

FORESTRY

CHAPTER 88

DIVISION OF FORESTRY

88.01 DEFINITIONS.

While the forestry act applies to Indian territory, the penal provisions are enforceable only against persons who are not Indians, or Indians who have been emancipated, and are not federal wards. OAG May 16, 1930 (203-H-5).

88.03 CODIFICATION OF FORESTRY ACT.

Laws 1925, c. 407, a code by statute cited as the forestry act is constitutional and the subject is expressed in the title. State v Phillips, 176 M 472, 223 NW 912.

88.11 FIRE PATROLMEN; AID FOR FIGHTING FIRES; REFUSAL; COMMANDEERING PROPERTY.

It is not a violation of the penal provision of section 88.11 if a person summoned by the fire warden refuses to assist in the extinguishment of a fire. OAG Nov. 9, 1943 (202-A).

88.15 CAMP FIRES.

The evidence made a question for the jury whether a fire which destroyed the plaintiff's property came from the camp fire of defendant. Silver v Harbison, 178 M 271, 226 NW 932.

88.16 STARTING FIRES; WHERE UNLAWFUL WITHOUT PERMISSION; FIREBREAKS; REPORTS OF UNAUTHORIZED FIRES.

Legislature may make a person starting a fire on his own premises absolutely liable for the resulting damage and expense of extinguishing the fire. State v Phillips, 176 M 472, 223 NW 912.

88.21 REPORTS BY RAILROAD COMPANIES.

Evidence sustaining the verdict that fire in elevator did not originate from operation by the defendant of a stationary engine at 100 feet distance from the buildings burned. Home Insurance v Chicago, St. Paul & Omaha, 146 M 240, 178 NW 608.

The fact that a prolonged drought and a wind of extraordinary violence contributed to the spread of a railroad fire which destroyed plaintiff's property does not relieve the railroad company from liability. Such weather conditions are not intervening proximate or efficient cause of the destruction of the property. Anderson v Mpls. St. P. & S.S. Ry. Co., 146 M 430, 179 NW 45.

Plaintiff failed to produce evidence which identified the railroad fire, alone or in union with other fires, as having reached plaintiff's premises. A mere possibility or remote probability is insufficient to establish proximate cause. McCool v Davis, 158 M 146, 197 NW 93.

Liability for a fire set by a railroad locomotive is absolute and not dependent upon negligence. Carr v Davis, 159 M 485, 199 NW 237.

In determining whether or not a particular fire is the source of a certain loss, the evidence tending to show the existence of other fires, any one of which may

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have been a probable source of the loss, must be considered. *Potter v Great Northern*, 164 M 213, 204 NW 928.

Where in a campaign to prevent spread of white pine blister rust, a village enacted an ordinance forbidding growing of currant and fruit berries, and requiring destruction of same, persons damaged may recover from the village. OAG April 13, 1932 (203).

88.47 AUXILIARY FORESTS; APPLICATION BY OWNER TO COUNTY BOARD; TAXATION.

Amended by L. 1947, c. 467, s. 1.

NOTE: Section 88.47 and the sections following provide a comprehensive plan for afforestation and reforestation of lands under limited and special taxation as authorized by constitutional amendment ratified November 2, 1926 (article 18). The original act, L. 1927, c. 247, was amended by L. 1929, c. 245, and by L. 1945, c. 269. This law must be distinguished from L. 1945, c. 535, codified as sections 89.31 to 89.34.

88.51 TAX RATE AND SPECIAL TAXES RELATING TO AUXILIARY FORESTS.

Amended by L. 1947, c. 467, ss. 2, 3.

88.74 CERTAIN RECORDS MAY BE DESTROYED.

Sections 15.17, 138.03, 138.04 and 613.36 being permissive in effect are not inconsistent with provisions of section 88.74. OAG Jan. 21, 1942 (851-F).

88.79 STATE FOREST SERVICE TO PRIVATE OWNERS.

HISTORY. 1947, c. 580, s. 1.