

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

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

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

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

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

Structures on tax forfeited lands within state forests may be sold, leased, or razed pursuant to regulations established by commissioner of conservation, at public or private sales, money to be paid into designated funds,

and where no designation is made are required to be paid into general revenue fund. Op. Atty. Gen. (700d-21), Aug. 31, 1938.

4031-11 ½ a. May permit removal of dead and down timber, etc.—The Director of the Division of Forestry may permit under his direct supervision and control, any Civilian Conservation Corps, Works Progress Administration, or other State or Federal relief agency, actually engaged in the improvement and conservation of State Trust fund lands within the boundaries of any state forest, to clean up and remove all dead and/or down timber, underbrush, rotting logs, stumps, and all other inflammable refuse and debris which is deemed to be a fire hazard or the removal of any trees in forest stand improvement and cultural operations which is advisable in the interest of good forest management; and to use so much of said cuttings for firewood and other forest development needs while said camps are thus actively engaged in the improvement and care of said forests. (Added to Act Apr. 17, 1933, c. 320, § 1 by Act Mar. 25, 1937, c. 113, § 2.)

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

Cutting and sale of dead, down and standing timber for forest fire protection on state trust fund lands within state forests is authorized, and department of conservation may sell such timber as an ordinary sale of timber product and may pay federal CCC agency such part thereof as may be required to meet its regulations as part of project costs. Op. Atty. Gen. (27b), Aug. 4, 1938.

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

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

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

A justice of the peace, where the prescribed punishment is in the alternative as between a fine or jail sentence, may impose a straight jail sentence without the option of a fine, but where a defendant is sentenced to pay a fine and an alternative jail sentence is imposed in default of payment of the fine, the commitment should so state because the defendant is entitled to pay his fine to the sheriff any time after he is committed, and thereupon be released. Op. Atty. Gen., Feb. 23, 1931.

4031-19. Forester may require slashings and debris to be disposed of.—Where and whenever in the judgment of the forester or any district ranger there is or may be danger of starting and spreading of fires from slashings and debris from the cutting of timber of any kind and for any purpose, or from any accumulation of sawdust, shavings, chips bark, edgings, slabs, or other inflammable refuse from the manufacture of lumber or other timber products, the forester or district ranger shall order the person by or for whom

the said timber or timber products have been or are being cut or manufactured to dispose of such slashings, debris, or refuse as said state employe may direct. Where conditions do not permit the burning of the slashings, debris or refuse over the entire area so covered, the forester may require such person to dispose of the same in such a way as to establish a safe fire line around the area requiring such protection, the said fire line to be of a width and of a character satisfactory to the forester, or otherwise to dispose of the same so as to eliminate the fire hazard therefrom.

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

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

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

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

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

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

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

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

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

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

4031-21. Fires to be extinguished before leaving.—Every person who, when the ground is not covered with snow, starts a fire in the vicinity of forest or prairie land shall exercise every reasonable precaution to prevent such fire from spreading, and shall, before lighting the same, clear the ground of all branches, brushwood, dry leaves and other combustible material within a radius of five feet from the fire and shall keep such fire under his immediate personal supervision and control at all times, and shall carefully extinguish the fire before quitting the place. ('11, c. 125, §21; G. S. '13, §3803; G. S. '23, §4021; '25, c. 407, §21; Apr. 19, 1929, c. 261, §1.)

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

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

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

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

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

4031-23. Permission to start fires.

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

4031-25. Neglect or refusal to perform duty—penalty.—Every forestry employe of the state who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest, brush or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stumps, dry grass, field stubble, or other material and fail to extinguish the same before it has endangered the property of another, every person who shall negligently or carelessly set on fire or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads

for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, upon any such land or in the vicinity thereof, or on or along any public or private road, trail, path, railroad right of way or road bed, or other public or private way of any kind running over or along or in the vicinity of any such land, shall throw or drop any burning match, ashes of pipe, lighted cigar, or cigarette, or any other burning substance, and who fails to extinguish the same immediately; every person who drives upon or over forest lands in a motor vehicle with an open cutout or without a muffler on the exhaust pipe; and every person who shall deface, destroy, or remove any notice posted under this act; shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days and not exceeding ninety days. ('11, c. 125, §18; G. S. '13, §3800; G. S. '23, §4018; '25, c. 407, §25; Apr. 19, 1929, c. 261, §2.)

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

4031-26. Railroad fire patrolmen—Employment—Failure to provide—Penalty—Patrol of railroad rights-of-way—Penalties.—When in the judgment of the director there is danger of the setting and spreading of fires from locomotive engines, he shall order any railroad company to provide patrolmen to follow each train throughout such fire patrol district or districts as he deems necessary to prevent fires. From and after April 1, 1939, such patrolmen shall be equipped with a patrol speeder or some other suitable conveyance and such railroad patrolman shall carry with him on such conveyance when performing patrol duty one number two shovel and a suitable container with a double acting pump attached thereto, commonly called a "pump tank," holding at least five gallons of water, such pump tank to be kept filled with water ready for use and maintained in such condition at all times that under normal operation of the pump a stream of water can be forced through a 3/16 inch diameter nozzle a distance of at least 20 feet. When the director has so notified a railroad company to provide such patrol after trains, the said railroad company shall immediately comply with requirements of such notice throughout the territory designated; and upon its failure so to do, the director may employ patrolmen with the necessary equipment to patrol the rights-of-way of said railroad, and the expense of the same shall be charged to the said railroad company and may be recovered in a civil action in the name of the State of Minnesota, and in addition thereto the said company shall be guilty of a misdemeanor. All moneys so recovered shall be paid into the state treasury and credited to the appropriation from which such expenses were paid.

The director may prescribe such other measures as are considered by him to be essential for the immediate control of fire.

It is also made the duty of any railroad company acting independently of such director, to patrol its right-of-way after the passage of each train when necessary to prevent the spread of fires and to use the highest degree of diligence to prevent the setting and spread of fire, to cause the extinguishment of fires set by locomotives or found existing upon their respective rights-of-way; and any failure of such railroad company, its officers and partolmen to comply with this section shall be a misdemeanor and shall be punished by a fine of not less than \$50.00 nor more than \$100.00 and costs, and in addition thereto such railroad company shall be liable for all expenses and damages caused by or resulting from such failure of duty. (As amended Apr. 22, 1939, c. 427, §1.)

4031-27. Locomotive ash pans and spark arresters—Reports by companies.—Subsection (1).—When

the director of the division of forestry has reason to believe that a certain locomotive caused a fire he can order the railroad company to forward to him, at once, by mail, a written report covering the inspection of the fire protective appliances of such locomotive, made next after the occurrence of the fire. Such written report shall be copied from the inspection book required to be kept by the railroad company under this act. Every person operating a railroad for any purpose shall equip and use upon each locomotive engine a practical and efficient ash pan and spark arrester device, which the master mechanic or corresponding skilled employe of such operator shall cause to be inspected each time before such locomotive leaves the roundhouse or starts an any trip, between the dates of March 1 and November 30, both dates inclusive, of each year; provided, however, that it shall not be required to make more than one such inspection of any one engine within a period of 24 hours. Between the dates of December 1 and February 28, both dates inclusive, of each year, such inspection shall be made at intervals of not more than seven days. Where spark arresters are equipped with a manhole door such door shall be removed at the time of inspection and replaced before an engine goes on any trip. Such ash pan and spark arrester device shall be constructed and operated in conformity and in compliance with all the following specifications and rules, to-wit:

(a) Except when the ash pan is being cleaned, the hopper opening for removal of cinders on ash pans constructed with hoppers shall be kept closed while the engine is in use by a cast slide supported by cast guides; and there shall be no opening greater than five-sixteenths of an inch between the slide and hopper; or such openings in hoppers for removal of cinders may be closed by what is known as the "radial type of hopper bottom," the general design of which shall be approved in writing by the director.

(b) Ash pans commonly known as solid or swipe pans shall have the ends, if open, covered either with a substantially constructed solid damper or screen damper, which shall extend at least one and one-fourth [sic] inside or outside the pan when closed, leaving no opening greater than five-sixteenths of an inch in width, so arranged that it can be fastened down, and kept fastened down when the engine is in use. If a screen is used, it shall conform to the specifications for use in spark arresters, as contained in this act.

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

(d) On locomotive engines where there is an opening between ash pan and the foundation ring, protection shall be furnished by a flare brought up level with the bottom of the foundation ring, such flare being either an integral part of the pan or attached to the body of the pan by bolts, rivets or hinges. Where hinges are used the flare shall have suitable locking devices and the hinges and locking devices shall be so spaced and maintained in such condition as to hold the flare securely in place, and the opening between the bottom of the foundation ring and flare of pan, measured horizontally, shall not be greater than eight inches at any point; provided, however, that for any distance the flare of pan extends above the bottom of foundation ring, the flare may be extended out horizontally an equal distance in excess of eight inches. Or such opening between ash pan and

foundation ring may be protected by deflector plates, provided that any deflector plates used for such purposes shall extend above or below (as the case may be) the opening to be protected a distance at least equal to the width of such opening, and provided further that any such deflector plate so used shall be closed in at each end thereof.

(e) Openings in ash pans for entry of grate connections must be fully protected; and the openings around the rods where they enter the ash pan must not be greater than five-sixteenths of an inch in width, or the grate connections outside the ash pan must be boxed in for their full length so that no sparks or cinders can possibly escape.

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

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

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

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

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

SQUARE MESH WIRE SCREEN

| Mesh per lineal inch in either direction | Least diameter of wire when new | Condemning limit of opening in mesh in either direction |
|--|---------------------------------|---|
| 2 1/2 by 2 1/2 | 0.134 inch | 1/8 inch |
| 2 3/4 by 2 3/4 | 0.134 inch | 1/8 inch |
| 3 by 3 | 0.105 inch | 1/8 inch |
| 4 by 4 | 0.092 inch | 0.204 inch |
| 5 by 5 | 0.072 inch | 0.164 inch |
| 6 by 6 | 0.063 inch | 0.1355 inch |
| 7 by 7 | 0.063 inch | 0.1115 inch |

Fractional mesh shall not be used except as specified.

OBLONG MESH WIRE SCREENS

| Size of opening mesh | Least diameter of wire when new | Condemning limit of opening in mesh |
|----------------------|---------------------------------|-------------------------------------|
| 1/4 by 3/4 inch | 0.134 inch | 1/8 by 1/8 inch |
| 3/8 by 3/4 inch | 0.134 inch | 1/8 by 1/8 inch |

The openings in perforated plates when new shall be oblong, not exceeding three-sixteenths of an inch in width nor three-fourths of an inch in length, and there shall not be less than one-eighth of an inch in width of plate between the meshes, and such plate shall not be less than 0.085 of an inch in thickness. The condemning limit of the openings in perforated plate

shall be one-fourth of an inch in width and thirteen-sixteenths of an inch in length.

(i) The spark arrester screen shall have a man-hole door with a substantial rigid frame, large enough to allow the entry for purposes of inspection and repair.

(j) All angle irons and plates used for the purpose of attaching or supporting any part of the spark arrester device shall be so placed as to fit closely and continuously to the smoke arch, plates, angle irons, and other parts.

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

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

Fastening screens—three and one-half inches center to center.

Fastening angle irons to smoke arch—eight inches center to center.

Fastening plates—five inches center to center.

Fastening angle irons to flue sheet—eight inches center to center.

Material used in the construction or repair of spark arresters shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos, or other material or substance other than iron or steel shall be applied to, laid on, attached to or used in any way in connection with or made a part of spark arresters except upon written approval of the director. No opening anywhere in the spark arrester device, other than the openings herein specified for wire screen and perforated plate, shall be larger than one-fourth of an inch in width.

(l) Devices and appliances differing from those specified in this subsection may be used for experimental purposes only by written permission of the director during such limited periods and upon such terms and conditions as he may prescribe. Such written permission shall be subject to revocation by the director at any time, and such experimental devices or appliances shall not be permanently adopted unless authorized by law.

(m) Permission is hereby given to use as a spark arrester on all types of engines using wood, coal, oil or other fuels the so-called "Cyclone Spark Arrester." Such arrester shall consist primarily of a drum with entrance so arranged that the products of combustion shall be given a rotary motion within the drum to the extent that all sparks shall be sufficiently cooled before leaving the stack as to preclude such sparks reaching the ground alive. The drum shall be constructed of iron or steel at least one-fourth inch in thickness. The number of fastenings shall be such as to hold the plates and other parts securely in position, and all parts of the spark arrester which are essential to its proper operation shall be maintained in a safe and serviceable condition at all times.

Permission is hereby given to use as a spark arrester on all types of engines using wood, coal, oil and other fuels the so-called "Anderson Spark Eliminator". Such spark eliminator shall consist primarily of a top ring set horizontally and attached to the extension stack, a bottom ring set horizontally and attached to the exhaust pipe, deflector plates set vertically in between the two rings, such deflector plates being arranged suitably around the exhaust nozzle. Plates used in the construction of the spark eliminator shall be of iron or steel at least one-fourth inch in thickness and the number of fastenings shall be such as to hold the plates and other parts securely in position. All parts of the spark eliminator which

are essential to its operation shall be maintained in a safe and suitable condition at all times.

Subsection (2). A record shall be kept of all examinations required by this section, in a book to be furnished by every person operating a railroad for any purpose, showing:

(a) The place and number of each engine inspected.

(b) The date and hour of day of such inspection.

(c) A detailed statement signed by the employee making the inspection, giving location and size of openings greater than permitted by this act and of any and all defects found in the ash pan or spark arrester device, and of the condition thereof.

(d) A detailed statement, signed by the employee making the same, of any and all repairs, replacements or renewals made at any time on or in connection with the ash pan or spark arrester device.

The said book shall always be open for inspection by the director or other authorized officer appointed by him.

Subsection (3) (a). The master mechanic or corresponding employee shall be held responsible for the good condition of the ash pan and spark arrester device, but without relieving the person owning or operating such locomotive engine from his responsibility hereunder.

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

(c) Any violation of the provisions of this subsection shall be a gross misdemeanor; provided, however, that the provisions of this subsection shall not relieve anyone from any duty or liability under any provision of this act or any other statute.

Subsection (4). Every person operating a railroad for any purpose shall keep its right-of-way clear of grass, brush, combustible materials, logs, poles, lumber and wood, except ties and material for shipment and other material necessary for the maintenance and operation of the road, from March 15 to December 1. During particularly dry and dangerous periods the forester may prohibit any and all burning along part or all of any railroad right-of-way for a definite period.

Subsection (5). Every person operating a railroad for any purpose shall establish and maintain such firebreaks along the route of its railway as can be constructed and maintained at not excessive expense. The intention shall be to adjust the protective measures to the local conditions, and to make the expense

proportionate to the fire risk and the possible damage.

Subsection (6) (a). Except when the ground is covered with snow, no donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler (except any locomotives conforming to all the requirements of this act) shall be operated in the vicinity of forest, brush, peat or grass lands, unless and until the same is provided with a practical and efficient spark arrester device.

(b) No gas tractor or internal combustion engine shall be operated in the vicinity of peat roads or loose peat lands, unless and until the same is provided with a practical and efficient spark arrester device.

(c) The person in charge of such engine or boiler shall be held responsible for the good condition of the spark arrester device, but without relieving the person owning or operating such engine from his responsibility hereunder. Any locomotive inspector appointed by the director is authorized to inspect any donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler operated in the vicinity of forest, brush, peat or grass lands and also gas tractors and internal combustion engines operated in the vicinity of peat roads or peat lands and to enter upon any property for such purpose whenever he may deem it necessary in order to see that all the provisions of this act and of other acts relating to the subject matter hereof are duly complied with and is authorized to use such methods as he may deem necessary in making up his records and substantiating his findings.

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

(e) No person operating a donkey engine, tractor engine, saw mill engine, threshing engine, steam shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler shall leave a deposit of fire, live coals or ashes in the immediate vicinity of forest lands or lands liable to be overrun by fire.

Subsection (7). No person operating a railroad for any purpose shall leave a deposit of fire, live coals or ashes in the immediate vicinity of forest land or lands liable to be overrun by fire; and every engineer, conductor or trainman discovering a fire adjacent to the track shall report the same promptly to the agent at the first telegraph or telephone station reached by him, whose duty it shall be, as representative of such company, at once to take necessary steps to put out such fire.

Subsection (8). Every person operating a railroad for any purpose shall give its employees particular instructions for the prevention and extinguishment of fires, and shall cause warning placards such as are approved by the director to be conspicuously posted at every station in the vicinity of forest, brush and grass lands, and when a fire occurs on the right-of-way of its road, shall immediately concentrate such help and adopt such measures as shall be available for its extinguishment.

Subsection (9). Any person operating a railroad for any purpose shall make written report to the director, in such form as the director may prescribe, covering

each fire in the open on or adjacent to the right-of-way of such railroad—within one week after the occurrence of such fire, unless such time shall be extended by written permission of the director, provided, that the provisions of this subsection shall not be construed to relieve any person from the duty of reporting such fire as required by any other law.

Subsection (10). Whenever any combustible material shall be left in proximity to any railroad, either without proper protection or so as to constitute a fire menace, it shall be the duty of the owner of such material, upon being notified in writing by the director or any forest ranger, as to the nature and extent of the protection required, forthwith to comply with all the terms of such notice so as properly to protect such material, or remove the same; and upon default of the owner, such protection or removal may be accomplished under the direction of the director and the expense thereof collected from such owner.

Subsection (11). Every person operating a railroad for any purpose who shall fail to equip and use upon each locomotive engine a practical and efficient ash pan and spark arrester device, constructed and operated in conformity with all the specifications and requirements set forth in this act, shall be liable to a penalty of \$500.00 per day for each and every day on which such defective locomotive is run within this state. Upon receipt of duly verified information disclosing that a violation has occurred, the attorney general may bring suit in the district court of Ramsey County, or of any other county at his election, for the recovery of such penalties, which when so collected shall be credited to the general revenue fund of the state.

Subsection (12). All forms, records, placards and notices of any kind, required to be printed by the companies under this act shall be "approved" by the director every two years, beginning May 1, 1939, and said forms can be ordered changed at such periods. Any new forms, records, placards and notices of any kind so ordered shall be put in use at once unless written permission is given by the director for the use of the old form until the supply then on hand is exhausted. (As amended Laws 1929, c. 349; Apr. 20, 1931, c. 266; Apr. 22, 1939, c. 427, §2.)

4031-28. Violations of law—Penalty.

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

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

In action against railroad which negligently started fire on right of way causing cloud of smoke to cross parallel highway, fact that plaintiff decedent was on wrong side of road at time of collision in cloud of smoke did not render him guilty of contributory negligence as a matter of law. *Young v. G.*, 204M122, 282NW691. See Dun. Dig. 3764, 8220.

4031-30. Appeals in prosecutions—etc.

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

4031-34. Partial invalidity of law.

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

4031-34a. Director of division of forestry may close roads and trails in forest areas.—Whenever the Director of the Division of Forestry, Department of Conservation, shall determine that conditions conducive to forest fire hazards exist in the forest areas of the state as defined by the Forestry act and that the presence of persons in the forest areas tend to aggravate such forest fire hazards, render forest trails impassible by driving thereon during wet seasons and hamper the effective enforcement of state timber trespass and game laws, he may by written order with the approval of the Commissioner of Conservation

close any road or trail which may have been constructed by the Division of Forestry, Department of Conservation, over tax delinquent land or state trust fund lands or where easements granting such authority have been obtained, on privately owned lands. Provided further that any of the above roads and trails may not be legalized as township or country roads except as provided in Section 7, Chapter 263, Laws 1931 [§6513-7]. (Mar. 25, 1937, c. 114 §1.)

WHITE-PINE BLISTER-RUST

4031-35 1/2. Definitions.—That for the purpose of this act the following words, names and terms shall be construed respectively, to mean:

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

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

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

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

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

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

4031-35 1/2 a. Certain diseases declared pests.—The fungus disease commonly known as the white-pine blister-rust, *Cronartium ribicola* Fischer is hereby declared to be a dangerous forest pest in all its stages; and it shall be the duty of the commissioner of the forestry and fire prevention to prosecute the measures hereinafter specified for the control of this pest. (Act Apr. 17, 1929, c. 218, §2.)

4031-35 1/2 b. Diseased plants may be destroyed.—Any white-pines or currants or gooseberries within the state which are found to be infected with white-pine blister-rust are hereby declared a public menace, and any such diseased plants and any and all wild plants of the genera *Ribes* and *Grossularia*, may be destroyed forthwith by order of the commissioner or his agents. Any currants, gooseberries or white-pines not infected with white-pine blister-rust may be destroyed by the commissioner or his agents where necessary for carrying out the purposes of this act. (Act Apr. 17, 1929, c. 218, §3.)

4031-35 1/2 c. Commissioner of Forestry to promulgate information.—The commissioner is hereby authorized and empowered to promulgate by letter, publication, poster or other means, information concerning the white-pine blister-rust and to designate by the aforesaid means of promulgations blister-rust control areas within the state in which control measures are necessary or advisable. It shall be the duty of every land owner within such designated area, to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all wild cultivated currants and gooseberries or white-pines and no currants or gooseberries shall be planted within such blister-rust control area without written permission from the commissioner. If the owner fails to destroy the above named plants within the time specified by the commissioner, the commissioner shall cause said plants to be destroyed and the expense thereof shall be a lien upon the owners land. Such lien shall have the same effect and may be collected in the same manner as taxes on such land. Any moneys so collected shall be paid into the state treasury and credited to the fund provided for this work. (Act Apr. 17, 1929, c. 218, §4.)

4031-35 1/2 d. Owners may be reimbursed for plants not infected.—If currants, gooseberries or white-pines, which are not infected with white-pine blister-rust, are destroyed by the specific order of the commissioner or his agents, the owner may be compensated therefore, the damages to be assessed by the commissioner or his agent at and not to exceed the actual value of the material destroyed and paid to said owner by the state treasurer upon authorization of the commissioner, provided that any and all wild currants and gooseberries are hereby declared noxious weeds and no compensation shall be paid therefor. (Act Apr. 17, 1929, c. 217, §5.)

4031-35 1/2 e. Commissioner and agents may enter private and public lands.—The commissioner and his agents shall have the right to enter upon any private or public lands to determine the presence or absence of the white-pine blister-rust in any of its stages and to carry out measures for its control. (Act Apr. 17, 1929, c. 218, §6.)

4031-35 1/2 f. Commissioner may cooperate with Federal Government.—The commissioner may cooperate with the departments of the federal government, the state department of agriculture, the agricultural experiment station and with counties, townships, associations and individuals (in the state generally) for the suppression and control of white-pine blister-rust and for carrying out such investigations of the disease and its control as are deemed advisable by the commissioner. (Act Apr. 17, 1929, c. 218, §7.)

4031-35 1/2 g. State inspector of nurseries to have same powers as commissioner.—The state inspector of nurseries and his agents, under direction of the commissioner of agriculture, shall have the same power and duties for suppression and control of the white-pine blister-rust on land within or contiguous to any nursery in the state as is vested in the commissioner and his agents. The expenses necessary for carrying out Section 9 [§4031-35 1/2 h] of this act shall be paid from the appropriation for nursery inspection or other funds of the department of agriculture. (Act Apr. 17, 1929, c. 218, §8.)

4031-35 1/2 h. Inspection to regulate importation or exportation.—The state inspector of nurseries is hereby authorized and empowered to prohibit and prevent or regulate the entry into or movement within the state from any part thereof to any other part of any white-pines or any plants of the genera *Ribes* or *Grossularia* when such plants are to be shipped into blister-rust control areas, and may be enforced in like manner to that prescribed in Section 2, Chapter 198, Session Laws 1927. (Act Apr. 17, 1929, c. 218, §9.)

The reference "Section 2, Chapter 198, Session Laws 1927" seems to be an error in enactment.

4031-35 1/2 i. Violation a misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 218, §10.)

FISHING RESTRICTIONS

4031-35 1/2 j. Fishing for brook trout in certain seasons.—(a) Whenever after investigation the commissioner of forestry and fire prevention shall determine that conditions conducive to forest fire hazards exist at any place in the forest areas of the state as defined by the forestry act in the vicinity of any waters frequented by persons taking or attempting to take brook trout and that the presence of persons attracted by the opportunities for taking brook trout in such vicinity tends to aggravate such fire hazards, he may by written order, with the approval of the commissioner of game and fish, prohibit or restrict, upon such conditions as he may prescribe, the taking of brook trout in such waters during such period in any year as he may deem necessary for the purpose of reducing such fire hazards.

(b) Every such order, together with the written approval of the commissioner of game and fish

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

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

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

4031-35½k. Acts modified.—All acts and parts of acts inconsistent herewith are hereby superseded, modified, and amended so far as may be necessary to give full force and effect to the provisions of this act. Otherwise this act shall not be deemed to supersede or repeal any existing act relating to the taking of brook trout, but shall be construed as supplementary thereto. No act relating to the taking of brook trout hereafter enacted shall be construed as inconsistent herewith unless it is expressly provided therein that this act shall be superseded, amended, modified, or repealed in whole or in part, or unless such future act shall specifically relate to the subject matter of this act. (Act Apr. 25, 1931, c. 372, §2.)

PREVENTION OF FOREST FIRES IN COUNTIES, TOWNS, CITIES AND VILLAGES

4031-50. Improvements by towns, cities and villages—Limitation on indebtedness.

Township maintaining telephone lines mainly for fire protection may pay switching charges out of fire fund. Op. Atty. Gen. (98a-23), Nov. 30, 1938.

AFFORESTATION AND REFORESTATION

4031-65. Rate of tax—Special taxes.—(a) From and after the filing of the contract creating any tract of land an auxiliary forest under this act the surface of the land therein (exclusive of merchantable timber thereon at the time of making such contract and of mineral or any thing of value thereunder) shall be taxed annually at the rate of 5 cents per acre. Said tax shall be levied and collected and the payment thereof enforced in the same manner as other county taxes and shall be credited to the funds of the taxing districts affected in the proportions of their interests in the taxes on said land if it had not been so made an auxiliary forest. Failure to pay when due any tax so levied shall be cause for cancellation of the contract.

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

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

(c) In addition to the foregoing taxes each auxiliary forest, except those in the nature of wood lots guarded or protected by resident owners or their tenants actually living on the land or immediately adjacent thereto, shall be assessed and shall pay a special state tax of three cents per acre annually for fire protection of such auxiliary forest. Such special tax shall be levied and collected in the

same manner as other state taxes, shall be transmitted to and paid into the state treasury intact, and shall there constitute and be a special fund hereby created and designed as the "Auxiliary Forest Fire Fund." All moneys accruing to said fund are hereby appropriated for and made available to the commissioner for fire protection work and shall be used by the commissioner as far as practicable for patrol work and similar protective service pro rata in or about the auxiliary forests created under this act. Failure to pay said tax when due shall be cause for cancellation of the contract.

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

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

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

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

Nursery stock can be supplied to Rural Credit Department for planting on rural credit lands, though such land may be later sold. Op. Atty. Gen. (203-9), June 17, 1936.

4031-75. State reforestation projects established.—For the purpose of vesting and reverting the state with title to lands suitable primarily for the development of forests and prevention of forest fires, and for experimenting in and practically advancing afforestation and reforestation, and for the purpose of impounding, controlling and regulating the water of meandered lakes and the flow of natural streams of the state, and for the purpose of creating and establishing wild game and fishing reserves, or for either or any of such purposes, or for any other public state purpose, the board of county commissioners of any county within which such lands are located, and in which on January 1, 1933 the taxes on more than 25 per cent of the acreage of the lands in any townships in said county, as shown by the tax books thereof, are delinquent, and in which on January 1, 1933 the taxes or ditch assessments on more than 50 per cent of the acreage of the lands included in the area or project herein provided for, as shown by the tax books of said county, are delinquent, and of which on January 1, 1933 the bonded ditch indebtedness of any county wherein any of said lands are located equals or exceeds 15 per cent of the assessed value of the county for the year 1932 as fixed and determined by the Minnesota Tax Commission, exclusive of moneys and credits, may by resolution duly adopted, propose to the State of Minnesota that any "area in said county consisting of one or more townships, or part of any township, containing such lands be taken over by the state for afforestation, reforestation, flood control projects, wild game and fish reserves, or other public state purpose, to be managed, controlled and used for the development of forests and prevention of forest fires, and for the purpose of experimenting in and practical-

ly advancing afforestation, reforestation, or for the purpose of impounding, controlling and regulating the waters of meandered lakes and the flow of natural streams, or for the purpose of creating and establishing wild game and fishing reserves, or for either or any such purposes," or for any other public state purpose, on lands to be acquired by the state within such projects as hereinafter set forth. Each such area shall include lands which have been assessed for all or part of the cost of the establishment, construction or repair of public drainage ditches under the laws of this state, and on which such assessments or installments thereon are overdue, delinquent and unpaid. A duly certified copy of such resolutions of the county board shall be submitted to and filed with the Department of Conservation of the State of Minnesota, or such department as shall be established in lieu thereof, and considered and acted upon by that department; if approved by that department it shall then be submitted to, considered and acted upon by the Executive Council of the state, or such department as shall be established in lieu thereof, and if approved by that department such proposition shall be formally accepted by the Governor and his acceptance shall be communicated in writing to and filed with the county auditor of such county. State school, swamp, indemnity and institutional lands which have heretofore or shall hereafter be sold as provided by law, and for which certificates of sale have been issued at the time of the passage of said resolution by the county board, and all lands owned by the Rural Credit Bureau of said state, shall be considered taxable lands within the meaning of this section and if the taxes or ditch lien installments on such lands or the interest of the purchaser therein are delinquent, shall be considered lands on which the taxes are delinquent within the meaning of this section. (Act Apr. 22, 1933, c. 402, §1.)

Preamble.

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

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

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

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

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

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

4031-76. Definitions.—The word 'taxes' as used in this Act shall be held to include taxes of every kind, including special assessments of every kind. The word 'bonds' or 'bonded indebtedness' as used in this Act shall be held to include bonds and accumulated interest thereon of every nature issued to fi-

nance or refinance the construction, maintenance or repair of public drainage ditches. (Act Apr. 22, 1933, c. 402, §2.)

4631-77. Forest to be under management of department of conservation.—Each of such projects, so approved and accepted, shall be under the management and control of the Department of Conservation, which shall have and is hereby given full power and authority to make, establish, promulgate and enforce all necessary rules and regulations not inconsistent with the laws of this state for the care, preservation, protection and development of forests and for experimenting in and practically advancing afforestation and reforestation therein, and impounding, controlling and regulating the waters of meandered lakes and the flow of natural streams, or for other public state purposes, and for the prevention of forest fires therein, and for the sale of merchantable timber from lands acquired by the state therein when and where, in the opinion of such department, the same may be sold and removed without damage or injury to the purposes of such projects; provided, however, that no such rules or regulations shall in any manner interfere with, destroy or damage any private owned property without just compensation being made to the owner of such private property by purchase or in condemnation proceedings duly instituted pursuant to the laws of this state. Such rules and regulations may relate to the care, preservation, protection, breeding, propagation and disposition of any and all species of wild life therein and the regulation, issuance, sale and revocation of special licenses or special permits for hunting, fishing, camping or other uses of said areas not inconsistent with the terms of this Act, or of other laws of the state now or hereafter applicable thereto. The Department of Conservation may provide for the policing of each of such projects in such manner as may be needful for the proper development, use and protection thereof, and of its purpose, and all supervisors, guards, custodians and caretakers assigned to duty in any such project shall have and possess the authority and powers of peace officers while in its employment. All lands within the boundaries of such project shall be subject to such rules and regulations, whether owned by the state or privately, consistent with the constitutional rights of such private owners or with the laws of this state now or hereafter applicable thereto; provided, however, that the department may exclude from the operation of any such rules or regulations any lands owned by private individuals, upon which taxes are delinquent for three years or less. All such rules and regulations shall be published once in the official newspaper of each county affected and shall take effect thirty day after such publication, and shall be, in addition thereto, posted on each of the four corners of each township of each project affected. In the management, operation and control of such areas as may be taken for afforestation, reforestation, flood control projects and wild game and fish reserves, nothing shall be done which will in any manner directly or indirectly obstruct or interfere with the operation of any ditches or drainage systems existing within such areas, nor shall anything be done which will in any manner directly or indirectly damage or destroy any of the existing roads or highways within said areas or projects, unless such ditches, drainage systems, roads or highways be first taken under the right of eminent domain and compensation made to the property owners and municipalities affected and damaged. Each such area or project shall contribute from the funds and moneys of the project, in proportion of the State Land within the project for the construction and maintenance of such roads and highways as may be necessary within such areas and projects in order to give the settlers therein and owners of privately owned lands within such areas access to their land. The Department of Conservation and its successors may construct and maintain such roads and highways within

such areas and projects as it may deem necessary. (Act Apr. 22, 1933, c. 402, §3.)

Department of conservation may make sales of dead and down timber on tax reverted lands within Red Lake game reserve and other conservation areas, but sales of such timber on other tax reverted lands are made by county auditor subject to certain rights of former owners. Op. Atty. Gen. (700d-31), Aug. 16, 1937.

4031-78. Proceeds to be paid into state treasury.—

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

Structures on tax forfeited lands within state forests may be sold, leased, or razed, pursuant to regulations established by commissioner of conservation, at public or private sales, money to be paid into designated funds, and where no designation is made are required to be paid into general revenue fund. Op. Atty. Gen. (700d-21), Aug. 31, 1938.

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

(A) The legal description of each parcel of such land.

(B) The name and number of the ditch and the amount of the principal and interest of each delinquent drainage assessment as it appears on the tax books of said county for all years prior to the date of such certificate against each such parcel of land, together with interest thereon at six per cent per annum since the due date of said installment.

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

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

(D) The legal description of each parcel of such lands which on May 14th of the year in which said

certificate is furnished is delinquent for three years or more.

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

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

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

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

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

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

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

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

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

sage and approval of this Act, which bears the same proportion to the whole amount of such bonds as the original benefits assessed against said lands within the project bear to the original total benefited assessed to the entire system for any such ditch, and such liability shall be reduced from time to time by the payments of all assessments hereafter extended, made by the owners of lands within such project of assessments for benefits heretofore assessed on account of any such ditch.

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

4031-80. State auditor to sell certificates of indebtedness.—For the purpose of anticipating the annual revenues of the fund pertaining to any such project, the State Auditor is hereby authorized and directed, upon the acceptance and approval of each such project and upon there being certified to him the information relating to bonds contemplated by Section 5 of this Act, to issue and sell certificates of indebtedness in an aggregate sum not exceeding the maximum amount of money payable to or for the benefit of the county in which such project is located, as prescribed by said Section 5, payable from said fund pertaining to such project, such certificates to be numbered serially and to be of such denominations and bear such dates of issue and of maturity and bear interest at such rate, not to exceed five per centum per annum, as the State Auditor shall determine; provided that none of such certificates of indebtedness shall run beyond the tax settlement dates for the next annual tax levy thereafter to be made by such auditor, as hereinafter required in anticipation of the collection of which such certificates of indebtedness are issued, except that such certificates of indebtedness are required by this Act to be issued during the calendar years of 1933 and 1934 shall bear maturity dates subsequent to the last settlement date for the annual tax levy for the year 1935, and no taxes shall be levied pursuant to this Act in either of the years 1933 or 1934, other than for such amounts as shall be sufficient, together with the funds otherwise available under this Act, for the payment of interest which shall become due and payable on said certificates during the years 1933 and 1934 respectively. In the year 1935 there shall be levied in the manner provided by this Act an amount sufficient for the payment of the principal of such certificates of indebtedness and interest to accrue and become payable thereon, in addition to such other amounts as shall be required under this Act to be levied in said year. Such certificates shall be so issued from time to time as the proceeds thereof are needed for the demands of said fund. The interest on such certificates of indebtedness shall be payable with the principal thereof. Said certificates shall be in such form and upon such terms and conditions, not inconsistent with the terms of this Act as the State Auditor shall determine, shall be signed by the Governor and attested by the State Auditor and shall be sold for not less than par. Such certificates may be purchased by the State Board of Investment for the Permanent School Fund, Swamp Land Fund, Internal Improvement Fund or any other trust fund of the State of Minnesota, shall be deemed "authorized securities" within the provisions of General Statutes 1923, Section 7714, and Acts amendatory thereof or supplementary thereto. (Act Apr. 22, 1933, c. 402, §6.)

4031-81. Tax levies.—Whenever the State Auditor shall approve the certificate of the county auditor as specified in Section 5 of this Act, he shall compute the portion thereof which will exceed cash on hand in the fund pertaining to any such project available for its payment and shall make an entry in this record

that such excess, plus the amount required to pay interest on certificates of indebtedness, to be issued to provide money for the payment thereof, is to be extended upon the tax rolls for the next succeeding tax year, and there is hereby levied for the year in which such entry is made the aggregate of the sums so entered for collection up to the time of the certification of state taxes for such year and for each year thereafter, until the maximum state liability prescribed by Section 5 hereof has been exhausted, the aggregate of such entries made since the last preceding certification of state taxes, which taxes shall be extended and collected in the same manner as other state taxes, and the proceeds of such levies are hereby appropriated and pledged to the payment of the principal and interest of the certificates of indebtedness issued pursuant to this Act. (Act Apr. 22, 1933, c. 402, §7.)

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

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

4031-84. Department of conservation to receive gifts or bequests in behalf of the state.—The Department of Conservation is hereby authorized and empowered to receive for and in behalf of the state, and to make suitable acknowledgment thereof, any gift, bequest, devise or grant of land or interests in lands in any such project, or of money or personal property of any kind, which it may deem suitable for use in connection with the operation, control, development or use of any or all such projects. (Act Apr. 22, 1933, c. 402, §10.)

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

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

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

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

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

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

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

PUBLIC ASSISTANCE IN TREE PLANTING

4031-89. Assistance in tree planting.—The Agricultural Extension Department of the University of Minnesota is hereby authorized and directed to cooperate with the Secretary of Agriculture of the United States in providing assistance in tree planting to owners of land by the procurement of forest tree planting stock, not including fruit or ornamental trees, shrubs or plants, and in the distribution to planters of such forest tree planting stock at cost, plus transportation and administrative charges, to the end that such planting stock so distributed shall be used for the purpose of establishing windbreaks, shelterbelts and farm woodlots upon denuded or nonforested lands and for protecting farm buildings, crops, and fields from wind erosion, and for furnishing forest cover beneficial to water conservation and bird life. (Act Apr. 21, 1939, c. 385, §1.)

4031-90. Number of trees.—Not less than 1000 trees shall be sold for an individual planting; no trees may be resold by the succeeding purchasers. The term forest planting stock shall be considered to mean one or two year old seedling stock of deciduous trees and 2-2 or 3-2 coniferous trees customarily used for the purposes mentioned above, and such other specifications as may be necessary to ensure successful growth. (Act Apr. 21, 1939, c. 385, §2.)

4031-91. Home grown trees given preference.—In all purchases of forest planting stock under the provisions of this Act, preference shall be given to trees grown in this state by duly inspected Minnesota nurseries, and such purchases shall be paid for out of the fund hereinafter created and accruals thereto from sale of trees purchased. If suitable stock for this purpose cannot be obtained from Minnesota nurseries, it will be permissible to secure such nursery stock from nurseries outside this state. All moneys received from the sale of trees shall be placed in the State Tree Fund, which said fund is hereby created. (Act Apr. 21, 1939, c. 385, §3.)

4031-92. Appropriation.—The sum of \$2,500 for the fiscal year ending June 30, 1940, and the sum of \$2,500 for the fiscal year ending June 30, 1941, is hereby appropriated for the payment of the expenses for the carrying out the provisions of this Act. Such funds, together with any funds received from the United States Government for tree planting aid, under the Clark-McNary Act or other acts, shall be placed in the State Tree Fund and shall be expended only as herein previously stated under the direction of the Extension Department of the University of Minnesota. (Act Apr. 21, 1939, c. 385, §4.)

Sec. 5 of Act Apr. 21, 1939, cited, provides that the act shall take effect from its passage.

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4039. Hours public sessions—Proceedings.

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

4041. Secretary—Salary—Duties.

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