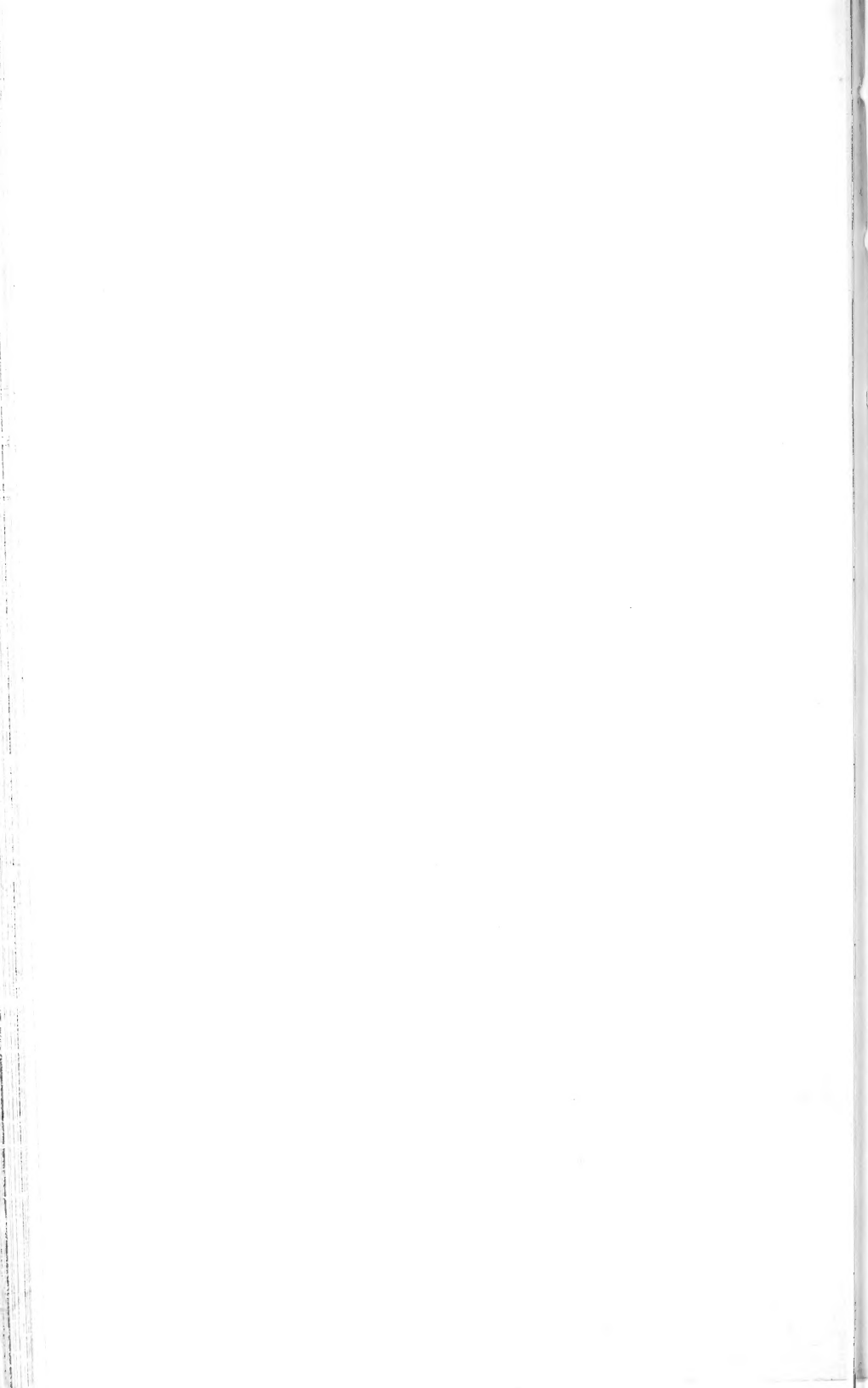


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United States Department of Agriculture,

DIVISION OF FORESTRY.

RECENT LEGISLATION ON STATE FORESTRY COMMISSIONS AND FOREST RESERVES.

In Circular No. 13, of this division, the existing forest fire legislation of the several States and Territories was summarized. Since it appeared, in March, 1896, several States have enacted legislation for the creation of forestry commissions and the establishment of forest reservations, and public interest in these important subjects has been greatly stimulated. This increased interest is evidenced in the many requests which reach the Division of Forestry for aid in formulating legislation affecting forest conditions, and it is believed this summary of the more important recently enacted laws will be of material service in work of this kind.

NEW YORK.

The original Forest Commission of the State of New York appointed under the act of May 15, 1885, was superseded in 1895 by the Commission of Fisheries, Game, and Forests, under the law of April 25, 1895. This law is a comprehensive measure in which allied interests are brought under the control of a single board. Under this law the commission consists of five members appointed by the governor with consent of the senate, the term of office being five years. The president, who is designated as such by the governor, receives a salary of \$5,000 per year and traveling expenses, and devotes all his time to the work of his office. The remaining four commissioners each receive \$1,000 per year and traveling expenses. The board holds at least four meetings, on designated days, each year. It has a secretary at \$2,000 per year, and necessary clerical force. The duties of the board are to propagate and distribute food-fish and game; to enforce all laws for the protection of fish and game and for the protection and preservation of the forest reserve. It has full control of the Adirondack Park and forest reserve, and is authorized to make rules for its care and safety.

The commission appoints thirty-five "fish and game protectors and foresters" (hereafter called foresters), one of whom to be known as chief, and two others as his assistants, the chief to have direction and control of the entire force. The foresters give bonds for the proper discharge of their duty. The chief forester receives \$2,000 per year and traveling expenses; the assistant foresters \$1,200 each; and the remaining foresters \$500 each; all having an extra allowance for traveling expenses and each of them to receive one-half of all fines collected in actions brought upon information furnished by them. It is their duty to enforce all laws and regulations of the commission for the protection of fish and game and for the protection and preservation of the forest reserve, and all rules and regulations for the care of the Adirondack Park. They have full power to execute all warrants and search warrants and to serve subpoenas.

Each forester keeps a record of his official acts and reports a summary of it, with important details, monthly to his chief. The monthly payment of salary is contingent upon the receipt of this report. The chief forester reports to the commission all cases of neglect of duty or negligence on the part of the foresters, and he also makes a monthly report of the operations of his department.

The commission may, in its discretion, appoint or remove special foresters recommended by any board of supervisors, but such special foresters receive no compensation from the State. All peace officers have the same powers as foresters in the enforcement of the fisheries, game, and forest law.

Article XII, Chapter 395, Laws of 1895, describes the forest preserve (sec. 270), and defines the powers and duties of the commission (sec. 271), whose duty it is (1) to have the care, custody, control, and superintendence of the forest preserve; (2) maintain, protect, and promote the growth of the forests in the preserve; (3) have charge of the public interests of the State in regard to forestry and tree planting, and especially with reference to forest fires in every part of the State; (4) possess all the powers relating to the preserve which were vested in the commissioners of the land office and in the comptroller on May 15, 1885; (5) prescribe rules and regulations affecting the whole or any part of the preserve for its use, care, and administration, and alter or amend the same; but neither such rules or regulations nor anything contained in this article shall prevent or operate to prevent the free use of any road, stream, or water as the same may have been heretofore used, or as may be reasonably required in the prosecution of any lawful business; (6) take measures for the awakening of an interest in forestry in the schools and imparting elementary instruction on such subject therein, and issue tracts and circulars for the care of private woodlands, etc.; (7) print and post rules for the prevention and suppression of forest fires.

Section 272 provides that all income from the State forest lands, including receipts for trespasses, shall be paid into the State treasury, and constitute a fund for the purchase of lands within the Adirondack Park; the comptroller shall audit the accounts of the board, and an annual report of all its doings shall be made in January of each year. Section 273 provides for the division of lands within the forest preserve in which the State owns an undivided interest with individuals. Section 274 provides for the taxation of the forest preserve. All wild or forest land within the forest preserve shall be assessed and taxed at a like valuation and rate as similar lands of individuals within the counties where situated. The assessors shall file with the commission and the comptroller a copy of the assessment roll of their towns, and shall state (under oath) which and how much of the lands assessed are forest lands and which are lands belonging to the State. The comptroller, after hearings, shall "correct or reduce any assessment of State land which may be in his judgment an unfair proportion to the remaining assessment of land within the town," and shall otherwise approve the assessment. No such assessment shall be valid without the approval of the comptroller. No tax for the erection of schoolhouses or road opening shall be valid unless such erection or opening is first approved by the board. Payment of taxes on State lands shall be made by the State treasurer crediting the county treasurer with the amount of such taxes due on such lands

payable on the State tax of the year. Sections 275-279 and 281 provide for protection against fire, with penalties for violation of same. Section 280 provides for actions for trespasses upon the forest preserve. In addition to authorizing the board to bring suits for trespass on the lands of the forest preserve, the same as a citizen may bring for trespass on private lands, it makes the cutting of trees or removal of any tree, timber, or bark from any portion of the preserve a misdemeanor, punishable by a fine of \$25 for every tree so cut or removed. The board is empowered to employ attorneys, with the consent of the attorney-general and comptroller, to prosecute offenders against this act, and such offenders may be arrested without warrant (sec. 282).

Article XIII refers to the Adirondack Park; section 290 defines its limits and adds: "Such park shall be forever reserved, maintained, and cared for as ground open to the free use of all the people for their health and pleasure, and as forest lands, necessary to the preservation of the headwaters of the chief rivers of the State, and a future timber supply; and shall remain part of the forest preserve."

The park is placed in the control and custody of the board of fisheries, game and forest, which is empowered to (1) contract for the purchase of land within the limits of the park; (2) to contract with owners of land situated within the park limits that such lands may become part of the park and subject to the provisions of this article in consideration of the exemption of such lands from taxation for State and county purposes, provided that the owners or their grantors shall refrain forever from removing any timber except spruce, tamarack, or poplar, 12 inches in diameter at three feet from the ground, or fallen, burned or blighted timber, and obey such other conditions of occupancy as may be equitable. Owners may also clear land for agricultural or domestic purposes, at the rate of not more than one acre within the boundary of each one hundred acres covered by such contract; (3) to prescribe and enforce rules for the licensing or regulation of guides and other persons engaged in business therein; (4) to lay out roads and paths in the park.

Contracts mentioned in this article require the approval of the commissioners of the land office, and every conveyance mentioned in this article shall be certified by the attorney-general, to be in conformity with the contract, and approved by him as to form before acceptance or delivery. The law further provides that the board include in its annual report an account of its proceedings with reference to the park.

The legislature of 1897 passed the following important act (approved April 8, 1897), which is quoted entire:

AN ACT to provide for the acquisition of land in the territory embraced in the Adirondack Park and making an appropriation therefor.

The people of the State of New York, represented in senate and assembly, do enact as follows:

SECTION 1. The governor, within twenty days after this act takes effect, shall appoint from the commissioners of fisheries, game and forest and the commissioners of the land office, by and with the advice and consent of the senate, three persons to constitute a board to be known as "the forest preserve board." The members of such board may be removed by the governor at his pleasure. Vacancies shall be filled in like manner as an original appointment. The members of the board shall not receive any compensation for their services under this act,

but shall receive their actual and necessary expenses to be audited by the comptroller. The board may employ such clerical and other assistants as it may deem necessary. The forest preserve board annually in the month of January shall make a written report to the governor showing in detail all its transactions under this act during the preceding calendar year.

SEC. 2. It shall be the duty of the forest preserve board and it is hereby authorized to acquire for the State, by purchase or otherwise, land, structures or waters or such portion thereof in the territory embraced in the Adirondack Park, as defined and limited by the fisheries, game and forest law, as it may deem advisable for the interests of the State.

SEC. 3. The forest preserve board may enter on and take possession of any land, structures and waters in the territory embraced in the Adirondack Park, the appropriation of which in its judgment shall be necessary for the purposes specified in section two hundred and ninety of the fisheries, game and forest law, and in section seven of article seven of the constitution.

SEC. 4. Upon the request of the forest preserve board an accurate description of such lands so to be appropriated shall be made by the State engineer and surveyor, or the superintendent of the State land survey, and certified by him to be correct, and such board or a majority thereof shall indorse on such description a certificate stating that the lands described therein have been appropriated by the State for the purpose of making them a part of the Adirondack Park; and such description and certificate shall be filed in the office of the secretary of state. The forest preserve board shall thereupon serve on the owner of any real property so appropriated a notice of the filing and the date of filing of such description and containing a general description of the real property belonging to such owner which has been so appropriated; and from the time of such service, the entry upon and appropriation by the State of the real property described in such notice for the uses and purposes above specified shall be deemed complete, and thereupon such property shall be deemed and be the property of the State. Such notice shall be conclusive evidence of an entry and appropriation by the State. The forest preserve board may cause duplicates of such notice with an affidavit of due service thereof on such owner to be recorded in the books used for recording deeds in the office of the clerk of any county of this State where any of the property described therein may be situated, and the record of such notice and such proof of service shall be evidence of the due service thereof.

SEC. 5. Claims for the value of the property taken and for damages caused by any such appropriation may be adjusted by the forest preserve board if the amount thereof can be agreed upon with the owners of the land appropriated. The board may enter into an agreement with the owner of any land so taken and appropriated, for the value thereof, and for any damages resulting from such appropriation. Upon making such agreement the board shall deliver to the owner a certificate stating the amount due to him on account of such appropriation of his lands, and a duplicate of such certificate shall also be delivered to the comptroller. The amount so fixed shall be paid by the treasurer upon the warrant of the comptroller.

SEC. 6. If the forest preserve board is unable to agree with the owner for the value of the property so taken or appropriated, or on the amount of damages resulting therefrom, such owner, within two years after the service upon him of the notice of appropriation as above specified, may present to the court of claims a claim for the value of such land and for such damages, and the court of claims shall have jurisdiction to hear and determine such claim and render judgment thereon. Upon filing in the office of the comptroller a certified copy of the final judgment of the court of claims, and a certificate of the attorney-general that no appeal from such judgment has been or will be taken by the State, or, if an appeal has been taken a certified copy of the final judgment of the appellate court, affirming in whole or in part the judgment of the court of claims, the comptroller shall issue his warrant for the payment of the amount due the claimant by such judgment, with interest from the date of the judgment until the thirtieth day after the entry of such final judgment, and such amount shall be paid by the treasurer.

SEC. 7. The owner of land to be taken under this act may, at his option, within the limitations hereinafter prescribed, reserve the spruce timber thereon ten inches or more in diameter at a height of three feet above the ground. Such option must be exercised within six months after the service upon him of a notice of the appropriation of such land by the forest preserve board, by serving upon such board a written notice that he elects to reserve the spruce timber thereon. If such a notice be not served by the owner within the time above

specified, he shall be deemed to have waived his right to such reservation, and such timber shall thereupon become and be the property of the State. In case land is acquired by purchase, the spruce timber and no other may be reserved by agreement between the board and the owner, subject to all the provisions of this act in relation to timber reserved after an appropriation of land by the forest preserve board. The presentation of a claim to the court of claims before the service of a notice of reservation, shall be deemed a waiver of the right to such reservation.

SEC. 8. The reservation of timber and the manner of exercising and consummating such right are subject to the following restrictions, limitations, and conditions:

1. The reservation does not include or affect timber within twenty rods of a lake, pond or river, and such timber can not be reserved. Roads may be cut or built across or through such reserved space of twenty rods, under the supervision of the forest preserve board, for the purpose of removing spruce timber from adjoining land, and the reservation of spruce timber within such space shall be deemed a reservation by the owner, his assignee or representative, of the right to cut other timber necessary in constructing such road, but such reservation does not confer a right to remove such other timber so cut, or to use it otherwise than in constructing a road.

2. The timber reserved must be removed from the land within fifteen years after the service of notice of reservation, or the making of an agreement subject to regulations to be prescribed by the forest preserve board; but such land shall not be cut over more than once, and the said board may prescribe regulations for the purpose of enforcing this limitation. All timber reserved and not removed from the land within such time shall thereupon become and be the property of the State, and all the title or claim thereto by the original owner, his assigns or representatives, shall thereupon be deemed abandoned.

SEC. 9. A person who reserves timber as herein provided is not entitled to any compensation for the value of the land purchased or taken and appropriated by the State, nor for any damages caused thereby, until:

1. The timber so reserved is all removed and the object of the reservation fully consummated; or

2. The time limited for the removal of such timber has fully elapsed, or the right to remove any more timber is waived by a written instrument filed with the forest preserve board; and

3. The forest preserve board is satisfied that no trespass on State lands has been committed by such owner or his assigns or representatives; that no timber or other property of the State not so reserved has been taken, removed, destroyed or injured by him or them, and that a cause of action in behalf of the State does not exist against him or them for any alleged trespass or other injury to the property or interests of the State; and

4. That the owner, his assignee, or other representative has fully complied with all rules, regulations and requirements of the forest preserve board concerning the use of streams or other property of the State for the purpose of removing such timber.

SEC. 10. A warrant shall not be drawn by the comptroller for the amount of compensation agreed upon between the owner and the forest preserve board, nor for the amount of a judgment rendered by the court of claims, until a further certificate by the board is filed with him to the effect that the owner has not reserved any timber or that he, his assignee, or other representative, has complied with the provisions of this act, or has otherwise become entitled to receive the amount of the purchase price, award or judgment.

SEC. 11. The forest preserve board may settle and adjust any claims for damages due to the State on account of any trespasses or other injuries to property or interests of the State, or penalties incurred by reason of such trespasses or otherwise, and the amount of such damages or penalties so adjusted shall be deducted from the original compensation agreed to be paid for the lands, or for damages, or from a judgment rendered by the court of claims on account of the appropriation of such land. A judgment recovered by the State for such a trespass or for a penalty shall likewise be deducted from the amount of such compensation or judgment.

SEC. 12. If timber is reserved upon land purchased or appropriated as provided by this act, interest is not payable upon the purchase price or the compensation which may be awarded for the value of such land or for damages caused by such appropriation, except as provided in section six.

SEC. 13. Persons entitled to cut and remove timber under this act may use streams or other waters belonging to the State within the forest preserve for the purpose of removing such timber, under such regulations and conditions as may be prescribed or imposed by the forest preserve board. The persons using such waters shall be liable for all damages caused by such use.

SEC. 14. If timber be reserved, its value at the time of making an agreement between the owner and the forest preserve board for the value of the land so appropriated and the damages caused thereby, or at the time of the presentation to the court of claims of a claim for such value and damages, shall be taken into consideration in determining the compensation to be awarded to the owner on account of such appropriation either by such agreement or by the judgment rendered upon such a claim.

SEC. 15. The forest preserve board may appoint inspectors to examine the lands upon which timber is reserved and ascertain and report to the board, from time to time, or whenever required, whether such timber is being removed in accordance with the provisions of this act, whether any trespasses or other violations of this act are being committed, and whether the persons entitled to the use of such waters for the purpose of removing timber have complied with the regulations and conditions relating thereto, prescribed, or imposed by the board.

SEC. 16. The forest preserve board shall fix the compensation of all clerks, inspectors, or other assistants employed by it, which compensation shall be paid by the treasurer, upon the certificate of the board and the audit and warrant of the comptroller. A person so appointed may be removed at the pleasure of the board.

SEC. 17. The forest preserve board shall take such measures as may be necessary or proper to perfect the title to any lands in the forest preserve now held by the State, and for that purpose may pay and discharge any valid lien or incumbrance upon such land, or may acquire any outstanding or apparent right, title, claim, or interest which, in its judgment, constitutes a cloud on such title. The amounts necessary for the purpose of this section shall be paid by the treasurer upon the certificate of the board and the audit and warrant of the comptroller.

SEC. 18. If an offer is made by the forest preserve board for the value of land appropriated, or for damages caused by such appropriation, and such offer is not accepted, and the recovery in the court of claims exceeds the offer, the claimant is entitled to costs and disbursements as in an action in the supreme court, which shall be allowed and taxed by the court of claims and included in its judgment. If in such a case the recovery in the court of claims does not exceed the offer, costs, and disbursements to be taxed shall be awarded in favor of the State against the claimant and deducted from the amount awarded to him, or if no amount is awarded judgment shall be entered in favor of the State against the claimant for such costs and disbursements. If an offer is not accepted it can not be given in evidence on the trial.

SEC. 19. When a judgment for damages is rendered for the appropriation of any lands or waters for the purposes specified in this act, and it appears that there is any lien or incumbrance upon the property so appropriated, the amount of such lien shall be stated in the judgment, and the comptroller may deposit the amount awarded to the claimant in any bank in which moneys belonging to the State may be deposited to the account of such judgment, to be paid and distributed to the persons entitled to the same as directed by the judgment.

SEC. 20. If a person cuts down or carries off any wood, bark, underwood, trees, or timber, or any part thereof, or girdles or otherwise despoils a tree in the forest preserve, without the permission of the forest preserve board, an action may be maintained against him by the board in its name of office and in such an action the board may recover treble damages if demanded in the complaint. Every such person also forfeits to the State the sum of twenty-five dollars for every tree cut down or carried away by him or under his direction, to be recovered in a like action by the forest preserve board. All sums recovered in any such action shall be paid by the board to the State treasurer and credited to the general fund.

SEC. 21. Service of a notice by the forest preserve board under section four must be personal if the person to be served can be found in the State. The provisions of the code of civil procedure relating to the service of a summons in an action in the supreme court, except as to publication, apply, so far as practicable, to the service of such a notice. If a person to be served can not with due diligence be found in the State, a justice of the supreme court may, by order, direct the manner of such service, and service shall be made accordingly.

SEC. 22. The court of claims, if requested by the claimant or the attorney-general, shall examine the real property affected by the claim and take the testimony in relation thereto in the county where such property or a part thereof is situated. The actual and necessary expenses of each judge and of each officer of the court in making such examination and in so taking testimony shall be audited by the comptroller and paid from the money appropriated for the purposes of this act.

SEC. 23. The power to appropriate real property, vested in the forest preserve board by section four, is subject to the following limitations: Such real property must adjoin land already owned or appropriated by the State at the time the description and certificate are filed in the office of the secretary of state, except that timber land not so adjoining State land may be appropriated whenever in the judgment of the board timber thereon other than spruce, pine, or hemlock is being cut or removed to the detriment of the forest or the interests of the State.

SEC. 24. The sum of six hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purposes specified in this act, out of any moneys in the treasury not otherwise appropriated. In addition to the amount above appropriated, the comptroller, upon the written request of the forest preserve board, is hereby authorized and directed to borrow, from time to time, not exceeding in the aggregate the sum of four hundred thousand dollars for the purposes specified in this act, and to issue bonds or certificates therefor payable within ten years from their date, bearing interest at a rate not exceeding five per centum per annum, and which shall not be sold at less than par. The sums so borrowed are hereby appropriated, payable out of the moneys realized from the sale of such bonds or certificates, to be expended under the direction of the forest preserve board for the purposes of this act, and to be paid by the treasurer on the warrant of the comptroller.

SEC. 25. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 26. This act shall take effect immediately.

PENNSYLVANIA.

During the past few years the State of Pennsylvania has made notable progress in forestry legislation. In 1893 a commission was created under the following law, signed by the governor May 23:

AN ACT relative to a forestry commission.

Be it enacted, etc.:

SECTION 1. That the governor be authorized to appoint two persons as a commission, one of whom is to be a competent engineer, one a botanist, practically acquainted with the forest trees of the Commonwealth, whose duty it shall be to examine and report upon the conditions of the slopes and summits of the important water-sheds of the State, for the purpose of determining how far the presence or absence of the forest cover may be influential in producing high and low-water stages in the various river basins; and to report how much timber remains standing of such kinds as have special commercial value, how much there is of each kind; as well, also, as to indicate the part or parts of the State where each grows naturally, and what measures, if any, are being taken to secure a supply of timber for the future. It shall further be the duty of said commission to suggest such measures in this connection as have been found of practical service elsewhere in maintaining a proper timber supply, and to ascertain, as nearly as practicable, what proportion of the State, not now recognized as mineral land, is unfit for remunerative agriculture, and could with advantage be devoted to the growth of trees.

SEC. 2. The said commission shall also ascertain what wild lands, if any, now belong to the Commonwealth; their extent, character, and location, and report the same, together with a statement of what part or parts of such lands would be suitable for a State Forest Reserve; and further, should the lands belonging to the Commonwealth be insufficient for such purpose, then to ascertain and report what other suitable lands there may be within the State, their extent, character and value. The final report of the said commission shall be presented to the legislature not later than March 15, 1895.

SEC. 3. The said commission shall have power to appoint one competent person to act as statistician, whose duty it shall be to compile the statistics collected by said commission, under their direction and supervision, whose salary shall be one thousand dollars per annum, with necessary expenses, to be paid in the same manner as is hereinafter provided for the payment of the Forestry Commission.

SEC. 4. The commissioners appointed hereunder shall be entitled to receive by quarterly payments a compensation as follows: The engineer, twenty-five hundred dollars (\$2,500.00) per annum; the botanist, twenty-five hundred dollars (\$2,500.00) per annum, with necessary expenses; and the sum of twenty thousand dollars (\$20,000.00) is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to be paid by warrant drawn by the auditor-general.

The legislature of 1895 provided for an executive department of agriculture in which a division of forestry was established, Dr. J. T. Rothrock, the botanist member of the previous commission, being appointed forestry commissioner.

The law creating a department of agriculture was approved by the governor March 13, 1895. The chapters referring to forestry are as follows:

Be it enacted by the senate and house of representatives of the Commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by authority of the same:

SECTION 1. That there be and hereby is established a department of agriculture to be organized and administered by an officer who shall be known as the secretary of agriculture, who shall be appointed by the governor, by and with the advice and consent of the senate, for a term of four years at an annual salary of three thousand five hundred dollars, and who, before entering upon the duties of his office, shall take and subscribe the oath prescribed in article seven of the constitution. Said secretary shall be ex-officio secretary of the State board of agriculture, and shall succeed to all the powers and duties now conferred by law upon the secretary of said board.

SEC. 2. That it shall be the duty of the secretary of agriculture in such ways, as he may deem fit and proper, to encourage and promote the development of agriculture, horticulture, forestry, and kindred industries, to collect and publish statistics and other information in regard to the agricultural industries and interests of the State. * * * In the performance of the duties prescribed by this act, the secretary of agriculture shall as far as practicable * * * enlist the aid of the State geological survey, for the purpose of obtaining and publishing useful information respecting the economical relations of geology to agriculture, forestry, and kindred industries. He shall make an annual report to the governor, and shall publish, from time to time, such bulletins of information as he may deem useful and advisable. Said report and bulletins shall be printed by the State printer in the same manner as other public documents, not exceeding five thousand copies of any one bulletin.

SEC. 3. That it shall be the duty of the secretary to obtain and publish information respecting the extent and condition of forest lands in this State, to make and carry out rules and regulations for the enforcement of all laws designed to protect forests from fires and from all illegal depredations and destruction, and report the same annually to the governor, and as far as practicable, to give information and advice respecting the best methods of preserving wood lands and starting new plantations. He shall also, as far as practicable, procure statistics of the amount of timber cut during each year, the purposes for which it is used and the amount of timber land thus cleared, as compared with the amount of land newly brought under timber cultivation, and shall in general adopt all such measures as, in his judgment, may be desirable and effective, for the preservation and increase of the timber lands of this State, and shall have direct charge and control of the management of all forest lands belonging to the Commonwealth, subject to the provision of law relative thereto. * * *

SEC. 4. There shall be one deputy secretary, who shall be appointed by the governor for the term of four years, at a salary of three thousand dollars a year, who shall also be director of farmers' institutes. The other officers of the department shall be appointed by the governor for the term of four years, and shall be an economic zoologist, a commissioner of forestry, a dairy and food commissioner, who shall have practical experience in the manufacture of dairy products, and a State veterinarian, who shall be a graduate of some reputable veterinary college, who shall receive an annual salary of twenty-five hundred dollars each. * * * The governor is hereby authorized to appoint one chief clerk of the department at an annual salary of sixteen hundred dollars, a stenographer, at a salary of eight hundred dollars a year, and one messenger, at a salary of six hundred dollars a year, and the dairy and food commissioner, the

commissioner of forestry, and the economic zoologist, shall each have a clerk who shall be appointed by the governor, and who shall serve under the direction of the respective commissioners aforesaid and receive a salary of fifteen hundred dollars a year each.

* * * * *

SEC. 6. That the secretary may, at his discretion, employ experts for special examinations or investigations, the expenses of which shall be paid by the State treasurer in the same manner as like expenses are provided by law, but not more than five thousand dollars shall be so expended in any one year. In this annual report to the governor he may include so much of the reports of other organizations as he shall deem proper which shall take the place of the present agricultural reports and of which thirty-one thousand six hundred copies shall be published and distributed as follows: To the senate, nine thousand copies; to the house of representatives, twenty thousand copies; to the secretary of agriculture, two thousand copies; to the State librarian, for distribution among public libraries and for reserve work, five hundred copies; and to the State agricultural experiment station, one hundred copies.

SEC. 7. That the secretary of agriculture shall have an office at the State Capitol, and it is hereby made the duty of the commissioners of public buildings and grounds to provide the necessary rooms, furniture and apparatus for the use of the department.

SEC. 8. That all acts, or parts of acts, inconsistent herewith, be and the same are hereby repealed.

The legislature of 1897, in addition to passing—

An act making constables of townships ex-officio fire wardens for the extinction of forest fires, and for reporting to the court of quarter sessions violations of the laws for the protection of forests from fire, prescribing the duties of such fire wardens and their punishment for failure to perform the same, and empowering them to require, under penalty, the assistance of other persons in the extinction of such fires;

and

An act to amend the first section of an act, entitled an "Act to protect timber lands from fire," approved the second day of June, Anno Domini one thousand eight hundred and seventy, providing for a penalty in case of the failure of county commissioners to comply with the terms of said act, after demand made upon them by the commissioner of forestry, and providing for the Commonwealth bearing part of the expenses incurred under said act;

also,

An act to authorize constables and other peace officers, without first procuring a warrant, to arrest persons reasonably suspected by them of offending against the laws protecting timber lands,

enacted the following laws which, it is hoped, may lead to similar legislation in other States:

AN ACT for the preservation of forests and partially relieving forest lands from taxation.

Be it enacted, etc.:

SECTION 1. That in consideration of the public benefit to be derived from the retention of forest or timber trees, the owner or owners of land in this Commonwealth having on it forest or timber trees of not less than fifty trees to the acre, and each of said trees to measure at least eight inches in diameter at a height of six feet above the surface of the ground, with no portion of the said land absolutely cleared of the said trees, shall, on making due proof thereof, be entitled to receive annually from the commissioners of their respective counties during the period that the said trees are maintained in sound condition upon the said land, a sum equal to eighty per centum of all taxes annually assessed and paid upon the said land, or so much of the said eighty per centum as shall not exceed the sum of forty-five cents per acre: *Provided, however,* That no one property owner shall be entitled to receive said sum on more than fifty acres.

SEC. 2. All acts or parts of acts inconsistent herewith are hereby repealed.

AN ACT authorizing the purchase by the Commonwealth of unseated lands for the nonpayment of taxes for the purpose of creating a State forest reservation.

Be it enacted, etc.:

SECTION 1. That from and after the first day of January, Anno Domini one thousand eight hundred and ninety-eight, whenever any unseated lands within this Commonwealth shall, under existing laws, become liable to sale by the

respective county treasurers or the county commissioners for nonpayment of taxes, it shall be the duty of such treasurers and commissioners to publish a notice once a week for six successive weeks in at least two newspapers of general circulation within the county in which the lands lie, and if two newspapers be not published in said county, then in one newspaper in or nearest to the same, which notice shall contain the names of the owners when known, the warrant, numbers, names of warrantees when known, the number of acres contained in each tract, the township in which the same is located, and the sums due upon each tract for taxes, and, further, to mail to the secretary of agriculture and the commissioner of forestry each ten copies of such printed advertisement immediately upon the publication thereof.

SEC. 2. It shall be the duty of the commissioner of forestry to inquire into and examine the location and character of the lands so advertised, and if in his judgment the same are so located and are of such a character as to make them desirable to the Commonwealth for the purpose of creating and maintaining a forestry reservation, he shall have power, at his discretion, to purchase any such lands for and in behalf of the Commonwealth at such tax sales, subject to the right of redemption under existing laws: *Provided, however,* That the bid made, and the price paid for said lands, shall in no case exceed the amount of taxes for the nonpayment of which the same are being sold, and the costs. For all purchases so made in behalf of the Commonwealth, the auditor general shall draw his warrant upon the State treasurer to the order of the county treasurer, upon certificate filed by the commissioner of forestry with the said auditor general.

SEC. 3. In the event of redemption of said lands, the redemption money paid shall be remitted to the State treasurer by the county treasurer, with a statement describing the tract of land so redeemed.

SEC. 4. The title to all lands so purchased, and not redeemed after the expiration of the time limited for redemption, shall be taken as vested in the Commonwealth to the same extent and with like effect as though such purchase had been made by an individual at such sale, and the county treasurer shall certify to the secretary of agriculture lists of all lands purchased in behalf of the Commonwealth and not redeemed within the time limited for such redemption, with a description of each tract as required by section one of this act, and thereafter such lands shall not be subject to further taxation while the same are owned by the Commonwealth. It shall be the duty of the secretary of agriculture to keep a record in a book, to be especially provided for that purpose, of all the lands so acquired by the Commonwealth, with full description of each tract, the character of the same, the date of purchase, the price paid, when the title became absolute, or, if redeemed, the date of redemption.

SEC. 5. The lands so acquired by the Commonwealth shall be under the control and management of the department of agriculture, but assigned to the care of the division of forestry, and shall become part of a forestry reservation system, having in view the preservation of the water supply at the sources of the rivers of the State, and for the protection of the people of the Commonwealth and their property from destructive floods.

SEC. 6. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved the 30th day of March, A. D. 1897.

AN ACT to secure State forestry reservations, and providing for the expenses thereof.

Be it enacted, etc.:

SECTION 1. That a commission, to be composed of the commissioner of forestry, the chairman of the State board of health, the deputy secretary of internal affairs, and two other persons, one of whom shall be a lawyer or conveyancer of at least ten years' professional experience and the other one a practical surveyor, to be appointed by the governor, be hereby created.

SEC. 2. The said commission shall, after examination, locate and report to the governor, or to the legislature if it be in session, the following forestry reservations:

(1) One of not less than forty thousand acres upon waters which drain mainly into the Delaware River.

(2) One of not less than forty thousand acres upon waters which drain mainly into the Susquehanna River.

(3) One of not less than forty thousand acres upon waters which drain mainly into the Ohio River.

Provided, That each of these reservations shall be in one continuous area so far as the same is practicable.

SEC. 3. That the lands selected shall be of a character better suited to the growth of trees than to mining or agriculture, and that at least fifty per centum of the area of each reservation shall have an average altitude of not less than six hundred feet above the level of the sea.

SEC. 4. That the said commission shall have full power to take by right of eminent domain and condemn the lands it has selected for the purposes aforesaid as State reservations for the use and behoof of the Commonwealth, and wherever it shall be necessary to have a recourse to a jury to assess the damages for any property to be taken as aforesaid, the said jury shall consist of such number and shall proceed, and their award shall be reviewed and enforced, in the same manner as now provided by law for the taking of land for the opening of roads in the respective counties in which said property is situated. And all the lands acquired by the State for public reservations by the action of said commission shall be paid for by the State treasurer, upon a warrant drawn by the auditor-general of the Commonwealth, after approval by the governor.

SEC. 5. The commissioners appointed under this act shall serve without compensation, except so far as the officials designated hereby are compensated by the continuance of their salaries as such officials while serving as commissioners, but the necessary expenses of travel and all other necessary expenses incurred under the provisions of this act shall be paid by the State treasurer, on the warrant of the auditor-general, after due certification.

SEC. 6. *Provided*, That nothing herein contained shall authorize the taking, for the purpose of this act, of any land held by any corporation created for the purpose of the preservation of forests.

Approved the 25th day of May, A. D. 1897.

WISCONSIN.

The following law, under which a temporary commission has been appointed by the governor of Wisconsin, was passed by the legislature of 1897:

AN ACT to provide for a committee to draw up a plan to protect and utilize the forest resources of the State of Wisconsin.

The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION. 1. The governor is hereby authorized to appoint a commission consisting of three members who shall devise and draw up a plan for the organization of a forestry department, which shall have the management of such State lands as may be suitable for timber culture and forestry. The said commissioners shall embody in their plan provisions for the classification of the lands now owned by the State and the reservation of the State of all lands which are better fitted for the growing of timber than for agricultural purposes; the purchase of similar lands which may have been abandoned by their owners, or may have been struck off to counties for unpaid taxes; the management of the forests existing on such lands according to the principles of scientific forestry; the replanting of forests on such lands, as far as they have been denuded of their timber; and such other provisions as may be deemed advisable. They shall aim at devising the best means by which the forest resources of the State can be utilized for the people and preserve for future generations without retarding the development of the agricultural, manufacturing, and mining industries; shall have regard to the influence which the maintaining of forests has upon the climate and water supply of the State; and shall draw up a plan by which the forestry department may be from the first self-supporting and in time become a source of revenue to the State. The report of said commissioners shall be submitted to the legislature of the State at its next regular session, within the first ten days after the beginning thereof, in the form of a bill or bills.

SEC. 2. Said bill or bills may be accompanied by a report explaining the provisions of such bill or bills, and giving the reasons for any of the provisions contained therein. The said bill or bills, together with such report, shall be printed by the State printer at the expense of the State in not more than five hundred copies, and shall be distributed to such persons as the governor may direct.

SEC. 3. The said commissioners shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses, including clerk hire, which expenses and clerk hire shall not, in the aggregate, exceed two hundred and fifty dollars, to be paid by the State treasurer upon warrants drawn by the secretary of State, upon verified statements made by the chairman of such commission. The superintendent of public property shall furnish such commission with the suitable and necessary stationery for the performance of such work.

SEC. 4. There is hereby appropriated out of any money in the treasury, not otherwise appropriated, a sufficient sum to carry out the provisions of this bill.

SEC. 5. This act shall take effect and be in force from and after its passage and publication.

Approved April 14, 1897.

The commission has sought the cooperation of this division, and a preliminary survey of the forest counties of the State, in cooperation with the State geological survey, is being made by timber experts upon whose researches the commission will base its report to the next legislature, as provided in the act above quoted.

MINNESOTA.

An effort was made during the legislative session of 1897 to secure the enactment of the following bill, which passed the house but failed to reach a vote in the senate. The bill is included here, notwithstanding its failure to become a law, because it embraces a novel and interesting method of securing to the State the benefits of a forest reservation:

AN ACT to encourage the growing and preservation of forests, and to create forest boards and forest reserve areas.

(Sections 1 to 8 provide for the acquirement of forest reserve areas, the appointment of a forestry board of nine members, who shall serve without pay other than the reimbursement of actual expenses incurred, and who shall have a secretary, and elect a president and vice-president. The State treasurer is made treasurer of the board, and county commissioners and town supervisors are made county and town forestry boards. The duties of the boards are defined, and the remainder of the bill, embracing its unique features, is as follows:)

SEC. 9. Any person or corporation being the owner in fee simple of any cutover or denuded, or partially cutover or partially denuded, natural forest lands, which will not probably be utilized for many years for agricultural purposes, or any bare or waste, or partially bare or waste, rough prairie lands, or any very sandy, very rough or very rocky lands in this State, or any lands deemed absolutely necessary for the preservation of water courses (all to be determined by said State forestry board) may deed the same to the State of Minnesota for forestry purposes; all lands so deeded to the State for forestry purposes by any person or corporation are hereby forever dedicated for forestry purposes.

Before such deed shall be made and delivered, a proposition in writing shall be made by such owner or owners to said State forestry board to so deed the same for forestry purposes, under the terms of this act, and amendments thereof, made prior to such offer, and the question of the acceptance thereof shall be referred to the town or county forestry board where the land is situated (or both such town and county forestry boards) for its advice on the question of accepting the same; and said State forestry board, or its executive committee may hear the person offering so to deed, or his or her representative, and also may hear such town or county forestry board or its representative, both sides in person or by written reasons submitted, why such deed should or should not be received, and the decision of the State forestry board to receive or reject such offer and deed shall be final. Such deed may be made by quit claim, where by the advice of the attorney-general, or by the advice of its attorney, if said board have one, said lands are clear of liens except for taxes and tax sales still owned by the State.

The board may appoint an executive committee annually, on which it may confer authority to perform any executive act, and to exercise its judgment in minor details which can not conveniently be acted upon by the board.

SEC. 10. At least once in every five (5) years, and as much oftener as the State forestry board may decide, the accumulated income from each tract of land so deeded by persons or corporations for State forestry purposes, shall be divided by the State forestry board and disposed of as follows, to wit:

1st. One-third ($\frac{1}{3}$) shall belong to the State, to reimburse the State for the care and protection of the forests thereon, and for the nonpayment of taxes thereon to the State, county, and town, which third ($\frac{1}{3}$) shall be divided between the State, county, and town where the land is situated as follows, to wit; One-half ($\frac{1}{2}$) to the State, one-fourth ($\frac{1}{4}$) to the county, and one-fourth ($\frac{1}{4}$) to the town.

2d. Two-thirds ($\frac{2}{3}$) shall be paid to such public educational institution or system in the State as the grantor may designate in the deed of conveyance, or in a separate instrument executed as deeds of land are required to be executed and recorded in the office of the register of deeds of the county where the land is situated, or by will. But in case the grantor fail to so designate such institution or system, or if for any reason such institution or system fails to exist, then the same to be paid to the proper officer or officers or boards for the benefit of the public school system of the State and the University of Minnesota, the public school system to have three-fourths ($\frac{3}{4}$) thereof, and the said university to have one-fourth ($\frac{1}{4}$) thereof.

SEC. 11. The State by and through said State forestry board, shall have full power and authority to lease for revenue, or for protection from fire, trespassers, or otherwise, low meadow tracts, or other tracts for pasture, when the same will not interfere with the growth of forest trees, and to sell dead and down timber and mature timber, and to deed said tracts or parcels or parts of the same, where the growth of towns, the building of railroads, water powers, or other public improvements may demand alienation by the State, and said State forestry board may cause to be cut and sold, or sold with the right to cut and haul away forests or trees when said board may determine that the State's and the beneficiaries' interests will be subserved by so doing, but all proceeds of such sales or leases shall be divided as is the income therefrom as above provided.

SEC. 12. This act shall take effect and be in force from and after its passage.

OTHER STATES.

Besides these more recent laws, there exist in several other States the beginnings of a more rational governmental treatment of the forestry interests, notably in Maine, New Hampshire, Massachusetts, New Jersey, and North Carolina.

Maine has an efficient forest fire law (Chap. 26 of Revised Statutes) based on that of the State of New York, and a forest commissioner (created in 1891, Public laws, chap. 100)—the State land agent of the State being ex-officio designated as such—to look to its execution. The forest commissioner has in addition annually a small amount of money appropriated to satisfy the requirements of the following two sections of the law:

SEC. 15. The forest commissioner shall take such measures as the State superintendent of public schools and the president of the State college of agriculture and the mechanic arts may approve for awakening an interest in behalf of forestry in the public schools, academies, and colleges of the State, and of imparting some degree of elementary instruction upon this subject therein.

SEC. 16. The forest commissioner shall prepare tracts or circulars of information, giving plain and concise advice for the care of wood lands and for the preservation of forest growth. These publications shall be furnished to any citizen of the State upon application.

Two very interesting and instructive reports on the growth of the spruce and allied matters are the result.

New Hampshire had a temporary commission of inquiry, appointed in 1881 and reporting in 1885; and another such commission in 1889, reporting in 1893, when the permanent forestry commission was created (March 29, 1893) with a paid secretary, who publishes an annual report. The main function of the commission is one of inquiry and suggestion, besides partial supervision of the forest fire law. The acquisition of public parks, if private munificence should be found willing to furnish the necessary funds, is also made a part of the function of the commission. Two small areas have been donated.

In *Massachusetts* no special public officers are charged with the care of forestry interests, and hence the otherwise useful legislation is probably of only partial effect. Its best feature is perhaps that of encouraging communities to become owners of forest tracts (chap.

255, acts of 1882). The city of Boston has made special efforts in this direction, having set aside more than 7,000 acres for forest parks. The State board of agriculture was, in 1890, ordered to inquire "into the consideration of the forests of the State, the need and methods of their protection," and report thereon, which order did not produce anything of value. A bill to secure such forest survey, introduced into the legislature this year (1897) failed of passage.

In *New Jersey* the appropriations for the State geological survey have since 1894 contained a clause which provides that the State geologist shall make (1) a survey to ascertain the extent, location, and character of the wild lands or forest lands of the State, and the advantages of their retention in forest; (2) a survey of the more important watersheds or drainage basins and their forested areas, with reference to the protective measures needed to save this forest cover and thereby maintain the purity of the water, as well as promote the more equable flow of the streams; (3) a study of the relations of forests as climatic factors, and particularly to the rainfall; (4) a compilation of the forest legislation in other States and countries in so far as it may be applicable to conditions in New Jersey.

Two reports have been published discussing forest conditions in various parts of the State, effects of forest fires, relation of forests on stream-flow, etc.

In *North Carolina* a similar provision exists since 1891 in the laws appropriating for the State geological survey. Two bulletins (Nos. 5 and 7) have been published, one on the "Forest, Forest Lands, and Forest Products of Eastern North Carolina," the other on "Forest Fires: Their Destructive Work, Causes and Prevention."

In the *West Virginia* legislature a well considered bill was introduced last year, providing for a forest commission and State forest reserves. The State geological survey has functions similar to that of North Carolina.

In *Colorado*, although the constitution makes special reference to the duty of the State to care for her forestry interests, the forest commissionership, which existed for several years, has become vacant from lack of appropriations.

In *California* the result of the efforts of the former State board of forestry (created in 1885, abolished in 1892) in the form of several forest plantations is taken care of by the University of California.

FEDERAL LEGISLATION.

The legal authority for the establishment of the National forest reservations is found in the following section (sec. 24) of "An act to repeal timber-culture laws, and for other purposes," approved March 31, 1891.

SEC. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public lands bearing forests, any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limit thereof.

Acting upon this authority, Presidents Cleveland and Harrison established seventeen forest reservations, with a total estimated area of 17,500,000 acres previous to 1894.

Secretary Hoke Smith, of the Department of the Interior, impressed with the importance of devising some adequate system of protection and management of the forests, both within the reserves and in the public domain, under date of February 15, 1896, requested the National Academy of Sciences, the legally constituted adviser of the Government in scientific matters, to investigate and report "upon the inauguration of a rational forest policy for the forested lands of the United States." He especially desired an official expression as to the desirability and practicability of preserving the forests from fire and maintaining as forested lands portions of the public domain now bearing wood growth; as to how far the influence of forests on climate, soil, and water conditions warranted a policy of forest conservation in regions where the public domain is principally situated; and what specific legislation should be enacted to remedy existing evils.

Under date of February 1, 1897, the academy submitted to Secretary Francis a preliminary report recommending the creation of thirteen additional forest reserves with a total area of 21,379,840 acres. These reserves were proclaimed, as recommended, by the President, February 22, 1897. On May 1, 1897, the president of the academy submitted his complete report, embodying a comprehensive review of the subject, with recommendations and bills for the establishment of a bureau of forestry in the Department of the Interior. This report has been printed as Senate Document No. 105.

The sundry civil appropriation bill, passed June 4, 1897 (see Sen. Doc. No. 102), set aside the proclamations of February 22, 1897, suspending the reservations, which were made upon the recommendation of the committee of the academy, until March 1, 1898, presumably to give time for the adjustment of private claims and to more carefully delimit the reservations, an appropriation of \$150,000 for the survey of the reservations under the supervision of the Director of the Geological Survey being made. The provisos attached to this appropriation embody the most important forestry legislation thus far enacted by Congress. These provisos had been in the main formulated in a bill known as the McRae bill (H. R. 119), which was passed by the House of Representatives and the Senate of the Fifty-third Congress—without, however, becoming a law; and again had passed the House in the Fifty-fourth Congress, it being the legislation advocated by the American Forestry Association as a first step toward a more elaborate forest administration of the public timber lands. Excluding minor items, the law provides that—

All public lands heretofore designated and reserved by the President of the United States under the provisions of the act approved March third, eighteen hundred and ninety-one, the orders for which shall be and remain in force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as public forest reserves under said act shall be as far as practicable controlled and administered in accordance with the following provisions:

"No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flow, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions or of the act providing for such reservations to authorize the inclusion therein of lands more valuable for the mineral therein or for agricultural purposes than for forest purposes.

"For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, the Secretary of the Interior, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found on such forest reservations as may be compatible with the proper utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom. Before such sale shall take place, notice thereof shall be given by the Commissioner of the General Land Office for not less than sixty days, by publication in a newspaper of general circulation, published in the county in which the timber is situated, if any is therein published, and if not, then in a newspaper of general circulation published nearest to the reservation, and also in a newspaper of general circulation published at the capital of the State or Territory where such reservation exists; payments for such timber to be made to the receiver of the local land office of the district wherein said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe; and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. Such timber, before being sold, shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the Secretary of the Interior, not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make a report in writing to the Commissioner of the General Land Office and to the receiver in the land office in which such reservation shall be located of his doings in the premises.

"Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated, and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained."

The law authorizes the Secretary of the Interior to permit the use of timber and stone by bona fide settlers, miners, etc., for firewood, fencing, buildings, mining, prospecting, and other domestic purposes. It protects the rights of actual settlers within the reservations, empowers them to build wagon roads to their holdings, enables them to build schools and churches, and provides for the exchange of such for allotments outside the reservation limits. The State within which a reservation is located maintains its jurisdiction over all persons within the boundaries of the reserve.

Under the above enactment, the Commissioner of the General Land Office has formulated rules and regulations for the forest reservations, and a survey of the reserves last proclaimed is being made by the United States Geological Survey.

B. E. FERNOW,
Chief of Division of Forestry.

Approved:
JAMES WILSON,
Secretary.

WASHINGTON, *December 15, 1897.*



