

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

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

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 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.



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR. }  
R. O. MASON } Assistant Editors  
J. S. O'BRIEN }

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1936

## CHAPTER 40

### Public Lands

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the powers of the state auditor and commissioner of the state land office with respect to the public lands.

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

##### 6261. School lands—Price.

State cannot be estopped to claim a judicial cancellation of certificates where timber-bearing school land was sold as agricultural land without separate sale of timber, or the collection in cash of the value thereof. *State v. Hamre-Hogenson Holding Co.*, 183M318, 236NW456. See Dun. Dig. 3211.

**6277. Appraisal of school or other state lands—appointment of appraisers—appraisals—sales—homesteaders—improvements—contests.**—Whenever in the opinion of the Commissioner of Conservation of the State of Minnesota it will be for the public interest that an appraisal of any of the school or other state lands should be made, he shall appoint one appraiser, who shall be one of the regularly employed state appraisers, and notify the Governor, who shall appoint one appraiser. Such appointment shall be made within 30 days after such notice. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath, before any person qualified to administer oaths, that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested directly or indirectly in any of the school or other state lands or improvements thereon, and has entered into no combination to purchase the same or any part thereof, which said oath shall be attached to the report made of such appraisal, said appraisers after taking oath of office shall proceed to view and appraise such lands and the improvements thereon and make a report thereof to the Commissioner of Conservation as he may direct. The valuation of such lands and the timber shall each be made and stated separately in the appraisal, and the minimum price established by such appraisal shall be the minimum price for such lands until changed by subsequent appraisal. No school or other state lands shall be sold until so appraised, nor for a less price than five (\$5.00) dollars per acre. The Commissioner of Conservation shall hold frequent sales of school and other state lands, the time and place of such sales to be publicly posted on the front door of the court house in the county in which the sale is to take place at least 30 days in advance of such sale, in addition to the regular notice of sale provided by law. At said sale the Commissioner of Conservation shall sell such lands as he considers for the public interest. Where land mainly valuable for agricultural purposes, as shown by the appraisement and other reports in the office of the Commissioner of Conservation contains only small quantities of pine, tamarack, and other timber the Commissioner of Conservation may in his discretion either sell the timber separately in the manner provided by law for state timber sales, or he may sell the land as agricultural land, requiring the purchaser to pay down as first payment an amount equal to the value of the timber, in addition to the 15 per cent first payment required on the land. It shall be the duty of the appraisers to report to the Commissioner of Conservation such lands as in their opinion should be drained. After the state has constructed or has been assessed for any public ditch or drain, the lands hereby assessed or improved shall thereafter be re-appraised before being offered for sale. Provided, that if the improvements

upon said lands were made by one who in the opinion of the Commissioner of Conservation settled upon said land in good faith believing it to be land subject to homestead entry under the laws of the United States, and such settlement was made before the land was certified to the state, or if the improvements upon said land were made by a lessee thereof, or if such improvements were made by one who in the opinion of the Commissioner of Conservation did so in good faith, believing he had a legal right so to do, then the value of such improvements shall be appraised separately, and if at the sale of such land the settler or the lessee of the state who made the improvements shall be the purchaser, he shall not be required to pay for such improvements; but if a person other than such bona fide settler or lessee of the state purchase said land and the improvements at such sale, said purchaser shall pay to the state within 30 days the full amount for which improvements are appraised and the amount so received by the state for such improvements shall be paid over to such settler or lessee of the state, his heirs or assigns by warrant drawn by the state auditor upon the state treasury, and the amount necessary to make such refundment is hereby annually appropriated.

Provided further, that in order to be permitted to purchase such land and improvements from the state without paying for the improvements, the bona fide settler or lessee of the state must make such purchase at the first sale held by such Commissioner of Conservation in which the land in question is offered for sale, and

Provided further, that prior to such sale by the Commissioner of Conservation any and all contest proceedings or actions involving the land in question, which had been instituted or pending relative to the land in question must have been finally determined. ('11, c. 196, §1; G. S. '13, §521; Ex. Ses. '19, c. 17, §1; '27, c. 332, §1; Dec. 27, 1933, Ex. Ses., c. 22, §1.)

Sec. 2 of Act Dec. 27, 1933, cited, provides that the act shall take effect from its passage.

*State v. Hamre-Hogenson Holding Co.*, 183M318, 236NW456; note under §6261.

Adoption by a constitutional amendment, of an existing statutory method of appraisal and sale of state land, included whole scheme, terms of sale, form of certificate of sale, and rights thereby conferred on purchaser. *State v. Finnegan*, 188M54, 246NW521. See Dun. Dig. 1576, 7964.

Where a purchaser of state lands has permitted interest payments to become delinquent and land is offered for sale because of delinquency and improvements made by purchaser have been appraised separately from land, and land is sold to the settler who made the improvements, he need not pay for them, but if land is sold to another person, money for improvements is to be paid to settler who made them. *Op. Atty. Gen.*, Mar. 20, 1934.

##### 6280. Notice of sale.

Notices published on a legal holiday are valid. *Op. Atty. Gen.* (276d), June 8, 1935.

**6280-1. Certain sales of state land legalized.**—Whenever the notice of sale of State lands, publication of which is required by Mason's Minnesota Statutes of 1927, Section 6280, has been published in four publications of a legal weekly newspaper, published at the county seat at which such sale of state lands has been held, all such publications are hereby made valid and effective to all intents and purposes, as against the objection that said notice was not published for four consecutive weeks or, where such publication was for four consecutive weeks, that four full weeks had not elapsed between the date of the first publication and the date of the sale. (Act Apr. 24, 1935, c. 244.)

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

A county may not levy a writ of attachment against state's income under hay stumpage lease on lands sold by state and reverting back to it. Op. Atty. Gen., Nov. 7, 1933.

**6285. Certificate—default in interest—resale.—The**

certificate of sale shall further set forth that in case of the non-payment of the annual interest by June 1st, or within six days thereafter, by the purchaser or by any person claiming under him, then the Commissioner of Conservation may, during the continuance of such default, declare the certificate void, and may take possession of the lands therein described and resell the same at public auction in the same manner and under the same rules as provided for the first sale. When the Commissioner of Conservation shall have reappraised and advertised and publicly offered for sale such lands, a reentry shall be deemed to have been made on the part of the state, without any other act or deed whatsoever. The purchaser at such sale shall be entitled to immediate possession. If the land is not again sold, it shall be deemed to be unsold land of the state, free and clear of any and all rights claimed by the original purchaser, his heirs or assigns, whether in actual or constructive possession thereof. The provisions of this section as amended shall not apply to state lands sold prior to January 1, 1934. (R. L. '05, §2421; G. S. '13, §5228; Jan. 5, 1934, Ex. Ses., c. 39, §1.)

See §6452-1.

Where state lands were sold and school or swamp land certificates issued, and lands were placed on tax list and then sold for delinquent taxes, and petitioners purchased at the tax judgment sale or took assignments from the estate, and original purchaser of lands failed to live up to the terms of his contract, petitioners were not entitled to a refund. Op. Atty. Gen., Feb. 2, 1931.

When state owned lands revert to state, tax title of purchaser at a tax sale is extinguished, such tax title purchaser acquiring only interest of vendee of land. Op. Atty. Gen., Nov. 7, 1933.

A county may not levy a writ of attachment against state's income under hay stumpage lease on lands sold by state and reverting back to it. Id.

Where holder of certificate failed to pay interest and taxes and assigned certificate to bank as collateral and bank leased land and received rents and became insolvent, state's title to land was such as to warrant filing claim with receiver for the rental money. Op. Atty. Gen., Jan. 29, 1934.

Where purchaser of land fails to pay interest for several years and state reoffers land for sale, but it is not resold, such purchaser no longer has the right to lease the land to third persons, and state is in position to sue in trespass any person occupying the land. Op. Atty. Gen. (7004-9), June 29, 1934.

Laws 1935, c. 68, suspending foreclosure of contracts of deed, does not apply to state lands sold under certificate of sale. Op. Atty. Gen. (415m), May 25, 1935.

**6287. Effect of certificate—Record.**

State v. Hamre-Hogenson Holding Co., 183M318, 236NW 456; note under §6261.

**6289. Conditional sales of certain swamp, etc.**

Act to legalize sale of certain swamp land. Laws 1931, c. 21.

**6290. Sales by mistake, etc.—Refund.**

State v. Hamre-Hogenson Holding Co., 183M318, 236 NW456; note under §6261.

**6291. Delinquent purchasers—redemption.—When**

the rights of a purchaser have become forfeited by a failure to pay the amount due, if such purchaser, his heirs or assigns, before re-sale at public auction of the lands described in the certificate, shall pay to the state treasurer the amount of interest then due and payable on such certificate, and all costs incurred, together with interest at the rate of twelve per cent per annum on such interest and costs, such payment shall operate as a redemption of the rights of the purchaser, his heirs or assigns. The provisions of this section shall not apply to state lands sold after January 1, 1934. (R. L. '05, §2426; G. S. '13, §5235; Jan. 5, 1934, Ex. Ses., c. 39, §2.)

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 ex-

piration 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.

**6293. Payments on school lands extended.—That**

the treasurer of the state of Minnesota is hereby authorized to receive payments up to and including December 31st, 1937, of the principal on all state land certificates where the time for payment of said principal has expired, or will expire, on or before May 31st, 1937, and the governor of the state of Minnesota is hereby authorized to execute patents covering those lands on which all demands due the state have been paid in full, as hereinbefore provided; provided further, that the provisions of this act shall not apply to state land certificates that have been canceled prior to the passage of this act. ('21, c. 440, §1; '23, c. 27, §1; '25, c. 35, §1; '27, c. 3, §1; Feb. 8, 1929, c. 10, §1; Jan. 23, 1931, c. 4, §1; Feb. 14, 1933, c. 25, §1; Jan. 6, 1934, Ex. Ses., c. 47, §1.)

**6294. Interest rate on balance.—That interest on**

the principal remaining unpaid May 31st, 1937, shall run thereafter at the rate of six per cent per annum until the said principal is paid in full. ('21, c. 440, §2; '23, c. 27, §2; '25, c. 35, §2; '27, c. 3, §2; Feb. 8, 1929, c. 10, §2; Jan. 23, 1931, c. 4, §2; Feb. 14, 1933, c. 25, §1; Jan. 6, 1934, Ex. Ses., c. 47, §1.)

**6295. Land patents.—The governor shall sign and**

issue, under the seal of the state, attested by the auditor, a patent for the land described in any certificate of sale, whenever the same is presented to him, with the certificate of the auditor indorsed thereon that the principal and interest specified therein, and all taxes due on said land, have been paid, and that the holder is entitled to a patent for such land to any purchaser at execution, judicial, mortgage, or tax sale of the right, title, and interest of the holder of any such certificate of sale, upon presentation to him of the certificate of the auditor that the principal, interest, and taxes have been paid, and that the purchaser is entitled to a patent and provided further that the governor shall in like manner issue a patent for such land, where the land certificate of sale has been lost or destroyed, upon filing with the state auditor by the person claiming such land an affidavit stating that he is the owner of the land, that the land certificate has been lost or destroyed and that he is and has been the owner of such land and paid the taxes thereon continually for the last fifteen years. The state auditor shall certify on such affidavit that the principal, interest, and taxes have been paid and that the owner is entitled to a patent. (R. L. '05, §2427; G. S. '13, §5237; Apr. 29, 1935, c. 368, §1.)

Sec. 2 of Act Apr. 29, 1935, cited, provides that the act shall take effect from its passage.

**6296-1. Liability under official bonds.—The liability**

under the official bonds of county treasurers and of their deputies and employes shall include liability for the faithful performance of the duties of such treasurers, deputies and employes, under Section 6296, General Statutes 1923. (Act Apr. 16, 1929, c. 200, §1.)

**6296-2. Effective January 6, 1930.—This act shall**

take effect on the first Monday in January, 1930. (Act Apr. 16, 1929, c. 200, §3.)

**6297. [Repealed].**

Repealed by Laws 1929, c. 200, §2.

**6302-1. State to sell certain lands.—The department**

of conservation is hereby authorized and directed to take the proper and necessary proceedings, under laws relative to the sale of state swamp lands and state school lands, to sell any and all state owned lands, including any lands set apart as school forest or other state forests, lying within the general boundaries of the Superior National Forest and the Chipewewa National Forest, in the State of Minnesota, as such boundaries now exist or may hereafter be extend-

ed, which the United States may desire to acquire as a part of either of said forests, and which shall be designated by the executive council, upon the recommendation of the commissioner of conservation, for disposal to the United States for such purpose, and at such sale said lands shall be purchased for the state by the commissioner of conservation at a price not exceeding a maximum fixed by the executive council. (Act Apr. 19 1929, c. 246, §1.)

See §§6513-1 to 6513-8.  
Act is not workable because of lack of official authorized to carry it into effect. Op. Atty. Gen., Dec. 28, 1929.

**6302-2. State may exchange land.**—The executive council is hereby authorized and empowered to exchange any or all of the lands which may be acquired by the state by purchase as aforesaid for lands of the United States of the same general character and of substantially the same value as in its judgment will promote the best interests of the state, upon such terms and conditions as it shall deem proper, and to that end may accept or pay out of any available funds such cash differences as will affect an equitable exchange of lands. The said council is hereby authorized to cause any lands so acquired to be appraised by such competent authority as it shall appoint or direct. (Act Apr. 19, 1929, c. 246, §2.)

**6302-3. Governor to execute conveyances.**—For the purpose of carrying out the objects of this act, the governor is hereby authorized and empowered to execute proper instruments of conveyance in the name and under the seal of the state. (Act Apr. 19, 1929, c. 246, §3.)

**6302-4. Appropriation.**—There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of \$10,000 to carry out the provisions of this act. (Act Apr. 19, 1929, c. 246, §4.)

**6302-5. Land use committee formed.**—There is hereby created a Land Use Committee composed of the Governor, the Chairman of the Conservation Commission, the Commissioner of Conservation, the Commissioner of Agriculture, the Commissioner of Education, the Commissioner of Highways, and the Chairman of the Tax Commission. The members of said committee shall serve without pay. Said Land Use Committee shall meet at the office of the Conservation Commission as often as may be necessary, upon call of the Governor who shall be chairman of said committee ex officio. The Chairman of the Conservation Commission shall be vice-chairman of said committee, and the Commissioner of Conservation shall be and act as the executive secretary of said committee. (Act Apr. 22, 1933, c. 436, §1.)

**6302-6. Land classification committee in certain counties.**—In each county of the state having 25 per cent or more of its land area delinquent for non-payment of taxes, or where 25 per cent or more of its land area is owned by the state and/or the United States, there shall be a Committee of Land Classification composed of the County Auditor, the Chairman of the Board of County Commissioners, the County Treasurer, the County Surveyor, and the County Superintendent of Schools. The Chairman of the County Board of Commissioners shall be chairman of said County Land Classification Committee. In any such county having a county agricultural agent, such agent shall meet and advise with said committee. Said committee shall meet at the offices of the County Auditor as often as may be necessary upon call of the County Auditor. (Act Apr. 22, 1933, c. 436, §2.)

**6302-7. Duties and powers.**—It shall be the duty of said Land Use Committee to classify all public and private lands in the state with reference to the use to which such lands are adapted, but principally as to adaptability to present known uses such as agri-

culture and forestry. Such classification shall be based upon a consideration of the known physical and economic factors affecting the use of the land. The Land Use Committee shall consult with private, state, and federal agencies concerned with land use, and may appoint such advisory committees as it may deem necessary and advisable, made up of residents of the state concerned with and interested in land use, such advisory committees to serve without pay, at the pleasure of the Land Use Committee and to consider and report upon such land use problems as may be submitted by the Land Use Committee. The work of the Land Use Committee shall first be done in the counties having Land Classification Committees. The Land Use Committee shall consult, advise with and co-operate with the Land Classification Committee in each county in obtaining and considering the facts upon which to determine its land classification; the Land Classification Committee in each county shall consult, advise with and co-operate with the Land Use Committee in like manner, but the determination of the Land Classification Committee shall be final. (Act Apr. 22, 1933, c. 436, §3.)

**6302-8. Lands to be classified.**—Upon the basis of all of the facts concerning land use now obtainable and in the manner herein provided, the Land Use Committee shall make and determine a temporary land classification of land areas with reference to the known uses to which such areas are adapted or adaptable. Such classification shall be adopted by a majority vote of said committee and recorded in its minutes. A certified copy of such temporary classification, together with a brief statement of the reasons therefor shall be recorded in the office of the Register of Deeds in the county or counties in which the lands classified are located. No fees shall be paid for such recording. When such temporary classification has been adopted by the committee, none of the lands classified as nonagricultural shall thereafter be sold or leased by the state for agricultural purposes. (Act Apr. 22, 1933, c. 436, §4.)

**6302-9. Shall report to state legislature.**—The Land Use Committee shall report the results of its land classification to the State Legislature with such recommendations as it may deem advisable. (Act Apr. 22, 1933, c. 436, §5.)

#### INVESTMENT

**6303. Investment of permanent school fund.**—The permanent school fund, permanent university fund, swamp land fund, internal improvement land fund, and all other permanent trust funds of the State of Minnesota shall be invested in the bonds of the United States or of this or any other state or the bonds of any school district, county, city, town or village of this state, yielding not less than three per cent interest. Such funds shall be invested by a board of commissioners consisting of the governor, treasurer, auditor, attorney general and one commissioner to be appointed by the Regents of the University of Minnesota from among their members, which shall be known as the State Board of Investment, and which shall hold regular meetings on the first and third Wednesdays of each month. The governor shall be ex officio president of said board, which shall have a permanent secretary, who shall keep record of its proceedings. Both the secretary of the board and the auditor shall keep a record showing the trust fund to which each bond belongs. The number and amount of each bond, when issued, the rate of interest, when and where payable, by whom executed, when purchased, when withdrawn and for what purpose. No loan shall be made and no bonds shall be purchased, sold, exchanged or transferred from one trust fund to another except upon a majority vote of all members of said board of investment. In investing the permanent school fund preference shall be given to application for loans from school districts

and priority shall be accorded such loans of \$25,000 and less. The board of investment shall have the power to fix and to change the rate of interest on loans to municipalities within the state, provided such rate is never less than three per cent, and whenever such rate is changed after any municipality has voted its bonds to the state such municipality is hereby authorized to pay the new rate so fixed and to issue its bonds bearing such rate upon approval and acceptance thereof by resolution of its governing body. ('21, c. 516, §1; '25, c. 131, §1; Apr. 19, 1929, c. 254, §1; Apr. 25, 1931, c. 346, §1; Apr. 29, 1935, c. 337.)

The title to Act Apr. 29, 1935, c. 337, reads: "An act to amend Mason's Minnesota Statutes of 1927, as amended by Laws 1929, chapter 254, and by Laws 1931, chapter 346, relating to the investment of the permanent trust funds." The enacting part purports to amend "section 6303" of Mason's statute, etc.

Act Apr. 4, 1933, c. 150, validates municipal bonds theretofore purchased by the board.

Membership of the President of the Board of Regents of the University in the State Board of Investment may be changed so as to substitute therefor a commissioner to be appointed by the Board of Regents from among their members, as proposed in Senate File 460. Op. Atty. Gen., Feb. 25, 1931.

**6314-1. Tax levy certificates for fourth state hospital for the insane.**—The state board of investment is hereby authorized to invest the state trust funds in said tax levy certificates, and said state investment board is hereby authorized to purchase said certificates of indebtedness at the rate of not less than three per cent interest in such sums and amounts as said state investment board may, from time to time, have available funds for that purpose, and said state investment board, for this purpose, is authorized to purchase said certificates of indebtedness at a rate of interest not less than three per cent, any law to the contrary notwithstanding, but this rate of interest shall not apply to the state investment board for other loans. (Jan. 11, 1936, Ex. Ses., c. 5, §9.)

The certificates of indebtedness referred to are those to be issued to secure establishment of a fourth state hospital for the insane.

#### MISCELLANEOUS

##### 6323. Taxation—Sales—Redemption—Etc.

Where state lands were sold and school or swamp land certificates issued, and lands were placed on tax list and then sold for delinquent taxes, and petitioners purchased at the tax judgment sale or took assignments from the estate, and original purchaser of lands failed to live up to the terms of his contract, petitioners were not entitled to a refund. Op. Atty. Gen., Feb. 2, 1931.

##### 6324 to 6327. [Repealed].

Repealed Feb. 14, 1929, c. 18.

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

This section does not authorize the state auditor to lease lands acquired by the state for delinquent taxes under Laws 1927, c. 119, §4. Op. Atty. Gen., Apr. 1, 1933. County auditors have implied authority to look after the leasing of lands to be acquired under Laws 1927, c. 119. Op. Atty. Gen., Apr. 12, 1933.

##### 6364. [Superseded].

Martin v. Federal Surety Co., (CCA8), 58F(2d)79; note under §6394-18.

#### TIMBER LANDS

##### 6367. [Superseded].

See temporary act Apr. 9, 1931, c. 136, §2. Certain timber permits extended. See Laws 1933, c. 107.

Eight per cent rate prescribed by Laws 1931, c. 136, and Laws 1933, c. 107, is applicable to permit issues between Sept. 18, 1926, and Oct. 13, 1927, and between Jan. 18 and Jan. 24, 1928, and which were extended under authority of such acts. Op. Atty. Gen. (433), Apr. 3, 1935.

##### 6383. [Superseded].

Martin v. Federal Surety Co., (CCA8), 58F(2d)79.

##### 6386. [Superseded].

Martin v. Federal Surety Co., (CCA8), 58F(2d)79.

##### 6394. [Superseded].

Martin v. Federal Surety Co., (CCA8), 58F(2d)79.

#### STATE TIMBER ACT

##### 6394-3. Trespasses on state land—Damages—Possession of timber, etc.

Delay of 11 years by state before starting action to recover for timber cut from state land, held to render

it guilty of laches, barring question of items of settlement. 181M513, 233NW16. See Dun. Dig. 5356, 7957. One claiming right to land held liable for only single stumpage. Op. Atty. Gen., July 18, 1933.

##### 6394-8. Same—Powers enumerated.

(a) Determine the number of sections or fractional sections of land to be covered by or described in any one report by state appraisers, or in any one timber permit issued to the purchaser of stumpage on state lands, or in any one contract or other instrument relating thereto and within the jurisdiction of the board; and grant extensions of such timber permits and contracts, whether heretofore or hereafter issued, for and during such period as the board deems advisable, but otherwise subject to all the provisions of this Act. But a condition of any extension shall be that the purchaser shall pay to the state interest at the rate of six per cent per annum on the unpaid purchase price, as finally computed on the actual scale or count of such timber at the time of cutting thereof, or if not cut then upon the official estimate thereof at the expiration of such extension. No permit shall be extended more than six years from the date of issuance thereof. (As amended Apr. 21, 1933, c. 375, §1.)

Eight per cent rate prescribed by Laws 1931, c. 136, and Laws 1933, c. 107, is applicable to permit issues between Sept. 18, 1926, and Oct. 31, 1927, and between Jan. 18, and Jan. 24, 1928, and which were extended under authority of such acts. Op. Atty. Gen. (433), Apr. 3, 1935.

##### 6394-10. Sales of timber by auditor.

Lands in state forests, see post, §§6513-1 to 6513-3. Statute is not applicable to sale of Christmas tree stumpage and a bid is necessary even where agreement is to only thin out overcrowded trees. Op. Atty. Gen., Aug. 22, 1933.

##### 6394-17. Permits to purchasers to cut and remove timber, etc.

Laws 1931, c. 136, authorizes the extension of permits issued between Sept. 18, 1926, and Oct. 31, 1927.

Laws 1933, c. 107, authorizes extension of permits issued between Jan. 18 and Jan. 24, 1928, both dates inclusive.

Statute of limitations does not run against the state in action on bond given by permittee. 180M160, 230NW 484.

##### 6394-18. Bonds for purchasers—Liabilities on—Subrogation.

Compensated surety company executing bond of permittee for cutting of timber on state land, held subrogated to the right of the state to proceed against a purchaser of timber in an action for conversion, and this right existed before the passage of this section. Martin v. Federal Surety Co., (CCA8), 58F(2d)79.

Judgment in former case held to bar action by former surety seeking indemnity. Maryland Casualty Co. v. B., 184M550, 238NW598. See Dun. Dig. 5176.

Purchaser who paid permit holder who failed to pay state for timber was liable to surety on permit holder's bond which was compelled to pay state. National Surety Co. v. W., 187M50, 244NW290. See Dun. Dig. 1926, 1932, 1934.

In action by surety of permit holder, evidence held to show that defendant was purchaser and not broker or sales agent for permit holder to sell to railway company. National Surety Co. v. W., 187M50, 244NW290. See Dun. Dig. 1926, 1932, 1934.

Certified checks cannot be accepted in lieu of form of bond required by statute. Op. Atty. Gen., Jan. 18, 1934.

Surety compelled to pay is subrogated to vote rights permittee and can cut timber up to date of final termination of permit, but cannot enter to cut remaining timber after expiration of permit. Op. Atty. Gen. (27e), June 19, 1935.

##### 6394-31. Great seal—Description, where deposited.

—If the amount of such statement be not paid immediately, it shall bear interest at the rate of six per cent per annum from date; and, if not paid within 30 days the treasurer shall place the account in the hands of the Attorney General, who shall proceed to collect the same. Whenever the auditor shall deem it for the best interest of the state, he shall take possession of the timber for which such amount is due, wherever the same may be found, and sell the same at public auction. The proceeds of such sale shall be applied, first, to the payment of the expenses

of seizure and sale; and second, to the payment of the amount due for such timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay such amounts in full, the balance shall be collected by the Attorney General. Neither payment of such amount, nor the recovery of judgment therefor, nor satisfaction of such judgment, nor the seizure and sale of such timber, shall release the sureties on any bond given pursuant to this Act, or preclude the state from afterwards claiming that such timber was cut or removed contrary to law, and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally. (R. L. '05, §2653; G. S. '13, §5705; Apr. 21, 1933, c. 375, §2.)

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

See §6513-5 herein.

**6394-33. Auditor's record of trespasses.**

See §6513-5 herein.

**6394-37. Statutes of limitations not applicable, etc.**

In view of this section statute does not run against state as to action on bond of timber permittee. 180M 160, 230NW484.

**MINERAL LANDS**

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

Where sand and gravel exist in such substantial quantities as to possess a commercial value, they are "valuable minerals" and therefore reserved to state upon sale of lands. Op. Atty. Gen., Oct. 4, 1933.

**6398. Disposition of minerals reserved.**

State's ownership in land was full and complete, notwithstanding mineral reservation in deed to it. Op. Atty. Gen., Mar. 10, 1933.

**6402-1. Funds, how disposed of.**—The principal of all funds derived from the sale or other disposition of such minerals and lands so situate shall forever be preserved inviolate and undiminished, but the same may be invested as the Swamp Land fund of the state is now invested, and the proceeds arising therefrom shall be paid into the state road and bridge fund. ('09, c. 49, §3.) [5312.]  
Omitted from 1923 and 1927 Statutes by error.

**6402-2. Prospect for minerals under waters of meandered lakes and streams—permits and leases—rules and regulations.**—The department of conservation, with the approval of the executive council, shall adopt rules and regulations for the issuance of permits to prospect for gold, silver, copper, cobalt, coal, graphite, petroleum, sand, gravel, stone, natural gas and all minerals, excepting iron ore, under the waters of any meandered lake or stream in the state of Minnesota, including that portion of boundary lakes and streams within the boundaries of the state, and for the issuance of leases for the mining and removal of such minerals upon such terms and conditions as such regulations may prescribe. (Jan. 18, 1936, Ex. Ses., c. 42, §1.)

**6402-3. Scope of regulations.**—It shall be provided in such regulations, among other things:

(a) That no permit to prospect shall be issued for a period to exceed one year;

(b) That each permit shall authorize prospecting only within the area designated therein, which area shall not exceed the limitations upon size prescribed by the regulations;

(c) That at any time prior to the expiration of any such prospecting permit, the holder thereof shall have the right to a lease giving him the exclusive right to mine and remove the minerals specified in such permit within the area specified in such permit; provided, if the regulations adopted hereunder shall permit or prescribe larger areas for permits than for leases, the permit holder shall designate the specific part of the area covered by his permit (not exceeding the limitations upon size of lease areas) upon which he desires a lease;

(d) That the rents, royalties, terms, conditions, and covenants of all such lease shall be prescribed

by such regulations prior to the issuance of any permits hereunder;

(e) That no such lease shall be for a longer term than 25 years;

(f) That all rents and royalties paid under such leases shall be paid to the state treasurer on the order of the state auditor and shall be credited to the permanent school funds of the state;

(g) That no minerals shall be removed under such permits until lease has been issued as provided by such regulations, except that, with the approval of the commissioner of conservation, sufficient minerals or ore material may be removed for exploratory or assaying purposes;

(h) That the grantee of such permit or lease, his or their assigns, representatives and successors in interest may be required to secure riparian owners against damage from the use of such lease or permit. (Jan. 18, 1936, Ex. Ses., c. 42, §2.)

**6402-4. Commissioner of conservation to issue permits.**—The commissioner of conservation, with the approval of the commission, shall issue permits and leases in accordance with such rules and regulations. (Jan. 18, 1936, Ex. Ses., c. 42, §3.)

**6402-5. Recording of permits and leases.**—All permits and leases, with the names and post office addresses of all parties having an interest, issued by the commissioner of conservation under authority of this law and the regulations adopted hereunder, before delivery, shall be duly recorded at length by the state auditor in his office in the record books to be provided and kept for that purpose, and a certificate of such record, showing the date of record and the book and page thereof, shall be endorsed on each such permit or lease. (Jan. 18, 1936, Ex. Ses., c. 42, §4.)

**6402-6. Assignments and contracts—writing—registration.**—All assignments and agreements or contracts affecting any such permit or lease shall be made in writing and signed by both parties thereto, witnessed by two witnesses, and properly acknowledged, and shall contain the post office addresses of all parties having an interest; and when so executed, shall be presented to the state auditor for recording. The state auditor shall then record such assignment, agreement, or contract, at length in his office in record books kept and provided for that purpose, and a certificate of such record, showing the date thereof and the book and page, shall be endorsed on the assignment, agreement, or contract, which then shall be returned to the party entitled thereto. (Jan. 18, 1936, Ex. Ses., c. 42, §5.)

**6402-7. Approval of instruments by commissioner—recording fees—payment into treasury.**—All instruments by virtue of which the title to any permit or lease herein provided for is in any way affected, shall receive as to form and execution, the approval of the commissioners of conservation, which approval shall be endorsed thereon, and such instrument, when so approved, shall be duly recorded as provided in section 5 [§6402-6], hereof. For recording any assignment or other instrument affecting the title to any permit or lease, or for furnishing certified copies of the records, the state auditor shall charge a fee of ten cents per folio. All such fees shall be turned into the state treasury. (Jan. 18, 1936, Ex. Ses., c. 42, §6.)

**6402-8. Right of lessee to prospect for minerals.**—The holder of any such lease shall have the right to prospect for, mine, and remove any such minerals under the public waters within the area described by such lease. (Jan. 18, 1936, Ex. Ses., c. 42, §7.)

**6402-9. Minerals matter of public interest.**—The discovery and mining or removing of the minerals described herein under the public waters in the state, is a matter of public interest to the state. (Jan. 18, 1936, Ex. Ses., c. 42, §7.)

**6402-10. Forfeiture of permits and leases.**—In the event the holder of such permit or lease shall

fail to comply with all the provisions contained therein to be by him performed or observed, and such default shall continue for a period of 30 days, the commissioner of conservation, upon 30 days notice to the holder of such permit or lease by registered mail to the address of such holder as shown by the records of the state auditor, may declare such permit or lease, and all rights acquired thereunder, forfeited. Upon the filing of such order of forfeiture with the state auditor, all rights under such lease or permit shall cease. (Jan. 18, 1936, Ex. Sess., c. 42, §7.)

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

1. Time and place of holding said sales.
2. The general requirements provided by law as to the purchasers of permits.
3. Place where list of lands, arranged in mining units upon which applications for permits to prospect for iron ore may be obtained. ('21, c. 412, §3; '25, c. 395; '27, c. 389, §1; Ex. Sess., Dec. 23, 1933, c. 14, §1.)

Sec. 2 of Act Dec. 23, 1933, cited; provides that the act shall take effect from its passage.

The Conservation Department may not pass sale of iron ore prospecting permits for a year, but must advertise the sale as required by this section. Op. Atty. Gen., Apr. 18, 1933.

Conservation department must advertise sale of permits to prospect for iron ore. Op. Atty. Gen., Apr. 18, 1933.

**6407. Rights and duties of permit holders—Prospecting work, etc.**

Notice of termination of state mineral contract should be acknowledged in order that it may be recorded. Op. Atty. Gen., Mar. 6, 1933.

**6408. Leases to permit holders—Royalties.**

A contract between the state and a lessor of school land, assigned by the latter to a third party, held a lease and not a sale of ore in place. Wanless Iron Co., (US CCA8), 75F(2d)779, aff'g 29BTA834. Cert. den. 295US765, 55SCR924.

The lease of public land for the benefit of public schools is the exercise of a function strictly governmental in character. Id.

Income received by sublessee, held subject to federal income tax. Wanless Iron Co., 29BTA, Jan. 23, 1934; Hobart Iron Co., 29BTA, Jan. 23, 1934.

**6409. Form of lease—Rental and royalties.**

There is no authority for extending leniency contrary to terms of lease as herein provided. Op. Atty. Gen., May 17, 1933.

**6414. Permits to prospect for ores other than iron, etc.**

Conservation commissioner has no power to modify lease already executed. Op. Atty. Gen., Dec. 18, 1933.

**6430-1. Executive council may extend contracts.**—Whenever a contract or agreement has been made with the State of Minnesota pursuant to Chapter 110, General Laws 1917 [§§6428 to 6430], and the laws amendatory thereof, covering the bed of a public lake or river, the Executive Council is empowered, upon application of the owner or holder thereof, to extend said contract or agreement for an additional period no greater than the period covered by the terms of the original contract or agreement, where the Executive Council deems such extension necessary or desirable in the public interest. The Executive Council is further empowered to grant a license for such definite term or period as it may determine, to the owner or holder of said contract or agreement,

or to any person, co-partnership or corporation having a right to mine any minerals in riparian lands adjacent to those covered by said contract or agreement, to divert the waters from or drain any public lakes or streams in this state as shall by the Executive Council be deemed in the public interest and necessary or desirable either to facilitate a practical carrying out of said contract or agreement or to facilitate the removal of minerals in such aforesaid riparian lands. The Executive Council is further empowered to grant rights of way across or through said lake or stream beds when drained or diverted and the right to construct, maintain and operate, cuts, tunnels, or other engineering works to facilitate mining operations on lands adjacent to the beds of such drained or diverted waters. All rights granted by the Executive Council under the terms of this act shall be assignable. (Act Apr. 21, 1931, c. 286, §1.)

**6430-2. Provisions separable.**—In case any section, provision or part of this act shall be declared unconstitutional, it shall not in any way affect any other section, provision or part hereof. (Act Apr. 21, 1931, c. 286, §2.)

**6430-3. Inconsistent acts repealed.**—All other acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to and give full force and effect to the provisions of this act. (Act Apr. 21, 1931, c. 286, §3.)

#### OTHER LANDS

**6433-1. Peat lands withdrawn from sale.**—All lands now or hereafter owned by the state which are chiefly valuable by reason of deposits of peat in commercial quantities, are hereby withdrawn from sale. (Act Apr. 29, 1935, c. 322, §1.)

**6433-2. Commissioner of Conservation to examine land.**—Before any state land is offered for sale the Commissioner of Conservation shall cause such land to be examined to determine whether such land is chiefly valuable by reason of deposits of peat in commercial quantities. (Act Apr. 29, 1935, c. 322, §2.)

**6433-3. Repeal.**—All acts or parts of acts inconsistent herewith are hereby repealed so far as, and only so far as, inconsistent herewith. (Act Apr. 29, 1935, c. 322, §3.)

**6452-1. Reforestation areas to be set off.**—For the purpose of vesting and revesting 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, or for the purpose of impounding, controlling and regulating the waters of meandered lakes and the flow of natural streams in the State, or for either or any of such purposes, or for other public state purposes, the board of county commissioners of any county within which such lands are located, and in which on January 1, 1931, the taxes on more than 35 per cent of the taxable land are delinquent and of which on January 1, 1931, the bonded ditch indebtedness, including accrued interest, equals or exceeds nine per cent of the assessed valuation of the county, exclusive of monies and credits, may, by resolution duly adopted, propose to the State of Minnesota that one or more areas in such county, containing such land be taken over by the State for afforestation, reforestation, flood control projects, or other public state purposes, to be managed, controlled and used for the development of forests and prevention of forest fires, and for the purpose of experimenting in and practically 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 other public state purposes, 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 and construction of public drainage ditches under the laws of this State, and on which such assessments or installments thereof are overdue, delinquent and unpaid. A duly certified copy of each such resolution of the county board shall be submitted to and filed with the Department of Conservation of the State of Minnesota 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, and if approved by the Executive Council 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 lands which have been sold as provided by law, and for which certificates of sale have been issued, shall be considered taxable lands within the meaning of this section, and if the taxes against 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, until such time as the title of the certificate holder shall have been terminated by the State Auditor in accordance with the provisions of Mason's Minnesota Statutes of 1927, Section 6285. (Act Apr. 25, 1931, c. 407, §1.)

The enacting clause of Act Apr. 25, 1931, c. 407, is as follows:

"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 thereon, at which the general taxpayers 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 costs of establishment and construction of such ditches, and

Whereas, pursuant to such laws certain counties have heretofore incurred obligations to finance and refinance such ditches upon lands which it now appears were and are not now primarily suitable for agriculture, and the assessments levied upon lands supposedly benefited thereby 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 such that taxes so levied would not be paid, and

Whereas, default in the payment of such bonds by certain of such counties is imminent, and the general credit of the State of Minnesota and all its political subdivisions and municipal corporations would thereby be 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 for afforestation, reforestation, flood control projects or other public state purposes, and will produce revenue to assist in relieving the tax burdens and preventing such bonds' default.

Now therefore, be it enacted by the Legislature of the State of Minnesota:—

**6452-2. Department of conservation to manage areas.**—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 the 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 pur-

poses of such project. Such rules and regulations may relate also 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 and 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 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 purposes, 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 their employment. All lands within the boundaries of any such project shall be subject to such rules and regulations, whether owned by the State or privately, consistent with the rights of such private owners or with the laws of this State now or hereafter applicable thereto. All such rules and regulations shall be published once in one qualified newspaper in each county affected and shall take effect after such publication, and shall be, in addition thereto, posted on the boundaries of each project affected. (Act Apr. 25, 1931, c. 407, §2.)

**6452-3. Disposition of proceeds.**—The proceeds of all certificates of indebtedness issued under the provisions of this Act, all monies received from redemption as hereinafter provided, all monies received as gifts to the State for the purposes of any such project, and all income which may be received from the operation, development, management and use of such projects, including fees received from such licenses and permits, all income which may be received from the sale of all birds, animals, fish and flora therefrom and from the sale of lands and timber thereon owned by the State within such area, other than university, school and swamp lands, State forest lands set apart pursuant to Section 7 of Article 8 of the Constitution and State lands acquired under the system of rural credits, and all monies 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 pertain 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 one million five hundred thousand dollars. (Act Apr. 25, 1931, c. 407, §3.)

**6452-4. County Auditor to make list of lands.**—As soon as practicable after the approval 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 the lands within the boundaries of said project, except lands lying within the boundaries of any incorporated city or village, which have been bid in for the State at the delinquent tax sale held in the year of 1928 for the nonpayment of taxes or special drainage assessments and not redeemed or assigned to an actual purchaser, which certificate shall contain the following information:

A. The legal description of each parcel of such lands.

B. The amount of the principal and interest of delinquent drainage assessments, if any, or installments thereof for all years prior to the date of such report against each such parcel of land.

C. The amount of drainage assessments thereof assessed against each such parcel of land, which have been or are to be extended upon the tax rolls of such county for collection with the taxes for the year of 1927 and subsequent years.

On or before June 15th of each year thereafter such county auditor shall certify to the State Auditor a supplemental report giving the information con-



tained in said original report covering such lands within each such project bid in for the State at the annual tax sale of that year and not included in the previous reports.

When redemption is made of any parcel of such land within any such project which has been bid in for the State at any tax sale for taxes heretofore levied, or when tax liens on such lands are assigned to an actual purchaser, the County Auditor shall report the same forthwith to the State Auditor, and the County Treasurer shall transmit forthwith the proceeds of such redemption or assignment to the State Treasurer.

Forthwith upon the approval and acceptance of any such project and thereafter, after each distribution has been made of the tax collections on 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:

A. The amount of principal and interest to become due on such bonds prior to the next ensuing tax settlement and distribution.

B. The amount of monies collected from such drainage assessments and credited to the funds of said ditches.

C. The amount of the deficit in the ditch fund of said county chargeable to such ditches.

Upon the approval of said certificate by the State Auditor, he shall draw a warrant or warrants on the State Treasurer payable out of the fund pertaining to such project for the amount of said deficit in favor of such county.

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 and refinance such ditches outstanding at the time of the passage and approval of this Act less monies on hand in the county ditch fund to the credit of such ditches, 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 such ditches so outstanding, less monies on hand in the county ditch fund to the credit of such ditches at the time of the passage and approval of this Act, which bears the same proportion to the whole amount of such bonds as the original benefits assessed against lands within the project bear to the original total benefits assessed to the entire system of such ditches, 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. 25, 1931, c. 407, §4.)

**6452-5. 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 infor-

mation relating to bonds contemplated by Section 4 [§6452-4] of this Act, to issue and sell certificates of indebtedness in an aggregate sum not to exceed the maximum amount of money payable to or for the benefit of the county in which such project is located, as prescribed in said Section 4, 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 exceeding five per cent 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. Such certificates shall be so issued from time to time as the proceeds thereof are needed for the demands on 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 Land Fund or any other trust fund of the State of Minnesota, and shall be deemed "authorized securities" within the provisions of Section 7714, General Statutes, 1923, and Acts amendatory thereof or supplemental thereto. (Act Apr. 25, 1931, c. 407, §5.)

**6452-6. State Auditor to make tax levy.**—Whenever the State Auditor shall approve a deficiency certificate of the County Auditor as specified in Section 4 [§6452-4] 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 his records 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 levy, 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 4 [§6452-4] 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. 25, 1931, c. 407, §6.)

**6452-7. Lands to be held by state.**—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 Chapter 119, Laws 1927 [§§2139 to 2139-5], or any amendments thereof, shall be held by the State free from the 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. (Act Apr. 25, 1931, c. 407, §7.)

**6452-8. Auditor to certify to the department of conservation.**—Upon receipt by the State Auditor of the reports of the County Auditor specified in Section [§6452-4] 4 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 lands 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 by the State as provided by law. (Act Apr. 25, 1931, c. 407, §8.)

**6452-9. Department of conservation to accept gift.**—The Department of Conservation is hereby authorized and empowered to receive for and in behalf of the State, and to make suitable acknowledgments of, any gift, bequest, devise or grants 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 of such projects. (Act Apr. 25, 1931, c. 407, §9.)

**6452-10. Department of conservation to 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 Chapter 41, General Statutes 1923, and any amendments thereof, or by purchase, any lands or interests in lands in 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 monies shall be used for the purposes specified in this Section until and unless such Department and the State Auditor shall have determined that such monies will not be required to meet the requisitions of the counties authorized under Section 4 [§6452-4] of this Act or for payment of certificates of indebtedness and interest thereon herein provided for. (Act Apr. 25, 1931, c. 407, §10.)

**6452-11. [Repealed.]**

Repealed Jan. 18, 1936, Ex. Ses., c. 47, §5, post §6452-18.

**6452-12. Violations 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. 25, 1931, c. 407, §12.)

**6452-13. 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. 25, 1931, c. 407, §13.)

**6452-14. Counties may assume bonds of towns or school districts in reforestation area.**—Any county wherein a state reforestation or flood control project or other public state purposes as created by Laws 1931, Chapter 407 [§§6452-1 to 6452-13], is located may voluntarily assume the obligation to pay the same ratio or proportion of the principal and interest of bonds now outstanding issued before the approval and acceptance of such project by any school district or town situated in such county lying wholly or partly within such project as the last assessed valuation prior to the acceptance of said project of lands acquired by the state pursuant to Laws 1931, Chapter 407 [§§6452-1 to 6452-13], on July 1, 1936, bears to the total assessed valuation for the same year of such school district or town, such assumption to be evidenced by the adoption of a resolution by the county board of such county authorizing the issuance of bonds for such purpose or otherwise providing for

the payment of the principal and interest of the school or town bonds assumed. (Jan. 18, 1936, Ex. Ses., c. 47, §1.)

**6452-15. Same—issuance of county bonds—adjustment of debt.**—The county board of any such county may by resolution provide for the issuance of bonds for the purpose of assuming the principal and interest of such school district or town bonds, whether matured or not matured, in the manner provided by Laws 1935, Chapter 119 [§§1938-23 to 1938-34], and the county board is authorized to effect agreements for the adjustment of the debt so assumed and the exchange of such county bonds for the bonds so assumed; provided, further, that prior to July 1, 1936, such bonds may be issued in an amount not in excess of 50 per cent of the estimated amount of the principal and interest of such school district or town bonds which are to be assumed by the county, the balance of such bonds to be issued after July 1, 1936. (Jan. 18, 1936, Ex. Ses., c. 47, §2.)

**6452-16. Same—validation.**—Where the county board of any county has heretofore by resolution directed the issuance of any such bonds, the proceedings so had are hereby legalized and 50 per cent of the bonds so heretofore authorized may be immediately issued for exchange for not less than a like principal amount of the estimated total of the school district or town bonds to be assumed. (Jan. 18, 1936, Ex. Ses., c. 47, §3.)

**6452-17. Same—failure to assume and pay—withholding funds.**—In the event any such county shall fail or neglect to assume that portion of the school district or town bonds as provided herein, and any such bonds remain unpaid at maturity, upon demand of the governing body of such school district or town, or the holder of any such bonds, the state auditor shall withhold from the payments to be made to such county under the provisions of Chapter 407, Section 4 [§6452-4], the sum necessary to pay such portion and shall pay the same to the treasurer of such school district or town. All monies received by any school district or town pursuant to this act shall be applied solely to the payment of past due bonds and interest. (Jan. 18, 1936, Ex. Ses., c. 47, §4.)

**6452-18. Repealer.**—Laws 1931, Chapter 407, Section 11, is hereby repealed. (Jan. 18, 1936, Ex. Ses., c. 47, §5.)

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

**6453. State properties to be known as such.**

Management and care of state parks with regulations. Laws 1933, c. 396.

**6456. State auditor to promulgate rules.**

State may accept deed of land to be used for park purposes only and then apply to legislature to have boundaries of nearby park extended to include such land. Op. Atty. Gen. (330b-4), Oct. 10, 1934.

**6459. State parks to be for use of public.**

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW164.

**6462. Violation of rules.**

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW164.

**6463. State land on meandered lakes to be withdrawn from sale.**—All state lands bordering on or adjacent to meandered lakes and other public waters and watercourses and the live timber growing or being thereon hereby are withdrawn from sale.

Of all such land bordering on or adjacent to meandered lakes and other public waters and watercourses and so withdrawn from sale, a strip two rods in width, the ordinary high water mark being the water side boundary thereof, and the landside boundary thereof being a line drawn parallel to the ordinary high water mark and two rods distant landward therefrom, hereby is reserved for public travel thereon, and

wherever the conformation of the shore line or conditions require, the auditor shall reserve a wider strip for such purposes;

Provided, nevertheless, that any such state lands bordering on or adjacent to the Mississippi River or any such lakes, waters and watercourses in the bottom lands thereof, desired or needed by the United States Government for, or in connection with, any project heretofore authorized by Congress for the improvement of navigation in said river, may be sold by the auditor at public sale according to law, as in other cases, upon application by a fully authorized United States official, setting forth a description of the said land and transmitted with a map showing its location with reference to adjoining properties. (As amended Feb. 14, 1929, c. 21.)

It is necessary to reserve a two-rod travel strip on leases of small islands, though diameter does not exceed 50 feet. Op. Atty. Gen., Feb. 24, 1933.

Public is not authorized to use state lands bordering on public waters for night camps or hunting blinds. Op. Atty. Gen., Oct. 2, 1933.

Where lakes have gone dry, state may sell lands or lease them. *Id.*

Lessees of state lake shore property cannot fence down to the water's edge, but private owners of land on meandered lakes have such right. Op. Atty. Gen. (273c-6), July 2, 1934.

**6467-1. Conservation commissioner to make rules and provide fees for camp site.**—The Conservation Commission is hereby authorized to make rules and regulations for the use of state parks and charge appropriate fees for such uses as hereinafter specified:

A. Provide special parking space for automobile or other motor driven vehicle in any such parks and may charge for such parking not to exceed twenty-five cents per day for each such automobile or motor driven vehicle.

B. Provide camp grounds and may charge a fee of not to exceed twenty-five cents per day for camping privileges. Such fees shall apply to each tent, trailer, automobile or other portable equipment or devices used for shelter and sleeping purposes. Provided, however, that no person shall be charged more than a total of twenty-five cents per day for the privileges under paragraphs A and/or B of this section.

C. Improve and maintain golf courses already established in state parks and may charge not to exceed \$1.50 per day per person using such course.

D. May charge a fee of not to exceed 25 cents per person over 12 years of age for entrance to any pageant grounds which may be created in any state park for the purpose of having historical or other pageants conducted by the conservation commission or any other authorized agency. All moneys received from such charges shall be deposited immediately with the state treasurer, who shall deposit the same to the credit of a "State Park Pageant Fund," and all moneys so deposited are hereby reappropriated to the conservation commission for the purpose of defraying all expenses in conducting and operating such state park pageants. The conservation commission is hereby authorized to create a revolving fund of \$500.00 made up from moneys from various state parks for the purpose of conducting such state park pageants. Whenever it is deemed necessary by the conservation commission, for the purpose of better carrying out any such state park pageants, it may stage such pageant in any municipal park or other lands near or adjoining any state park, and all receipts from such pageant shall be used in the same manner as though the pageant were carried on in a state park. (Act Apr. 21, 1933, c. 396, §1; Apr. 15, 1935, c. 185, §1.)

**6467-2. Commission may lease camp sites, etc.**—The Conservation Commission may lease to duly organized associations or societies, on a percentage basis of not less than ten per cent, rights and privileges for operating any concession for the selling of soft drinks, candies and any other confection, and

souvenirs, on holidays or special occasions under such restrictions the Conservation Commission may prescribe. The Conservation Commission may permit persons to sell at specially designated stands or locations on State Parks, souvenirs and other handcraft of their own labor on whatever basis deemed fair and advisable. No other concession, peddling or vending devices shall be permitted except persons may peddle or offer for sale their own agricultural products which do not violate any health or sanitary food regulation of this state. Provided, however, that the state may put in and operate its own vending devices. (Act Apr. 21, 1933, c. 396, §2.)

**6467-3. Commission may lease boat livery rights.**—The Commission may lease rights and privileges to persons for the operating of boat livery, row boats for hire, canoes and power launches on lakes or streams within or under control and jurisdiction of state parks and may lease mooring privileges for such boats and launches to docks, walls or banks owned or controlled by the State of Minnesota on such lakes or streams, for a regular annual stipulation or on a percentage basis of not more than 10 per cent of the gross receipts. No boat or launch hauling passengers for hire or hauling persons who have in any manner contributed for such ride or hire through prizes, tickets or any other device or means shall receive or discharge passengers on any state docks, walls, banks or on any park property, emergency landing excepted, unless licensed to do so under the terms of this Act. No person shall operate or anchor any boat or launch near any state owned dock or landing in any such manner as to retard free and safe operating of any other boat licensed by the state or otherwise. The Commission may require persons using state docks to carry such liability for personal injury as it may find fair and necessary. (Act Apr. 21, 1933, c. 396, §3.)

Operator of gasoline launch on inland water must obtain permit from state boiler inspector and conservation commission in certain cases. Op. Atty. Gen., Mar. 21, 1934.

Where there is interference with exclusive docking privileges at interstate park, state may bring action for damages for injuries suffered or resort to injunction unless unlicensed person is making landings at a public street running across the park or a canoe portage extends across the park terminating at the river. Op. Atty. Gen. (330a-1), June 10, 1935.

**6467-4. Commission may carry on activities.**—The Commission may itself conduct and carry on special activities at any state park, including historical pageants of state wide or local interest, or it may lease or grant such privilege to local or state wide historical associations to carry on such celebrations and pageants on whatever term or basis the Commission may see fit. No such activities, celebrations or pageants shall be of such nature as to be inconsistent with good park management and policy and no charges shall be made to any such activities or celebrations and they shall be open to the public subject to laws and rules pertaining to the management of state parks. (Act Apr. 21, 1933, c. 396, §4.)

**6467-5. Monies to be credited to various parks.**—Except as otherwise provided by this act all moneys received and collected from the operation of this act shall be deposited with the State Treasurer, who shall deposit the same to the credit of the various parks affected, and all moneys so deposited are hereby appropriated to be used for the improvements and development of the park from which said fees are received. (Act Apr. 21, 1933, c. 396, §5; Apr. 15, 1935, c. 185, §2.)

**6467-6. Violations a misdemeanor.**—Any person violating any of the terms or provisions of this Act shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 396, §6.)

**6467-7. Forestry division to administer act.**—The carrying out of the provisions and terms of this Act shall be under the director of the division of forestry. (Act Apr. 21, 1933, c. 396, §7.)

**6467-8. Inconsistent acts repealed.**—All Acts or parts of Acts inconsistent with this Act are hereby repealed. Provided however that this Act shall not supersede or repeal any Act relating to the management of Douglas Lodge. (Act Apr. 21, 1933, c. 396, §8.)

**6467-9. Provisions separable.**—The provisions of this Act shall be separable and if any provision hereof shall be declared invalid it shall not invalidate any other provision hereof. (Act Apr. 21, 1933, c. 396, §9.)

**6472. School houses in state parks.**

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW164.

**6473. Certain lands added.**

Laws 1933, c. 289, adds certain lands to Itasca State Park.

**6487. Leasing of Douglas lodge, Itasca Park, authorized.**

Commission of administration of finance has no power to cancel balance of term of existing lease of Douglas Lodge and substitute new and longer lease therefor, but cancellation must be had through the executive council, after which new lease should be supervised and controlled by the commission of administration and finance. Op. Atty. Gen. (980b-31), May 13, 1935.

**6491. Minneopa State Park.**

Act Ex. Ses., Dec. 23, 1933, c. 9, authorizes the governor to convey certain land in park to cemetery association.

The department of conservation is authorized to acquire a small parcel of land located in the center of the park. Op. Atty. Gen. (203h-8), May 2, 1934.

**6493-1. Boundaries of Minneopa State Park.**

That the boundaries of Minneopa State Park, as established and created by General Laws 1905, Chapter 297, and as enlarged by General Laws 1909, Chapter 409, and by General Laws 1917, Chapter 157 [§§6491 to 6496], be and the same hereby are enlarged by adding to said park the following land situate in Blue Earth County, Minnesota, to-wit:

Commencing at a point eight hundred thirty-five (835) feet west and ten hundred eighty-seven (1,087) feet south of the northeast corner of section eighteen (18), township one hundred eight (108) north of range twenty-seven (27) west, thence at an angle of one hundred twenty-two (122) degrees seventeen (17) minutes right (north sixty-three (63) degrees west) seven hundred seventy-two (772) feet to a point on the north side of highway; thence along the north side of highway one hundred fifty-eight (158) degrees thirty-one (31) minutes left (south forty-one (41) degrees forty-five (45) minutes east) three hundred forty-five and 7/10 (345.7) feet, thence thirty-four (34) degrees thirty-six (36) minutes left (south seventy-six (76) degrees thirty (30) minutes east) four hundred seventy-four and 8/10 (474.8) feet; thence one hundred ten (110) degrees thirty-six (36) minutes left (north five (5) degrees forty-five (45) minutes west, twenty-three (23) feet to the place of beginning, containing about one and 24/100 acres of land. (Act Feb. 4, 1931, c. 7, §1.)

**6501. Fort Ridgely State Park.**

State may accept deed of land near Fort Ridgely State Park under §6456, and legislature can then extend limits of park to include the land. Op. Atty. Gen. (330b-4), Oct. 10, 1934.

**6508-4. Birch Cooley Battle Field State Memorial Park established.**—That the northeast quarter (NE 1/4) of the southeast quarter (SE 1/4) of Section nineteen (19) and the northwest quarter (NW 1/4) of the southwest quarter (SW 1/4) of Section twenty (20), all in Township one hundred thirteen (113) of Range thirty-four (34) in the county of Renville, be and the same hereby is set apart and established as a state memorial park in commemoration of the heroic deeds and sacrifices of Minnesota's pioneer citizens and her soldiers and sailors of all wars. (Act Mar. 19, 1929, c. 75, §1.)

**6508-5. Same—Name.**—That the name of said park shall be "Birch Cooley Battle Field State Memorial

Park," and the same by this act hereby is dedicated to the perpetual use of the people as a public park as a resting place for Minnesota's soldier and sailor dead of all wars, under the restrictions herein contained or which may hereafter be provided by law. (Act Mar. 19, 1929, c. 75, §2.)

**6508-6. Same—Commission to be appointed by governor.**—That a commission to be known as the Birch Cooley State Memorial Park Commission, comprised of three persons to be appointed by the governor forthwith upon the passage of this act, hereby is created. Upon appointment the commission shall proceed to acquire by gift/or purchase and/or exercise of the power of eminent domain that part of the lands described in Section 1 [§6508-4] hereof now owned by the state, and to pay therefor such reasonable compensation as may be agreed upon, subject to the approval of the governor. In case said lands or any part thereof cannot be secured for a price which is satisfactory to the commission and the governor, the attorney general hereby is authorized, and fully empowered, upon written request of the commission, to institute and carry on, for and in behalf of and in the name of the state proceedings for the acquisition of the title in fee to said lands or such part thereof, by exercise of the power of eminent domain, in the manner provided by law therefor. (Act Mar. 19, 1929, §3.)

**6508-7. Same—Part of park to be cemetery.**—That upon final acquisition by the state of the title to said lands and premises the commission shall cause a plat thereof to be made, and a part thereof, suitably located and so situated that its boundaries may be extended as from time to time may be necessary, to be set aside, marked and platted as a cemetery for the burial of Minnesota's soldier and sailor dead of all wars, and the plat or plats thereof to be duly recorded in the office of the register of deeds of Renville county. The portion of said park so set aside, marked and platted as a cemetery shall be known as the "Minnesota Soldiers' and Sailors' Rest." (Act Mar. 19, 1929, c. 75, §4.)

**6508-8. Same—Commission to serve without compensation.**—That the members of the commission shall serve without compensation or expenses. The commission shall make full report to the 1931 legislature of its acts and doings hereunder, and following the acquisition of the lands and the completed performance by the commission of its duties as herein prescribed, the department of conservation shall have the care, improvement supervision, control and management of said park. (Act Mar. 19, 1929, c. 75, §5.)

**6508-9. Same—Appropriation.**—That the sum of \$7,500.00 or so much thereof as may be necessary, available immediately and until the end of the fiscal year ending June 30, 1931, hereby is appropriated out of any moneys in the treasury not otherwise appropriated, to the use of the commission for carrying out the purposes of this act, payable upon itemized vouchers of expenditures approved by the commission. (Act Mar. 19, 1929, c. 75, §6.)

**6508-9 1/2. Lake Chetek State Park—Appropriation for additional land.**—The sum of \$1,000.00 or so much thereof as may be necessary, is hereby appropriated from any moneys in the state treasury not otherwise appropriated, for the purpose of acquiring, by purchase or by condemnation, additional lands not exceeding two acres in area surrounding the public monument erected at Lake Shetek in Murray County, Minnesota, under authority of General Laws 1923, Chapter 149, and for a right of way for a public highway leading from said monument to an improved public highway adjacent thereto, and for the construction and maintenance as a highway of the right of way so acquired. (Act Apr. 20, 1929, c. 269, §1.)

Laws 1923, c. 149, referred to in this section made appropriations for removal of bodies of citizens of Minnesota massacred at Lake Chetek in 1862, for erection of monument, and for acquisition of burial grounds. The act appointed a commission to carry the act into effect.

**6508-10. Same—State Auditor to acquire lands.**—Said lands shall be acquired and said appropriation expended by the state auditor, who shall, by order made and filed in his office, determine what lands shall be acquired for the purposes herein specified.

In the acquisition of said lands, whether by purchase or by condemnation, consideration shall be given in fixing the compensation to be paid to the owners thereof to the provision in the deed by which D. H. Evans and wife conveyed to the State of Minnesota the lands upon which said monument has been erected, which is to the effect that the said grantors will at all times provide convenient access to said monument site by the state, its agents and servants, and by the public. (Act Apr. 20, 1929, c. 269, §2.)

**6508-11. Same—Lands to be State Park.**—The lands acquired under authority of this act are, together with the lands heretofore acquired under the provisions of General Laws 1923, Chapter 149, hereby declared to be a state park. (Act Apr. 20, 1929, c. 269, §3.)

**6508-12. Same—Custodian.**—In the event the legislature shall at its present session enact any law imposing upon an officer, other than the state auditor, the duty of supervising or caring for state parks, then the powers and duties hereby conferred upon the state auditor shall be transferred to and exercised and performed by the officer so charged with the duty of supervising and caring for state parks. (Act Apr. 20, 1929, c. 269, §4.)

**6508-13. Sam Brown Memorial Park Commission created.**—That a commission to be known as the Sam Brown Memorial Park Commission, comprised of three persons to be appointed by the governor forthwith upon the passage of this act, hereby is created. Upon appointment the commission shall proceed to acquire for and in the name of the state, by gift and/or purchase and/or exercise of the power of eminent domain, and to pay therefor such reasonable compensation, within the limits of appropriations made available therefor as may be approved by the governor, those certain tracts and parcels of land, with the log cabin and other improvements and structures thereon, situate in the village of Browns Valley, County of Traverse and State of Minnesota, described as follows, to-wit: Beginning at a point on the north side of Broadway, 181 feet west from the southeast corner of Block Four, West Side Addition to the Village of Browns Valley, thence west along said Broadway 100 feet, thence north to the Little Minnesota River, thence easterly along said river to a point due north from the place of beginning, thence due south to the place of beginning, all in the Village of Browns Valley; and beginning at a point 281 feet west from the southeast corner of Block Four of West Side Addition to the Village of Browns Valley, thence west 25 feet, thence north to the south bank of the Little Minnesota River, thence east 25 feet, and thence south to the south line of said Block Four. Also that tract more particularly described as follows: Beginning at a point 225 feet east from the southwest corner of Block Five of West Side Addition to the Village of Browns Valley, thence east 81 feet, thence north to the center of the Little Minnesota River thence west 81 feet, and thence south to the southern line of said Block Five to the place of beginning, in the Village of Browns Valley, Traverse County, State of Minnesota. (Act Apr. 24, 1929, c. 357, §1.)

**6508-14. Sam Brown Memorial Park established.**—That upon final acquisition of a good and marketable title to said lands and premises, the said area comprising the same be and it hereby is set apart and established as a state memorial park in commemoration of the heroic deeds and sacrifices of Minnesota's

pioneers, for the use of and enjoyment by the people. (Act Apr. 24, 1929, c. 357, §2.)

**6508-15. Same—Name.**—That the name of said park shall be the "Sam Brown Memorial Park." (Act Apr. 24, 1929, c. 357, §3.)

**6508-16. Same—Village to pay expense of upkeep.**—That upon the acquisition of said park and its improvements as hereinafter provided, the same, with all monuments, markers or other memorials thereon, shall be forever kept, improved, maintained and controlled by and at the expense of the Village of Browns Valley, subject to the general supervision of the department of conservation. (Act Apr. 24, 1929, c. 357, §4.)

**6508-17. Same—Commission to repair buildings.**—That upon final acquisition of said property and within the limits of appropriations available therefor, the commission shall cause the log cabin thereon to be repaired and placed in condition for permanent preservation, and may place thereon a suitable memorial tablet or inscription. (Act Apr. 24, 1929, c. 357, §5.)

**6508-18. Same—To erect monument.**—That within such limits the commission may erect or place upon said site a suitable inscribed and protected monument or marker to the memory of Samuel J. Brown. (Act Apr. 24, 1929, c. 357, §6.)

**6508-19. Same—Members to serve without compensation.**—That the members of the commission shall serve without compensation or expenses. The commission shall make full report to the 1931 legislature of its acts and doings hereunder. (Act Apr. 24, 1929, c. 357, §7.)

**6508-20. Same—Appropriation.**—That the sum of \$6,500 or so much thereof as may be necessary, available immediately and until the end of the fiscal year ending June 30, 1931, hereby is appropriated out of any moneys in the treasury not otherwise appropriated, to the use of the commission for carrying out the purposes of this act, payable upon itemized vouchers of expenditures approved by the commission. (Act Apr. 24, 1929, c. 357, §8.)

**6508-21. Charles A. Lindbergh State Park—State Auditor to accept park.**—The state auditor is hereby authorized to accept on behalf of the State a gift of the following described premises in Morrison County, Minnesota, from Colonel Charles A. Lindbergh and others, to-wit:

Lot One (1) and the Southwest quarter of the northeast quarter of Section 25, Township 129, Range 30;

Lot One (1) of Section 30, Township 129, Range 29;

That part of Lot Nine (9) of Park Outlots to the City of Little Falls (in Section 25, Township 129, Range 30, which is within the following metes and bounds: beginning at the southwest corner of said Lot 9 and from thence follow the south line thereof to the southeast corner thereof, thence north follow to the east line of said lot to a point thereon 175 feet north of the southeast corner, and thence in a southwesterly direction in a straight line to the point of beginning, containing nearly three quarters of an acre in the southeast corner of said Lot 9;

Exempting therefrom, however, all flowage rights and grants of record. (Act Mar. 12, 1931, c. 53, §1.)

**6508-22. Same—Name.**—When proper conveyance have been delivered to the state, vesting in the state title thereto, said property shall constitute a state park to be known as "Charles A. Lindbergh State Park," and shall remain dedicated to the perpetual use of the people of the state under such restrictions as may be provided by law. (Act Mar. 12, 1931, c. 53, §2.)

**6508-23. Same—State Auditor to supervise park.**—The general care, supervision and control of said state park shall be vested in the state auditor. (Act Mar. 12, 1931, c. 53, §3.)

Sec. 4 makes an appropriation for maintenance.

**6508-24. The Old Crossing—Executive council to accept lands.**—The Executive Council is hereby authorized to accept in behalf of the State of Minnesota, a deed of conveyance to Lot One (1), Section thirty-three (33), Township One Hundred fifty-one (151), North of Range Forty-five (45) West of the Fifth Principal Meridian, Red Lake County, Minnesota, and upon which property the United States Government, pursuant to Act of Congress approved January 31st, 1931, is to erect a monument and historical tablet on the banks of the Red Lake River at the place known as The Old Crossing, to commemorate the signing of a treaty on October 2nd, 1863, between the United States of America and the Chippewa Indians. (Act Apr. 20, 1931, c. 235.)

#### STATE FORESTS

**6513-1. Definitions.**—The term "State Forests" as used in this act shall include all state lands now or hereafter set apart as state forests and shall be held to include all state owned forest lands of every description which may now or hereafter be devoted to uses of forestation or timber production, including all such lands set apart under Section 7 of Article 8 of the state constitution and laws enacted in pursuance thereof, also all such lands withdrawn from sale for the purpose of forestation and timber reserves under the provisions of Section 4 of Article IV, Laws 1925, Chapter 426 [§53-22], and all other such lands now or hereafter otherwise acquired or set apart as state forests or forest reserves or for the purpose of forestation and timber production. (Act Apr. 20, 1931, c. 263, §1.)

See §§6302-1 to 6302-4.

**6513-2. Commissioner of forestry to have charge of state forest.**—The commissioner of forestry and fire prevention shall have charge and control of all state forests, and shall maintain and manage the same on forestry principles for timber production and for such other uses as are not inconsistent therewith. (Act Apr. 20, 1931, c. 263, §2.)

**6513-3. State Auditor to sell timber.**—(a) Timber and other forest products in the state forests shall be sold by the state auditor, upon recommendation and request of the commissioner, in the same manner as provided by law for the sale of timber on other state lands, except as herein otherwise provided. Before any such sale is made, it shall be approved by the executive council, as successor in authority to the state timber board, as provided by law in case of sale of timber on other state lands. No timber or other forest products shall be offered or advertised for sale, or made subject to competitive bidding, in lots or parcels extending over more than one section or exceeding Fifteen Thousand (\$15,000.00) Dollars of appraised value.

(b) Such timber and other forest products in the state forests shall be estimated and appraised for sale under the direction of the commissioner. Such estimates and appraisals may be made either by duly appointed and qualified state appraisers, designated by the commissioner, with the approval of the state auditor, or by qualified persons appointed for the purpose by the commissioner, who shall be known as state forest appraisers. Each such state forest appraiser shall, before entering upon the duties of his office, take an oath and give a bond as provided by law for state appraisers, and shall, under the direction of the commissioner, with respect to all state forest lands and the timber and forest products thereon, have and exercise all the powers and perform all the duties by law vested in or imposed upon state appraisers with respect to other state lands.

(c) The cutting and removal of all such timber and other forest products sold in the state forests shall be conducted under the supervision of the commissioner, and subject to such conditions, rules, and regulations as he may prescribe, and the notice of sale given by the auditor shall so state; provided, that so

far as not inconsistent herewith all provisions of law relating to the cutting and removal of timber on other state lands shall apply to and govern the cutting and removal of timber and forest products in the state forests. (Act Apr. 20, 1931, c. 263, §3.)

It would be better form to have two bonds for a person serving as forest appraiser and also ranger. Op. Atty. Gen., July 24, 1933.

**6513-4. Commissioner may sell dead and down timber.**—The commissioner may sell dead, down, dying, insect infested or diseased timber in the state forests in the same manner and subject to the same conditions and restrictions as provided by law for the sale of such timber by the state auditor upon other state lands by Laws 1925, Chapter 276, Section 10 [§6394-10]. For the purpose of such sales and the cutting and removal of timber so sold the commissioner shall have and exercise all the powers and perform all the duties vested in or imposed upon the auditor by said section, and the cutting and removal of such timber shall be conducted under the supervision of the commissioner and subject to such conditions, rules, and regulations as he may prescribe. The commissioner may also sell in the same manner and subject to the same conditions and restrictions any green standing timber when in his judgment it is necessary or advisable to cut and remove such timber for the improvement of the forest wherein the same is situated. (Act Apr. 20, 1931, c. 263, §4.)

**6513-5. Commissioner to prosecute trespass.**—With respect to trespass and unlawful cutting or removal of timber upon the state forest lands, the commissioner shall have and exercise all the powers and perform all the duties vested in or imposed upon the state auditor by Laws 1925, Chapter 276, Sections 32 and 33 [§§6394-32, 6394-33], or by any other law relating to trespass or unlawful cutting or removal of timber upon other state lands, and the state forest appraisers and other authorized employees of the commissioner shall have like power and authority with respect to trespass and unlawful cutting or removal of timber upon the state forest lands as the authorized employees of the auditor have by law with respect to said matters upon other state lands. Except as herein otherwise provided, all trespasses and unlawful cutting or removal of timber upon state forest lands and all matters pertaining thereto or connected therewith shall be subject to and shall be governed by the laws pertaining to trespasses and unlawful cutting or removal of timber upon state lands. (Act Apr. 20, 1931, c. 263, §5.)

**6513-6. Commissioner to grant leases.**—The commissioner shall have power to grant and execute in the name of the state leases and permits for the use of any state forest lands for any purpose which in his opinion is not inconsistent with the maintenance and management of the state forest in which the land is situated on forestry principles for timber production; provided, that every such lease or permit shall be revocable at the discretion of the commissioner at any time, and shall be subject to such conditions and regulations as the commissioner may prescribe. The approval of the commission of administration and finance shall not be required upon any such lease or permit. No such lease or permit for a period exceeding two years shall be granted except with the approval of the executive council. (Act Apr. 20, 1931, c. 263, §6.)

Under a hay stumpage permit containing provisions prohibiting its transfer, a permittee may have hay cut by a third person on share arrangement. Op. Atty. Gen. (203L-3), Oct. 4, 1934.

**6513-7. Commissioner to issue permits for roads.**—No public highway other than a state trunk highway shall be established or laid out through any State Forest as the same shall be created and withdrawn from public sale and entry by existing or subsequent Act without the consent of the commissioner, certified by him in writing to the public authority having



power to establish or lay out such highway. In any judicial proceedings affecting the laying out of a highway, the court may either sustain or reverse the action of the commissioner as the court in its discretion may deem proper. The limitations and restrictions provided in Section 7 [§6513-7] of this act shall not apply to state owned lands which have not been expressly withdrawn from sale and created and reserved as State Forests, so called. No state forest lands or right or easement therein shall be taken by eminent domain for any purpose without the consent of the commissioner certified by him in writing to the authority or corporation exercising such right of eminent domain. (Act Apr. 20, 1931, c. 263, §7.)

**6513-8. Commissioner to make rules.**—The commissioner shall have power to prescribe such rules and regulations governing the use of the state forests or any part thereof by the public or governing the exercising by holders of leases or permits upon state forest lands all their rights under such leases or permits as may be necessary to carry out the purposes of this act. (Act Apr. 20, 1931, c. 263, §8.)

**6513-9. State forest fund created.**—All income which may be received from lands acquired by the State within the areas which have been designated or shall hereafter be designated by the Legislature as state forests, excepting State forest lands included within the game preserve established by Laws of 1929, Chapter 258 [§§5620-1 to 5620-13], and by Laws of 1931, Chapter 407 [§§6452-1 to 6452-13], shall be paid into the state treasury and credited to the General Revenue fund. (Act Apr. 17, 1933, c. 313, §1.)

**6513-10. Fifty per cent of receipts to go to county.**—The State of Minnesota shall hereafter pay annually to each county in which there now are, or hereafter shall be situated, any state forests described in Section 1 hereof, a sum equal to 50 per cent of the gross receipts of such state forests located within such county, which payment shall be received and distributed by the county treasurer among the various funds of the county and the respective towns and school districts therein wherein such lands lie on the same basis as if such payment had been received as taxes on such lands payable in the current year. (Act Apr. 17, 1933, c. 313, §2.)

**6513-11. State auditor to draw warrants.**—The state auditor shall annually draw his warrants upon the state treasurer for the proper amounts in favor of the respective counties entitled thereto and the state treasurer shall pay such warrants from the state forest fund. (Act Apr. 17, 1933, c. 313, §3.)

**6513-12. State auditor and state treasurer to adopt an accounting method.**—The state auditor and the state treasurer are hereby authorized and empowered to devise, adopt, and use such accounting methods as they may deem proper, and to do any and all other things reasonably necessary in carrying out the provisions of this Act. (Act Apr. 17, 1933, c. 313, §4.)

**6514. Lands given for reserves.**

Tax commission has no power to abate taxes on 16,000 acres under §1983 in consideration of transfer of 32,000 acres to the state under §6514. Op. Atty. Gen. (130b), Dec. 7, 1934.

**6515. Tax title lands, how set apart.**

Act authorizing exchange of lands acquired under delinquent tax laws by the state in Red Lake Game Preserve for lands privately owned. Laws 1931, c. 32, ante, §§5620-14 to 5620-21.

**6516. Lands purchased for reserves.**

Purchase of land held authorized. Op. Atty. Gen., Aug. 21, 1933.

**6522-2. Certain lands specified as State Forests.**—The State School and other public lands now owned by the State of Minnesota, included within the following described limits:

Township 152, Ranges 25 and 26, Township 153, Ranges 25, 26, 27, 28 and 29, Township 154, Ranges 25, 26, 27, 28, 29, Township 155, Ranges 25, 26,

27, 28, and 29, Township 156, Ranges 25, 26, 27, and 28, Township 157, Ranges 26 and 27 from the Minnesota and International Railroad west to the old Red Lake Indian Reservation boundary; Township 158, Ranges 26 and 27, from the Minnesota and International Railroad west to the old Red Lake Indian Reservation boundary and south of the Black River, west of the 5th Principal Meridian and Township 64, Ranges 24, 25, 26, 27, Township 65, Ranges 24, 25, 26, and 27, Township 66, Ranges 26 and 27, Township 67, Ranges 26 and 27, Township 64, Range 20, Township 64, Range 21 east of the Nett Lake Indian Reservation, Township 63, Range 19, Townships 61 and 62, Range 17, Township 54, Ranges 12, 13, 14 and 15, Township 55, Ranges 13, 14 and 15, Township 42, Ranges 16, 17 and 18, Township 41, Ranges 16, 17 and the east one-half of Range 18, Township 49, Range 19, Township 49 and 50, Range 23, Township 60 and the south one-half of Township 61, Range 20, Sections 23-24-25-26-35 and 36, Sections 1 to 12 inclusive, Township 59, Range 21, Townships 59, 60 and the south one-half of Township 61, Range 21, Townships 59, 60 and the south one-half of Township 61, Range 22, Township 59, 60 and 61, Range 23, Township 59, 60, and the East one-half of Township 61, Range 24, Township 60 and 61, Range 25, west of the 4th Principal Meridian, Section 16, Township 139, Range 32, Township 134, Range 29, west of Gull Lake, Township 134, Range 30, Sections 7 to 36 inclusive, in Township 144, Ranges 36, 37, and 38, and all of Township 143, Range 37, and Township 143, Range 38, and Sections 1 to 6 inclusive in Township 142, Range 37, and Township 142, Range 38, the west five-sixths of Township 137, Range 31, the east one-sixth of Township 137, Range 32, Township 138, Range 31, the north one-half of Township 158, Ranges 33, 34, and 35, Township 159, Ranges 33, 34 and 35, the south one-half of Township 160, Ranges 33 and 34, Township 160, Range 35, west of the 5th Principal Meridian, are hereby withdrawn from sale and established as state forests, to be governed, operated, managed and controlled in the same manner as other state forests. (Act Apr. 9, 1931, c. 124.)

**6522-3. Certain state lands to become state forest.**—Whenever the Commissioner of Forestry and Fire Prevention shall determine that any tract of public land of the state which shall have reverted to the state on account of default after sale theretofore made to an individual purchaser, and which, after being reoffered for sale, remains unsold, is suitable and is required for use as a forestry administrative station, demonstration forest, or for any other forestry purpose, and which has heretofore been put to such use, all in designated state forests, and shall so certify to the State Auditor, it shall be the duty of the Auditor forthwith to certify such tract upon his records as state forest land. Thereupon any and all right of the prior purchaser of such tract to redeem the same shall be terminated and extinguished and such tract shall become and be a part of the state forests, subject to all the provisions of law relating thereto. (Act Apr. 21, 1931, c. 283, §1.)

UNITED STATES LANDS

**6528-1. State relinquishes swamp lands.**—The State of Minnesota hereby waives and relinquishes any and all right and claim that it may by virtue of the Act of Congress of March 12, 1860 (12 Statutes at Large 3) have in or to swamp and overflowed lands lying within the White Earth Indian Reservation in Minnesota which have heretofore been conveyed by the United States, by patent in trust or in fee, to any Indian whether of full blood or of mixed blood. (Act Apr. 18, 1929, c. 226, §1.)

**6528-2. Effective when.**—This act shall take effect and be of force only when and after the United States shall by act of Congress have ratified and



confirmed in the State of Minnesota and its grantees and assigns the title to all lands included within the following described patents issued by the United States to the State of Minnesota, to-wit:

Patent No. 1	dated May	14,1877
Patent No. 3	dated August	5,1880
Patent No. 4	dated November	20,1880
Patent No. 5	dated April	13,1881
Patent No. 6	dated March	27,1885
Patent No. 7	dated March	10,1888
Patent No. 28	dated September	20,1893
Patent No. 41	dated March	15,1895
Patent No. 59	dated April	30,1896
Patent No. 65	dated September	15,1896
Patent No. 72	dated January	18,1897
Patent No. 73	dated February	11,1897
Patent No. 77	dated May	6,1897
Patent No. 82	dated October	20,1897
Patent No. 84	dated January	15,1898
Patent No. 92	dated February	21,1899
Patent No. 95	dated March	15,1899
Patent No. 106	dated October	23,1899
Patent No. 110	dated April	20,1900
Patent No. 126	dated August	26,1901
Patent No. 127	dated August	28,1901
Patent No. 139	dated August	17,1903
Patent No. 163	dated October	14,1904
Patent No. 167	dated January	12,1905
Patent No. 169	dated March	27,1905
Patent No. 170	dated April	8,1905
Patent No. 174	dated October	17,1905
Patent No. 176	dated November	23,1905

and shall have dismissed with prejudice the suit involving said lands and their value and the proceeds from sales thereof now pending in the Supreme Court of the United States, and entitled United States versus State of Minnesota. (Act Apr. 18, 1929, c. 226, §2.)

See 282US907, 51SCR332.

**6529. Grant by municipal corporation.**

Township may sell and convey lands to the United States but there must be a compliance with §§638(2, 3), 663, 999(2), 1007, but authority may be obtained from voters at special election. Op. Atty. Gen. (700d-28), July 3, 1935.

**6536-1. Commissioner of Conservation may purchase lands from United States Government.**—The Commissioner of Conservation is hereby authorized to purchase, to accept by gift or lease, or by tenure title any lands owned by the United States Government, including timber thereon, within the townships in which state forests, or state parks or game refuges or public shooting grounds have been set apart, or will hereafter be set apart by the legislature. These tracts, when the title thereto has become vested in the state, shall become and be a part of the state forests, or state parks, or game refuges or public shooting grounds, subject to all laws, rules and regulations, relating to state forests, or state parks or game refuges or public shooting grounds. (Act Apr. 29, 1935, c. 333, §1.)

**6536-2. May expend money on leased land.**—When lands are obtained by lease from the United States Government under this act, the Commissioner of Conservation shall be authorized to make expenditures from any funds not otherwise obligated, for the management, development, and utilization of such areas; to sell or otherwise dispose of products from such lands and make necessary rules and regulations to carry out the purposes of this act. Unless otherwise provided, all incomes derived from such leased lands shall be paid into the State Treasury and be credited to the State Forest Fund and the same is hereby annually reappropriated for the use of the Commissioner of Conservation in the acquisition, management, development, and use of such leased lands until all obligations incurred have been paid in full. Thereafter all revenues received therefrom shall be distributed in accordance with Chapter 313, Laws of 1933 [§§ 6513-9 to 6513-12.]. (Act Apr. 29, 1935, c. 333, §2.)

**6536-3. Not to create debt.**—Obligations for the acquisition of lands by lease incurred under the authority of this act shall be paid solely and exclusively as hereinbefore provided from revenues derived from such lands and shall not impose any liability under the general credit and taxing power of the state. (Act Apr. 29, 1935, c. 333, §3.)

**6536-4. May sell and exchange lands.**—The Commissioner of Conservation with the approval of the Conservation Commission and of the Executive Council shall have full power and authority to sell, exchange or lease lands under its jurisdiction, when it is deemed advantageous to the State in the interests of the highest development, utilization and management of State Forests. Provided, however, that such sale, lease or exchange of lands shall not be contrary to the terms of any contract which has been entered into and shall not apply to state trust fund lands. (Act Apr. 29, 1935, c. 333, §4.)

**6536-5. Commissioner to make rules and regulations.**—The Commissioner of Conservation with the approval of the Conservation Commission of the State of Minnesota is hereby authorized to make such rules and regulations as may be necessary to carry out the purposes of this act and is hereby authorized to enter into cooperative agreements with appropriate officials of the United States for and on behalf of the State of Minnesota in order to secure the full benefits to this state of the provisions of an act of Congress introduced March 21, 1935, as H. R. 6914 and all other acts of Congress which have been or may be passed providing for ways and means of authorizing cooperation with the states for the purpose of stimulating the acquisition, development, and management of state lands and coordinating federal and state activities in carrying out a national program of land use and management, and for other similar purposes; that this act and all other acts and amendments thereto and all rules and regulations and agreements made hereunder shall be liberally construed for the purpose of making possible the complete cooperation of the agencies of this state with the agencies of the Federal Government. (Act Apr. 29, 1935, c. 333, §5.)

**6536-6. Provisions severable.**—The provisions of this act shall be held severable. In case any provision hereof shall be held unconstitutional no other provision hereof shall thereby become inoperative. (Act Apr. 29, 1935, c. 333, §6.)

**6536-7. Inconsistent acts repealed.**—All acts and parts of acts inconsistent herewith are hereby superseded, amended or modified so far as may be necessary to give full force and effect to the provisions of this act. (Act Apr. 29, 1935, c. 333, §7.)

**6536-11. Expenditure of state's percentage of proceeds of sale of lands of the United States.**—All sums heretofore or that may hereafter be received from the United States government, on account of an act of Congress approved May 23, 1908 (35 Stat. 260) [Mason's U. S. Code Anno., title 43, §500], or any amendments thereof hereafter enacted shall be expended as follows:

One-half for public schools, and the remainder for public roads in the counties in which the national forests are situated; provided, however, that any county coming within the provisions of said act of Congress is hereby authorized to borrow money from the Federal Government or any of its agencies and to use moneys received pursuant to the provisions of said act of Congress or amendments thereto for the purpose of repaying any loan or loans made to such county by the Federal government or any of its agencies. In the case of the Superior National Forest, the counties of Cook, Lake and St. Louis shall share equally in the distribution of the sum received from that source, and Cass county shall receive the entire sum derived from the "Minnesota National Forests." ('13, c. 58, §1; Jan. 24, 1936, Ex. Ses., c. 80, §1.)

**6536-12. Same—warrant to county treasurers—federal loans to counties.**—It shall be the duty of the

state auditor to transmit his warrants on the state treasury to the county treasurer of the respective counties for the sum that may be due in accordance with this act, which sum or sums are hereby appropriated out of the state treasury from the amounts received from the United States government, pursuant to the aforesaid act of congress. The State Auditor upon being notified by the Federal government or any agencies thereof that a loan has been made to any such county the repayment of which is to be made from said fund is authorized to transmit his warrant or warrants on the State Treasurer to the Federal government or any agency thereof sufficient to repay such loan out of any moneys apportioned or due to such county under the provisions of said act of Congress, approved May 23, 1908 (35 Stat. 260). ('13, c. 58, §2; Jan. 24, 1936, Ex. Ses., c. 80, §2.)

**6536-13. Same—use for schools and roads near national forests.**—It shall be the duty of the county board of each county receiving such money to use the portion allotted to public schools to aid in maintaining those school districts that may be situated within or near the national forest, and the portion allotted for public roads shall be used, so far as practicable, in the construction and repair of roads within or near the national forests; provided, however, that this section shall not apply to any such sums of money which may have been allotted or set aside for the purpose of paying loans which may have been made by any county pursuant to the provisions of Sections 1 and 2 of this act. ('13, c. 58, §3; Jan. 24, 1936, Ex. Ses., c. 80, §3.)

CHAPTER 41

Eminent Domain

**6537. Right of eminent domain.**

177M146, 225NW86.  
An enlargement by the court against objection, of condemnation proceedings to include easements over lands or lots not sought in the state's petition, is an unwarranted interference with properly delegated legislative functions. *State v. Erickson*, 185M60, 239NW908. See Dun. Dig. 4158(71).

The highway commissioner's order designating the permanent re-routing of a trunk highway does not in itself constitute a taking of the property within the designated route. It is the exercise of a legislative function constitutionally delegated to the commissioner by the Legislature and is conclusive on the courts as to the necessity of the taking. *State v. Erickson*, 185M60, 239NW908. See Dun. Dig. 4158(71).

Eminent domain is a right possessed by state in its sovereign capacity. It is not conferred by the constitution, but is restricted by it. Its exercise rests exclusively in legislature. Judicial power comes into play only to extent that constitution guarantees owner of property right to compensation. *State v. Severson*, 194M644, 261NW469. See Dun. Dig. 3012, 3013, 3014, 3080.

Village of North St. Paul has authority to condemn rights of way for an alley or to condemn an easement for water and sewer pipes across private property. *Op. Atty. Gen.*, May 26, 1931.

School district is not entitled to reimbursement from state by reason of reduction of assessed valuation by taking of large amount of land by condemnation proceeding. *Op. Atty. Gen.* (8170), June 22, 1934.

School house on private land remains personal property and as such property of district, and district, though it did not appear and assert its title in condemnation proceedings, is entitled to compensation for such school house, if such building was not considered a part of the land in arriving at its value. *Id.*

City of Waseca under its home rule charter has power to condemn lands outside its limits for airport, and procedure to be followed is that provided by such charter. *Op. Atty. Gen.* (817f), Aug. 3, 1934.

Laws 1935, c. 52, is not applicable to proceedings for acquisition of land for Talcot Lake project for which federal government is providing money for construction purposes but not for acquisition of land. *Op. Atty. Gen.* (817h), Mar. 25, 1935.

**6538. Definitions.**

Owner of lot abutting on a street has no right of action against a railroad which crosses the street upon an embankment and obstructs its use when the damage he suffers it not special. *Locascio v. N.*, 185M281, 240NW 661. See Dun. Dig. 3049(14).

**6541. Petition and notice.**

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW164.

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

Owner of land abutting on trunk highway on which easement for highway purposes has been taken may object to placing of mail box thereon by another person. *Op. Atty. Gen.*, Sept 6, 1932.

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

Boundary dispute between claimants of land condemned. *Fitzpatrick v. B.*, 176M468, 223NW767.

The United States seeking to condemn lands for a public building, has no further interest in the condemnation proceedings after it pays the award to the clerk of the court. *St. Paul v. Certain Lands*, (CCA8), 48F(2d)805. See Dun. Dig. 3100.

Where an award is made to owner of land upon which mortgage is being foreclosed, the purchaser at the foreclosure sale is entitled to the award in the absence of redemption. *Op. Atty. Gen.*, Apr. 2, 1931.

**6548. Accruing taxes.**

Delinquent taxes on land are a first lien and should be paid first out of an award made in condemnation proceedings by the highway department. *Op. Atty. Gen.*, Aug. 8, 1930.

Where damages are awarded in condemnation proceedings by the highway department, and they are insufficient to cover taxes against the land, they should be distributed among the various funds the same as they would be if the taxes had been paid. *Op. Atty. Gen.*, Aug. 8, 1930.

Where Government condemns property for post office, title does not pass until final judgment and payment of the award, and county auditor has authority until that time to assess taxes against the property, even though under Mason's USCA, Title 40, §258, title relates back to the date of the filing of the commissioner's award. *Op. Atty. Gen.*, Jan. 26, 1931.

Where City of St. Paul acquired by condemnation portions of property for widening of street and property owner gave City deed on December 26th, 1930, and award was ratified by City Council on December 30th, 1930, but proceedings of Council were not published in the official newspaper until January 3rd, 1931, on which date award was paid, taxes for 1930 spread by the auditor on December 24th, 1930, constituted a lien on the property and should be paid by the City. *Op. Atty. Gen.*, April 25, 1931.

**6549. Appeal.**

City intervening to recover special assessments, held not entitled to appeal from award. *St. Paul v. Certain Lands*, (CCA8), 48F(2d)805. See Dun. Dig. 3107.

**6550. Trial—Costs.**

To the extent that traffic upon a trunk highway is beneficial to an abutting farm, as such, it is a benefit in common with the general public. 176M525, 223NW 923.

Special benefits may be shown in the reduction of damages. 176M525, 223NW923.

Gross damages are first to be determined and then award is to be apportioned as justice may require. 176 M525, 223NW923.

Where such rule is ignored, and a different procedure is adopted without objection, in which the dissatisfied party has acquiesced, he cannot thereafter complain. 176M525, 223NW923.

Persons appointed by the court, and who serve as appraisers in a condemnation proceeding, are competent witnesses who may be called by either party on an appeal. *Northern States Power Co. v. B.*, 187M353, 245NW 609. See Dun. Dig. 3112.

**6551. Judgment—Possession.**

Where the United States condemned property on which special assessments had been levied for a street improvement, and title passed to the government by deposit of the condemnation money in court, the city had no equitable lien on the condemnation money where judgment confirming the assessment was reversed on appeal, and the lien of the assessment did not attach to the land prior to the transfer of the title to the government, especially where there was no presumption that the condemnation commissioners included in the award any increase in the value of the land arising from the improvement, though a reassessment was made after the government obtained title. *Drake v. C.*, (CC A8), 65F(2d)119. See Dun. Dig. 3076.

One obtaining market value of property was not entitled to an additional award for expense of removal from the premises. 176M389, 223NW458.

Negligent construction of bridge and failure to remedy its defects did not constitute injuries of such permanent nature as to require imposition of a perpetual easement