

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

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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SAINT PAUL 1, MINNESOTA

1944

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CHAPTER 22

Forestry and Forest and Prairie Fires

FORESTRY ACT

4031-1. Codification of forestry laws.

Cutting of timber on private wild land may be regulated for protection of timbered areas and water supply. Op. Atty. Gen. (27b), Feb. 13, 1943.

4031-10. State forests—Lands eliminated from or added to.

Withdrawal of lands within state forests established by Laws 1943, c. 171, and sale thereof are unauthorized. Op. Atty. Gen. (983m), Aug. 25, 1943.

4031-10 1/4. State land exchange commission—Members—Officers—Approval of official acts.—The commission created by Section 8 of Article 8 of the state constitution, consisting of the governor, the attorney general, and the state auditor, shall be known as the Minnesota Land Exchange Commission. The term "commission" as used in this act refers to such commission. The governor shall be chairman of the commission. The state auditor shall be secretary of the commission and shall keep a record of its proceedings. Approvals of land exchanges and other official acts of the commission may be evidenced by the certificate of the state auditor as secretary, under his official seal. When a land exchange has been approved by the commission it shall be presumed that all other pertinent requirements of the law have been complied with, and no exchange shall be invalidated by reason of any defect or omission in respect of any such other requirement. (Act Apr. 23, 1941, c. 393, §1.)

[92.38]

There is no limitation, either maximum or minimum, on the area of state lands involved in proposed exchanges. Op. Atty. Gen. (700d-13), Dec. 20, 1943.

4031-10 1/4 a. Classification of land.

Subdivision 1. All land owned by the state and controlled or administered by the commissioner of conservation or by any division or agency of the department of conservation shall be known as Class A land for the purposes of this act. Class A land shall include school, swamp, internal improvement, and other land granted to the state by acts of congress, state forest land, tax-forfeited land held by the state free from any trust in favor of taxing districts, and other land acquired by the state in any manner and controlled or administered as aforesaid; but this enumeration shall not be deemed exclusive.

Subdivision 2. All land heretofore or hereafter acquired by the state through tax-forfeiture, held subject to a trust in favor of taxing districts, and under the control of county authorities for classification, appraisal, and sale shall be known as Class B land for the purposes of this act.

Subdivision 3. No land specifically designated by law as a state park shall be given in exchange hereunder unless expressly authorized by the legislature. No land bordering on or adjacent to any meandered or other public waters and withdrawn from sale by law shall be given in exchange unless expressly authorized by the legislature or unless through the same exchange the state acquires land on the same or other public waters in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public. (Act Apr. 23, 1941, c. 393, §2.)

[92.39]

4031-10 1/4 b. Commissioner of conservation—Exchange programs—Reservation of rights and easements—Approval of exchanges.

Subdivision 1. Except as otherwise herein provided, any Class A land may, with the unanimous approval of the commission, be exchanged for land of the United States or privately owned land in the man-

ner and subject to the conditions herein prescribed. The commissioner of conservation, herein called the commissioner, with the approval of the commission, shall formulate general programs of exchange of Class A land designed to serve the best interests of the state in the acquisition, development, and use of lands for purposes within the province of the department of conservation.

Subdivision 2. Except as herein expressly prohibited, Class A land may be exchanged, though devoted to a specific public use, if the use is discretionary and the authority in charge thereof shall approve the exchange, or if the commissioner, with the approval of the commission, shall determine that the exchange will not materially curtail the activity or project for which the land is used; provided, that exchanges of land belonging to any state forest, game preserve, conservation area, or other territory designated by law for particular purposes shall be made so as to consolidate or fill out the state's holdings of land therein, and not materially to reduce the same.

Subdivision 3. Except as otherwise herein provided, Class A land shall be exchanged only for land of at least substantially equal value to the state, as determined by the commissioner of conservation, with the approval of the commission. For the purposes of such determination, the commissioner shall cause the state land and the land proposed to be exchanged therefor to be examined and appraised by qualified state appraisers in like manner as state land to be offered for sale. The appraisers shall determine the fair market value of the lands involved, disregarding any minimum value fixed for state land by the state constitution or by law, and shall make a report thereof, together with such other pertinent information respecting the use and value of the lands to the state as they deem pertinent or as the commissioner or the commission may require. Such reports shall be filed and preserved in the same manner as other reports of appraisal of state lands. The appraised values shall not be conclusive, but shall be taken into consideration by the commissioner and the commission, together with such other matters as they deem material, in determining the values for the purposes of exchange.

Subdivision 4. There shall be reserved to the state in all Class A land conveyed in exchange all mineral and water power rights and such other rights and easements as the commissioner, with the approval of the commission, shall direct. All Class A land which at the time of exchange is subject to the provisions of Mason's Supplement 1940, Section 6602-2 and acts amendatory thereof shall remain subject thereto as a condition of the exchange, and all land received by the state in exchange for Class A land within the area to which said provisions apply shall become subject thereto. Land may be received in exchange subject to any mineral reservations or other reservations thereon. All such reservations and conditions shall be taken into consideration in determining the value of the lands exchanged.

Subdivision 5. Class A land may be exchanged for land of greater value if the other party to the exchange shall waive payment for the difference or if there is an appropriation available for the acquisition of such land from which the difference may be paid.

Subdivision 6. Class A land may be exchanged for land of less value in any case where disposal of the state land is not limited by the state constitution to public sale, provided the other party to the exchange shall pay to the state the amount of the difference in value either upon consummation of the exchange or by deferred payment, as the commissioner, with the approval of the commission, may direct. In case of deferred payment, a certificate of sale of the state

land shall be issued to the other party as in case of sale of state public land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the commissioner, with the approval of the commission, may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be credited to the same fund as in case of sale of the land, if such fund exists, otherwise to the special fund, if any, from which the cost of the land was paid, otherwise to the general revenue fund.

Subdivision 7. Before giving final approval to any exchange of Class A land, the commission shall hold a public hearing thereon at the capital city or at some place which it may designate in the general area where the lands involved are situated; provided, that the commission may direct such hearing to be held in its behalf by any of its members or by the commissioner or by a referee appointed by the commission. The commissioner shall furnish to the county auditor of each county affected a notice of the hearing signed by the state auditor as secretary of the commission, together with a list of all the state lands proposed to be exchanged and situated in the county, and the county auditor shall post the same in his office at least two weeks before the hearing. The county auditor shall also cause a copy of the notice, referring to the list of lands posted in his office, to be published at least two weeks before the hearing in the newspaper designated for publication of the proceedings of the county board. The cost of publication of the notice shall be paid by the state out of any moneys appropriated for the expenses of the commission.

Subdivision 8. The commissioner, with the approval of the commission, may submit a proposal for exchange of Class A land to any land owner concerned. Any land owner may submit to the commissioner and the commission a proposal for exchange in such form as the commissioner, with the approval of the commission, may prescribe.

Subdivision 9. No exchange of Class A land shall be consummated unless the attorney general shall have given his opinion in writing that the title to the land proposed to be conveyed to the state is good and marketable, free from all liens and encumbrances except reservations herein authorized. If required by the attorney general, the land owner shall submit an abstract of title and shall make and file with the commissioner an affidavit as to possession of the land, improvements, liens, and encumbrances thereon, and other matters affecting the title.

Subdivision 10. Conveyance of Class A land given in exchange shall be made by deed executed by the commissioner of conservation in the name of the state, with a certificate of unanimous approval by the commission appended. All such deeds received by the state shall be recorded or registered in the county in which the lands lie, and all recorded deeds and certificates of registered title shall be filed in the office having custody of the state public land records in the department of conservation.

Subdivision 11. Land received in exchange for Class A land shall be subject to the same trust, if any, and shall otherwise have the same status as the state land given in exchange. The commissioner, with the approval of the commission, shall determine accordingly the status of each tract of such land received in exchange, and shall make and file a certificate thereof in the office having custody of the state public land records in the department of conservation.

Subdivision 12. Whenever an exchange of Class A tax-forfeited land which is subject to sale by county authorities is under consideration, the commissioner may notify the county auditor to withdraw the land from sale. Thereupon the land shall be withdrawn from sale until the proposed exchange is consummated or rejected, of which the commissioner shall notify

the county auditor. (Act Apr. 23, 1941, c. 393, §3.) [92.40]

4031-10 1/4 c. Exchanges of classified lands—Specified exchanges—Approval.—

Subdivision 1. Except as otherwise herein provided, any Class B land may, by resolution of the county board of the county in which the land is situated and with the unanimous approval of the land exchange commission, be exchanged for land of the United States or privately owned land in the same county in the manner and subject to the conditions herein prescribed.

Subdivision 2. No Class B land which is not classified for sale, and no Class B land, however classified, lying within any zone or district which is restricted against any use for which the land may be suitable shall be given in exchange for any privately owned land.

Subdivision 3. Except as otherwise herein provided, Class B land shall be exchanged only for land of at least substantially equal value to the state, as determined by the county board, with the approval of the commissioner and the commission. For the purposes of such determination the county board shall appraise the state land and the land proposed to be exchanged therefor in like manner as tax-forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

Subdivision 4. There shall be reserved to the state in all Class B land conveyed in exchange the same rights and easements as may be required by law in case of sale of tax-forfeited land and such other rights and easements as the county board, with the approval of the commissioner and the commission, shall direct. Land may be received in exchange subject to any mineral reservation or other reservations thereon. All such reservations and conditions shall be taken into consideration in determining the value of the lands exchanged.

Subdivision 5. Class B land may be exchanged for land of greater value only in case the other party to the exchange shall waive payment for the difference.

Subdivision 6. Class B land may be exchanged for land of less value, provided the other party to the exchange shall pay the amount of the difference to the county treasurer either upon consummation of the exchange or by deferred payment, as the county board may direct. In case of deferred payment, a certificate of sale of the state land shall be issued to the other party in like manner as in case of sale of tax-forfeited land, crediting the value of the land received by the state in exchange as an initial payment, and providing for payment of the balance upon like terms and subject to like conditions as in case of such sale; provided, that the county board may require a further initial cash payment and may shorten the time for payment of the balance. Money received in such cases shall be disposed of in like manner as the proceeds of sale of tax-forfeited land.

Subdivision 7. Before giving final approval to any exchange of Class B land, the county board shall hold a public hearing thereon. At least two weeks before the hearing the county auditor shall post in his office a notice thereof, containing a description of the lands affected, and shall cause a copy of the notice to be published in the newspaper designated for publication of the official proceedings of the county board.

Subdivision 8. By direction of the county board the county auditor may submit a proposal for exchange of Class B land to any land owner concerned. Any land owner may file with the county auditor a proposal for exchange for consideration by the county board. Forms for such proposals shall be prescribed by the commissioner of conservation.

Subdivision 9. No exchange of Class B land shall be consummated unless the title to the land proposed

to be exchanged therefor shall first be approved by the county attorney in like manner as provided for approval by the attorney general in case of Class A land. The county attorney's opinion on the title shall be subject to approval by the attorney general.

Subdivision 10. After approval by the county board, every proposal for the exchange of Class B land shall be transmitted to the commissioner of conservation in such form and with such information as he may prescribe, for consideration by him and by the commission. The county attorney's opinion on the title, with the abstract and other evidence of title, if any, shall accompany the proposal. If the proposal be approved by the commissioner and the commission and the title be approved by the attorney general, the same shall be certified to the commissioner of taxation, who shall execute a deed in the name of the state conveying the land given in exchange, with a certificate of unanimous approval by the commission appended, and shall transmit the deed to the county auditor to be delivered upon receipt of a deed conveying to the state the land received in exchange, approved by the county attorney; provided, that if any amount is due the state under the terms of the exchange, the deed from the state shall not be executed or delivered until such amount is paid in full and a certificate thereof by the county auditor is filed with the commissioner of taxation. The county auditor shall cause all deeds received by the state in such exchanges to be recorded or registered, and thereafter shall file the deeds or the certificates of registered title in his office.

Subdivision 11. Land received in exchange for Class B land shall be subject to the same trusts in favor of the same taxing districts as the land given in exchange, irrespective of where the land received is situated. Otherwise the land received shall be subject to all the provisions of law relating to tax-forfeited land in the governmental subdivision where it is situated, so far as applicable. The county auditor shall keep a record of such land, showing the taxing districts interested in each tract. (Act Apr. 23, 1941, c. 393, §4.)

[92.41]

4031-10 ¼ d. Conveyances and other instruments—Approval by Attorney General.—The attorney general shall prescribe or approve the forms for all deeds, certificates, and other instruments required in proceedings hereunder, and the procedure for delivery thereof. (Act Apr. 23, 1941, c. 393, §5.)

[92.42]

Form of reservation in deed. Op. Atty. Gen. (410b), Aug. 3, 1943.

4031-10 ¼ e. Quieting title—Registration of titles—Adverse claims.—The state may bring and maintain an action to quiet or register the title to any land or interest in land which it owns or claims in any capacity and to determine all adverse claims thereto under any law pertaining to such proceedings, whether or not the land is actually in possession of or occupied by the state or any other person or corporation. (Act Apr. 23, 1941, c. 393, §6.)

[92.43]

4031-10 ¼ f. Perfection of titles to state owned lands—Expenses and fees.—Subdivision 1. The attorney general, at the request or with the approval of the commission, may commence and carry on any necessary or proper actions to perfect the titles to lands owned by the state and subject to exchange hereunder, and may authorize any county attorney or other attorney to assist in conducting any such action. The expenses of such actions, including such attorneys' fees as the attorney general may allow to county attorneys or other attorneys representing the state, shall be payable out of any appropriations available for the purpose of this act. Any county attorney performing such service shall be entitled to the fees allowed therefor in addition to his regular compensation unless his salary is fixed on a full-time basis.

Subdivision 2. In case an action is necessary to perfect the title to any privately owned land involved in an exchange hereunder, and the owner of the land is unable to bear the expense thereof, the land exchange commission may authorize the attorney general to conduct such action and pay the expenses thereof as in case of actions to perfect the title to state lands. The expenses of the action, including attorney's fees, shall be deducted from the value of the land for the purpose of exchange, subject to payment by the owner for any difference in value as herein provided, or shall be repaid by the owner otherwise upon such terms as the commission may direct. All money received on account of such expenses shall be remitted to the state treasurer and credited to the fund from which the expenses were paid. (Act Apr. 23, 1941, c. 393, §7.)

[92.43]

4031-10 ¼ g. State lands subject to trusts—Determination of trust status.—The lands acquired by the state under Laws 1939, Chapter 343, shall be subject to like trusts as the state lands involved in the actions for damages mentioned therein. The commissioner of conservation shall determine to what trusts the several tracts of land so acquired shall be subject according to their location, character, and value, making due allowance for the relative proportions of the different trusts to which the damaged lands were subject, and shall make and file a certificate thereof in the office having custody of the records of such lands in the department of conservation. The determination of the commissioner so certified shall be deemed conclusive as to the trust status of the lands affected unless thereafter changed by act of the legislature. (Act Apr. 23, 1941, c. 393, §8.)

[92.44]

4031-10 ¼ h. Appropriation for expenses—Equalization of land value—Audit of claims.—There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of \$5,000 for the fiscal year ending June 30, 1942, and the sum of \$5,000 for the fiscal year ending June 30, 1943, for expenses of the land exchange commission, the commissioner of conservation, and the attorney general in carrying out the provisions of this act; provided, that no payment for equalization of any land value shall be made out of this appropriation. Claims against this appropriation shall be audited and certified by the state auditor as secretary of the commission. (Act Apr. 23, 1941, c. 393, §9.)

4031-10 ¼ i. Repealer.—Mason's Supplement 1940, Sections 4031-10 ½ m to 4031-10 ½ t, inclusive, and all other acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 23, 1941, c. 393, §10.)

4031-10 ¼ j. Severability clause.—The provisions of this act shall be severable, and if any provision or application hereof shall be declared invalid, it shall not affect any other provision or application which can be given effect without the one declared invalid. (Act Apr. 23, 1941, c. 393, §11.)

4031-10 ½ to 4031-10 ½ t. [Repealed.]

Repealed. Laws 1941, c. 393.

Act Apr. 22, 1933, c. 418 consisting of §§4031-10 ½ to 4031-10 ½ t was formerly repealed by Act Apr. 21, 1939, c. 382, §9.

4031-10 ¾ to 4031-10 ¾ i. [Repealed.]

Repealed. Laws 1943, c. 117, §10.

Act Apr. 2, 1941, c. 117, authorizes Commissioner of Conservation to withdraw and sell certain described school lands from Crow Wing State Forest.

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

State's ownership of undivided one-half fee interest in lands turned over to state free of trust in favor of taxing districts was available for exchange purposes, as where state and individual each owned an undivided half interest in two tracts and exchange is made so that each owns entire fee in one tract. Op. Atty. Gen. (700d-le), July 13, 1942.

State forest fund created by Laws 1933, c. 313, and appropriation of fifty per cent of certain revenues and disbursements to counties contained in such act were

abolished and repealed as of July 1, 1941, rather than upon date when act was approved. Op. Atty. Gen. (9a-16), Apr. 23, 1942.

4031-10 1/2 j. State forests established.—For the purpose of vesting and re-vesting the state with title to lands in the areas hereafter described which are suitable primarily for state use and development as state forests, for growing, managing, and harvesting timber and other forest crops and for the establishment and development of recreational areas and for the protection of watershed areas, and the preservation and development of rare and distinctive species of flora native to such areas, there are hereby established as state forests all lands and waters now owned by the state or hereafter acquired by the state within the areas, in the townships and sections described as follows:

1. Beltrami Island State Forest.

The West one-half of Townships 158 and 159, Range 32; Township 157, Range 32; Townships 157, 158 and 159, Range 33; Townships 157, 158, 159 and 160, Range 34; Townships 157, 158, 159, 160 and 161, Range 35; Townships 158, 159 and 160, Range 36; South one-half of Township 161, Range 36; Townships 159 and 160, Range 37; the South two-thirds of Township 161, Range 37; the East two-thirds of Township 160, Range 38; all west of the 5th principal meridian.

2. Buena Vista State Forest.

Townships 147 and 148, Range 32; Sections 1, 2 and the West one-half of Section 11, Township 146, Range 33; all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, and 16 except the South one-half of the Northeast quarter all of Sections 23, 24, 25, 35 and 36, Township 147, Range 33; Township 148, Range 33, except the Southwest quarter of the Northwest quarter and the Southeast quarter of the Northwest quarter of Section 10; all west of the 5th principal meridian.

3. Cloquet Valley State Forest.

The North one-half of Township 53, Range 12; Townships 54 and 55, Range 12; the North one-half of Township 53, Range 13; Townships 54 and 55, Range 14; Townships 54 and 55, Range 14; the North one-half of Township 53, Range 15; Townships 54 and 55, Range 15; Townships 52 and 53, Range 16; East two-thirds of Townships 54 and 55, Range 16; all west of the 4th principal meridian.

4. Crow Wing State Forest.

Township 47, Range 28, except the Northwest quarter of the Northeast quarter of Section 36; Township 47, Range 29; Township 47, Range 30; all west of the 4th principal meridian. Townships 136 and 137, Range 27; Townships 136 and 137, Range 28; all west of the 5th principal meridian.

5. D. A. R. Memorial State Forest.

The West one-half of the Northeast quarter and the Northwest quarter of Section 16, Township 43, Range 19; west of the 4th principal meridian.

6. Finland State Forest.

Township 58, Range 5; Townships 57 and 58, Range 6; Townships 56, 57 and 58, Range 7; Township 56, Range 8; the East one-half of Townships 57 and 58, Range 8; Section 36, Township 60, Range 9; all west of the 4th principal meridian.

7. Fond du Lac State Forest.

Township 48, Range 19, except Sections 25, 36 and the Northeast quarter of the Northeast quarter of Section 26; Township 49 and the South one-half of Township 50, Range 19; Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26 and 27, Township 49, Range 20; Sections 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 50, Range 20; all west of the 4th principal meridian.

8. Foot Hills State Forest.

Townships 137, 138, 139, 140 and 141, Range 31; Township 137, Range 32, except the Southwest quarter of the Northwest quarter and the Northwest quar-

ter of the Southwest quarter of Section 12 and the Southeast quarter of the Southeast quarter of Section 16; Section 36, Township 138, Range 32; the South two-thirds and Sections 1, 2, 3, 9, 10, 11 and 12 of Township 139, Range 32; Section 36, Township 140, Range 32; Township 138, Range 33, except the Southwest quarter of the Northeast quarter of Section 2 and the Southwest quarter of the Southeast quarter of Section 32; Section 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35 and 36, Township 139, Range 33; Section 36, Township 140, Range 33; the East one-half of Township 138, Range 34; all west of the 5th principal meridian.

9. General C. C. Andrews State Forest.

Sections 5 and 6, Township 44, Range 19; Sections 19, 29, 30, 31 and 32, Township 45, Range 19; the North one-half of Sections 1 and 2, and seven acres adjacent to the Willow River dam in the north one-half of the Southwest quarter of Section 2, Township 44, Range 20; Sections 24, 25, 26, 35 and 36, Township 45, Range 20; all west of the 4th principal meridian.

10. George Washington State Forest.

Townships 59, 60 and the South one-half of Township 61, Range 21, except the East one-half of the Northwest quarter of Section 36, and abandoned right of way across the Northeast quarter of the Southeast quarter of Section 36, both in Township 59, Range 21; Townships 59, 60 and the South one-half of Township 61, Range 22; Townships 59, 60, 61 and 62, Range 23; Townships 59, 60, 61 and 62, Range 24, except the Southwest quarter of the Southwest quarter of Section 20, Township 62, Range 24; Townships 59, 60 and 61, Range 25, but excluding any land designated by law as Scenic State Park; all west of the 4th principal meridian.

11. Grand Portage State Forest.

Townships 61, 62, 63, 64 and 65, Range 3; Townships 62, 63 and 64, Range 4; the Northwest quarter of the Southwest quarter of Section 18, that portion of the North one-half of Section 18 and that portion of Section 7 lying west of the Old Grand Portage Indian Reservation boundary in Township 63, Range 5; all east of the 4th principal meridian.

12. Kabetogama State Forest.

Townships 61, 62, 63, 64, 65, 66, 67, 68 and 69, Range 17; Townships 63, 64, 65, 66, 67, 68, 69 and 70, Range 18; Townships 63, 64, 65, 66, 67, 68, 69 and 70, Range 19, except the Northeast quarter of the Southeast quarter, Section 6, Township 63, Range 19; Townships 64, 65, 66, 67, 68, 69, 70 and 71, Range 20; Townships 67, 68, 69, 70 and 71, and that portion of Townships 64, 65 and 66 lying outside of the old Nett Lake Indian Reservation boundaries, all lying in Range 21; all west of the 4th principal meridian.

13. Koochiching State Forest.

Townships 64 and 65, Range 24; Townships 64 and 65, Range 25; Townships 64, 65, 66 and 67, Range 26; Townships 64, 65, 66 and 67, Range 27; all west of the 4th principal meridian.

14. Land O'Lakes State Forest.

Townships 139 and 140, Range 25; Townships 139 and 140, Range 26; Townships 139 and 140, Range 27; Sections 16 and 36 of Township 139, Range 28; all west of the 5th principal meridian.

15. Mille Lacs State Forest.

The West two-thirds of Township 45, Range 26; Township 45, Range 27, except the Northeast quarter of the Northeast quarter of Section 16 and the South one-half of the Southwest quarter and the South one-half of the Northwest quarter of Section 22; all west of the 4th principal meridian.

16. Mississippi Headwaters State Forest.

The North one-third and Sections 16, 17, 18, 19, 20, 21, 29 and 30 of Township 146, Range 34, except the Northwest quarter of the Northwest quarter of Section 8; the South five-sixths of Township 147,

Range 34, except the Northeast quarter of the Northeast quarter, the Northwest quarter of the Northwest quarter and the Southwest quarter of the Northwest quarter of Section 24; the West one-half and Sections 2, 3, 10 and 11 of Township 145, Range 35; Township 146, Range 35, except Sections 3, 4, 5 and 6; Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 24, 25, 35 and 36; Township 147, Range 35, except the Northwest quarter of the Southwest quarter of Section 24; Sections 19, 20, 21, 22 and the South one-third of Township 148, Range 35; Sections 1, 12, 13, 24, 25 and 36, Township 145, Range 36; Sections 12, 13, 24, 25 and 36, Township 146, Range 36; all west of the 5th principal meridian.

17. Nemađji State Forest.

Fractional Townships 44, 45 and 46, Range 15; the South one-third of fractional Township 47, Range 15; Townships 44, 45 and 46, Range 16, except the North half of the Northeast quarter of the Northwest quarter of Section 16, Township 46, Range 16; the South one-third of Township 47, Range 16; Townships 44, 45 and 46, Range 17, except the Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of Section 16, Township 46, Range 17; all west of the 4th principal meridian.

18. Northwest Angle State Forest.

Townships 166, 167 and 168, Range 33; Townships 166, 167 and 168, Range 34; Townships 165, 166, 167 and 168, Range 35; all west of the 5th principal meridian.

19. Paul Bunyan State Forest.

Sections 2, 3, 4, 5, 6, 7 and 8, Township 141, Range 32; Township 142, Range 32; Sections 7, 18 and 19, and the South one-third of Township 143, Range 32; Sections 1, 2, 3, 4, 9, 10, 11 and 12, Township 141, Range 33; Township 142, Range 33, except Sections 19, 20, 29, 30, 31 and 32; Township 143, Range 33; Sections 28, 29, 30, 31, 32, 33 and 34, Townships 144, Range 33; Sections 16 and 36, Township 142, Range 34; Townships 143 and 144, Range 34; Township 145, Range 34, except Sections 5, 6, 7, 8, 17, 18, 19 and 20; Section 36, Township 146, Range 34; all west of the 5th principal meridian.

20. Pillsbury State Forest.

That portion of Township 133, Range 29, lying north of the Northern Pacific Railroad in Cass County; that portion of Township 133, Range 30 lying north of the Northern Pacific Railroad; the West one-half of Township 134, Range 29; all of Township 134, Range 30; all west of the 5th principal meridian.

21. Pine Island State Forest.

Townships 152, 153, 154, 155 and 156, Range 25; that portion of Township 157, Range 25, lying west of the Big Fork River; that part of Sections 31, 32 and 33; Township 158, Range 25, lying south of the Black River; Townships 152, 153, 154, 155, 156 and 157, Range 26; that part of Township 158, Range 26, lying south of the Black River; Townships 153, 154, 155, 156 and 157, Range 27; that part of Township 158, Range 27, lying south of the Black River; Townships 153, 154, 155 and 156, Range 28; Townships 153, 154 and 155, Range 29; the East five-sixths of Township 153, Range 30; the South one-half of Township 154, Range 30; Lots 2, 3 and 4 of Section 8, the South one-half of the Northwest quarter and the Southwest quarter of Section 9, the Northwest quarter of Sections 16 and 17, all in Township 154, Range 30; all west of the 5th principal meridian.

22. Rum River State Forest.

The West two-thirds of Township 40, Range 25; Township 41, and the South one-half of Township 42, Range 25; the East one-third of Township 40, Range 26; all west of the 4th principal meridian.

23. San Dunes State Forest.

Sections 16, 36 and the Northwest quarter of the Northwest quarter of Section 22, Township 34, Range 27; west of the 4th principal meridian.

24. Savanna State Forest.

That portion of Township 48, Range 22, north of the present location of the Northern Pacific Railroad right of way; Townships 49, 50, 51 and 52, Range 22, except the North one-half of the Northeast quarter of Section 36, and the East one-half of the Southeast quarter and the North one-half of the Southwest quarter of Section 10, Township 49, Range 22; that portion of Township 48, Range 23, lying north of the present location of the Northern Pacific Railroad right of way; Townships 49 and 50, Range 23; that portion of Townships 51 and 52, Range 23, lying east of the Mississippi River, except the North half of the Southwest quarter of Section 16, Township 52, Range 23; that portion of Townships 50 and 51, Range 24, lying east of the Mississippi River; all west of the 4th principal meridian.

25. Smoky Hills State Forest.

Sections 5, 6, 7 and 8, Township 140, Range 36; Township 141, Range 36, except the Southwest quarter of the Southeast quarter of Section 4; the North five-sixths of Township 139, Range 37; Township 140, Range 37, except Sections 3, 4, 5, 6, 10, 11, 12, 13 and 14; the East one-sixth of Township 141, Range 37; Township 140, Range 38, except the Southwest quarter of the Southwest quarter of Section 32; the West two-thirds of Township 141, Range 38; all west of the 5th principal meridian.

26. St. Croix State Forest.

Fractional Township 42, Range 15; Townships 41 and 42, Range 16; Townships 41 and 42, Range 17, except the Northeast quarter of the Southwest quarter of Section 16, Township 41, Range 17; all west of the 4th principal meridian.

27. Third River State Forest.

The North one-half of Township 147, Range 29; Township 148, Range 29; the South one-half of Township 149, Range 29; all west of the 5th principal meridian.

28. White Earth State Forest.

Township 144, Range 36, except the Southwest quarter of Section 35; Townships 142, 143 and 144, Range 37; Townships 142, 143 and 144, Range 38; Township 145, Range 38, except Sections 1, 2, 3, 4, 5, and the Southeast Quarter of the Northwest quarter of Section 10; the East one-half of Township 142, Range 39; Sections 25, 35, 36 and the East one-half of Section 34, Township 143, Range 39; the East one-third of Township 145, Range 39; the South one-half of Section 10 and 15, and the North one-half of Section 22, Township 145, Range 39; all west of the 5th principal meridian.

29. Blackduck State Forest.

All of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11 and 14 except the Southwest quarter of the Southeast quarter, all of Sections 15, 16, 17 and 18, Township 149, Range 31; the West two-thirds of Township 150, Range 31, except the Southeast quarter of the Southwest quarter of Section 29; Sections 27, 28, 29, 30, 31, 32, 33 and 34, Township 151, Range 31; Township 149, Range 32, except the Northwest quarter of the Southeast quarter of Section 25; Township 150, Range 32, except the Northeast quarter of Section 36; and all of Township 151, Range 32, lying south and east of the Indian Reservation boundary; all west of the 5th principal meridian.

All lands except tax-forfeited lands held in trust for the taxing districts, now owned by the state or hereafter acquired by the state within the boundaries of the above described areas are hereby withdrawn from sale and established as state forests, to be governed, operated, managed, and controlled on forestry principles. (Act Mar. 25, 1943, c. 171, §1.) [89.021]

Withdrawal of lands within state forests established by this act, and sale thereof, are unauthorized. Op. Atty. Gen. (983m), Aug. 25, 1943.

4031-10 ¾ k. Lands to be under management and control of Commissioner of Conservation.—Said lands shall be under the management and control of the Commissioner of Conservation who shall have and is hereby given full power and authority to make, establish, promulgate and enforce all necessary rules and regulations not inconsistent with the laws of the state for the care and management of state forests and fire prevention, and he is hereby authorized to lease for income or for protection, meadow and pasture lands where such use will not interfere with the growth of forest trees, may sell dead and down and mature timber and other timber where the public interests will be subserved thereby, and may issue special use permits and enter into agreements in the furtherance of the general management and maintenance of such state forests. (Act Mar. 22, 1943, c. 171, §2.) [89.031]

4031-10 ¾ l. Commissioner may acquire additional lands.—The Commissioner of Conservation is hereby authorized and empowered to acquire by eminent domain, in the manner provided in Chapter 41, General Statutes of 1923, as amended, or by purchase, or accept as a gift any lands or interest in lands in the state forests herein created, which he shall deem necessary for state ownership, use and development, and may acquire any such lands or interest in lands subject to mineral reservations. (Act Mar. 25, 1943, c. 171, §3.) [89.032]

4031-10 ¾ m. Commissioner may accept gifts.—The Commissioner of Conservation is hereby authorized and empowered to receive for and in behalf of the state, any gift, bequest, devise or grant of land or interest in lands in any state forests, or of money or personal property of any kind, which he may deem suitable for use in connection with the operation, control, development or use of any state forest. (Act Mar. 25, 1943, c. 171, §4.) [89.033]

4031-10 ¾ n. County Board may certify lists of tax forfeited lands—May be included in State Forests.—Whenever the Board of County Commissioners, by resolution duly adopted, resolves that any lands, forfeited for non-payment of taxes, lying within the boundaries of any of the forests hereinabove designated, or that certain tax-forfeited land lying outside of such boundaries and classified as conservation lands are suitable primarily for the growing of timber and timber products and said lands outside of the above state forests comprise fifty per cent or more of the lands within any given area, it may submit such resolution to the Commissioner of Conservation for the purpose of establishing a state forest or of adding said lands to any of the state forests hereinabove designated. If, upon investigation, the Commissioner of Conservation determines that the lands covered by such resolution can best be managed and developed as state forest lands or as a portion of an existing state forest, he shall make a certificate describing the lands and reciting the acceptance thereof on behalf of the State as state forest lands. The Commissioner shall transmit the certificate to the County Auditor, who shall note the same upon his records and record the same with the Register of Deeds. The title to all lands so accepted shall be held by the state free from any trust in favor of any and all taxing districts, and such lands shall thereafter be managed and devoted to the purposes of state forest lands in the same manner as lands hereinabove set apart as state forest lands, and subject to all the provisions of this act. (Act Mar. 25, 1943, c. 171, §5.) [89.034]

4031-10 ¾ o. Income to be paid into State Treasury.—All income which may be received from lands

acquired by the state within any area which has been designated or shall hereafter be designated by the Legislature or the Commissioner of Conservation as state forests excepting university, school, and swamp lands; lands acquired under the system of rural credits; state forest lands included within the game preserve established by Laws of 1929, Chapter 258, lands acquired under authority of Laws of 1931, Chapter 407, and Laws of 1933, Chapter 402; and lands accepted by Chapter 83, Laws of 1905, shall be paid into the state treasury and credited to a fund designated as the State Forest Fund. (Act Mar. 25, 1943, c. 171, §6.) [89.035]

4031-10 ¾ p. State to apportion funds to county.—The State of Minnesota shall hereafter annually on July 1st or as soon thereafter as may be practical, pay from the State Forest Fund to each county, in which there now are, or hereafter shall be situated, any state forests, a sum equal to fifty per cent of the gross receipts of such state forests located within such county, which have been received during the preceding fiscal year and credited to the State Forest Fund, which payment shall be received and distributed by the County Treasurer, as if such payment had been received as taxes on such lands payable in the current year.

After making such payment to the County, the balance of said funds in the State Forest Fund on July 1st shall be transferred and credited to the General Revenue Fund of the State. (Act Mar. 25, 1943, c. 171, §7.) [89.036(1)]

Income from tax forfeited lands within state forests which were turned over to the state under Laws 1941, c. 511, are to be distributed in accordance with Laws 1943, c. 171, §7. Op. Atty. Gen. (983e), July 13, 1943.

4031-10 ¾ q. State Auditor to draw warrant.—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 Mar. 25, 1943, c. 117, §8.) [89.036(2)]

4031-10 ¾ r. Auditor and Treasurer to adopt accounting methods.—The State Auditor and the State Treasurer shall, and 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 Sections 7, 8 and 9 of this act. (Act Mar. 25, 1943, c. 171, §9.) [89.036(3)]

4031-10s. Laws repealed.—Upon passage of this act, the following laws shall be and herewith are repealed:

Sections 6509, 6510, 6511, 6512, 6513, 6514, 6515 and 6516, Mason's Minnesota Statutes of 1927.

All of Chapter 124, Laws of 1931.

All of Chapter 313, Laws of 1933.

All of Chapter 419, Laws of 1933.

All of Chapter 372, Laws of 1935.

All of Chapter 75, Extra Session Laws of 1935.

All of Chapter 163, Laws of 1937.

This act shall not be construed as repealing any acts relating to forestry other than herein expressly repealed but shall be deemed and construed as supplementary thereto. (Act Mar. 25, 1943, c. 171, §10.) [89.037]

4031-10 ¾ t. Provisions severable.—If any section, part or provision hereof be found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Mar. 25, 1943, c. 171, §11.)

4031-11. Co-operation with state highway; etc.
Limit of \$500 on yearly expenditures for forest fire protection, pursuant to §4031-11, is not a limitation on ex-

penditures for general fire protection. Op. Atty. Gen. (916B), Oct. 21, 1940.

Limitation of \$500 applies only to funds expended for prevention of forest or prairie fires, and does not apply to expenditures by a town for general fire prevention. Id.

4031-16. Fire patrolmen—Summoning aid, etc.

A person summoned by a "fire warden" and refusing to render assistance does not violate this section. Op. Atty. Gen. (202a), Nov. 9, 1943.

4031-22. Starting fires—Where unlawful without permission; etc.

"Fires for domestic purposes" means those directly associated with uses essential or desirable for enjoyment of the home or house as a dwelling, and might include a cook fire in the yard, a fire for heating water for laundry purposes, or in a bath house, but would not include fires for purpose of burning grass, hay meadows, brush or slash, even though in connection with operation of a farm. Op. Atty. Gen. (203L-2), May 13, 1942.

4031-24. Fire wardens—Appointment—Duties.

Persons summoned by a fire warden appointed under this section and refusing to render assistance are not guilty of a misdemeanor. Op. Atty. Gen. (202a), Nov. 9, 1943.

FISHING RESTRICTIONS

4031-35½j. Fishing for brook trout in certain seasons.

Term "brook trout" was intended to cover the species of trout usually found in or frequenting the brooks and streams of the timbered areas of the state, and though occasionally restricted in popular usage to designate a specie of char, it includes eastern brook trout, speckled trout, eastern speckled, native brook trout, square tailed trout, German brown trout, rainbow trout, Loch Leven,

cut throat and other species found customarily in streams referred to, and order may prohibit taking of such trout from any or all waters within counties covered, whether they be spring ponds, beaver flowages or inland lakes. Op. Atty. Gen. (211c-13), Apr. 29, 1942.

AFFORESTATION AND REFORESTATION

4031-74. Stock to be used on state lands.—Said commissioner may purchase or collect coniferous forest planting stock indigenous to Minnesota or grow the same; and may supply the same for use on lands owned by the state and dedicated to forestry or conservation purposes or to any political subdivision of the state for use upon lands set aside and dedicated to forestry or conservation purposes for a period of not less than 25 years; or upon lands dedicated to state trunk highway purposes, provided, however, plantings on such lands shall be confined to standard forest plantings; but no such plantings may be sold or given away for replanting upon any lands not qualified for planting under this act. (As amended Mar. 28, 1941, c. 84, §1.)

Soil conservation districts are included in term "any political subdivision". Op. Atty. Gen. (203H-9), Mar. 7, 1942.

4031-75. State reforestation projects established.

Act Apr. 10, 1941, c. 185, provides for purchase of Civilian Conservation Corps site at Orr.

Act Apr. 16, 1941, c. 250, provides for purchase and rental of Civilian Conservation Corps site in Becker County.

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

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4033. Industrial commission.

Barlau v. Minneapolis-Moline Power Implement Co., 214M564, 9NW(2d)6; note under §4315, 176.56.

4037. Office in St. Paul.

An action against members of state industrial commission to compel reinstatement of a dismissed employe is triable in Ramsey county where commission maintains its office. State v. District Court of St. Louis County, 206M54, 287NW601. See Dun. Dig. 10113a.

4038. Organization—Quorum.

Where the members of the industrial commission are equally divided in opinion on an appeal from a referee's decision awarding compensation to an injured employe, an affirmation of the referee's decision occurs by operation of law. Barlau v. Minneapolis-Moline Power Implement Co., 214M564, 9NW(2d)6. See Dun. Dig. 10423.

4042. May appoint division heads, assistants, etc.

Barlau v. Minneapolis-Moline Power Implement Co., 214M564, 9NW(2d)6; note under §4315.

4046. Powers and duties.

Following Frederickson v. Burns Lumber Co., 175 Minn. 539, 221NW910, commission may apply equitable principles in determining questions committed by legislature to its determination. Steidel v. Metcalf, 210M101, 297NW324. See Dun. Dig. 10421.

(5).

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

4050. Enforcement of labor laws by labor department.

Industrial commission has authority to determine necessity of automatic windshield wipers on one-man streetcar, but any requirement that two men operate streetcar is a matter for city to determine. Op. Atty. Gen. (270c-4), Dec. 29, 1942.

HOURS OF, AND RESTRICTIONS ON, LABOR

4087. Ten hours to constitute one day's work, etc.

The Federal Fair Labor Standards Act does not extend federal control to businesses or transactions "affecting commerce" as does the National Labor Relations Act, but is more narrowly confined. Kirschbaum Co. v. Walling, 316US517, 62SCR1116, 86LEd1638; Walling v. Jacksonville Paper Co., 317US564, 63SCR332, aff'g as modi-

fied (CCA5), 128F(2d)395; Higgins v. Carr Bros. Co., 317US572, 63SCR337. See Dun. Dig. 5812b.

The federal Fair Labor Standards Act applies to employes engaged in maintenance of a loft building, the tenants of which are principally engaged in the production of goods for interstate commerce. Kirschbaum v. Walling, 316US517, 62SCR1116, aff'g (CCA3), 124F(2d)567, which aff'd (DC-NJ), 38FSupp204; Arsenal Bldg. Corp. v. Walling, 62SCR1116, aff'g (CCA2), 125F(2d)278, which rev'd (DC-NY), 38FSupp207. See Dun. Dig. 5812b.

Where a wholesaler buys from local producers and from dealers in other states goods, which are unloaded into its warehouse from which they are sold to the retail trade, the interstate movement is ended, so that the wholesaler and its employees are not within the Fair Labor Standards Act, but where the interstate journey of the goods is merely interrupted by a temporary pause and not ended by placing them in a warehouse, there is a practical continuity of movement until the goods reach the customers for whom they are intended and the act applies. Walling v. Jacksonville Paper, 317US564, 63SCR332, aff'g as modified (CCA5), 128F(2d)395; Higgins v. Carr Bros., 317US572, 63SCR337. See Dun. Dig. 5812b.

Employees engaged in maintaining or operating a toll road and bridge over a navigable waterway which together constitute a medium for interstate movement of goods and persons are "engaged in commerce" within the Fair Labor Standards Act. Overstreet v. North Shore Corp., 318US125, 63SCR494, rev'g (CCA5), 128F(2d)450, which aff'd (DC-Fla), 43FSupp445. See Dun. Dig. 5812b.

Where corporation claims that one of its branches is exempt from labor standards act on ground that it is not engaged in interstate commerce, the administrator may require, through a subpoena duces tecum, the production of all relevant books and records of the corporation including such branch, in order to determine whether or not it is engaged in interstate commerce. Cudahy Packing Co. v. Fleming, (C.C.A.8), 122 F. (2d) 1005. See Dun. Dig. 5812b. Rev'd 315US785, 62SCR803.

Nothing in Federal Labor Standards Act makes it necessary for the Administrator of Wage and Hour Division rather than a regional director of division to sign a subpoena duces tecum issued pursuant to section 9 of the act. Id.

Power conferred upon Attorney General of the United States to direct and control all litigation in which administrator is involved is permissive and not mandatory, and the manner and extent of this participation are wholly a matter of his official option. Id.

Administrator of Wage and Hour division may institute a proceeding to enforce a subpoena duces tecum through his own legal staff. Id.

Consent judgment requiring employer to pay to each of its employes a sum equal to difference between amounts of wages actually paid and amounts which should have been paid under Federal Fair Labor Stand-