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UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

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FORESTRY LAWS OF WISCONSIN

(Through Regular Session, 1913)

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PURPOSE OF COMPILATION

There is an immediate and growing demand for information covering the forestry laws of the various States, particularly as to their handling of certain specific subjects. Requests for such information come from a wide variety of sources, including State administrative officers, forestry associations, and other bodies and individuals interested in the advancement of forestry. With the idea of furthering the development of this legislative phase of forestry the compilation has been informally undertaken of such of the laws of the States as bear more or less directly on the practice of forestry.

By arranging and classifying the laws and parts of laws under the headings: "Administration," "Fires," "Taxation," and "Public Forests," it is believed that comparison among the States is materially simplified, while the progress of each State, or lack of it, in these different departments is likewise shown.

The better to accomplish this educative aim, the great mass of timber and tree laws has been purposely omitted, as have the finer points of reference, etc., which a manual intended for legal or general administrative use would very properly include.

PART I.—ADMINISTRATION.

Sec. 1494-41, Wis. STAT., 1913. *State board of forestry, personnel; no compensation, expenses.*—There shall be a State board of forestry, consisting of the president of the State university, the director of the State geological survey, the dean of the State agricultural department, the attorney-general, and one other member to be appointed by the governor. Said board shall select its own president and shall perform the duties hereinafter provided;¹ and shall meet on the second Monday in January, April, July and October of each year, and at such other times as may be necessary. They shall receive no compensation except their actual expenses to be audited by the secretary of state and paid out of the State treasury.

Sec. 1494-42. 1. *State forester; qualifications; appointment.*—There shall be a State forester, who shall be a technically trained forester, appointed by the State board of forestry, and whether any candidate for this position is a technically trained forester shall be determined by certificate from the Secretary of the United States Department of Agriculture.

2. *Salary, etc.; clerk, salary of; secretary to board of forestry.*—He shall receive a salary of three thousand six hundred dollars per year,² and the actual and necessary traveling and field expenses, incurred in the conduct of his official business, be empowered to appoint a clerk whose salary shall not exceed fifteen hundred dollars per annum; be supplied with suitable offices, be entitled from the superintendent of public property to such stationery, postage, and other office supplies and equipment as may be necessary, be authorized to purchase all necessary field supplies, equipment, and instruments, be furnished by the State all necessary printed forms and notices and the publications hereinafter provided, and shall act as secretary of the State board of forestry.

3. *Administrative and investigative duties; management of State forests, fires, trespass, lectures, etc.; cooperative work; reports.*—He shall, under the supervision of the State board of forestry, execute all matters pertaining to forestry³ within the jurisdiction of the State, direct the management of the State forest reserve, depute one of his assistants

¹ See, on p. 2, sec. 170m.

² The State forester may also be required to assist the railroad commission of Wisconsin in determining the value of lands in connection with certain dams and reservoirs. (Laws 1911, chap. 640, sec. 6.)

³ The State board of forestry is also charged with certain duties concerning dams and reservoirs. (Laws 1907, chap. 335, sec. 6.)

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to act during his absence or disability, collect data relative to forest destruction and conditions,¹ take such action as is authorized by law to prevent and extinguish forest fires² and to prevent forest trespass; co-operate in forestry as provided under section 1494-45 of the statutes; and advance as he may deem wise by the issuing of publications and by lectures, the cause of forestry within the State; and may co-operate with the University of Wisconsin in the instruction and training of forest rangers. He shall prepare biennially a report to the State board of forestry on the progress and condition of State forest work, and recommend therein plans for improving the State system of forest protection, management, replacement, and taxation. The State board of forestry shall report biennially a summary of such facts to the governor.

4. *State public parks.*—The care and protection of all lands that have been, or may hereafter be acquired by the State for public park purposes, shall be under the direction of the State board of forestry, and all moneys appropriated for the purposes of the protection and improvement of such parks shall be expended under the supervision of such board of forestry.

SEC. 1494-43a. *Survey of water powers.*—The State forestry commission shall make a survey and examination of all streams in and upon the forest reserve and other State lands under its jurisdiction, with a view to ascertain the available water powers of such streams, and shall include the result of such examination in its report, or may, in its discretion, issue a separate bulletin in relation thereto.

SEC. 1494-45. *Co-operation in forestry.*—The State forester shall, acting under the supervision of the State board of forestry, whenever he deems it necessary to the best interests of the people and the State, co-operate in forest surveys, forest studies and forest protection, and in the preparation of plans for the protection, management, replacement of trees, wood lots and timber tracts with any of the several departments of the Federal or State governments or the governments of other States and with counties, towns, corporations and individuals.

SEC. 1494-46. *Assistant State forester; qualifications; appointment; salary, etc.; duties.*—There shall be an assistant State forester, who shall be a technically trained forester, appointed by the State forester with the approval of the State board of forestry. He shall receive a salary of two thousand dollars per year, and the actual and necessary traveling and field expenses, incurred in the conduct of his official business: He shall perform such duties as may be assigned to him by the State forester, and shall represent the latter in case of disability or absence.

SECS. 1494-52 to 1494-54. *Trespass agents.*³ * * *

¹ The geological and natural history survey of the State is, independently, charged with making a study of the forests of the State, with reference to their cultivation and preservation. (Sec. 392-1, Wis. Stat., 1913.)

² See also the fire duties of the State forester which are shown in Part II.—Fires, p. 3.

³ See these sections on pp. 8, 9, for additional duties of the State forester and assistant State forester as, ex officio, State trespass agent and assistant State trespass agent.

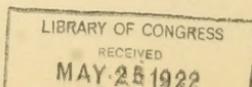
SEC. 1494-55. *District attorneys to prosecute.*—Whenever an arrest shall have been made for any violation of any provision of sections 1494-41 to 1494-64 [62], inclusive, or whenever any information of such violation shall have been lodged with him, it shall be the duty of the district attorney of the county in which the criminal act was committed to prosecute the offender or offenders. If any district attorney shall fail to comply with the provisions of this section, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not less than thirty days nor more than one year, or both in the discretion of the court. The penalties of this section shall apply to any magistrate, with proper authority, who refuses or neglects without cause to issue a warrant for the arrest and prosecution of any person or persons when complaint, under oath, of violation of any terms of sections 1494-41 to 1494-64 [62], inclusive, has been lodged with him.

SEC. 1494-62. *Appropriation.*—There is hereby appropriated out of any funds in the State treasury not otherwise appropriated an annual appropriation of thirty-five thousand dollars to pay the annual salaries provided by the terms of sections 1494-41 to 1494-64 [62], inclusive, of the statutes, and for carrying out the provision of such sections of the statutes. If all of said sum be not expended in any one year the balance not so expended may be used for the purpose aforesaid in any subsequent year.

SEC. 170m. *Salary of State forester.*—[The salaries and compensations of the following-named officers of the State are fixed at the annual sum for each respectively as herein provided, to wit:] The State forester, three thousand six hundred dollars;

4. *Subordinate employes; appointment, duties, salaries.*—The officers enumerated in this section shall be reimbursed for actual and necessary traveling expenses incurred by them in the discharge of their official duties. The * * * State forester * * * shall each have authority—subject to the provisions of sections 990-1 to 990-32,⁴ inclusive, of the statutes, in cases where the provisions of said sections are intended to apply, and subject to the approval of such other officer or body as may be required by law—to appoint such deputies, assistants, clerks, stenographers, and employes, as shall be necessary to properly perform and discharge the duties, functions, and obligations imposed by law upon the respective office, commission, board or body, to prescribe their duties and designate their respective titles, and the persons so appointed shall be paid out of the State treasury such salary or compensation as shall be fixed by the officer or officers making the appointment and shall be reimbursed for actual and necessary traveling expenses incurred in the discharge of their duties; provided, that the deputies, assistants or other subordinates of the officers enumerated above shall possess the power and authority now conferred, or that may hereafter be conferred, upon them by law and shall perform such duties as may be required by law or by the officer or officers by whom appointed and shall be paid the salary or

⁴ These sections concern the State civil service.



compensation fixed by the appointing officer or officers unless a special salary or compensation is provided by law. * * *

6. The salary or compensation and expenses paid to any officer, deputy, assistant, clerk, stenographer, or employe, shall be charged against the proper appropriation for the respective office, commission, board or body, with which the person receiving the same is connected.

PART II.—FIRES.

(1) PROTECTIVE SYSTEM.

SEC. 1494-47. *State and town fire wardens.*—The State forester shall also be State fire warden, and the assistant State forester shall be assistant State fire warden. The chairman of the town boards of the different towns in the State shall be the town fire wardens for their respective towns, and the superintendents of highways for the different road districts within the different towns shall be assistant town fire wardens for their respective towns. The State fire warden shall give the necessary instructions to all fire wardens and supervise the execution of their work.

SEC. 1494-47a. *Control of State force; emergency appointments.*—The State fire warden shall have general charge of the fire warden force of the State and shall have authority to mass such fire warden force as may be available at any special point to suppress fires. In cases of emergency, or when a town shall have no highway superintendents, or the town shall be unusually large, the State fire warden may, on recommendation of the town chairman, appoint, temporarily, needed fire wardens, whose duties and authority shall be the same as herein provided for town and assistant town fire wardens.

SEC. 1494-48. 1. *Fire wardens to check and prevent fires; arrests without warrants; authority to impress citizens.*—Each fire warden,¹ before entering upon his duties, shall take an oath of office and file the same with the State fire warden. All fire wardens shall take prompt and effective measures against the spread and illegal setting of forest, marsh or swamp fires within their towns and districts and shall have the power of sheriffs to arrest without warrant for violations of the provisions of sections 1494-47 to 1494-51, inclusive, and 4405a,² and of any sections of the statutes relating to setting, failure to extinguish or care of fires. They shall have authority to call upon any able-bodied citizen, in territory in which they act, to assist in extinguishing forest, marsh, swamp, and other running fires in such manner as they may direct.

2. *Compensation and rewards.*—Those assisting either the town or assistant town fire wardens in the extinguishing of forest, marsh, swamp and other fires shall receive compensation for their services at not more than twenty cents per hour for the time actually employed. The State

forester is authorized to approve for payment not to exceed fifty per cent of the clear proceeds of any fine collected in an action brought for a violation of any of the provisions of sections 4405a or 4406¹ of the statutes, relating to setting, failure to put out or care of fires, where the evidence to secure a conviction is furnished by a town fire warden, an assistant town fire warden, or any other person.

3. *Payments.*—No payment shall be made to any claimant under this section until he shall have presented an itemized account and made oath or affirmation that said account is just and correct, which account shall be audited and approved by the town board. The town board shall thereupon direct the town clerk to issue a warrant upon the town treasurer for the sum to which such claimant is entitled, and the town treasurer shall pay the same.

4. *Expense of fire-fighting; tax levy.*—The expense of preventing or extinguishing forest, marsh, swamp or other running fires by the town or assistant town fire wardens, and by those called upon by either of said fire wardens to assist them, shall be borne by the road district or districts within which the expense was incurred, and the superintendent of highways of each road district, or if there is no such superintendent then the town board, may levy and assess a tax for defraying such expense. Such tax shall be collected in the same manner as other taxes, and such tax when so collected shall be paid into the town treasury from which such expense is paid.

SEC. 1494-48a. 1. *Emergency wardens and employes; compensation: how paid.*—Each fire warden, appointed by the State fire warden to act in case of emergency, shall receive for his actual services rendered, two dollars per day, one-half of which shall be paid by the county where such service is performed, and one-half by the State; and any employe engaged by the State fire warden, or by any fire warden appointed by the State fire warden to assist in preventing or suppressing forest, swamp, marsh or other running fires shall receive for such services not more than twenty cents per hour, and said expense shall also be paid, one-half by the county where such service is performed, and one-half by the State.

2. No payment shall be made to any claimant under this section until he shall have presented an itemized account, and made oath or affirmation that said account is just and correct, which account shall be approved by the county board, and audited by the county clerk. The county clerk shall thereupon issue to such claimant his warrant upon the county treasurer for the sum to which such claimant is entitled, and the county treasurer shall pay the same.

3. *\$5,000 limit.*—The county clerk shall transmit the original oath and copy of the warrant to the secretary of state, who shall audit such claim, and one-half thereof shall be paid out of the general fund of the state treasury by warrant issued by the secretary of state upon the State

¹ Assistants appointed by the State park board have all the powers of State and town firewardens as provided in sections 1494-48 to 1494-51, inclusive, and such powers apply to State parks. (See Wis. Stat., 1913, sec. 1494t-3m., subsec. 18.)

² See p. 6.

¹ See p. 6.

treasurer in favor of the county which paid such claimant, and such amount shall be forwarded to the county treasurer of such county. However, no county shall expend more than five thousand dollars under this section in any one year.

SEC. 1494-49. *Refusal of wardens to perform duties, or of citizens to assist; penalty.*—Any fire warden who shall refuse to carry out the provisions of section 1494-48, or any able-bodied citizen who shall refuse to render assistance as provided by said section, shall be punished by a fine of not less than ten or more than fifty dollars, or by imprisonment in the county jail for not less than ten days or more than thirty days, or by both such fine and imprisonment.

SEC. 1494-50. *Fire danger notices.*—Each town fire warden and assistant town fire warden shall post or cause to be posted conspicuously, in those parts of his town or district where fires are likely to occur, all notices furnished him for that purpose by the State fire warden.

SEC. 1494-51. *Reports of wardens.*—Every assistant town fire warden, immediately after each fire within his district shall forward to the State fire warden and to the town fire warden a detailed report of said fire. The town fire warden shall report to the State fire warden, annually, on or before the first day of December, a summary of all forest fires within their towns or districts during the year and such other matters as the State fire warden may direct.

SECS. 1494-54; 1494-55. *Arrests.*—* * *

SEC. 1494-56. *Destruction of warning notices.*—Any person who shall maliciously or willfully destroy, deface, remove or disfigure any sign, poster, or warning notice posted under the provisions of sections 1494-41 to 1494-64 [62], inclusive, shall be guilty of a misdemeanor and punishable, upon conviction, by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than three months, or by both such fine and imprisonment.

SEC. 1494-58. *Civil liability.*²—* * *

SEC. 1498. 1. *Fish and game warden, fire duties; trespass reports.*—* * * He [the State fish and game warden] shall also perform the same duties as are in section 1636c³ prescribed for fire wardens, and shall further report to the land commissioners any information relating to the State lands as shall from time to time be required and concerning any trespasses thereon which may come to his knowledge. * * *

SEC. 1498b. 2. *County wardens, fire reports.*—All deputy or special [county] wardens shall make to the State fish and game warden full and complete reports of their transactions as such, * * *. They shall also promptly make reports concerning forest fires and any trespasses upon the public lands that may come to their knowledge. * * *

SEC. 1498b-2. *Fish and game warden and special deputy and county wardens made fire wardens.*—The State fish and

game warden appointed under the provisions of section 1498, all special deputy wardens appointed under the provisions of section 1498a⁴ and all county wardens appointed under section 1498b, are hereby appointed and created fire wardens within the meaning and under the provisions of sections 1498 to 1498b-2, inclusive. No compensation shall be paid fish and game wardens acting as fire wardens under the provisions of this act other than that received as game wardens.

SEC. 832. *Duties of town clerk.*—It shall be the duty of the [town] clerk:

(13) To read to the people assembled at the annual town meeting, at the time fixed for the transaction of town business, the provisions of these statutes relating to the protection of life and property against forest fires.

(2) RAILROAD FIRES.

SEC. 1494-57. 1. *Screens or wire netting on smokestacks; ash pans and fire boxes; logging locomotive defined.*—Between March first and December first it shall be unlawful for any logging locomotive, donkey, traction, or portable engine, and all other engines, boilers, and locomotives, except railway locomotives, operated in, through, or near forest, brush, or grass land, which do not burn oil as fuel, to be operated without a screen or wire netting on top of the smokestack and so constructed as to give the most practicable protection against the escape of sparks and cinders from the smokestacks thereof, and each such engine shall be provided with the most practicable devices to prevent the escape of fire from ash pans and fire boxes. The term logging locomotives as used in this section shall be construed to mean any locomotive operated on a railroad branch, line, or division, the chief or main business of which is the transportation of logs, lumber, or other forest products.

2. *Spark arresters; employes to examine locomotives.*—All locomotives operated on any railroad other than a logging railroad shall be equipped with the most practicable spark arresters so constructed as to give the greatest possible protection against the escape of sparks and cinders from the smokestacks thereof, and each such engine shall be provided with the most practicable device to prevent the escape of live coals from ash pans and fire boxes, and said devices, between March first and December first shall at all times be maintained in good repair. It shall be the duty of the superintendent of motive power or equivalent officer of each such railroad to designate an employe of such railroad at each division point and roundhouse who shall examine each locomotive each time it leaves the division point or roundhouse between March first and December first, and such employe shall be held responsible for the proper carrying out of the provisions of this subsection, but without relieving the company from its responsibility hereunder.

3. *Locomotive inspector, powers; appeal.*—Any locomotive inspector designated by the State board of forestry shall have the power to reject from service immediately

¹ See these sections, on pp. 9, 2, for provisions concerning arrests and prosecutions.

² See this section, on p. 5, for civil liability for fires.

³ Sec. 1636c repealed and replaced by secs. 1494-47, 1494-48, and 1494-49. (See above, pp. 3 and 4.)

⁴ For sec. 1498a, and also sec. 1498b-1, see Wis. Stat., 1913.

any locomotive, donkey, traction, or portable engine which, in the opinion of the said inspector, is deficient in adequate design, construction, or maintenance of the fire protective devices designated in subsections 1 and 2 of this section, and any such locomotive, donkey, traction, or portable engine so rejected from service shall not be returned to service until such defects have been remedied to the satisfaction of the State board of forestry. In case of disagreement between said inspector and the owner of the locomotive, donkey, traction, or portable engine so rejected from service as to the efficiency or proper maintenance of said protective devices, then the owner of said locomotive, donkey, traction, or portable engine may appeal to the railroad commission of Wisconsin for a decision of said matter, but pending such decision the said locomotive, donkey, traction, or portable engine shall not be returned to service.

4. *Clearing right of way.*—Every corporation maintaining and operating a railway shall, at least once in each year, cut and burn or remove from its right of way all grass and weeds and burn or remove therefrom all brush, logs, refuse material, and debris within a reasonable time, and whenever fires are set for such purpose, shall take proper care to prevent the escape thereof from the right of way.

5. *Combustible deposits on track.*—No such corporation shall permit its employes to deposit fire, live coals, or ashes upon their tracks outside of the yard limits, except they be immediately extinguished.

6. *Employes to report fires; instructions to section employes; fire notices; railroads to concentrate help, etc.*—Engineers, conductors, or trainmen who discover that fences or other material along the right of way or on lands adjacent to the railroad are burning or in danger from fire, shall report the same to the agent or person in charge at their next stopping place at which there shall be a telegraph station. Corporations maintaining and operating railways shall give particular instructions to their section employes for the prevention and prompt extinguishment of fires, cause notices, which shall be furnished by the State forester, to be posted at their stations, and when a fire occurs along the line of their road, or on lands adjacent thereto, for which fire they are responsible, they shall concentrate such help and adopt such measures as shall most effectually arrest its progress.

7. *Railroad fire patrol, duties of company and of State board of forestry, cost, civil and criminal action; neglect to extinguish fires, a misdemeanor.*—All such corporations, during a dangerously dry season, and when so directed by the State board of forestry, shall provide fire patrols for duty along their tracks. Whenever the State board of forestry shall deem it necessary they may order such corporations to provide for patrolmen to follow each train throughout such districts as may be necessary to prevent fires. When the State board of forestry has given a corporation such notice that in its opinion the conditions require such patrol after trains, the corporation shall immediately comply with such instructions throughout the districts designated; or in their failure to do so, the State

board of forestry may employ patrolmen, and furnish them with the necessary equipment to patrol the rights of way of such corporations, and the expense of the same shall be charged to the corporation and the same may be recoverable in a civil action in the name of the State of Wisconsin, and in addition thereto, the said corporation shall be deemed guilty of a misdemeanor. It is also made the duty of such corporation, acting independently of such State board of forestry, to patrol their rights of way after the passage of each train when necessary to prevent the spread of fires and to use the highest degrees of diligence to prevent the setting and spread of fires, and it is also made the duty of its officers and employes operating trains in this State, to use diligence in the extinguishment of fires set by locomotives or found existing upon their respective rights of way, and any negligence in this regard shall render such corporation or any officer or employe thereof guilty of a misdemeanor.

8. *State board of forestry to inspect engines.*—The State board of forestry is authorized to inspect any locomotive, donkey, or threshing engine, railway locomotive, and all other engines, boilers, and locomotives operated in, through or near forest, brush, or grass land and to enter upon any property for such purpose, or where they may deem it necessary in order to see that all the provisions of this section are duly complied with.

9. *Penalties for violations of requirements.*—Any person wilfully failing to comply with the requirements of this section shall be deemed guilty of a misdemeanor and shall be punished, upon conviction, by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Any corporation, by its officers, agents, or employes, wilfully violating the provisions of this section, shall be liable to a fine of not less than fifty dollars nor more than five hundred dollars for each and every such violation, to be collected in a civil action in the name of the State.

10. *Appeal to railroad commission concerning fire protection devices.*—In case the State board of forestry and any corporation or individual operating any locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive can not agree as to the most practicable device or devices for preventing the escape of sparks, cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be determined by the railroad commission of Wisconsin.

11. *Exemption.*—The State board of forestry shall have the power to exempt from the provisions of subsections 1, 2, 3, and 4 of this section any railroad, when, in the judgment of said State board of forestry, conditions along the right of way are such that the reduced fire hazard renders such protective devices unnecessary.

Sec. 1494-58. *Civil liability for forest fires.*—In addition to the penalties provided in section 1494-57, the United States, the State, the county or private owners, whose property is injured or destroyed by such fires, may recover, in a civil action, double the amount of damages

suffered, if the fires occurred through wilfulness, malice or negligence. Persons or corporations causing fires in violation of sections 1494-41 to 1494-64 [62], inclusive, shall be liable to the State in an action for debt, to the full amount of all damages done to the State lands and for all expenses incurred by the towns fighting such fires.

SEC. 1816a. 1. *Damages for fires caused by locomotives or spreading from roadbed; insurable interest.*—Each railroad corporation owning or operating a railroad in this State shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines, in use upon the railroad owned or operated by such railroad corporation, or by the burning of grass, weeds or rubbish on right of way by employes of such corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own behalf for its protection against such damages.

2. *Action to recover damages; evidence; measure of damages.*—Whenever the property owned by any person or corporation shall be injured or destroyed by fire communicated by locomotives in use upon any railroad owned or operated by a railroad corporation, or by the burning of grass, weeds and rubbish on the right of way by employes of such corporation, so as to render the railroad corporation liable, under subsection 1 of this section, or otherwise, the owner of such property injured or destroyed may recover damages for such loss, and to recover the same it shall only be necessary for him to prove the loss of or injury to his property, and that the fire originated in the manner hereinbefore stated. If such corporation fails or neglects to pay such damage within sixty days after notice in writing that a loss or injury has occurred, accompanied by an affidavit thereof, served upon any officer or station or ticket agent employed by such corporation in the county where such loss or injury occurred, such owner shall be entitled to recover from the corporation double the amount of damages actually sustained by him in any court of competent jurisdiction. If such company shall, within sixty days, offer in writing to pay a fixed sum, being the full amount of the damages sustained, and the owner shall refuse to accept the same, then in any action thereafter brought for such damages, when such owner recovers a less sum as damages than the amount so offered, then such owner shall recover only his damages, and the railroad company shall recover its costs.

SEC. 1816b. *Limitation of actions for fires.*¹ * * *

(3) FALLOW AND OTHER FIRES.

SEC. 1636a. *Order for close season, notice; penalty for violation.*—Whenever the supervisors of any town shall be satisfied that the burning of grass, stubble, logs or brush on any lands therein will be a source of public danger they

shall make an order in writing, which shall be signed by them, prohibiting the burning thereof on any such lands during such period as they shall deem best for the public interest, which order shall be revoked by them as soon as the cause for making it shall cease to exist. Such order shall be published at least once in a newspaper published in such town, if one be published therein, and if not it shall be posted in three of the most public places therein at least three days before it shall be in force. Like notice shall be given of the revocation of the order, and such revocation shall be effectual from the time notice of it is given. Any person who shall violate any such order shall be punished by a fine of not more than fifty dollars or by imprisonment in the county jail not more than thirty days, or by both fine and imprisonment.

SEC. 4405a. 1. *Notice of close season.*—Whenever the town board of any town deems it imprudent to set fires upon any land within the town or district they shall post or cause to be posted notices in five public places in each township in such town or district forbidding the setting of fires therein, and after the posting of such notices no person shall set any fire upon any land in said town or district, except for warming the person or cooking food, until written permission has been received from one of the fire wardens of said town.

2. *Camp fires; penalty.*—All persons who start camp fires upon any land in this State shall exercise all necessary precautions to prevent damage therefrom, and shall entirely extinguish the same before leaving them. Every person violating any provision of this section shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail not more than six months for each offense.

SEC. 4406. *Failure to extinguish fires, penalty; wilful or negligent setting of fires, penalty.*—Any person who shall build a fire on any lands in this State not his own or under his control, except as hereinafter provided, shall, before leaving the same, totally extinguish it, and upon failure to do so shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding one month, or by both such fine and imprisonment. Any person who shall wilfully or negligently set fire to or assist another to set fire on any land, whereby such land is injured or endangered, or shall wilfully or negligently suffer any fire upon his own land to escape beyond the limits thereof, to the injury of the land of another, shall be punished as hereinbefore provided and be liable to the person injured for all damage that may be caused by the fire.

PART III.—TAXATION.

SEC. 1494-101. *Forest tree plantations exempted from taxation; thinning out after 10 years.*—In consideration of the public benefit to be derived from the planting and cultivation of timber or forest trees, the owner of any tract of land in this State who shall set apart any specific portion thereof, not exceeding forty acres, for forest culture and plant the same with timber or forest trees, not less than

¹ See this section, in Wis. Stat., 1913, for provisions concerning limitation of actions against railroad companies for injuries caused by fires from locomotives.

one thousand two hundred to the acre, shall be exempted from taxation for the period of thirty years from the time of such planting to timber or forest trees. Such exemption shall only be allowed on condition that said planted trees are kept alive and in a healthy condition. A statement or return of such plantings shall be made to the assessors when making the annual assessment, which returns shall be verified by the assessors and made the basis of such tax exemption. After said trees have been planted ten years, the owner may, without waiving the tax exemption, thin out the same so that not less than six hundred trees shall be left upon each acre.

SEC. 1494-102. *Applicant for exemption to make and file plat*.—A description and plat of all lands so planted shall be made in duplicate by the person applying for an exemption under the provisions of sections 1494-101 to 1494-111, inclusive. One copy of said description and plat shall be filed with the town clerk of the town in which said land is located and the other copy of said description and plat shall be filed in the office of the State forester at Madison, on or before the first day of May of the year in which such exemption shall first be claimed.

SEC. 1494-103. *If plantations do not conform, forester to cancel exemption*.—The State forester is hereby authorized upon a written complaint being filed in his office that an exemption has been allowed on any plantation which has not been established or maintained in conformity with the provisions of section 1494-101, to determine whether the facts as set forth in the complaint are just and true, and if he shall find such complaint to be true he shall cancel such exemptions by filing a statement to that effect with the town clerk of the town in which such plantation is located, and thereupon such plantation or so much thereof as is not so established and maintained, shall cease to be exempt from taxation until the same shall be replanted, and otherwise brought within the conditions of sections 1494-101 to 1494-111, inclusive.

SEC. 1494-104. *Exemption within two miles of city or village*.—Said exemption, as provided in section 1494-101, shall not apply to any lands within two miles of the limits of any incorporated city or village except upon written approval of the State forester, filed with the town clerk of the town in which such land is located.

SEC. 1494-105. *Exemption privilege inviolable*.—The planting of a tract in forest trees in compliance with the provisions of section 1494-101 to 1494-111, inclusive, and the filing of the description and plat of the tract so planted as provided in section 1494-102, shall be taken and deemed to be an acceptance by the person planting the same of the exemption privilege granted in sections 1494-101 to 1494-111, inclusive, and of the conditions imposed by said sections upon such privilege; and, in consideration of the public benefit to be derived from the planting, cultivation and growth of such trees, the exemption of such land from taxation as herein provided shall be continued and is hereby assured, and the right to such exemption shall be inviolable and irrevocable as a contract obligation of the State, so long as the owner of the land so planted shall

fully comply with and perform the conditions aforesaid, not exceeding said period of thirty years.

SEC. 1494-106. *Valuation of land prior to planting*.—Any person intending to plant a tract of land in forest trees so as to secure the exemption privilege provided in sections 1494-101 to 1494-111, inclusive, may have the value thereof determined in advance of such planting by the board of review of the town in which such tract is located. To procure such determination such person shall file in the office of the clerk of such town an application in writing containing a declaration of such intention, a correct description of the lands included in such tract and a request that the valuation thereof be determined by such board under the provisions of sections 1494-101 to 1494-111, inclusive. Said board at their first meeting after the filing of such application shall proceed to determine such value. For that purpose they shall have authority to summon witnesses and take testimony under oath. They may require such lands to be viewed by one or more members of such board, and may adjourn the matter for such time as may be necessary in order to secure needful testimony or information respecting the value of such tract. If such board shall determine the average value of such tract to be not over ten dollars per acre, such determination shall be final for all purposes of sections 1494-101 to 1494-111, inclusive, as to so much of such tract as shall be planted with forest trees in accordance with the requirements of sections 1494-101 to 1494-111, inclusive, within two years after such determination. But if the board shall determine such value to be more than ten dollars per acre, the owner of such tract shall not be precluded from making a new application in any subsequent year.

SEC. 1494-107. *Town board of review's meeting for valuation*.—The person filing such application shall be entitled to have the value of such tract determined without delay and before the said board shall be convened for other purposes by including in his application a request that such determination be so made and by depositing with the town clerk a sum sufficient to defray the compensation of the members of said board for one day's attendance. The clerk shall thereupon fix a time at the earliest practicable date for a special meeting of such board to act upon such application, and shall give notice thereof to each member of said board, to be served by or at the expense of the applicant, in time to enable each member to be present. Such meeting shall be at the place fixed by law for the regular meetings of said board. The members of the board shall attend at the time and place designated in such notice and the board shall thereupon proceed to determine the value of such tract in the manner hereinbefore provided.

SEC. 1494-108. *Town clerk to record valuations*.—The town clerk shall make a record of the proceedings and determination of the board of review upon each application under the foregoing provisions and shall enter the same in the book containing the record of other proceedings of said board. The record of each determination shall include a description of the lands to which such determination relates. Such record shall be prima facie evidence of the

facts therein stated, but failure to make the same shall not affect the validity of the action of the board.

SEC. 1494-109. *Valuation after planting; if exemption denied, forester to hear appeals.*—When a tract of land shall have been planted in trees under the provisions of sections 1494-101 to 1494-111, inclusive, without previous determination of the value thereof as hereinbefore provided, the allowance by the assessor and board of review, or by the board of review, of the exemption thereof under the provisions of sections 1494-101 to 1494-111, inclusive, shall be deemed to include a determination by such board that the value of such land at the time of planting did not exceed ten dollars per acre; and such determination shall have the same effect as if made before such planting. If such exemption shall be disallowed, the action of the board of review disallowing the same may be reviewed by the State forester. To secure such review the claimant of such exemption shall file with the State forester an application in writing containing a description of the lands, a statement of the facts on which such exemption is claimed and of the disallowance thereof by such board, and a request for the review of such action by the State forester. Such application shall be accompanied by an undertaking on the part of the applicant with one or more sureties, approved by the chairman or clerk of the town, for the payment of the expense of said forester upon such review in case the exemption claimed shall be disallowed by him. The State forester shall thereupon give notice of a time and place within the town at which he will hear the matter and any testimony that may be offered in relation thereto. A copy of such notice shall be mailed to the chairman and clerk of the town and to such applicant at least ten days before the time fixed in such notice. Said forester may adjourn such hearing from time to time if necessary, by filing notice thereof with the town clerk. He may review and inspect the premises and may summon and examine witnesses under oath. His determination shall be made in writing and filed with the town clerk as soon as practicable. Such determination upon written approval of the State tax commission shall be final, but if adverse to the claimant, it shall not preclude him from applying for like exemption in any subsequent year upon compliance with the requirements of sections 1494-101 to 1494-111, inclusive.

SEC. 1494-110. *Thirty years' exemption.*—After the exemption provided in sections 1494-101 to 1494-111, inclusive, has once been allowed it shall continue for the period specified in sections 1494-101 to 1494-111, inclusive, unless canceled by the State forester as provided in section 1494-103.

SEC. 1494-111. *Corporations, etc., entitled to privilege.*—Any corporation, copartnership or other association of persons, as well as individuals, shall be entitled to the exemption rights and privileges herein provided, upon compliance with the conditions and requirements of sections 1494-101 to 1494-111, inclusive.

SEC. 1092m. *Forest reserve lands.*— * * *

PART IV.—STATE FOREST LANDS.

(1) STATE FORESTS.

SEC. 1494-43. 1. *Creation of State forest reserve; sale and exchange of reserve lands.*—The sale of all lands belonging to the State north of town thirty-three shall cease upon the passage of this act, and such lands and all lands reverting to the State north of town thirty-three and all State lands within the Menominee, Stockbridge, and Munsee Indian reservations shall constitute the State forest reserve; provided that those State lands within said forest reserve which after examination by the State forester are found by him to be more suitable for other purposes than for the purposes of the State forest reserve, because of their character, condition, extent, or situation, shall be sold by the commissioners of the public lands, upon the recommendation of the State forester and with the approval of the State board of forestry. The State board of forestry is also authorized to exchange lands upon the basis of equal value as determined by them.

2. *Management of reserve, assistance, conservative lumbering, nurseries, fire lines, etc., sale of wood, timber, etc.*—The State forester shall, under the supervision of the State board of forestry, direct the management of the State forest reserve, to which end he may employ the necessary assistance, and may upon said reserve institute conservative lumbering, make and maintain forest nurseries, plantations, and fire lines, and execute other silvicultural and protective measures necessary to the highest permanent usefulness of said reserve to the State. In such conservative lumbering the State forester is authorized, under the supervision of the State board of forestry, to remove or cause to be removed and sell, when and in such manner as he may deem advisable, wood, timber, or other products from said reserve.

3. *Advances to State forester to pay temporary laborers.*—The State treasurer is hereby authorized to appoint the State forester as a special fiscal agent of the treasury department. When the State forester shall have deposited satisfactory security with the State treasurer, there shall be advanced to the State forester from the forest-reserve fund not to exceed five hundred dollars, and at no one time shall such advances amount to more than five hundred dollars. The State forester shall use such advances only in paying temporary laborers upon the forest reserve, and upon the presentation of receipts properly executed, the State treasurer shall relieve the State forester from all liability for the amounts covered by such receipts.

SEC. 1494-44. *Grants of land for State forest reserve.*—The State board of forestry is hereby authorized, when in its judgment it is advisable, to accept on behalf of the State any grant of land within the State, which shall become a part of the State forest reserve; provided, that no such grant shall be accepted until its title has been examined by the attorney-general and a report made to said board of the results of such examination.

SEC. 1494-52. *Trespass agents; fees.*—The State forester shall also be State trespass agent and the assistant State

See this section, on p. 9, for provisions concerning taxation of forest reserve lands.

forester, assistant State trespass agent. As State trespass agent, the State forester shall appoint, and may remove from office, such trespass agents as he may deem expedient. He shall give the necessary instructions to said trespass agents and shall supervise the execution of their work. The State forester is authorized to approve for payment to any trespass agent or other person, upon whose evidence successful action is brought for trespass upon any portion of the State forest reserve, not to exceed twenty-five per centum of the amount collected for such trespass, which payment shall be made by the State treasurer; provided, that in no case shall such payment exceed five hundred dollars.

SEC. 1494-53. *Oath and liability of trespass agents.*—Every person appointed as trespass agent under authority of section 1494-52, shall, before entering upon his duties, take and subscribe the following oath of office: "I do solemnly swear that I will support the Constitution of the United States and of the State of Wisconsin; that I will not engage, either directly or indirectly, in the purchase for my own benefit or for the benefit of any other person, of any State lands or products from said lands, so long as I remain a trespass agent; and that I will faithfully and to the best of my ability discharge the duties of such position, so help me God." Such oath of office shall be filed with the State forester. Any trespass agent who violates the terms of his oath regarding the purchase of State lands or products therefrom, shall be punished by a fine of not less than three times the price paid for said land, or three times the market value of said products, or by imprisonment in the county jail for not less than thirty days or more than ninety days or by both such fine and imprisonment.

SEC. 1494-54. *Powers of trespass agents to arrest without warrant; reports.*—All trespass agents shall have the power of sheriffs to arrest without warrant for any violation of the provisions of sections 1494-41 to 1494-64 [62], inclusive. It shall be the duty of every trespass agent to immediately report to the State forester and the district attorney of the county in which such trespass is committed, all cases of trespass upon State lands, which come to his knowledge, and to furnish these officers with information required by them concerning said trespass.

SEC. 1494-59. *Criminal action; forest trespass.*—Every person who, unlawfully cuts, or injures any kind of wood or timber standing, lying or growing upon the lands of another, or of the State, or of the United States, or upon any public highway, or unlawfully and wilfully injures or destroys or carries away any of the products of such wood or timber lands is guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars nor more than one thousand dollars, or be imprisoned not less than fifteen days nor more than three years, or by both such fine and imprisonment.

SEC. 1494-60. *Civil liability for forest trespass.*—In addition to the penalties provided in section 1494-59 for wilful trespass on forest lands, the State, the county or the private owners upon whose lands the wilful trespass was committed, may recover in a civil action double the amount

of damages suffered. This section shall not apply to the cutting of wood or timber from uncultivated woodland for the repair of a public highway or bridge upon or adjacent to the land.

SEC. 1491-61. *Forest reserve fund.*—All moneys received from the sale of wood, timber, minerals, or other products, and from the sale of State forest reserve lands, and penalties for trespass thereon, as hereinbefore provided, except when otherwise disposed of by constitutional provision, shall be paid into the State treasury and shall constitute a forest reserve fund which shall be disbursed only for the purchase of lands to be added to the State forest reserve and for defraying the necessary expense incident to the examination of title to such lands and for the improvement and protection of said reserve and for the employment of the necessary assistance therefor, as hereinbefore provided, by or upon the order of the State forester, with the approval of the State board of forestry.

SEC. 160f. *Interest from forest reserve and forest-reserve income funds.*— * * * The total interest by all depositors shall be apportioned by the State treasurer among, added to and become a part of the several funds as follows: * * * that received from the forest reserve fund and the forest reserve income fund, to the forest reserve income fund; according to the average amount of each such fund on hand the first day of each month.

SEC. 1092m. 1. *Taxation of forest-reserve lands.*—As soon as practicable after the passage of this act and on or before the first day of May in each year hereafter, the State forester shall file with the tax commission a list of the forest reserve lands owned by the State of Wisconsin within the following counties or portions of counties: In Forest county all that portion situated north of the north line of township thirty-seven (37) north; in Oneida county all that portion north of the north line of township thirty-seven (37) north except the east half of township thirty-eight (38) north, range nine (9) east, the south two-thirds of township thirty-eight (38) north, range ten (10) east, township thirty-eight (38) north, range eleven (11) east, and township thirty-nine (39) north, range six (6) east; in Vilas county all except the south half of township forty (40) north, range six (6) east, township forty (40) north, range ten (10) east, township forty-one (41) north, range ten (10) east and the north two-thirds of township forty-one (41) north, range eleven (11) east; in Iron county township forty-one (41) north, ranges two (2), three (3) and four (4) east and townships forty-two (42) and forty-three (43) north, range four (4) east; in Price county townships thirty-eight (38), thirty-nine (39), and forty (40) north, range three (3) east; and the State forester shall designate the town and county in which such lands are situate.

2. On or before the first day of November of each year the tax commission shall assess and determine the value of the lands referred to in subsection 1 of this section, and said commission shall cause to be filed with the several town and county clerks of each town and of each county within which any of such lands are situated a certified

list of such lands and of the value so placed upon the same by said tax commission.

3. The said lands shall be included in the tax roll of each of said towns and shall be subject to taxation for all except State purposes at a rate not to exceed one and one-quarter per centum of the assessed value in said several towns and the State of Wisconsin hereby expressly consents to such taxation of such lands, for the reason that these lands are within the boundaries of the proposed permanent forest reserve.

4. The several town treasurers, upon receipt of the tax roll of each year, shall immediately certify to the secretary of state the amount of the tax due from the State upon said lands, and thereupon there shall be paid to such town treasurers by the State treasurer the amounts so due.

5. The assessor of incomes of each county in which any such lands are situated may apply for reassessment under the provisions of section 1087-45¹ of the statutes or may appeal from the equalization of the county board in accordance with the provisions of sections 1077a to 1077l¹ of the statutes.

6. There is appropriated out of any money in the State treasury not otherwise appropriated, a sum sufficient to carry out the provisions of this section.

SEC. 1494-121. *State lands and timber in Indian reservations; appraisal.*—The State board of forestry of Wisconsin are hereby authorized in their discretion to cause an appraisal to be made of all State lands and the timber thereon which are included within any of the several Indian reservations in Wisconsin and to pay for said appraisal from the forest reserve fund.

SEC. 1494-122. *Report.*—The results of said appraisal shall be reported by the State forester to the State board of forestry and to the commissioners of public lands of this State.

SEC. 1494-123. *Sale to United States.*—When said appraisal is completed the said commissioners of public lands are hereby authorized to convey all the right, title and interest of the State therein to the United States if the United States within a reasonable time shall authorize the payment to the State of Wisconsin of the full amount found by said appraisal to be the value of said lands and the timber thereon.

SEC. 1494-124. *Proceeds to forest reserve fund.*—All moneys received for said lands and timber thereon from the United States shall be paid into the State treasury and, except when otherwise disposed of by constitutional provision, shall constitute a part of the forest reserve fund, which part shall be disbursed only for the purchase of lands by the State to be added to the State forest reserve.

SEC. 1494-131. *Forest reserve, purchase at tax sales, and other lands; cost charged to appropriation for commissioners of public lands.*—The commissioners of public lands are hereby authorized to acquire lands north of Town 33 for the forest reserve by purchase at tax sales, and other lands which may hereafter be acquired by any county under tax deeds and also lands which have been heretofore acquired

by said counties and which remain unsold. The commissioners of public lands may also, upon the request of the State Board of Forestry, purchase other lands as additions to the State forest reserve.² The cost of such purchases shall be charged to the proper appropriation for the commissioners of the public lands.

SEC. 1494-132. *County tax deeds; purchase by State.*—Whenever any county in this State north or partly north of town 33 is entitled to a tax deed upon a certificate of sale upon any real property in this State, the county clerk of such county shall at the time of deeding such land to the county, file in the office of the commissioners of public lands a list of said lands and the date of the tax deed and the record thereof, together with a statement of the total amount due the county for taxes, interest, fees and expenses in acquiring such tax title. The lands so acquired by any such county shall not be sold by the county except to the State until one year after the taking of such deed unless the commissioners of public lands shall give notice to said county that the State does not desire to acquire title thereto.

SEC. 1494-133. *County must sell to State; price; interest.*—The commissioners of public lands may select any or all of such tax title lands within one year from the date of the recording of a tax deed thereon conveying the same to the county and shall pay therefor to the county not to exceed the total amount due said county for taxes, interest, and charges together with interest not to exceed six per cent from the date of such deed, and the county clerk of any county owning any such lands is hereby authorized and directed to execute a deed of such lands to the State of Wisconsin upon payment of the purchase price thereof as agreed upon by the State and county and the purchase price thereof shall be paid to the county treasurer of such county from the general fund of the State within the amount appropriated for this purpose on the order of the commissioners of public lands after being audited by the secretary of state.

SEC. 1494-134. *Redemption from State.*—All statutes of limitations now or hereafter in force applicable to persons holding lands under tax deeds shall apply to the State and to the original owners of such lands acquired and actions may be brought against the State within the period provided by such statutes of limitation to recover such lands from the State, but in all such actions no costs shall be recovered against the State, and the original owner in case of recovery shall comply with the provisions of section 3087,³ of the statutes.

SEC. 172-37. 3. *Appropriation.*—There is annually appropriated, beginning July 1, 1913, ten thousand dollars, payable from any moneys in the general fund not otherwise appropriated, for the commissioners of the public lands to

² All further purchases of lands for the State forest reserve are inhibited until the special legislative committee appointed at the 1913 legislative session shall have reported to the following regular session, and until the first day of July, 1915, upon the question of the advisability of certain lands being included within the State forest reserve. (See volume of session laws of 1913, chap. 670, sec. 2.)

³ For this section, see Wis. Stat., 1913.

¹ For these sections, see Wis. Stat., 1913.

carry into effect the provisions of sections 1494-131 to 1494-134, inclusive.

SEC. 1072-1. 1. *Appropriation for purchase of forest reserve lands; forestry investment fund; continuous.*—There is herewith appropriated annually for a period of five years the sum of fifty thousand dollars, which amount shall constitute the "forestry investment fund," and all interest received from the said investment fund shall be added to and become a part of said fund. All moneys in such fund are appropriated and shall only be used to purchase forest reserve lands and for the traveling expenses of the legislative forest reserve committee hereinafter provided for; but any part of the appropriation not used in any year shall be available and may be used for such purpose in any subsequent year.

2. *State forester empowered to purchase.*—The State forester under the supervision of the State board of forestry is authorized to enter into contracts to purchase lands as additions to the forest reserve and to make payments on such lands from the forestry investment fund as moneys become available.

3. *Condemnation proceedings.*—Whenever the State board of forestry shall require any lands for State forest reserves and shall be unable to agree with the owners thereof upon the amount of compensation to be paid therefor, or when for any reason no such agreement can be made without, in the opinion of said board, unreasonable delay, the said board is authorized to determine the value of said lands and the damages resulting to the owner from the taking thereof in the manner and with the effect provided as to commissioners appointed by the judge of the circuit court under the provisions of sections 605, 606, 607 of the statutes.

4. *Forest Reserve Committee; report to legislature.*—On or before March 1, at each regular session of the legislature a legislative committee of five members shall be appointed in the following manner and for the following purposes, viz: The president of the senate shall appoint two members of the senate and the speaker of the assembly shall appoint three members of the assembly, and such committee shall be known as the "Forest Reserve Committee." The committee during the regular session for which they are appointed shall visit the forest reserve and report to the legislature during the same session as to the purchases of land made since the last regular session, and also prospective purchases, and so far as possible such legislative examination shall be so conducted that each legislative committee will supplement and complete the work of former legislative committees in examining both past and prospective purchases of forest reserve lands.

SEC. 1497k. *Brule river forest reserve.*—It is hereby declared to be the purpose and policy of the State to forever prohibit the building or maintaining of any dam or dams upon the Brule river or any of its tributaries in Douglas county, Wisconsin. * * * It is further declared that it shall be the policy of the State to form a forest reserve of lands about and along the said Brule river and its tributaries. * * *

SEC. 257. 2. *Leasing forest reserve lands; disposition of moneys from cutting hay or picking cranberries.*—In all counties or portion of counties north of town thirty-three, the State board of forestry may lease any State lands for the purpose of cutting hay or picking cranberries therefrom, under such rules and regulations and for such cash price as they may determine; but it shall not be lawful to cut any timber or do any waste thereon. In all counties or portions of counties north of town thirty-three, which are within the permanent forest reserve area, to wit: Florence, Forest, Oneida, Vilas, Iron, Price and also within the Brule forest reserve on the Brule river in Douglas county, the moneys received from the sale of hay or cranberries shall be paid into the forest reserve fund, but the moneys received from the sale of hay or cranberries in any other county or portion of a county north of town thirty-three, shall be paid by the State board of forestry to the town clerk of the town within which such hay or cranberries were sold. All moneys so received from the State board of forestry by any town clerk shall be added to the drainage fund of the town.

SEC. 1421-30. 1. *Tuberculosis camp in forest reserves.*—The State board of control of Wisconsin is hereby authorized to establish and operate a camp and farm in the forest reserves in which persons who are threatened with or who are recovering from tuberculosis may be received and cared for, and the State board of forestry is authorized to co-operate with and aid said State board of control of Wisconsin in the erection of a camp or camps on any State forest reserve lands appropriate therefor which may be designated by said board.

3. *Employment of patients in forest reserve.*—The State board of forestry shall co-operate with the State board of control of Wisconsin in the employment of persons received into said camp and shall, so far as practicable, engage any such persons to do necessary work within the State forest reserve. * * *

SEC. 4442. *Trespass.*¹ * * *

(2) OUTSIDE OF STATE FORESTS:*

SEC. 1494-54. *Trespass.*³ * * *

SECS. 1494-59; 1494-60. *Criminal and civil actions.*⁴ * * *

¹ See this section, on p. 12, for general law prescribing penalty for trespass on State lands.

² The authority conferred upon the Commissioners of the Public Lands (consisting of the secretary of state, treasurer and attorney general), to have "the general care and supervision of all lands belonging to the State, or in which it has an interest, or which are or may be held in trust for it, unless the superintendence thereof is vested in some other officer, body or board," includes the following duties and powers of a forest administrative nature: (1) Sale and lease, and protection of such lands; (2) seizure of lumber, timber, bark, etc., unlawfully cut upon such lands; (3) withholding of patent for lands which have been trespassed upon, except upon compliance with the conditions in sec. 241, concerning payments for the land, and of the amount required as penalty for the trespass, and of all expenses connected with the seizure and care of the timber, etc., wrongfully taken, secs. 185-242; (4) sale of timber on public lands "which has been damaged by fire or winds, on such terms and in such manner as they shall deem best for the interests of the State." (Sec. 210b.)

³ See this section, on p. 9, for provisions concerning trespass on State lands.

⁴ See these sections, on p. 9, for provisions concerning criminal and civil action for trespass on State and other lands.

SECS. 1498; 1498b; 1498b-2. *Fish and game wardens; trespass reports.*¹ * * *

SEC. 243. *Trespass; duties of sheriffs, town officers, and district attorneys; fees.*—All sheriffs and town officers are especially charged to immediately communicate to the district attorney any and all information received by them respecting the commission of any trespass or waste upon the public lands and to enter complaint against the offender before some justice of the peace. Every district attorney, immediately upon receiving information of any such trespass upon lands in his county, shall prosecute the proper criminal action against such offender and advise said commissioners thereof, and shall, when required, prosecute a civil action for damages for any such trespass or to recover the possession of any materials taken from any such land. The commissioners may order to be paid to said district attorney out of fines collected from any person guilty of such offense a sum not exceeding ten per centum, and to the witnesses or other persons furnishing information of such offense a sum not exceeding twenty-five per centum of such fines collected.

SEC. 4442. *Trespass; penalty.*—Any person who shall cut down, injure or destroy any tree or timber growing or standing upon land belonging or mortgaged to or held

¹ See these sections, on p. 4, for duties of the fish and game wardens concerning fires and trespass on State lands.

in trust by the State, or who shall take and carry away any timber or wood so cut or severed, or previously cut or severed and remaining upon such land, * * * or who shall wilfully, maliciously or wantonly cut down, injure or destroy any tree or timber growing or standing upon land belonging or mortgaged to or held in trust by any county in the State, or take and carry away any timber or wood so cut or severed, or previously cut or severed and remaining upon such land, * * * shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

PART V.—MUNICIPAL FORESTS.

SEC. 776. *Powers of town meeting.*—The qualified electors of each town shall have power at any annual town meeting: * * *

(12m) *Acquiring wood lot.*—To authorize the town board to acquire by purchase or otherwise a sufficient tract of land to use and maintain as a wood lot and to preserve and reforest the same under regulations approved by the State board of forestry. The sale of such wood lot may be authorized or directed in like manner.²

² The employment of city foresters by boards of park commissioners in cities of the first class is authorized by chapter 408, Laws 1911. (See volume of Session Laws.)

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UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

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A parallel classification showing the comparative
progress of each State in forestry legislation

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Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 1, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH
ACT 127, L. 1912.

Amending title.—*Be it enacted by the General Assembly of the State of Louisiana*, That Act No. 113 of the Session of 1904, approved July 4, 1904, be amended and re-enacted so as to read as follows:

An Act to establish * * * to provide for the acceptance of gifts of land by the State [for] forests, and the administration thereof, to provide for the preservation of the forests of the State, and the prevention and suppression of forest fires; to provide penalties for the violation of this Act, and for other purposes.

¹ The Conservation Commission created in 1912 (act 127, L. 1912, p. 2) supersedes the forest officials mentioned in this act. The portions of this act which are in consequence no longer in effect are omitted in this compilation. The necessary references to the Conservation Commission of 1912 are inserted thus: [].

SEC. 3, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH
ACT 127, L. 1912.

Conservation Commission, duties in general:
Administrative Concerning fires Educational
Cooperative Investigative Concerning State forests—Forest data—Grazing and turpentine
Reports on forestry Collection of license tax. *Be it further enacted, etc.*, That it shall be the duty of the * * * [Conservation Commission] to have direction of all forests interests and all matters pertaining to forestry within the jurisdiction of the State, take such action as is authorized by law to prevent and extinguish forest fires, and enforce all laws pertaining to forest woodlands and prosecute for any violation of such laws.¹ [It] shall carry on educational work in the State in the interest of forest preservation by means of correspondence, publications and lectures, especially in the schools of the State. It shall be [its] duty to cooperate with private timber owners in laying plans for the protection, management and replacement of forests and in aiding them to form protective associations.

¹ For provisions concerning prosecutions, see sec. 3, act 127, L. 1912, on p. 3.

² The State and parish boards of public education and the State University are also charged, independently, with the providing of public instruction in forestry. (See sec. 16 of this 1910 act, and act 242, L. 1908, in volumes of Session Laws for 1910 and 1908.)

It shall be [its]¹ duty to examine all timbered lands belonging to the State, and report to the Conservation Commission upon their timber condition and actual value, and also whether some of those lands may not be held as State forest reserves. [It] shall be responsible for the protection and management of lands donated to or purchased by the State, and of all other lands reserved by the State as State forests. [It] shall make statistics of forest conditions, of forest resources of the State, the extent of forest injuries, conduct experiments in tree planting and note the effect of forest grazing and turpentine and along other lines of forest work. [It]¹ shall prepare an annual report of the progress and conditions of the State work in forestry to the Conservation Commission and therein recommend plans for improving the State system of forest protection, management and replacement. Whenever it shall be reported to [it] that any person or persons engaged in a timber business subject to license tax are operating without license, [it] shall cause the same to be collected according to law.

Sec. 12, Act 261, L. 1910.

Monies from penalties to go to conservation fund.—*Be it further enacted, etc.,* That all monies minus the cost of prosecution, received as penalties provided for the violations of this Act, shall be paid into the State Treasury and placed to the credit of the Conservation Fund.

Sec. 1, Act 172, L. 1910.

Preamble.—*Be it enacted by the General Assembly of the State of Louisiana,* That Act No. 144 of the Session of 1908, approved July 2nd, 1908, be amended and reenacted so as to read as follows:

Whereas, the recent conference of Governors, in the White House declared their firm conviction that the conservation of natural resources is a subject of transcendent importance; that these resources include the waters, the forests, and minerals; that the nation, the State and the people should co-operate in conservation; and,

Whereas, the conference declared that this co-operation should find expression in suitable action by the Congress within the limits of, and co-extensive with, the national jurisdiction of the subject, and complementary thereto by the legislatures of the several States within the limits of and co-extensive with, their jurisdiction, and,

Whereas, the conference recommended the appointment by each State [of] a Commission on the Conservation of Natural Resources, to co-operate with each other and with any similar Commission of the Federal government, therefore:²

¹ Formerly referred to the State forester, whose duties are now discharged by the Conservation Commission. Hence, the anomaly of requiring the commission to report to itself.

² The present Conservation Commission (see act No. 127, L. 1912, below) supersedes the Conservation Commission of eight members which was created by sec. 2 of this act, and which included, as ex officio members, the superintendent of experimental stations of Louisiana, the State forester, and the chief engineer of the State board of engineers. The portions of this 1910 act which are, in consequence, no longer in effect, are omitted in this compilation, and a necessary reference to the 1912 act is inserted.

SEC. 3, ACT 172, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Conservation Commission, duties in general.—*Be it further enacted, etc.,* That it shall be the duty of the Commission provided for in * * * [Act No. 127, Laws 1912] to inquire into and report on the forest conditions of the State of Louisiana, with reference to the preservation, the reforestation of denuded lands, the effect of the destruction of forests on climatic conditions and waterways, and their control, * * * and generally on all matters pertinent to these subjects; it shall have supervision of the Department of Minerals and Forestry, and of such other department dealing with natural resources as may hereafter be created. Upon emergency it shall have authority to expend monies from the Conservation Fund, upon approval of the Governor and the Attorney General, to promote protect and conserve the natural resources of the State provided such expenditure shall not take from the amount in such fund required to meet fixed expenses; * * *

SEC. 4, ACT 172, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Conferences.—*Be it further enacted, etc.,* That * * * it shall confer with similar Commissions appointed by other States and with the Federal Commission at the General Assembly of such Commissions; * * *

SEC. 5, ACT 172, L. 1910.

Information from other departments.—*Be it further enacted, etc.,* That the Commission shall be authorized to call upon any department of the State of Louisiana, for information, and if the furnishing of said information shall incur incidental expense in said department not now provided for in the way of research or printing, the said departments are authorized to incur said expense not to exceed fifty dollars (\$50.00) for any such department.

SEC. 1, ACT 127, L. 1912.

Conservation Commission: Appointment—Powers—Compensation—Expenses for clerical force—Attorney general to represent commission.—*Be it enacted by the General Assembly of the State of Louisiana,* That the Conservation Commission is hereby created, composed as follows:

Three commissioners, one of whom shall be president of said Commission, shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term of four years and shall be men who are informed in whole, or in part, on the following subjects: * * * and the forestry * * * resources of the State. After being confirmed by the Senate, the said Commissioners shall not be subject to removal by the Governor; they shall be subject to removal for malfeasance, nonfeasance, or incompetency upon charges made before a court of competent jurisdiction.

The said commissioners shall have the supervision and control over all employees in every branch of the service,

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and shall give their entire time to the service and shall receive a salary not to exceed Twenty-four Hundred dollars per annum payable monthly, except the president, who shall receive not to exceed Three Thousand Dollars per annum, payable monthly, and shall receive actual traveling and hotel expenses when engaged in the discharge of their official duties.

The Commission shall have authority to pay the expenses of any of its employees, officers or assistants either within or without the State, while in the service of the Commission. The Commission is authorized to employ such clerical and other assistance as may be necessary to efficiently transact its business and promote the good of the service, and fix the salaries, provided that the total expenses for this purpose shall not exceed 20,000 dollars per annum for clerical and all office and traveling expenses, and provided there shall not be any attorney other than the Attorney General to represent said Commission.

SEC. 2, Act 127, L. 1912.

Commission: Vested with corporate powers—Domiciled at New Orleans—To collect data—Jurisdiction of—Reports to governor—Enforcement of forest laws.—*Be it further enacted, etc.*, That the Conservation Commission of Louisiana is hereby constituted a department of the State government for the purpose of the protection, management, and conservation of * * * and the natural * * * and forestry resources of the State and to see that all laws relative thereto are enforced,¹ and, as such, it is hereby created a body politic or political corporation invested with all powers inherent in such corporation.

It shall have authority to sue and be sued under the style "Conservation Commission of Louisiana" and all process against said corporation shall be served on the president, or in his absence on any member of the said Conservation Commission, at the general office and all suits in its behalf shall be brought by its president in the name of the Commission. In case there are any suits pending in which the * * * or the Conservation Commission heretofore created are parties to said suit either as plaintiff or defendant the present Conservation Commission created by this Act shall be substituted and become parties to said litigation in lieu of the former commission, which shall be superseded [superseded] by the present one. The domicile of said corporation is hereby fixed in the City of New Orleans, where the office shall be established, and where its archives shall be kept, and services of processes shall be made upon the president or other member of the Commission in person.

It shall be the duty of said Commission to collect, classify and preserve such statistics, data and information, as will tend to promote the objects of this act and to take charge of and keep all records, books and papers and documents which shall in the discharge of their duties hereunder come in their possession or under their control; to make and execute all contracts, and generally to do and

perform all things necessary to carry out the objects of this act subject to all limitations and duties herein provided.

Said Commission shall adopt by-laws for its own government and the government of its employees, it shall adopt rules and regulations for comprehensive control of * * * and natural resources of the State which said by-laws or rules and regulations shall not be inconsistent with or contrary to the provisions of this act.

Any person in interest who feels aggrieved by any such rule or regulation shall have the right to test the legality of the same in the courts of the State, either in the Court of the jurisdiction wherein the contest arises, or at the domicile of the Commission.

It shall be the duty of the Commissioners, at each regular meeting to examine all accounts and operations of the Commission and determine what work shall be undertaken; and monthly reports thereof shall be made in writing to the Governor, and condensed quarterly copies of said monthly reports shall be printed in one morning paper in the City of New Orleans, * * * It shall, likewise enforce all laws relating to the natural * * * and forestry resources of this State¹ * * * And said Commission shall in every way possible assist in developing the natural resources of the State under its jurisdiction to their fullest proportions.

SEC. 3, Act 127, L. 1912.

Prosecutions: Civil, by Conservation Commission—Criminal, by district attorney.—*Be it further enacted, etc.*, That this Commission shall have power and authority, in its name, to initiate and prosecute all civil actions or proceedings arising from the violation of any law, the administration of which is imposed upon it. And it shall also be the duty of said Commission to report all violations of the criminal laws with the enforcement of which it is charged to the District Attorney within whose jurisdiction such infractions occur, and see that such cases so reported are promptly prosecuted and it shall be the duty of the District Attorney to prosecute all such actions and make report of such prosecutions to the Commission. This obligation shall be mandatory on the District Attorney.

SEC. 4, Act 127, L. 1912.

Conservation Commission: Annual report—Appropriations for work of—Conservation fund: Receipts and disbursements.—*Be it further enacted, etc.*, That it shall be the duty of said Commission, on or before the first Monday in April of each year, to prepare and present to the Governor of the State, a printed annual report showing the operations of the Commission since the date of its last annual report, showing the amount of money received by it and from what sources, the amount of money expended by it and for what purpose, and in each annual report immediately preceding the regular session of the General Assembly, the Commission shall include an estimate of proposed expenditures and expenses for the

¹ For provisions concerning prosecutions, see the following section.

¹ For provisions concerning prosecutions, see the following section.

ensuing two years; and its prospective revenues and such recommendations for legislative action if any the Commission may deem wise for the better accomplishment of the purposes of this act. The Governor shall lay copies of said report before the General Assembly convening after their receipt, and at each regular session the General Assembly shall appropriate such funds as it may deem wise, for the continuation of the work of said Commission. A fund to be known as the "Conservation Fund" is hereby established and all funds collected by the Conservation Commission as herein provided for shall be paid in the State Treasury to the credit of said fund, a record of said payments being made by the State Auditor, and acknowledgement thereof sent to the Conservation Commission, that all expenditures shall be made out of the said fund by the warrant of the said Conservation Commission drawn on the State Auditor, which warrant shall be signed by the President of the Conservation Commission, and countersigned by its Secretary and said State Auditor shall, in turn, issue his warrant in payment thereof on the State Treasurer, said Conservation [Commission] shall keep a set of books showing from whom every dollar is received and for what purpose; to whom every dollar is paid and for what purpose; and shall keep in its file vouchers or receipts for all moneys paid out. * * *

SEC. 5, ACT 127, L. 1912.

Bonds of commissioners and employees.—*Be it further enacted, etc.*, That each one of said Commissioners shall give for the faithful performance of the duties of his office a bond in favor of the Governor of the State for the benefit of the people of the State in the sum of Five Thousand Dollars (\$5,000.00) and each employee of the said Conservation Commission other than the Commissioners, shall give a similar bond for the faithful performance of their duties in the sum of One Thousand Dollars (\$1,000.00). In case of forfeiture of any of said bonds and recovery on same, the amount recovered shall go to the general fund of the Commission.

SEC. 7, ACT 127, L. 1912.

Natural resources, not to be exploited by officers and employees of commission.—*Be it further enacted, etc.*, That the Conservation Commission shall permit no salaried officer or employee to be actively interested in the exploiting for personal gain of any of the natural resources of the State, or to be employed by any person, firm or corporation engaged in the exploiting of any of the natural resources of the State, under the penalty of dismissal from the service hereof and forfeiture of any rights sought to be acquired by said officer or employees.

SEC. 11, ACT 127, L. 1912.

Special conservation agents, powers and duties—No compensation.—*Be it further enacted, etc.*, That the Conservation Commission shall have power to appoint competent men throughout the State to be known as "Special Conservation Agents," who shall possess all rights and powers given by the law to the regular Conser-

vation Agent except the right to search without warrants, and they shall be subject to all requirements and regulations both of the law and the rules of the Conservation Commission, provided that such special Conservation Agent shall be in no way entitled to recompense from either the parish, or State or Commission for services rendered or expenses incurred in the performance of their duty. All sheriffs, constables and Peace Officers shall have the power as Conservation Agent under this Section except the right to search without warrant, and shall receive one-half of all fines collected for violation of the Game and Conservation Laws of this State that may be reported by them.

SEC. 12, ACT 127, L. 1912.

Conservation Commission: Expenses, how paid—Fines under conservation laws to go to school funds.—*Be it further enacted, etc.*, That all salaries and other expenses of said Conservation Commission are to be paid by warrant of the Conservation Commission of Louisiana drawn on the State Auditor, which warrant shall be signed by the President of the Conservation Commission and countersigned by its Secretary, and the State Auditor, shall, as hereinbefore provided, issue his warrant on the State Treasurer in payment thereof, said payment to be made from the funds collected by the sale of hunting licenses, or forfeiture of bonds and from all money which may be appropriated by the General Assembly for the use of the Conservation Commission and from all revenues derived from oysters and shrimp licenses and tax, or licenses for the trapping of fur bearing animals and licenses on fish seines, boats, diamond back terrapin, and from other sources. All fines derived from convictions of the violations of the Conservation laws of this State, except as may be herein otherwise provided less the sheriff's per cent for collection provided by law, shall be paid to the treasurer of the school funds for the use of the public schools in the parish in which the violation occurred.

SEC. 26, ACT 127, L. 1912.

Consolidation of duties.—*Be it further enacted, etc.*, That the Conservation Commission hereby created shall be charged with the duties of carrying out the provisions of Act 172¹ * * * of 1910, and any other laws on the subject of the Conservation of the Natural, * * * and forestry resources of this State in so far as they are not in conflict with the provisions of this Act, and the Conservation Commission hereby created shall to that extent discharge the functions heretofore exercised by the Conservation Commission created by Act 172 of 1910.

SEC. 27, ACT 127, L. 1912.

Services of former officials dispensed with—Conservation Commission given full charge.—*Be it further enacted, etc.*, That the Conservation Commission hereby created shall be charged with the duty of carrying out the provisions of Act number 261² of 1910, amending and re-enacting Act number 113 of 1904, and the service

¹ See p. 2.

² See pp. 1, 2, 5, 6, 7.

of the other officials mentioned in said act are hereby dispensed with, the same being placed under the exclusive control and administration of the Conservation Commission hereby created.

SEC. 28, ACT 127, L. 1912.

Penalty for violation of act.—*Be it further enacted, etc.*, That any person violating any of the provisions of this Act, where a punishment has not been otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be liable to a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or be subject to imprisonment for not less than thirty (30) days, or be liable to both fine and imprisonment in the discretion of the court.¹

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This sub-division comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see sub-divisions (2), (3), and (4), respectively.)

SEC. 3, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Conservation Commission, duties re fires.—*Be it further enacted, etc.*, That it shall be the duty of the * * * [Conservation Commission] to * * * take such action as is authorized by law to prevent and extinguish forest fires, and enforce all laws pertaining to forest woodlands, and prosecute for any violation of such laws.¹

SEC. 10, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Fire notices, distribution of.—Destruction of.—Penalty.—*Be it further enacted, etc.*, That the * * * [Conservation Commission]² shall prepare notices, printed in large letters upon cloth or strong paper, calling attention to the destruction caused by fires and to the forest fire laws and the penalties for their violation. Such notices shall be distributed to all forest wardens, parish officials, railroad and lumber companies, private citizens, officers, railroad stations, in public squares, along public highways and in

other places. Any person who shall maliciously or wilfully destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provision of this Act, shall be guilty of a misdemeanor and punishable upon conviction by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment for a period of not less than ten days nor more than three months, or by both said fine and imprisonment.¹

(2) RAILROAD FIRES.

(This sub-division comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 7, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Precautions by railroads: Clearing rights of way—Deposits of fire—Trainmen to report fires—Instructions to section foremen—Warning placards—Penalties—Ties, etc., along rights of way.—*Be it further enacted, etc.*, That it shall be the duty of all railroad companies operating any railroad through forest lands within this State to keep their right of way cleared of all combustible materials and safely dispose of the same within said limits of said right of way between the fifteenth day of November and the fifteenth day of April. No railroad company shall permit its employees to leave a deposit of fire or live coals on its right of way other than between the rails, in the immediate vicinity of woodland or lands liable to [be] overrun by fires, and when engineers, conductors or trainmen discover that fences or other materials along the right of way, or woodland adjacent to the railroad, are burning or in danger from fire they shall report the same promptly at the next telegraph station that they pass. In seasons of drought the railroad companies shall give particular instructions to their section foremen for the prevention and prompt extinguishment of fires originating on its [their] right [rights] of way, and they shall cause warning placards furnished by the * * * [Conservation Commission]² to be posted at their stations in the vicinity of the forest lands. Any railroad company wilfully violating the requirement of this Act shall be deemed guilty of a misdemeanor and be punished by a fine not exceeding one hundred dollars for each offense, and railroad employees wilfully violating the requirements of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than fifty dollars.¹ But this section shall not be construed to prohibit or prevent any railroad company from piling or

¹ For provisions concerning prosecutions, see sec. 3, Act 127, L. 1912, on p. 3.

² For full text of this section, see pp. 1, 2.

³ See footnote to sec. 1, Act 261, L. 1910, on p. 1.

¹ For provisions concerning prosecutions, see sec. 3, Act 127, L. 1912, on p. 3.

² See footnote to sec. 1, Act 261, L. 1910, on p. 1.

keeping upon the right of way cross ties or other material necessary in the operation or maintenance of such railroads.

Note.—(1) **Penalty for setting fires during closed season.**—Special penalties are provided in the case of any corporation or common carrier setting fire to any wild woodland, marsh land, or prairie land during the closed season defined in Sec. 18, Act 204, L. 1912, as amended by Sec. 10, Act 47, L. 1914 (see sec. 20, Act 259, L. 1910, below).

(2) **Railroad companies liable to action for damages, including cost of injury to young growth, and of fighting fires.**—Railroad companies are also liable, as corporations, for damages, including costs of injury to young growth, resulting from fires caused by the companies, and for costs of extinguishing such fires (see secs. 6, 8, Act 261, L. 1910, below).

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen and others.)

Sec. 5, Act 261, L. 1910.

Setting fire to woods, penalties—Camp fires and other causes of fires.—*Be it enacted further, etc.*, That any person that wilfully and negligently sets on fire or causes to be set on fire any wood, brush or grass land not his own; or sets on fire or causes to be set on fire any land belonging to himself and allows such fire to escape to any wood, brush or grass land not his own; and any person that wilfully suffers any fire set by himself to damage any property of another, is guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than \$20.00 nor more than \$300.00, or by imprisonment of not less than ten days nor more than six months, or both such fine and imprisonment.¹ Every person that wilfully or maliciously sets on fire any such wood, brush or grass lands, or causes to be set on fire any such wood, brush or grass lands, whereby the property of another is injured or destroyed, shall upon conviction, be punished by a fine of not less than \$25.00 nor more than \$1,000.00, or by imprisonment for a term of not less than three months nor more than five years, or by both such fine and imprisonment.¹ Any person who shall cause a fire in any wood, brush or grass lands by carelessly, negligently, or deliberately dropping a burning match or emptying fire from a pipe, or dropping a lighted cigar or cigarette, or discharging a combustible wad from firearms, or failing to extinguish a camp fire upon leaving it, shall be deemed guilty of setting the forest on fire.¹

¹ For provisions concerning prosecutions, see sec. 3, Act 127, L. 1912, on p. 3.

Sec. 6, Act 261, L. 1910.

Right of action for damages preserved—Injury to young growth.—*Be it further enacted, etc.*, That nothing in this Act shall be construed as affecting the right of action for damages. The liability of persons or corporations for all damages shall include the injury to young growth resulting from fires. The damage to young growth shall be calculated as the expense of artificially planting and cultivating such small growth to the point of development at the time when the fire occurred.¹

Sec. 8, Act 261, L. 1910.

Costs of fighting fires, assessed as part of penalty.—*Be it further enacted, etc.*, That in a prosecution for the wilful and negligent setting fire to forests, when the evidence has been conclusive on the guilt or innocence of the party or parties charged with the crime, it shall be within the discretion of the court to take evidence as to the cost of fighting the fire which the accused is charged with setting, and it shall be within the discretion of the court to assess such costs as a part of the penalty of the person or persons charged, if he shall be found guilty.¹

Sec. 18, Act 204, L. 1912, AS AMENDED BY SEC. 10, ACT 47, L. 1914.

Closed season for fires.—*Be it further enacted, etc.*, That it shall be unlawful for any person during the game breeding season, to-wit: from the fifteenth day of February to the first day of November of each year to set fire to any wild woodland, marsh land or prairie land.

NOTE.—The above Section 18 is a restatement and amendment of Section 14, Act 259, L. 1910, which act provided certain penalties for violations thereof, which are shown in the following section:

Sec. 20, Act 259, L. 1910.

Penalties for not observing closed season, etc.—Forfeiture of hunting license and privileges.—*Be it further enacted, etc.*, That any person, firm, corporation, or common carrier, their agents, and officers violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, pay the costs of the prosecution and be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) or be imprisoned in the parish jail for not less than one (1) day, nor more than sixty (60) days, or both fine and imprisonment at the discretion of the court for each offense. In addition thereto the holder of a hunting license found guilty of violating any of the provisions of this Act before a competent court, shall forfeit said license and all further hunting privileges during the current season.

¹ For provisions concerning prosecutions, see sec. 3, Act 127, L. 1912, on p. 3.

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 4, ACT 261, L. 1910.

State Forests: Gifts of land for—Clear titles—Donors may name forests.—*Be it further enacted, etc.,* That the Governor of the State is hereby authorized to accept gifts of land to the State to be held, protected and administered by the Conservation Commission¹ as State forests and to be used to demonstrate their practical utility for reforestation and as breeding places for game. Such gifts must be absolute except for the reservation of all mineral rights, and in no case shall exceed (10) ten per cent of the area of any parish wherein such lands may be situated. The Attorney General is directed to see that all deeds to the State are properly executed and that the titles thereto are free and clear of all encumbrances before the gift is accepted. When any donation exceeding six hundred acres is made, the name of the donor, or any name he may suggest, on the approval of the Conservation Commission, shall be given such donation, as the designation of such reserve.

SEC. 15, ACT 261, L. 1910.

Purchase of lands for forest culture and reserves.—*Be it further enacted, etc.,* That the State Conservation Commission¹ shall have the power to purchase lands in the name of the State suitable for forest culture and reserves, at a price which shall not exceed \$1.00 per acre, using for such purpose any surplus money not otherwise appropriated, which may be standing to the credit of the conservation fund; [and] to make rules and regulations governing State reserves.

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.**PART IV.—TAXATION.**

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encour-

age the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

SEC. 13, ACT 261, L. 1910, REVISED IN ACCORDANCE WITH ACT 127, L. 1912.

Timber-culture contract—Fixed taxable valuation per acre—Restoration to assessment roll.—*Be it further enacted, etc.,* That in order to encourage the practice of forest culture in this State, when the owner or owners of any land which has been denuded of trees or any other land the assessed value of which shall not at the time of application exceed the sum of five dollars per acre, shall contract in writing with the * * * [Conservation Commission]¹ to supervise planting and growing upon the said lands suitable and useful timber trees in such manner as they shall prescribe, to protect the said land from fires, as far as practical, and to maintain the trees so planted or grown upon it in a live and thrifty condition for a period of not less than thirty years and not more than forty years, and to cut or remove from said land within that time no tree or trees except as permitted in the said contract: it shall be lawful for the State Board of Equalizers and the assessors of the several parishes, and they are hereby authorized upon the recommendation of the * * * [Conservation Commission] to fix a valuation of \$1.00 per acre upon said lands and timber, and this valuation to remain fixed and unchangeable for the period of the contract entered into by the land owner aforesaid with the * * * [Conservation Commission]. Any land owner who has made such a contract with the State shall be entitled to demand an annual inspection by the * * * [Conservation Commission] and a certificate as to whether the contract has been carried out. At the end of the contract entered into by the land owner with the * * * [Conservation Commission], or at any time within that period that the owner or owners of said land shall fail to maintain it in all respects according to the written agreement entered into by the owner and upon which the said land was given a fixed assessment for a fixed number of years, the said land shall be restored to the assessment roll and shall be taxed the same as other similar lands, and in addition thereto the said lands shall be supplemented on the assessment rolls for an amount that would equal the assessment of the land had it not been assessed under the provisions of this Act. Nothing in this Act shall be construed as giving the * * * [Conservation Commission] jurisdiction over lands of any resident farmer without written contract.

¹ See Act 127, L. 1912, on p. 2 et seq., for the present Conservation Commission.

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UNITED STATES DEPARTMENT OF AGRICULTURE

U. S. FOREST SERVICE

HENRY S. GRAVES, FORESTER

STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

NORTH CAROLINA

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation" the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

[Sec. 4430.

This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials, also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

Geological board: Appointment Meetings of.—The geological board shall consist of the governor as chairman, four citizens of the state, two for a period of two years and two for a period of four years from March first, nineteen hundred and five, the same to be appointed by the governor by and with the advice and consent of the senate, and their successors to be in like manner appointed each for a period of four years. In case of the death or resignation of either of said citizens his successor shall be appointed by the governor. The geological board shall meet twice each year, once in January and once in June, in the city of Raleigh, on the call of the governor, except that the board may change the time and place of meeting as circumstances may require. [L. 1905, Ch. 542, Sec. 2.]

[Sec. 4431.

NOTE.—State Forester and forest investigative work.—Under the broad, general authority conferred upon the Geological Board of the State, in the following sections (4429-4434, Pell's Revision, 1908, the board is able to employ a forester and conduct forest investigative work.

SEC. 4429, PELL'S REVISION, 1908.

State geologist: Appointment.—To conduct State geological and economic survey.—The governor shall appoint a suitable person as state geologist to conduct under the supervision of a board of managers to be known as the geological board a geological and economic survey of the state. [L. 1905, Ch. 542.]

Experts and assistants, appointment of.—The state geologist shall appoint, subject to the approval of the geological board, such experts and assistants as may be found necessary to enable him to carry out successfully and speedily the work of the survey. [L. 1905, Ch. 542, Sec. 3.]

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Sec. 4432.

Objects of survey.—The survey shall have for its objects:

1. An examination of the * * * forests, * * * and other material resources of the state.

* * * * *
4. An examination and classification of the soils, the forests and other physical features of the state with special reference to their bearing upon the occupation of the people.

5. An examination of the streams and waterpowers of the state with special reference to the development for manufacturing enterprises and the preservation of the sources of these streams through the protection of the forests.

6. The consideration of such other scientific and economic problems as in the judgment of the geological board shall be deemed of value to the people of the state.

7. The preparation of such reports, illustrations and maps as may be deemed necessary in placing the results of these investigations before the public.

8. And the state geologist, with the approval of the geological board, is hereby authorized to arrange for and accept such aid and co-operation from the several United States government bureaus and other sources as may assist in completing the topographic surveys of the state and in carrying out other provisions of this chapter.

9. An examination of the water supplies of the state with special reference to the sinking of deep or artesian wells. [L. 1905, Ch. 542, Sec. 4.]

Sec. 4433, AS AMENDED BY L. 1911, Ch. 211, Sec. 4.

Reports upon survey.—The geological board shall cause to be prepared and submitted to each legislature a report showing the progress and expenditures of the survey; it shall also cause to be prepared for publication such other reports with necessary illustrations and maps as will adequately set forth the * * * material resources of the state, all such reports, illustrations and maps to be printed and distributed as the geological board may direct in editions of three thousand copies each at the expense of the state as other public documents: *Provided, however*, that not more than five thousand dollars shall be used for this purpose in any biennial period. [L. 1905, Ch. 542, Sec. 5.]

Sec. 4434.

Appropriation for survey.—The sum of ten thousand dollars annually, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the treasury not otherwise appropriated for the purpose of carrying out the provisions of this chapter. [L. 1905, Ch. 542, Sec. 6.]

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

Sec. 1, Ch. 243, L. 1915.

State Geological board: Prevention and control of forest fires—Protection of forested watersheds.—That the State Geological board may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

Sec. 2.

State Forester: Ex-officio State forest warden—Appointment of township and district forest wardens.—That the forester of the State Geological and Economic Survey who shall be called State Forester, and shall be ex-officio State Forest Warden, may appoint, with the approval of the Geological Board, one township forest warden and one or more district forest wardens in each township of the State in which the amount of forest land and the risks from forest fires shall, in his judgment, make it advisable and necessary.

Sec. 3.

State Forest Warden: Supervisory duties—Prosecutions by.—The State Forester, as State Forest Warden, shall have supervision of township and district forest wardens, shall instruct them in their duties, issue such regulations and instructions to the township and district forest wardens as he may deem necessary for the purposes of this act, and cause violations of the laws regarding forest fires to be prosecuted.

Sec. 4.

Forest wardens: Controlling fires—Arrests—Posting fire laws and warnings—Patrolling, etc.—Reports of fires by township and district forest wardens.—Forest wardens shall have charge of measures for controlling forest fires; shall make arrests for violation of forest laws; shall post along highways and in other conspicuous places, copies of the forest fire laws and warnings against fires, which shall be supplied by the State Forester; shall patrol during dry and dangerous seasons under the direction of the State Forester, and shall perform such other acts and duties as shall be considered necessary by the State Forester for the protection of the forests from fire. The township forest warden of the township in which a fire occurs shall within ten days make such a report thereof to the State Forester as may be prescribed by him. Each district forest warden shall promptly report to township wardens any fire in his district.

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SEC. 5.

Interference with sign, poster, or warning, a misdemeanor—Penalty.—Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the State Forester, under the provisions of this act or any other act which may be passed for the purpose of protecting the forests in this State from fire, shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than ten dollars nor more than fifty dollars, or imprisonment not exceeding thirty days.

SEC. 6.

Forest wardens and State Forester: Prevention and extinguishment of fires—Enforcement of laws—Control and direction of persons and apparatus—Arrests without warrant—Patrols in dry seasons—Power to impress citizens and property; penalty for refusal to assist—Power of entry.—

Forest wardens shall prevent and extinguish forest fires in their respective townships and enforce all statutes of this State now in force or that hereafter may be enacted for the protection of forests and woodlands¹ from fire, and they shall have control and direction of all persons and apparatus while engaged in extinguishing forest fires. Any forest warden may arrest, without a warrant, any person or persons taken by him in the act of violating any of the said laws for the protection of forests and woodlands, and bring such person or persons forthwith before a justice of the peace or other officer having jurisdiction, who shall proceed without delay, to hear, try and determine the matter. During a season of drouth the State Forester may establish a fire patrol in any township, and in case of fire in or threatening any forest or woodland the township or district forest warden shall attend forthwith and use all necessary means to confine and extinguish such fire. The said forest warden may summon any male resident of the township between the ages of eighteen and forty-five years to assist in extinguishing fires, and may require the use of horses and other property needed for such purpose; any person so summoned, and who is physically able, who refuses or neglects to assist or to allow the use of horses, wagons, or other material required, shall be liable to a penalty of not less than five dollars nor more than fifty dollars. No action for trespass shall lie against any forest warden or person summoned by him for crossing or working upon lands of another in connection with his duties as forest warden.

SEC. 7.

Forest wardens: Compensation and expenses—Bills for services, how rendered and paid.—Forest wardens shall receive compensation from the geological board at a rate of not to exceed twenty cents per hour for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transpor-

tation or food supplies incurred in fighting or extinguishing any fire, according to an itemized statement to be rendered the State Forester every month, and approved by him. Forest wardens shall render to the State Forester a statement of the services rendered by the men employed by them or their district wardens, as provided in this act, within one month of the date of service, which said bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the State Forester. All accounts of the forest wardens must be duly sworn to before a justice of the peace, notary public or other officer qualified to witness such papers within the county in which the expenses were incurred. If said bill be duly approved by the State Forester, it shall be paid by direction of the geological board out of the funds hereinafter provided for.

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 10, CH. 243, L. 1915.

NOTE.—Corporations or others setting fire to brush, grass, etc.: Watchman to be provided—Penalty—Prima facie evidence of neglect.—All corporations burning any brush, grass, or other material which may endanger any property, are required by this section to maintain a careful and competent watchman in charge of the burning, under penalty of fine or imprisonment, and the escape of such fire is made *prima facie* evidence of neglect. (For full text see p. 4.)

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 1, CH. 56, L. 1913.

Brush and slash disposal near municipal watersheds.—That any person, firm or corporation owning lands or the standing timber on lands within four hundred feet of any watershed held or owned by any city or town, for the purpose of furnishing a city or town water supply, upon cutting or removing the timber, or permitting same cut or removed, from lands so within said four hundred feet of said watershed, or any part thereof, shall, within three months after cutting, or earlier upon written notice by said city or town, remove or cause to be burned under proper supervision, all treetops, boughs, laps and other portions of timber not desired to be taken for commercial or other purposes, within four hundred feet of the boundary line of such part of said watershed as is held or owned by

¹ See sec. 11 of this act, on p. 4.

such town or city, so as to leave such space of four hundred feet immediately adjoining the boundary lines of such watershed so held or owned, free and clear of all such treetops, laps, boughs and other inflammable material caused by or left from cutting such standing timber, so as to prevent the spread of fire from such cut-over area and the consequent damage to such watershed.

SEC. 2.

Violation of act, a misdemeanor.—That any such person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor.

(4.) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 8, CH. 243, L., 1915.

Burning grass, brush, or woodland: Notice to neighbors—Watching fire—Extinguishing—Misdemeanor, penalty—Action for damages.—If any person shall intentionally set fire to any grass land, brush land, or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and also taking care to watch such fire while burning and taking effectual care to extinguish such fire before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a misdemeanor and shall be fined not less than ten dollars, nor more than fifty, or imprisoned not exceeding thirty days. This shall not prevent action for damages sustained by the owner of any property from such fires.

SEC. 9.

Camp fires, and setting fire to grass, brush, or woodland: Misdemeanor, penalty for.—Any wagoner, hunter, camper, or other person who shall kindle a camp fire or shall authorize another to kindle such fire, unless all combustible material for the space of ten feet surrounding the place where said fire is kindled has been removed, or shall leave a camp fire without fully extinguishing it, or who shall accidentally or negligently by the use of any torch, gun, match, or other instrumentality, or in any manner whatever start any fire upon any grass land, brush land or woodland without fully extinguishing the same, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, or imprisoned not exceeding thirty days.

SEC. 10.

Burning tar or charcoal, or setting fire to brush grass, etc.: Watchman to be provided—Penalty—Prima facie evidence of neglect.—All persons, firms, or corporations, who shall burn any tar, kiln or pit of charcoal, or set fire to or burn any brush, grass, or other mate-

rial, whereby any property may be endangered or destroyed shall keep and maintain a careful and competent watchman in charge of said kiln, pit, brush, or other material while burning. Any person, firm, or corporation violating the provisions of this section shall be punishable by a fine of not less than ten dollars nor more than fifty dollars, or imprisoned not exceeding thirty days. Fire escaping from such kiln, pit, brush, or other material while burning shall be *prima facie* evidence of neglect of these provisions.

SEC. 11.

Woodland defined.—For the purposes of this act, woodland is taken to include all forest areas, both timber and cut-over land, and all second growth stands on areas that have at one time been cultivated.

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 1, CH. 253, L. 1915.

State forests: Gifts and purchase of lands for—Utilization of—Deeds for—Subject to county taxes.—That the Governor of the State is authorized upon recommendation of the geological board to accept gifts of land to the State, the same to be held, protected and administered by said board as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. Such gifts must be absolute except in such cases as where the mineral interest on the land has previously been sold. The State Geological Board shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park and protection purposes, using for such purposes any special appropriations or funds available. The Attorney-General of the State is directed to see that all deeds to the State of land mentioned in this section are properly executed before the gift is accepted or payment of the purchase money is made. Said State forests shall be subject to county taxes assessed on the same basis as are private lands, to be paid out of moneys in the State Treasury not otherwise appropriated.

SEC. 2.

State forests: Moneys from, credited to Geological board—How expended.—That all moneys received from the sale of wood, timber, minerals or other products from the State forests shall be paid into the State Treasury

and to the credit of the geological board; and such moneys shall be expended carrying out the purposes of this act and of forestry in general, under the direction of the geological board.

SEC. 2.]

State forests: Payments to be made from appropriations only.—That nothing in this act shall operate or be construed as authority for the payment of any money out of the State Treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly.

NOTE.—The so-called "State Forests" which are provided for in the following sections do not belong to the State, but consist of specially designated lands held in private ownership.

SEC. 4434A, SUPP. TO PELL'S REVISAL, 1908.

So-called "State forests," governor to declare.—The Governor of the state, upon the written application of any owner or owners of wooded lands situated in North Carolina above contour line two thousand feet, may at his discretion declare the lands of such owner or owners, or such parts thereof as he may deem advisable, a "state forest of North Carolina." [L. 1909, Ch. 89, Sec. 1.]

SEC. 4434B.

So-called "State forests," publication of declaration.—The declaration of the Governor shall be published, at the expense of the applicant, in three consecutive issues of any newspaper published in the county or counties wherein the lands declared a state forest reserve are situated, if there be one; if no paper is published in the county or counties, then in a paper published in an adjoining county; and after such publication the said lands shall be and are a state forest of North Carolina for the term of thirty years. [L. 1909, Ch. 89, Sec. 2.]

SEC. 4434C.

So-called "State forests": How treated—Owner to pay tax to school fund—Penalty.—The owner or owners, when making such written application, shall agree in writing to treat in a conservative manner the proposed state forest described in the application, such manner to be in accordance with a working plan approved by the North Carolina geological and economic survey; and the said owner or owners of such proposed state forest, when making such application, shall agree to pay annually into the school fund of the county wherein such proposed state forest or a part thereof is situated one-half cent for every acre of such proposed state forest situated within the county; and if the owner or owners thereafter shall fail to make such annual payment, then and in that case the declaration of the Governor establishing the said state forest shall be null and void to all intents and purposes. [L. 1909, Ch. 89, Sec. 3.]

SEC. 4434D.

So-called "State forests": State forest wardens, appointment and compensation of.—The Governor shall appoint at his discretion, with the approval of the commissioners of the county wherein a state forest is situated, as state forest wardens such a man or men over twenty-one years of age as may be designated for appointment by the owner or owners of such state forest. Such state forest wardens are to receive no compensation other than that which the owner or owners of the state forest may pay to them. [L. 1909, Ch. 89, Sec. 4.]

SEC. 4434E.

So-called "State forests": Powers and duties of State forest wardens.—The state forest wardens thus appointed may make arrest on sight, without warrant, for any criminal offense set out in section three thousand three hundred and forty-six,¹ three thousand three hundred and forty-seven,¹ * * * of the Revisal of one thousand nine hundred and five, * * * and they shall safeguard against * * * and notably against fire, the state forest for which they have been appointed; and, as far as the enforcement of the provisions of this section is concerned, the state forest warden shall have all the powers, privileges and protection otherwise had by sheriffs under any act or law now in force. [L. 1909, Ch. 89, Sec. 5.]

SEC. 4434F.

So-called "State forests": Minimum fine for offenses committed on.—The minimum fine for any offense mentioned in the preceding section committed within any state forest shall be fifty dollars if within the jurisdiction of the superior court, and twenty-five dollars if within the jurisdiction of a justice of the peace. [L. 1909, Ch. 89, Sec. 6.]

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

SECS. 1, 2, CH. 56, L. 1913. * * *

Brush and slash disposal near municipal watersheds.—(For text of the provisions, see these sections on pp. 3, 4.)

PART IV.—TAXATION.

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ Superseded by secs. 8, 9, ch. 243, L. 1915, see p. 4.

UNITED STATES DEPARTMENT OF AGRICULTURE

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Henry S. Graves, Forester

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PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 1, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911.)

State board of forestry—Personnel—Expenses.—There shall be a State board of forestry, consisting of seven members, the governor, comptroller, president of Johns Hopkins University, president of the Maryland State Agricultural College, State Geologist, and one citizen of the State known to be interested in the advancement of forestry, and one practical lumberman engaged in the manufacture of lumber within this State, who shall be appointed by the governor, to serve for a term of two years, which board shall act without compensation, save for actual necessary expenses incurred in the performance of their official duties. [L. 1906, Ch. 294.]

SEC. 2, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914.)

State Forester—Qualifications—Expenses—Duties, in general.—There shall be appointed by the State Board of Forestry a State Forester, who shall be a technically trained forester of not less than two years' experience in professional forestry work; his compensation shall be fixed by the Board and he shall be allowed reasonable traveling and field expenses incurred in the performance of his official duties. He shall under the general supervision of the State Board of Forestry have direction of all forest interests and all matters pertaining to forestry and the forest reserves within the jurisdiction of the State. He shall appoint, subject to the approval and confirmation of the State Board of Forestry, such assistants and employes as may be necessary in executing the duties of his office and the purposes of the Board of Forestry; the compensation of such assistants and employes to be fixed by the State Board of Forestry. He shall have charge of all Forest Wardens in the State and aid and direct them in their work; take such action as is authorized by law to prevent and extinguish forest fires, enforce all laws pertaining to forest and woodland, and prosecute for any

violation of such laws; collect data relative to forest destruction and conditions; direct the protection and improvement of State parks and forest reserves and co-operate with land owners as described in Section 4 of this article. He shall annually deliver a course of lectures at the Maryland State Agricultural College bearing upon forestry and silviculture, subject to the approval of the Trustees of the College and of the State Board of Forestry, and as far as his duties as State Forester will permit, carry on an educational course of lectures on Forestry at the Farmers' Institutes and similar meetings within the State. He shall act as Secretary of the State Board of Forestry and shall prepare for the Board annually a report on the progress and condition of State Forest work and recommend therein plans for improving the State system of forest protection, management and replacement. [L. 1906, Ch. 294. L. 1914, Ch. 823.]

SEC. 4, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Co-operative working plans.—The state forester shall upon request, under the sanction of the state board of forestry, and whenever he deems it essential to the best interests of the people of the State, co-operate with counties, towns, corporations and individuals in preparing plans for the protection, management and replacement of trees, wood-lots and timber tracts, under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. [L. 1906, Ch. 294.]

SEC. 8, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

County Commissioners to levy and appropriate for tree planting, forest protection, etc.—The Board of County Commissioners of the several counties of this State are hereby authorized to levy and appropriate money for purposes of tree planting and care of trees, and for forest protection, improvement, management and purchase. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1914, Ch. 823.]

SEC. 15, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Forest reserve fund.—All money received as penalties for violations of the provisions of this article, less the cost of collection and not otherwise provided for, together with any amount obtained from the State forest reserves, shall be paid into the state treasury to the credit of the forest reserve fund, which fund is hereby created; and the monies in said fund are hereby appropriated for purposes of forest protection, management, replacement and extension, under the direction of the state board of forestry. [L. 1906, Ch. 294.]

SEC. 18, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914.)

Appropriation for forest work and fire protection.—For the maintenance, use and extension of the

work under the State Board of Forestry, and for forest fire protection, there is hereby appropriated the sum of ten thousand dollars (\$10,000) annually out of any moneys in the State Treasury not otherwise appropriated, to be placed to the credit of the State Forest Reserve fund. [L. 1912, Ch. 348, Sec. 3.]

SEC. 19.

Appropriation for publication of reports and maps.—There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of six thousand dollars (\$6,000) for the publication of forest reports and maps of the forest areas of the several counties of the State, to be placed to the credit of the Forest Reserve Fund. [L. 1912, Ch. 348, Sec. 4.]

PART II.—FIRES.

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(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 5, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Forest wardens—Appointment—Compensation—Powers.—Whenever the State Forester considers it necessary he may apply to the Governor to commission such persons as he may designate to act as Forest Wardens of this State, to enforce the forest laws and to carry out all the purposes of this article, and any work that may be assigned to them by the State Forester. If the Governor approves such persons he may appoint them Forest Wardens for a term of two years, but they shall be subject to removal at any time at the pleasure of the Governor. Such Wardens shall receive such compensation for their services as shall be fixed by the State Board of Forestry. Forest Wardens thus appointed shall before entering upon the duties of their office take the proper official oath before the Clerk of the Court of the County in which they reside, after which they shall while holding said office, possess and exercise all the authority and power held and exercised by constables at common law under the statutes of this State, so far as arresting and prosecuting persons for all violations of any of the forest laws or of the laws, rules and regulations enacted or to be enacted for the protection of the State forestry reservations, or for the protection of the fish and game contained therein are concerned. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1914, Ch. 823.]

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SEC. 6, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Duties of wardens—Assistance—Expenses—Impressing citizens, horses, etc.—Penalty for refusal—No action for trespass to lie against wardens.—It shall be the duty of the forest wardens to enforce all forest laws of this State, to protect the State forest reserves and see that all rules, regulations and laws are enforced; to report any violation of law to the state forester at the time of its occurrence, to assist in apprehending and convicting offenders, and to make an annual report to him as to forest conditions in their immediate neighborhood. When any forest warden shall see or have reported to him a forest fire, it shall be his duty to immediately repair to the seat of the fire and employ such persons and means as in his judgment seem expedient and necessary to extinguish said fire. He shall keep an itemized account of all expenses thus incurred and send such account immediately to the state forester. He shall have control and direction of all persons and apparatus engaged in extinguishing forest fires. He may summon male inhabitants of the county between the ages of 18 and 50 years to assist in extinguishing fires, and may also require the use of horses and other property needed for such purpose. Any person so summoned who is physically able, who refuses or neglects to assist, or to allow the use of horses, wagons or other material required, shall be liable to a penalty of ten dollars.¹ No action for trespass shall lie against a forest warden or anyone working under his direction, for entering lands of individuals or corporations for the purpose of extinguishing a fire, plowing furrows, or tearing down fences, or starting a back fire to check a fire that may be approaching. [L. 1906, Ch. 294. L. 1910, Ch. 161.]

SEC. 7, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Expenses of extinguishing fires—Proviso.—The expenses incurred in fighting or extinguishing any fire under the direction of the State Forester, or a forest warden, shall be borne half by the county in which the fire occurred and half by the State, and shall first be payable in full by the County Commissioners of such county upon receipt of an itemized account, with vouchers approved by the State Forester; the half to be paid by the State shall be refunded by the order of the State Board of Forestry out of any moneys standing to the credit of the State Forestry Fund, upon presentation of the accounts, together with evidence that the County Commissioners have paid the sum in full. Nothing in this article shall be so construed as to relieve the owner or lessee of lands upon which fires may burn, or be started, from the duty of extinguishing such fires so far as may lie within his power.¹ No such owner or lessee, nor person in the employ of such owner or lessee, shall receive any compensation from the State, or from the county, for fighting fires upon the lands of such owner or lessee. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1912, Ch. 348, Sec. 7.]

SEC. 9, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Notices, fire and trespass—Penalty for destruction—Citizens to extinguish or report fires—Penalty for failure.—The state forester shall furnish notices, printed in large letters upon cloth, calling attention to the dangers of forest fires, and to forest fire and trespass laws and their penalties; such notices shall be distributed by the state forester to forest wardens and posted by them in conspicuous places upon the State forest reserves and along the highways in forest-covered country. It shall be unlawful for any person to tear down or deface any forest fire warning notice. Any violation of the law shall be punishable by a fine of ten dollars for each and every offense.¹ It shall be the duty of any person who discovers a forest or brush fire not under the control or supervision of some person, to extinguish it or to report it immediately to the local forest warden, and failure to do so shall be punishable by a fine not to exceed ten dollars, to be recovered upon complaint of the forest warden.¹ [L. 1906, Ch. 294. L. 1910, Ch. 161.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 12, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS 1911).

Spark arresters, ash-pans, and fire boxes—Penalty.—Logging and railroad locomotives, donkey or threshing engines, and other engines and boilers, operated in, through, or near forest or brush, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smoke-stacks thereof, and with devices to prevent the escape of fire from ash-pans and fire boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 for such [each?] and every offense thus committed.¹ [L. 1906, Ch. 294.]

NOTE.—In addition to the criminal provisions in Section 12, railroads are liable, as corporations, in both criminal and civil actions for causing fires in violation of Sections 10, 11, 12. For full text of provisions, see Sections 10, 11, 13, on p. 4.

SEC. 307, ART. 23, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Liability of railroad companies.—Railroad companies shall be responsible for injuries * * * by fire occasioned by their engines or carriages, upon any of their roads and the branches thereof, unless the said companies can prove to the satisfaction of the justice or other tribunal

¹ For provisions concerning prosecutions, see sec. 14, on p. 4.

¹ For provisions concerning prosecutions, see sec. 14, on p. 4.

before which the suit may be tried that the injury complained of was committed without any negligence on the part of the company or its agents.

SEC. 308.

Prosecutions.—The damages caused by such injuries may be sued for and recovered by * * * the person injured by fire, before a justice of the peace, when the damages claimed shall not be over one hundred dollars, and in the circuit court for the county or the courts having civil jurisdiction over the amount claimed in the city of Baltimore, when the amount claimed exceeds one hundred dollars.

SEC. 309.

Prosecutions—Service of summonses.—The damages claimed under section 307 of this article, shall be sued for in the county or city where the injuries shall have been done; and a summons served upon the president or any of the directors or conductors of any of said companies shall be considered proper service upon the corporation; provided, said service shall be made at least twenty days before the return day of the writ.

SEC. 310.

Judgment by default—Property liable to execution.—If the company summoned shall not appear to answer at the time named in the summons, on the return of two summons served as aforesaid, the court or justice shall proceed to enter up judgment against said corporation as if the said corporation had regularly appeared; but such judgment shall not be rendered until affidavit shall be filed showing the name of the president, director or conductor on whom said service was made and the day of said service; and any property belonging to the corporation shall be liable to execution for the amount of such judgment.

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 10, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Setting woods, etc., on fire—Penalty.—Every individual or corporation that carelessly, negligently, or wilfully, maliciously, or with intent, sets on fire, or causes or procures to be set on fire, any woods, brush, grass, grain or stubble on lands not their own, shall be guilty of a misdemeanor, and upon conviction be punishable by a fine of not less than \$25 or more than \$1,000, or imprisonment for not less than thirty days or more than one year, or both such fine and imprisonment.¹ [L. 1906, Ch. 294.]

¹ For provisions concerning prosecutions, see sec. 14, below.

SEC. 11.

Precautions to be taken in firing woods, etc.—Evidence—Damages.—It shall be unlawful for any person or corporation, as land owner, to set, or procure another to set fire to any woods, brush, logs, leaves, grass or clearing upon their own land, unless they shall have previously taken all possible care and precaution against the spread of such fire to other lands not their own, by previously having cut and piled the same, or carefully cleared around the land which is to be burned, so as to prevent the spread of such fire. The setting of fire contrary to the provisions of this section, or allowing it to escape to the injury of adjoining lands, shall be *prima facie* proof of wilfulness or neglect, and the land owner from whose land the fire originated shall be liable in a civil action for damages for the injury resulting from such fire, and also for the cost of fighting and extinguishing the same. [L. 1906, Ch. 294.]

SEC. 13.

Liability under three preceding sections.—All individuals or corporations causing fires by violations of sections 10, 11 and 12 of this article shall be liable to the State, and to the county in which the fire occurred, in an action for debt to the full amount of all expenses incurred by the State or county in fighting and extinguishing such fire. [L. 1906, Ch. 294.]

SEC. 14.

Jurisdiction of justices of the peace—Duty of State's attorneys.—Justices of the peace for this State in the county wherein the offence shall have been committed shall have jurisdiction to hear and determine all prosecutions for the purpose of enforcing fines and penalties, collectible under the provisions of this article, not exceeding the amount of \$100.00 and of holding the offender, under proper bail if necessary, for hearing before the circuit court, committing them to the county jail until such hearing if the required bail is not furnished. It shall be the duty of the state's attorneys of the several counties to prosecute all violators of section 10 of this article. [L. 1906, Ch. 294.]

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 3, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914.)

Purchase of lands and gifts for State forest reserves.—The State Board of Forestry shall have the power to purchase lands in the name of the State, suitable for forest culture and reserves, using for such purposes any special appropriation or any surplus money not otherwise

appropriated, which may be standing to the credit of the Forest Reserve Fund, and to make all rules and regulations governing State Reserves, and to employ such labor and do such work as they deem wise in developing and protecting State Reserves under their jurisdiction; and that the Governor of the State is authorized upon the recommendation of said State Board of Forestry to accept gifts of land to the State, the same to be held, protected and administered by the State Board of Forestry as State Forest Reserves, and to be used so as to demonstrate the practical utility of timber culture, water conservation and as a breeding place for game. Such gifts must be absolute except for the reservation of all mineral and mining rights over and under said lands, and a stipulation that they shall be administered as State Forest Reserves, and the Attorney-General of the State is directed to see that all deeds to the State of lands mentioned above are properly executed before the gift is accepted. [L. 1906, Ch. 294. L. 1914, Ch. 823.]

SEC. 17.

State forest nursery.—The State Board of Forestry is merely [hereby?] authorized to purchase land out of moneys standing to the credit of the Forest Reserve Fund, at a price exceeding five dollars (\$5) per acre if necessary, for the establishment of a State Forest Nursery for the purpose of growing forest trees for planting on the State Reserves, and for distribution to private land-owners at cost, to encourage tree planting. [L. 1912, Ch. 348, sec. 2.]

NOTE.—The State board of forestry and the State forester are also empowered to plant and care for trees along the roadsides, and to establish one or more State forest nurseries for the propagation of trees for roadside planting. For full text of provisions, see Sections 15A.—15I., Art. 39, Annotated Code (Pub. Gen. Laws, 1914).

SEC. 15J.

Surplus trees for State forest reserve.—Any trees grown in the State Nurseries not required for roadside planting may be used for planting on the State Forest Reserve or may be furnished to any land owner of this State at not less than the cost of production; provided such trees shall be planted according to plans approved by the State Forester. [L. 1914, Ch. 824.]

SEC. 20.

Acquirement of land for State forest reserve.—The State Board of Forestry shall, in addition to the powers heretofore granted it, have the power to be exercised within their discretion, to acquire by purchase lands between the town of Relay (or Elkridge Landing) and a point 10 miles above that town, on either side of the Patapsco River, in Howard and Baltimore counties, within a distance of one-half mile on either side from the medial line of said river, at such prices as they may determine it to be worth, within the appropriation hereunder made, the same to be paid for out of the funds appropriated by the Act of 1912, Chapter 749, to be held by the State as a State Forest Reserve, under the protection and administration of the State Board of Forestry, which shall exercise the same

power in the matter of making rules and regulations in the management thereof as other State forest reserves are now subject to or may hereafter be subject to. The territory which may be acquired hereunder shall be subject to all the general laws heretofore passed by the Legislature of the State not inconsistent herewith, but acts inconsistent with the provisions of the Act of 1912, Chapter 749, are hereby repealed. [L. 1912, Ch. 749, Sec. 12.]

SEC. 1, CH. 209, L. 1914.

Additional land for State forest reserve.—*Be it enacted by the General Assembly of Maryland,* That the State Board of Forestry is empowered to purchase lands on the watershed of the Patapsco River for a State Forest Reserve beyond the limits defined in Section 12, Chapter 749 of the Acts of 1912,¹ which said limits were defined as "Lands between the town of Relay (or Elkridge Landing) and a point ten miles above that town on either side of the Patapsco River in Howard and Baltimore Counties, within a distance of one-half mile on either side of the medial line of said river," at such price as they may determine it to be worth, using for such purpose any unexpended balance in the Forest Reserve Fund standing to the credit of the Patapsco Reserve.

SEC. 21, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Acquirement of tracts in Washington county, and other tracts—Appropriation.—The State Board of Forestry be and the same is hereby authorized to acquire for and in the name of the State a tract of land in Washington county on which is situate Old Fort Frederick, together with such other additional land adjacent thereto as may in the judgment of such board be necessary and expedient, said land when so acquired to be under the control of said board, and to be used by it in the execution of such plans as may be adopted by it for the reforestation of the State. The sum of eighty-five hundred dollars (\$8,500), or so much thereof as may be necessary, be and the same is hereby appropriated to the said State Board of Forestry, to be expended by said board in the acquisition of the property and in the accomplishment of the purposes specified in this section. [L. 1912, Ch. 794, Secs. 1, 2.]

SEC. 22.

Board empowered to condemn lands—Expenses paid from forest reserve fund.—The State Board of Forestry shall have the right and power to condemn lands, earth, gravel, stone, timber, or materials, or any improvements in the name of the State, under Article 33A, title "Eminent Domain," of the Code of Public General Laws of Maryland as passed in Chapter 117 of the Acts of 1912 when such action is necessary for carrying out the purposes of any Legislative Act, or for advancing the aims of forestry, and the work of the State Board of Forestry, and they may pay all costs and expenses thus incurred out of any surplus moneys standing to the credit of the Forest Reserve Fund, not otherwise appropriated; *nothing herein contained shall apply to the City of Baltimore.* [L. 1914, Ch. 823.]

¹ See Code sec. 20, above.

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.**PART IV.—TAXATION.**

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands see Part III.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

MISSOURI

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 3150, ART. II, CH. 33, REV. STAT., 1909, VOL. 1.

Rights of way, clearing: Periods for—Action by adjoining owners; recovery of costs for—Penalty.

It shall be the duty of every corporation, company, or person owning or operating any railroad or branch thereof in this state, to cause all dead or dry vegetation and undergrowth upon the right of way occupied by such railroad company to be cleaned off and burned up or removed twice in each year for the purpose of preventing the spread of forest fires and the destruction of property, to-wit: Between the 1st and 15th day of August, and between the 5th and 25th days of October, in each year, and in case any such corporation, company or person shall fail or neglect to do so, within the times limited in this section, any person owning

land adjoining such railroad is hereby authorized, after giving three days' notice, in writing, to such owner or operator of said railroad, by service upon the nearest station agent or section foreman, to cause all such dead or dry vegetation and undergrowth upon the right of way occupied by said railway company to be cleaned off and burned up in front of and adjoining his land, and such land owner may maintain an action against said corporation, company or person so failing to perform this duty, in any court of competent jurisdiction, and shall be entitled to recover double the amount of all expenses and damages incurred and accruing thereby, together with costs; and any corporation, company or person failing to comply with the provisions of this section shall incur a penalty not to exceed two hundred dollars and be liable for all damages done by said neglect of duty, and each neglect of duty shall be a separate offense. [Rev. Stat., 1899, Sec. 1110, amended by L. 1907, p. 169, and L. 1909, p. 359.]

Sec. 3151.

Fires caused by engines, damages for—Insurable interest.—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own behalf for its protection against such damages. [Rev. Stat., 1899, Sec. 1111.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 4621, ART. V, CH. 36, REV. STAT., 1909, VOL. 2.

Setting fire to woods—Penalty.—If any person shall wilfully set on fire any woods, marshes or prairies not his own, or shall negligently or carelessly set out or leave fire on land or premises not his own, whereby any damage shall be done, such person shall, upon conviction, be punished by imprisonment in the county jail not exceeding twelve months, or by fine not exceeding five hundred dollars. [Rev. Stat., 1899, Sec. 1980.]

Sec. 4629.

Malice, evidence of.—It shall not be necessary to show on the trial of any offense for malicious trespass or injury to property specified in this article that the offense was

committed from malice conceived against the owner of the property, * * * but if the act was wrongfully, intentionally and wilfully done, it may be inferred that it was done maliciously. [Rev. Stat., 1899, Sec. 1989.]

SEC. 5432, ART. I, CH. 38, REV. STAT., 1909, VOL. 2.

Wilfully setting on fire woods, etc.—Penalty.—If any person shall wilfully set on fire any woods, marshes or prairies, so as thereby to occasion damage to any other person, such person shall pay a sum not exceeding five hundred dollars nor less than fifty dollars, one-half thereof for the use of the person suing for the same, and the other half to the use of the county in which the offense is committed. [Rev. Stat., 1899, sec. 2871.]

SEC. 5433.

Damages, measure of.—If any person shall wilfully set on fire any woods, marshes or prairies, whether his own or not, so as thereby to occasion any damage to any other person, such person shall make satisfaction in double damages to the party injured, to be recovered by civil action. [Rev. Stat., 1899, sec. 2872.]

SEC. 6531, ART. II, CH. 49, REV. STAT., 1909, VOL. 2.

Firing timber or grass—Camp fire unextinguished—Penalty.—No person shall set fire to any timber or grass on land belonging to this state or to the United States, or set fire to any place where it is liable to spread to such timber or grass, nor abandon any camp fire unextinguished. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars. [L. 1909, p. 519.]

PART III.—PUBLIC FORESTS.

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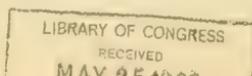
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PART IV.—TAXATION.

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UNITED STATES DEPARTMENT OF AGRICULTURE

U. S. FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

TEXAS

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PART I.—ADMINISTRATION.

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SEC. 1, CH. 141, L. 1915.

State Forester: Appointment—Qualifications—Compensation and expenses—Assistants and employees—Action re fires—Prosecutions by—Forest data—Co-operation—Reports by.—That there shall be appointed by the Board of Directors of the Agricultural and Mechanical College of Texas a State Forester, who shall be a technically trained forester of not less than two years' experience in professional forestry work; his compensation shall be fixed by said board at not to exceed three thousand (\$3,000) dollars per annum, and he shall be allowed

reasonable traveling and field expenses incurred in the performance of his official duties. He shall, under the general supervision of said board, have direction of all forest interests and all matters pertaining to forestry within the jurisdiction of the State. He shall appoint, subject to the approval and confirmation of said board, such assistants and employes as may be necessary in executing the duties of his office and the purposes of said board, the compensation of such assistants and employes to be fixed by the said board. He shall take such action as may be deemed necessary by said board to prevent and extinguish forest fires, shall enforce all laws pertaining to the protection of forest and woodlands, and prosecute for any violation of such laws; collect data relative to forest conditions, and to co-operate with land owners as described in Section 2 of this Act. He shall prepare for said board annually a report on the progress and condition of State forestry work, and recommend therein plans for improving the State system of forest protection, management and replacement.

Sec. 2.

Cooperation in preparing forest working plans—Expense.—That the State Forester shall, upon request, under the sanction of the Board of Directors, and whenever he deems it essential to the best interests of the people of the State, cooperate with counties, towns, corporations or individuals in preparing plans for the protection, management and replacement of trees, woodlots and timber tracts, under an agreement that the parties obtaining such assistants [assistance] pay at least the field expenses of the men employed in preparing said plans.

Sec. 5.

Annual appropriation for State forestry fund.—That for the maintenance, use and extension of the work under the Board of Directors, and for forest fire protection, there is hereby appropriated the sum of ten thousand (\$10,000) dollars annually out of any moneys in the State Treasury not otherwise appropriated, to be placed to the credit of the State forestry fund.¹

Sec. 6.

Cooperation with Federal Forest Service.—That the Board of Directors may co-operate with the Federal Forest Service under such terms as may seem desirable.

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

Sec. 1, CH. 141, L. 1915.

State Forester: Action re fires.— * * * He [State Forester] shall take such action as may be deemed necessary by said board [Board of Directors of the Agricultural and Mechanical College of Texas] to prevent and extinguish forest fires, shall enforce all laws pertaining to the protection of forest and woodlands, and prosecute for any violation of such laws; * * *²

ART. 4042, CH. 3, REV. CIV. STAT., 1911.

Game, fish and oyster commissioner and deputies made fire commissioners; duties of.—The game, fish, and oyster commissioner and his deputies appointed under the provisions of this chapter are hereby made fire commissioners, and it shall be their duty, in addition to their duties provided for in this chapter, to caution sportsmen or other persons, while in the woods or marshes or prairies, of the danger from fire, and to extinguish all fires left burning by

any one, to the extent of their power, and to give notice to any and all parties interested, when possible, of fires raging and beyond their control, to the end that same may be controlled and extinguished. [Acts 1907, p. 257, sec. 12.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

ART. 1218, PENAL CODE, 1911.

Burning woodland or prairie—Penalty.—If any person shall wilfully or negligently set fire to, or burn, or cause to be burned, any woodland or prairie, not his own, he shall be punished by fine not less than fifty nor more than three hundred dollars. [Act April 14, 1883, p. 102.]

ART. 1219.

Offense complete, when.—The offense named in the foregoing article is complete where the person offending sets fire to his own woodland or prairie and the fire communicates to the woodland or prairie of another.

ART. 1225.

Firing grass in inclosure of another—Penalty.—Any person who shall wilfully fire any grass within any inclosure, not his own, in this state, with intent to destroy the grass in such pasture, or any part thereof, or any person who shall fire the grass on the outside of any inclosure with the intent to destroy the grass in such inclosure, by the communication of said fire to the grass within, shall be deemed guilty of a felony, and, upon conviction, punished by confinement in the state penitentiary for a term of not less than two nor more than five years. [Act Feb. 7, 1884, pp. 66, 67.]

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

Sec. 3, CH. 141, L. 1915.

State Forests: Acquisition of lands—Use of—Funds available for—Title deeds.—That the Governor

¹ For State forestry fund, see sec. 4, on p. 3.² For full text of this section, see p. 1.

of the State is authorized, upon the recommendation of the Board of Directors, to accept gifts of land to the State, same to be held, protected and administered by said board as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. Such gifts must be absolute except for the reservation of all mineral and mining rights over and under said lands, and a stipulation that they shall be administered as State forests.

The Board of Directors shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, using for such purposes any special appropriation or any surplus money not otherwise appropriated, which may be standing to the credit of the State forestry fund.

The Attorney General of the State is directed to see that all deeds to the State of land mentioned in this section are properly executed before the gift is accepted or payment of the purchase money is made.

SEC. 4.

State forestry fund created.—That all moneys received from the sale of wood, timber, minerals or other

products from the State forests, and penalties for trespassing thereon, shall be paid into the State Treasury, and shall constitute a State forestry fund¹, and the moneys in said fund are hereby appropriated for purposes of forestry in general, under the direction of the Board of Directors.

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ See also sec. 5, on p. 2.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

VIRGINIA

(Serial 1—Through Reg. Sess., 1914)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forests fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.

Sec. 1 Ch. 195, L. 1914.

Office of State Forester—Geological commission, personnel.—Be it enacted by the general assembly of Virginia, That there be, and is hereby, created the office of State forester, which shall be under the direction and control of the State geological commission, composed of the governor (who shall be ex-officio chairman of said commission), the president of the University of Virginia, the president of the Virginia Polytechnic Institute, the superintendent of the Virginia Military Institute, and one citizen from the State at large, who shall be appointed by the governor for a period of four years.

SEC. 2.

Forester, appointment; qualifications.—The State forester shall be appointed by said commission, and he shall be a technically trained forester, and shall have both a practical and theoretical knowledge of forestry.

SEC. 3.

Bond. The State forester, before entering upon the performance of the duties of his office, shall execute bond to the Commonwealth with surety or sureties worth at the time not less than twenty thousand dollars, to be approved by the governor and filed in the office of the secretary of State, conditioned for the faithful performance of the duties of his office, upon which, for any breach thereof, action may be instituted from time to time and recovery had to the extent of the damage sustained by the Commonwealth or others. Said bond shall be examined and the sureties approved by the governor once in each year, and he may at any time, when he deems the bond insufficient, require the execution of a new bond or additional sureties on the old one.

SEC. 4. * * *

Forestry work of geological commission.—Said commission shall observe, keep in view, and, so far as it can, ascertain the best methods of reforesting cut-over and denuded lands, foresting waste lands, preventing the destruction of forests by fire, the administering forests on forest principles, the instruction and encouragement of private owners in preserving and growing timber for commercial and manufacturing purposes, and the general conservation of forest tracts around the headwaters and on the watersheds of all the water courses of the State.

SEC. 7.

Waters: Duties of commission concerning.—It shall be the duty of said commission to make or cause to be made a careful investigation of the streams and navigable rivers within and bordering upon the State, of the methods, means, and cost of improving the same; of preventing their pollution; of conserving the water supply thereof; of using the same for the production of power, and how and in what ways the said streams and rivers may be made of most value to the State, and to the people thereof.

SEC. 8.

Reports and recommendations—Bulletins, etc.—Said commission shall preserve all evidence which it may take with reference to conserving the forest and the water supply of the State and the methods best adapted to accomplish those objects, and it shall make report of its doings, conclusions, and recommendations to each session of the general assembly, and, from time to time, publish, in a popular manner, and print for public distribution, in bulletin or other form, such of its conclusions and recommendations as may be of immediate public interest.

SEC. 12.

Receipts and expenditures; report on.—The said commission shall keep a full and accurate account of its receipts and expenditures, and it shall make a full and accurate and complete report to each session of the general assembly, showing in detail its receipts from all sources and its expenditures and the purposes for which expenditures have been made.

Civil engineer, surveyor, assistants.—It shall also have power to employ a civil engineer and surveyor from time to time, with his necessary assistants, whenever the necessities of the case may require.

SEC. 13.

Cooperative work—Expenses.—Subject to the direction of the said commission, the State forester shall, whenever he may be directed so to do by the said commission, cooperate with counties, municipalities, corporations, and individuals in preparing plans for the protection, management, and replacement of trees, wood lots, and timber tracts under an agreement that the parties obtaining such assistance shall pay the field and the traveling expenses of the man employed in preparing said plans.

SEC. 15.

State forester: Administrative and Investigative duties—Charge of wardens, laborers, fires, State forests—Report on waters—Cooperative work—Educational work—Reports and recommendations.—The State forester shall have the supervision and direction of all forest interests and of all matters pertaining to forestry within the State; he shall have charge of all forest wardens who may be appointed by said commission, and the appointment, direction, and superintendence of the persons and laborers whom the commission may deem it necessary to employ to perform labor in the forest reservations or the nurseries herein provided for; he shall take such action as is authorized by law to prevent and extinguish forest fires; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; make the investigation required by section seven of this act with reference to the streams and navigable rivers within and bordering upon the State, and report in writing with regard thereto to the said commission; cooperate with land owners as provided in section eight [thirteen] of this act; and, as far as his duties as State forester will permit, carry on an educational course on forestry at the University of Virginia for credit toward a degree of farmers' institutes and similar meetings within the State. He shall also recommend to said commission and prepare for its use plans for improving the State system of forest protection, management, and replacement; and prepare for said commission, annually, and also whenever required so to do by said commission, a report on the progress and conditions of State forest work.

SEC. 17.

Salary, etc., of State forester.—The salary of the State forester shall be fixed by the said commission, and shall not exceed two thousand dollars per annum, and he shall be paid reasonable traveling and field expenses actually incurred in the performance of his official duties.

SEC. 27.

Disposition of fines—Forest reserve fund, use of.—All money received as penalties for violations of the provisions of this act, less the cost of collection and not otherwise provided for, together with any amount obtained from the State forestry reserves, shall be paid into the State treasury, to the credit of the forest reserve fund, which fund is hereby created; and the moneys in said fund are hereby appropriated for purposes of forest protection, management, replacement, and extension, under the direction of the commission.

SEC. 28.

University of Virginia to defray expense of administration.—Prior to the meeting of the general assembly of Virginia in nineteen hundred and sixteen, the commission herein provided shall organize and put into

operation the purposes of this act, and the expenses incurred by this organization and its operation for that period of time shall be paid out of the budget of the University of Virginia.

SEC. 29.

Federal cooperation.—The said commission is hereby authorized to arrange with the United States forestry department in regard to co-operation in such instances as may be deemed necessary and of advantage to the State; provided, that in all co-operative work a sum of money shall be expended by the said United States forestry bureau equivalent to that expended by the State commission, and that the said commission may accept or reject the work of the United States forestry bureau.

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 18. Ch. 195, L. 1914.

Forest wardens; Appointment—Compensation—Powers of, for protection of State forests, and fish and game.—Whenever the State geological commission considers it necessary, it may apply to the governor to commission such persons as it may designate to act as forest wardens of this State, to enforce the forest laws, and, under the direction of the board, to aid in carrying out the purposes of this act; but they shall be subject to removal at any time at the pleasure of the State geological commission. Such wardens shall receive such compensation from time to time as the State geological commission may allow them for special services. Forest wardens thus appointed shall, before entering upon the duties of their office, take the proper official oath before the clerk of the court of the county in which they reside, after which they shall, while holding said office, possess and exercise all the authority and power held and exercised by constables at common law and under the statutes of this State, so far as arresting and prosecuting persons for violations of any of the laws or rules and regulations enacted or made, or to be enacted or made, for the protection of the State forestry reserves, or for the protection of the fish and game contained therein, are concerned.¹

SEC. 19.

Wardens; Duties of—Arrests by—Fires, assistance in extinguishing—Account of expenses.—It shall be

the duty of the forest wardens to enforce all forest laws of this State;¹ to protect the State forest reserves, and to see that all rules, regulations and laws are enforced; to report violations of the law to the State forester; to assist in apprehending and convicting offenders, and to make an annual report to him as to forest conditions in their immediate neighborhood. When any forest warden shall see or have reported to him a forest fire, it shall be his duty immediately to repair to the scene of the fire and employ such persons and means as in his judgment seem expedient and necessary to extinguish said fire. He shall keep an itemized account of all expenses thus incurred and send such account immediately to the State forester.

SEC. 20.

Funds for forest protection—Action for cost of fire-fighting.—The boards of county supervisors of the several counties of this State are hereby authorized to levy and appropriate money for purposes of forest protection, improvement, and management; and said boards shall have recourse under an action at law for debt against any land owner, individual, or corporation on whose account they shall be obliged to pay out money for fighting fire for the amount which they shall have expended for such purpose.

SEC. 16.

Notice of fire, trespass, etc.—The State forester shall furnish notice, printed in large letters on cloth, calling attention to the dangers of forest fires and to trespass laws and their penalties, and to the rules and regulations of the commission, which notice shall be distributed by the State forester to forest wardens and posted by them in conspicuous places upon State forest reserves and along the highways.

2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 1294D, CODE, 1901. * * *

Spark arresters on locomotives—Penalty.—(18²) No railroad company doing business in this State shall run on its road any locomotive not having an approved spark arrester. Every company violating the provisions of this section shall be fined ten dollars for each offense, and each day of running such locomotive shall be deemed a separate offense.

Rights of way to be kept clear.—(15) Every railroad company shall keep its right of way clear and free from

¹ For provisions concerning prosecutions, see Sec. 26, on p. 5.

² The wording of this subdivision (18) is identical with that of sec. 1264 (derived from an earlier act contained in the volume of Session Laws of 1883-4, p. 704).

¹ For provisions concerning prosecutions, see Sec. 26, on p. 5.

weeds, high grass, and decayed timber, which, from their nature and condition, are combustible material, liable to take and communicate fire from passing trains to abutting or adjacent property.

* * * * *

Penalty.—(70) Any railroad company failing to comply with, or violating, or permitting any of its agents or employees to violate, any of the provisions of this chapter, or any valid order, rule, or regulation of the State corporation commission, relating to the provisions of this chapter, if not otherwise provided in this chapter, shall be fined not less than ten dollars nor more than five hundred dollars for each offense. [Chapter 4 of Act Concerning Public Service Corporations, Acts 1902-3-4, Extra Sess., p. 968.]

Sec. 1, Ch. 269, L. 1908 (Code Supp., 1910, p. 796).

Liability of companies, regardless of location of fire and condition of appliances.—Be it enacted by the general assembly of Virginia, That whenever any person shall sustain damage from fire occasioned by sparks or coals dropped or thrown from the engine or train of any railroad company, such company shall be liable for the damage so sustained, whether said fire shall have originated on said company's right of way or not, and whether or not such engine is equipped with proper spark-arresting appliances, and regardless of the condition in which such appliances may be.

Sec. 1, Ch. 392, L. 1908 (Code Supp., 1910, p. 856).

Insurable interest.—Be it enacted by the general assembly of Virginia, That every railroad company shall have, and is hereby invested with, an insurable interest in the property upon the route of any railroad operated by it, and may procure insurance thereupon in its own behalf for protection against any damage to said property by fire or otherwise, for which such company shall or might be liable.

Secs. 23, 25, Ch. 195, L. 1914. * * *

NOTE.—Civil liability.—Railroad companies are liable, as corporations, for damages and costs of extinguishing fires in cases in which they cause fires which result in injury. For full text of the provisions, see these sections on pp. 4 and 5.

Sec. 24.

Spark arresters, etc.—Ash pans—Fire boxes—Penalties.—Logging and railroad locomotives, donkey or threshing engines, and other engines and boilers, operated in, through or near forest or brush, which do not burn oil as fuel, shall be provided with appliances to prevent, as far as may be possible, the escape of fire and sparks from the smokestacks thereof, and with devices to prevent, as far as may be possible, the escape of fire from ash pans and fire boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than ten dollars nor more than one hundred dollars for each and every offense committed.¹

Sec. 3859, Code, 1904.

Spark arresters on engines moved with steam—Penalty.—Any person, who moves any engine with steam on any road shall * * *. Such engine shall be provided with a good spark arrester in proper order and place, to prevent spreading fire. If any person violatè any provision of this section he shall be fined not less than five nor more than twenty dollars. [L. 1883-4, p. 519.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

Sec. 3701, Code Supp., 1910.

Setting fire to woods, grass, etc.—Penalty.—If any person unlawfully and maliciously set fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands, he shall be fined not less than five nor more than five hundred dollars, and be confined in jail not less than one nor more than twelve months, or in the discretion of the jury be confined in the penitentiary not less than one nor more than three years. [L. 1908, Ch. 40.]

Sec. 3702, Code, 1904.

Setting fire to woods, marshes, brush, etc., whereby another is damaged—Penalty.—If any person carelessly, negligently, or intentionally set any woods or marshes on fire, or set fire to any stubble, brush, straw, or inflammable substance, capable of spreading fire on lands, whereby damage is done to the property of another, he shall be fined not less than ten nor more than one hundred dollars. [L. 1887-8, p. 288.]

Sec. 23, Ch. 195, L. 1914.

Burning brush, etc.: precautions—Prima facie proof of wilfulness or neglect—Civil action and costs.—It shall be unlawful for any persons or corporations, as land owner, to set, or procure another to set, fire to any woods, brush, logs, leaves, grass, or clearing upon their own land, unless they have previously taken all possible care and precaution against the spread of such fire to other lands not their own, by previously having cut and piled the same, or carefully cleared around the land which is to be burned, so as to prevent the spread of such fire. The setting of fire contrary to the provisions of this section, or allowing it to escape to the injury of adjoining lands, shall be prima facie proof of wilfulness or neglect, and the land owners from whose land the fire originated shall be liable in a civil action for damages for the injury resulting from such fire, and also for the cost of fighting and extinguishing the same.

¹ For provisions concerning prosecutions, see sec. 26, on p. 5.

SEC. 25.

Liability to State or county for damage by fires, and expenses.—All individuals and corporations causing fires by violation of any of the provisions of this act shall be liable to the State or county in which the fire occurred for all damages the State or the county may sustain by such fire or fires, and, in addition thereto, to the full amount of all expenses incurred by the State or county in fighting or extinguishing said fire.

SEC. 26.

Jurisdiction in cases of prosecution—State's attorney to prosecute.—Justices of the peace for this State, in the county wherein the offense shall have been committed, shall have the jurisdiction to hear and determine all prosecutions for the purpose of enforcing fines and penalties collectible under the provisions of this act, not exceeding the amount of one hundred dollars, and of holding the offender, under proper bail if necessary, for hearing before the circuit court, and committing him to the county jail until hearing, if the required bail is not furnished. It shall be the duty of the Commonwealth's attorney of the several counties to prosecute all violators of this act.

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 4, CH. 195, L. 1914.

Management of State forests, and funds.—The care, management and preservation of the forest reserves of the State hereafter to be acquired and established, and the forests thereon, as well as future growth thereon, and all moneys appropriated in that behalf, or collected therefrom in any way, and all personal and real property acquired to carry out the objects of this act, are hereby made subject to the control of the said State geological commission as the same may be herein or in subsequent acts defined and required.

SEC. 5.

Purchase of lands—Rules and regulations—Gifts of lands—Mineral and mining rights—Deeds.—Said commission shall have the power to purchase lands in the name of the State suitable for forest reserves, at a price which shall not exceed ten dollars per acre, using for such purposes any surplus money not otherwise appropriated which may be standing to the credit of the forest reserve fund, and to make and enforce all rules and regulations governing State reserves, the care and maintenance thereof, the preventing of trespassing thereon, and for the

conduct of its officers, agents, and employees; and it may accept gifts of land and money to the State for forestry purposes, the same to be held, protected, and administered by said commission as a State forest reserve, and to be used so as to demonstrate the practical utility of timber culture and as a breeding place for game. Such gifts must be absolute, except that mineral and mining rights over and under land which may be donated may be reserved by the donors, and that they may be subject to a stipulation that the lands shall be administered as State forest reserve, and the attorney general of the State is directed to see that all deeds to the State lands mentioned above are properly executed before the gift is accepted.

SEC. 6.

Title.—Before completing the purchase of any land for forestry purposes, the attorney general of the State shall see to it that a good title thereto is obtained and that the deed or deeds therefor are properly executed before payment is made of the purchase money.

SEC. 9.

Sale of Timber—Bids—Proceeds, disposal of.—For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, said commission, upon the recommendation of the State forester, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon the forest reservations of the State as may be compatible with the utilization of the forest thereon, and may sell the same for not less than the appraised value thereof. When the appraised value of the trees to be sold is more than one thousand dollars, said commission, before making sale thereof, shall receive bids therefor, after notice by publication once a week for four weeks in two newspapers of general circulation; but said commission shall have the right to reject any and all bids and to readvertise for bids. The proceeds arising from the sale of the timber and trees so sold shall be paid into the State treasury, and shall be held as a special fund for the purchase of additional lands, and shall be paid out in like manner as money appropriated for the use of said commission.

SEC. 10.

Leases, etc., for removal of gas, oil, etc.—Bids—Proceeds, disposal of.—The said commission is hereby empowered to make and execute contracts and leases, in the name of the Commonwealth, for the removal or mining of gas, oil, or any valuable minerals that may be found in said forestry reservations whenever it shall be made to appear to said commission that it would be for the best interest of the Commonwealth to make such disposition of such gas, oil, or minerals; but before a contract or lease is made the same shall be approved by the governor of the State, and bids therefor shall be received after notice by publication once a week for four weeks in two newspapers of general circulation. The said commission shall have the right to reject any or all bids and to readvertise for

bids. The accepted bidder shall give bond with good and sufficient surety to the satisfaction of said commission, and in such amount as it may fix for the faithful performance on his part of all the conditions and covenants of said contract or lease. The proceeds arising from any such contract or lease shall be paid into the State treasury, to be held and used for the same purpose as the proceeds from the sale of trees and timber, and be paid out in like manner.

SEC. 11.

Lands not subject to warrant, etc.—When lands have been acquired by the Commonwealth for forestry purposes, however the same may have been acquired, they shall not thereafter be subject to warrant, survey, or patent.

SEC. 14.

Nurseries—Seeds and seedlings.—The commission may establish and maintain a nursery, or nurseries, for the propagation of forest-tree seedlings, either upon one or more of the forest reservations of the State, or upon such other land as the said commission may and which it is hereby empowered to acquire for that purpose. Seedlings from this nursery shall be furnished to the Commonwealth without expense for use upon its forest reservations or other public grounds or parks. Seeds and seedlings may also be distributed to land owners and citizens of this Commonwealth under and subject to such rules and regulations as may be established by said commission.

SEC. 21.

Penalties for violations of rules and regulations.—Whoever violates any rule or regulation for the government or use of any State reservation or park, or road or boulevard traversing the same, shall, for such offense, be punished by a fine of not less than five dollars nor more than fifty dollars, and if the person so fined neglects or refuses to pay the same, he shall be committed to the jail of the

county, there to remain until such fine be paid, but not longer than one day for each and every two dollars of the fine imposed.¹

SEC. 22.

Fires and Trespass on State forests—Penalties.—

Any person or persons who shall kindle fire upon any of the forestry reservations of this Commonwealth, except in accordance with such rules and regulations as may be prescribed by the said commission, or who shall cut and remove any timber whatever, or who shall do or cause to be done any act that will damage forest land or timber belonging to the Commonwealth, shall be guilty of a misdemeanor, and, upon conviction thereof, be subject to a penalty not exceeding five hundred dollars for each offense committed, with costs of suit. If the defendant or defendants neglect or refuse to pay the penalty and costs imposed, he or they shall be committed to the jail of the county, there to remain until such penalty and costs are paid, but no longer than one day for each and every two dollars of the fine and costs imposed.¹

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included, because their intent is not one of forestry.)

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UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

IDAHO

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

[SEC. 1604, REV. CODES, 1908, AMENDED BY L. 1909, P. 227, SEC. 1.]

Fire districts—Fire wardens and deputy fire wardens: Appointment and payment of—Police powers of—Abstract of fire laws, with regulations, preparing and posting.—The State Board of Land Commissioners¹ of the State of Idaho shall divide the State into districts to be known and designated as fire districts, having due regard in establishing the boundaries thereof to the area of forests or timber lands therein; they shall appoint, upon the application of any owner or owners of land or other property within the State, one fire warden within each of the districts of the State, and such fire wardens, so appointed, shall be paid by said property owners applying for the appointment of the same, and shall in no case be paid by the State, except as hereinafter provided. All such appointments shall be made for one year, unless

¹ The State board of land commissioners is composed of the governor, superintendent of public instruction, secretary of state, attorney general and state auditor. (Sec. 7, Art. IX., constitution of the State of Idaho, amendment adopted Nov. 8, 1910; L. 1913, p. 674.)

sooner revoked, and the State Board of Land Commissioners may at any time revoke any such appointment, upon good cause shown. The fire wardens, so appointed, shall appoint, as deputy fire wardens, within their respective districts, such persons as shall be designated by such owners of land or other property, who shall also be paid by the person or persons securing their appointment. Their employment shall not be for any definite time, and they shall be discharged immediately by the fire warden of their district upon the request of such person or persons at whose instance they were appointed. The fire warden and deputy fire wardens shall have and exercise police powers while engaged in performing the duties of their respective offices: *Provided*, That the State Board of Land Commissioners shall prepare an abstract of the penal laws relating to forest and prairie fires, together with proper regulations and suggestions for the prevention and control thereof, and before April first in each year shall forward printed copies to all fire wardens, railroad companies, and chairman [chairmen] of county boards. The wardens shall post such abstract in numerous conspicuous places in their respective districts. [L. 1907, p. 18, sec. 1.]

SEC. 1605, AMENDED BY L. 1909, P. 227, SEC. 2.

Fire wardens and deputy fire wardens: Patrol, investigations and reports by—Cooperation between—Arrests by—Controlling fires—Impressing assistance—Payment for services.—The fire wardens shall enforce the provisions of this act. They, and the deputy fire wardens shall patrol their districts in dry seasons. They shall promptly investigate each prairie and forest fire within their respective districts. Each fire warden shall make an annual report to the State Board of Land Commissioners of the fires within his respective district, together with the cause thereof, the property destroyed and its value, the lives lost, if any, and the means used to combat such fire, and any additional facts required by the State Board. Each warden shall cooperate with the warden in the adjoining district, and, in his absence, assume control therein. Each may arrest, without warrant, any person found violating any provisions of this act, and take him before a magistrate and there make complaint; and, when a warden shall have information that such violation has been committed, he shall make similar complaint. Wardens shall go to the place of danger to control or prevent fires, and, in emergencies, may employ or compel assistance,¹ and the compensation for such service compelled shall not exceed two dollars and fifty cents (\$2.50) per day, exclusive of subsistence and reasonable traveling expenses. [L. 1907, p. 18, sec. 2.]

SEC. 1611.

Officers charged with enforcement of law.—The State Land Commissioner and his assistants, or land appraisers and selectors, game wardens and their deputies, and all peace officers of the State, are hereby charged with

the enforcement of this chapter, and shall have full power to arrest violators of the provisions of this chapter, and deliver them to the nearest magistrate to be dealt with according to law; and it is hereby made the duty of such officers having a knowledge or any violation of the provisions of this chapter, to file complaint in a court of competent jurisdiction against such person. [L. 1907, p. 18, sec. 8.]

Sec. 7, L. 1909, P. 227.

Repeal of Sec. 1612.—That Section 1612, Chapter 4 of Title 9 of the Political Code of the State of Idaho be, and the same is hereby repealed.

SEC. 8.

State Board of Land Commissioners to cooperate with private owners in carrying out act—Expense: State liable for pro rata share of—Payment of.—The State Board of Land Commissioners of the State of Idaho shall in all things co-operate with the owners of land, timber, or other property in this State in carrying out the provisions and purposes of this Act, and the State of Idaho shall bear and pay its proper pro rata share of the costs and expenses of protecting the lands and timber in the State against destruction by fire incurred under the provisions of this Act according to the area and extent of its land and timber holdings throughout the several fire districts of this State, and the State of Idaho shall be considered an owner of land or other property within the meaning of that term as used in this Act, for the purposes of this Act. Such moneys as the State shall thus become liable for shall be paid as part of the general expenses of the State Board of Land Commissioners and out of the appropriations which shall be made by the Legislature for that purpose; and in all appropriations hereafter made for general expenses of said board account shall be taken of, and provision made for this item of expense.

SEC. 9.

Fines, division of, to county fund and informants.—All fines collected for violations of this act, or any provisions thereof, shall be disposed of and paid as follows, to-wit: Half to the general fund of the county where the conviction is had and half to the person or persons furnishing the information leading to the arrest and conviction of the person, firm or corporation convicted.

(2) RAILROAD FIRES.¹

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

¹ See also, on p. 3, sec. 3, L. 1909, p. 227, concerning brush and slash disposal by firms and corporations; and sec. 1609, on p. 3, concerning closed seasons for setting out brush fires by firms and corporations.

¹ For penalty for refusing to assist, see sec. 1608, on p. 4.

SEC. 1607, REV. CODES, 1908, AMENDED BY CH. 98, L. 1911.

Spark arresters—Penalty.—It shall be unlawful for any person, firm or corporation to use any spark emitting locomotive, logging engine, portable engine, traction engine, or stationary engine located in a timber district, without the use of a good and efficient spark arrester. Any person, firm, or corporation who shall fail to provide and use such spark arrester upon any engine, shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each day that such engine or locomotive is so used. [L. 1907, p. 18, sec. 4; L. 1909, p. 227, sec. 4.]

SEC. 1610, AMENDED BY L. 1909, P. 227, SEC. 6.

Rights of way to be kept clear—Deposits of fire, live coals, etc.—Trainmen to report fires—Instruction to employees—Warning placards at stations—Concentration of help—Penalties.—Every person, firm or corporation operating a railroad shall keep the ground for fifty feet on each side of the center of the track, or such portion thereof as may be owned or controlled by such person, firm, or corporation, clear of combustible materials, except ties and other materials necessary for the maintenance and operation of the road, from June first to October first of each year.¹ No person, firm or corporation shall permit any of his or its employees to leave a deposit of fire, live coals, or ashes in the immediate vicinity of woodland or lands liable to be overrun by fire, and every engineer, conductor, trainman, or section man discovering fire adjacent to the track shall report the same promptly at the first telegraph or telephone station reached by him. At the beginning of the close season every such person, firm or corporation shall give his or its employees particular instruction for the prevention and extinguishment of fires, and shall cause warning placards to be conspicuously posted at every station within this State, and when a fire occurs near the line of his or its road, shall concentrate such help and adopt such measures as shall be available for its extinguishment. Any person, firm, or corporation violating any provisions of this section shall be guilty of a misdemeanor and shall be subjected to a penalty of not more than One Hundred (\$100.00) Dollars for each offense and any railroad employee violating the same shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five (\$5.00) Dollars, nor more than Fifty (\$50.00) Dollars. [L. 1907, p. 18, sec. 7.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 3, L. 1909, P. 227.

Brush and slash disposal: Requirements—Penalty for violation of provisions.—Any person, firm or cor-

¹ See also sec. 6921, on p. 4, concerning liability of railway companies for permitting fires to spread from their rights of way to adjoining lands.

poration engaged in the cutting and removing of timber, logs, ties, telegraph poles, wood, or other forest products from lands within the State of Idaho, shall pile and burn or otherwise dispose of the brush, limbs, tops, and other waste material incident to such cutting, which are four inches or under in diameter, and the times and methods of so doing shall be prescribed by the warden of the fire districts in which said cutting shall be done.¹ Any person, firm or corporation violating the provisions of this Act or refusing to conform to any rules made by the warden of any fire district of the State of Idaho relative to the time, place and manner of burning or disposing of brush, limbs, tops, and other waste material incident to the cutting of timber, logs, ties, telegraph poles, wood or other products, shall be guilty of a misdemeanor and upon conviction thereof be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or be imprisoned in the County Jail of the county in which the offense occurs, for not less than thirty days and not to exceed six months, or be subjected to both such fine and imprisonment.

SEC. 1606, REV. CODES, 1908.

Permits to set out fires: Season for—Requirements under—Revoking or postponing.—It shall be the duty of the fire warden of each fire district to issue written or printed permits during permit season, to any and all persons named in an application to set out fires. Said application shall state the general description of the land upon which it is desired to set out fires and the extent of the slashing or burning desired to be burned. Said permit season shall be from June first to October first of each year. Said permits shall fix the time for setting out fires on any three consecutive days therein named, and not less than ten days from the date of such permit, and such fires shall be set at no time when the wind is blowing to such an extent as to cause danger of the same getting beyond the control of the person setting out said fire, or without sufficient help present to control the same, and the said fire shall be watched by the person setting out the fire until the same is out. Upon granting said permit the fire warden shall be present at said proposed burning, or notify, at the earliest possible moment, some qualified and acting deputy fire warden in the vicinity of said proposed burning to be present thereat, and upon good cause may revoke or postpone said permit upon notice to said applicant. [L. 1907, p. 18, sec. 3.]

SEC. 1609, REV. CODES, 1908, AMENDED BY L. 1909, P. 227, SEC. 5.

Closed season for setting out fires without permit—Precautions—Penalty—Back fires—Record of permits.—The period from June first to October the first in each year shall be known as the closed season, during which time it shall be unlawful for any camper, farmer, logger or other individual, firm or corporation, to set out or cause to be set out, fires in slashings, down or fallen timber, or on timber lands or in the vicinity of grain fields.

¹ See also sec. 1589 (d), on p. 5.

for the purpose of clearing land of brush, grass, or other inflammable material without first obtaining a permit in writing, or print, from the fire warden of the district as provided in Section 3 of this Act, and at no time shall any fire be set out when the wind is blowing to such an extent as to cause danger of the same getting beyond the control of the person setting out such fire, or without sufficient help present to control the same; and the same shall be watched by the person setting the fire until the same is out. Any person violating any of the provisions of this section shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than Three Hundred (\$300.00) Dollars, or by imprisonment in the county jail not less than one month nor more than six months: *Provided*, That this Section shall not apply to any person or persons setting out back fires for the purpose of stopping or checking a fire then burning. The fire warden shall keep a complete copy of permits issued. [L. 1907, p. 18, sec. 6.]

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 1606, REV. CODES, 1908.

Permits to set out fires: Season for—Requirements—Revoking or postponing.—(For text of these provisions, see this section on p. 3.)

SEC. 1609, REV. CODES, 1908.

Closed season for setting out fires without permit—Precautions—Penalty—Back fires—Record of permits.—(For text of these provisions, see this section on p. 3.)

SEC. 1608.

Failure or refusal to perform duty—Neglect to extinguish fires—Use of other than incombustible wads, naked torch, etc.—Destruction of notices—Penalty.—Every warden or deputy warden, and every person lawfully commanded to assist in enforcing any of the provisions of this chapter, who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near to forest or prairie land and leave it unextinguished, or be a party thereto; every person who shall use other than incombustible wads for firearms, or carry a naked torch, fire brand or exposed light in or near to forest land; and every person who shall deface, destroy or remove any abstract or notice posted under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars. [L. 1907, p. 18, sec. 5.]

SEC. 6921.

Firing timber or prairie lands—Camp fires—Railroad fires—Penalty.—Any person who shall wilfully or carelessly set on fire, or cause to be set on fire, any timber or prairie lands in this State,¹ thereby destroying the

timber, grass or grain on any such lands, or any person who shall build a camp fire in any woods, or on any prairie, and leave the same without totally extinguishing such fire, or any railway company which shall permit any fire to spread from its right of way to the adjoining lands,² is guilty of a misdemeanor. [Rev. Stat., 1887, sec. 6921.]

SEC. 1926.

Notice concerning camp fires—Cost of—Posting.—It is the duty of the board of county commissioners of each county in this State, to cause to be erected in a conspicuous place at the side of each public highway, and at such places as they may deem proper, a notice in large letters, substantially as follows:

"Camp fires must be totally extinguished before breaking camp, under penalty of not to exceed six months imprisonment, or three hundred dollars fine, or both, as provided by law.

"(Signed.) _____,
"County Commissioner."

The erection and maintenance of such notices shall be at the expense of the respective counties, and at least ten in number of such notices shall be posted in each and every county in this State. [Rev. Stat., 1887, sec. 1792.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

SEC. 1588, REV. CODES, 1908.

Preservation of trees on State lands.—No trees standing on lands of the State, which lands when cleared of trees will not be suitable for cultivation and raising crops, and no trees needed to conserve the snows, ice, or water of any irrigation district, shall be cut from any part of the public lands belonging to the State, except as hereinafter provided. [L. 1905, p. 145, sec. 1.]

SEC. 1589.

Application for permit to cut trees.—Any person desiring to cut trees upon any lands owned by the State shall make application in writing to the Register of the State Board of Land Commissioners, which application shall contain: (a) A complete legal designation of the lands upon which it is desired to cut trees; (b) the purpose for which such trees are to be used; (c) that he will carefully protect from fires or other damage all trees less in size than

¹ See also sec. 1607, on p. 3.

² See also sec. 1610, on p. 3.

those desired to cut; (d) that he will entirely remove, as directed by the State Board of Land Commissioners, all cut trees and their branches in such manner that fires may not consume the smaller trees¹; (e) that such trees as are desired for use are not necessary for the conservation of the irrigation waters of any irrigation watershed, or that the same are on lands of the State, which lands when cleared of trees will not be suitable for cultivation and raising of crops. [L. 1905, p. 145, sec. 2.]

SEC. 1593.

Action by State Board of Land Commissioners on applications—Regulation of cut.—Upon the expiration of the time for filing protests as provided in this article,² the Register of the State Board of Land Commissioners shall refer all papers to said board, who may, thereupon, and under such conditions as to the payment of the cost of such proceeding as they may impose, cause the lands designated in the application and the trees growing thereon to be inspected, and, if deemed best, such trees to be appraised, and may refer all papers to the State Land Commissioner, who shall thereupon, personally or by his assistants, inspect the designated lands and the trees growing thereon, and, if directed by the board, shall appraise the same and report in writing to the board. The board shall consider said protest or protests and the report of the State Land Commissioner or his assistants, and shall decide that such trees may be properly disposed of, or against allowing the same to be done. But no trees less than twelve inches in diameter, two feet above the ground, shall be allowed to be cut by any person whomsoever; except that for mining and fencing purposes, trees may be cut not less than five inches in diameter, for use within the county where cut. [L. 1905, p. 145, sec. 6.]

¹ See also, on p. 3, sec. 3, L. 1909, p. 227.

² "This article" contains secs. 1588-1598.

SEC. 1596.

Definition of tree—Preservation of tree growth.—

For the purpose of this article¹ the word "tree" shall be held to mean all vegetable growth of a woody texture of any size whatsoever. No lands contemplated in this article shall be leased for any purpose whatsoever that will destroy the tree growth. [L. 1905, p. 145, sec. 9.]

SEC. 1597.

Violation of provisions, penalty.—Any person violating any of the provisions of this article¹ shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not less than ten nor more than one hundred dollars, or be punished by imprisonment of not less than sixty days, or by both fine and imprisonment, as the court may direct. Suit may also be brought in the name of the State whenever such damage has been caused by any violation of the provisions of this article,¹ by any person or persons engaged in any business or pleasure pursuit whatever. [L. 1905, p. 145, sec. 14.]

SEC. 1598.

County attorneys to prosecute.—The prosecuting attorneys of the various counties of the State are hereby directed to prosecute in the name of the State all cases arising under this article.¹ [L. 1905, p. 145, sec. 15.]

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ "This article" contains secs. 1588-1598.

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation.

OREGON

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and these finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 1, Ch. 278, L. 1911.

State Board of Forestry: Personnel—Appointment—Powers and duties—Meetings.—There shall be a State Board of Forestry, consisting of the Governor, the acting head of the Forest School of the Oregon Agricultural College, and five electors of the State of Oregon, to be appointed by the Governor from and upon the authoritative recommendation of the Oregon State Grange, the Oregon Forest Fire Association, the Oregon and Washington Lumber Manufacturers' Association and the United States Forest Service, and Oregon Wool Growers' Associa-

tion, each to select and name one of such electors. In the absence of such recommendation the Governor shall nevertheless appoint said electors. Said Board of Forestry shall supervise all matters of forest policy and management under the jurisdiction of the State, and approve claims for expenses incurred under the provisions of this act. The members of said Board shall receive no compensation for their services thereon but shall be entitled to actual traveling expenses which may be incurred in attending Board meetings.

Said Board shall meet at any convenient place in the State upon the call of the Governor or its secretary. A majority of said Board shall constitute a quorum.

SEC. 2.

State Forester: Appointment—Qualifications—Term of service—Salary—Appointment by, of deputy—Expenses—Powers and duties, in general—Secretary to Board of Forestry—Report by—When deputy to act for. The State Board of Forestry shall

appoint a State Forester, who shall be a practical forester familiar with western conditions and experienced in organization for the prevention of forest fires. He shall hold office at the pleasure of said Board, who shall also have power to fix his compensation at not to exceed three thousand dollars (\$3,000) per annum. He shall be authorized and empowered to appoint a deputy whose salary shall be fixed by the State Board of Forestry at not to exceed eighteen hundred dollars (\$1800) per annum. He shall be allowed necessary office and contingent expenses, including clerical help, and he and his deputy shall be paid actual traveling and field expenses which may be incurred in the performance of their official duties. He shall, under the supervision of the State Board of Forestry, execute all matters pertaining to forestry within the jurisdiction of the State; appoint and instruct fire wardens as provided for in this act; direct the improvement and protection of State forest lands; collect data relative to forest conditions; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce all laws pertaining to forest and brush-covered land and prosecute for any violation of said laws; co-operate with land owners, counties or others in forest protection; advise and encourage re-forestation; and publish such information on forestry as he may deem wise. He shall act as secretary of the State Board of Forestry and prepare annually a report to the Governor on the progress and condition of State forest work, containing recommendations for improving methods of forest protection, management and reproduction within the State of Oregon. During the State Forester's absence or disability, all his authority shall be exercised by his deputy.

SEC. 17.

County Boards of Commissioners: Appropriations by, for forest protection—Expenses incurred.—County boards of commissioners may appropriate money for forest protection under the provisions of this act and expenses incurred by any county board of commissioners in accordance therewith shall be a proper county charge.

SEC. 18.

Appropriation—Secretary of State to audit claims.— * * * The Secretary of State is hereby authorized and directed to audit all duly approved claims which have been incurred in pursuance of this act and the foregoing appropriation and to draw his warrant on the State Treasurer in the payment thereof out of the appropriation made by this act or other appropriation from which the same may be determined to be payable.

SEC. 20.

Repeal.—That Sections 5508, 5509, 5510, 5511, 5512, 5513, 5514, 5515, 5516, 5517, 5518, 5519, 5520, and 5521 of Lord's Oregon Laws are hereby repealed.

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 3, CH. 278, L. 1911.

Fire wardens, special: Voluntary, or under private or county compensation—State and county officials to serve as—National Forest officers, ex officio wardens—Additional wardens; expenses of, how paid.—Under such general policy as to qualifications, numbers, and localities as the State Forester shall deem wise, he shall appoint suitable and proper citizens fire wardens who shall have all the powers given to fire wardens under this act, but shall serve voluntarily or under compensation by property owners or counties. State and county officials whose duties make their *ex-officio* services as fire wardens especially desirable as a convenience to the public, shall accept appointments as such when formally requested by the State Board of Forestry. Upon the recommendation of federal forest supervisors, the State Forester shall appoint resident officers of the national forest[s] *ex officio* fire wardens. In times or localities of particular fire danger, or to enforce the fire laws or apprehend and prosecute violators thereof, the State Forester shall have power to appoint and employ, either independently or jointly with other agencies, such additional fire wardens, and to furnish these such assistance and facilities for protecting life or property from fire, as he shall deem public safety demands, and unless contributed by other sources, the cost thereof shall be paid from the funds appropriated by this act, but each county in which such service is given shall be responsible for one-third the expense thus actually incurred and paid by the State for services within said county and upon demand by the State Treasurer shall pay the amount thus due into the State treasury, to be credited to the fund appropriated by this act.

SEC. 4.

Fire districts—District fire wardens and wardens thereunder.—The State Forester shall, with the advice of property owners or agents or counties desiring to co-operate in forest protection, designate suitable areas to be official fire districts. He may appoint for each district one or more district fire wardens to be paid as other fire wardens under this act and to serve until their appointments are revoked by their employers' request or by the State Forester for good cause shown. Upon written notice to the State Forester by the person or authority upon whose recommendation any other fire warden is appointed, said fire warden shall be subject to the direction of the proper district fire warden.

SEC. 6.

Fire wardens: Powers and duties, in general—Arrests by—Penalty for failure to discharge duties.—All fire wardens appointed under this act shall, under

instructions from the State Forester as to their exercise of State authority, take proper steps for the prevention and extinguishment of fires within the localities in which they exercise their functions, assist in apprehending and convicting offenders against the fire laws, control the use of fire for clearing land in the closed season as provided in Section 8 [7¹] of this act, and make such reports of their work and conditions within their localities as may be requested by the State Forester. They shall have the power of peace officers to make arrests for violation of forest laws. They shall have power to enter upon the lands of any person or owner in the discharge of their duties; *provided*, that in so entering they shall exercise due care to avoid doing damage. Any fire warden who has information which would show, with reasonable certainty, that any person has violated any provision of the forest laws, shall immediately take action against the offender, either by using his own power as a peace officer or by making complaint before the proper magistrate, or by the filing of information with the district attorney, and shall obtain all possible evidence. Failure on the part of any fire warden receiving compensation to comply with the duties prescribed by this act shall be a misdemeanor and punishable by a fine of not less than twenty dollars (\$20), nor more than two hundred and fifty dollars (\$250), or by imprisonment in the county jail for not less than ten (10) days nor more than three (3) months, or both such fine and imprisonment.²

SEC. 1, CH. 90, L. 1913.

County Judges, ex officio fire wardens—Duties, in general—Permits for burning slashings, brush, etc.—That every county judge within the State of Oregon is *ex officio* a fire warden and shall have all the rights and powers and perform all the duties of a regularly appointed fire warden, within the boundaries of his county, as such rights, powers and duties are provided and defined by the General Laws of Oregon. Every such county judge is hereby authorized to issue and revoke permits for burning slashings, choppings, wood lands and brush lands between June 1st and October 1st of each year.³

SEC. 2.

Notice to neighbors, under permits.—Every person to whom such a permit is issued shall give at least twenty-four hours notice to each resident owner of adjoining lands, of the time when he intends to set fire in accordance with his permit.

SEC. 1, CH. 247, L. 1913.

Fire patrol: Owners of timber land to provide, when.—Every owner of timber land in the State of Oregon shall furnish or provide a sufficient fire patrol there-

for, during the season of the year when there is danger of forest fires, which patrol shall meet with the approval of the State Board of Forestry.

SEC. 2.

Fire patrol: State Forester to provide, when—Expense of, how paid.—In case any owner or owners shall fail or neglect to provide such fire patrol, then the State Forester, under direction from the State Board of Forestry, shall provide the same at a cost not to exceed five (5) cents per acre per annum. Any amounts so paid or contracted to be paid by the State Forester, shall be a lien upon the property, and shall be reported by the State Forester to the county court of the county in which such lands are situated, and shall by such court be levied and collected with the next taxes on such lands in the same manner as taxes are collected. Said county court shall instruct the proper officer to extend the amounts on the assessment roll in a separate column, and the procedure provided by law for the collection of taxes and delinquent taxes shall be applicable thereto, and upon collection thereof, the county court shall repay the same to the State Forester to be applied to the expenses incurred in carrying out the provisions of this act.

SEC. 3.

Timber land defined.—For the purposes of this act, any land shall be considered timber land which has enough timber standing or down, to constitute, in the judgment of the State Board of Forestry, a fire menace to itself or adjoining lands.

SEC. 4.

Residence in vicinity to constitute patrol.—The owner of any land coming under the provisions of this act, who shall reside within one and one-half miles of said land, shall be considered, by virtue of said residence, to maintain a sufficient fire patrol, and shall not be compelled to maintain additional patrol on such land.

SEC. 5.

Adequate fire patrol defined.—For the purposes of this act, an adequate fire patrol shall be construed to mean one equal to that maintained by 50 per cent of timber owners in the same locality, or under similar conditions in other localities, who are in good faith patrolling their land against fire.

SEC. 16, CH. 278, L. 1911, AMENDED BY CH. 69, L. 1915.

Penalty for destroying posted notices.—Any person who shall wilfully destroy or injure any notice posted in compliance herewith shall be punished with a fine not less than ten dollars (\$10), nor more than fifty dollars (\$50), or by imprisonment for one day for each two dollars (\$2) of such fine imposed in case of his neglect or refusal to pay such fine.¹

¹ See p. 5.

² For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on p. 6.

³ See also sec. 7, ch. 278, L. 1911, on p. 7.

¹ For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on p. 6.

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

Sec. 10, CH. 278, L. 1911.

Spark arresters on engines: Required, when—Penalty—Prima facie evidence—Injunction against further use.—From June 1st to October 1st of each year it shall be unlawful for any person, firm or corporation, or employee thereof, to use or operate any locomotive, logging engine, portable engine, traction engine or stationary engine using fuel other than oil, in or near forest or brush land, which is not provided with an adequate spark arrester kept in constant use and repair. Any person, firm or corporation who shall wilfully fail to comply with the foregoing provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall pay a fine for each engine or locomotive without such spark arrester of not less than twenty-five dollars (\$25), nor more than one hundred dollars (\$100), and shall be enjoined from further use of such engine or locomotive until such spark arrester is provided. Escape of fire from any engine shall be *prima facie* evidence that such appliance has not been adequately maintained in compliance with this section. Upon proof that any prosecution has been instituted under this section by any fire warden, any court of competent jurisdiction shall enjoin the further use of the engine involved, unless equipped and maintained in compliance with this section to the satisfaction of said fire warden, until the defendant has been acquitted of the charge preferred.¹

Sec. 11.

Burning of slashings, and clearing of rights of way by corporations and others—Penalty—Action by forest officers.—(For text of these provisions, see this section on this page.)

Sec. 6984, LORD'S OREGON LAWS, 1910.

Rights of way: Mowing.—The right of way of all railroads in the State of Oregon east of the Cascade mountains shall be mowed each year between the first day of June and the first day of July. [L. 1909, ch. 150, sec. 1.]

Sec. 6985.

Rights of way: Upon failure to mow, action by adjacent owners—Collection of cost.—If any railroad company or corporation owning or operating a railroad over said right of way shall neglect or refuse to cause their right of way to be mowed as provided in the foregoing section any person occupying or owning the land adjoining the

said right of way may, after said first day of July, cause the portion of said right of way adjoining said land, occupied or owned by such person, to be mowed, and shall receive for such work the reasonable value thereof, to be fixed by the county judge, who shall certify to the value of such work, and said certificate shall be filed with the county clerk, and the said certified bill shall be charged to said company and collected for said person in the same manner and at the same time as general taxes are collected. [L. 1909, ch. 150, sec. 2.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

Sec. 5, CH. 278, L. 1911.

Public nuisance: When forest or cut-over land with inflammable material on it constitutes—Action by State Forester.—Any and all inadequately protected forest or cut-over land adjoining, lying near, or intermingling with other forest land and covered wholly or in part by inflammable debris or otherwise likely to further the spread of fire, which by reason of such location or condition or lack of protection endangers life or property, is hereby declared to be a public nuisance and whenever the State Forester shall learn thereof he shall notify the owners or persons in control or possession of said land, requesting them to take proper steps for its protection and advising them of means and methods to that end.

Sec. 7.

Slash disposal: Closed season—Permit required—Penalties.—(For text of these provisions, see this section on p. 5.)

SECS. 1, 2, CH. 90, L. 1913.

Slash disposal during closed season: County Judges may issue and revoke permits—Notice to neighbors under such permits.—(For text of the provisions, see these sections on p. 3.)

Sec. 11, CH. 278, L. 1911.

Burning of slashings, and clearing of rights of way—Penalty—Action by forest officers.—All persons, firms or corporations engaged in logging, or permitting logging upon their lands, in this State, shall each year, burn their annual slashings, by which is meant the tops and inflammable refuse left after lumbering, that may carry fire or cause it to spread, at such time and in such manner and with such provision of help as will confine the fire to their own lands, and if such burning is done between June 1 and October 1 shall first cut down all dead trees or snags over twenty-five (25) feet high. Builders of trails, roads, or railroads in this State shall immediately destroy or remove all inflammable material resulting from constructing or clearing for such improvements unless prevented under the provisions of Section 8 [7¹] of this act.

¹ For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on p. 6.

¹ See p. 5.

Any person, firm, or corporation operating a railroad in this State with coal or wood fuel shall annually, or when so directed by the State Board of Forestry, and in a manner and to an extent directed by said Board, destroy or remove all inflammable material from the right of way of said railroad. All burning under the provision of this section shall be in accordance with the provisions of Section 8 [7¹] of this act. Refusal or neglect to comply with the provisions of this section shall be punished by a fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000) for each offense; *provided*, that the State Forester, with the consent of the Board of Forestry, may suspend the restrictions or [of] this section when and where he deems public safety so permits or requires. *It is further provided*, that in the absence of such suspension, and in case of refusal or neglect by any person or persons at fault, after proper notice, to take the precautions against fire required by this section, the State Forester, or district fire warden acting with his consent, may have the work done to the extent he deems requisite to public safety, and the cost thereof and the expense of any fire patrol rendered necessary by the delay shall be recoverable from the offender by action for debt.²

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 5, CH. 278, L. 1911.

Forest or cut-over land with inflammable material on it: When a public nuisance—Action by State Forester.—(For text of these provisions, see this section on p. 4.)

SEC. 7.

Burning woodland, brush land, slashings, etc.: Closed season for—Permits required, conditions of—Penalties—Governor may suspend permits—Open season for hunting suspended, when.—During the period between June 1st and October 1st, which is hereby designated the closed season, it shall be unlawful for any person or persons to set on fire, or cause to be set on fire, any slashing, chopping, woodland or brush land, either his or their own or the property of another, without written or printed permission from a fire warden³ and compliance with the terms thereof which shall prescribe the conditions upon which the permit is given and which are necessary to be observed in setting such fire and to prevent it from spreading so that life or property of another may be endangered thereby. This restriction shall not apply to the burning of log piles, stumps or brush heaps, in small quantities, under adequate precautions and personal control, and in accordance with any regulations which may

be adopted by the State Board of Forestry for the purpose of insuring public safety; but if any such burning without permission shall result in the escape of fire and injury to the property of another, this shall be held *prima facie* evidence that such burning was not safe and was a violation of this section. Violation of these provisions shall be punished by a fine of not less than twenty-five dollars (\$25), nor more than five hundred dollars (\$500), or by imprisonment of not less than ten (10) days nor more than three (3) months.¹ Permits to burn, as provided by this section, may be issued by any fire warden, and shall contain such safeguarding restrictions as to time of burning and precaution to be taken as may be fixed by the State Forester or left by him to the discretion of fire wardens. Any fire warden shall have the right to refuse, revoke or postpone permits when necessary to prevent danger to the life or property of another. Any permit obtained through wilful misrepresentation shall be invalid and give no exemption from liability of any kind. In times and localities of unusual fire danger, the Governor, with the advice of the State Forester, may suspend any or all permits or privileges authorized by this section and prohibit absolutely the use of fire herein mentioned. Whenever, or wherever, during an open season for the hunting of any kind of game in this State, it shall appear to the Governor upon the showing of the State Forester that by reason of extreme drought the use of firearms or fire by hunters is liable to cause forest fires, he may by proclamation, suspend the open season and make it a closed season for the shooting of wild birds and animals of any kind for such time as he may designate, and during the time so designated all provisions of law relating to closed seasons for game shall be in force.

SEC. 8.

Setting on fire woods, brush, etc., on lands of another: Penalties—Back fires—Camp fires.—Any person who sets on fire, or causes to be set on fire, any woods, brush, grass, grain, stubble, or other material being or growing on any lands not his own, without permission from the owner, or who wilfully or negligently allows fire to escape from his own land, or any one who accidentally sets any fire on his own land or another's and allows it to escape from his control without extinguishing it, or using every effort to do so, shall be punished by a fine of not less than fifty dollars (\$50), nor more than one thousand dollars (\$1,000), or imprisonment for not less than one (1) month nor more than one (1) year; *provided*, that it shall be lawful to build, in a careful manner, camp fires on any uninclosed lands, the owner of which has not forbidden such building of camp fires thereon by personal notice or by posting such prohibition in conspicuous places or otherwise, if, before departing from the place which [where] such camp fire has been built, the builder of such fire totally extinguishes the same; *and provided further*, that nothing in this section

¹ See sec. 7, this page.

² For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on p. 6.

³ See also secs. 1, 2, ch. 80, L. 1913, on p. 3.

¹ For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on p. 6.

shall apply to the setting of a back fire, in good faith, to prevent the progress of a fire then burning.¹

SEC. 9.

Camp fires—Incombustible gunwadding—Penalties.—Any person who builds a camp fire upon lands within this State, not his own, without clearing the ground immediately around it free from material which will carry fire, or who leaves thereon a camp fire burning and unattended, or who permits a camp fire to spread thereon, or who uses in any firearms discharged thereon other than incombustible gunwadding, shall be punished by a fine of not less than twenty-five dollars (\$25), nor more than five hundred dollars (\$500), and upon refusal or neglect to pay the fine and costs imposed shall be imprisoned for a period not to exceed one day for every two dollars (\$2.00) thereof, or may be subject to both such fine and imprisonment at the discretion of the court.¹

SEC. 12.

Setting fire to woods, brush, etc., to injure property of another—Penalty.—Any person who shall unlawfully or maliciously set fire to any woods, forest, timber, brush or vegetable matter whatever with intent that the property of another shall be injured thereby, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for not less than one (1) nor more than ten (10) years.¹

SEC. 13.

Civil action for fire losses: Measure of damages—Injury to young growth, etc., and cost of fire-fighting included.—In addition to the penalties provided in this act, the United States, State, county, or private owners, whose property is injured or destroyed by fires in violation of this act, may recover in a civil action double the amount of damages suffered if the fires occurred through wilfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. Persons or corporations causing fires by violations of this act shall be liable in action for debt to the full amount of all expenses incurred in fighting such fires.

SEC. 14.

Fines: One-half to informant, when—Payment of, into county fund.—Any person not employed and compensated as a fire warden who shall detect any one violating any of the provisions of this act, and shall furnish information leading to the arrest and conviction of such person, shall, upon his conviction, receive one-half of the fine paid by such person so convicted, otherwise all fines imposed under this act, less the cost of collection, shall go into the general fund of the county in which conviction is had.

¹ For further provisions concerning damages, fines, and prosecutions for violations of this act (ch. 278, L. 1911), see secs. 13, 14, 15, on this page.

SEC. 15.

Prosecutions: Duties of district attorneys and justices of the peace—Penalties.—Whenever an arrest shall have been made for violation of any provision of this act, or whenever any evidence which shows with reasonable certainty any such violation shall have been lodged with him, the district attorney for the county in which the criminal act was committed must prosecute the offenders with all diligence and energy. If any district attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), in the discretion of the court. Prosecution against the district attorney shall be conducted by the Attorney General. The penalties of this section shall apply to any justice of the peace, with proper authority, who refuses or neglects to issue a warrant for the arrest of any person or persons when complaint under oath of violation of any terms of this act has been lodged with him.

SEC. 1978, LORD'S OREGON LAWS, 1910.

Setting fire to prairie, etc.—Penalty.—If any person shall maliciously or wantonly set on fire any prairie or other grounds, other than his own or those of which he is in the lawful possession, or shall wilfully or negligently permit or suffer the fire to pass from his own grounds or premises, to the injury of another, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year or by fine not less than \$50 nor more than \$500 [B. and C. sec. 1823.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

CH. 124, L. 1913.

Preamble.—WHEREAS, it appears that the State is about to secure from the federal government, through an exchange of certain of its school sections, a compact body of timbered lands in the Santiam national forest; and

WHEREAS, it is the desire that said tract be set aside as a State forest and administered for the permanent good of the State and its educational institutions, and the revenue derived therefrom turned into the common school fund of the State:

Be it enacted by the People of the State of Oregon:

SEC. 1.

National Forest lands patented to State for State forest, withdrawn from sale for 50 years.—That any lands now in the National forests selected by, and patented to, the State for the purpose of establishing a State forest shall be withdrawn from sale for a period of 50 years.

SEC. 2.

State Forest: Management—Resources devoted to common schools—State School of Forestry, authority and privileges of, within.—It shall be the duty of the State Forester, under the supervision of the State Board of Forestry and the regulations which it may and is hereby authorized to prescribe from time to time, to manage, control and protect said State forest in a manner to secure its highest permanent usefulness to the whole people of the State of Oregon and particularly to the common schools to which its resources are devoted. The State Board of Forestry shall also, as occasion demands, delegate to the State School of Forestry such authority and privileges within said forest, covering its entire area or portions thereof as may be necessary as [or] may be desirable in order to utilize said school's technical facilities in the administration of the forest or to afford its students practical forestry experience, demonstration or experiment.

SEC. 3.

State Forest: Sales of forest products—Leases for mining, water-power, etc.—Conservation of maximum revenue—Receipts to common school fund.—Whenever it shall appear for the best interest of the State and not contrary to the purpose for which the lands were acquired, the State Board of Forestry may, on terms most advantageous to the State, secured by ample advertisement and effort to obtain competitive bids, sell forest products on State forest lands, or make and execute leases, for periods in no case exceeding the fifty-year period during

which said lands are withdrawn from sale, for the mining and removal of any valuable minerals in said lands or for the development and utilization of water power or desirable occupancies or privileges thereon; *provided*, that in any disposal of products or privileges the first consideration shall be the care, maintenance and perpetuation of the tract's forest productivity as a source of maximum permanent revenue and that such disposal and its contractual provisions for safeguarding said ends shall be submitted to the acting head of the State School of Forestry for suggestions and shall have the approval of the State Forester. All receipts from the State forest shall be paid into the common school fund of the State.

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

UNITED STATES DEPARTMENT OF AGRICULTURE

U. S. FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

WYOMING

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal,

and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

SEC. 4203.

Fire-guards, burning by railroads.—It shall be the duty of every railroad corporation operating its line of road, or any part thereof, within this state, between the first day of September and the first day of November of each and every year, upon its right of way upon each side of its road bed, to burn as a fire-guard all grass and vegetation growing upon its said right of way, running parallel with the line of said road, and said right of way shall be burned in such good, workmanlike manner, and

to prevent said fire from spreading to lands adjacent to said right of way, as to effectually destroy the grass and vegetation thereon: Provided, That the right of way so burned shall not exceed a strip of land over two hundred feet in width upon each side of the said railroad; and, Provided, further, That such fire-guard need not be burned within the limits of any village or city, nor along that portion of the line of a railroad where the desert or mountainous character of the adjoining land would render such burning impracticable or unnecessary. [L. 1890-91, ch. 34, sec. 1; Rev. Stat., 1899, sec. 3210.]

Sec. 4204.

Fire-guards: Penalty for failing to burn—Fine to go to school fund.—Any railroad corporation failing to comply with the provisions of the preceding section shall be liable to pay a penalty of one hundred dollars for each and every mile, or fractional part thereof, of such strip of land as it neglects to burn upon either side of the line of its road in this state, in each and every year as aforesaid, the same to be collected in any proper action in any court of competent jurisdiction, in the name of the state of Wyoming, and when collected it shall be paid into the school fund of the county wherein the cause of action accrued; and, Provided, That the said action shall be brought within one year next after it occurs. [L. 1890-91, ch. 34, sec. 2; Rev. Stat., 1899, sec. 3211.]

Sec. 4205.

Fire-guards: Railroads liable for damages by fires, when fire-guards not burned—Action to recover damages.—Every railroad corporation operating its line of road, or any part thereof within this state, shall be liable for all damages by fire, that is set out, resulting or caused by operating any such line of road, or any part thereof, when such railroad company has failed to burn a fire-guard as provided in §4203, and any such damages may be recovered by the party damaged, by a proper action in any court of competent jurisdiction; Provided, That said action be brought by the party injured within one year next after said damage shall have been inflicted or caused. [L. 1890-91, ch. 34, sec. 3; Rev. Stat., 1887, sec. 1047; Rev. Stat., 1899, sec. 3212.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen and others.)

Sec. 5817, COMP. STAT., 1910.

Burning woods and prairies Penalty.—Whoever maliciously or wantonly sets fire to any woods, or to anything growing or being upon any prairie or grounds, not his

own property; or maliciously or wantonly permits any fire to pass from his own prairie or grounds, to the injury or destruction of any property not his own, shall be fined not more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding thirty days. [Rev. Stat., Ind., sec. 1928; L. 1890, ch. 73, sec. 36; Rev. Stat., Wyo., 1899, sec. 4976.]

SEC. 5818.

Neglect to extinguish fires—Penalty.—Any person or persons who shall light a fire, for any purpose, in any woods or on any prairie in this state and who shall leave the vicinity of such fire without extinguishing the same shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine, not less than ten dollars and not exceeding one hundred dollars, or by imprisonment in the county jail not less than ten days and not exceeding thirty days, or by both such fine and imprisonment. [L. 1907, ch. 22.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

SEC. 1327.

Bounties for forest tree culture—Requirements.—

It shall be lawful for the board of county commissioners in any county of this state to offer a bounty to any person in said county who shall hereafter plant one or more acres of land with forest trees and properly cultivate the same for five years in any sum not to exceed ten dollars for five years for each acre so planted and cultivated; *Provided*, That trees so planted shall not be at a greater distance than ten feet apart each way and shall be kept in a live, thrifty,

growing condition for at least five years after being planted before said bounty shall be due and payable; and Provided further, That the provisions of this chapter shall not apply to lands held as timber culture entries under any of the timber laws of the United States. [L. 1890, ch. 42, sec. 1; Rev. Stat., 1899, sec. 2645.]

Sec. 1328.

Method of offering bounties.—The board of county commissioners desiring to offer the bounty herein provided for, shall do so by resolution to be made of record and giving notice in some newspaper published in the county three weeks prior to the first day of April of each year, said resolution and notice to state the amount of bounty offered for each acre planted and cultivated. [L. 1890, ch. 42, sec. 4; Rev. Stat., 1899, sec. 2646.]

Sec. 1329.

Proof of compliance with bounty law.—Any person claiming the bounty under this chapter shall make proof before the county commissioners that he has complied with the provisions of §1327, and that the trees planted by him are in a healthy and growing condition. [L. 1890, ch. 42, sec. 2; Rev. Stat., 1899, sec. 2647.]

Sec. 1330.

Warrant for amount of bounty, issued when.—Upon satisfactory proof of the compliance with this chapter, the board of county commissioners may issue to the person entitled thereto a warrant upon the county treasurer as in other cases, for the amount due under the offer made by the board. [L. 1890, ch. 42, sec. 3; Rev. Stat., 1899, sec. 2648.]

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

NEW JERSEY

(Serial 2—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

REVISION OF SERIALS.

This serial contains the full text of all provisions embodied in legislation enacted since the issue of the preceding serial, and of all provisions which have been more or less extensively amended thereby. All other provisions in the earlier serials, including provisions which have been only slightly amended, are merely noted where they would properly be placed if reprinted herein, and a reference made to the page and serial where their full text may be found. In connection with the slightly amended provisions a brief explanation is made as to the exact character of such amendment.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, IV, and III, respectively.)

Sec. 1, Ch. 241, L. 1915.

Department of Conservation and Development—Board of Conservation and Development.—A department of conservation and development is hereby established, and the same shall be governed by a board to be known as the "Board of Conservation and Development."

Sec. 2.

Board of Conservation and Development, membership of.—The Board of Conservation and Development shall consist of eight members, not more than four of whom shall be members of the same political party, and all of whom shall be residents of the State.

Sec. 3.

Board of Conservation and Development: Appointment—Terms—Meetings—President—No compensation—Expenses.—The members of the Board of Conservation and Development shall be appointed by the

Governor, by and with the advice and consent of the Senate, for the following terms, to commence on the first day of July, one thousand nine hundred and fifteen: two for one year, two for two years, two for three years, and two for four years. Annually thereafter, two members shall be appointed for a term of four years. Vacancies shall be filled for the unexpired terms. The board shall meet every month in the State House, in Trenton, at such times as its rules may prescribe, and at such other times and places within the State as, in its judgment, may be necessary. The board shall elect one of its members president who shall hold office for one year and until his successor shall be elected.

The members of the board shall receive no compensation for their services, but the State Treasurer shall, upon the warrant of the State Comptroller, pay their necessary expenses.

Sec. 4.

Director: Selection—Qualifications—Salary—Terms.—The board shall select a person who shall be known as the "Director of Conservation and Development," who shall be a resident of this State and a qualified engineer, forester or geologist, who shall also be one of the division chiefs. In case the board cannot agree because of a tie vote therein, upon the selection of a director, the Governor shall be requested to sit with said board for

the purpose of casting the deciding vote. Said Director of Conservation and Development shall receive a salary of not more than five thousand dollars per annum, to be paid out of the treasury of this State as the salaries of other employees are now, or may hereafter be, paid. He shall devote his entire time to the duties of his office, and shall serve for a term of four years, and until his successor has been appointed and qualified.

SEC. 5.

Board of Conservation and Development, powers and duties.—The Board of Conservation and Development shall succeed to and exercise all the rights and powers and perform all the duties now exercised and performed by or conferred and charged upon the State Water Supply Commission, the Board of Forest Park Reservation Commissioners, the State Geological Survey, the Washington Crossing Commission, the State Museum Commission and the Fort Nonsense Park Commission.

SEC. 6.

Subdivisions of department: Heads or chiefs, appointment and qualifications of—Director and acting director, duties of.—The Board of Conservation and Development shall also have the power to create sub-departments or divisions, to take specific charge of the different lines of work contemplated in this act, and shall have power to appoint heads or chiefs of such departments or divisions, which heads or chiefs of said sub-departments or divisions shall be experts of recognized standing in their respective professions. One of these chiefs shall be named by the board as director. The board shall define the duties of the director and the chiefs of divisions and may designate a chief as acting director during the absence or disability of the director.

SEC. 7.

Board of Conservation and Development: Control of State conservation and development projects—Rules and regulations by—Salaries of employees fixed by—Reports by.—The Board of Conservation and Development shall have full control and direction of all State conservation and development projects and of all work in any way relating thereto, except such work as is conferred upon other boards, not included within the provisions of this act. It shall make such rules and regulations governing work of the department, and the conduct of its employees as, in its opinion, may be necessary to conserve, develop and promote the interests of the State, in all matters herein committed to its charge. It shall fix the salaries of all employees.

The Board of Conservation and Development shall report annually to the Legislature.

SEC. 8.

Director to be ex officio Secretary of Board—Chiefs: Subject to rules of Board—Supervisory duties of—Enforcement of laws by—Collection of data by—Right of entrance.—The director shall be

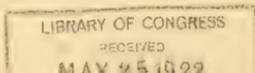
ex officio secretary of the board. The chiefs of divisions shall be subject to the rules and regulations of the board, and shall exercise general supervision over all conservation and development projects in their respective departments and all work in any way relating thereto. They shall be and hereby are charged with the enforcement of all laws relating to the powers and duties of the board in their divisions, and shall obtain, collect and preserve such information relating to the State's natural resources and to their conservation and development, and also relating to the work of the department as may be useful, in the discharge of their duties, or which may contribute to the advancement of the State's resources. They may, and any person authorized by them so to do may, without fee or hindrance, enter upon, examine and survey all lands and waters of the State.

SEC. 9.

Oaths and witnesses—Subpœnas—Penalty, recovery of—Perjury.—The Board of Conservation and Development by its presiding officer, each of its committees by its chairman, and the Director of Conservation and Development shall have authority to administer oaths and to examine, under oath, in any part of the State, witnesses in any matter relating to the powers and duties of the department and to the conservation and development of the State's resources. For this purpose it may issue subpœnas, signed by its president and secretary, requiring the attendance of witnesses and the production of books and papers in any part of the State before it, or before any of its committees, or before the Director of Conservation, and any person who, being served with a subpœna issued pursuant to the provisions of this act, shall fail to attend or who shall fail to give testimony, unless such testimony incriminate him or subject him to a fine or punishment, shall be liable to a penalty of five hundred dollars for each and every offense, to be recovered in the name of the State of New Jersey; said penalty, when recovered, to be paid into the treasury of the State of New Jersey; and it shall be the duty of the Attorney-General to prosecute any and all actions for the recovery of penalties, when requested so to do, and when, in his judgment, the facts and the law warrant such prosecution. Any person who, having been sworn by the presiding officer of the board, or the chairman of any of its committees, or by the Director of Conservation and Development, willfully gives false testimony, shall be guilty of perjury.

SEC. 10.

Director, removal of, on charges.—The Director of Conservation and Development may be removed by the Governor, after a hearing; *provided*, that charges against him have been submitted in writing, signed by a majority of the members of the board; and *provided, further*, that the Governor finds such charges to be true in fact, and their nature such that, in his opinion, the best interests of the State demand the removal of said Director.



SEC. 11.

Department of Conservation and Development: Appointment and tenure of office of officers and employees.—All of the officers and employees of the Department of Conservation and Development shall be appointed and shall hold their positions subject to the provisions of an act entitled "An act regulating the employment, tenure and discharge of certain officers and employees of this State, and of the various counties and municipalities thereof, and providing for a Civil Service Commission, and defining its powers and duties," approved April tenth, one thousand nine hundred and eight.

SEC. 12.

Codification of laws—Object of.—Immediately upon the organization and establishment of the Board of Conservation and Development, it shall become the duty of the heads or chiefs of the several subdepartments to codify the various laws which have been passed, from time to time, relating to or concerning, in any way whatsoever, their respective departments, which codification shall set forth, in a clear and comprehensive manner, the origin of such department, meaning thereby its creative act, after which shall follow, in their proper order, all existing acts amendatory thereof and supplementary thereto, and all acts relating to its consolidation (if any there has been) with any other board or boards, commission or commissions, department or departments. Said work of codification shall continue, from year to year, after the principle herein set forth, with the idea of preserving, in concrete form, the history and development, or evolution, so to speak, of each special department, and contributing materially to a better and more comprehensive understanding of all laws relating thereto, and of the powers and duties devolved upon said departments by said acts.

SEC. 13.

The title "Board of Conservation and Development," to replace certain other titles.—Whenever, in any act, the words the "State Water Supply Commission," the "Board of Forest Park Reservation Commissioners," the "State Geological Survey," the "Washington Crossing Commission," the "State Museum Commission," and the "Fort Nonsense Park Commission," are used, the same shall be taken to be and to mean the Board of Conservation and Development.

SEC. 14.

Expiration of terms of various commissioners.—The terms of office of the Forest Park Reservation Commissioners, the Managers of the State Geological Survey, the Washington Crossing Commissioners, the State Museum Commissioners, and the Fort Nonsense Park Commissioners, as members of the commissions and boards included in this act shall end on the thirtieth day of June, one thousand nine hundred and fifteen, and of the State Water Supply Commissioners, on the thirtieth day of June, one thousand nine hundred and sixteen.

SEC. 15.

Retention of officers and employees—Director may abolish positions.—The officers and employees now in the employ of the said boards or commissions hereby consolidated shall be retained in their present offices or positions and shall continue as employees of the Department of Conservation and Development unless removed in accordance with the provisions of an act entitled "An act regulating the employment, tenure, and discharge of certain officers and employees of this State and of the various counties and municipalities thereof, and providing for a Civil Service Commission, and defining its powers and duties," approved April tenth, one thousand nine hundred and eight. The Director of Conservation and Development, however, may, with the approval of the board abolish any office or position, which, in his judgment, it may be unnecessary to retain.

SEC. 16.

Laws repealed—Date of act taking effect—State Water Supply Commission provisions excepted—Constitutionality of act.—All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect on the thirtieth day of June, one thousand nine hundred and fifteen; *providing* that this act shall not take effect as regards to or be construed to include the State Water Supply Commission until the thirtieth day of June, one thousand nine hundred and sixteen, which commission shall retain all the rights, powers and duties heretofore conferred upon it by law and shall continue to discharge such powers and duties until the thirtieth day of June, one thousand nine hundred and sixteen, notwithstanding anything in this act containe; *provided, however,* that if any section or parts thereof of this act shall be questioned in any court, and shall be held to be unconstitutional and void, the sections or parts thereof so declared to be invalid shall be excised, and the balance of the act shall stand as though said sections or parts thereof had never been included within the provisions of this act.

SEC. 1,¹ p. 2605, COMP. STAT., N. J., AMENDED, AND IN PART REPEALED, BY L. 1915, CH. 241, SECS., 1, 2, 3, 4, 13, 16.

Board of Conservation and Development, a body politic, with certain powers.—* * * said board [State Board of Forest Park Reservation Commissioners; now the Board of Conservation and Development] shall be a body politic and corporate, * * * with power to sue and be sued, with power to adopt and use a corporate seal, and the right, power and authority to acquire, hold and use all such property, real and personal, as may be proper and necessary, and with all other powers proper and necessary to carry out and effectuate the purpose for which said board is created; * * * [L. 1905, ch. 47, sec. 1.]

¹ See Serial 1, p. 1.

SEC. 3,¹ p. 2606, AMENDED BY L. 1915, CH. 165, SEC. 1, AND CH. 241, SECS. 5, 13.

Board of Conservation and Development: Care and management of forest reserves, moneys therefor, etc.—Forestry duties, in general, of—Prevention of fires—Cooperative forestry work—Protection of watersheds—Reports and publications—Cutting and sale of timber—Contracts for work—Employees.—The care, management and preservation of the forest reserves, and the forests thereon, as well as future growth thereon, and all moneys appropriated in that behalf, or collected therefrom in any way, and all personal property acquired to carry out the purposes of this act, are hereby confided to and vested in said board [State Board of Forest Park Reservation Commissioners; now the Board of Conservation and Development], as the same may be herein or in subsequent acts defined and required. The board shall observe, keep in view, and, so far as it can, put in operation the best methods to reforest cut-over and denuded lands, to forest waste and other lands, to prevent injury of forests by fire; shall provide for the administering and care of forests on forestry principles, for the encouragement of private owners in preserving and growing timber for commercial and manufacturing purposes, and for the general conservation of forest tracts around the headwaters and on the watersheds of all the water courses of the State. Said board shall make reports of its work, conclusions and recommendations to each session of the Legislature, and from time to time publish, in a popular manner, and print for popular distribution, in bulletin or other form, such of its conclusions and recommendations as may be of immediate public interest. If any such report or publication shall be in especial demand and the supply shall become limited the board may restrict its distribution or fix a reasonable price to be paid for it. Whenever it shall appear that the welfare of the State will be advanced by cutting or selling or disposing of any of the timber on State forest lands, or by using any portion of such lands for agriculture, or for any other purpose than the maintenance of forest, the board is hereby empowered to cut and sell such timber, or to provide for the use and development of such land in the way that in its judgment is most proper, on terms most advantageous to the State; and said board is hereby empowered to make or execute contracts in the name of the State, and to make agreements with other State departments, boards or bodies, for the carrying out of the purposes of this act; *provided, however*, that no such contract or agreement shall be made without the approval of the Governor. The board shall have power to employ such persons as are necessary for carrying out the provisions of this act and to fix their compensation. [L. 1905, Ch. 47, Sec. 3.]

SEC. 9,¹ p. 2608, AMENDED BY L. 1913, CH. 23; AND BY L. 1915, CH. 241, SECS. 5, 13, 8.

State Forester, designation and duties of.—Secretary of Board, duties of.—The chief forester em-

ployed by said board [State Board of Forest Park Reservation Commissioners; now the Board of Conservation and Development] shall be designated and known as State Forester. He shall be the active agent of said board in the performance of the duties imposed upon it by section 3 of the act which this act amends. * * * [The Director of Conservation and Development is made ex officio secretary of that board by sec. 8, ch. 241, L. 1915.] As secretary, it shall be his [the Director's] duty to keep proper records of said board, and any copy of any record, under the seal of the board, signed by the secretary, shall be of the same evidential effect in all the courts of this State as an exemplified copy of any recorded deed, according to law as now constituted. [L. 1905, ch. 47, sec. 9.]

SEC. 10 (p. 1, Serial 1).

(This section is repealed by L. 1915, ch. 241, sec. 16.)

SECS. 12, 13 (p. 1, Serial 1).

(These sections are amended by L. 1915, ch. 241, secs. 5, 13, to the extent only that the terms, "Board of Forest Park Reservation Commissioners," "said board," "forest commission," or other similar expression therein, should now "be taken to and to mean the Board of Conservation and Development").

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part IV.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with fallow and other fires, and railroad fires, see subdivisions (2) and (3), respectively.)

SEC. 1, CH. 109, L. 1915, AMENDED BY L. 1915, CH. 241, SECS. 5, 13.

Patrolmen to be provided.—Whenever the Board of * * * [Conservation and Development] shall be satisfied that existing conditions tend to the origin of forest fires in any locality, it shall provide for the maintenance of patrolmen to watch for and extinguish fire in such places and for so long as such danger exists.

SEC. 2.

Expenses of patrol—How paid.—The said board shall determine whether the existence of such conditions is due to the operation of a railroad, or to the operations, actions, conduct or neglect of any other corporation, firm or individual, and the responsible party, thus determined, shall appoint and pay the wages and expenses of the patrolmen hereinafter required to be appointed and paid. If the said board shall determine the existence of the conditions referred to to be due to a divided agency, the required patrolmen shall be appointed by the State Firewarden, and the wages and expenses shall be apportioned by the

¹ See Serial 1, p. 1.

said board among the several parties to such divided agency; *provided, however*, that if one of the parties to such divided agency shall be a railroad company, the patrolmen required of such railroad company shall be appointed and paid according to the provisions of this act applying to the appointment and payment of patrolmen by railroad companies.

SEC. 3.

Proper parties notified—Service of notice—Order may be amended.—Whenever the Board of * * * [Conservation and Development] shall make determination as set forth in paragraphs one and two of this act, the State Firewarden, upon notification by the said board to that effect, shall, in writing, notify the responsible agent or agents of the determination of the said board, specifying the locality affected thereby and included within the terms of his notice, calling for the appointment of such number of patrolmen as the said State Firewarden may deem to be necessary, and prescribing generally the work of such patrol. The State Firewarden shall fix and state, in the said notice, the time when the said notice shall become effective. In case of a railroad company, the said notice shall be served at the office of the superintendent of the division within which the affected district is located. In case of a private individual, firm or corporation, not a railroad company, the notice shall be served upon the owner, lessee, superintendent or agent, wherever found. The order of the State Firewarden may be amended in any particular by the said board, either upon its own initiative or upon the request of any person or corporation affected thereby, but shall not be stayed pending application for such amendment, except upon order of the board.

SEC. 4.

Immediate compliance with order—Report to State Firewarden—Replacing patrolmen.—The person or corporation receiving such notice shall immediately comply therewith and shall at once report to the State Firewarden the names of all patrolmen appointed pursuant to such order, and the names of the persons acting as foremen or superintendents thereof actually upon the work. And such person or corporation shall report to the State Firewarden at such times and in such manner as he shall require, setting forth the number of men performing such duty, the places where, the times when, and the manner in which the patrol duty is being performed. If the appointment of, or service rendered by, any member of such patrol shall be unsatisfactory to the State Firewarden, such patrolmen shall be immediately replaced by his employer upon the request of the State Firewarden.

SEC. 5.

Recovery of penalties.—Any firm, person or corporation who shall or which shall fail to comply with the provisions of this act, or with the terms of such notices and orders as may be issued by the State Firewarden, shall be

subject to a penalty of ten dollars per day for each patrolman not on duty in accordance with such notice or order.

All penalties incurred for violation of any of the provisions of this act shall be sued for, recovered and collected in the manner provided for the recovery of penalties by the act to which this act is a supplement [L. 1906, ch. 123, as amended¹]. Such penalties, when recovered shall be paid to the executive officer of the Board of * * * [Conservation and Development], who, after deducting any direct expense connected with the recovery of said penalty, shall pay the same over to the State Treasurer.

SEC. 6.

Suit for damages not barred.—Compliance with the provisions of this act shall not operate as a bar to any suit for damages for which any person or corporation would otherwise be liable, but conformance with the provisions of this act, and compliance with the terms of any order or notice issued by the State Firewarden may be shown and considered as evidence of the use of due care on the part of such person or corporation.

SEC. 7.

Prompt action: To be taken by whom—May be reviewed and modified by Board of Conservation and Development.—In any case where prompt action is necessary all duties and powers imposed by this supplement upon the Board of * * * [Conservation and Development] may be performed and exercised by the executive officer of the said board, the State Forester and the State Firewarden, acting jointly in the name of said board, and the joint determinations, actions and orders of the same shall be as conclusive and effectual as though done and performed by the full board; *provided*, that any action of the said officials may be reviewed and modified by the * * * [Board of Conservation and Development] in the same manner and under the same limitation as is prescribed in section three of this act.

SECS. 1, 2, CH. 61, L. 1915. * * *

NOTE.—Slash disposal.—See these sections, below, for duties of the Board of Conservation and Development upon receipt of complaint that an accumulation of brush or other slash material at some point is creating a fire hazard.

SECS. 38, 39, 39a, 40, 41, 42, 43, 44, 49, 50, 54 (pp. 2-6, Serial 1).

(These sections are amended by L. 1915, ch. 241, secs. 5, 13, to the extent only that the terms "Board of Forest Park Reservation Commissioners," "said board," "forest commission," or other similar expression therein, should now "be taken to be and to mean the Board of Conservation and Development.")

SECS. 45, 51, 52, 53, 55a (pp. 3-6, Serial 1).

(These sections remain unchanged.)

¹ See secs. 49-54, pp. 3-6, of Serial 1.

(2) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 1, CH. 61, L. 1915.

Public nuisance occasioned by accumulation of brush and other combustible material.—The owner of any woodlands, or the lessee thereof, or any contractor or employee deriving authority from the owner of such woodlands, or any person doing public work in or upon such woodlands, who shall permit or suffer the accumulation of brush or tree-tops, or any litter from felled trees, to lie or be upon such woodlands to such an extent or in such manner as to facilitate either the origin or the spread of forest fires, shall be deemed thereby to have created an extraordinary fire hazard, and to have made and maintained a public nuisance.

SEC. 2, AMENDED BY L. 1915, CH. 241, SECS. 5, 13.

Nuisance: Complaint of—Removal ordered—Penalty, recovery and disposition of.—On the complaint of a firewarden, or of any citizen, it shall be the duty of the Board of * * * [Conservation and Development] to cause an investigation to be made of the alleged nuisance. If, in its judgment, a situation endangering the security of adjacent property, either with reference to the possible origin or spread of forest fires, exists, it shall require the responsible party to remove such menace within a specified time, in manner directed and at his own cost. If such removal be done by burning, all the provisions and requirements of the act to which this act is a supplement [L. 1906, Ch. 123, as amended] shall be observed, but nothing done under this act shall operate as a release of responsibility if fire escapes and damages the property of another. Failure to comply with the requirement of the Board of * * * [Conservation and Development] shall subject the offender to the penalty imposed by section twelve ² of the act to which this act is a supplement, which penalty shall be imposed for every period of five days, or portion of one such period, during which the requirement of the Board of * * * [Conservation and Development] shall be unobserved.

All penalties incurred for violation of any of the provisions of this act shall be sued for, recovered and collected in the manner provided for the recovery of penalties by the act to which this act is a supplement.³ Such penalties, when recovered, shall be paid to the executive officer of the Board of * * * [Conservation and Development], who, after deducting any direct expense connected with the recovery of said penalty, shall pay the same over to the State Treasurer.

SECS. 46, 47, 48, 55, 157a (p. 6, Serial 1).

(These sections remain unchanged.)

(3) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

SECS. 1-7, CH. 109, L. 1915.

NOTE.—Patrolmen, appointment of.—See these sections on pp. 4, 5, for provisions concerning appointment of patrolmen when conditions tending to the origin of forest fires are due to the operation of a railroad; and penalty for failure to comply with the act, etc.

SECS. 56, 57, 58 (pp. 6-7, Serial 1).

(These sections remain unchanged.)

PART III. TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part IV.)

PART IV.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 3, p. 2606, COMP. STAT., N. J., AMENDED BY L. 1915, CH. 165, SEC. 1, AND CH. 241, SECS. 5, 13.

Forest Reserves: Board of Conservation and Development charged with care and management of.—(For text of this provision, see this section, on p. 4.)

SEC. 1, CH. 382, L. 1915.

Forest Reserves: Maintenance of, as a public park—Appropriations for.—It shall be lawful for the governing body of any county, or of any municipality, to enter into an agreement with the * * * [Board of Conservation and Development] for the maintenance of a forest reserve, or any portion thereof, which portion may be a pond or lake, as a public park; and from time to time to appropriate money and to pay the same to the * * * [Board of Conservation and Development] to be expended by said board for the maintenance and improvement of such State property.

¹ For Laws 1906, ch. 123, as amended, see Serial 1, secs. 38, 39, 40-45 (pp. 2, 3), secs. 46-48 (p. 6), secs. 49-55 (pp. 3-6).

² See sec. 49 (p. 3) of Serial 1.

³ See secs. 49-54 (pp. 3-6) of Serial 1.

SECS. 2, 4, 5, 6, 7, 8, 11, 16 (pp. 7, 8, Serial 1).

(These sections are amended by L. 1915, ch. 241, secs. 5, 13, to the extent only that the terms "Board of Forest Park Reservation Commissioners," "said board," "forest commission," or other similar expression therein, should now "be taken to be and to mean the Board of Conservation and Development.")

(2) MUNICIPAL FORESTS.

SEC. 17 (p. 8, Serial 1).

(This section is amended by L. 1915, ch. 241, secs. 5, 13, to the extent only that the "State Board of Forest Park Reservation Commissioners" should now "be taken to be and to mean the Board of Conservation and Development.")

SEC. 18 (p. 8, Serial 1).

(This section remains unchanged.)

(3) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

SEC. 3, p. 2606, AMENDED BY L. 1915, CH. 165, SEC. 1,
AND CH. 241, SECS. 5, 13.

Board of Conservation and Development: Arrangements by, with other State Departments, boards, or bodies for use and development of State forest lands.—(For text of these provisions, see this section, p. 3).

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

WASHINGTON

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 5276, REM. AND BAL. CODE, 1910.

State Board of Forest Commissioners: Created—Personnel—Terms, and oath of office—No compensation—Quarters—Chairman—Quorum—Meetings.—There is hereby created a board to be known as the state board of forest commissioners, consisting of the state land commissioner whose term of office shall be co-extensive with his term as state land commissioner, and four electors of the state of Washington to be appointed by the governor, whose term of office shall be four years from the date of

appointment: Provided, however, that two of the first appointees under the terms of this act shall hold office for only two years, and thereupon the governor shall appoint the successors of such two-year appointees for the term of four years. Each of the members of said board shall take and subscribe an oath or affirmation before some officer authorized by law to administer the same to faithfully perform the duties of said office. The members of said board shall receive no compensation whatever for the performance of their duties. The secretary of state shall provide suitable quarters for the use of said board and the state fire-warden and forester in the state capitol building. The said board shall meet at the call of the governor as soon as convenient after their appointment at the state capital, and shall organize by the election of a chairman. A majority of the members of said board shall constitute a quorum. Said board shall meet at the state capital, or any other convenient place within the state at any other time at the call of the chairman.

and the chairman is hereby directed to call a meeting thereof whenever requested in writing so to do, by three or more members of said board. [L., 1905, ch. 164, sec. 1.]

Terms in act defined.—In this act, unless the context or subject matter otherwise requires, the word "board" shall be held to mean "state board of forest commissioners"; "forester" shall be held to mean "state forester and fire warden"; "warden" shall be held to mean "fire warden"; "wardens" shall be held to mean "fire wardens"; "ranger" shall be held to mean "forest ranger"; "rangers" shall be held to mean "forest rangers"; "one" shall be held to mean "person, firm or corporation," and "forest material" shall be held to mean "forest slashings, chopping, woodland or brushland." [L., 1911, ch. 125, sec. 1.]

SEC. 5277-2.

Board, duties of: Supervision of State's forest policy and management—Authorizing expenditures for forest protection—Appointment of State Forester—Regulations concerning forest fires—Control and removal of forest officials—Collection of timberland data, including fire damage, illegal cutting, etc.—The board shall supervise all matters of forest policy and forest management under the jurisdiction of the State, and shall have power to authorize all useful and proper expenditures for forest protection; it shall have full power to appoint a forester; to make rules and regulations for the prevention, control and suppression of forest fires as it deems necessary; to regulate and control the official acts of the forester, his assistants, the wardens, and the rangers, and to remove at will any of these officials. It shall be the duty of the board to collect information regarding the timber lands owned by the state, through investigation made by the forester, his assistants, the wardens and the rangers regarding the condition of the timber lands belonging to the state, the investigation to include any damage caused by forest fires, and any illegal cutting or trespassing upon the state timber lands.

Acceptance of grants for State forests, after approval of title and report thereon by attorney general of the State.—The board is hereby authorized, when in its judgment it appears advisable, to accept on behalf of the state, any grant of land within the state, which shall then become a part of the state forest[s]: Provided That no grant shall be accepted until the title has been examined and approved by the attorney general of the state and a report made to the board of the result of such examination. [L., 1911, ch. 125, sec. 2.]

SEC. 5277-3.

State Forester: Appointment of—Salary, amount and how paid.—The board shall appoint a forester at an annual salary, the amount of which shall be fixed by the board, and payable in equal monthly installments out of the state treasury, in the same manner as the salaries of other state officials are paid.

Expense accounts of Forester: Approval, allowance, and payment of.—The forester shall be entitled to all office and other necessary expenses incurred by him under the authority of the board while in the actual performance of his duties. All expenses so incurred shall be submitted in full detail to the board for examination, and if approved and allowed by the board, shall be presented to the state auditor, who shall, if found correct, draw his warrant upon the state treasurer for the amount so allowed, and the state treasurer is hereby authorized to pay said amount due out of any moneys in the state treasury appropriated for this purpose.

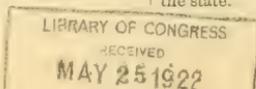
Salary and expense accounts of wardens: Auditing and payment of.—The board shall audit and inspect all bills of salary and expenses incurred by the wardens for their official accounts, and all other bills properly authorized by the wardens for the prevention, suppression, checking, or control of forest fires. When so audited and inspected, the board shall present a statement thereof for each county, accompanied by the original bills, to the state auditor, who shall audit the same, and if found correct, the state auditor shall draw his warrant on the state treasurer in payment thereof, and the state treasurer is hereby authorized to pay said warrants out of any money in the treasury appropriated for such purposes. [L., 1911, ch. 125, sec. 3.]

SEC. 5277-4.

Assistants, technical and clerical: Appointment—Salaries, amounts and how paid.—The forester may at his discretion, subject to the approval of the board, appoint trained forest assistants, possessing technical qualifications, and may employ necessary clerical assistants, and fix the amount of their respective salaries, which shall be payable in equal monthly installments to each assistant so appointed or employed.

Forester: To serve as Secretary of Board, or delegate an assistant—Cooperative forest work.—He shall act as secretary of the board, or he may delegate that duty to one of his assistants. He shall, acting under the supervision of the board, and whenever he may deem it necessary to the best interests of the state, cooperate in forest surveys, in forest studies, in forest products studies, in forest fire fighting and patrol, and in the preparation of plans for the protection, management, replacement of trees, wood-lots, and timber tracts, with any of the several departments of the governments of other states, and with the government or with the departments of the United States, with the Dominion of Canada, or with any province thereof, and with counties, towns, corporations, and individuals within the state of Washington.

Supervision of forest work, including forest fire service.—He shall, subject to the rules and regulations of the board, have direct charge and supervision of all matters pertaining to forestry, including the forest fire service of the state.



Forest fire service defined.—The term "forest fire service" as used in this act shall be held to include all wardens, rangers and help especially employed for preventing or fighting forest fires.

Action re fires in emergencies.—In times of emergency or unusual danger the forester is empowered to mass the forest fire service of the state where its presence might be required by reason of forest fires, and to take charge of and direct the work of suppressing such fires.

Enforcement of forest laws—Investigation of origin of fires—Prosecutions—Printing abstracts of laws and regulations.—The forester shall enforce all laws for the preservation of the forests within the state, investigate the origin of all forest fires, vigorously prosecute all violators of this act; prepare and print for public distribution an abstract of the forest laws and the forest fire laws of Washington, together with such rules and regulations as may be formulated by the board.

Publishation of forest information.—The forester may, with the approval of the board, publish for free distribution, information pertaining to forestry, and to forest products, which he may consider of benefit to the people of the state.

Annual notice to county clerks of appointment of wardens and rangers.—It shall be the duty of the forester to annually notify the county clerk in each county where wardens or rangers are appointed, giving the names of such appointees.

Notices re fires and penalties: Posted by wardens and rangers, where.—The forester shall furnish notice printed in large letters on cloth, calling attention to the dangers from forest fires, and to the penalties for the violation of this act; such notices to be posted in conspicuous places by the wardens or rangers in all timbered districts along roads and trails, streams and lakes, frequented by tourists, campers, hunters, and fishermen, and in other visited regions.¹

Printed forms.—The forester shall, subject to the approval of the board, prepare all necessary printed forms for use of wardens and rangers, in connection with the granting of applications for permits to burn; for the appointment of wardens and rangers, and any and all forms or blanks required or desirable, and shall supply each warden and ranger with such forms and blanks.

Mapping and protection of State timbered and cut-over lands—Reports on.—The forester shall become familiar with the location and the areas of all state timbered and cut-over lands, and shall prepare maps of each of the timbered counties showing the state land therein, and supply such maps to each warden and in all ways that are practical and feasible protect such lands from the dangers of fire, trespass, and the illegal cutting of timber, reporting from time to time direct to the board such information as may be of benefit to the state in the care and protection of its timber.

¹ See sec. 3277-11, on p. 7, for penalty for defacing or removing posted notices.

Inquiry into: Extent, condition, etc., of timbered lands—Acreage and value of timber harvested, yearly—Timber production and fire data—Second growth timber, and reforestation—Annual report.—It shall be the duty of the forester to institute inquiry into the extent, kind, value and condition of all timber lands within the state; the amount of acres, and the value of the timber that is cut and removed each year, to determine what state lands are chiefly valuable for growing timber; the extent to which timber lands are being destroyed by fire; and also to examine into the production, quality and quantity of second-growth timber, with a view to ascertaining conditions for reforestation, and not later than the first day of December of each year, make a written report to the board upon all such tracts so examined by him, together with detailed information as to the work of the forest fire service of the state. [L., 1911, ch. 125, sec. 4.]

SEC. 5277-19.

Arrests without warrant.—The forester, his assistants, wardens, rangers, and all police officers are hereby empowered to make arrests without warrant of persons violating this act. [L., 1911, ch. 125, sec. 19.]

SEC. 5277-20.

Prosecutions: Duty of prosecuting attorney—Penalty for failure to prosecute; applicable also to magistrates.—Whenever an arrest shall have been made for a violation of any of the provisions of this act or whenever information of such violation shall have been lodged with him, the prosecuting attorney of the county in which the criminal act was committed, shall prosecute the offender or offenders, with all diligence and energy. If any prosecuting attorney shall fail to comply with the provisions of this section, he shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), and by imprisonment of not less than thirty (30) days, nor more than one year in the county jail. The penalties of this section shall apply to any magistrate, with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons when complaint under oath of violation of any provisions of this act has been lodged with him. [L., 1911, ch. 125, sec. 20.]

SEC. 5277-21.

Fines: Disposition of.—All fines collected under this act shall be paid into the county treasury of the county in which the offense was committed. [L., 1911, ch. 125, sec. 21.]

PART II. FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties

of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 5277-2, SUPP., 1913, TO REM. AND BAL. CODE.

Regulations by board for prevention, control, and suppression of fires.—(For text of provision, see this section on p. 2.)

SEC. 5277-4.

State forester, fire duties of, in general: Cooperative fire work—Supervision of forestry matters, including forest fire service—Forest fire service defined—Action in emergencies—Enforcement of laws—Origin of fires, investigation of—Prosecutions—Abstract of fire and other laws, and regulations—Notice of appointment of wardens and rangers—Posting fire notices—Protection of State timbered and cut-over lands—Reports on fire work.—(For text of these provisions, see this section on pp. 2-3.)

SEC. 5277-5.

Wardens: Appointment of, during fire danger season.—The forester shall, subject to the approval of the board, have power to appoint within any county in this state where there is timber requiring protection, one or more wardens for all or any portion of the period during which the forester deems that forest fire dangers exist.

Employment of, for examination of deforested lands—Discovery and destruction of inflammable material—Prevention of timber trespass on State lands, and enforcement of laws.—The forester may, subject to the approval of the board, and at such times and in such localities as he deems the public welfare demands, employ one or more wardens whose duty it shall be to examine deforested lands of the state, and ascertain if such lands are chiefly valuable for agriculture, or if they are chiefly valuable for timber growing, with a view to reforestation. The said wardens shall, under the direction of the forester, engage in the discovery of inflammable material, and cause, or assist in, the burning of such material at such times as the burning can be done without endangering adjacent timber, or other property. The said wardens, under the direction of the forester, shall prevent and detect trespass and illegal cutting upon state timber lands, and shall enforce the laws in respect to such trespass and illegal cutting.

Wardens and rangers: Suspension and discharge of—Appointment of successors.—The forester shall have power to temporarily suspend any warden or ranger who may be incompetent or unwilling to discharge properly the duties of his office, and to appoint his successor temporarily, until his action shall be passed upon by the board.

Compensation and expenses of wardens.—Each warden shall receive compensation not to exceed four

dollars (\$4.00) per day, and also necessary and proper expenses for the time actually employed.

Headquarters and office.—The wardens shall make their headquarters at the county seat of the county which they represent, and be equipped with suitable office quarters in the county courthouse by the county commissioners.

Appointment of wardens upon request of county commissioners.—The board of county commissioners of any county in which there has been no warden appointed, may request the forester to appoint a warden, and the forester may, if in his judgment the necessity exists, appoint, subject to the approval of the board, one or more wardens for each county.

Jurisdiction of wardens.—The authority of the wardens respecting the prevention, suppression and control of forest fires, summoning, impressing or employing help, or making arrests for the violation of this act, may extend to any adjacent county, or to any part of the state in times of great fire danger.

Salaries and expenses of wardens: Borne proportionately by State and counties.—The salaries and necessary expenses of all wardens, together with all expenses incurred for help and assistance in forest fire protection, shall be borne in the proportion of two-thirds by the state and one-third by the county in which the service was given and the expense incurred for forest fire protection.

Wardens' accounts and other fire bills: Settlement of, by State—Counties responsible to State for one-third of outlay.—All accounts of the wardens shall be submitted to the forester, as well as all bills for forest fire protection authorized by the wardens, and when such bills are approved and paid as provided for in section 5277-3,¹ the amount of one-third of all such outlays in each county shall be due and payable on demand from each of said counties into the state treasury, and credited to the fund appropriated by this act.

Reports by wardens and rangers.—All wardens and rangers shall render reports to the forester on such blanks or forms, or in such manner, and at such times as may be ordered, giving a summary of how employed, the area of country visited, expenses incurred, and such other information as may be called for by the forester. [L., 1911, ch. 125, sec. 5.]

SEC. 5277-6.

Wardens: Duties of, under direction of forester.—Each warden shall be at all times under the direction and control of the forester, and shall perform such other duties at such times and places as he may direct.

Posting notices of closed season and copies of laws and regulations.—It shall be the duty of wardens to post over the forest areas notices of warning giving the date of the closed season as provided for in section 5277-8,²

¹ See p. 2.

² See p. 6.

and copies of all such laws and rules as they may be directed to post by the forester.¹

Investigation and report on fires—Patrol—Warning campers and other users of fire—Examination of locomotives as to spark-arresters and other devices—Extinguishing fires—Impressing help—Enforcement of laws—Prosecuting offenders.—They shall investigate all fires and report all of a serious or threatening character to the forester immediately. They shall patrol their districts; visit all parts of roads and trails, and frequented places and camps as far as possible, warn campers or other users of fire, see that all locomotives are provided with spark-arresters, and with adequate devices for preventing the escape of fire or live coals from ash-pans and fire-boxes, in accordance with the law;² extinguish small or smouldering fires; summon, impress or employ help to stop conflagrations; see that all laws for the protection of forests are enforced, and arrest and cause to be prosecuted all offenders. [L., 1911, ch. 125, sec. 6.]

SEC. 5277-7.

Ex-officio rangers: When certain officials constitute.—All state land cruisers, all game wardens, when approved by the forester, and all rangers and assistant rangers of the United States forest service, when recommended by their forest supervisors, and commissioned by the forester, shall be ex-officio rangers.

Timber cruisers and others: May be appointed rangers, when.—Timber cruisers and citizens of the state advantageously located may, at the discretion of the forester, be appointed rangers, and vested with their duties and powers.

Compensation of rangers.—Rangers shall receive no compensation for their services except when employed in co-operation with the state under the provisions of this act, and shall not create any indebtedness, or incur any liability on behalf of the state: Provided, That rangers actually engaged in extinguishing, or preventing the spread of fire in brush, slashings, choppings, timber or elsewhere that may endanger timber or other property, shall when their accounts for such services have been approved by the fire wardens in authority, be entitled to receive compensation for such services at the rate of twenty-five cents (25c) per hour. [L., 1911, ch. 125, sec. 7.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

SEC. 5277-14, SUPP., 1913, TO REM. AND BAL. CODE.

Spark arresters, when required.—It shall be unlawful for anyone to operate any spark-emitting railroad locomotive, logging locomotive, logging, or farming engine, or boiler, at any time during the closed season,³ or for anyone to operate any railroad locomotive, logging locomotive, or logging or farming engine or boiler, within one-quarter of one mile of any forest material during the closed season, without such railroad locomotive, logging locomotive, logging, or other engine or boiler is provided with and uses a safe and suitable device for arresting sparks.⁴

Protective devices on ash-pans and fire-boxes, when required.—It shall be unlawful for anyone to operate during the closed season any railroad locomotive, logging locomotive, or logging, or other engine or boiler, within one-quarter of one mile of any forest material, without such railroad locomotive, logging locomotive, or logging or other engine or boiler is provided with and uses an adequate device to prevent the escape of fire or live coals from all ash-pans, and all fire-boxes, except when said ash-pans and said fire-boxes are being cleaned when not in motion.

Penalties.—Everyone failing to comply with the provisions of this section, shall upon conviction pay a fine for each railroad locomotive, logging locomotive, or other engine or boiler, for each day so operated without such spark arresting or without such adequate device to prevent the escape of fire or live coals from said ash-pans or said fire-boxes, of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) per day for each railroad locomotive, logging locomotive, or other engine or boiler so used, and shall be prohibited from further use of such railroad locomotive, logging locomotive, or other engine or boiler until such spark-arrester or such adequate device for preventing the escape of fire or live coals from said ash-pans and said fire-boxes, is provided and used therewith.⁵ [L., 1911, ch. 125, sec. 14.]

SEC. 5277-15.

Fire and live coals not to be deposited on rights of way, when.—No one operating a railroad shall permit to be deposited by his, or its, employees, and no one shall deposit during the closed season, fire or live coals upon the right of way outside of the yard limits, and within one-quarter of one mile of any forest material, without such deposit of fire or live coals shall be immediately extinguished.

Penalties.—Anyone violating the provisions of this section respecting the deposit of fire or live coals, shall upon conviction pay a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00)

¹ For closed season, see sec. 5277-8, on p. 6.

² See also sec. 5277-13, on p. 8, for requirements concerning spark arresters on wood-waste distributors, and power plants.

³ See sec. 5277-19, 5277-20, 5277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

³ See sec. 5277-11, on p. 7, for penalties for defacing or destroying posted notices.

⁴ See also sec. 5277-15, on pp. 5-6, concerning reports to be made by wardens and rangers on lack of sufficient spark arresters, etc.

or be imprisoned in the county jail not exceeding thirty (30) days.¹

Wardens and rangers to report, for prosecution, lack of spark arresters, or of devices to prevent the escape of fire or live coals.—Wardens and rangers shall report any lack of sufficient spark-arresters, and any lack of adequate devices for preventing the escape of fire and live coals, as provided in this act,² to the forester, and to the prosecuting attorney of their county, and the superior court of that county where suit is first instituted, shall have jurisdiction of the offense. [L., 1911, ch. 125, sec. 15.]

SEC. 5277-17.

Stationary engine, operated during closed season: Watchman required—Area around engine to be cleared.—Everyone operating a stationary engine, for the logging of timber, or the clearing of land of tree stumps, or other wood material, shall during the closed season:

(a) Maintain a watchman at the point where the said donkey engine, or other portable or stationary engine may be located, said watchman to be on duty for at least two hours following every time when the said donkey engine, or other portable stationary engine shall cease operations.

(b) Cut down all snags, stubs and dead trees over twenty-five feet in height within a radius of fifty (50) feet from each donkey engine, or other portable or stationary engine. [L., 1911, ch. 125, sec. 17.]

SEC. 5277-18.

Logging locomotive: Fire patrol to follow—Time of starting.—Everyone operating a logging locomotive during the closed season, shall: Have a man whose duty it shall be to follow each logging locomotive, except a locomotive using oil for fuel, for the purpose of acting as fire patrol, the said man to begin the said patrol at approximately thirty (30) minutes after the starting of the logging locomotive which it is his duty to follow.

Penalties for violation of provisions in Secs. 5277-16, 5277-17, 5277-18.—Anyone who shall violate any of the provisions contained in section 5277-16,³ 5277-17, or 5277-18, shall be punished by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment in the county jail for not less than thirty (30) days.⁴ [L., 1911, ch. 125, sec. 18.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 5277-5, SUPP., 1913, TO REM. AND BAL. CODE.

Inflammable material: Discovery and destruction of, by wardens.—(For text of provisions, see this section on p. 4.)

¹ See secs. 5277-19, 5277-20, 5277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

² See sec. 5277-14, on p. 5, and sec. 5277-6, on pp. 4-5.

³ See p. 7.

⁴ See secs. 5277-19, 5277-20, 5277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

SEC. 5277-8.

Slash disposal: Closed season—Permit required—Penalties—Regulations, compliance with.—No one shall burn any forest material within any county in this state in which there is a warden or ranger during the months of June to September, inclusive, in each year, which period is hereby designated as the closed season, without first obtaining permission in writing from the forester (or a warden),¹ or a ranger, and afterwards complying with the terms of said permit; and anyone violating any provisions contained in the preceding portions of this section shall, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or be imprisoned in the county jail not exceeding thirty (30) days.² Such permission for burning shall be given only upon compliance with such rules and regulations as the board [shall] prescribe, which shall be only such as the board deems necessary for the protection of life or property.

Permits: Refused, revoked, or postponed.—The forester, any of his assistants, any warden or ranger, may at his discretion, refuse, revoke or postpone the use of permits to burn when such act is clearly necessary for the safety of adjacent property. [L., 1911, ch. 125, sec. 8.]

SEC. 5277-9.

Slash disposal: Preparation of area for burning.—No one shall burn any forest material until all dry snags, stubs and dead trees over twenty-five (25) feet in height, within the area to be burned, shall have been cut down, and until such other work shall have been done in and around the slashing or chopping, to prevent the spread of fire therefrom, as shall be required to be done by the forester, or any warden or ranger.

Official watchman in charge.—When any person shall have obtained permission from the forester, or warden or ranger, to burn any slashings made for the purpose of clearing land, the warden may, at his discretion, furnish him with a man to supervise and control the burning, who shall represent and act for such warden, and shall have all the power and authority of a warden while engaged in such service, including the right to revoke such permit, if in his opinion the burning authorized would endanger any valuable timber or other property. Such man shall serve only until such time as the party burning may be able to keep the fire under control himself.

Employment of assistants in fire-fighting—Tools—Transportation.—The forester and wardens are hereby authorized and empowered to employ a sufficient number of men to extinguish or prevent the spreading of any fires that may be in danger of destroying any valuable timber or other property in this state. The forester, or any warden by special authority of the forester, may provide needed tools and supplies, and transportation when necessary for men so employed.

¹ The words "or a warden" are contained in the official copy of the Session Laws of 1911.

² See secs. 5277-19, 5277-20, 5277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

Compensation of assistants and watchman.—Every man so employed, and also the representative of the warden supervising the burning, shall be entitled to compensation of twenty-five cents per hour for each hour's actual service; and the warden shall issue a certificate to each man so employed showing the number of hours worked by him and the amounts due to him, upon which, after approval by the forester, the man shall be entitled to receive payment from the state in the manner provided for in section 5277-3.¹

Penalty for refusing to assist.—Any person refusing to render assistance when called upon by any warden, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).² [L., 1911, ch. 125, sec. 9.]

Sec. 5277-10.

Permits: Suspension by governor in times and localities of unusual fire danger.—(For text of provision, see this section, on this page.)

Sec. 5277-12.

Nuisance: Inadequately protected forest land, and inflammable material, when declared to be—Action by forester.—Any and all inadequately protected forests, or deforested land covered wholly or in part by any inflammable debris, or otherwise likely to further the spread of fire, which by reason of such location or condition, or lack of protection, endangers life or property, when adjoining, lying near, or intermingling with other forest land, is hereby declared to be a public nuisance, and whenever the forester shall learn thereof, he shall notify the owner, or person in control or possession of said land, advise him of means and methods that should be taken for its protection, and request him to take the proper steps to that end. [L., 1911, ch. 125, sec. 12.]

Sec. 5277-16.

Slash disposal in clearing right of way: Requirements—Permit to be obtained.—Everyone clearing right of way for railroad, wagon road, or other road, shall pile and burn on such right of way all refuse timber, slashings, choppings and brush cut thereon, as rapidly as the clearing or cutting progresses, and the weather conditions permit, or at such other times as the forester, or any of his assistants, or any warden may direct, and before doing so, shall obtain a permit.³

Burning not to be required, when.—During the closed season such burning shall not be required to be done, while the forester, any of his assistants, or any warden in authority shall refuse to issue a permit for such burning.

Clearing lands, and logging timber: Restrictions to protect green timber.—No one slashing brush or timber for the purpose of clearing land, or cutting or log-

ging timber, shall fell, or permit to be felled, trees, in such a manner that the tops or branches shall fall into green timber not owned by the one felling or permitting the felling of such trees, without first obtaining permission of the owner of said green timber. [L., 1911, ch. 125, sec. 16.]

4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 5277-10, SUPPL. 1913, TO REM. AND BAL. CODE.

Permits: Suspension by governor in times and localities of unusual fire danger.—In times and localities of unusual fire danger, the governor, with the advice of the forester, may suspend any or all permits or privileges authorized by section 5277-8,¹ and may prohibit absolutely the use of fire therein mentioned.

Open season for hunting: Suspended by governor, when.—Whenever during an open season for the hunting of any kind of game within this state, it shall appear to the governor that by reason of extreme drought, the use of fire arms or fire by hunters is liable to cause forest fires, he may by proclamation suspend the open season and make it a closed season for the shooting of wild birds or animals of any kind, for such time as he may designate, and during the time so designated all provisions of law relating to closed seasons for game shall be enforced. [L., 1911, ch. 125, sec. 10.]

Sec. 5277-11.

Posted notices, defacing or removing: Penalties.—Any person who shall willfully or needlessly deface, or remove any warning placard or notice posted under the requirements of this act,² shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense, or by imprisonment in the county jail not exceeding thirty (30) days.

Penalties for causing fires.—Any person who shall upon any land within this state, set and leave any fire that shall spread or damage or destroy property of any kind not his own, shall upon conviction, be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). If such fire be set or left maliciously, whether on his own or on another's land, with intent to destroy property not his own, he shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or imprisonment in the county jail for not less than one month, nor more than one year, or by both such fine and imprisonment, and shall be liable for all damages in a civil suit.³

During closed season, leaving fires unquenched—Causing fires by dropping lighted cigars, matches.

¹ See p. 2.

² See secs. 1277-19, 1277-20, 1277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

³ For penalties, see sec. 1277-13 on p. 6.

¹ See p. 6.

² See sec. 1277-4 on pp. 2-3 and sec. 1277-6 on pp. 4-5.

³ See secs. 1277-19, 1277-20, 1277-21, on p. 3, for provisions concerning arrests, prosecutions, and disposition of fines.

or use of firearms, etc.—During the closed season,¹ any person who shall kindle a fire on land not his own, in or dangerously near any forest material and leave same unquenched, or who shall be a party thereto, or who shall by throwing away any lighted cigar, matches, or by use of firearms, or in any other manner, start a fire in forest material not his own, and leave same unquenched, shall upon conviction be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or be imprisoned in the county jail not exceeding two (2) months. [L., 1911, ch. 125, sec. 11.]

Sec. 5277-13.

Mill wood-waste, burning in the open: Precautions required.—It shall be unlawful for anyone manufacturing lumber or shingles, or other forest products, to destroy wood-waste material by burning the same at or near any mill situated within one-quarter of one mile of any forest material, without properly confining the place of said burning and without further safeguarding the surrounding property against danger from said burning by such additional devices as the forester may require.

Mill wood-waste, destroying in burner or destructor: Spark arrester required.—Power plant having spark-emitting outlet: Spark arrester required.—It shall be unlawful for anyone to destroy any wood-waste material by fire within any burner or destructor operated at or near any mill, and situated within one-quarter of one mile of any forest material, or to operate any power-producing plant using in connection therewith any smoke-stack, chimney, or other spark-emitting outlet, without installing and maintaining on such burner, or destructor, or on such smokestack, chimney or other spark-emitting outlet, a safe and suitable device for arresting sparks.

Penalties.—Anyone violating the provisions of this section shall upon conviction thereof, be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each and every violation, or by imprisonment of not less than thirty (30) days in the county jail. [L., 1911, ch. 125, sec. 13.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

Sec. 6667, REM. AND BAL. CODE, 1910, AMENDED BY L., 1915, CH. 147, SEC. 2.

Cut-over State lands, when reserved from disposal and certified to forester: Protection and reforestation thereof.—* * * When the merchantable timber has been sold and actually removed from any land, the board

of state land commissioners¹ may classify the land and such portions thereof as may be found most suitable for reforestation may, by order of the board, be reserved from any future sale and when once so reserved shall not thereafter be subject to sale or other disposition. The commissioner of public lands shall certify to the state fire warden and forester all such reserves so made and thereupon it shall be the duty of the state fire warden and forester to protect such land and the remaining timber from fire and to reforest the same: * * *

SEC. 5277-2, SUPP., 1913, TO REM. AND BAL. CODE.

Grants for State forests: Board may accept—Title to lands, examination of, and report upon.—(For text of provisions, see this section, on p. 2.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

SEC. 5277-2, SUPP., 1913, TO REM. AND BAL. CODE.

State Board of Forest Commissioners: To collect information concerning condition of State timber lands, through forest officers.—(For text of these provisions, see this section, on p. 2.)

SEC. 5277-4.

State forester, duties concerning timber on State lands: Enforcement of laws for preservation of the forests within the State—Mapping and protection of timbered and cut-over lands, and reporting thereon to Board—Inquiry into extent, kind, value, and condition of all timbered lands within the State; acreage and value of timber harvested yearly; timber production and fire data; and facts concerning second-growth timber and reforestation—Annual report upon investigations, and work of the forest fire service.—(For text of these provisions, see this section, on pp. 2-3.)

SEC. 5277-5.

Fire wardens, timber duties of: Employment where fire dangers exist, and for examination of deforested lands—Discovery and destruction of inflammable material—Prevention of trespass, etc.—(For text of provisions, see this section, on p. 4.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ The board of State land commissioners is composed of the commissioner of public lands, the secretary of state, and the State treasurer. (Sec. 6665, Rem. and Bal. Code, 1910, as amended by L., 1915, ch. 6, sec. 1. See volume of session laws.)

¹ See sec. 5277-8, on p. 6.

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

INDIANA

(Serial 1—Though Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION.

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 7450, BURNS' ANNO. IND. STAT., 1914.

State Board of Forestry: Created Personnel—Secretary, ex-officio State Forester and Superintendent of State Forest Reserves, qualifications of Terms of office Salary and expenses Quorum—President.—That a board is hereby created and established which shall be known under the name of the state board of forestry. It shall consist of five members, who shall be appointed by the governor, as follows: One from the membership of the hardwood lumber dealers' association of Indiana, one from the membership of the retail

lumber dealers' association of Indiana, one from the faculty of Purdue University, one who is actively engaged in farming and one who shall have special knowledge of the theory and art of forest preservation and timber culture and technical knowledge of the topography of the state, and the last described member, shall, upon his appointment and qualification become and be the secretary of said board, ex-officio state forester and superintendent of state forest reserves. All of said members shall hold their offices for a term of four years, and each of said members, except the secretary, who is hereinafter provided for, shall receive a salary of one hundred dollars per annum and mileage not to exceed three cents a mile for necessary miles traveled in attending necessary meetings of said board. Said salary and mileage shall be paid out of the treasury of the state upon warrants of the auditor of state, and the members shall certify the amounts due them, separately, upon vouchers duly attested before some officer authorized to administer oaths. A majority of said board shall constitute a quorum, and said board shall annually elect from

its number a president: *Provided*, That members of the board heretofore appointed shall serve during the term for which they were appointed. [L. 1901, ch. 49, sec. 1; amended by L. 1903, ch. 44, sec. 1.]

Sec. 7451.

State Board of Forestry: Oath of office.—Before entering upon the discharge of their duties, the members of said board shall each take and subscribe an oath of office before the clerk of the supreme court that they will faithfully and honestly discharge the duties of said offices, which oath of office shall be filed in the office of the secretary of state. [L. 1901, ch. 49, sec. 2.]

Sec. 7452.

State Board of Forestry: Meetings.—The board shall meet at least once each quarter in the city of Indianapolis and as often as they may deem necessary upon five days' notice signed by the president and secretary, and in the absence of the president, a chairman shall be chosen to preside. The minutes of all meetings shall be recorded by the secretary in a book to be kept for that purpose. [L. 1901; ch. 49, sec. 3.]

Sec. 7453.

State Board of Forestry, duties of: Collection and classification of forest data—Recommendations re forest preservation and timber culture, and establishment of State forest reserves—Annual Reports.—It shall be the duty of said board to collect, digest and classify information respecting forests, timber lands, forest preservation and timber culture, and to recommend plans and methods for forest preservation and timber culture and for the establishment of state forest reserves. The board shall, annually, on or before the first day of December, file with the governor a report. [L. 1901, ch. 49, sec. 4.]

Sec. 7454.

Secretary of Board: Office, and duties.—The secretary of the board shall keep his office at Indianapolis, in a room to be furnished said board by the custodian of the state house, and shall perform such duties as are prescribed by this act or may be required by the board; and he shall, as far as practicable, submit to the associations and meetings of timber dealers, wood-workers, farmers and engineers of maintenance of way of railroads, information and facts as to forests and timber. [L. 1901, ch. 49, sec. 5.]

Sec. 7455.

Secretary of Board: Salary and expenses of, and salary of clerk—Time devoted exclusively to work of office—Payments due to, how made—Expenses of publication.—The secretary shall receive an annual salary of eighteen hundred dollars. For expenses of office and traveling, an amount not exceeding \$1,000; clerk six hundred dollars (\$600). Said secretary shall give his exclusive time and attention to said office and shall not hold any other office, appointment or position other than herein

provided for. The president of the board shall quarterly certify the amount due the secretary upon vouchers duly attested by the secretary before some officer authorized to administer oaths, and the amount so certified shall be paid to the secretary out of the treasury of the state upon warrant of the auditor of state. That expenses of publication shall be paid from expense fund of the state printing board. [L. 1901, ch. 49, sec. 6; amended by L. 1903, ch. 44, sec. 2.]

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

Sec. 2263.

Township Road Supervisors: Employing help to extinguish fires—Payments—Rates.—It shall be the duty of the township road supervisor when any woods, as in section 1,¹ shall become on fire in his road district to employ such help as he may need to extinguish such fire, and himself and such help as he employs shall be paid by the township trustee from the general expense funds of the township at the rate of \$1.50 per day for the time actually occupied in extinguishing such fire. [L. 1905, ch. 49, sec. 2.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

Sec. 5525a.

Railroads: Responsible in damage for injuries caused by fire from locomotives—Insurable interest—Burden of proof as to contributory negligence—Fire clauses in contracts re private side-tracks.—That each railroad corporation owning or operating a railroad in this state shall be responsible in damage to every person or corporation[s] whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines in use upon the railroad owned or operated by such railroad corporations, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own be-

¹ See Code sec. 2262, on p. 3.

half for its protection against such damages: *Provided*, In all actions instituted under this act the burden of proving the defense of contributory negligence shall be upon the defendant. Such defense may be proved without special plea: *Provided*, That this act shall not be construed to prevent or affect in any wise fire clauses which may be inserted in contracts between railroad companies and other parties, relative to the construction of and operation over private sidetracks. [L. 1911, ch. 107, sec. 1.]

Sec. 5525b.

Railroad corporations defined.—The term "railroad corporations" contained in this act shall be deemed and taken to mean all corporations, companies and individuals now owning or operating, or which may hereafter own or operate, any railroad within this state. [L. 1911, ch. 107, sec. 2.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

Sec. 2261.

Woods, prairie, marsh, etc., maliciously burning: Penalty.—Whoever maliciously or wantonly sets fire to any woods, or to anything growing or being upon any marsh, prairie or grounds, not his own property, or maliciously or wantonly permits any fire to pass from his own marsh, prairie or grounds, to the injury or destruction of the property of any other person, shall, on conviction be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding thirty days. [L. 1905, ch. 169, sec. 372.]

Sec. 2262.

Woods, setting on fire: Fine—Liability for damages—Prosecution—Action against prosecuting attorney for non-feasance—Bondsmen liable for damages sustained.—That any person who shall set fire to any woods belonging to another or shall place a fire on his property and permit it to spread to the woods of another shall be liable to a fine of not less than \$5 or more than \$50, and furthermore, shall be liable to the owner or owners for the full damages sustained by reason thereof, and it shall be the duty of the prosecuting attorney of the county to faithfully investigate and prosecute each and every case, and any failure to do so by him shall be sufficient evidence for his removal from office, and his bondsmen shall become liable for the full damage hereof sustained. [L. 1905, ch. 49, sec. 1.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

Sec. 7456.

State forest reservation, laboratory and State nurseries: Appropriation for purchase of land—Amount annually allowed for management.—That there be and is hereby set aside a sum of money out of any money not otherwise appropriated sufficient to purchase two thousand acres of land by the state board of forestry for the purposes of a state forest reservation, laboratory of forestry demonstration and state nurseries, and that the sum of one dollar and fifty cents per acre annually thereafter be allowed to defray the expenses of management and labor of the same. [L. 1903, ch. 60, sec. 1.]

Sec. 7457.

State forest reservation, etc.: Location of land, and price.—The board of forestry shall purchase said land in any county or counties of the state, which, in its judgment, affords the best opportunities for the purposes prescribed: *Provided*, That the land so purchased shall not exceed a cost of eight dollars per acre, and the land so purchased shall be taken in title in the name of the state of Indiana. [L. 1903, ch. 60, sec. 2.]

Sec. 7458.

State forest reservation, etc.: Management—Expenses, payment of.—The board of forestry shall manage and shall establish such rules and regulations governing the management and work as are necessary to execute the plans it may project, and the expense of the same shall be paid quarterly from the fund designated for that purpose out of the state treasury, upon warrant by the auditor of state when vouchers are presented to said auditor duly certified to by the president and secretary of the board before some officer authorized to administer oaths. [L. 1903, ch. 60, sec. 3.]

Sec. 7459.

State forest reservation, etc.: Receipts from, disposal of, by Secretary of Board—Bond of Secretary.—The secretary of the board shall receive all money to which the state may be entitled by reason of the sale of any timber, leases, contracts for the mining and removal of minerals or from any source whatever from such land, and he shall immediately pay the same over to the state treasurer as a part of the revenues of the state, and the secretary shall give his bond, to the governor of the state, in the sum of five thousand dollars for the faithful discharge of his duty. [L. 1903, ch. 60, sec. 4.]

SEC. 7460.

State forest reservation, etc.: Rights of way across, granting.—That the state board of forestry shall have the right to grant and convey by deed rights of way to electric and steam railroads and to telegraph and telephone companies to construct and operate their lines across the lands of the Indiana state forest reservation, laboratory of forestry demonstration and state nurseries. [L. 1907, ch. 57, sec. 1.]

SEC. 7461.

State forest reservation, etc.: Rights of way across, approval of.—The terms and conditions upon which such rights of way are granted and conveyed by deed shall be submitted to and approved by the governor, the attorney-general and the auditor of state, before the same shall become operative or possession taken thereunder. [L. 1907, ch. 57, sec. 2.]

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

SEC. 4276a.

Local Forestry Associations: Formation—Powers to establish and maintain Forests—Affiliation with Indiana forestry association.—That any number of persons not less than five may voluntarily associate themselves by written articles of association, in duplicate, signed and acknowledged by each person who may be a member at the time of the organization, specifying the name of such association as the forestry association of the county, city, town or township, as the case may be, where it is contemplated to establish and maintain a public forest; one copy to be filed with the recorder of the county, which shall be recorded in the proper book in such office; the other to be filed with the secretary of the Indiana forestry association. And thereupon such association shall become a corporation perpetually with powers to establish and maintain forests for the uses and purposes herein provided. Any person may become a member of the association by consent of the forestry board named in this act. Such association may establish annual and life membership fees. Every such association shall become affiliated with the Indiana forestry association without charge under such rules and regulations as that association may from time to time provide. [L. 1913, ch. 13, sec. 1.]

SEC. 4276b.

Forestry Boards of associations: Officers—Duties—Bonds—Vacancies, how filled—No compensation—Term of service.—Every association shall name in its articles five (5) persons of the county interested in the subject of forestry as the forestry board of such association. The board shall choose from their number a presi-

dent, secretary and treasurer and forester, and fix their duties and require bonds for the performance of such duties. Upon the death, resignation or removal of any member of such board the members of that association shall select some fit person to fill such vacancy; and all vacancies shall be filled by the remaining members of such association. The members of the board shall serve without compensation and hold during good behavior. [L. 1913, ch. 13, sec. 2.]

SEC. 4276c.

Gifts to associations: Title to vest in forestry board—Property non-taxable—Title to lands of lapsed associations to vest in the State of Indiana.—Every such association may accept gifts of money, lands, and property for its use in acquiring and maintaining forests. And for that purpose it may acquire title to lands by gift, devise or purchase. The title to all property howsoever given or acquired shall vest in such forestry board and the same shall not be sold or incumbered, but shall be held in perpetuity for forestry purposes for the benefit of the public. The property of such association shall not be taxable for state, county, township, town, or any other purposes. In case any local association shall lapse or cease to maintain its organization, the title to the lands held by it shall vest in the State of Indiana. [L. 1913, ch. 13, sec. 3.]

SEC. 4276d.

Contributions by county commissioners, common councils, and others, towards acquiring and maintaining Forests: How made, and used—Copy of order to be filed with Indiana forestry association.—It shall be lawful for the boards of commissioners of the several counties of this state and the common councils and boards of trustees of the cities and towns in any county and the trustees of any township where any forest is established to assist in acquiring and maintaining the same by contributions to such associations which may be sums in gross or annual payments from year to year as may be determined at the time of the making or adoption of the order of [or] ordinance therefor. All such funds shall be used only by the forestry board of the association for the purchase, improvement and development of the forests to which the same may be dedicated and shall continue irrevocable for the time or period specified in such order or ordinance. A copy of every such order or ordinance shall be filed in the office of the recorder of the county and a duplicate thereof with the secretary of the Indiana forestry association. [L. 1913, ch. 13, sec. 4.]

SEC. 4276e.

Lands acquired by associations: Reports thereon to be filed with the Indiana forestry association.—Every association acquiring land by gift, devise, purchase, or otherwise, shall report in writing to the secretary of the Indiana forestry association a description of such land and how and from whom acquired and the cost thereof, if any. [L. 1913, ch. 13, sec. 5.]

SEC. 4276f.

Forestry Boards of associations, duties of: Cultivation and protection of Forests—Disposition of proceeds therefrom.—It shall be the duty of the forestry board of every forestry association to plant, protect and cultivate the forestry lands authorized to be acquired by this act in such way as to produce trees of the kinds well suited for lumber and other purposes; and the product of the forest when sold by such forestry board and any other moneys arising on account of such lands shall be used for acquiring other lands for and reforesting and maintaining the forest so that the same may be a means of affording the enlargement, continuance and maintenance of the forest in perpetuity; any surplus not so required to go to the school fund for [of] this state. [L. 1913, ch. 13, sec. 6.]

SEC. 4276g.

Forests: Use of, as play-grounds, pleasure resorts, etc.—The forestry board shall have power to permit the forest to be used as playgrounds, for picnics, and other meetings for the pleasure, health and enjoyment of the people, when the same can be had without injury to the forest, and free of charge, under such rules and regulations as the forestry board may from time to time adopt and provide. [L. 1913, ch. 13, sec. 7.]

SEC. 4276h.

Injury of trees in Forests: Penalty—Fines to go toward maintenance of Forest.—After the establishment of any such forest it shall be a misdemeanor for any person to injure, deface, harm or destroy any tree in such forest without the consent of the forestry board. Any offender upon complaint of any member of the forestry board shall be arrested and fined by any justice of the peace in any sum not less than five times the value of the tree destroyed or the injury done, which sum when recovered shall be paid to the forestry board and become

a part of the fund for the maintenance of the forest. [L. 1913, ch. 13, sec. 8.]

SEC. 4276i.

Employment of foresters.—When necessary the forestry board shall have power to employ foresters and others to plant, protect, cultivate and maintain the forest. [L. 1913, ch. 13, sec. 9.]

SEC. 4276j.

President of each Board, a member of the State association.—The president of every forestry board shall ex officio be a member of the Indiana forestry association. [L. 1913, ch. 13, sec. 10.]

SEC. 4276k.

Use of Forests by teachers.—Any teacher in any of the public schools or universities of this state giving instruction on the subject of forestry shall have the right without charge to take the pupils and students of such schools to any public forest as a means of giving instruction on the subject of forestry. [L. 1913, ch. 13, sec. 11.]

SEC. 4276l.

Construction of act.—This act shall be liberally construed and so as to encourage and promote forestry throughout the state. And for such purpose the legislature reserves the right to amend this act from time to time when it shall be necessary to further the purposes of this act. [L. 1913, ch. 13, sec. 12.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

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MINNESOTA

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SEC. 3783, GEN. STAT., MINN., 1913.

State forestry board: Personnel—Appointments—Terms—Qualifications.—There shall be a State forestry board, of nine members, composed of the director of the forestry school and the dean of the agricultural college of the University of Minnesota, and seven others appointed by the governor, for a term of four years and until their successors qualify. Two of said members shall be appointed upon the recommendation of the regents of the

university () and one shall be appointed upon the recommendation of each of the following bodies: The state agricultural society, the state horticultural society, and the state game and fish commission—provided suitable persons be recommended by them to the governor not later than January 31st, of the year in which such terms expire. All vacancies shall be filled the same as the original appointments. The members now in office shall hold through the terms for which they were respectively appointed. So far as practicable, all such appointees shall be appointed with reference to their knowledge of, and interest in, the planting and cultivation of trees in prairie regions, the preservation of natural forests, the reforestation of denuded lands, and the protection of the sources of streams. [L. 1911, ch. 125, sec. 1, amended by L. 1913, ch. 159, sec. 1.]

Sec. 3784.

Secretary to State forestry board: Appointment—Salary—Duties.—The state forestry board shall appoint a secretary at a salary not to exceed eighteen hundred (1800) dollars per annum,¹ whose duties shall be prescribed by the board. [L. 1911, ch. 125, sec. 2.]

SEC. 3785, AS MODIFIED BY SEC. 5377.²

State forestry board: Powers and duties, in general—Annual report.—The board shall have the management of the * * * [state forests] and of all other property acquired therefor, supervise all matters of forest protection and reforestation and have charge of all moneys appropriated therefor or accruing therefrom, including the forest reserve fund and the forest service fund. It shall ascertain and observe the best methods of reforesting cut-over and denuded lands, foresting waste and prairie lands, preventing destruction of forests and lands by fire, administering forests on forestry principles, encouraging private owners to preserve and grow timber for commercial purposes, and conserving the forests around the head waters of streams and on the watersheds of the state, and shall collect information regarding the timber lands owned by the state. On or before the first Monday in December of each year the board shall report its doings, conclusions, and recommendations, and any damage caused by forest and prairie fires and any trespassing upon state lands to the governor, which report shall be printed and distributed to the members of the legislature and otherwise as the board may direct. [L. 1911, ch. 125, sec. 3.]

SEC. 3739, AS MODIFIED BY SEC. 5377.²

State forestry board: Powers and duties concerning, contracts, seal, regulations, state forests, litigation, leases, sales of timber, and alienation of tracts—Quorum.—The board may enter into contracts in the name of the state; may adopt a seal; may make all reasonable rules and by-laws for its own government, and for the care, management, and preservation of the * * * [state forests]; may cause actions to be brought in the name of the state to protect the state's interests in matters confided to its care; may 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 alienate any tract of land, when such alienation is demanded by the growth of towns, the building of railroads, or water power or other public improvements. A majority of the board shall be a quorum for the transaction of business. [Sec. 2509.]

Sec. 5380.

State forestry board: No compensation—Expenses.—The members of the board shall receive no compensation for their services as such, but they shall be repaid their reasonable expenses incurred in attending

meetings of the board or executive committee, or in performing services at the request of either. [Sec. 2511.]

Sec. 3786.

State forestry board: President—Vice president—Executive committee.—State forester: Qualifications—Salary and expenses—Office—Appointment and removal of assistant forester and employees—Other powers and duties concerning equipment, accounts, investigations, forest protection, publications, and fire notices.—The board shall elect a president and vice-president annually. It may appoint an executive committee on which it may confer authority to act for it in minor details which cannot conveniently be acted upon by the board. The board shall appoint a state forester who shall be a trained forester, at a salary not to exceed four thousand (4,000) dollars per annum,¹ and he shall be allowed necessary traveling and field expenses incurred in the conduct of his official duties. The office of the state forester shall be at the state capitol and the board is hereby authorized to employ such office assistants as may be necessary and to fix their compensation. The state forester, with the approval of the state forestry board, may appoint an assistant forester and such other employees, outside of the office assistants, as may be necessary in carrying out the provisions of this act and fix the amount of their compensation;¹ and the state forester shall have the power to remove any such subordinate officers and employees so appointed by him. He shall be authorized under the direction and approval of the state forestry board to purchase all necessary equipment, instruments and field supplies. A full and accurate account of all receipts and expenditures incurred in the carrying out of the provisions of this act, with such vouchers and forms as may be recommended by the state public examiner, shall be kept in a system of books prescribed by such examiner. The state forester shall execute all rules and regulations issued by the state forestry board pertaining to forestry and forest protection within the jurisdiction of the state; shall investigate the origin of all forest fires, and prosecute all violators of this act; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules and regulations as may be formulated by the state forestry board. He shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places, and shall furnish same to the railroad companies whose duty it shall be to post them in such places as he may direct. [L. 1911, ch. 125, sec. 4.]

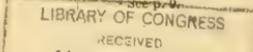
SEC. 3787, AS MODIFIED BY SEC. 5377.²

State forester, further duties of: Data and maps of timber and cut-over lands and state forests—Distribution of maps—Protection from fire and trespass—Reports upon forest and fire work, including second-growth timber data—Recommendations for forest protection, management, and reforestation.—The state forester shall become familiar with the location

¹ For later legislation as to salaries see secs. 294, 295, on p. 4.

² See p. 9.

¹ For later legislation as to salaries, see secs. 294, 295, on p. 4.



and area of all state timber and cut-over lands and prepare maps of * * * [state forests] and each of the timbered counties showing the state lands therein, and shall supply such maps to the district rangers, to the officials of the state and counties requiring them, and in all ways that are practicable and feasible shall protect such lands from fire and the illegal cutting of timber; he shall report from time to time to the board, such information as may be of benefit to the state in the care and management of its timber.¹ It shall be his duty to inquire into the extent, kind, value, and condition of all timber lands; the amount of acres and value of timber that is cut or burned, and he shall also report the quantity and species of second-growth timber, and shall not later than the first of December of each year make a written report to the state forestry board upon all such data ascertained by him, and shall recommend therein plans for improving the state system of forest protection, management and reforestation. [L. 1911 ch. 125, sec. 5.] *

Sec. 3788.

State forester, scientific management of forest resources: Cooperation with State auditor, State and Federal departments, counties, towns, corporations, and individuals.—The state forester shall cooperate with the state auditor and with the several departments of the state and federal governments, or with counties, towns, corporations, and individuals, in the preparation of plans for forest protection, management, replacement of trees, wood lots, and timber tracts, using his influence as time will permit toward the establishment of scientific forestry principles in the management and protection of the forest resources of the state.¹ [L. 1911, ch. 125, sec. 6.]

Sec. 1, Ch. 325, L. 1915.

State forester: Employment by, of sanatorium inmates.—The state forester is hereby authorized and directed that in the employment of labor whenever it is necessary to reforest the state lands of the state, or to perform such other labor as will by him be deemed proper in the care of such land, he shall consult the superintendent of the State Sanatorium for Consumptives and find from such superintendent, those persons who are able to perform labor who have received treatment at said sanatorium or county sanatorium for three months and shall in the employment of such laborers give preference to those who are in his judgment competent to perform such labor.

Sec. 2.

Compensation for sanatorium labor.—The compensation to be paid for such labor shall be the same as that received by others for like services.

¹ The State forester is also a member of the State board of timber commissioners, which is composed of the governor, treasurer, auditor, State forester, and attorney general. (See Gen. Stat., Minn., sec. 5270.)

Sec. 3789, GEN. STAT., MINN., 1913.

State forester, construction of fire-breaks: Cooperation with the State highway commission and town and village officials.—The state forester shall also cooperate with the state highway commission and with the supervising officers of the various towns and villages in the construction of fire-breaks along section lines and public highways.¹ [L. 1911, ch. 125, sec. 7.]

Sec. 3790.

State forester, educational work: In general, and in cooperation with the University of Minnesota.—The state forester may advance, as he deems wise, education in forestry within the state by publications and lectures, and upon the invitation of the director of the college of forestry of the University of Minnesota may cooperate with the said college so far as his time will permit, and such college shall furnish such aid to him as in the circumstances is consistent with its own proper functions. [L. 1911, ch. 125, sec. 8.]

Sec. 3791.

State forester, auditing duties of.—It shall be the duty of the state forester to audit and inspect all bills for salary and expenses incurred by the district rangers and by fire patrolmen for the suppression, checking and control of fires and recommend to the forestry board the amounts justly due and which should be paid. [L. 1911, ch. 125, sec. 9.]

Sec. 3800.

Penalty for refusal to enforce forestry act (ch. 125, L. 1911).—(For text of the provision, see this section on p. 8).

Sec. 3808.

Appropriations for 1911, 1912, 1913.—Claims, how paid—Vouchers, how approved.—* * * The manner of presenting claims to the state auditor and payment of the same shall, so far as practicable, be in accordance with chapter ninety-six (96) of the General Laws of Minnesota for 1905. Itenized vouchers of all expenses shall be approved as directed by the forestry board. [L. 1911, ch. 125, sec. 26.]

Sec. 3809.

Meaning of the term "Board."—Whenever the word "board" is mentioned or referred to in the forestry laws of the state of Minnesota it shall mean the state forestry board herein created. [L. 1911, ch. 125, sec. 27.]

Sec. 3810.

Repeal of certain laws.—Chapter 22, Revised Laws, 1905 and sections 2505, 2506, 2507, 2508, 2510 and 2515 Revised Laws 1905, chapters 82 and 310 of the General Laws of Minnesota for 1905; chapter 182 of the General Laws of Minnesota for 1909 and all acts and parts of acts inconsistent with this act are hereby repealed. [L. 1911, ch. 125, sec. 28.]

¹ See also secs. 3801, 3806, on p. 5.

SEC. 294.

Salaries of forest officers and employees: Fixed—When payable.—The yearly salaries of the state officers and employees mentioned in this act shall be as herein fixed and all salaries shall be payable in monthly installments.

* * * * *

17. State forester, four thousand dollars; assistant forester, twenty-seven hundred dollars; secretary, eighteen hundred dollars; clerk, twelve hundred dollars; draughtsman, nine hundred sixty dollars; two stenographers, nine hundred dollars each. [L. 1913, ch. 400, sec. 1.]

SEC. 295.

Salaries, as provided, to be in full for all services.—The salaries provided in this act for the officers and employees named herein, shall be in full payment for all services that may be rendered by said officers or employees either in the performance of their regular or special duties or while acting as a member or employee of any state board or commission. [L. 1913, ch. 400, sec. 2.]

PART II. FIRES.

(This comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 3792, GEN. STAT., MINN., 1913.

Patrol districts, establishment of.—As soon as practicable after this act shall take effect, the state forester may, with the approval of the state forestry board, create and establish patrol districts, including all lands of both state and private ownership, upon which there is a probability of forest and brush fires starting, and establish rangers over the said districts. [L. 1911, ch. 125, sec. 10.]

SEC. 3793.

District rangers: Duties, in general—Arrests without warrant—Complaint and prosecution—Not liable for civil action for trespass in discharge of duty.—Under the direction of the state forester, the district rangers are charged with preventing and extinguishing forest fires in their respective districts, and the performance of such other duties as may be required by the state forester.

They may arrest without warrant any person found violating any provisions of this chapter, take him before a

magistrate and there make complaint. When the district rangers shall have information that such violation has been committed, they shall, without delay, make similar complaint, and have the same prosecuted. The district rangers shall not be liable for civil action for trespass committed in the discharge of their duties. [L. 1911, ch. 125, sec. 11.]

SEC. 3794.

Fire patrolmen: Duties—Equipment—Impressing assistance—Penalty for failing to assist.—At any time district rangers, with the approval of the state forester, may employ suitable persons to be known as fire patrolmen permanently to remain upon and patrol such territory, state or private, as may be assigned to them as long as may be required to prevent and extinguish any fire. Each such patrolman so employed shall be supplied with the necessary equipment. The state forester, and the district ranger may, and, if they are absent and fires are actually burning in the forest, the fire patrolman may, summon any male person of the age of 18 years and upwards to assist in stopping the fire, and may incur any other necessary and reasonable expense for the same purpose, but shall promptly report the same to the district ranger.

Any person summoned by any official, of the state who is physically able and refuses to assist shall be guilty of a misdemeanor and shall be punishable by a fine of not less than \$5.00 and not more than \$25.00.¹ [L. 1911, ch. 125, sec. 12.]

SEC. 3799.

Fire-fighting: Wages and expenses, how fixed and paid for—Payment of residents—Emergency expenses—Vouchers for payments.—The wages and expenses of men summoned or employed to fight forest fires actually burning, shall be fixed and paid for by the state forester and the labor reckoned and paid for by the hours of labor performed, which shall not exceed the rate of 25 cents per hour employed; provided no pay shall be given for fighting fire within one mile of the residence of such person unless employed by the state forester or his assistants. The forestry board is authorized to draw out of the money appropriated by this act a reasonable sum, not to exceed five thousand (5,000) dollars at any one time, from the state treasurer and place the same in the hands of the state forester to be used by him in paying emergency expenses, and the state auditor is authorized to draw his warrant for such sum when duly approved by the president and secretary of said board. The state forester shall take proper sub-vouchers or receipts from all persons to whom such funds are paid and after the same have been approved by the state forestry board, they shall be filed with the state auditor. [L. 1911, ch. 125, sec. 17.]

¹ See also sec. 3800, on pp. 8-9, as to penalty; and sec. 3805, on p. 9, for provisions concerning prosecutions for violations of this act (ch. 125, L. 1911).

SEC. 3801.

Fire-fighting: Villages and cities to clear off combustible material and make fire-breaks—Penalties.—

All villages and cities in the state situated in the timber area are hereby authorized, and all such municipalities where the same is possible so to do are hereby directed, to clear off all combustible material and debris and create at least two good and sufficient fire-breaks of not less than ten feet in width each, which shall completely encircle such municipalities at a distance of not less than twenty rods apart, between which back-fires may be set or a stand made to fight forest fires in cases of emergency.¹

It is hereby made the duty of the district rangers to report to the state forester any failure to comply with the provisions of this section or any violation of this act and any failure so to do shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars.² [L. 1911, ch. 125, sec. 19.]

SEC. 3806.

Fire-fighting by towns, cities, and villages: Appointment of officials as fire wardens—Precautions—Tax for "fire fund"—Cooperation with and action under State forestry officers.—

The state forester may appoint supervisors, constables and clerks of towns, mayors of cities and presidents of village councils, fire wardens for their respective districts, and it is hereby made their duty to do all things necessary to protect the property of such municipalities from fire and to extinguish the same.

All towns, villages and cities are hereby authorized and directed to take necessary precautions to prevent the starting and spreading of forest or prairie fires and to extinguish the same and are hereby further authorized to annually levy a tax of not more than five mills upon the taxable property of such municipalities, which, when collected, shall be known as the "Fire Fund" which shall be used in paying all necessary and incidental expenses incurred in enforcing the provisions of this act:

In all townships constituted within any of the forest patrol districts which may be established by the state forestry board, the respective town and village officers shall cooperate as far as possible with and act under the general supervision and direction of the state forestry officers.¹ [L., 1911, ch. 125, sec. 24.]

SEC. 3807.

Fines, disposition of: When paid to county, and when to township, city, or village for "fire fund."—

All moneys received as penalties for violations of the provisions of this act, less the cost of collection and not otherwise provided for, shall be paid into the treasury of the county in which the penalties for said violation of the provisions of this act were imposed; provided, however, that fines collected for violations of this act, where prosecutions

are instituted upon the complaint of township, city or village officers, duly appointed by the state forester as fire wardens, shall be paid into the treasury of the township, city or village where the offense was committed, to be credited to the "fire fund" of such township, city or village. [L., 1911, ch. 125, sec. 25, as amended L., 1913, ch. 159, sec. 7.]

SEC. 3811.

Legalizing payments made in aid of sufferers from forest fires.—

That in all cases where the officers of any city or the county board of any county in this state have heretofore, by resolution of the city or common council of any such city or the county board of any such county, in good faith authorized the payment and have paid out public moneys for the purpose of aiding the sufferers from forest fires in northern Minnesota in the year 1910, such payments are hereby in all respects validated and legalized. [L., 1911, ch. 7, sec. 1.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 3795, GEN. STAT., MINN., 1913.

Patrol to follow locomotives: Railroads to provide, when—in case of failure, action by State forester—Recovery of expense—Misdemeanor.—Other precautions—Penalties—Civil liabilities.—

When in the judgment of the state forester there is danger of the setting and spreading of fires from locomotive engines, he shall order any railroad company to provide patrolmen to follow each train throughout such fire patrol district or districts as he deems necessary to prevent fires. When the state forester has given a railroad company notice to provide such patrol after trains, the said railroad company shall immediately comply with such instructions throughout the territory designated; and upon its failure so to do, the state forester may employ patrolmen with the necessary equipment to patrol the rights-of-way of said railroad, and the expense of the same shall be charged to the said railroad company, and may be recovered in a civil action in the name of the state of Minnesota, and in addition thereto, the said company shall be guilty of a misdemeanor.

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

It is also made the duty of any railroad company, acting independently of such state forester, to patrol its right-of-way after the passage of each train when necessary to prevent the spread of fires and to use the highest degree of diligence to prevent the setting and spread of fire, to cause the extinguishment of fires set by

¹ See also sec. 3789, on p. 3.

² For provisions concerning prosecutions for violations of this act (ch. 125, L. 1911), see sec. 3805, on p. 9.

locomotives or found existing upon their respective rights-of-way, and for any violation hereof such railroad company, its officers and patrolmen shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00) and costs, and in addition thereto such railroad company shall be liable for all expenses and damages caused or permitted by it to be recovered in civil action.¹ [L. 1911, ch. 125, sec. 13, amended L. 1913, ch. 159, sec. 2.]

SEC. 3796.

Railroad companies, duties of: Ash pans and spark arresters required on locomotives—Inspection of devices—Record of inspections—Responsibility of Company.—Inspectors appointed by State forester, powers of.—Every company operating a railroad for any purpose shall equip and use upon each locomotive engine a practical and efficient ash pan and spark arresting device, which the master mechanic shall cause to be examined and the same shall be examined by the master mechanic or some employee each time before leaving the roundhouse, except when snow is on the ground. A record shall be kept of such examinations in a book to be furnished by the railroad company for the purpose, showing:

1. The place and number of each engine inspected.
2. The date and hour of day of such inspection.
3. The condition of the said fire protective appliance and arrangements; and
4. A record of repairs made to any of the fire protective appliances. The said book to be open for inspection by the state forester or other authorized officer appointed by him.

The master mechanic or employee making such examination shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder. Any locomotive inspector appointed by the state forester is authorized to inspect any locomotive, donkey, traction or portable engine and all other engines and boilers operated in the vicinity of forest, brush or grass lands, and to enter upon any property for such purpose or where he may deem it necessary in order to see that all the provisions of this act are duly complied with.

Rights of way to be kept clear of combustible materials, when—Exception.—Every such company shall keep its right-of-way clear of combustible materials, logs, poles, lumber and wood, except ties, material for shipment, and other material necessary for the maintenance and operation of the road, from March 15th to December 1st. During particularly dry and dangerous periods the state forester may prohibit any and all burning along part or all of railroad right-of-way for a definite period.

Fire-breaks along routes—Intent of requirement.—Every railroad company shall establish and maintain such fire-breaks along the route of its railway as can be constructed and maintained at not excessive

expense. The intention shall be to adjust the protective measures to the local conditions, and to make the expense proportionate to the fire risk and the possible damage.

Engines, not oil-burning: Restrictions in vicinity of forest, brush, or grass lands.—Except when snow is on the ground, no donkey, traction or portable engine or other engines and boilers except locomotives shall be operated in the vicinity of forest, brush or grass lands, which do not burn oil as fuel, except they be provided with a practical and efficient ash-pan and spark arresting device.

Deposits of fire, live coals, and ashes—Trainmen to report fires—Duty of telegraph and telephone agents.—No company shall permit any of its employees to leave a deposit of fire, live coals or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor or trainman discovering a fire adjacent to the track shall report the same promptly to the agent at the first telegraph or telephone station reached by him, whose duty it shall be as representative of such company to at once take necessary steps to put out such fire.

Instructions to employees re fires—Posting fire notices—Concentration of help, to extinguish fires on rights of way.—Every such company shall give its employees particular instructions for the prevention and extinguishment of fires, and shall cause warning placards such as are approved by the state forester, to be conspicuously posted at every station in the vicinity of forest, brush and grass lands, and when a fire occurs on the right-of-way of its road, shall immediately concentrate such help and adopt such measures as shall be available for its extinguishment.

Reports to State forester upon fires along routes.—Every railroad company shall make such reports to the state forester as are deemed necessary by him of fires occurring on or adjacent to their respective rights-of-way.

Combustible material in proximity of railroad: Action re protection or removal, under notice from forest officer.—Whenever any combustible material shall be left in the proximity of any railroad, either without proper fire protection or so as to constitute a fire menace to other property, it shall be the duty of the owner of such material, upon being notified in writing by the state forester or any forest ranger as to the nature and extent of the protection required, to forthwith comply with all the terms of such notice so as to properly protect or remove such material.

Violations of section: Penalties.—Any company or corporation violating any provision of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution for each offense, and any railroad employee or other individual violating the same shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) and costs of prosecution,

¹ For provisions concerning prosecutions for violations of this act (ch. 125, L. 1911), see sec. 3805, on p. 9.

or by imprisonment in the county jail not exceeding ninety (90) days.¹ [L. 1911, ch. 125, sec. 14, amended L. 1913, ch. 159, sec. 3.]

SEC. 3786.

Fire notices prepared by State forester: Posting of, by railroads.—(For text of provision, see this section, on p. 2.)

SECS. 3797, 3798.

Slash disposal by corporations and others.—(For text of provisions, see these sections, on pp. 7-8.)

SEC. 3804.

Prima facie evidence of negligence in cases of fire set by corporations and others.—(For text of provisions, see this section, on p. 9.)

SEC. 4126.

'Civil liability of railroads for injuries caused by fires—Insurable interest.—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it and may procure insurance thereon in its own behalf for its protection against such damages. [R. L. sec. 2011, amended L. 1909, ch. 378, sec. 1.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 5300, GEN. STAT., MINN., 1913.

Posted notice of area to be cut over: What to contain—Period of posting—Copy, with post-office address, to State forester—Penalty for violation of provisions.—Every person, firm or corporation engaged in the cutting of timber of any kind, telegraph poles or fence posts, upon any of the land belonging to the state, or upon any land whatsoever within this state, shall before cutting any such timber, post in a conspicuous place in any camp building or house occupied by his employees engaged in such cutting a notice which shall contain a full description of the lands proposed by him to be cut, the period during which the cutting is proposed to be done, and which said description shall contain the precise description of said land by forty-acre tracts, or fractions thereof, of governmental sub-divisions, and shall include the section, town and range, and such person or persons so engaged in cutting timber as aforesaid shall be required to keep said notice conspicuously posted in such camp building or house during the entire time that he is engaged in

cutting such timber; and he shall, before cutting any such timber, forward a copy of such notice with his post-office address to the state forester at the state capitol, St. Paul. Any person, persons, firms or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall pay a fine of not less than twenty-five dollars (\$25.00) and not exceeding one hundred dollars (\$100.00) or be imprisoned in the county jail for a period not less than twenty days and not exceeding ninety days.

Reward—Exception.—Any person or persons giving to the proper authorities information which shall lead to the conviction of any person, persons, firm or corporation guilty of a violation of this section shall receive the sum of twenty-five dollars (\$25.00) reward, to be ascertained and paid in the manner provided herein for the payment of the reward provided for in section 40 of this act.¹ Provided, however, that the provisions of this section shall not apply to any person who shall be engaged in cutting cordwood upon his own land or engaged in cutting timber for clearing any land actually owned or occupied by him. [1905, ch. 204, sec. 41, amended 1913 ch. 114, sec. 1.]

SEC. 3797.

Slashings, etc.: Disposal of, under direction of forest officer—Fire line around area.—Where and whenever in the judgment of the state forester or district ranger there is or may be danger of starting and spreading of fires from slashings and debris from the cutting of timber of any kind and for any purpose, the state forester or district ranger shall order the individual, firm or corporation, by whom the said timber has been or is being cut, (1) to dispose of the slashings and debris as he may direct. Where conditions do not permit the burning of the slashings and debris over the entire area so covered, the state forester may require the person, firm or corporation by whom the timber was cut, to dispose of such slashings and debris in such a way as to establish a safe fire line around the area requiring such protection, he said fire line to be of a width and of a character satisfactory to the state forester.

Penalties.—When any person, firm or corporation, shall have been notified by the state forester or district rangers to dispose of slashings and debris, either by entirely consuming the same or establishing a fire line sufficient for the protection of adjoining property, and fails to comply with such instructions, the said person, firm or corporation, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution for each violation thereof or failure to comply therewith.²

Failure to dispose of slashings: Action by forest officer.—Expense, a lien on lands and timber; how collected.—Moneys credited to forest service fund.—When any such (1) slashings or debris are left unattended

¹ See sec. 5299, Gen. Stat., Minn.

² For provisions concerning prosecutions for violations of this act (ch. 125, L. 1911), see sec. 3805, on p. 9.

¹ For provisions concerning prosecutions for violations of this act (ch. 125, L. 1911), see sec. 3805, on p. 9.

contrary to the instructions of the state forester or district ranger, the state forester, the district ranger or patrolman may go upon the premises with such force of men as may be necessary and burn such branches, slashings and debris, and the expense thereof shall be a lien upon the land on which they are situated and also upon the logs and other timber products cut upon said land, and enforced as liens are enforced for the improvement of real estate or personal property. An itemized statement duly verified by the oath of the state forester or district ranger of the amount of the costs of burning or, otherwise disposing of such branches, slashings and debris, shall be filed in the office of the register of deeds of the county in which said timber was cut, and also in the office of the surveyor general of logs and lumber of the district in which said cutting was done, and the expense of burning or otherwise disposing of such branches, slashings and debris shall be a prima facie valid claim that may be collected from the person, firm or corporation who cut the wood or timber from which the said slashings and debris were made. Any moneys collected on account of such liens shall be paid into the state treasury and credited to the forest service fund. [L. 1911, ch. 125, sec. 15, amended L. 1913, ch. 159, sec. 4.]

SEC. 3798.

Clearing land for roadbed or right of way; Disposal of slashings—Exception.—Any person or corporation who cuts or fells trees or bushes of any kind in clearing land for roadbed or right-of-way for any railroad, highway or trail shall in the manner and at the time as above prescribed burn the slashings and all combustible material except fuel and merchantable timber.

Clearing land for agricultural or pasturage purposes, etc.; Disposal of slashings under directions of State forester.—Any person or corporation who cuts or fells trees or bushes of any kind in clearing land for agricultural or pasturage purposes, or who in any way clears land, is prohibited from setting fire to the slashings, brush, roots or excavated stumps or other combustible material on such land and letting the fire run; the material must be disposed of pursuant to the regulations of the state forester.

Construction of public roads; Slash disposal duties of contractors—State forester's approval of work—Shade and other trees to be undisturbed.—Any contractor who enters into a contract for the construction of a public road, and which contract involves the cutting or grubbing of woods, standing timber, or brush from any part of the right-of-way of such road, shall pile all the slashings and debris cut or grubbed from the roadbed or right-of-way in the middle of such right-of-way, and shall burn and dispose of such slash and debris without damage to adjoining timber or woods, which burning shall be done in a manner and at a time satisfactory to the state forester; provided, however, that the foregoing provision shall not prevent the leaving of such trees along roads as will be useful for ornamental and shade purposes, and which will not interfere with travel.

Contracts of town and county boards involving cutting of timber on highway rights of way; Slash disposal provisions of.—Every contract made by or on behalf of any town or county board, which involves the cutting of any timber on the right-of-way of a public highway, shall provide in terms for compliance with the foregoing provision, but that the failure to include such provision in the contract shall not relieve said contractor from the duty to burn and dispose of said slashings as aforesaid. No town or county officer shall execute any such contract on behalf of his town or county which does not provide in terms for compliance with the provisions of this section.

Violation of section: Penalties.—Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$109.00), or by imprisonment in the county jail for not less than twenty (20) days nor more than ninety (90) days.¹ [L. 1911, ch. 125, sec. 16, amended L. 1913, ch. 159, sec. 5.]

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 3800, GEN. STAT., MINN., 1913.

Penalties for: Failure of employees to perform duty, and of others to assist—Failure to extinguish fires—Endangering property of others through negligent fires—Use of incombustible wads for firearms—Carrying naked torch, etc., near forest land—Dropping burning matches, etc.—Destruction of notices, etc.—Every employé of the state forestry board and every person lawfully commanded to assist² in enforcing any of the provisions of this chapter, who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest, brush or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stump, dry grass, field, stubble, or other material and fail to extinguish the same before it has endangered the property of another; every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof;³ every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, in the vicinity of such land, shall throw or drop into combustible material any burning match, ashes or pipe, lighted

¹ For provisions concerning prosecutions for violations of this act (ch. 125, L., 1911), see sec. 3805, on p. 9.

² See also sec. 3794, on p. 4, as to penalty.

³ This clause is a reenactment, in effect, of the provisions contained in sec. 8772. (See Gen. Stat., Minn., 1913.)

cigar, or any other burning substance, and who fails to immediately extinguish the same, and every person who shall deface, destroy or remove any abstract or notice posted under this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days and not exceeding ninety days.¹ [L. 1911, ch. 125, sec. 18.]

SEC. 3802.

Camp fires: Road officers to report—Prosecution of offenders.—Every road overseer or assistant of a road overseer or other local officer having charge of the highway, who finds that any person has left a camp fire burning in his district, shall extinguish the same, and take prompt measures to prosecute the person or persons who so left such fire.¹ [L. 1911, ch. 125, sec. 20.]

SEC. 3803.

Precautions to prevent escape of fires.—Every person who, when the ground is not covered with snow, starts a fire for any purpose not hereinafter specified in this act, in the vicinity of forest or prairie land, shall exercise every reasonable precaution to prevent such fire from spreading, and shall before lighting the same clear the ground from all branches, brushwood, dry leaves and other combustible material within a radius of ten feet from the fire, and shall carefully extinguish the fire before quitting the place. [L. 1911, ch. 125, sec. 21.]

SEC. 3804.

Setting of fires: Care required—Prima facie evidence of negligence.—Whoever under any circumstances sets fire must exercise care and precaution in proportion to the danger.

Whenever a fire set by any person or corporation spreads to and destroys property belonging to another, it shall be prima facie evidence that the party so setting such fire is guilty of negligence in setting the same and allowing it to spread. [L. 1911, ch. 125, sec. 22.]

SEC. 3805.

Prosecutions under forestry act (ch. 125, L. 1911): Appeals, allowance of—County attorney to prosecute.—No appeal shall be allowed from a judgment in justice's court in any prosecution under this chapter unless the person appealing shall, within the legal time prescribed, enter into a recognizance with two sufficient sureties, surety company or cash bail, in twice the amount of the fine and costs, to be approved by the justice, conditioned to appear before the district court on the first day of the general term thereof to be held in and for the same county, and abide the judgment of said court therein.

The justice may examine the proposed sureties under oath, and in such case shall make and keep a record of

¹ For provisions concerning prosecutions for violations of this act (ch. 125, L., 1911), see sec. 3805, on this page.

their answers in respect to the kinds and amounts of their property that is not exempt from execution, and furnish a copy of the same to the state forester.

Whenever an arrest shall have been made for violation of any of the provisions of this chapter, or whenever information of such violation shall have been lodged with him, the county attorney of the county in which the offense was committed shall prosecute the accused with all diligence and energy. [L. 1911, ch. 125, sec. 23, amended L. 1913, ch. 159, sec. 6.]

SEC. 8927.

Wilful burning of grass, timber, etc.: Penalty.—Every person who shall wilfully burn or set fire to any grain, grass, growing crop, standing timber. * * * of another, under circumstances not amounting to arson in any degree, shall be punished by imprisonment in a county jail for not more than one year. [Sec. 5126.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 5377, GEN. STAT., MINN., 1913.

Term "forest reserve" changed to "state forest."—The term "forest reserve," as now used and contained in the laws of the state of Minnesota, shall be and the same is hereby changed to read "state forest." [L. 1913, ch. 86, sec. 1.]

SEC. 5378, AS MODIFIED BY SEC. 5377.

State forests: What included in. The * * * [state forests] of the state shall consist of all state lands which have been or may be set apart by the legislature, or granted by the United States and accepted by the legislature, for forestry purposes, and of all lands which have been or shall be acquired by the state therefor. [Sec. 2504.]

SEC. 5381, AS MODIFIED BY SEC. 5377.

State forests: Acceptance of lands donated or devised for—Clear title.—When the owner of any lands suitable for the * * * [state forests] shall offer, in writing, to convey the same to the state for forestry purposes, the board [State forestry board] shall refer the question of accepting such offer to the town and county boards where the land is situated, for their advice thereon, and shall consider all objections and recommendations submitted upon such question. The decision of the state board thereon shall be final. No conveyance of such lands shall be accepted unless the board shall be advised by the attorney general that the same are clear of liens

except the liens of the state for taxes. If any land shall be devised to the state for forestry purposes, the question of the acceptance thereof shall be determined, as nearly as may be, in the same manner. [Sec. 2512.]

SEC. 5382, AS MODIFIED BY SEC. 5377.

State forests: Tax title lands may become a part of—Procedure—Appropriation.—All lands not included in the corporate limits of any city or village, or any platted town site, which were offered for sale for the payment of taxes which became delinquent prior to the year 1891, under L. 1881, ch. 135, or L. 1893, ch. 150, or L. 1899, ch. 322, and which became the property of the state under any of said acts, and remain undisposed of, and which are totally unfit for agricultural purposes, may become part of the * * * [state forests] in the following manner: When the board shall desire to have any such lands so set apart, it shall submit the question whether such lands are totally unfit for agriculture to the county board, which shall report its determination thereon. Upon request of the forestry board, embodied in a resolution describing such lands so found to be unfit, the attorney general, in all cases in which a right to redeem exists, shall cause notice of the time when the redemption period will expire to be given in the same manner as is required of the holder of a tax certificate; and each notice shall have the same effect to bar the right of redemption as notice given by such holder. The attorney general shall also bring any action in the name of the state necessary to quiet its title. The county attorney, when requested by the attorney general, shall prosecute such actions, for each of which he shall receive five dollars, and the attorney general shall furnish blank forms therefor. When the state's title to any such tract has been quieted, the attorney general shall so certify, and thereupon it shall become a part of the * * * [state forests]. There is hereby appropriated annually ¹ one thousand dollars for paying the expenses incurred in bringing such actions, but no such expenses shall be paid except on vouchers of the forestry board, approved by the attorney general. [Sec. 2513.]

SEC. 5383, AS MODIFIED BY SEC. 5377.

State forests: Purchase of lands for—Clear title.—The board is authorized to purchase for the * * * [state forests], at a price not exceeding two dollars and fifty cents per acre, any land, preferably at the sources of rivers, which is adapted for forestry, but not to exceed in any one township one-eighth of the area thereof; and no money shall be paid therefor until the attorney general certifies that the deed thereof conveys a clear title to the state. [Sec. 2514.]

SEC. 5384, AS MODIFIED BY SEC. 5377.

State forests, parks, etc.: Killing of animals and birds within, prohibited—Exceptions.—No person shall kill, or pursue with intent to kill, take, snare, or have

in possession, by any means upon any Minnesota state forest * * * lands or parks, or upon any lands that may be designated by the state game and fish commission as game propagating and breeding grounds, any wild animals or birds protected at any time by law. The killing or having in possession of each of such protected animal or bird shall constitute a separate offense.

Provided, that this act shall not prohibit the killing or destroying of wolves or other noxious animals by or under the supervision of the state game and fish commission. [L. 1907, ch. 45, sec. 1, amended L. 1909, ch. 171; L. 1913, ch. 95, sec. 1.]

SEC. 5385.

Violation of act (Ch. 45, L. 1907): Penalties.—Any person violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment in the county jail for not less than thirty days or more than ninety days or both. [L. 1907, ch. 45, sec. 2.]

SEC. 5339.

Itasca State Park: Established—Name—Dedicated to use of people of State.—All the lands hereinafter described, or so much thereof as the state is or shall become seized of, shall be a public park, to wit: * * * The name of the park shall be the "Itasca State Park," and it shall remain dedicated to the perpetual use of the people of the state under such restrictions as may be provided by law.¹ [Sec. 2496.]

SEC. 5340.

Itasca State Park: Private lands within, how acquired—Annual appropriation.—The attorney general when requested by the governor, shall procure from persons owning land within the park limits concessions to the state for park purposes by contract or deed, subject to the approval of the governor. If satisfactory concessions can not be so secured, the governor may direct the attorney general to acquire the title thereto by condemnation. The sum of five thousand dollars is hereby appropriated annually ² out of the treasury, or so much thereof as may be necessary, to pay for such lands. [Sec. 2498.]

SEC. 5341.

Itasca State Park: School lands within, how acquired.—The auditor ¹ shall take proper proceedings, under the provisions of this chapter relative to the appraisal and sale of school lands, to cause the sale of the school lands in the park, and at the sale thereof the same shall be bid in by the state for park purposes. [Sec. 2499.]

SEC. 5342.

Itasca State Park: Trespasses within, on timber, game or fish, by fire, or on improvements, etc.—Penalty.—Every person, including Indians, who shall

¹ Standing appropriations of this nature have been repealed. (See Gen. Stat., Minn., 1913, secs. 48, 49.)

¹ See sec. 5344, on p. 11.

² See footnote to sec. 5382, on this page.

wilfully cut, injure, or take any tree, shrub, timber, or plant in said park, or who shall kill, cause to be killed, or pursue with intent to kill any wild animal, or, except with the consent of the park commissioner, take any fish from the waters thereof, raise or lower any of the lakes or streams within said park, or set any fire therein, or who shall wilfully injure any building, improvement, or property of the state therein, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of fifty dollars.¹ [Sec. 2500.]

Sec. 5343.

Itasca State Park: Addition to, in Hubbard County.— * * * situated in Hubbard county, is hereby added to and made a part of Itasca State Park. L. 1905, ch. 277, sec. 1.]

Sec. 5344, AS MODIFIED BY Sec. 5377.

Itasca State Park: Made a state forest—Management by State forestry board—Standing appropriations.—Itasca State Park is hereby made a * * * [state forest], and its management placed under the state forestry board, to be cared for in the same manner as other * * * [state forests], as provided for in the act establishing said board except as hereinafter provided. The standing appropriations² for said park shall be expended under direction of the state forestry board, and said state forestry board is hereby vested with all the powers with reference to said park heretofore exercised by any other board or state officer. [L. 1907, ch. 90, sec. 1.]

Sec. 5345.

Itasca State Park: Primeval pine forest to be preserved—Dead and down, diseased, and insect infested timber—Revenues from sales of timber. The state forestry board shall preserve intact the primeval pine forest now growing in Itasca State Park, and shall cut no part thereof except weak, diseased or insect infested trees, or dead and down timber. The net returns from the sales of timber of any description from said park shall be turned into the state treasury. [L. 1907, ch. 90, sec. 2.]

Sec. 5346.

Itasca State Park: Forest demonstration work within, by regents of State University; and cooperative forest work either within or elsewhere. The board of regents of the state university may, in their discretion, use for their forest demonstrations work in connection with the forestry course in the state university, any suitable tracts of land in Itasca State Park that may be assigned to them for this purpose by the state forestry

board, or may undertake forestry work in the said park or elsewhere in conjunction with the state forestry board.¹ [L. 1907, ch. 90, sec. 3.]

Sec. 5347.

Itasca State Park: Game preserve—Trespass statutes not repealed.—Itasca State Park shall be maintained by the state forestry board as a game preserve, and nothing in this act shall be construed as repealing the existing statutes in regard to trespass in Itasca State Park. [L. 1907, ch. 90, sec. 4.]

Sec. 5348.

Itasca State Park: Forestry board authorized to accept donations of certain lands—Reservation of timber rights.—The state forestry board is hereby authorized to accept for the state of Minnesota donations of the hereinafter described land² within the limits of the Itasca State Park, and such donors may reserve to themselves the right to cut and remove from the said lands all the white pine, Norway pine, Jack pine, spruce, cedar, tamarack and balsam timber eight inches in diameter and over and four feet and six inches from the ground at the time of cutting; and that the donors of the said land may reserve the right to cut and remove the timber growing on said land for a period not exceeding ten years from the date of such donation. [L. 1909, ch. 220, sec. 1.]

Sec. 5349.

Itasca State Park: Taxes on reserved timber—Floating logs, privilege—Selection of groves—Stumpage price—Payments for standing timber.—All the taxes levied on such timber which the donors may reserve to themselves under this act shall be paid by the state of Minnesota for a period not exceeding ten years and the said donors shall have the right to drive their logs through Itasca Lake with two foot head of water during such period of ten years for the purpose of getting the timber cut on such lands to market. In addition to the right given to the state forestry board under this act, they shall reserve to the state and it shall be part of the agreement under which such donation is made that the said state of Minnesota by its said forestry board shall have the right to select such groves of timber as it may wish to preserve, to mark such groves and the trees therein with copper nails or white paint at the expense of the donors, and to pay the purchase price for the stumpage selected, which price shall be the same as that awarded the Red River Lumber Company according to size. Provided, that the

¹ Cloquet Forest Experiment Station: Forest demonstration work by regents of the State university.—The board of regents of the State university are also, independently, charged with managing a tract, in Carlton County, Minn., known as the Cloquet Forest Experiment Station, as a demonstration forest and experiment station for the students of the forestry department of the university. (See in Gen. Stat. of Minn., 1913, secs. 3040-3042.)

² See sec. 5350, on p. 12.

¹ See sec. 5347, on this page, and secs. 5384, 5385, on p. 10.

² See footnote to sec. 5382, on p. 10.

state forestry board shall have the right to make partial payments for any standing timber which the forestry board may purchase from said donors. [L. 1909, ch. 220, sec. 2.]

Sec. 5350.

Itasca State Park: Description of lands donated.—The lands referred to in section one of this act [Code sec. 5348] are situated in Itasca Park in Becker, Hubbard and Clearwater counties in this state and are described as follows: * * * [L. 1909, ch. 220, sec. 4.]

Sec. 5351.

Itasca State Park: Reservation of mineral rights by donors of lands.—The state forestry board is hereby authorized in its contract with any donors of lands specified in the above mentioned act approved April 17, 1909 [secs. 5348–5350] in addition to the other stipulations in said act, to allow any donor to reserve the minerals there may be in said lands. [L. 1911, ch. 275, sec. 1.]

Sec. 5352.

Itasca State Park: Forestry board authorized to secure remaining private lands and timber thereon.—In addition to the powers now conferred by law upon the state forestry board, said board is hereby authorized to secure for the state of Minnesota, by gift, purchase or condemnation, any lands and the timber thereon in Itasca State Park not now owned by the state of Minnesota. [L. 1913, ch. 531, sec. 1.]

Sec. 5353.

Itasca State Park: Tax levy for acquirement of lands and timber.—The money for the purchase and condemnation of such lands and the timber thereon shall be obtained by the levy and collection of a state tax of an amount equal to the interest on \$250,000.00 each year for five (5) years and of \$25,000.00 a year and the amount of interest on outstanding and unpaid Itasca park certificates of indebtedness each year after said five (5) years until all such certificates and interest thereon are paid. The state auditor is hereby directed to levy and collect such tax. The proceeds of such tax are hereby appropriated, so far as necessary to do so, to the payment for such lands and the timber thereon, and said certificates of indebtedness with interest, and the incidental expenses hereafter referred to. [L. 1913, ch. 531, sec. 2.]

Sec. 5354.

Itasca State Park: Itasca Park certificates of indebtedness.—The state forestry board may issue against said taxes to be levied, collected and appropriated pursuant to the preceding section, certificates of indebtedness which shall be known as "Itasca Park certificates of indebtedness." They shall be in the aggregate of not more than \$250,000.00 and shall be issued in denominations of \$500.00 and shall be due in the aggregate of not more than \$25,000.00 a year beginning with 1918 and shall bear inter-

est at not to exceed five (5) per centum per annum, and shall be sold as money is needed for the purchase or condemnation of land and timber thereon for said park as hereinbefore indicated, and the proceeds of such sales shall be used for such purchases or condemnations and interest as aforesaid, and the incidental expenses connected with such gifts, purchases or condemnations and not otherwise. [L. 1913, ch. 531, sec. 3.]

Sec. 5355.

Itasca State Park: Custodian of Douglas lodge and other buildings—Revenue from buildings, disposition and use of—Regulation of charges—Superintendent of park, appointment, compensation, and powers of—Protection of game and fish.—To extend the authority conferred upon the forestry board by chapter 90 of the General Laws of 1907 [secs. 5344–5347] and other provisions applicable thereto in respect to the management of Itasca State Park, said board may appoint a custodian of Douglas lodge and any or all of the cottages and other buildings owned by the state situated in the park, (excepting the buildings used for forest school purposes) and permit him to use the same upon such terms and conditions as shall be mutually agreed upon between them, conditioned however, that such party shall serve as custodian only during the pleasure of the board; the revenue derived by the state pursuant to the terms of any such agreement shall be paid into the state treasury, credited to the Itasca State Park support fund and used in maintaining and improving the park. Said lodge and all cottages shall as heretofore be used solely for the accommodation of the public visiting the park. The forestry board may prescribe rules and regulations for the management of the lodge and rates to be charged by such manager for the accommodation of the public. The board may appoint any competent person superintendent of the park who shall serve during the pleasure of the board; locate his place of residence and define his duties. His compensation as such superintendent shall be fifty (\$50.00) dollars per month and it shall be his duty to give personal attention to the preservation of the park; prevent and put out fires; protect the game and fish therein, and perform such other duties as shall be prescribed by the state forestry board. The powers of a deputy game warden are hereby vested in him. He may act as district forest ranger or other forest officer and receive such compensation for such services as may be determined by the board of officers appointing him, not however, in excess of fifty (\$50.00) dollars per month in addition to his said salary as superintendent. The said board is also authorized and directed to take necessary steps to protect all game and fish in the park and is hereby given general supervision and control of the subject. [L. 1913, ch. 559, sec. 1.]

Sec. 5356.

Itasca State Park: Improvement of Douglas lodge authorized.—(For text of provision, see this section in General Statutes, Minn., 1913.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

SEC. 5300.

Posted notice of area to be cut over: What to contain—Period of posting—Copy to State forester—Penalty for violation of provisions—Reward—Exception.—(For text of these provisions, see this section on p. 7.)

(3) MUNICIPAL FORESTS.

SEC. 1846, GEN. STAT., MINN., 1913.

Municipal forests: Acquirement of lands for, by cities, villages, and towns—Naming—Management—Tax levy.—Any city¹ village or town in this state, by resolution of the governing body thereof, may accept donations of land that such governing body may deem to be better adapted for the production of timber and wood than for any other purpose, for a forest, and may manage the same on forestry principles. The donor of not less than one hundred acres of any such land shall be entitled to have the same perpetually bear his or her name. The governing body of any city, village, or town in this state, when funds are available or have been levied therefor, may, when authorized by a majority vote by ballot of the voters voting at any general or special city or village election or town meeting where such question is properly submitted, purchase or obtain by condemnation proceedings, and preferably at the sources of streams, any tract of land for a forest which is better adapted for the production of timber and wood than for any other purpose, and which is conveniently located for the purpose, and manage the same on forestry principles; the selection of such lands and the plan of management thereof shall have the approval of the state forester. Such city, village, or town is authorized to levy and collect an annual tax of not exceeding five mills on the dollar of its assessed real estate valuation, in addition to all other taxes authorized or permitted by law, to procure and maintain such forests. [L. 1913, ch. 211, sec. 1.]

SEC. 1, CH. 108, L. 1915.

Municipal Forest: Donation of certain land by State to City of St. Paul.—Upon the adoption of a resolution by the governing body of the city of St. Paul, in Ramsey County, Minnesota, accepting a donation and conveyance from the state of a portion of the land of the first state fish hatchery of the city of St. Paul, Minnesota, herin-after set forth, pursuant to the provisions of Chapter 211, Laws of Minnesota for the year 1913, for a municipal forest in the city of St. Paul, and upon the presentation and delivery of a certified copy of such resolution to the governor of the state, a donation and conveyance of said land shall be made by the state to the city of St. Paul.

¹ See, on this page, chs. 108, 217, L. 1915, containing later legislation on this subject concerning the city of St. Paul, Minn., and other cities in the State which meet certain specified requirements.

SEC. 2.

Deed of conveyance, form of.—The deed of conveyance shall be executed by the governor and the state auditor, and attested by the secretary of state. Such instrument or conveyance shall recite that the donation and conveyance is made for use as a municipal forest only, under the provisions of said Chapter 211, Laws of Minnesota for 1913, and shall further provide that the said premises shall be used by the said city of St. Paul for a municipal forest only, and that in the event the said city of St. Paul shall cease to use the same for such purpose within the spirit and intent of this act, the title to said property shall ipso facto revert to the said State of Minnesota.

SEC. 3.

Land to be donated, description of.—The land and premises hereinbefore referred to, which is to be donated and conveyed by the State of Minnesota to the city of St. Paul, is a part of the lands and premises of the state known as the first state fish hatchery, situated in the city of St. Paul, in Ramsey county, Minnesota, to-wit:

* * * * *

Containing Twenty and Fifty-five hundredths (20.55) acres more or less.

SEC. 1, CH. 217, L. 1915.

Municipal Forests: Acquirement of lands for, by certain cities—Naming—Management—Tax levy.—Any city in the State of Minnesota, now or hereafter having a population of more than fifty thousand inhabitants, by resolution of the governing body thereof, may accept donations of land as such governing body may deem to be better adapted for the production of timber and wood than for any other purpose, for a forest, and may manage the same on forestry principles. The donor [donor] of not less than one hundred acres of any such land shall be entitled to have the same perpetually bear his or her name. The governing body of any such city, when funds are available or have been levied therefor, may purchase or obtain by condemnation proceedings, and preferably at the sources of streams any tract of land for a forest which is better adapted for the production of timber and wood than for any other purpose, which is conveniently located for the purpose, and manage the same on forestry principles. The selection of such lands, and the plans of management thereof, shall have the approval of the state forester. Such city is authorized to levy and collect an annual tax of not exceeding five mills on the dollar of its assessed real estate valuation, in addition to all other taxes authorized or permitted by law, to procure and maintain such forests.

SEC. 2.

Application of act.—This act shall apply only to such cities as are or may be governed by a charter adopted pursuant to Section 36 Article 4 of the Constitution of this state.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

SEC. 5191, GEN. STAT., MINN., 1913.

Bounties for timber growing: Certain requirements—Exceptions as to who may receive bounties—

Appropriation.—Every person who shall plant one acre or more of land with forest trees of any kind other than black locust, and shall keep such trees growing in a thrifty condition, and not more than twelve feet apart either way, replacing yearly such as may die, shall receive from the state two dollars and fifty cents per acre therefor for six successive years, not exceeding, however, twenty-five dollars in any one year. This section shall not apply to any railway company, to any person who has already received such compensation, nor to any person planting trees in compliance with an act of Congress approved March 3, 1873, relating to the growth of timber on western prairies, or any act amendatory thereof. For the purpose of paying such compensation, the sum of twenty thousand dollars is annually appropriated from the revenue fund.¹ [R. L. sec. 2391, amended L. 1913, ch. 76, sec. 1.]

SEC. 5192.

Proof.—The claimant shall file with the county auditor a plat giving the government subdivision, and the position of the trees thereon. If the number of trees be increased, supplemental plats shall be filed. He shall

show his ownership of the land, and make oath to the planting and maintaining of the trees as prescribed in sec. 5191; and his proof shall be supported by the affidavit of at least two freeholders, residing in the same town, who have personal knowledge of the facts. Such proofs shall be filed with the county auditor between July 1 and July 15 of the year for which compensation is claimed. [Sec. 2392.]

SEC. 5193.

Examination and report by assessor.—The assessor of every town, at the time of making his assessment, shall ascertain if trees have been planted therein for which compensation is claimed under this chapter, and, if any such be found, he shall personally examine the same, and report the area planted and the condition of the trees to the auditor when the assessment books are returned. [Sec. 2393.]

SEC. 5194.

Action on proofs by auditor.—Before August 1 the auditor shall compare the proofs furnished by the claimant with the assessor's report, and, if they correspond in substance, he shall immediately forward to the state auditor the original proofs of claim, and a certified list of all plats filed. [Sec. 2394.]

SEC. 5195.

Issuance of warrants to claimants.—The state auditor shall audit all such claims, and on the first Monday of October in each year shall issue his warrant to the several claimants for the amount to which each is entitled; but, if the aggregate of compensation due to all such claimants shall exceed the appropriation therefor, he shall distribute the available amount amongst them pro rata, which distribution shall relieve the state from further obligation to such claimants for the year. [Sec. 2395.]

¹ See footnote to sec. 5382, on p. 10.

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

MONTANA

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Poyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

Sec. 9, Ch. 147, L., 1909.

State forester: Appointment—Qualifications—Salary and expenses—Term—Bond—Required to be a civil executive officer.—The Governor, by and with the advice and consent of the Senate, shall appoint a state forester, who shall be skilled in the science of forestry, whose salary shall be twenty-five hundred (2500) dollars per annum, and actual necessary expenses while engaged in outside work, connected with his office, and whose term of office shall be four years, or until his successor shall be appointed and qualified, and he shall give a bond to the state

in the sum of ten thousand (10,000) dollars, to be approved by the board [State Board of Land Commissioners]¹ and filed with the Secretary of State; and he shall be a civil executive officer.

SEC. 10. AMENDED BY SEC. 2, CH. 118, L., 1911.

State forester, duties in general: Selection, appraisement, etc., and control of State timber lands—Act as secretary of forestry board—Execute all forestry matters—Charge of fire wardens—Care of State parks and forests—Prevention of fires—Enforcement of laws—Lectures—Annual report and recommendations—Notices, posting.—The State Forester shall, under the direction and control of the State Board of Land Commissioners, do all the field work in the selection, location, examination, appraisement, and re-appraisement of

¹ The state board of land commissioners is composed of the governor, superintendent of public instruction, secretary of state, and attorney general, and has "direction and control of all lands belonging to the State, to manage the same as the best interests of the State shall require." [L. 1909, ch. 147, sec. 1.]

state timber lands, whether now belonging to the state or hereafter granted to the state; he shall do all acts required of him to be performed by the said board, and under the direction of said board shall have general charge of the timber lands of the state. He shall act as secretary of the Forestry Board.¹ He shall, under the supervision of the State Board of Land Commissioners, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens of the state, and direct and aid them in their duties; direct the protection and improvement of state parks and forests; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce the laws pertaining to forest and brush-covered lands, and prosecute for any violation of such laws. He shall deliver a course of at least six lectures on practical forestry to the students attending the State University,² the State Agricultural College, and the State Normal School, during each school year. He shall prepare annually a report to the Governor on the progress and condition of the state forest work, and recommend therein plans for improving the state system of forest protection, management and replacement. He shall furnish notices, printed in large letters on cloth, calling attention to the danger from forest fires, and to the forest fire and trespass laws and their penalties. Such notices shall be posted by the fire warden in conspicuous places in the several counties of the state, and particularly in brush and forest covered country, at frequent intervals along streams and lakes frequented by tourists, hunters, and fishermen, at established camping sites, and in every postoffice in the forested region.

SEC. 16.

Posted notices, injury or destruction of—Penalty.—Any person who shall destroy, deface, remove or disfigure any sign, post or warning notice posted under the provisions of this act shall be guilty of a misdemeanor, and punishable upon conviction, by a fine of not less than fifteen dollars and not more than two hundred and fifty dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or by both such fine and imprisonment.⁴

SEC. 15.

Expenses of State forester, assistant forester, and fire wardens, how paid.—That the actual expenses and expenditures of the state forester, assistant forester and fire wardens necessarily incurred under this act, shall be paid in the same manner as are other expenses incurred in managing the state lands.

SEC. 20.

Forestry board: Personnel—Chairman—Quorum.—The register of state lands, together with the state land agent and the state forester, shall constitute a for-

estry board, of which the register of state lands shall be chairman. A majority of said board shall constitute a quorum for the transaction of business.

SEC. 21.

Forestry board, duties, in general: Reforestation—Prevention of forestry waste, and forest fires—Management of forests of State—Encouragement of private owners of timber—Conservation of forests on watersheds—Reports and recommendations.—It shall be the duty of the Forestry board to ascertain the methods of reforesting the denuded forest lands of the state; to prevent forestry waste, and the destruction of forests by fire, to manage the forests of the state on forestry principles, to encourage private owners in preserving and growing timber, and to conserve forest tracts around the head waters and on the water sheds of the water courses of the state; it shall make reports of its doings and recommendations to each session of the legislature, and, from time to time, with approval of the state board of land commissioners, publish, for popular distribution, such of its conclusions and recommendations as may be of public interest and concern.

Reforestation of watersheds, and expenditures therefor.—The state board of forestry may re-forest the water sheds of the state and expend such sums of money therefor as may be appropriated for that purpose by the legislative assembly.

SEC. 22, AMENDED BY SEC. 3, CH. 118, L. 1911.

State Board of Land Commissioners, power to appoint clerk, and other office force: Duties, compensation, and bond of clerk—Receiving clerk, duties of.—The State Board of Land Commissioners shall have power to appoint one clerk whose salary shall be such sum as the board may fix and allow, not exceeding the sum of Fifteen Hundred (\$1500.00) Dollars per annum who shall give a bond to the State in such sum as the Board of Land Commissioners may designate, and he shall act as clerk of the register, of the State Land Agent, and of the State Forester, without extra compensation; and said board may employ all such other office force as may be necessary to carry out the provisions of this act, and may designate one of said office force as Receiving Clerk and may require such Receiving Clerk to give such bond as the Board may order, and to make purchase of all necessary books, plats and other supplies.

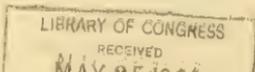
SEC. 23.

Salaries of State forester and assistants, and other State land officials, how paid.—The salary of the register of state lands and his deputy, of the state land agent, and his Assistants, the state forester, and his assistant, the clerk of the state board of land commissioners, together with the pay of all the assistants and clerks in the state land office, shall be paid out of the moneys in the several land grant income funds, and shall be apportioned among the several funds in proportion to the amount of land in

¹ See secs. 20, 21, on this page.

² A forestry school, to be operated as a department of the University of Montana, has also been established by ch. 131, L., 1913. (See Session laws.)

⁴ For disposition of fines, see sec. 101, on p. 3.



each of the land grants from which the several funds are derived. All such salaries shall be paid monthly out of the land grant income funds, and apportioned in December of each year among the several funds by an order of the state board of land commissioners, directed to the state auditor and to the state treasurer.

SEC. 25.

Assistant forester: Appointment—Qualifications—Term of office—Compensation—Bond.—The state board of land commissioners is hereby authorized to appoint one assistant forester, with like qualification as the state forester, at such time or times as may be deemed necessary, to assist the state forester in any of the duties of his office; and he shall draw pay only when actually engaged in the performance of such work, and shall hold office at the pleasure of the board, and his pay shall be not to exceed one hundred and fifty (150) dollars per month, together with actual necessary expenses while engaged in outside work connected with the office. He shall give such bond for the faithful performance of his duties as the state board of land commissioners may require.

SEC. 27.

State board of land commissioners: To keep records of forest lands and accounts of timber sales.—The state board of land commissioners shall cause to be kept accurate records showing the location, extent and character of all forest lands, and the kind and character of timber growing thereon, and also an account of all timber sold, the person or persons to whom sold, the amount of money received therefor, and the disposition of the moneys so received.

SEC. 104.

Fines, fees, and forfeitures, disposition of.—All moneys received as fines, fees, or forfeiture under this Act, or as penalties for violations of the provisions of this Act, and not otherwise provided for, shall be paid to the State Treasurer and by him credited to the land office expense fund.

SEC. 105.

Board of county commissioners may provide money for forest protection and management.—The Board of County Commissioners of any county may provide [provide] money for the purposes of forest protection, improvement and management.

SEC. 106.

Violation of provisions of act, by officer or employee, penalties.—Any officer or employee of the State of Montana guilty of a violation of any of the provisions of this Act and not herein otherwise provided for is hereby declared guilty of a felony, and shall be punished by imprisonment in the State Prison for a term not exceeding ten years, or by a fine not exceeding Five Thousand Dollars, or by both fine and imprisonment.

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 11. CH. 147, L. 1909.

Fire wardens, appointment, compensation, and duties, in general: Volunteer fire wardens—Ex officio fire wardens—Federal forest officials, as volunteer fire wardens.—The state forester shall appoint in such number and localities as he deems wise, public spirited citizens to act as volunteer fire wardens. Every sheriff, under sheriff, deputy sheriff, game warden and deputy game warden, shall be ex-officio a fire warden, but shall not receive any additional compensation by reason of the duties hereby imposed, and they shall be deemed paid fire wardens under the terms of this act. The supervisors and rangers of the federal forest reserves within this state, whenever they formally accept the duties and responsibilities of fire wardens, may be appointed volunteer fire wardens, and shall have all the powers given to fire wardens by this act. The fire wardens shall promptly report all fires to the state board of forestry, take immediate and active steps toward their extinguishment; report any violation of forest laws; and assist in apprehending and convicting offenders.

SEC. 12.

Arrests without warrants, by State forester and fire wardens—Right of entry—Prosecutions, how effected—Failure of fire wardens to perform duties, penalties—Office vacated.—The state forester, and all fire wardens, shall have the power of peace officers to make arrests without warrants for violations, in their presence, of any state or federal forest laws, and no fire warden shall be liable for civil action for trespass committed in the discharge of their [his] duties. Any fire warden who has information which shows, with reasonable certainty, that any person has violated any provision of such forest laws shall immediately take action against the offender, by making complaint before the proper magistrate, or by information to the proper county attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed in this act, shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than one thousand dollars, or imprisonment in the county jail for not less than ten days nor more than twelve

months, or by both such fine and imprisonment,¹ and upon his conviction the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof.

SEC. 13.

Impressing assistance in fighting fires—Penalties for refusal—Limit of time.—All fire wardens shall have authority to call upon any able bodied citizen between the ages of eighteen and fifty years, resident in the vicinity, for assistance in putting out fires; and any such person who refuses to obey such summons, except for good and sufficient reason, is guilty of a misdemeanor, and upon conviction, shall be fined in a sum not less than fifteen nor more than fifty dollars¹ or imprisonment in the county jail not less than one nor more than thirty days or both such fine and imprisonment; provided, that no citizen shall be called upon to fight fire a total of more than five days in one year.

SEC. 14.

Forest officers required to protect timber from fires—Emergency expenditures—Limit of expenses.—The state forester, assistant forester, and all fire wardens (except volunteer wardens), under such rules and regulations as the state board of land commissioners may provide, shall protect the timber of the state, and especially the timber owned by the state, from destruction by fire,² and for such purpose, in emergencies, may employ men and incur other expenses, when necessary; provided, that no fire warden shall incur any expense in excess of fifty dollars, without express authority of the state board of land commissioners.

SEC. 17.

County attorneys to prosecute—Failure, a misdemeanor; penalty; vacation of office—Actions against county attorneys—Penalties apply to magistrates, when.—Whenever an arrest shall be made for any violation of the provisions of this act, or whenever any information of such violations shall be lodged with him, the county attorney of the county in which this [the] act was committed must prosecute the offender or offenders if in his judgment the facts warrant the same. If any county attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars,¹ and, upon his conviction, the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof. Actions against the county attorney shall be brought by the attorney general in the name of the state. The penalties of this section shall also apply to any magistrate, with proper authority who refuses or neglects to cause the arrest and prosecution of any person or persons, when a complaint under oath of a violation of any of the provisions of this act has been lodged with him.

¹ For disposition of fines, see sec. 104, on p. 3.

² See also sec. 10, on p. 2, for fire duties, in general, of the State forester.

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 4310, REV. CODES, MONT., 1907.

Rights of way to be kept clear from dead grass, etc.—Liability for damages caused by fire—Prima facie evidence of negligence—Requirement applies only to rights of way.—It shall be the duty of all railroad corporations or railroad companies operating any railroad within this state to keep their railroad track, and either side thereof, for a distance of one hundred feet on each side of the track or roadbed, so far as it passes through any portion of this state, free from dead grass, weeds or any dangerous or combustible material; and any railroad company or corporation failing to keep its railroad track and each side thereof free as above specified, shall be liable for any damages which may occur from fire emanating from operating such railroad, and a neglect to comply with the provisions of this section in keeping free any railroad track, and either side for a distance equal to the space of ground covered by the grant of the right of way for the railroad corporation or company, shall be prima facie evidence of negligence on the part of any such railroad corporation or company. But no railroad corporation or company shall be required to keep free as above specified any land not a part of its right of way. [Sec. 952, Code 1895, Civil.]

SEC. 4360.

Fire-guards, ploughing and burning.—Every railroad corporation operating its lines of road or any part thereof within this State, shall, between the fifteenth day of April and the first day of July in the year 1903 and each succeeding year thereafter, plough in a good and workmanlike manner, covering the sod well, upon each side of its line of road wherever it passes through a range or grazing country, a continuous strip of not less than six feet in width on each side of its track, as a fire-guard, which said strip shall as near as practicable run parallel with the line or lines of said railroad, and in addition to such ploughing, said railroad company shall cause to be burned between the fifteenth day of July and the fifteenth day of September of each year, all the grass and vegetation between the said ploughed strips and a line of fifty (50) feet inside said ploughed strips; *Provided* that such fire guard so ploughed and burned need not be constructed within the limits of any town, village or city nor in private fields under cultivation nor along the line of such railroad whenever the same runs through the mountains or elsewhere where such ploughing or burning would be impracticable; and *provided further*, that said fire guard or portion thereof, need not be ploughed or burned on or through any lands which may be released from the opera-

tion of this act by the Board of County Commissioners of the county wherein such land is situated by their written certificate of release filed in the office of the County Clerk of the said County; *Provided further*, that said ploughing be not less than three hundred (300) feet from the center of the railroad track on each side of same. Except in cases of cultivated fields and then such ploughing and burning shall be done closer to such railroad but not less than seventy feet from the center of the track. [Sec. 1, ch. 63, L. 1903.]

SEC. 4361.

Failure of railroad to plough or burn fire-guards: County commissioners to perform work—Recovery of double costs—Liability of company for damages caused.—That if any railroad company fails to comply with any of the provisions of Section 1 of this Act the Board of County Commissioners of the County wherein such violation occurs shall cause the neglected ploughing or burning or both therein provided for, to be done, and may in a suit to be brought in their name, as said board, in the District Court having jurisdiction, recover double the amount of the cost of such ploughing or burning or both with reasonable attorney fees to be fixed by the Court, and such railroad company shall be liable further for all damages caused by its failure to comply with this act. [Sec. 2, ch. 63, L. 1903.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 53, CH. 147, L. 1909, AMENDED BY SEC. 4, CH. 118, L. 1911.

Slash disposal on State lands: Brush and slashings to be piled and disposed of so as to prevent forest fires.—(For text of provision, see this section on p. 6.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 8768, REV. CODES, MONT., 1907.

Penalties for carelessly setting fire to timber, woodland, or grass; or failing to extinguish camp fire, etc.—Every person who carelessly sets fire to any timber, woodland or grass, except for useful or necessary purposes, or who at any time makes a camp-fire, or lights a fire for any purposes whatever without taking sufficient steps to secure the same from spreading from the immediate locality where it is used, or fails to extinguish such fire before leaving it, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding two thousand dollars, or both. [Sec. 1071, Code 1895, Penal.]

SEC. 8769.

Penalties for wantonly setting fire to timber, woodland, or grass; or maliciously failing to extinguish fire made for necessary purpose.—Every person who wantonly or designedly sets fire to any timber, woodland or grass, or maliciously fails to extinguish a fire after making the same for a necessary purpose, before leaving it, is punishable by imprisonment in the state prison not exceeding five years, or by fine not exceeding five thousand dollars, or both. [Sec. 1072, Code 1895, Penal.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 1, CH. 78, L. 1911.

Ceding to United States school lands within national forests—Selection of lieu timber lands.—

All sections of lands numbered sixteen and thirty-six in surveyed townships and all unsurveyed sections which, when surveyed will be sections sixteen and thirty-six, within the boundaries of the National Forests within this state shall be deemed and held ceded to the United States as soon as an act shall be passed by Congress and approved by the President ceding to the state of Montana an equivalent number of sections of land situated in forest reserves and principally valuable for the timber which is growing thereon, which lands shall be known as lieu timber lands, and which lieu timber lands shall be selected as other state lands are selected from the public domain.

SEC. 2.

Lieu timber lands to be selected in compact body, or bodies, for State forest—Location of selections.—

In selecting the lieu timber lands the State Board of Land Commissioners shall select the same as nearly as practicable in one compact body, or, if that be not practicable, then in one or more compact bodies, to the end that the same may be managed and controlled as a state forest, and the selections may be made from land in any county or counties of the State.

SEC. 1, CH. 81, L. 1915.

State Board of Land Commissioners empowered to relinquish to United States unsurveyed school sections in national forests for equivalent lieu lands—Existing contracts validated.—That the State Board of Land Commissioners of the State of Montana, be and are hereby authorized and empowered to enter into contracts or agreements with the United States, or any department thereof, having jurisdiction, waiving and relinquishing to the United States any and all rights of the State of Montana in and to Sections Sixteen (16) and

Thirty-six (36) of each township, when said Sections are situated within a Federal Forest Reserve, and are at the date of such contract or agreement unsurveyed. Provided, that the State of Montana shall in lieu of the rights so waived and relinquished, receive from United States other lands equal in acre or value, and all contracts or agreements heretofore entered into between the State Board of Land Commissioners of the State of Montana and the United States or any department thereof relative to the waiving by the State of Montana of its rights to Section Sixteen and Thirty-six in any township in said State and the selection of lieu lands therefor by said State either according to area or value be and the same are hereby ratified, confirmed and validated.

Sec. 2.

All Acts and parts of Acts in conflict herewith are hereby repealed.

Sec. 53, CH. 147, L. 1909, AMENDED BY SEC. 4, CH. 118, L. 1911.

Sale of timber on State lands: State Board of Land Commissioners empowered to make sale—Regulation of cut, and other requirements.—(For text of these provisions, see this section, on this page.)

Sec. 54, CH. 147, L. 1909, AMENDED BY SEC. 5, CH. 118, L. 1911.

Sale of timber on State lands: Purchaser's bond conditioned upon cutting in compliance with regulations by State Board of Land Commissioners.—(For text of these provisions, see this section, on this page.)

Sec. 55, CH. 147, L. 1909, AMENDED BY SEC. 6, CH. 118, L. 1911.

Permits to show large timber left.—(For text of this provision, see this section, on this page.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

Sec. 53, CH. 147, L. 1909, AMENDED BY SEC. 4, CH. 118, L. 1911.

Sale of timber on State lands: State Board of Land Commissioners empowered to make sale—Regulation of cut—Removal of timber subject to rules for preservation of young timber and prevention of fire—Slash disposal requirements—What estimates and appraisals must show in re measurements both above and below 8 inches in diameter; location of timber relative to fire risks and transportation facilities; and value for watershed protection.—The State Board of Land Commissioners shall have power to sell timber on state lands at such price per thousand feet as in its judgment shall be for the best interest of the state, but not otherwise; but no such sale of live timber shall be

made at a less price than three dollars per thousand feet. But no live timber less [than] eight inches in diameter, twenty feet from the ground, shall be sold or permitted to be cut. All timber sold or cut from state lands shall be cut and removed, under such rules and regulations for the preservation of standing timber, and the prevention of fires, as the State Board of Land Commissioners shall prescribe; in all cases the board must require the person cutting the timber to pile the brush and slashings and dispose of the same in such manner as to prevent forest fires. Before any permit shall be granted, the timber shall be estimated and appraised under the direction of the state forester, upon the request, and subject to the approval of the State Board of Land Commissioners, which estimates and appraisal shall show as nearly as may be the amount and value per thousand feet of all timber measuring not less than eight inches in diameter, twenty feet from the ground, and also all other timber measuring below this standard on each tract or lot, together with a statement of the situation of the timber relative to risk from fires or damage of any kind, its distance from the nearest lake, stream, or railroad, and its value and position as a protection to a water shed.

Sec. 54, CH. 147, L. 1909, AMENDED BY SEC. 5, CH. 118, L. 1911.

Sale of timber on State lands: Purchaser's bond conditioned upon cutting in compliance with regulations by State Board of Land Commissioners.— * * * no timber shall be sold after the passage of this act until the same has been re-appraised and estimated since March 19, 1909. Every person purchasing timber at such sale, before the execution of the permit to cut the same, shall execute a bond to the State of Montana, * * * and further conditioned upon the cutting of such timber in compliance with such rules and regulations as may be prescribed by the State Board of Land Commissioners.

Sec. 55, CH. 147, L. 1909, AMENDED BY SEC. 6, CH. 118, L. 1911.

Permits to show large timber left.—All permits to cut live timber under the provisions of this Act, shall be made according to a form prescribed by the Attorney General, and shall be signed by the party applying for the same and by the president and secretary of the State Board of Land Commissioners.

Said permits shall contain * * * the amount of large timber required to be left standing * * *

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concernig State or municipal forests, or other State lands, see Part III.)

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

ILLINOIS

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative

duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 63, CH. 114, REV. STAT., 1913 (HURD).

Clearing rights of way—Penalties.—It shall be the duty of all railroad corporations to keep their rights of way clear from all dead grass, dry weeds, or other dan-

gerous combustible material, and for neglect shall be liable to the penalties named in section 1.¹

SEC. 103, CH. 114.

Civil action for injuries caused by fires from locomotives: Prima facie evidence of negligence—Extent of owner's responsibility—Act not retroactive.—*Be it enacted by the people of the State of Illinois, represented in the general assembly, That in all actions against any person or incorporated company for the recovery of damages on account of any injury to any property, whether real or personal, occasioned by fire communicated by any locomotive engine while upon or passing along any railroad in this State, the fact that such fire was so communicated shall be taken as full prima facie evidence to charge with negligence the corporation, or person or persons who shall, at the time of such injury by fire, be in the use and occupation of such railroad, either as owners, lessees or mortgagees, and also those who shall at such time have the care and management of such engine; and it shall not, in any case, be considered as negligence on the part of the owner or occupant of the property injured, that he has used the same in the manner, or permitted the same to be used or remain in the condition it would have been used or remained had no railroad passed through or near the property so injured, except in cases of injury to personal property which shall be at the time upon the property occupied by such railroad. This act shall not apply to injuries already committed.* [L. 1869, p. 312, sec. 1.]

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 18, CH. 38, REV. STAT., 1913 (HURD).

Burning woods, prairies, etc.: Fine—Notice to neighbors—Civil action.—If any person shall, at any time hereafter, willfully and intentionally or negligently and carelessly set on fire, or cause to be set on fire any woods, prairies or other grounds whatsoever, he shall be fined not less than \$5 nor more than \$100: *Provided*, this section shall not extend to any person who shall set on fire or cause to be set on fire any woods or prairies adjoining his own farm, plantation or inclosure, for the necessary preservation thereof from accident by fire, between the last day of November and the first day of March, by giving to his neighbors and the owner or occupant of such land, and any person likely to be affected thereby, two days' notice of such intention [sic]: *Provided, also*, this section

¹ The penalty clause in section 1, in addition to damages, provides that railroads shall be liable for reasonable attorney's fees in both trial and appellate courts when damage is negligently or willfully done.

shall not be construed to take away any civil remedy which any person may be entitled to for any injury which may be done or received in consequence of any such firing.

PART III. PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included, because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

SEC. 1, CH. 57A, REV. STAT., 1913 (HURD).

Forest preserve districts, incorporation of.—*Be it enacted by the people of the State of Illinois, represented in the general assembly, That whenever any area of contiguous territory lying wholly within one county contains one or more natural forests or parts thereof and one or more cities, towns, or villages, such territory may be incorporated as a forest preserve district in the following manner, to wit:*

Petition for organization—Notice of hearing—Hearing—Order defining boundaries—Joint hearings.—Any five hundred legal voters residing within the limits of such proposed district may petition a circuit judge of the county in which such proposed district lies to cause the question to be submitted to the legal voters of such proposed district, whether or not it shall be organized as a forest preserve district under this act; such petition shall be addressed to the circuit judge or judges of the county in which such proposed forest preserve district is situated and shall contain a definite description of the territory intended to be embraced in such district and the name of such district. Upon the filing of such petition in the office of the clerk of the circuit court of the county in which such territory is situated, it shall be the duty of such circuit judge to whom such petition is assigned to fix a day and hour for the public consideration thereof, which shall not be less than fifteen days after the filing of such petition. Such circuit judge shall cause a notice of the time and place of such public consideration to be published three successive days in some newspaper having a general circulation in the territory proposed to be placed in such district. The date of the last publication of such notice shall not be less than five days prior to the time set for such public hearing. At the time and place fixed for such public hearing said circuit judge shall sit and hear any person owning [owning] property in such proposed district who desires to be heard, and if said circuit judge shall find that all of the provisions of this act have been

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complied with, he shall cause to be entered upon the records of the circuit court of such county an order fixing and defining the boundaries and the name of such proposed district in accordance with the prayer of the petition. In the event that any other petition or petitions for the organization of a forest preserve district or districts in the same county shall be filed under this act before the time fixed for the public hearing of the first petition, said circuit judge shall postpone the public consideration of the first petition so that the hearing of all said petitions shall be set for the same day and hour. In any county where there are two or more judges sitting at the time of filing such first petitions the clerk of said circuit court shall cause all petitions, filed subsequent to said first petition to be assigned to the judge to whom said first petition is assigned, so that all such petitions may be heard by the same judge.

Consolidation of petitions—Name of district.—Should two or more petitions be filed under this act and come on for hearing at the same time and it shall be found by said circuit judge that any of the territory embraced in any one of said petitions is included in or contiguous with the territory embraced in any other petition or petitions, said circuit judge may include all of the territory described in such petitions in one district and shall fix the name proposed in the petition first filed as the name for said district. After the entry of the order fixing and defining the boundaries and the name of such proposed district, it shall be the duty of said circuit judge to order to be submitted to the legal voters of such proposed district at any special or general election held therein, the question of the organization of such proposed district and he shall give notice thereof by causing ten notices of such election to be posted in public places within such proposed district, and one notice thereof to be published at least five days prior to the date of such submission in some newspaper having a general circulation in the proposed district. Said notices shall contain a definite description of the territory intended to be embraced in such district, and the name of such district. [L. 1913, p. 385, sec. 1.]

SEC. 2.

Form of ballot—Canvass of returns.—The ballots to be used at such election shall be substantially in the following form:

"Shall there be organized a forest preserve district in accordance with the order of the judge of the circuit court of _____ county, under the date of the _____ day of _____ 191., to be known as (insert here the name of the proposed district as entered in the order of the judge of the circuit court) and described as follows: (Insert description of proposed district as entered in the order of the judge of the circuit court)." [?]

Yes.

No.

The returns of such election in each of the proposed districts shall be made to the clerk of the circuit court of such county and shall be canvassed by him and he shall cause a statement of the result of such election in each district to be entered upon the records of the circuit court of such county, and if a majority of the votes cast in any district upon such question is found to be in favor of the organization of such forest preserve district, such forest preserve district shall thenceforth be deemed an organized forest preserve district under this act. [L. 1913, p. 385, sec. 2.]

SEC. 3.

Judicial notice of districts—Management by board of commissioners—Board, members of; Appointment—Qualifications—Terms of office—Oath.—All courts shall take judicial notice of all forest preserve districts organized under this act. The affairs of such district shall be managed by a board of commissioners consisting of a president and four commissioners, all of whom shall be appointed by the president of the board of county commissioners or the chairman of the board of supervisors of the county in which such forest preserve district is situated, by and with the advice and consent of the members of such board. The first appointment shall be made within ninety days and not sooner than sixty days after such forest preserve district has been organized as provided herein. Each member of such board shall be a legal voter in such district. At the time of the making of the first appointments, the president shall be appointed for a term of four years, two members for a term of two years each, and two members for a term of four years each and until their successors are appointed and qualified; and at the expiration of the term of the president or any member, his successor shall in like manner be appointed for a term of four years and until his successor is appointed and qualified: *Provided*, that no more than three members of such board shall be of the same political party. Each member of the board before entering upon the duties of his office shall take the oath prescribed by the constitution.

Districts to constitute bodies corporate and politic—Rights and powers—Seal—When corporate authorities of counties, villages, or towns, etc., to exercise powers of commissioners—No additional compensation.—From the time of the appointment of the first board of commissioners, such forest preserve district shall be construed in law and equity a body corporate and politic by the name and style determined as aforesaid and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal estate necessary for its corporate purposes and adopt a seal and alter the same at its pleasure. In case the boundaries of any such district are co-extensive with the boundaries of any county, city, village, incorporated town, or sanitary district, the corporate authorities of such county, city, village, incorporated town, or sanitary district shall have and exercise the powers and privileges and perform the duties and functions of the commissioners

provided for herein and in such case no commissioner shall be appointed for such district. Such corporate authorities shall act without any other pay than that already provided by the law. [L. 1913, p. 385, sec. 3.]

SEC. 4.

Vacancy in office of president or commissioner of district caused by ceasing to be a legal voter therein—Successor, appointment of.—Whenever any person holding the office of president or commissioner of any such district shall, from any cause, cease to be a legal voter within such district, his office shall thereupon become vacant, and a successor shall be appointed for the remainder of his term as other members of the board of commissioners are appointed. [L. 1913, p. 385, sec. 4.]

SEC. 5.

Power to create forest preserves—Nature of lands to be acquired—Purposes of preserves.—Any forest preserve district organized under this act shall have the power to create forest preserves, and for that purpose shall have power to acquire, in the manner hereinafter provided, and hold lands containing one or more natural forests or parts thereof, for the purpose of protecting and preserving the flora and fauna and scenic beauties within such district, and to protect and preserve such lands as nearly as may be in their natural condition for the purpose of the education, pleasure, and recreation of the public. [L. 1913, p. 385, sec. 5.]

SEC. 6.

Acquisition of lands for forest preserves—Paths, roadways, etc., through.—The board of commissioners of every such forest preserve district shall have the power to acquire, by gift, grant, devise, or purchase, or by condemnation, any and all grounds and lands within such district containing one or more natural forests, or parts thereof, for the purpose of creating, laying out, and maintaining such forest preserves as it may deem proper or desirable. Such board of commissioners shall have the power to establish, lay out, improve, and maintain such convenient and appropriate paths, driveways, and roadways in and through such forest preserves as they shall deem desirable or necessary for the use of such forest preserves by the public.

Title under condemnation proceedings—Sales of lands acquired—Approval of sales.—In all cases where any such forest preserve district acquires any land by condemnation, the title thereto shall be in fee simple absolute, and such title shall not terminate or be defeated by cessation or abandonment of the use for which it was acquired. The board of commissioners of any such forest preserve district may, by ordinance passed by the affirmative vote of all of the members of such board, sell and dispose of any lands acquired by such board: *Provided further, however,* That no such sale or disposal shall be effective until it is approved by the board of county commissioners or board of supervisors of the county in which such district is located. [L. 1913, p. 385, sec. 6.]

SEC. 7.

Speed and traffic regulations within forest preserves—Penalties.—The board of commissioners of any forest preserve district organized hereunder may by ordinance regulate and control the speed of travel on all paths, driveways, and roadways within forest preserves, and prohibit the use of such paths, driveways, and roadways for racing or speeding purposes, and may exclude therefrom traffic, teams, and vehicles, and may by ordinance prescribe such fines and penalties for the violation of their ordinances as cities and villages are allowed to prescribe for the violation of their ordinances. [L. 1913, p. 385, sec. 7.]

SEC. 8.

Board of commissioners to constitute corporate authority of each forest preserve district—Empowered to pass ordinances, etc., and appoint secretary, treasurer, and other officers and employees—Appointments under civil service, except treasurer and attorneys.—The board of commissioners appointed in pursuance of the provisions of this act shall be the corporate authority of such forest preserve district and shall have power to pass and enforce all necessary ordinances, rules, and regulations for the management of the property and conduct of the business of such district. Such board shall have power to appoint a secretary and treasurer and such other officers and such employes as may be necessary, all of whom, except the treasurer and attorneys, shall be under civil-service rules and regulations, as provided for by section 9 of this act.

Salaries.—The president shall receive a salary not to exceed the sum of twenty-five hundred dollars per annum and the salary of other members of the board shall not exceed fifteen hundred dollars per annum. Salaries of the commissioners, officers, and employes shall be fixed by ordinance. [L. 1913, p. 385, sec. 8.]

SEC. 9.

Selection of employes, except treasurer and attorneys, subject to civil-service law.—Whenever the county in which any such forest preserve district is located shall be governed by any law regulating its civil service and the method of selecting its employes, in every such case all employes of such forest preserve district except the treasurer and attorneys, shall be selected in the manner provided by the law regulating the civil service in such county and all such employes shall be subject at all times to the provisions of such act. [L. 1913, p. 385, sec. 9.]

SEC. 10.

Record of ordinances, etc., and annual report by board of commissioners.—The board of commissioners shall keep a record of all ordinances and other proceedings which shall be open to the inspection of any person residing in such district at all reasonable and proper times. The board of commissioners shall report annually to the board of county commissioners of [or] the board of supervi-

ors of the county in which such district is located, the revenues received, expenditures made, land acquired, with the progress of construction work, the condition of the property and such other matters as may have been acted upon by the board during the previous year. [L. 1913, p. 385, sec. 10.]

Sec. 11.

Publication of ordinances imposing penalties, or making appropriations—Dates of ordinances, etc., taking effect—Evidence of passage and publication.—All ordinances imposing any fine or penalty or making any appropriation of money, shall within ten days after their passage, be published at least once in some newspaper published in such district or having a general circulation therein to be designated by the board of commissioners and no such ordinance shall take effect until ten days after it is so published. All other ordinances and all orders or resolutions shall take effect from and after their passage unless otherwise provided therein: All ordinances, orders and resolutions and the date of publication thereof may be proven by the certificate of the secretary of such district under the seal of the corporation and when printed in book [or] pamphlet form and published by authority of such board of commissioners, such book or pamphlet shall be received as evidence of the passage and publication of such ordinances, orders and resolutions as of the date mentioned in such book or pamphlet in all courts and places without further proof. [L. 1913, p. 385, sec. 11.]

Sec. 12.

President of board of commissioners: Powers and duties of, in general—Right of veto—Entitled to vote, when—President pro tem.—The president of the board of commissioners of any district organized hereunder, shall preside at all meetings of the board and be the executive officer of such district; he shall sign all ordinances, resolutions and other papers necessary to be signed and shall execute all contracts entered into by such district and perform such other duties as may be prescribed by ordinances. He shall have the right to veto any ordinance: *Provided*, That such veto shall be filed with the secretary of such board within five days after the passage of such ordinance and when so vetoed such ordinance shall not be effective unless the same be again passed by the unanimous vote of all the members of such board. The president shall be entitled to vote only in case of a tie. In the temporary absence or inability of the president, the commissioners may elect from their own number a president *pro tem*.

Passage of ordinances, etc., requirements for.—The "yeas" and "nays" shall be taken upon the passage of all ordinances and all proposals to create any liability or for the expenditure or appropriation of money and in all other cases at the request of any member of the board, and shall be entered on the journal of the board's proceedings, and the concurrence of a majority of all the members

appointed to the board shall be necessary to the passage of any such ordinance or provision. [L. 1913, p. 385, sec. 12.]

Sec. 13.

Power of board to raise money by taxation, borrowing, and bond issues—Limit of indebtedness—Maturing of bonds.—The board of commissioners of any forest preserve district organized hereunder shall have power to raise money by general taxation for any of the purposes enumerated in this act, and power to borrow money upon the faith and credit of such district and to issue bonds therefor: *Provided, however*, such district shall not become indebted in any manner or for any purpose, to an amount including existing indebtedness in the aggregate exceeding one per centum of the assessed value of the taxable property therein as ascertained by the last equalized assessment for State and county purposes. Before or at the time of issuing bonds, the board of commissioners shall provide, by ordinance, for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due, and to pay such bonds as they mature, and said tax to so pay the interest on said bonds as it falls due and to pay said bonds as they mature, shall not be permitted to increase the taxing power of said district as herein provided for. All bonds issued by any forest preserve district shall be divided into series, the first of which shall mature not later than five years after the date of issue, and the last of which shall mature not later than twenty years after the date of issue.

Time and manner of levying general taxes—Limitation of amount.—All general taxes levied by the board of commissioners of any forest preserve district shall be levied at the same time and in the same manner as taxes are levied for city and village purposes: *Provided*, that the amount of taxes levied for any one year shall not exceed the rate of one mill on each dollar. All moneys collected under the provisions of this act shall be paid to the treasurer of such district. [L. 1913, p. 385, sec. 13.]

Sec. 14.

Annexation of adjoining territory, method of procedure.—Any territory adjoining any forest preserve district organized hereunder may become a part of such district in the following manner: Upon the filing with the county judge of the county in which such district is located, of a petition signed by not less than ten per cent of the legal voters residing within the territory proposed to be annexed, such county judge shall submit at the next general election held in the territory so proposed to be annexed, the question of such annexation, and if a majority of the votes cast upon such question shall be in favor of such annexation, when such votes are canvassed in the manner provided for the canvass of the votes upon the creation of a forest preserve district, such territory so proposed to be annexed shall become and be a part of such forest preserve district. [L. 1913, p. 385, sec. 14.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

SEC. 1, CH. 136, REV. STAT., 1913 (HURD).

Bounties for planting and cultivating forest trees, counties authorized to offer.—*Be it enacted by the people of the State of Illinois, represented in the general assembly, That it shall be lawful for the board of supervisors or county commissioners' court* [board of county commissioners] in any county in this State to offer a bounty to any person in said county who shall hereafter plant one or more acres of land with forest trees, and properly cultivate the same for three years, any sum not to exceed \$10 per annum for three years for each acre so planted and cultivated [sic]: *Provided*, that trees so planted shall not be at a greater distance than ten feet apart each way.

SEC. 2.

Proof.—Any person claiming the bounty under this act shall make proof before the county clerk that he has complied with section 1 of this act, and that the trees planted by him are in a healthy and growing condition.

SEC. 3.

Certificate.—Upon proof of a compliance with this act the county clerk shall issue his certificate to the person entitled to the same, setting forth that the provisions of this act have been complied with and the number of acres so planted.

SEC. 4.

Bounty, how offered.—The board of supervisors or county commissioners' court [board of county commissioners], desiring to offer the bounty herein provided for, shall do so by resolution, to be made of record, and giving notice in some newspaper published in the county three weeks prior to the first day of April of each year; said resolution and notice to state the amount of bounty offered for each acre planted and cultivated.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

OHIO

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fire Protection," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted. Explanatory matter in bold type is not a part of the original text.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of

these or other State officers in connection with forest fires, State and municipal forests or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART I—Contd.]

BOARD OF CONTROL OF THE OHIO AGRICULTURAL
EXPERIMENT STATION.**1. Conducts investigations and experiments.**

The board of control¹ [of the Ohio Agricultural Experiment Station] shall carefully inquire into the character and extent of the forests of the State, the causes of their waste and decay, and methods for their preservation and development. It shall conduct investigations in the several sections of the State, determine the species of valuable trees best suited to grow on the various kinds of soil, and ascertain the best methods and cost of the propagation, planting, and cultivation of wood lots and plantations. It shall determine the average rate of growth of the various species of trees and the relative values of different kinds of timber for domestic and commercial purposes, and conduct experiments for the purposes of increasing durability of the various kinds of wood; determine the kind of trees and shrubs best suited to different localities for windbreaks and shelter, and for beautifying grounds, and ascertain the best methods of planting and managing them. [Sec. 1177-10, Gen. Code of Ohio, 1910, in L. 1915, p. 126.]

2. Cooperates with United States Department of Agriculture.

The board of control may cooperate with the Department of Agriculture of the United States in con-

ducting such portion of the work mentioned in section 1177-10 of the General Code,² as may be agreed upon by the board of control and such department of agriculture. [Sec. 1177-11, Gen. Code of Ohio, 1910, in L. 1915, p. 126.]

3. Cooperates with counties.

a. Use of county experiment farms for forest culture.—The county experiment farms² established under this act shall be used * * * for illustrations of the culture of forest trees and the management of farm woodlots; * * * or for such part of the above lines of work as it may be practicable to carry on. [Sec. 1175, Gen. Code of Ohio, 1910, in L. 1915, p. 124.]

b. Working plans for experiment farms.—Before entering upon any line of investigation or demonstration upon any of the county experiment farms established under this act, the director of the experiment station shall submit a written plan of such contemplated work to an advisory board, consisting of the county agricultural society of the county in which such experiment farm may be located, or if there be no county agricultural society, then the board of county commissioners of such county, and if such plan is not approved by such advisory board, then the work shall not be undertaken. [Sec. 1177-6, Gen. Code of Ohio, 1910, in L. 1915, p. 125.]

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

KINDLING FIRES IN THE OPEN.

1. Criminal liability.

For maliciously or negligently setting fire to woods, etc., or letting fire escape.—Whoever maliciously or negligently sets fire to woods, prairies or grounds not his property, or maliciously permits fire to pass from his prairies or grounds to the injury or destruction of the property of any other person, shall be fined not more than one hundred dollars, or imprisoned not more than twenty days, or both. [Sec. 12436, Gen. Code of Ohio, 1910.]

¹The board of control consists of five members, appointed by the governor, with the advice and consent of the senate, all of whom are required to be practical farmers. (Sec. 1171, Gen. Code of Ohio, 1910, in L. 1915, p. 122, sec. 2.) The board appoints a director, who with its approval appoints the personnel of the station, including the chief of the department of forestry. (Sec. 1171-4, Gen. Code of Ohio, 1910, in L. 1915, p. 123, sec. 6.)

RAILROADS.

2. Provide spark arresters, and keep them in good repair.

[¶ 1.] Except in the months of December, January, and February, any company or person operating a railroad or a part of one, shall place on every locomotive engine used therefor, or in construction or repairing the road, such device or contrivance as most effectually will guard against the escape of fire or sparks that otherwise would be thrown out by such engines, and keep the device in good repair. [Sec. 8966, Gen. Code of Ohio, 1910.]

[¶ 2.] **Penalty.**—A railroad company, corporation, or person violating the provisions of the next preceding section, upon conviction thereof in a court of competent jurisdiction, shall forfeit and pay for each violation any sum not exceeding one hundred dollars. **Injunction proceedings.**—In addition thereto the

¹ See Table of Acts, p. 4.

² Any county may at its own expense equip and maintain such an experiment farm, the actual management of which devolves upon the board of control of the agricultural experiment station. (Sec. 1176 et seq., Gen. Code of Ohio, 1910, in L. 1915, pp. 124, 125.)

PART II.—Contd.]

court of common pleas, in a county through which such railroads are constructed and operated, may enjoin such companies, corporations or persons from using on such railroads, a locomotive not provided with the device hereinbefore required. [Sec. S967, Gen. Code of Ohio, 1910.]

3. Rights of way cleared.

a. By railroads.—Every company, or person in charge of a railroad as manager or receiver, shall keep the right of way clear from weeds, high grass, and decayed timber, which from nature or condition are combustible, and liable to take or communicate fire from passing locomotives to abutting or adjacent property. **Civil liability for injuries caused by carelessness or neglect.**—Such company shall be liable for all damages sustained by the owner or occupant of such property from carelessness or neglect to keep its right of way clear of such combustible material. [Sec. S968, Gen. Code, 1910.]

b. By adjacent owners.—In case of failure to comply with the above requirements, a person owning or controlling property abutting on or adjacent to a railroad right of way, after twenty days' notice in writing, the default still continuing, may cause all combustible material to be removed from the right of way along or by such property. **Recovery of costs.**—Upon presentation of a reasonable account therefor to the agent at the nearest station of such company or receiver, if it or he refuses to pay the amount asked, within thirty days, it may be recovered before any court having jurisdiction therefor. [Sec. S969, Gen. Code of Ohio, 1910.]

4. Liability for loss or damage by fires.

a. Originating upon railroad lands.—Every company, or receiver of such company, operating a railroad or a part of one, shall be liable for all loss or

damage by fires originating upon the land belonging to it caused by operating such road. **Originating upon adjacent lands.**—Such company, or receiver of such company, further shall be liable for all loss or damage by fires originating on lands adjacent to its land, caused in whole or part by sparks from an engine passing over such railroad. **[No exemption from liability through care in equipping and operating engines.]** and the exercise by such company, or receiver of such company, of due care in equipping and operating such engine shall not exempt such company, or receiver of such company, from such liability, which may be recovered before any court of competent jurisdiction within the county in which the lands on which such loss or damage occurs are situated. [Sec. S970, Gen. Code of Ohio, 1910; in L. 1911, pp. 108, 109, sec. 1.]

b. [1.] Fire, prima facie evidence of liability.—The existence of fires upon the railroad company's lands is prima facie evidence that they are caused by operating such railroad. **Proviso.**—Provided that nothing herein shall invalidate or prohibit contracts of such company or receiver now existing or hereafter made, by which such company or receiver is indemnified against such loss or damage by fire, or liability therefor released. [Sec. S970, Gen. Code of Ohio, 1910; in L. 1911, pp. 108, 109, sec. 1.]

[2.] No exemption from liability on plea of neglect on part of owner.—In no case shall it be considered as negligence on the part of the owner or occupant of property so injured by fire, that he used it, or permitted it to be used and remain as if no railroad passed through or near such property. **Exception.**—But this rule shall not apply in cases of injury by fire to personalty which at the time was on the property occupied by such road. [Sec. S972, Gen. Code of Ohio, 1910.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests, and for the practice of forestry on these and on other lands owned by the State.)

STATE FORESTS.

1. State board of control.

a. Purchases lands for State forests—Cost limited.—The board of control of the agricultural experiment station may buy forested lands or other lands in the State suitable for the growth of forest trees, at a price not exceeding ten dollars per acre, to the amount of the appropriation for that purpose. All lands so purchased shall be deeded to the State and shall be known as State forests, but the purchase price of such lands shall not be paid until the title thereof has been approved by the attorney general.

[Sec. 1177-10a, Gen. Code of Ohio, 1910, in L. 1915, p. 540, sec. 1.]

b. Has charge of lands.—[The board shall] have entire custody of such forest lands, and employ such local assistance as it may deem necessary.

c. Promotes reforestation.—The board may plant such trees as it may deem expedient, and take such measures as it may deem necessary to bring about a profitable growth of timber on such lands.

d. Protects the lands.—The board may fence such lands with substantial wire fencing, protect them from forest fires and trespassers, preserve the timber thereon. * * *. [Sec. 1177-10b, Gen. Code of Ohio, 1910, in L. 1915, p. 540, sec. 2.]

e. Sells timber therefrom, and portions of the lands.—The board of control may sell wood and timber from the State forests whenever they may deem

PART III—Contd.]

such sale desirable, and with the approval of the attorney general may sell portions of the State forest lands when such lands shall command a greater price than cost and interest thereon, and may execute a deed thereof for and in behalf of the State. [Sec. 1177-10c, Gen. Code of Ohio, 1910, in L. 1915, p. 540, sec. 3.]

2. Disposition of moneys derived from sales of lands or timber.

All monies received from the sale of forest lands or from the sale of wood or timber thereon shall be paid into the State treasury to the credit of the general revenue fund. [Sec. 1177-10c, Gen. Code of Ohio, 1910, in L. 1915, p. 540, sec. 3.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private

owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

TABLE OF ACTS.

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Gen. Code of O., 1910, sec. 8966.....	II, 2 (§1).	(In Sess. Laws volume 1915, ² 1175.....	I, 3a.
8967.....	II, 2 (§2).	1176 <i>et seq.</i> ...	I, 3a (footnote).
8968.....	II, 3a.	1177-6.....	I, 3b.
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12436.....	II, 1.	1177-10b.....	III, 1b, c, d.
(In Sess. Laws volume, 1911 ³), 8970.....	II, 4a, b (§1).	1177-10c.....	III, 1c, 2.
(In Sess. Laws volume, 1915 ³), 1171.....	I, 1 (footnote).	1177-11.....	I, 2.
1171-4.....	I, 1 (footnote).		

¹ References are given in the order in which the subject-matter occurs in the original text.

² The section numbers which follow are in conformity to the code, as required by the Ohio law.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

CONNECTICUT

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

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STATE FORESTER.

1. Appointment—Term of office—Compensation.

The board of control of the Connecticut agricultural experiment station shall appoint a State forester to hold office during the pleasure of the board; he shall have an office at the experiment station, but shall receive no compensation, other than his regular salary as a member of the station staff. [L. 1901, ch. 175, sec. 1; Gen. Stat., 1902, sec. 4448.]

2. Is ex officio a member of the State park commission.

* * * the State forester shall be ex officio a member of said commission [State Park Commission]. [L. 1913, ch. 230, sec. 1.]

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

STATE FOREST FIRE WARDEN.

1. State forester is ex officio State forest fire warden—Compensation.

The State forester shall be, ex officio, State forest fire warden, and shall receive no additional compensation therefor, [Expenses.—] but shall receive his necessary traveling and other expenses, to be paid in the manner provided for in section 4450 of the general statutes. [L. 1905, ch. 238, sec. 1.]

2. Supervises town fire wardens—Instructs them and district fire wardens in their duties.

[¶ 1.] Said forest fire warden shall have supervision of town fire wardens, shall instruct them in their duties. [¶ 2.] [and] issue such regulations and instructions to the town and district fire wardens as he may deem necessary for the purposes of this act, * * *. [L. 1905, ch. 238, sec. 2.]

¹ See Table of Acts on p. 12.

ASSISTANT STATE FORESTER.

3. Appointment—Term of office—Compensation.

The board of control of the Connecticut agricultural experiment station may, in its discretion, appoint an assistant State forester, to hold office during the pleasure of the board, who shall receive no compensation other than his regular salary as a member of the station staff. [L. 1911, ch. 227, sec. 1.]

4. General powers and duties.

Said assistant State forester shall act under the direction of the State forester, and by his direction or in his absence shall exercise the powers and duties of the State forester and State forest fire warden. [L. 1911, ch. 227, sec. 2.]

EXPENDITURES.

STATE.

5. Pays disbursements of State forester.

The disbursements of the State forester shall be paid by the comptroller upon the audit of the State board of control. [L. 1901, ch. 175, sec. 6; Gen. Stat., 1902, sec. 4450.]

2. Enforces the laws.

[¶ 1.] As to fire districts.—[The forest fire warden shall] enforce the law as to fire districts in towns, * * *, [¶ 2.] [Prosecutes violators of forest fire laws.—] and cause violations of the laws regarding forest fires to be prosecuted. [L. 1905, ch. 238, sec. 2.] [¶ 3.] Pays for information leading to conviction.—(For text, see II, 48a.)

4. Provides for fire prevention in groups of towns.

The State forest fire warden may take such action as he may deem necessary, to provide for the prevention and control of forest fires in groups of towns and * * *. [L. 1911, ch. 292, sec. 1.]

5. Appoints patrolmen and establishes and equips lookout stations.

(For text, see II, 38, ¶ 1.)

6. Cooperates with United States Department of Agriculture.

[The State forest fire warden] is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States, under authority of

PART II—Contd.]

the act of Congress of March [1], 1911, for the protection of the forested watersheds of navigable streams in this State. [L. 1911, ch. 292, sec. 1.]

7. Prepares and issues fire notices.

(For text, see II, 26a.)

8. Waives operation of close season.

(For text, see II, 45b¹2.)

9. Examines protective devices on locomotives.

The State forest fire warden, or any deputy fire warden authorized by the State forest fire warden, may examine any such locomotive¹ and may require any employee of any such company² to assist in such examinations. [L. 1915, ch. 322, sec. 2.]

TOWN FIRE WARDENS.

10. Appointment—Term of service.

The selectmen of any town, except as hereinafter provided, shall, upon the request of the State forest fire warden and with his concurrence, appoint a town fire warden who shall act for the term of one year, or until his successor shall have been appointed, under the instructions of said State warden. [L. 1905, ch. 238, sec. 3; * * *; L. 1909, ch. 128, sec. 1.]

11. Compensation.

The town and district fire wardens shall receive thirty-five cents per hour for time actually employed at forest fires or in the prevention thereof, or otherwise devoted to discharge of duties as fire warden. [Exception.—] but the chief of the fire department of any city, while acting as town fire warden under this act, shall not receive such compensation in cases where a regular salary is received by him. [L. 1905, ch. 238, sec. 5; * * *; L. 1913, ch. 7.]

12. Hold other office.

a. * * * in the absence of town and district fire wardens, the first selectman may act as fire warden.

b. In towns having a consolidated town and city government where the boundaries and limits of said town and city are coterminous, the chief of the fire department of the city shall be, *ex-officio*, town fire warden and shall possess all the powers and be subject to all the duties provided by this act,² under the supervision of the State forest fire warden. [L. 1905, ch. 238, sec. 3; * * *; L. 1909, ch. 128, sec. 1.]

¹ See II, 50.

² See Town Fire Wardens.

13. Establish fire districts.

When required by the State warden, such town fire warden shall, and any such town fire warden may, establish two or more fire districts in the town for which he is appointed, and * * * [L. 1905, ch. 238, sec. 3; * * *; L. 1909, ch. 128, sec. 1.]

14. Appoint district fire wardens.

(For text, see II, 28.)

15. Enforce forest fire laws.

[The town and district fire wardens shall] enforce all statutes of this State now in force or that may hereafter be enacted for the protection of forest and timber land from fire, and * * * [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

16. Arrest violators, without warrant.

Any fire warden may arrest, without a warrant, any person or persons taken by him in the act of violating any of the said laws for the protection of forest and timber lands. [Violators taken before justices of the peace or other magistrates.—] and bring such person or persons forthwith before a justice of the peace or other magistrate having jurisdiction, who shall proceed without delay to hear, try, and determine the matter. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

17. Prevent and extinguish fires.

The town and district fire wardens shall prevent and extinguish forest fires in their respective towns, and * * *. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

18. Establish fire patrol during drought.

During a season of drought the town fire warden may establish a fire patrol in the town, and * * * [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

19. Attend, and personally direct fire-fighting work.

* * * In case of fire in or threatening any forest or woodland the town and district fire wardens shall attend forthwith, and use all necessary means to confine and extinguish such fire. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

20. In charge at fires.

* * * they [town and district fire wardens] shall have control and direction of all persons and apparatus while engaged in extinguishing forest fires, outside the limits of boroughs. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

PART II—Contd.]

21. Impress assistance.

They may summon any male resident of the town between the ages of eighteen and fifty years to assist in extinguishing fires, and may also require the use of horses and other property needed for such purpose; [Penalty for refusal to assist.—] any person so summoned and who is physically able who refuses or neglects to assist or allow the use of horses, wagons, or other material required, shall be liable to a penalty of not less than five dollars nor more than one hundred dollars. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

22. Back-fire, and take other precautions.

The said fire wardens may destroy fences, plow lands, or, in an emergency, set backfires to check any fire. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

23. Enter upon lands, if necessary.

No action for trespass shall lie against any person crossing or working upon lands of another to extinguish fires. [L. 1905, ch. 238, sec. 4; L. 1907, ch. 136, sec. 2.]

24. Account for fire-protection expenditures.

Said wardens [town and district fire wardens] shall prepare their bills for services rendered by them and by the men, teams, and other apparatus employed by them as provided by this act,¹ within one month of the date of such services, which bills shall show in detail the amount and character of the services performed, the exact duration thereof, and all disbursements made by said wardens. **Bills submitted to State forest fire warden, for approval.**—Said bills shall be submitted to the State forest fire warden for examination and record and shall be returned by him to the selectmen of the town wherein the services were rendered and expenses incurred, [Towns pay bills.—] and upon approval by the selectmen said bills shall be paid by the town treasurer. **Similar procedure on account of fire fighting in adjoining towns.**—Whenever a fire warden, either alone or with assistants, engages in extinguishing a fire in a town adjoining his own, he shall prepare his bill against the town in which such services were rendered, and, if correct, it shall, after being submitted to the State forest fire warden and approved by the selectmen, be paid by the treasurer of the town in which the fire occurred. [L. 1905, ch. 238, sec. 5; * * *; L. 1913, ch. 7.]

25. Issue permits for kindling fires during close season.

(For text, see II, 45a.)

26. Post notices.

a. General fire notices.—The town and district fire wardens shall post such notices, containing the State laws concerning fires as the State fire warden may prepare, and * * * [L. 1905, ch. 238, sec. 10.]

b. Notices exempting localities from operation of close season.—(For text, see II, 45b, ¶ 2.)

27. Examine protective devices on locomotives.

(For text, see II, 9.)

DISTRICT FIRE WARDENS.

28. Appointment.

[When required by the State warden, the town fire warden shall, and any such town fire warden may], appoint a resident of such district¹ as district fire warden; * * * [L. 1905, ch. 238, sec. 3; * * *; L. 1909, ch. 128, sec. 1.]

29. Compensation.

(Same as town fire wardens. See II, 11.)

30. Hold other office.

(Same as town fire wardens. See II, 12a.)

31. Enforce forest fire laws.

(Same as town fire wardens. See II, 15.)

32. Arrest violators, without warrant.

(Same as town fire wardens. See II, 16.)

33. Prevent and extinguish forest fires.

(Same as town fire wardens. See II, 17; 19; 20; 21; 22; 23; 25; 26a, b; 27.)

34. Account to State forest fire warden for fire-protection expenditures.

(For text, see II, 24.)

FIRE-FIGHTING LABORERS.

35. Impressed by town fire wardens—Penalty for refusal to assist, or allow use of horses, wagons, etc.

(For text, see II, 21.)

36. Enter upon lands, if necessary.

(For text, see II, 23.)

¹ See Table of Acts on p. 12.

¹ See II, 13.

PART II—Contd.]

37. Compensation fixed by.

a. Selectmen of towns.—The selectmen, except in towns having a consolidated town and city government as hereinafter provided, shall fix the compensation, not exceeding twenty cents per hour, to be paid to laborers at forest fires, employed by the fire wardens or their deputies, [Notice to town fire warden and State forest fire warden.—] and shall give notice thereof to the town fire warden and the State forest fire warden; * * *

b. Mayors and treasurers of cities.—In towns having a consolidated town and city government, in which the boundaries and limits of said town and city are coterminous, the mayor and treasurer of the city shall perform all the acts required by this section¹ of selectmen and treasurers of towns.

c. Law.—* * * but if the selectmen neglect to fix such compensation² the town fire warden may pay at the rate of twenty cents per hour for such services. [L. 1905, ch. 238, sec. 5; * * *; L. 1913, ch. 7.]

PATROL AND LOOKOUT MEN.

38. Appointment by State forest fire warden—Compensation—Equipment.

[§ 1.] Said State forest fire warden may appoint patrolmen, who shall receive not more than twenty-five cents per hour for the time actually employed, and may establish and equip fire lookout stations and furnish necessary equipment for such patrolmen. [L. 1911, ch. 292, sec. 1.]

[§ 2.] **Power to arrest violators, without warrant.**—Any patrolman appointed for such purpose³ by said State forest fire warden may arrest, without warrant, any person taken by him in the act of violating any of the laws of this State for the protection of forest and timber lands. [L. 1911, ch. 292, sec. 2.]

39. Employment by town fire wardens, during seasons of drought.

(For text, see II, 18.)

EXPENDITURES.

STATE.

40. Reimburses towns for one-half of expenditures by fire wardens.

A statement, upon blanks furnished by the comptroller, with duplicate bills, showing the amount paid by such town as aforesaid,⁴ during the preceding year shall be sent by the town treasurer to the State comptroller on the first day of June, annually, and he shall thereupon draw his order on the State treas-

urer in favor of such town for one-half of said amount. [L. 1905, ch. 238, sec. 5; * * *; L. 1913, ch. 7.]

41. Pays salary and costs of equipment of patrolmen and of establishment and equipment of fire-lookout stations, etc.

The disbursements of the State forest fire warden in carrying out the purposes of this act¹ shall be paid by the State from the appropriation for fire wardens. [L. 1911, ch. 292, sec. 3.]

COUNTIES.

42. Reimburse towns for one-fourth of expenditures by fire wardens.

A copy of each bill so paid by the treasurer of any town, under the provisions of this section¹ shall be sent by said treasurer to the county commissioners of the county in which the town is situated, and the commissioners shall thereupon draw their order on the county treasurer in favor of said town for one-fourth of the amount of such bill. [L. 1905, ch. 238, sec. 5; * * *; L. 1913, ch. 7.]

TOWNS.

43. Make initial payment of expenses incurred by fire wardens.

(For text, see II, 24.)

KINDLING FIRES IN THE OPEN.

44. During the entire year.

a. On public lands, without authority.—No person shall kindle a fire upon public land, without authority, nor * * *

b. On lands of another, without permission from owner.—[No person shall kindle a fire] * * * upon the land of another without permission of the owner thereof, or his agent. [L. 1886; * * *; Gen. Stat., 1902, sec. 1220.]

c. On one's own woodland, without removing combustible material—Extinguishment of fire required.—No person shall kindle, nor authorize another to kindle, a fire in his woodland, unless all combustible materials for the space of twenty feet surrounding the place where said fire is kindled have been removed, nor shall any such fire be left until extinguished or safely covered. [L. 1886; * * *; Gen. Stat., 1902, sec. 1221; L. 1907, ch. 43.]

d. Fires caused by throwing down lighted matches, cigars, etc., are within provisions of subsections a, b, c.—Fires kindled by throwing down a lighted match, cigar, or other burning substance, shall be deemed within the provisions of secs. 1220 and 1221 [subsections a, b, c], and * * *.

¹ See Table of Acts on p. 12.

⁴ See II, 24.

² See *a.* of this section.

³ See II, 4; 6; § 1 of this section.

¹ See Table of Acts on p. 12.

PART II—Contd.]

c. Penalties for violating subsections a, b, c.—* * * every person violating any provision of said sections [subsections a, b, c] shall be fined not more than five hundred dollars, or imprisoned not more than six months, or both. [L. 1886; * * *; Gen. Stat., 1902, sec. 1222; L. 1905, ch. 238, sec. 8.]

45. During close season.

a. Unlawful to set a fire without a permit—Penalty.—Every person, except as hereinafter provided, who shall kindle or authorize another to kindle a fire in the open air, outside the limits of any city, borough, or fire district,¹ or land controlled by any railroad company, for the purpose of burning bushes, weeds, grass, or rubbish of any kind, between the fifteenth day of March and the first day of June, and the fifteenth day of September and the fifteenth day of November, in any year, without first obtaining from the fire warden of the district written permission stating when and where such fire may be kindled, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both; * * *

b. [¶ 1.] Exceptions: Burning on ploughed fields, gardens, etc.—* * * provided, that such permission shall not be required for the kindling of a fire in a ploughed field, garden, or public highway, at a distance of not less than two hundred feet from any woodland, brushland, or field containing dry grass or other inflammable material. [L. 1909, ch. 128, sec. 4; L. 1911, ch. 124, sec. 2.]

[¶ 2.] Under posted notice that permit is not required.—Whenever the State fire warden shall deem that the public safety of any town or portion of a town of this State does not require the protection provided by section four² of this act, he may cause the town fire warden of any such town to post notices to that effect in conspicuous places, not less than five in each town, or two in each fire district.³ Whenever such notices have been posted, each town or the designated portion thereof so affected shall be exempt from the operation of the provisions of section four of this act until the fifteenth day of March of the next succeeding year. [L. 1909, ch. 128, sec. 5; L. 1911, ch. 124, sec. 3.]

[¶ 3.] Back-firing in absence of a fire warden.—In the absence of any fire warden to take control of a wild fire, it shall not be unlawful for any person to kindle a fire at any time on his own land, public land, or the land of another with the consent of the owner or occupant thereof, for the purpose of backfiring to

¹ Does not refer to fire districts established by any forest fire legislation, but to organized fire districts provided for under secs. 1998, 1999, Gen. Stat., 1902.

² See subssecs. a, b, c, 1, of this section.

³ Refers to forest fire districts established by town fire wardens. See II, 13.

protect property from the threatened and immediate injury of a wild fire. [L. 1909, ch. 128, sec. 6.]

46. Criminal liability.

a. Willful setting fires—Penalty.—Every person who shall set on fire any woods, * * * so as thereby to occasion injury to another; * * * shall, if such act is done wilfully, be fined not more than one thousand dollars, or imprisoned not more than six months, or both. [L. 1830; * * *; Gen. Stat., 1902, sec. 1218; L. 1905, ch. 238, sec. 7.]

b. Setting fires, in general—Penalty.—Every person who shall kindle or authorize another to kindle, at any time, a fire in the open air, which fire occasions an injury to another, shall be fined not more than two hundred dollars, or imprisoned not more than six months, or both. [L. 1909, ch. 128, sec. 3.]

c. Destroying posted notices.—* * * any person who willfully or maliciously tears down or destroys any such notice¹ shall be fined ten dollars. [L. 1905, ch. 238, sec. 10.]

47. Civil liability.

For injury caused by fire.—Every person who shall set fire on any land, that shall run upon the land of any other person shall pay to the owner all damages done by such fire. [L. 1733; * * *; Gen. Stat. 1902, sec. 1906.]

48. Disposition of fines.

a. Paid into State treasury as a special fire-protection fund.—All moneys received from fines imposed under and by virtue of the provisions of sections 1218, 1222 and * * * of the general statutes² shall be paid to the State treasurer and kept by him as a separate fund, to be paid out by him upon the requisition of the State forest fire warden, for use in connection with and the prevention and suppression of forest fires, and such disbursements shall be audited by the State board of control as provided in section 4450;² [Portion of fine paid to informant.—] provided, that the State forest fire warden shall pay one-half of the amount collected as a fine to the fire warden or other person upon whose information the proceedings in which such fine was imposed were instituted, but not exceeding fifty dollars in any one case. [L. 1905, ch. 238, sec. 6.]

b. All moneys received from fines imposed under and by virtue of the provisions of sections three and four² of this act shall be paid to the State treasurer and shall form a part of the fund provided for in section six of chapter 238 of the public acts of 1905,² and shall be disbursed in the same manner as is pro-

¹ See II, 26a.

² See Table of Acts on p. 12.

PART II—Contd.]

vided in said section six.¹ [L. 1909, ch. 128, sec. 7; L. 1911, ch. 124, sec. 4.]

CLOSE SEASON FOR HUNTING.

49. May be proclaimed during season of drought.

The governor may, when he shall consider that extraordinary precautions are necessary to prevent fires in the woodland of the State, proclaim a season of drought, during which the hunting season shall be suspended and all provisions of the law relating to a close season shall be in force for all kinds of game. [L. 1915, ch. 218.]

RAILROADS.

50. Provide spark arresters and ash pans.

[§ 1.] Every railroad company operating steam locomotives shall equip and maintain an effective spark arrester and a suitable ash pan on every locomotive burning coal or wood while the same is in operation and shall keep such devices in such condition as will prevent the escape of live coals or sparks. [L. 1915, ch. 322, sec. 1.]

[§ 2.] **Penalty.**—Any such company failing to comply with the provisions of this act¹ shall forfeit to the State the sum of twenty-five dollars for each engine operated without such spark arrester or ash pan. [L. 1915, ch. 322, sec. 3.]

51. Liability.

a. [§ 1.] **To persons for injuries to property caused by fire from engines.**—When property is injured by fire communicated by an engine of a railroad company, without contributory negligence on the part of the person entitled to the care and possession of such property, such company shall be held responsible in damages to the extent of such injury to the person so injured. [L. 1881; * * *; Gen. Stat., 1902, sec. 3779.]

[§ 2.] **Company entitled to notice, in advance, of claim for damages.**—No action shall be brought under section 3779² of the general statutes unless written notice of the claim is given to such company within twenty days after the fire, specifying the day of the fire, giving a general description of the property injured, and stating the amount claimed as damages. Such notice may be given by a letter signed by the claimant or his agent, mailed to the superintendent of the railroad, or delivered to its station agent at a station in the town where the fire occurred. [L. 1881; * * *; Gen. Stat., 1902, sec. 3780; L. 1911, ch. 212.]

b. [§ 1.] **To a town, or city, for expense of extinguishing fires.**—Any railroad company which, through any act of its employees or agents, by sparks from its locomotives, or otherwise, sets fire to trees, brush, or grass on lands outside the right of way of such company shall be liable to the town or city in which such fire occurs for the lawful expenses incurred by such town or city in extinguishing such fire. [L. 1911, ch. 114, sec. 1.]

[§ 2.] **Payment upon presentation of bill.**—A bill for such expenses shall be rendered by the local fire warden having charge of the extinguishing of such fire, in accordance with the provisions of [sec. 5] chapter 238 of the public acts of 1905, and amendments thereof; and, upon approval of such bill by the State forest fire warden and upon presentation thereof to the chief engineer of the railroad company liable for such expenses under the provisions of section one of this act, such expenses shall be paid by said railroad company. [L. 1911, ch. 114, sec. 2.]

52. Have an insurable interest in property for which held responsible in damages.

Every such company² shall have an insurable interest in the property for which it may be so held responsible in damages and may procure insurance thereon in its own behalf. [L. 1881; * * *; Gen. Stat., 1902, sec. 3779.]

EMPLOYEES.

53. Fire duties.

a. **Section foremen required to extinguish fires, and assist fire wardens.**—It shall be the duty of every section foreman employed by a railroad company, upon the discovery of any fire, in the section under his jurisdiction, for which said company is liable under the provisions of section one of this act,¹ to summon necessary assistance, proceed to the fire and extinguish it, and to give such assistance to the town or district fire warden as may, from time to time, be requested by such warden. [L. 1911, ch. 114, sec. 3.]

b. **Employees required to assist fire wardens in examining protective devices on locomotives.**—(For text, see II, 9.)

BRUSH AND SLASH DISPOSAL.

54. Within highway limits.

Selectmen cut and burn bushes and trees annually.—The selectmen in every town shall cause to be cut, at least once in each year, all bushes, trees, and branches of trees growing within ten feet of the center of the traveled way within the limits of the public highways in their respective towns, and shall, within thirty days thereafter, cause all brush so cut to be piled and burned. **"Public highways" defined.**—The

¹ See Table of Acts on p. 12.² See § 1 of this section.¹ See Table of Acts on p. 12.² See II, 510, § 1.

PART II—Contd.]

term "public highways" as used in this section shall be construed to mean and include only the main highways leading from one town to another. [L. 1905, ch. 277, sec. 1; L. 1911, ch. 2.]

55. On lands bordering on highway.

[§ 1.] **First selectman or fire warden orders removal of brush or tree growth lying adjacent to roadway.**—The first selectman or fire warden of any town, wherein any cut brush or tree growth is permitted to remain within fifteen feet of the traveled portion of any highway, may order the owner of the land adjacent to such highway where such cut brush or tree growth is lying, if cut by him or by his authority, or other person who cut the same, or caused the

same to be cut, as the case may be, to remove or burn such brush or tree growth. **Service of notice.**—Such order shall be in writing and shall designate a time not less than thirty nor more than sixty days from the serving of such order for removal or burning thereof. Such order shall be left with or at the usual place of abode of the owner of such land or the person who cut such brush or tree growth, or caused the same to be cut, if a resident of said town, or if a nonresident said order shall be sent to such person by registered mail, post paid. [L. 1915, ch. 260, sec. 1.]

[§ 2.] **Penalty.**—Any person who shall fail to comply with any order issued by authority of this act shall be fined not more than twenty-five dollars, or imprisoned not more than thirty days, or both. [L. 1915, ch. 260, sec. 2.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and for the practice of forestry on these and on other lands owned by the State.)

STATE FORESTS.

1. State forester.

a. [§ 1.] **Acquires lands for State forests, and exchanges or sells such land.**—The State forester may buy land in the State suitable for the growth of oak, pine or chestnut lumber, [Price.—] at a price not exceeding eight dollars per acre, to the amount of the appropriation for that purpose, which land shall be deeded to the State and shall be called a State forest. * * * [§ 2.] [He may] exchange the land so bought with the adjoining proprietors, and for and in behalf of the State execute deeds for such purpose; * * * [§ 3.] and, with the approval of the governor and attorney general may sell portions of the same, when they shall command a greater price than cost and interest thereon, and may execute a deed thereof for and in behalf of the State.

b. [§ 1.] **Protects the land, as custodian, and preserves the game, fish, and timber.**—He shall be the custodian of such lands and * * *. [§ 2.] [He may] fence said lands with substantial wire fencing, not barbed; protect said lands from forest fires and trespassers; preserve the game, fish and timber thereon, and * * *. [L. 1901, ch. 175; Gen. Stat. 1902, sec. 4449; * * *; L. 1911, ch. 115.]

c. [§ 1.] **Reforests the lands.**—He may plant such land with seed or seedlings of such trees as he may deem expedient, * * *. [L. 1901, ch. 175; Gen. Stat. 1902, sec. 4449; * * *; L. 1911, ch. 115.]

[§ 2.] **Makes thinnings, etc.**—The State forester is authorized to make thinnings in the woodland of the State forest and to take such other measures as he may deem necessary to bring about a profitable

growth of the timber thereon. [L. 1903, ch. 132, sec. 1.]

d. [§ 1.] **Sells wood and timber from State forests.**—The State forester is authorized to sell wood and timber from the State forest whenever he shall deem such sale desirable, * * *.

[§ 2.] **Renders accounting of timber sales and use of proceeds to State board of control.**—* * * he shall render an account of the same to the State board of control. [L. 1903, ch. 132, sec. 2.]

e. **Employs assistants.**—[The State forester] may employ such local assistants as may be necessary.

f. **Pays town taxes on the lands.**—[The State forester] shall pay from the sum biennially appropriated the town taxes upon said land when assessed at the same rate as similar adjoining lands, * * *. [L. 1901, ch. 175; Gen. Stat., 1902, sec. 4449; * * *; L. 1911, ch. 115.]

2. Appropriations and revenues.

a. **Appropriation for purchase of State forests.**—The sum of five thousand dollars is hereby appropriated to be paid out of any money in the treasury not otherwise appropriated, as a special fund for the purchase of State forests as authorized by section 4449¹ of the general statutes, said sum to be available until expended by the State forester in accordance with the provisions of section 4450 of the general statutes.¹ [Sp. L. 1909, vol. 15, p. 1048, sec. 2.]

b. **Proceeds from timber sales for maintenance of State forests.**—* * * the proceeds of which sales² shall be used by him [State forester] for the maintenance and care of the forest as specified in this act¹ and in section 4449 of the general statutes as hereby amended,¹ and * * *. [L. 1903, ch. 132, sec. 2.]

¹ See Table of Acts on p. 12.

² Additional maintenance and improvement funds are provided in biennial appropriations.

³ See III, 1*d.*, § 1.

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

CLASSIFICATION OF FOREST LAND.

1. Acreage and value limitations.

¶ 1.] Woodland and land suitable for forest planting not less than five acres in area and not exceeding in value twenty-five dollars per acre exclusive of timber growing thereon, may, upon application of the owner, be given special classification as forest land for purposes of taxation.

¶ 2.] * * * When the value of the land alone exceeds twenty-five dollars per acre it shall not be classified as forest land under this act. [L. 1913, ch. 58, sec. 1.]

2. Two general types of classified lands recognized.

a. Land fully stocked with forest trees not more than 10 years old, etc.—Land fully stocked with forest trees not more than ten years old, except scattered older trees the value of which for timber does not increase the assessed value of the property, land incompletely or partially stocked with forest trees not more than ten years old, when planted with a sufficient number of additional trees to assure a spacing of approximately six by six feet over the entire area, and open land planted with forest trees not less than twelve hundred to the acre, provided in each case the trees planted are any of the following: Ash, chestnut, maple, oak, tulip, white pine, red pine, Scotch pine, European larch, Norway spruce, or any other kinds approved by the State forester; and provided the State forester approves the manner in which the trees are planted, may be classified as forest land as specified in section one¹ and * * *. [L. 1913, ch. 58, sec. 3.]

b. Land bearing timber of more than 10 years' growth.—Land bearing timber of more than 10 years' growth, said timber having a taxable value, may be classified as forest land as specified in section one,¹ and * * *. [L. 1913, ch. 58, sec. 2.]

3. Valuation of land and timber.

a. Determined by assessors.—The assessors of any town wherein woodland or land suitable for forest planting is situated and which the owner thereof seeks to have classified under the provisions of section one

of chapter 58 of the public acts of 1913¹ shall examine such land and give the owner thereof a sworn statement giving separately the value of the land and the value of the timber thereon. If such owner shall file written application with the assessors on or before September thirtieth in any year, such statement shall be furnished him on or before the first day of November following. Such land shall be placed in the list for such year at the value so placed upon it by the assessors, provided classification in accordance with the provisions of said act shall be granted by the State forester prior to the completion and filing of such list by the assessors. [L. 1915, ch. 90, sec. 1.]

b. Redetermined by special board, on appeal.—If the owner of such land shall claim that the valuation thereof appearing in such sworn statement is in excess of the average value of twenty-five dollars per acre, he may appeal to the superior court for the county within which such land is situated in the manner provided for appeals from boards of relief. [L. 1915, ch. 90, sec. 2.]

4. Application for classification.

Application for such classification shall be made to the State forester, accompanied by such description of the land as the State forester may require, and by a sworn statement from the assessors of the town giving the true value of the land alone, and the true value of any timber thereon.² [L. 1913, ch. 58, sec. 1.]

5. Completion of classification.

State forester examines lands—Issues certificate.—When such application has been made the State forester shall examine the land, and if he finds the requirements hereinafter specified have been fulfilled, he shall issue a quadruplicate certificate of classification, the original to be filed in the State forester's office, one copy in the tax commissioner's office, one copy in the town clerk's office of the town in which the land is located, and one copy with the owner. [L. 1913, ch. 58, sec. 1.]

6. Classification continued.

When any tract has been classified as forest land for purposes of taxation under this act, the classification shall be continued as long as proper forest conditions are maintained thereon, except as herein provided. [L. 1913, ch. 58, sec. 5.]

7. Reclassification optional.

Whenever a timber crop is removed either in one or several cuttings and the land reforested, either

¹ See Table of Acts on p. 12.

² See IV, 3*a*.

¹ See Table of Acts on p. 12.

PART IV—Contd.]

naturally or by planting, said land may be reclassified under section three¹ upon application by the owner, or the existing classification may be continued and tax collected on the established valuation as provided herein for the balance of the uncompleted valuation period. If the existing classification is continued, a reevaluation shall be made at the end of said uncompleted period, and taxes thereafter assessed as provided herein. [L. 1913, ch. 58, sec. 4.]

8. Cancellation of classification.

Grounds for cancellation.—Use of such land for pasture, destruction of the tree growth by fire and failure of owner to restore forest conditions, removal of tree growth and use of land for other purposes, or any changed condition which, in the opinion of the State forester, indicates that the requirements of this act are not being fulfilled, shall be sufficient ground for cancellation of such classification. **Examination prior to cancellation.**—When requested to do so by the assessors, or whenever he may deem it necessary, the State forester shall examine classified forest land, [Cancellation.—] and if he finds the provisions of this act are not complied with, he shall forthwith cancel the classification of said land, [Notice of cancellation.—] sending notice of such cancellation to the tax commissioner, the town clerk of the town in which the land is located, and the owner of said land. Said land shall thereafter be taxed as other land. [L. 1913, ch. 58, sec. 5.]

9. Revaluation of land and timber.

[¶ 1.] **First made 50 years after original classification.**—A revaluation of both land and timber separately shall be made by the assessors fifty years after the date of original classification. * * *

[¶ 2.] **And whenever necessary, after second period of 50 years.**—At the end of this period [second period of 50 years], provided said classification has been continuously maintained, said land and timber shall, whenever necessary, be revalued separately by the assessors,² and * * *. [L. 1913, ch. 58, sec. 2.]

ANNUAL TAX.

10. Tax levied annually at local rate not exceeding 10 mills.

a. Value of land alone subject to tax.—[Land fully stocked with forest trees not more than ten years old * * *,² may be classified as forest land

¹ See Table of Acts on p. 12.

² This revaluation procedure applies equally to both types of land classified under the law, although the specific provision above refers to the "land having timber of more than 10 years' growth." (See IV, 10.)

³ For complete description of land, see IV, 2a.

and] shall thereafter be taxed annually at the local rate, but not to exceed ten mills in any case, on a valuation of the land alone established and reestablished by the assessors of the town as provided in section two.³ [L. 1913, ch. 58, sec. 3.]

b. [¶ 1.] Values of both land and timber subject to tax.—[Land bearing timber of more than 10 years' growth² * * * may be classified as forest land * * * and] shall thereafter be taxed annually at the local rate, but not to exceed ten mills in any case, upon the true and actual value of the land and timber separately as established by the assessors at the time the classification was made. * * * [¶ 2.] said revaluation [made after fifty years] to be subject to an annual tax at the local rate, but not to exceed ten mills, for another period of fifty years. * * * [¶ 3.] such new valuation [made after the second fifty years] shall be assessed annually thereafter at the local rate. [L. 1913, ch. 58, sec. 2.]

11. Payment of the tax secured by lien on the land, and on the timber, standing and cut.

(For text, see IV, 15a.)

YIELD TAX.

12. Imposed upon all products of cuttings not devoted to personal use.

All products of cuttings on classified land shall pay a yield tax as herein provided, except material cut for domestic use, which shall be limited to fuel and the construction of fences, buildings, or other improvements which tend to develop the property of the owner and increase its taxable value, when said material is used by the owner of said land, or by a tenant with the permission of said owner, upon property belonging to said owner which is taxable in the same town as the timberland from which said material is removed. **Sale or other disposal of exempted material renders it subject to the tax.**—If said material is sold or otherwise disposed of or transferred to the ownership of other persons it shall be subject to a yield tax as provided above. [L. 1913, ch. 58, sec. 6.]

13. Determination of taxable values, in advance of removal of timber.

Owner makes original valuation.—[¶ 1.] Whenever a cutting is made, other than as excepted above, the owner of the land shall file a sworn statement with the assessors and the State forester, of the quantity and stumpage value of all timber cut before any of it

¹ See IV, 9.

² For complete description of land, see IV, 2b.

PART IV—Contd.]

is removed from the land. [§ 2.] **Original valuation subject to review and revaluation by assessors, or by a special board in case of appeal by owner.**—If the assessors deem the quantity or value to be incorrectly stated, they may themselves determine the quantity cut and stumpage value of same. In case the owner is unwilling to accept their valuation, the matter shall be referred to a special board consisting of the first selectman and town clerk of the town in which the land is located and the State forester, and the decision of said board with regard to quantity and value shall be final. Upon the valuation thus determined a yield tax as provided in this act shall be paid by the owner of the land. [L. 1913, ch. 58, sec. 6.]

14. Rates of the tax.

a. On cuttings upon "land fully stocked with forest trees not more than 10 years old," etc., when classified.—Whenever a cutting is made,¹ except as specified in section six,² a yield tax of ten per centum shall be levied on the value of the material removed, said value being determined as provided in section six. [L. 1913, ch. 58, sec. 3.]

b. On cuttings upon "land bearing timber of more than 10 years' growth" when classified.—Whenever a cutting is made on land classified under this section,³ except as specified in section six,² the material removed shall be subject to a graduated yield tax at the following rates on the value determined as provided in section six. From one to ten years after the land is classified the tax shall be two per centum of the yield; from eleven to twenty years after the land is classified the tax shall be three per centum of the yield; from twenty-one to thirty years after the land is classified the tax shall be four per centum of the yield; from thirty-one to forty years after the land is classified the tax shall be five per centum of the yield; from forty-one to fifty years after the land is classified the tax shall be six per centum of the yield; over fifty years after the land is classified the tax shall be seven per centum of the yield. [L. 1913, ch. 58, sec. 2.]

15. Payment of the tax is secured by.

a. Lien on the land and timber, collectively. All taxes levied under the provisions of this act shall be due and collectible as other town taxes and subject to the same liens and processes of collection. Classified land and timber standing thereon and timber products cut from said land shall be subject to lien for unpaid taxes levied under this act. [L. 1913, ch. 58, sec. 7.]

b. A cash deposit covering amount, in full, in advance of removal of any portion of the material

cut.—Should it be necessary to remove any products of a cutting before the operation is completed, the owner of the land shall deposit with the tax collector a sufficient sum to cover the estimated yield tax. When the cutting is completed said tax shall be levied as herein provided and the balance of said deposit, if any, returned. [L. 1913, ch. 58, sec. 6.]

c. Lien on the land and the timber, separately, in case of unlawful removal of the timber.—In case the products of a cutting are unlawfully removed, the owner of the land and the owner of the timber shall be jointly liable to the town in an action of debt to the full value of both land and timber. [L. 1913, ch. 58, sec. 6.]

d. Seizure and sale, by town, of timber products unlawfully removed.—Any timber products unlawfully removed from said land or upon which the full amount of yield tax has not been paid, shall be liable to seizure by the town, wherever found, and, after due notice, may be sold to satisfy said unpaid taxes and the expense of seizure and sale. [L. 1913, ch. 58, sec. 7.]

SPECIAL CANCELLATION TAX.

16. Values to be taxed.

Whenever a classification is canceled the assessors shall deduct the valuation of both land and the timber thereon as established at time of classification from the then value of said land and timber as assessed for future taxation, and * * *. [L. 1913, ch. 58, sec. 5.]

17. Values to be exempted.

The past value of timber which has been destroyed by natural agencies, or which has been cut and upon which a yield tax has been paid, shall not be considered in fixing the present assessable value. [L. 1913, ch. 58, sec. 5.]

18. Rate of the tax.

* * * on the excess value thus determined, a tax shall be collected at the rate of five mills per annum for the entire number of years that said land has been under classification. This tax shall be in addition to any annual tax or yield tax which may have been paid or may be collectible. [L. 1913, ch. 58, sec. 5.]

EXEMPTIONS FROM GENERAL-TAX LAWS.

19. Certain tree plantations established prior to 1913.

[§ 1.] When any person shall plant land not heretofore woodland, the actual value of which, at the time of planting, shall not exceed twenty-five dollars per acre, to timber trees of any of the following

¹ See IV, 2a.² IV, 2b.

- See Table of Acts on p. 12.

PART IV—Contd.]

kinds, to wit: Chestnut, hickory, ash, white oak, sugar maple, European larch, white pine, black walnut, tulip or spruce not less in number than twelve hundred to the acre, and such plantation of trees shall have grown to an average height of six feet, the owner of such plantation may appear before the board of relief of the town in which such plantation is

located, and, on proving a compliance with the conditions herein, such plantation of trees shall be exempt from taxation of any kind for a period of twenty years next thereafter.

[¶ 2.] The foregoing provision for exemption from taxation shall apply only to land planted with trees prior to January 1, 1913. [L. 1877; * * * Gen. Stat., 1902, sec. 2320; L. 1913, ch. 58, sec. 8.]

TABLE OF ACTS.

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L. 1733, ch. , sec.	II, 47.	4.....	II, 48b.
L. 1830, ch. , sec.	II, 46a.	L. 1911, ch. 212.....	II, 51a ¶ 2.
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3.....	II, 46b.	L. 1915, ch. 322, sec. 1.....	II, 10 ¶ 1.
		2.....	II, 9.
		3.....	II, 10 ¶ 2.

¹ References are given in the order in which the subject matter occurs in the original text. In reconstructing the text of any act herein compiled, bracketed matter found introducing a section or paragraph should be ignored, since the material has already been presented elsewhere in its proper relation to the original text of the act being reconstructed. (See above, L. 1911, ch. 292, sec. 1.)

UNITED STATES DEPARTMENT OF AGRICULTURE.

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation.

MASSACHUSETTS

(Serial I.—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fire Protection," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted. Explanatory matter in bold type is not a part of the original text.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests, or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

STATE FORESTER.

1. Appointment—Salary.

[¶ 1.] The governor, with the consent of the council, shall appoint an officer to be known as the state forester, and shall determine his salary. **Qualifications.**—He shall be a trained forester who has had a technical education.

[¶ 2.] **Removal.**—The governor may, with the consent of the council, remove the state forester at any time for such cause as he shall deem sufficient. **Successor.**—In case of the death, removal or resignation of the state forester the governor shall forthwith appoint a successor. [L. 1904, ch. 409, sec. 1; * * *; L. 1909, ch. 263, sec. 1.]

2. Is ex officio a member of State board of agriculture.

He [State forester] shall be ex officio a member of the state board of agriculture. [L. 1904, ch. 409, sec. 1; * * *; L. 1909, ch. 263, sec. 1.]

3. Promotes reforestation and management by.

[Preamble.] It shall be the duty of the State forester to promote the perpetuation, extension and proper management of the forest lands of the Commonwealth, both public and private.

a. [¶ 1.] **Aiding private owners, at their expense.**—He may upon suitable request give to any person owning or controlling forest lands aid or advice in the management thereof. * * * [¶ 2.] Any recipient of such aid or advice shall be liable to the state forester for the necessary expenses of travel and subsistence incurred by him or his assistants. **Renders account.**—The state forester shall account for moneys received under this clause according to the provision of section five.¹

b. **Publishing results of such aid.**—The state forester shall have the right to publish the particulars and results of any examination or investigation made by him or his assistants as to any lands within the Commonwealth, and the advice given to any person who has applied for his aid or advice. [L. 1904, ch. 409, sec. 2.]

c. [¶ 1.] **Establishing nurseries and distributing seeds and seedlings.**—The state forester may establish and maintain nurseries for the propagation of

forest-tree seedlings upon such lands of the Commonwealth, at the Massachusetts Agricultural College at Amherst, or at any other state institution as the superintendent or trustees of the institution may set apart for this purpose. Superintendents of institutions where land is set apart for this purpose may furnish free of cost the labor of their inmates necessary to establish and maintain the said nurseries. Seedlings from these nurseries shall be furnished to the Commonwealth without expense for use upon reservations set aside for the propagation of forest growths for other than park purposes. All stock grown in nurseries established under the provisions of this act shall be used within the limits of the Commonwealth and shall be furnished to state institutions free of charge. The state forester may distribute seeds and seedlings to landowners, citizens of the Commonwealth, under such conditions and restrictions as he may determine, subject to the approval of the governor and council. [L. 1904, ch. 409, sec. 3; L. 1912, ch. 577, sec. 1.]

[¶ 2.] **Money available for seed and seedling distribution.**—For the purpose of assisting in reforestation a portion, not exceeding twenty per cent of the money authorized by this act¹ to be expended, may be used by the state forester for the distribution at not less than cost of seeds and seedlings to landowners who are citizens of the Commonwealth, under such conditions and restrictions as the state forester, subject to the approval of the governor and council, may deem advisable. [L. 1908, ch. 478, sec. 7.]

d. **Giving courses in forestry.**—He [State forester] shall give such a course of instruction to the students of the Massachusetts Agricultural College on the art and science of forestry as may be arranged for by the trustees of the college and the forester; and * * * [L. 1904, ch. 409, sec. 2.]

4. Hires assistants and fixes their salaries.

The state forester is hereby empowered, subject to the approval of the governor and council, to hire such assistants as he may need in the performance of his duties, and to fix their salaries. [L. 1904, ch. 409, sec. 4.]

5. Accepts bequests or gifts for forestry purposes.

The state forester, with the approval of the governor and council, is hereby authorized to accept, on behalf of the Commonwealth, bequests or gifts to be used for the purpose of advancing the forestry interests of the Commonwealth, under the direction of the governor and council, in such manner as to carry out the terms of the bequest or gift. [L. 1910, ch. 153, sec. 1.]

¹ See Table of Acts, on p. 21.² III, 5a.

PART I—Contd.]

6. Expends annually sums appropriated.

Such sums as the general court shall authorize may be expended annually by the state forester, with the approval of the governor and council, in carrying out the provisions of this act.¹ [L. 1904, ch. 409, sec. 6; L. 1907, ch. 473, sec. 2.]

7. Makes annually a report, recommendations, and statement of receipts and expenditures.

The state forester shall annually, on or before the * * * [third Wednesday in January], make a written report to the general court of his proceedings for the year ending on the * * * [thirtieth] day of * * * [November preceding], together with such recommendations as he may deem proper, and with a detailed statement of the receipts and expenditures incident to the administration of his office. His report shall be printed in the report of the state board of agriculture. [L. 1904, ch. 409, sec. 5; L. 1905, ch. 211, sec. 1.]

8. Employs forest wardens to make investigations and report thereon.

(For text, see I, 11, par. 1; II, 7; 3b.)

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

STATE FIRE WARDEN AND DEPUTIES.

1. Appointment—Duties in general.

[¶ 1.] The state forester is hereby empowered to appoint an assistant to be known as the state fire warden, whose special duty it shall be to aid and advise the forest wardens and their deputies in towns and the municipal officers exercising the functions of forest wardens in cities, in preventing and extinguishing forest fires and in enforcing the laws relative to forest fires, and may from time to time designate not more than fifteen deputies to aid such state fire warden in the discharge of his duties. [L. 1911, ch. 722, sec. 1.]

[¶ 2.] **Annual report.**—The state fire warden appointed under the terms of section one shall report annually upon his work and upon the forest fires occurring in the Commonwealth, and his report shall be included in and be printed as a part of the state forester's annual report. [L. 1911, ch. 722, sec. 2.]

FOREST WARDENS.

2. Appointment.

The mayor and aldermen in cities and the selectmen in towns shall annually, in January, appoint a

9. Suppresses moths.

He [State forester] shall act for the Commonwealth in suppressing the gypsy and brown tail moths as public nuisances.¹ [L. 1904, ch. 409, sec. 1; * * *; [L. 1909, ch. 263, sec. 1.]

10. Performs other duties, as imposed.

* * * [the State forester] shall perform such other duties from time to time as may be imposed upon him by the governor and council. [L. 1904, ch. 409, sec. 2.]

FOREST WARDENS.

11. Make forest investigations and reports.

[¶ 1.] [The forest warden² shall investigate] the values of forest lands, the character and extent of wood-cutting operations, the prevalence of insect pests injurious to forest growth, and other matters affecting the extent and condition of woodlands in his city or town, and shall report thereon to the state forester at such times and in such form as the state forester may require. [L. 1907, ch. 475, sec. 2.]

[¶ 2.] **Receives pay from State for time so spent.**—(For text, see II, 3b.)

forest warden, and they shall forthwith give notice of such appointment to the state forester. **Approved by State forester.**—The appointment of a forest warden shall not take effect unless approved by the state forester, and when so approved notice of the appointment shall be given by the mayor and aldermen or by the selectmen to the person so appointed and approved. **Acceptance or refusal—Forfeiture.**—Whoever having been duly appointed fails within seven days after the receipt of such notice to file with the city or town clerk his acceptance or refusal of the office shall, unless excused by the mayor and aldermen¹ or by the selectmen, forfeit ten dollars. [R. L., 1902, ch. 32, sec. 16; * * *; L. 1913, ch. 600, sec. 1.]

3. Compensation.

a. Receive pay, from town, with deputies and assistants, for their services.—Payments shall be made to * * * [forest wardens], to their deputies, and to persons assisting them, and for property used under their direction at a forest fire, at a rate prescribed by the town, or, in default of its action

¹The specific provisions concerning the suppression of the gypsy and brown-tail moths, while recognized as undoubtedly bearing "directly upon the practice of forestry," are nevertheless omitted from the scope of this compilation since they constitute a separate and distinct class of legislation, as yet not generally associated with State forest administration.

² See II, 2.

¹ See Table of Acts, on p. 21.

PART II—Contd.]

thereon, by the selectmen. **Approve itemized account for services.**—No such payment shall be made until an itemized account approved by the * * * [forest wardens] under whose direction the work was done or assistance furnished, shall have been filed with the officer making payment. [R. L. 1902, ch. 32, sec. 23; L. 1907, ch. 475, sec. 5.]

b. Receive pay from State for time spent under direction of State forester.—The state forester shall from moneys annually appropriated for the expenses of his office recompense the forest wardens for the time spent by them in making investigations under his direction according to the provisions of section two of this act¹: [Provisos.—] *provided*, that the state forester shall not be liable to make any such payment except upon the presentation of a duly itemized account, or to pay for such investigations at a rate greater than that of thirty-five cents an hour, or in excess of the appropriation available for such payment. [L. 1907, ch. 475, sec. 4.]

4. Hold other offices.

a. Nothing in this act or in any other act shall be construed to prevent the offices of tree warden, selectman, chief of fire department and forest warden from being held by the same person. [R. L., 1902, ch. 32, sec. 16; * * *; L. 1913, ch. 600, sec. 1.]

b. The engineers of fire departments in cities and in towns in which a fire department exists and which have so voted shall perform the duties and exercise the powers of forest wardens with respect to forest fires. [L. 1907, ch. 475, sec. 2.]

5. Formerly called "firewards" and "forest firewards."

The officials designated as "firewards" or "forest firewards," in chapter thirty-two of the Revised Laws, shall hereafter be called forest wardens. [L. 1907, ch. 475, sec. 5.]

6. Prevent and extinguish forest fires.

a. General powers.—The forest warden shall take precautions to prevent the spread of forest fires and the improper kindling thereof, and shall have sole charge of their extinguishment. [L. 1907, ch. 475, sec. 2.]

b. Back-fire and take other precautions.—If a fire occurs in woodland, two or more of the * * * [forest wardens] of the town, or of a town containing woodland which is endangered by such fire, who are present at a place in immediate danger of being burned over, may set back fires and take all necessary precautions to prevent the spread of the fire. [R. L. 1902, ch. 32, sec. 19; L. 1907, ch. 475, sec. 5.]

c. Enter upon lands, if necessary.—Forest wardens, their deputies and assistants shall not be liable for trespass while acting in the reasonable performance of their duties. [L. 1907, ch. 475, sec. 6.]

d. Issue permits for setting fires during close season.—(For text, see II, 20a; 21.)

e. Enforce provisions concerning close season.—(For text, see II. 20d.)

7. Investigate and report on forest fires.

He [the forest warden] shall investigate the causes and extent of forest fires and the injury done thereby, * * * [in his city or town, and shall report thereon to the state forester at such times and in such form as the state forester may require.] [L. 1907, ch. 475, sec. 2.]

8. Post fire notices.

He [the forest warden] shall also post in suitable places in the city or town such warnings against the setting of forest fires and statements of the law relating thereto as may be supplied to him by the state forester. [L. 1907, ch. 475, sec. 2.]

9. Appointment and discharge deputies—Impress assistance.

[§ 1.] The forest warden may appoint deputies to assist him in the performance of his duties and may discharge the same, and he or his deputies may, if in their judgment there is danger from a forest fire; employ assistance or require any male person in their city or town between the ages of eighteen and fifty years to aid in its extinguishment or prevention, and may require the use of horses, wagons, and other property adapted to that purpose, and shall keep an account of the time of all persons assisting them and a schedule of all property so used. [R. L. 1902, ch. 32, sec. 20; L. 1907, ch. 475, sec. 3.]

[§ 2.] **Penalty for refusal to assist.**—Whoever wilfully refuses or neglects, without sufficient cause, to assist, or to allow the use of his horses, wagons, or other property as required by the preceding section, shall, for each offense, be punished by a fine of not less than five nor more than one hundred dollars to be equally divided between the complainant and the town, and may also be imprisoned for not more than sixty days. [R. L., 1902, ch. 32, sec. 21.]

COMMISSIONERS ON FISHERIES AND GAME, AND DEPUTIES.

10. Prevent and extinguish fires.

The commissioners on fisheries and game and their duly authorized deputies may arrest without a warrant any person found in the act of unlawfully setting a fire. Said commissioners and their deputies may require assistance according to the provisions of section twenty of chapter thirty-two of the Revised

¹ See Table of Acts, on p. 21.

PART II—Contd.]

Laws,¹ and they shall take precautions to prevent the progress of forest fires, or the improper kindling thereof, and upon the discovery of any such fire shall immediately summon the necessary assistance, and notify the * * * [forest warden] of the town. [L. 1907, ch. 209; L. 1907, ch. 475, sec. 5.]

11. Report to State fire warden.

The deputies of the fish and game commissioners shall report to the state fire warden the situation and extent of any forest fire occurring within the district to which they are assigned, and they shall report to him monthly their doings under chapter two hundred and ninety-nine of the acts of the year nineteen hundred and seven.¹ [L. 1911, ch. 722, sec. 3.]

EXPENDITURES.

STATE.

12. Employs State fire warden and deputies.

(For text, see II, 1, § 1.)

13. Pays fire wardens for investigating and reporting upon fires to State forester.

(For text, see II, 36.)

14. Reimburses towns.

[§ 1.] Every town in the Commonwealth with a valuation of one million seven hundred and fifty thousand dollars or less which appropriates and expends money, with the approval of the State forester, for apparatus to be used in preventing or extinguishing forest fires or for making protective belts or zones as a defense against forest fires, shall be entitled, upon the recommendation of the state forester, approved by the governor, to receive from the treasury of the Commonwealth a sum equal to one-half of the said expenditure, but no town shall receive more than two hundred and fifty dollars. [L. 1910, ch. 398, sec. 1; L. 1914, ch. 262, sec. 1.]

[§ 2.] **Appropriation therefor.**—A sum not exceeding five thousand dollars in any one year may be expended in carrying out the provisions of this act.¹ [L. 1910, ch. 398, sec. 2.]

15. Pays expenses of conventions of forest wardens.

The state forester may from moneys appropriated annually for the expenses of his office expend a sum not exceeding two thousand dollars in making necessary arrangements for conventions of forest wardens and in paying wholly or in part the traveling expenses to and from their towns of such forest wardens as

attend this convention: *Provided*, That no moneys shall be expended under authority of this section in paying the traveling expenses of any one warden to or from more than one convention in any one year; and *provided further*, That said conventions shall be held at a place within the Commonwealth. [L. 1907, ch. 475, sec. 8.]

TOWNS.

16. Appropriate money for forest fires.¹

A town which accepts the provisions of this section, or has accepted the corresponding provisions of earlier laws, may appropriate money for the prevention of forest fires to an amount not exceeding one-tenth of one per cent of its valuation. [R. L. 1902, ch. 25, sec. 17.]

17. Expend for various purposes.

Money appropriated by a town under the provisions of section seventeen of chapter twenty-five,² for the prevention of forest fires, and all fines received under the provisions of sections twenty-one,² twenty-two³ and twenty-four² of this chapter and section nine² of chapter two hundred and eight shall be expended by the * * * [forest warden], under the supervision of the selectmen, in trimming brush out of wood roads, in preparing and preserving suitable lines for back fires or in other ways adapted to prevent or check the spread of fire; or such town may expend any portion of such money in taking in the name of the town such woodland as the selectmen, upon the recommendation of the forester, consider expedient for the purpose of preventing forest fires. Such taking and the payment of damages therefor or for injury to property, other than by fire or back fire, shall be governed by the laws relating to the taking of land for highways. [R. L., 1902, ch. 32, sec. 25; L. 1907, ch. 475, sec. 5.]

18. Recover from railroad expense of extinguishing fires caused by railroads.

(For text, see II, 31*b*.)

KINDLING FIRES IN THE OPEN.

19. First alternative provision for general close season for setting fires.

a. Unlawful to set a fire in open air without a permit.—In a town which accepts the provisions of

¹ In addition to these specific authorizations, sections 16 and 17, both to prevent and check the spread of fires, see II, 3*a*, concerning fire fighting.

² See Table of Acts, on p. 21.

³ Section 22 is repealed by L. 1907, ch. 475, sec. 10, and replaced, as regards the fine therein prescribed, by section 7 of that act. (See II, 23*d*.)

¹ See Table of Acts, on p. 21.

PART II—Contd.]

this section or has accepted the corresponding provisions of earlier laws no fire shall be set in the open air between the first day of April and the first day of October, unless by the written permission of a * * * [forest warden]. **Forest wardens give notice of, and enforce provisions.**—The * * * [forest warden] shall cause public notice to be given of the provisions of this section, and shall enforce the same. **Fine.**—Whoever violates the provisions of this section shall be punished by a fine of not more than one hundred dollars, to be divided equally between the complainant and the town, or by imprisonment for not more than one month, or by both such fine and imprisonment. [R. L., 1902, ch. 32, sec. 24; L. 1907, ch. 475, sec. 5.]

b. Provisions to become inoperative.— * * * upon such acceptance¹ the provisions of section twenty-four of chapter thirty-two of the Revised Laws² shall cease to apply to any town which has previously accepted that section. [L. 1908, ch. 209, sec. 5; L. 1911, ch. 244, sec. 3.]

20. Second alternative provision for general close season for setting fires.

a. Unlawful to set a fire in open air without a permit.—It shall be unlawful within any city, or within any town which accepts the provisions of this act, for any person to set or increase a fire in the open air between the first day of March and the first day of December except by the written permission of the forest warden, or the chief of the fire department or, in cities that have such an official, the fire commissioner: * * *

b. [¶ 1.] Exceptions: Burning on ploughed fields, or barren land.— * * * *provided*, that debris from fields, gardens, and orchards, or leaves and rubbish from yards may be burned on ploughed fields by the owner thereof, their agents or lessees; and *provided, further*, that persons above eighteen years of age may maintain a fire for a reasonable purpose upon sandy or barren land, if the fire is inclosed within rocks, metal or other non-inflammable material. In every case such fire shall be at least two hundred feet distant from any forest or sprout lands, and at least fifty feet distant from any building, and shall be properly attended until it is extinguished. [L. 1908, ch. 209, sec. 1; * * *; L. 1912, ch. 419, sec. 3.]

[¶ 2.] Moth fires in accordance with regulations.—The provisions of the preceding section² shall not apply to fires which may be set in accordance with regulations and methods approved by the superintendent

ent for suppressing the gypsy and brown tail moth. [L. 1908, ch. 209, sec. 2.]

c. Penalties for violations.—Whoever violates the provisions of this section¹ shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one month, or by both such fine and imprisonment.

d. [¶ 1.] Enforcement: Forest warden gives notice of, and enforces provisions.—The forest warden shall cause public notice to be given of the provisions of this section,¹ and shall enforce the same. [L. 1908, ch. 209, sec. 1; * * *; L. 1912, ch. 419, sec. 3.]

[¶ 2.] Forest officers arrest violators, without warrant.—The state forester and forest warden, or any duly authorized assistant in the employ of the state forester, or any duly appointed deputy forest warden, may arrest without a warrant any person found in the act of setting, increasing, or maintaining a fire in violation of the provisions of this act.¹ [L. 1908, ch. 209, sec. 4; * * *; L. 1912, ch. 419, sec. 4.]

e. [¶ 1.] Notification and acceptance: State forester to notify towns of passage of act.—The state forester shall notify every town in the Commonwealth of the passage of this act¹ by sending at least three printed copies thereof to the town clerk, who shall post the same in conspicuous places. [L. 1908, ch. 209, sec. 3.]

[¶ 2.] Acceptance of act.—The selectmen of every town may submit this act to the voters for their acceptance at any annual or special town meeting. The vote shall be taken by separate ballot, and shall be "Yes" or "No" in answer to the following question printed upon the ballot: "Shall an act passed by the general court in the year nineteen hundred and eight [chap. 209], entitled 'An act to provide for the protection of forest or sprout lands from fire,' be accepted by this town?" A majority vote of the legal voters present and voting at such meeting shall be required for the acceptance of this act; and * * * [L. 1908, ch. 209, sec. 5; L. 1911, ch. 244, sec. 3.]

21. Special close season for setting fires.

Burning coal pits and firing brushwood unlawful.—Whoever, between the first day of April and the first day of October, sets fire to a coal pit or pile of wood, for the purpose of charring the same, on any woodland in the cities of New Bedford or Fall River or in the towns of Dartmouth, Freetown, Fairhaven, Middleborough or Rochester, shall forfeit one hundred dollars. Whoever, between the times aforesaid, sets fire to any brushwood or bushes on any part of such woodland, or on land adjoining thereto, so as to cause the burning of such brushwood or bushes, shall forfeit fifty dollars. **Disposition of forfeitures.**—All forfeitures under the provisions of this section shall

¹ Acceptance of the provisions of ch. 209, L. 1908. See II, 20e. (par. 2.)

² See Table of Acts, on p. 21.

¹ See Table of Acts, on p. 21.

PART II—Contd.]

be equally divided between the city or town in which the offence is committed and the person who sues therefor. [R. L., 1902, ch. 208, sec. 124.]

22. Foreign-born persons forbidden to camp, etc., on wild lands without a permit—Penalty.

NOTE.—It appears to have been the purpose in enacting chapter 478, Laws 1910,¹ to fix the responsibility on unnaturalized foreign-born persons for fires on wild lands, by providing that it shall be unlawful for such persons to pick wild berries or flowers, or to camp or picnic upon any land of which they are not the owners within the counties of Barnstable and Plymouth, between the 1st day of April and the 1st day of December, without a written, nontransferable permit from the owner; which shall be exhibited, upon demand, to the forest warden, or one of his deputies, or other authorized officer, under penalty of arrest, and punishment by a fine of not more than fifty dollars, or imprisonment for not more than thirty days, or by both.

23. Criminal liability.

a. Willful and malicious burning—Penalty.—Whoever wilfully and maliciously burns * * * any standing tree, grain, grass, or other standing product of the soil, or the soil itself, of another, shall be punished by imprisonment in the State prison for not more than five years or by a fine of not more than five hundred dollars and imprisonment in jail for not more than one year. [R. L., 1902, ch. 208, sec. 5.]

b. [§ 1.] Willful or negligent setting fires, or letting fires escape: General provisions—Penalty.—Whoever wilfully or without reasonable care sets or increases a fire upon land of another whereby the property of another is injured, or whoever negligently or wilfully suffers any fire upon his own land to extend beyond the limits thereof, whereby the woods or property of another are injured, shall be punished by a fine of not more than two hundred and fifty dollars. [R. L., 1902, ch. 208, sec. 8; L. 1912, ch. 419, sec. 2.]

[§ 2.] *Special provisions—Penalty.*—Whoever in a town which accepts the provisions of this section or has accepted the corresponding provisions of earlier laws sets a fire on land which is not owned or controlled by him and before leaving the same neglects to entirely extinguish such fire, or whoever wilfully or negligently sets a fire on land which is not owned or controlled by him whereby property is endangered or injured, or whoever wilfully or negligently suffers a fire upon his own land to escape beyond the limits thereof to the injury of another, shall be punished by a fine of not more than one hundred dollars, or by im-

prisonment in jail for not more than one month, or by both such fine and imprisonment; **Civil liability.**—and shall also be liable for all damages caused thereby. **Disposition of fine.**—Such fine shall be equally divided between the complainant and the town. [R. L., 1902, ch. 208, sec. 9.]

c. Reckless setting fire—Penalty.—Whoever, by wantonly or recklessly setting fire to any material, or by increasing a fire already set, causes injury to, or the destruction of, any growing or standing wood of another shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months. [R. L., 1902, ch. 208, sec. 7; L. 1912, ch. 419, sec. 1.]

d. Destroying posted notices.—Whoever wilfully and maliciously tears down or destroys any notices posted under the provisions of section two of this act¹ shall be punished by a fine of ten dollars. [L. 1907, ch. 475, sec. 7.]

24. Civil liability.

Willful or negligent setting fires, or letting fire escape.—(For text, see II. 23b, § 2.)

CLOSE SEASON FOR HUNTING.

25. May be proclaimed during extreme drought.

[§ 1.] Whenever, during an open season for the hunting of any kind of game in this state, it shall appear to the governor that by reason of extreme drouth the use of firearms in the forest is liable to cause forest fires, he may, by proclamation, suspend the open season and make it a close season for the shooting of birds and wild animals of every kind for such time as he may designate, and may prohibit the discharge of firearms in or near forest land during the said time. [L. 1900, ch. 422, sec. 1.]

[§ 2.] **Publication and posting of proclamation.**—A proclamation issued under authority hereof shall be published in such newspapers of the state and posted in such places and in such manner as the governor may direct, under the charge and direction of the state forester and the commissioners on fisheries and game. [L. 1900, ch. 422, sec. 3.]

[§ 3.] **Penalties for violation of provisions.**—During the time designated as above by the governor, all provisions of law relating to the close season shall be in force, and whoever violates any such provisions shall be subject to the penalties prescribed therefor. In case any person shall, during a close season proclaimed as aforesaid, discharge a firearm in or near forest land, or shoot any wild animal or bird, as to which there is no close season otherwise provided by law, he shall be subject to a fine of not more than one hundred dollars. [L. 1900, ch. 422, sec. 2.]

¹ See volume of Session Laws.

¹ See Table of Acts, on p. 21.

PART II—Contd.]

RAILROADS.

26. Precautions in operating locomotives, and on rights of way.

a. Provide spark arresters.—Every corporation operating a steam railroad within this Commonwealth shall, subject to the approval of the board of railroad commissioners, install and maintain a spark arrester on every engine in its service in which wood, coke or coal is used for fuel, and * * *

b. Clear rights of way annually.—* * * shall, between the first day of April and the first day of December in each year, keep the full width of all of its locations over which such engines are operated, to a point two hundred feet distant from the center line on each side thereof, clear of dead leaves, dead grass, dry brush, or other inflammable material, and * * *

c. Leave no deposits of fire, coals, etc.—* * * shall not at any time leave any deposit of fire, hot ashes or live coals upon its locations in the immediate vicinity of woodlands or grasslands, and * * *

d. Post notices.—* * * shall post in stations and other conspicuous places within its location and right of way such notices and warning placards as are furnished to it for the purpose by the state forester: *Provided*, That nothing in this section shall be construed to prohibit any railroad corporation from piling or keeping upon its location or right of way cross-ties or other materials necessary for the maintenance and operation of its railroad. [L. 1907, ch. 431, sec. 1.]

27. Clear adjoining unimproved land.

Any railroad corporation may, upon giving notice according to the provisions of this section, enter upon unimproved land adjoining any location or right of way upon which it operates engines burning wood, coke, or coal, and may there at its own expense and subject to the direction of the * * * [forest warden], or the officer or board having his powers, in the city or town in which the land is situated, clear such land of dead leaves, dead grass, and dead wood to a distance of one hundred feet from the tracks, without thereby becoming liable for trespass: **[Give notices.]** *Provided*, That no railroad corporation shall, under the provisions of this section, do any acts on unimproved land outside its location or right of way, unless it has within two months given fourteen days' notice in writing by mail or otherwise to the occupant of the land, and to the owner thereof, if he resides or has a usual place of business in the city or town in which it is situated, and if the land is unoccupied and the owner does not reside or have a usual place of business in the city or town, then, unless the railroad corporation has within two months

published notice of its purpose once in three successive weeks in a newspaper published in the county in which the land is situated, and unless it has within three days given at least twenty-four hours' notice to the * * * [forest warden], or the officer or board having his powers, in the city or town in which the land is situated of the location of the land which it intends to enter under the provisions of this section, and of the time at which it intends to enter the same; and *provided, further*, that no notice hereby required shall be valid unless it sets forth the provisions of this section. [L. 1907, ch. 431, sec. 2; L. 1907, ch. 475, sec. 5.]

28. Inform employees as to their fire duties, under the law.

Railroad corporations shall inform their employees as to their duties under this act¹ **[Equip them.]**—and shall furnish them with the appropriate facilities for reporting and extinguishing such fires. [L. 1907, ch. 431, sec. 5.]

29. Authority limited as to public parks, etc.

Nothing in this act shall be construed to give any railroad corporation power to enter upon, or to interfere in the management or care of, any public park or reservation. [L. 1907, ch. 431, sec. 6.]

30. Liability.

a. To a person or corporation for injuries caused by fire from engines.—Every railroad corporation shall be liable in damages to a person or corporation whose buildings or other property may be injured by fire communicated by its locomotive engines, and * * * [L. 1906, ch. 463, Part II, sec. 247.]

b. [§ 1.] To a city, or town, for expense of extinguishing fires.—Any railroad corporation which, by its servants or agents, negligently, or in violation of law, sets fire to grass lands or forest lands shall be liable to any city or town in which such fire occurs, for the reasonable and lawful expense incurred by such city or town in the extinguishment of the fire. [L. 1909, ch. 394, sec. 1.]

[§ 2.] *City, or town, may recover.*—Cities and towns may recover sums to which they are entitled under the provisions of this act¹ by an action of contract in the superior court. [L. 1909, ch. 394, sec. 2.]

31. Have an insurable interest in property along route.

* * * [Every railroad corporation] shall have an insurable interest in the property upon its route for which it may be so held liable,² and may procure insurance thereon in its own behalf. If it is held liable in damages, it shall be entitled to the benefit

¹ See Table of Acts, on p. 21.² See II, 30a.

PART II—Contd.]

of any insurance effected upon such property by the owner thereof, less the cost of premium and expense of recovery. The money received as insurance shall be deducted from the damages, if recovered before they are assessed; and if not so recovered the policy of insurance shall be assigned to the corporation which is held liable in damages, and it may maintain an action thereon. [L. 1906, ch. 463, Part II, sec. 247.]

EMPLOYEES.

32. Fire duties.

a. Trainmen required to sound fire signal, and give notice to section men and telegraph station.—Any engineer, conductor, or other employe on a train who discovers a fire burning uncontrolled on lands adjacent to the tracks shall forthwith cause a fire signal to be sounded from the engine, which shall consist of one long and three short whistle blasts repeated several times, and shall notify the next section men whom the train passes, and the next telegraph station, of the existence and location of the fire. The provisions of this section shall not affect the authority conferred upon the board of railroad commissioners by the provisions of section one hundred and forty-eight of Part II of chapter four hundred and sixty-three of the acts of the year nineteen hundred and six.¹ [L. 1907, ch. 431, sec. 3.]

b. Sectionmen and others required to extinguish fires.—Sectionmen or other employe of a railroad corporation who receive notice of the existence and location of a fire burning on land adjacent to the tracks shall forthwith proceed to the fire and shall use all reasonable efforts to extinguish it: *Provided*, That they are not at the time employed in labors immediately necessary to the safety of tracks or to the

safety and convenience of passengers and the public. [L. 1907, ch. 431, sec. 4.]

BRUSH AND SLASH DISPOSAL.

33. On lands bordering on woodland of another, highway, or railroad location.

Every owner, tenant or occupant of land, and every owner of stumpage, who cuts or permits the cutting of wood or timber on woodland owned or occupied by him or on which he has acquired stumpage by purchase or otherwise, and which borders upon the woodland of another or upon a highway or railroad location, shall clear the land of the slash and brush wood then and there resulting from such cutting for such distance, not exceeding forty feet, from the woodland of such other person, highway or railroad location as the local forest warden shall determine, and within such time and in such manner as he shall determine. [L. 1914, ch. 101, sec. 1.]

34. Within highway limits.

Any person who cuts or causes to be cut trees or bushes or undergrowth within the limits of any highway or public road shall dispose of the slash and brush wood then and there resulting from such cutting within such time and in such manner as the forest warden of the city or town wherein such cutting is done shall determine. [L. 1914, ch. 101, sec. 2.]

35. Fine in cases of neglect.

Whoever neglects to comply with the directions of the forest warden with regard to the disposal of slash and brush, as provided in sections one and two of this act, may be punished by a fine of not less than five dollars nor more than fifty dollars. [L. 1914, ch. 101, sec. 3.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and for the practice of forestry on these and on other lands owned by the State.)

STATE FORESTS.

1. State forest commission.

a. Established—Personnel—No compensation.—There is hereby established a state forest commission, to be composed of three persons, one of whom shall be the state forester and two other members who shall be appointed by the governor, with the advice and consent of the council, and who shall serve without compensation. [L. 1914, ch. 720, sec. 1.]

b. Expenses.—The said commission may also expend not more than five hundred dollars annually for its necessary expenses incurred in carrying out the provisions of this act. [L. 1914, ch. 720, sec. 6.]

¹ Concerning regulations of whistles.

c. Terms of office.—The term of office of the appointive members of the commission shall be six years, except that when first appointed one of the members shall be appointed for six years and one for three years. Thereafter one member shall be appointed every third year. [L. 1914, ch. 720, sec. 1.]

d. Acquires lands for State forests, and sells or exchanges such lands—Cost limited.—The commission shall have power to acquire for the Commonwealth by purchase or otherwise, and to hold, woodland or land suitable for timber cultivation within the Commonwealth. The commission may, after a public hearing, sell or exchange any land thus acquired which, in the judgement of the commission can no longer be used advantageously for the purposes of this act. The average cost of land purchased by the commission shall not exceed five dollars an acre. [L. 1914, ch. 720, sec. 2.]

PART III—Contd.]

2. State forester.

a. Given control and management of State forests—Required to reforest them—Makes regulations for their use.—Lands acquired under the provisions of this act shall be known as state forests and shall be under the control and management of the state forester. He shall proceed to re-forest and develop such lands and shall have power to make all reasonable regulations which, in his opinion, will tend to increase the public enjoyment and benefit therefrom and to protect and conserve the water supplies of the Commonwealth. [L. 1914, ch. 720, sec. 3.]

b. Utilizes penal labor.—In the reforestation, maintenance, and development of lands purchased under this act, the State forester, so far as it is practicable, shall obtain the labor necessary therefor under the provisions of chapter six hundred and thirty-three of the acts of the year nineteen hundred and thirteen, and acts in amendment thereof and in addition thereto.¹ [L. 1914, ch. 720, sec. 4.]

c. Publishes State forest accounting in annual report.—The state forester shall keep and shall publish in his annual report an account of all moneys invested in each State forest and of the annual income and expense thereof. [L. 1914, ch. 720, sec. 3.]

3. Appropriations.

a. Expended for acquisition and maintenance of lands.—The sum of ten thousand dollars may be expended during the present year and the sum of twenty thousand dollars may be expended annually for the four succeeding years by the state forest commission in the acquisition of lands under the provisions of this act: *Provided*, That the said commission may, at its discretion, authorize the state forester to expend a part of said sum in the maintenance of said lands.

b. Available until expended.—If any part of said twenty thousand dollars remains unexpended at the close of any year, the balance may be expended in the following year. [L. 1914, ch. 720, sec. 6.]

**4. State forests exempt from taxation—
Cities and towns reimbursed by State
for loss of taxes.**

Land acquired under the provisions of this act² shall be exempt from taxation; but the Commonwealth shall reimburse cities and towns in which such lands are situated for taxes lost by reason of their acquisition, in the same manner and to the same extent as in the case of lands acquired for public institutions under the provisions of chapter six hundred and seven of the acts of the year nineteen hundred and ten.³ [L. 1914, ch. 720, sec. 5.]

¹ Laws for the utilization of penal labor.

² See Table of Acts, on p. 21.

³ Chap. 607, Laws 1910, requires the tax commissioner, beginning in the year 1910 and every fifth year thereafter,

OTHER STATE LANDS.**LANDS ACQUIRED FOR EXPERIMENT IN FOREST MANAGEMENT.****5. Acquisition.**

a. By purchase.—For the purpose of experiment and illustration in forest management and for the purposes specified in section seven³ of this act the sum of five thousand dollars may be expended in the year nineteen hundred and eight, and the sum of ten thousand dollars annually thereafter, by the state forester, with the advice and consent of the governor and council, in purchasing lands situated within the Commonwealth and adapted to forest production. **Price and acreage limited.**—The price of such lands shall not exceed in any instance five dollars per acre, nor shall more than eighty acres be acquired in any one tract in any one year, except that a greater area may be so acquired if the land purchased directly affects a source or tributary of water supply in any city or town of the Commonwealth. All lands acquired under the provisions of this act shall be conveyed to the Commonwealth, and no lands shall be paid for nor shall any moneys be expended in improvements thereon until all instruments of conveyance and the title to be transferred thereby have been approved by the attorney general, and until such instruments have been executed and recorded. [L. 1908, ch. 478, sec. 1; L. 1909, ch. 214, sec. 1.]

b. By gifts.—The state forester may in his discretion, but subject to the approval of the deed and title by the attorney general as provided in section one, accept on behalf of the Commonwealth gifts of land to be held and managed for the purpose hereinbefore expressed. [L. 1908, ch. 478, sec. 3.]

6. Reconveyance.

a. Repurchase of such lands by original owners.—The owners of land purchased under this act, or their heirs and assigns, may repurchase the land from the Commonwealth at any time within ten years after the purchase by the Commonwealth. [**Price to be paid.**—] upon paying the price originally paid by the Commonwealth, together with the amount expended in improvements and maintenance, with interest at the rate of four per cent per annum on the purchase price. The state forester, with the approval of the governor and council, may execute in behalf of the Commonwealth such deeds of reconveyance as may be necessary under this section: [**Regulation of cut re-**

to deliver to the State treasurer a statement as to the value of lands owned by the State and used for public institutions, in each city and town. The rate per thousand for which the State shall reimburse cities and towns is required to be equal to the average of the annual rates for the three preceding years. (Sec. 43, part 3, chap. 490, Laws 1909, as amended by Laws 1914, chap. 198, sec. 6; see volume 1914 session laws.)

⁴ See Table of Acts, on p. 21.

PART III—Contd.]

quired.—*Provided, however,* That there shall be included in such deeds a restriction requiring that trees cut from such property shall not be less than eight inches in diameter at the butt. [L. 1908, ch. 478, sec. 2.]

b. Repurchase of such lands by donors.—A donor of such land may reserve the right to buy back the land in accordance with the provisions of section two, but in the absence of a provision to that effect in his deed of gift he shall not have such right. [L. 1908, ch. 478, sec. 3.]

7. Control and management.

a. [§ 1.] State forester given control and management.—Land acquired under the provisions of this act¹ shall be under the control and management of the state forester [Cuts and sells trees, wood, and other produce therefrom.] who may, subject to the approval of the governor and council, cut and sell trees, wood and other produce therefrom. [L. 1908, ch. 478, sec. 4.]

[§ 2.] *Required to reforest lands.*—The State forester shall replant or otherwise manage all land acquired by the Commonwealth and held by it under the provisions of this act,² in such manner as will in his judgment produce the best forest growth both as to practical forestry results and protection of water supplies. [L. 1908, ch. 478, sec. 8.]

b. Revenues derived from lands to be paid into State treasury.—All moneys received by or payable to the Commonwealth or any one acting on its behalf under the provisions of this act³ shall be paid into the treasury of the Commonwealth. [L. 1908, ch. 478, sec. 5.]

8. Reconveyed lands not exempt from taxation on account of plantations of trees set out by State.

Land acquired under the provisions of this act and subsequently reconveyed under the provisions of sections two¹ or three² shall not be exempt from taxation on account of any plantation of trees set out or planted while it was held by the Commonwealth. [L. 1908, ch. 478, sec. 6.]

MUNICIPAL FORESTS.

9. Established by condemnation or purchase, or by gifts.

[§ 1.] A town, by a vote of two-thirds of the legal voters present and voting at an annual town meeting, or a city in which the city council consists of two branches, by a vote of two-thirds of the members of each branch, and a city in which there is a single legislative board, by a vote of two-thirds of the members thereof, present and voting thereon, may take or

purchase¹ land within their limits, which shall be a public domain, and [may * * * accept gifts of * * * land therefor; * * *] [§ 2.] **Title.**—* * * the title thereto shall vest in the city or town in which it lies, with the exception that cities or towns owning land within the territorial limits of other cities or towns for water supply purposes may, as herein provided, convert such land into a public domain and retain the title thereto. [R. L. 1902, ch. 28, sec. 23; * * *; L. 1915, ch. 162, sec. 1.]

10. Uses.

a. Culture of forest trees, and preservation of municipal water supply.—Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town and * * * [R. L. 1902, ch. 28, sec. 23; * * *; L. 1915, ch. 162, sec. 1.]

b. Public instruction and recreation.—Any city or town in which such a public domain is situated may erect thereon any building for public instruction or recreation: *Provided,* That if such public domain has been placed under the supervision and control of the state forester, under the provisions of this act,² no such building shall be erected unless his approval shall first be obtained. [R. L. 1902, ch. 28, sec. 27; L. 1913, ch. 564, sec. 4.]

11. Control and management vested in.

a. City or town forester.—The city or town forester³ in such city or town, with one or more keepers appointed by him, shall have the management and charge of all such public domain in that city or town. [Police powers.]—and within such public domain shall have the powers of constables and police officers in towns.

b. State forester.—But a town by a vote of two-thirds of the legal voters present and voting at an annual town meeting, or a city in which the city council consists of two branches, by a vote of two-thirds of the members of each branch, and a city in which there is a single legislative board, by a vote of two-thirds of the members thereof present and voting thereon, may place all such public domain within its limits under the general supervision and control of the state forester, who shall thereupon, upon notification thereof, make regulations for the care and use of such public domain and for the planting and cultivating of trees therein. [City or town forester subordinate.]—and the city or town forester in such case and his keepers, under the supervision and direction of the state forester, shall be charged with the duty of en-

¹ A description of the land is required to be duly registered, and if damages are occasioned by such taking, they may be recovered as in the case of the taking of land for a highway. (See R. L. 1902, ch. 28, sec. 24.)

² See III, 11b.

³ There is no State law concerning the appointment of such officers. They may, however, be provided by cities and towns under their general local authority.

¹ See Table of Acts, on p. 21.

PART III—Contd.]

forcing all such regulations and of performing such labor therein as may be necessary for the care and maintenance thereof; and within such public domain shall have the powers of constables and police officers in towns. [R. L. 1902, ch. 28, sec. 25; L. 1913, ch. 564, sec. 2.]

12. Procurement and use of funds.

a. [¶ 1.] **Appropriations and gifts.**—[A town or city, by a vote in accordance with the requirements of this section¹ for the establishment of municipal forests] may appropriate money and accept gifts of money and land therefor, but the indebtedness so incurred shall be limited to an amount not exceeding one-half of one per cent of the last preceding assessed valuation of the city or town. [R. L. 1902, ch. 28, sec. 23; * * *; L. 1915, ch. 162, sec. 1.]

[¶ 2.] **In advance of appropriation, no indebtedness to be incurred.**—No land shall be taken or purchased for a public domain, no building erected thereon and no expenditures authorized or made or liability incurred therefor until an amount sufficient to cover the estimated expense thereof in a town has been appropriated therefor as provided in section twenty-three;¹ and all contracts made for expenditures in excess thereof shall be void. The expenditures shall not exceed the appropriations therefor. [R. L. 1902, ch. 28, sec. 28.]

b. **Rentals and sales of products—Applied to management.**—Any such city or town may lease any building on a public domain, and shall apply all sums derived from rents or from the sale of the products of any such domain, so far as may be necessary, to the management thereof. [R. L. 1902, ch. 28, sec. 26; L. 1913, ch. 564, sec. 3.]

c. [¶ 1.] **Public domain loans: Authorized.**—For the purpose of defraying the expenses incurred under the provisions of the six preceding sections¹ any city or town may issue from time to time, and to an amount

not exceeding the sum actually expended for the taking or purchase of lands for such public domain, bonds or notes. Such bonds or notes shall be denominated on the face thereof, City or Town of _____, Public Domain Loan, Act of 1913; shall be payable by such annual payments, beginning not more than one year after the date thereof, as will extinguish each loan within thirty years from its date; and the amount of such annual payment of any loan in any year shall not be less than the amount of the principal of said loan payable in any subsequent year. Each authorized issue of bonds or notes shall constitute a separate loan. The bonds or notes shall bear interest at a rate not exceeding four and one-half per cent per annum, payable semiannually; and shall be signed by the treasurer and countersigned by the mayor or the city or, in the case of a town, shall be signed by the treasurer and countersigned by the selectmen. The city, by its mayor and treasurer, and the town, by its selectmen and treasurer, may sell such bonds or notes at public or private sale, upon such terms and conditions as they may deem proper, but the bonds or notes shall not be sold for less than their par value; and the proceeds shall be used only for the purposes herein specified. [R. L. 1902, ch. 28, sec. 29; L. 1913, ch. 564, sec. 5.]

[¶ 2.] **Payment of.**—The city or town shall at the time of authorizing said loan or loans provide for the payment thereof in accordance with the foregoing provisions of this act;¹ and when a vote to that effect has been passed by the city council, or at any annual town meeting, a sum which will be sufficient to pay the interest as it accrues on the bonds or notes issued as aforesaid by the city or town, and to make such payments on the principal as may be required under the provisions of this act, shall, without further vote, be assessed by the assessors of the city or town annually thereafter in the same manner in which other taxes are assessed, until the debt incurred by said loan or loans is extinguished. [L. 1913, ch. 564, sec. 6.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

CLASSIFICATION OF FOREST LAND.**1. Land classes defined.**

[Preamble.] Owners of woodland or land suitable for forest planting may have such land classified for taxation² under the following designations:—[Preamble to sec. 1, ch. 598, L. 1914.]

¹ See Table of Acts, on p. 21.

² This act shall be known as the forest classification and tax act. [L. 1914, ch. 598, sec. 27. For act in full see Table of Acts, on p. 21.]

a. **Woodlot.**—Land with trees of merchantable value shall be known as Woodlot. [L. 1914, ch. 598, sec. 1(a).]

b. **Plantation.**—Land without trees of merchantable value shall be known as Plantation. [L. 1914, ch. 598, sec. 1(b).]

c. **Forest.**—(Consolidated tracts of woodlots and plantations. For text, see IV, 8c.)

2. Minimum acreage that may be classified.

No tract of land containing less than three acres shall be classified unless such tract is to be consolidated with other tracts under the provisions of

¹ See Table of Acts, on p. 21.

PART IV—Contd.]

section thirteen [nine¹] of this act. [L. 1914, ch. 598, sec. 1.]

3. Application for classification.

[§ 1.] Any owner of land suitable for classification as Woodlot or Plantation who desires to have it classified shall make application, in such form as the tax commissioner shall from time to time prescribe, to the clerk of the city or town in which the land is situated. **Encumbrances, etc.**—The application shall state whether or not the land is encumbered by mortgages, leases, attachments, or other valid liens, except rights of way; and shall state also whether other persons than the applicant have an interest or interests in the land. **Assent of parties having interest.**—In either case, the application shall be accompanied by the written assent to the classification of such mortgages, lessees, attaching creditors or lienors, or persons having an interest in the land, which assent shall be under seal and in such form as the tax commissioner shall from time to time prescribe. **Description of land.**—The application shall be accompanied by such description by metes and bounds as may be contained in the last conveyance of the land, or by two copies of a plat showing the location of the land by metes and bounds, and in either case shall contain a reference to the book and page of the record of said conveyance. If the land to be classified comprises a part of the land described in any conveyance, said application shall be accompanied by such a description by metes and bounds as will be sufficient to identify that part, or by two copies of a plat showing the location of the part by metes and bounds, and in either case shall give a reference to the book and page of the record of said conveyance. [L. 1914, ch. 598, sec. 2.]

[§ 2.] **Penalties for concealing encumbrances, etc.**—Any applicant for the classification of land under this act who fraudulently fails to disclose all encumbrances thereon or interests therein then existing, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year. [L. 1914, ch. 598, sec. 22.]

4. Notification to assessors.

The clerk of the city or town in which the land is situated shall forthwith notify the assessors of such city or town of the filing of the application. [L. 1914, ch. 598, sec. 2.]

5. Suitability of land, and valuations.

a. Determined by assessors.—The assessors shall forthwith determine whether the land is suitable for classification; and if they so determine, shall within thirty days make separate valuations of the land and

of the value of the trees growing thereon, which value shall be the fair cash value of the trees on the stump, hereinafter called stumpage value. The assessors shall make separate valuations of any buildings on the land. They may also require the forest warden of the city or town to give such assistance as they may deem necessary in making the aforesaid determinations and valuations.

b. Appeal as to suitability.—If the assessors shall determine that the land is not suitable for classification as aforesaid, they shall forthwith give notice thereof to the owner, who may appeal from such decision to the state forester. The state forester, after investigation and after hearing the persons interested, shall decide whether the land is suitable for classification, and shall notify the owner and the assessors of his decision. **Decision favorable.**—If he shall decide that the land is suitable for classification, the assessors shall, within thirty days thereafter, make the aforesaid valuations. [L. 1914, ch. 598, sec. 2.]

c. Appeal as to valuations.—Said assessors shall, within ten days after the completion of said valuations, send written notice thereof, in such form as the tax commissioner shall from time to time prescribe, to the owner of the land; and the valuations so determined shall be conclusive unless the owner, within ten days after receiving them, files notice of an appeal to the tax commissioner from any or all of the valuations so determined. In case of such appeal, the tax commissioner or his deputy, after investigation and after hearing the persons interested, shall make final determination of said valuation or valuations, and shall notify the owner and the assessors of such determination, which shall be conclusive. [L. 1914, ch. 598, sec. 3.]

d. Acceptance of valuations—Time limit and waiver thereof.—Upon the final determination of the aforesaid valuations, the owner, if he desires to complete the classification, shall, within ten days, notify the clerk of the city or town of his acceptance of such valuations; and such notification shall constitute a full acceptance of the conditions and requirements of this act. The clerk may, with the consent of the tax commissioner, receive and file the notification after the said time has elapsed. [L. 1914, ch. 598, sec. 4.]

6. Completion of classification.

a. Assessors notified.—Upon receipt of such notification¹ the clerk shall forthwith classify the land and shall notify the assessors of the city or town in which the land is situated; * * *

b. Certificate recorded in registry of deeds.—The clerk shall also cause to be recorded in the registry of deeds for the county in which the land is situated a certificate of the classification of the land, which certificate shall contain the name of the owner of the

¹ See Table of Acts, on p. 21.

² See IV, 5d.

PART IV—Contd.]

land, the date of classification, the designation of the land classified, and a copy of the description of the land, or of the plat, required by section two of this act.¹ **Fees.**—The clerk shall receive from the applicant a fee of two dollars for every such certificate of classification, and shall receive a fee of fifty cents for each subsequent copy thereof; and in addition the clerk shall receive the usual fee for recording said certificate in the registry of deeds, which fee shall be transmitted with the certificate to the register of deeds.

c. Conditions of act binding.—Upon the recording of the certificate, the land shall thereafter be subject to all the conditions and requirements of this act¹ unless it is withdrawn from classification; and said conditions and requirements shall be binding upon any owner thereof, his heirs and assigns, upon all persons who have assented to the classification, and upon all persons subsequently acquiring any interest in the land.

d. Taxation becomes effective.—* * * but if the notification from the owner [of acceptance of valuations] is not received on or before the first day of April in any year, the provisions of this act relating to taxation shall not take effect until the first day of April of the following year: *Provided*, That in the year nineteen hundred and fourteen said provisions relating to taxation shall take effect as of the first day of April, if the aforesaid notification from the owner is received on or before the first day of July. [L. 1914, ch. 598, sec. 4.]

7. Previously exempted lands classified as plantation.

Section six of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine² is hereby repealed, but this repeal shall not affect exemptions existing at the date of the passage of this act. Owners of land exempt from taxation under the provisions of said section may, at the end of the period provided by said section, classify such land as plantation under this act. When such land is thus classified as plantation, the assessors shall not be required to value the trees standing thereon, but shall make the other valuations required by section two of this act.¹ [L. 1914, ch. 598, sec. 26.]

8. Consolidation under single classification of "forest."

a. Application.—On and after the first day of April, nineteen hundred and nineteen, any owner of two or more adjoining tracts of land classified in any city or town as Woodlot or Plantation, and any owner

of more than one hundred acres of land so classified, whether the land consists of adjoining tracts or not, may apply for the consolidation of such tracts under a single classification. The application shall be in such form as the tax commissioner shall from time to time prescribe, and shall be filed with the clerk of the city or town in which said tracts are situated.

b. Classification procedure.—The clerk shall forthwith classify the tracts as a single tract, shall record the classification in the registry of deeds, as provided in section four of this act,¹ and shall receive therefor a fee, together with the fee required for such recording, as provided in said section four.

c. Designation.—He shall forthwith notify the assessors of the city or town of such consolidation, and the assessors shall, on or before the first day of the following April, consolidate the valuations and assessments of all taxes imposed by this act, which taxes shall, on and after the aforesaid first day of April, be levied and assessed in respect of the entire tract of land classified, and not in respect of its constituent tracts of Woodlot or Plantation. Such consolidated tract shall be known as Forest. [L. 1914, ch. 598, sec. 9.]

9. Sale not to prejudice classification and obligations thereunder.

No sale or other conveyance of classified land shall release the purchaser thereof, or other person acquiring an interest in such land, from any obligation or liability imposed by this act.¹ [L. 1914, ch. 598, sec. 10.]

10. Withdrawal from classification.

a. On condition of payment of accrued taxes, in full.—Land classified under this act may be withdrawn from classification by the owner at any time upon payment to the authorities of the city or town in which the land is situated of the amount of forest land tax and forest commutation tax which may be due for the current year and for all previous years, and upon payment of forest-product tax upon the stumpage value of the trees then standing upon such land, as though the said trees had then been cut.

b. [§ 1.] Notice of, and valuations incidental thereto.—The owner shall give the assessors of the city or town in which the land is situated notice in writing of his desire to withdraw the land from classification. The assessors shall forthwith make a valuation of the trees then standing upon the land, and give notice of such valuation and of the amount of forest-product tax due thereon for such withdrawal; and may require the forest warden of the city or town to give such assistance as may be necessary.

[§ 2.] Appeal from such valuations.—If the owner of the land is aggrieved by the valuation made by the

¹ See Table of Acts, on p. 21.

² See volume of Session Laws.

¹ See Table of Acts, on p. 21.

PART IV—Contd.]

assessors, he may, within ten days after such notice, appeal to the state forester, or make a written request to the assessors for an arbitration, which arbitration shall be in accordance with the provisions of subsection (b) of section eight of this act.¹

c. Certificate, and registration of.—Upon the payment of the forest-product tax thereon and of all other taxes due on account of the land, the land shall be withdrawn from classification. The clerk of the city or town shall forthwith record a certificate of such withdrawal in the registry of deeds for the county in which the land is situated. **Fees.**—The owner of the land shall pay to the clerk a fee of one dollar for every such certificate of withdrawal, and a fee of fifty cents for each subsequent copy thereof; and in addition, the usual fee for recording said certificate in said registry, which fee the clerk shall transmit to the register of deeds.

d. Liability for product tax assessed in excess of estimates.—In case of all trees cut on said land within three years of the date of such withdrawal a forest-product tax shall be assessed in accordance with the provisions of this act;² and if the amount of tax thus assessed in respect to the land shall exceed the amount of tax assessed and levied at the time of withdrawal, the owner shall be liable for the payment of such excess under the conditions and requirements of section eight of this act.³ [L. 1914, ch. 598, sec. 12.]

11. Cancellation of classification.

If the owner, after notification from the state forester that the requirements of said regulations³ have not been complied with, fails to comply therewith within a reasonable time thereafter, the state forester, after a hearing, shall have the right to direct the clerk of the city or town to cancel the classification of the land. The clerk shall forthwith cancel the classification, notify the assessors thereof, and record a certificate of cancellation in the registry of deeds.

Owner liable for forest-product tax.—The assessors shall forthwith make a valuation of the trees standing upon the land, and assess a forest-product tax thereon, which shall forthwith be levied and shall be collected in accordance with the provisions of section eight of this act.¹ [L. 1914, ch. 598, sec. 20.]

EXEMPTIONS FROM GENERAL TAX LAWS.

12. Lands and corporations entitled to exemption.

a. Classified lands exempt—Exceptions, including buildings.—Land classified under this act shall be exempt from taxation except such as is imposed by

this act, but shall be liable to the same extent and in the same manner as other land for special assessments. Buildings situated upon such land shall be subject to taxation as real estate under the provisions of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto.¹ [L. 1914, ch. 598, sec. 5.]

b. Other lands exempt.—Land which does not exceed in value ten dollars an acre, if well stocked with thrifty white-pine seedlings that have attained an average height of not less than fifteen inches, upon satisfactory proof of its condition by the owner to the assessors, shall be exempt from taxation for a period of ten years thereafter: *Provided*, That if any trees of commercial value, except such as are reasonably removed for the improvement of the white-pine growth, are cut or removed from the said land, the exemption herein provided for shall cease. [L. 1909, ch. 187, sec. 1.] **Exceptions.**—(See III. 8.)

c. Certain corporations exempt.—In the taxation of corporate franchises, under the provisions of sections forty to forty-three, inclusive, of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto,¹ corporations organized for the purpose of owning land classified under the provisions of this act² shall be exempt from taxation upon such proportion of their capital stock as is actually invested and employed in the business of forestry upon land classified under the provisions of this act. [L. 1914, ch. 598, sec. 25.]

FOREST-LAND TAX.

13. Assessment, collection, etc.

Land classified under the provisions of this act shall be subject to forest-land tax. Said tax shall be assessed, levied and collected in the manner prescribed in chapter four hundred and ninety of the acts of the year nineteen hundred and nine¹ for the taxation of real estate within the Commonwealth, upon its fair cash value exclusive of the value of all buildings and the value of all trees growing thereon: [**Appeals from assessment.**—] *Provided*, That owners of classified land, instead of prosecuting an appeal, as provided in sections seventy-six to eighty of Part I of the said chapter, as amended, may, at their option, within thirty days after receiving the notice provided for by section seventy-five of Part I of the said chapter, appeal to the tax commissioner. **Abatement.**—If the

¹ See volume of Session Laws.

* * * corporations formed for the purpose of owning classified forest land under the provisions of the forest classification and taxation act [IV, 1-12a, c; 13-32] may be organized without limitation of the term of their duration. [L. 1909, ch. 437, sec. 7; * * * L. 1914, ch. 598, sec. 24.]

¹ See Table of Acts, on p. 21.

² See "Forest Products Tax," p. 17.

³ See "Forestry Restrictions," p. 20.

PART IV—Contd.]

tax commissioner or his deputy, upon a hearing, finds that the land has been overvalued, he shall make a reasonable abatement and an order as to costs. [L. 1914, ch. 598, sec. 6.]

FOREST COMMUTATION TAX.

14. On woodlots classified prior to April 1, 1919.

[Preamble.] Land classified under this act as Woodlot shall be subject to forest-commutation tax, which shall be assessed and levied annually as of April first by each city and town in the following manner: [Preamble to sec. 7, ch. 598, L. 1914.]

a. Basis of the tax.—An account shall be opened by the assessors of each city or town for all lands classified as Woodlot on or before April first, nineteen hundred and nineteen, and not withdrawn, which account shall show the sum of the taxes assessed upon such lands, exclusive of buildings thereon, in the year nineteen hundred and thirteen. [L. 1914, ch. 598, sec. 7(a).]

b. The tax computed each year.—From the aforesaid sum there shall be deducted, in each year from nineteen hundred and fourteen to nineteen hundred and nineteen, inclusive, the total amount of forest-land tax assessed for that year in the city or town, and the remainder shall be the total amount of forest-commutation tax of the city or town for that year. [L. 1914, ch. 598, sec. 7(b).]

c. The tax apportioned.—The total amount of forest commutation tax thus determined for each year from nineteen hundred and fourteen to nineteen hundred and nineteen, inclusive, shall then be apportioned to the various tracts of woodlot, in proportion to the stumpage value of the trees growing thereon at the date of classification, as determined in accordance with section two of this act;¹ and the several amounts thus ascertained shall be the amounts of forest commutation tax for which said tracts shall respectively be liable for that year. [L. 1914, ch. 598, sec. 7(c).]

d. The tax fixed after the year 1919.—Upon the completion of the assessments for the year nineteen hundred and nineteen the account provided for in subsection (a)¹ shall be closed; and each tract of woodlot classified on or before the first day of April of that year shall thereafter be liable for the same amount of forest commutation tax that was levied in the said year nineteen hundred and nineteen, except as provided in subsections (g), (h), (i), and (j) of this section.¹ [L. 1914, ch. 598, sec. 7(d).]

15. On woodlots classified after April 1, 1919.

Upon every tract of land classified as woodlot in any city or town after April first, nineteen hundred

and nineteen, the annual amount of forest commutation tax shall be the amount of tax assessed and levied upon such tract, exclusive of the buildings thereon, in the last assessment and levy prior to the date of classification, less the amount of forest-land tax assessed and levied in the next assessment and levy subsequent to said date of classification. [L. 1914, ch. 598, sec. 7(e).]

16. Collection of the tax.

Forest commutation tax shall be collected in the manner prescribed by Part II of chapter four hundred and ninety of the acts of the year nineteen hundred and nine for the taxation of real estate within the Commonwealth and acts in amendment thereof and in addition thereto.¹ [L. 1914, ch. 598, sec. 7(f).]

17. Division of the tax under sale or conveyance of a part of a tract.

In case of the sale of any part of any tract of land, the owner of which is liable to the payment of forest commutation tax, the parties to such sale shall agree upon an equitable division of the aforesaid tax. A copy of this agreement signed by all of the parties to the conveyance shall forthwith be filed with the assessors of the city or town in which the land is situated, who shall accept the aforesaid division as the basis for the future assessment and levy of forest commutation tax, unless they find the division so unequal as to reduce the security of the city or town for the collection of any part of the forest commutation tax thereafter. **Liability of parties prior to acceptance of division by assessors.**—Until such division of tax shall have been accepted by the assessors, the parties to any such sale or conveyance, and their heirs and assigns, shall be jointly and severally liable for all forest commutation taxes thereafter assessed in respect of the entire tract of land. [L. 1914, ch. 598, sec. 11.]

18. Reduction in the tax.

a. When trees are destroyed before April 1, 1919.—In case of the destruction by fire or otherwise on or before April first, nineteen hundred and nineteen, of trees standing upon land classified as Woodlot, the owner of the land may apply to the assessors of the city or town for a reduction of forest commutation tax. **No reduction less than 10 per cent considered.**—Such application shall not be made except in respect of trees of a value equal to or in excess of 10 per cent of the stumpage value of the trees standing on the land at the time of classification. **Determination of reductions.**—The assessors shall determine what proportions of said stumpage value of the trees has been destroyed by fire or otherwise, and shall

¹ See Table of Acts, on p. 21.¹ See volumes of Session Laws.

PART IV—Contd.]

make a proportionate reduction in the valuation of said trees in determining the amount of forest commutation tax which the land shall thereafter pay. The assessors may require the forest warden of the city or town to give such assistance as may be necessary in determining the proportion of stumpage value so destroyed. **Total tax correspondingly reduced.**—The assessors shall also deduct from the total amount of forest commutation tax thereafter levied in the city or town an amount of tax proportionate to any and all reductions in valuations made to landowners in accordance with the provisions of this subsection. **Appeal from the reductions.**—From the aforesaid determination of the assessors, the owners may appeal to the tax commissioner in the manner provided in section six of this act.¹ [L. 1914, ch. 598, sec. 7 (g).]

b. When trees are destroyed after April 1, 1919.—In case of the destruction by fire or otherwise, subsequent to April first, nineteen hundred and nineteen, of trees standing upon land classified as Woodlot¹ under this act, the owner of the land may apply to the assessors of the city or town for a reduction of forest commutation tax. **No reduction less than 10 per cent considered.**—Such application shall not be made except in respect of trees of a value equal to or in excess of 10 per cent of the stumpage value of the trees standing on the land at the time of classification. **Determinations of reductions.**—The assessors shall determine what amount and proportion of said stumpage value of the trees has been destroyed by fire or otherwise, and shall make a proportionate reduction in the forest commutation tax for which the owner shall be liable. The assessors may require the forest warden of the city or town to give such assistance as may be necessary in determining the proportion of stumpage value so destroyed. **Appeal from the reductions.**—From the determination of the assessors, the owner may appeal to the tax commissioner in the manner provided in section six of this act.² [L. 1914, ch. 598, sec. 7 (h).]

c. On account of forest product tax.—On and after April first, nineteen hundred and nineteen, any owner of land classified as Woodlot may, as hereinafter provided, apply to the assessors of the city or town for a reduction of the amount of forest commutation tax for which the owner is liable. **No reduction less than 10 per cent considered.**—Such application may be made only in respect of trees upon which forest product tax has been paid; and may not be made except in respect of trees of a stumpage value equal to or in excess of ten per cent of the stumpage value of the trees standing upon the land at the date of classi-

fication. **Reduction in tax.**—Upon receipt of such application, the assessors of the city or town shall reduce the forest commutation tax for which the owner is liable in any subsequent year, by a percentage equal to the percentage which the stumpage value of the trees bears to the stumpage value of the trees standing upon the land at the date of classification. [L. 1914, ch. 598, sec. 7 (i).]

19. The tax extinguished by reduction.

When the reductions in valuations made in accordance with subsections (g), (h), and (i)³ shall equal the stumpage value of the trees determined to have been standing on the Woodlot at the date of classification, the woodlot shall no longer be liable for forest commutation tax [when woodlot treated as plantation.—] and shall thereafter be treated as if it had been classified as plantation. [L. 1914, ch. 598, sec.

FOREST-PRODUCT TAX.

20. Preliminary determination of taxable values.

[Preamble.] All land classified under this act shall be subject to forest-product tax, which shall be assessed, levied and collected in the following manner:— [Preamble to sec. 8, ch. 598, L. 1914.]

a. Under the terms of the law itself: Owner reports, in advance of each removal of any wood cut, the quantity and value to be removed.—Except as provided in subsection (e) of this section,¹ immediately after the cutting of trees and not less than 10 days before the removal of any wood from land classified under this act, the owner shall notify the assessors of such intended removal and shall report the amount and stumpage value of such wood. **Penalty for failure to report.**—Every such owner or his agent or representative who fails to comply with the foregoing requirement shall be liable to a fine of not less than ten nor more than one thousand dollars. **Assessors check such reports by independent determinations of quantity and value.**—The assessors shall have the right, after inspection, to make an independent determination of the amount of such wood or the stumpage value thereof, or both, and shall forthwith notify the owner thereof. The assessors may require the forest warden of the city or town to give such assistance as may be necessary. **Owner may appeal or request arbitration of assessors' valuation.**—Such determination shall be final and conclusive unless the owner shall forthwith file with the assessors either a notice of an appeal to the state forester or a written request for an arbitration. Such appeal or arbitration may be had as to the amount or stumpage value of wood, or both. **State forester**

¹ IV, 1a.² See Table of Acts, on p. 21.³ See Table of Acts, on p. 21.

PART IV—Contd.]

makes final determination on appeals—Costs.—Upon such appeal the state forester or his assistant shall, after inspection, make final determination thereof and an order as to costs. **Arbitrators' findings final under arbitration—Costs.**—If arbitration be requested, the arbitration shall be by three disinterested persons, one to be chosen by the owner, one by the assessors, and the third by the agreement of the two thus chosen; and the decision of the arbitrators shall be final and conclusive. The fees and expenses of the arbitrators shall be paid by the city or town, and one-half the amount thereof shall be assessed upon the land and included in the next warrant committed by the assessors to the collector of taxes for the collection of forest-product tax.

b. Under regulations prescribed by the tax commissioner.—Under such regulations as the tax commissioner may prescribe, owners of land may, with the written consent of the tax commissioner, be exempted from the requirements of this subsection; and the aforesaid regulations shall govern the determination of amounts and stumpage values of wood for the assessment and levy of forest-product tax. [L. 1914, ch. 598, sec. 8(b).]

21. Final determination of assessment.

a. Owner reports annually amount and value of wood cut, and of other products sold from the land.—Except as provided in subsection (e) of this section,¹ every owner of land classified under this act shall, on or before the first day of May in each year, report to the assessors of the city or town in which the land is situated, under oath, in such form as the tax commissioner shall from time to time prescribe, the gross amount and stumpage value of all wood cut from the land during the twelve months preceding the first day of April, as well as the gross amount of all other products of the land and such other income derived from the land as does not constitute an element determining the value of the land for the purpose of assessing forest land tax. **Values defined.**—In the case of wood, the aforesaid value shall be the stumpage value, and in other cases it shall be the fair cash value. [L. 1914, ch. 598, sec. 8(a).]

b. Assessors revise owner's report, and notify owner of results.—They [the assessors] shall receive as true the reports required in subsection (a)¹ of this section except as such reports may be revised in accordance with the provisions of subsection (b)² but, upon information, may add thereto the value of any products not reported, and, upon information, may revise the amount and valuation of products other than wood and of the other income derived from classified land. Notification of all assessments shall

be sent to all taxable persons not later than the first day of September in each year, and * * *

c. Owner may apply for abatement of assessments on other than timber products.—* * * taxable persons aggrieved by such assessments, other than assessments of wood, may apply for an abatement thereof in the manner provided by sections seventy-two to eighty-two, inclusive, of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto.³ [L. 1914, ch. 598, sec. 8(d).]

22. The tax assessed and levied.

a. Under ordinary circumstances.—Except as provided in subsection (e)¹ of this section, the assessors of each city or town shall annually, between the first day of April and the last day of July, assess and levy a forest-product tax upon the persons or corporations owning classified land upon the first day of April in such year. [L. 1914, ch. 598, sec. 8 (i).]

b. When classification has been canceled.—(For text, see IV, 11.)

23. Rates of the tax.

Except as provided in subsection (e)² of this section, forest-product tax shall annually be assessed and levied upon the gross value of all wood, other products and other income ascertained as provided in subsections (a), (b), and (d) of this section,² at the following rates:—For wood cut or other products or income derived from the land prior to the first day of April, nineteen hundred and nineteen, the tax thereon shall be one per cent; from said first day of April, nineteen hundred and nineteen, to the thirty-first day of March, nineteen hundred and twenty-four, inclusive, two per cent; from the first day of April, nineteen hundred and twenty-four, to the thirty-first day of March, nineteen hundred and twenty-nine, inclusive, three per cent; from the first day of April, nineteen hundred and twenty-nine, to the thirty-first day of March, nineteen hundred and thirty-four, inclusive, four per cent; from the first day of April, nineteen hundred and thirty-four, to the thirty-first day of March, nineteen hundred and thirty-nine, inclusive, five per cent; and on and after the first day of April, nineteen hundred and thirty-nine, six per cent. [L. 1914, ch. 598, sec. 8 (c).]

24. Exemption from the tax. (Removal of wood for personal use, etc.)

Any owner, other than a corporation, of classified lands may remove from such lands annually an amount of wood not exceeding twenty-five dollars in stumpage value, without making the reports, giving the notifications, or being liable for the tax required

¹ See volumes of Session Laws.

² See Table of Acts, on p. 21.

³ See Table of Acts, on p. 21.

PART IV—Contd.]

In subsections (a), (b), (c), and (d) of this section:¹ *Provided*, That the wood is for his personal use or for the use of his tenant. Such wood may subsequently be sold upon making the aforesaid reports and paying forest-product tax thereon. [L. 1914, ch. 598, sec. 8 (e).]

25. The payment of the tax is secured by.

a. **A lien on the land, etc.**—Forest-product tax shall be a lien upon the land in respect of the product or income from which it was assessed, and shall be collected in the manner prescribed in said chapter four hundred and ninety: * * *

b. [¶ 1.] **A cash deposit or bond.**—* * * *Provided*, That if the assessors of the city or town, to insure the collection of said tax, deem it necessary, they may require of the owner either a cash deposit of the amount of forest-product tax as estimated by the assessors, or, at his option, a bond with good and sufficient sureties conditioned upon the payment of the tax when levied. When such demand is made, the wood in respect of which forest-product tax is payable shall not be removed from the land until the owner has complied with said demand, and any person who shall so remove said wood shall be liable to a fine of not more than five hundred dollars or to imprisonment for not more than sixty days, or to both such fine and imprisonment. **In default of deposit or bond, the lien is directly upon the wood or other product, so long as it is held by owner, or by a receiver with knowledge of such default.**—Forest-product tax shall constitute a lien upon the wood or other product in respect of which it was assessed for so long as the wood or other product is in the possession of the owner of the land from which it was produced, or of a person taking the same with knowledge that the assessors have required security for the tax and that such security has not been given; and any person taking said wood with such knowledge shall be liable for the amount of the tax. [L. 1914, ch. 598, sec. 8 (f).]

[¶ 2.] **Also in cases of sale or other conveyance of the classified land.**—Not less than ten days before the sale or conveyance of classified land upon which forest-product tax has accrued or has been assessed, the owner of the land shall notify the assessors of the city or town in which the land is situated of the contemplated transfer, and the assessors may, if they deem it necessary to insure the collection of the tax, require of the owner either a cash deposit of the amount of forest-product tax estimated to have accrued or actually assessed, or, at his option, a bond with good and sufficient sureties conditions upon the payment of the tax. [L. 1914, ch. 598, sec. 10.]

¹ See Table of Acts, on p. 21.

26. Portion of the tax paid to the State.

In determining the basis for the apportionment of state and county taxes subsequent to the passage of this act, the tax commissioner shall not include in the valuation of property subject to taxation in any city or town, the valuation of trees standing upon land classified under this act. Of the whole amount of forest-product tax levied and assessed in any city or town, ten per cent shall be for the use of the Commonwealth, and the treasurer of each city or town shall, on or before the fifteenth day of November in each year, pay to the treasurer and receiver general of the Commonwealth the said proportion of forest-product tax. [L. 1914, ch. 598, sec. 15.]

GENERAL DUTIES OF OFFICERS.

27. Tax commissioner and assessors.¹

a. **Tax commissioner instructs assessors, prescribes forms, and publishes data.**—The tax commissioner shall from time to time prepare instructions which shall be followed by the assessors of the cities and towns in the assessment and levy of the taxes authorized by this act,² and shall prescribe such forms and procedure as he may deem necessary for the administration of said taxes. He shall compile and cause to be printed annually in the aggregate returns required by section sixty-two of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine the information furnished by the assessors of the various cities and towns in accordance with the provisions of section thirteen of this act.²

b. **Procurement of statements from owners of lands.**—He may also call upon individuals, firms or corporations owning land classified under this act for a statement of the amount and value of the wood or other products and income derived from such land, and may examine the books, accounts and papers of such individuals, firms and corporations so far as may be necessary for the verification of the said statement. [L. 1914, ch. 598, sec. 14.]

c. **Annual reports by assessors.**—The assessors of each city and town shall annually report to the tax commissioner, in such form as he shall from time to time prescribe, the following information:—

The amount of land classified in accordance with the provisions of this act [a].

The valuation of said land for the assessment and levy of forest-land tax [b].

The amount of forest-land tax levied and assessed [c].

¹ In addition to these general, supervisory duties of the tax commissioner and assessors, they both have certain specific duties connected with the classification and taxation of forest lands. (See IV, 5, *et seq.*)

² See Table of Acts, on p. 21.

PART IV—Contd.]

The amount of forest-commutation tax levied and assessed [d].

The amount and valuation of wood and the value of other forest products and income upon which forest-product tax is levied and assessed [e].

The amount of the forest-product tax levied and assessed [f]. [L. 1914, ch. 598, sec. 13.]

28. State forester and forest wardens.

NOTE.—a. State forester.—The state forester takes action on appeals from decisions as to suitability of lands for classification (IV, 5*b*), and from estimates and valuations for forest-product tax (IV, 20*a*; 10*b*, par. 2). He may also enforce cancellation of classification of lands (IV, 11).

b. [§ 1.] Forest wardens.—Forest wardens assist in classification of lands (IV, 5*a*) and in determining commutation-tax valuations (IV, 18*a*, *b*) and forest-product tax valuations (IV, 20*a*; 10*b*, par. 1).

[§ 2.] Compensation.—For services rendered under the provisions of sections two,¹ seven,¹ eight,¹ and twelve,¹ the forest warden of a city or town shall receive from the city or town the compensation provided by section twenty-three of chapter thirty-two of the Revised Laws.¹ [L. 1914, ch. 598, sec. 21.]

FORESTRY RESTRICTIONS.

29. Seeding or planting, in the absence of natural restocking, required.

a. On areas devoid of tree growth at time of classification—Time limit—Extension of time.—Owners of classified land shall, within three years after the date of classification, seed or plant any parts of such tracts that are suitable for seeding or planting and have not been naturally restocked: *Provided*, That with the written approval of the state forester the time for seeding or planting may be extended. The state forester shall from time to time make regulations to insure such seeding or planting, which regulations shall permit any approved forestry methods and shall not require the expenditure of more than ten dollars per acre. [L. 1914, ch. 598, sec. 17.]

b. On areas subsequently cleared.—Whenever any area of classified land equal to or in excess of three acres in extent is cleared of trees, the owner thereof shall either leave a suitable number of trees to provide for the reseeded of the tract; or shall, unless the land is naturally restocked within two years, reseed or plant the land in accordance with the afore-

said regulations.¹ If the owner shall elect to leave seed trees, and the land is not naturally restocked therefrom within a period of three years thereafter, the owner shall reseed or plant the land or parts thereof, in accordance with the aforesaid regulations of the state forester.¹ In either of the above cases the state forester may extend the time for reseeded or planting. [L. 1914, ch. 598, sec. 18.]

30. Slash disposal required after cutting.

When trees are cut from any classified land, the owner of the land shall make such disposition of the slash as may be required by such regulations as the state forester shall from time to time prescribe: *Provided*, That such regulations shall permit of any approved forestry methods. [L. 1914, ch. 598, sec. 19.]

31. Regulations by State forester concerning seeding, planting, and slash disposal.

a. Issued.—The state forester shall from time to time issue such regulations as are required by sections seventeen and nineteen of this act,² and shall furnish copies thereof free of charge to the clerks, assessors and forest wardens of the cities and towns of the Commonwealth and to such other persons as may apply therefor. [L. 1914, ch. 598, sec. 16.]

b. Carried out by State forester in default of owner doing so—Owner liable for expenses.—If any owner of classified land fails to comply with the regulations of the state forester as to the seeding and planting of the land or disposal of slash required under sections seventeen to nineteen, inclusive,² the state forester may cause the land to be thus seeded or planted or such slash to be disposed of, and the owner of the land shall be liable to the Commonwealth for the expense thereof: *Provided*, That such planting shall not exceed in cost ten dollars per acre. [L. 1914, ch. 598, sec. 20.]

c. Penalty for noncompliance therewith is cancellation of classification.—(For text, see IV, 11.)

GENERAL PENALTY UNDER ACT.

32. Fine for violation of requirements.

Any person violating any requirement of this act² for which no specific penalty is provided shall be punished by a fine of not more than one hundred dollars. [L. 1914, ch. 598, sec. 23.]

¹ See Table of Acts, on p. 21.

¹ See subsection *a* of this section.

² See Table of Acts on p. 21.

TABLE OF ACTS.

Statutory references.	Equivalent references ¹ in this compilation. (Serial I.)	Statutory references.	Equivalent references ¹ in this compilation. (Serial I.)
<i>Code.</i>		<i>Session Laws—Continued.</i>	
Rev. Laws, 1902, ch. 25, sec. 17	II, 1d.	Laws 1910, ch. 398, sec. 2	II, 14 (§2).
ch. 28, sec. 23	III, 9 (§1); 12a (§1); 10a; 9 (§2).	ch. 478	II, 22.
24	III, 9 (footnote).	Laws 1911, ch. 244, sec. 1	II, 20c (§2); 10b.
25	III, 11a, b.	ch. 722, sec. 1	II, 1 (§1).
26	III, 12b.	2	II, 1 (§2).
27	III, 10b.	3	II, 11.
28	III, 12c (§2).	Laws 1912, ch. 419, sec. 1	II, 23c.
29	III, 12c (§1).	2	II, 23b (§1).
ch. 32, sec. 16	II, 2, 4a.	3	II, 20a, b (§1), d (§1), c.
19	II, 6b.	4	II, 20d (§2).
20	II, 9 (§1).	Laws 1913, ch. 577, sec. 1	I, 3c (§1).
21	II, 9 (§2).	2	II, 11a, b.
22	II, 17 (footnote 3).	3	III, 12b.
23	II, 3a.	4	III, 10b.
24	II, 19b.	5	III, 12c (§1).
25	II, 17.	6	III, 12c (§2).
ch. 208, sec. 5	II, 23a.	ch. 600, sec. 1	II, 2, 4a.
7	II, 23c.	Laws 1914, ch. 101, sec. 1	II, 33.
8	II, 23b (§1).	2	II, 31.
9	II, 23b (§2).	3	II, 35.
124	II, 21.	ch. 262, sec. 1	II, 11 (§1).
		ch. 598, sec. 1	IV, 1 (Preamble), a, b; 2.
		2	IV, 3 (§1); 4; 5a, b.
		3	IV, 5c.
		4	IV, 5d; 6a, d, b, c.
		5	IV, 12a.
		6	IV, 13.
		7	Preamble.
<i>Session Laws.</i>		Subsec. (a)	IV, 14 (Preamble).
Laws 1904, ch. 409, sec. 1	I, 1 (§1); 2; 9; 1 (§2).	(b)	IV, 14a.
2	I, 3 (Preamble), a (§1), d; 10; 3b, a (§2).	(c)	IV, 14b.
3	I, 3c (§1).	(d)	IV, 14c.
4	I, 4.	(e)	IV, 14d.
5	I, 7.	(f)	IV, 15.
6	I, 6.	(g)	IV, 16.
Laws 1905, ch. 211, sec. 1	I, 7.	(h)	IV, 17a.
Laws 1906, ch. 463, p. II, sec. 247	II, 30a; 31.	(i)	IV, 17b.
Laws 1907, ch. 299.	II, 10.	(j)	IV, 18.
ch. 431, sec. 1	II, 26a, b, c, d.	8 Preamble.	IV, 20 (Preamble).
2	II, 27.	Subsec. (a)	IV, 21a.
3	II, 33a.	(b)	IV, 20a, b.
4	II, 32b.	(c)	IV, 23.
5	II, 28.	(d)	IV, 22a; 21b, c.
6	II, 29.	(e)	IV, 24.
ch. 473, sec. 2	I, 6.	(f)	IV, 25a, b (§1).
ch. 475, sec. 3	II, 6a; 7; I, 11; II, 8; 4b.	(g)	IV, 8a, b, c.
4	II, 9 (§1).	(h)	IV, 9; 25b (§2).
5	II, 3b.	(i)	IV, 17.
6	II, 5.	(j)	IV, 10a, b (§1, 2), c, d.
7	II, 6c.	9	IV, 27c.
8	II, 25d.	10	IV, 27a, b.
Laws 1908, ch. 209, sec. 1	II, 15.	11	IV, 28.
2	II, 20a, b (§1), d (§1), c.	12	IV, 31a.
3	II, 30 (§2).	13	IV, 29a.
4	II, 20c (§1).	14	IV, 29b.
5	II, 20d (§2).	15	IV, 30.
ch. 478, sec. 1	III, 20c (§2); 19b.	16	IV, 31b; 11.
2	III, 5a.	17	IV, 29b.
3	III, 5a.	18	IV, 30.
4	III, 5b; 1b.	19	IV, 31b; 11.
5	III, 7a (§1).	20	IV, 29b (§2).
6	III, 7b.	21	IV, 3 (§2).
7	III, 8.	22	IV, 32.
8	III, 8c (§2).	23	IV, 12c (footnote 2).
Laws 1909, ch. 187, sec. 1	III, 7a (§2).	24	IV, 12c.
ch. 214, sec. 1	IV, 12b.	25	IV, 7.
ch. 283, sec. 1	III, 5a.	26	IV, 1 (footnote).
ch. 394, sec. 1	I, 1 (§1); 2; 9; 1 (§2).	27	III, 16, c.
2	II, 30b (§1).	1	III, 1d.
ch. 422, sec. 1	II, 30b (§2).	2	III, 2a, c.
2	II, 25 (§1).	3	III, 2b.
3	II, 25 (§2).	4	III, 4.
ch. 437, sec. 7	IV, 12c (footnote 2).	5	III, 3a, b; 1b.
Laws 1910, ch. 153, sec. 1	I, 5.	6	III, 9 (§1); 12a (§1); 10a; 9 (§2).
ch. 398, sec. 1	II, 14 (§1).	Laws 1915, ch. 162, sec. 1	

¹ References are given in the order in which the subject matter occurs in the original text. In reconstructing the text of any act herein compiled, bracketed matter for an hour, during a session or paragraph should be ignored, since the material has already been presented elsewhere in its proper relation to the original text of the act being reconstructed. (See above, L. 1906, ch. 463, p. II, sec. 247.)

UNITED STATES DEPARTMENT OF AGRICULTURE

U. S. FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

NEW HAMPSHIRE

(Serial 1—Through Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fire Protection," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted. Boldface type indicates explanatory matter not a part of the text; italic indicates cross-references.

In order to facilitate the work of reconstructing the acts and parts of acts herein compiled and analyzed, a Table of Acts is added, on page 13, showing the order in which the subject matter occurs in the text of the acts, in their present revised form.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

FORESTRY COMMISSION.¹

1. Created—Personnel—Term of Office.

On the first day of May, 1909, the governor, with the advice of the council, shall appoint a forestry commission of three members, one of whom shall hold office for one year, one for two years, and one for three years, and thereafter shall appoint their successors for terms of three years each; [No compensation—Expenses.—] the said commissioners to serve without compensation, but to receive for their legitimate expenses in the exercise of their duties such sums as the governor and council shall audit and approve, to be paid from the treasury upon warrant of the governor. [L. 1909, ch. 128, sec. 1.]

2. Contracts with Nurserymen, in Behalf of Landowners, for Forest Tree Seeds and Seedlings.

In order to facilitate the planting of trees as hereinbefore provided,² the forestry commission is hereby authorized and directed to contract, without expense to the state, upon terms to be approved by the governor and council, with reputable nurserymen to provide, at a price to be determined upon, seeds and seedlings of timber or forest trees, to landowners for planting within this state in accordance with the terms of section 1 of this act.³ [L. 1903, ch. 124, sec. 3 [2].]

Other Duties.

Appoints State forester. (See I, 3 ¶1.)

Supervises all forestry work. (See I, 4.)

Approves employment of assistants by State forester. (See I, 5.)

Reports biennially to the governor. (See I, 10.)

Executive officer of, is the State forester. (See I, 4.)

STATE FORESTER.

3. Appointment—Term of Office—Salary and Expenses.

¶ 1. The forestry commission shall appoint a state forester to serve at the will of the commission at a salary to be fixed by them not exceeding \$2,500 a year. **Traveling expenses.**—¶ 2. * * * [he] shall be allowed reasonable traveling field expense and office expenses in the necessary performance of his official duties and * * * [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

4. Acts as Executive Officer of the Forestry Commission.

The state forester shall, under the supervision of the forestry commission, execute all matters pertaining to

¹ Certain non-forestry duties are also conferred upon the forestry commission in connection with the tracts known as Cathedral and White Horse ledges. (See ch. 9, L. 1913, in volume of Session Laws.)

² See IV, 1.

³ This provision appears to have fallen into disuse since the establishment of a State forest nursery provided more competent means of attaining the same ends. (See I, 9.)

forestry within the jurisdiction of the state, and * * * [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

5. Hires Assistants.

* * * within the limits of the appropriation, [he] may hire such field and office assistants as in the judgment of the commission is necessary for the proper execution of his duties, and * * * [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

6. Gives Courses in Forestry, and Conducts Exhibits at Fairs.

He shall, as far as his other duties may permit, carry on an educational course of lectures within the state, and may conduct exhibits on forestry at fairs within the state. [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

7. Conducts Forestry Investigations, and Publishes Literature on the Subject.

He may, under the direction of the forestry commission, conduct investigations within the state on forestry matters and publish for distribution literature of scientific or general interest pertaining thereto. [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

8. Cooperates with the Following:

a. With the Federal Government.—[The State forester] upon terms approved by the forestry commission, may enter into co-operation with departments of the federal government for the promotion of forestry work within the state. [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

b. With counties, towns, corporations and individuals.—

¶ 1. The state forester shall, upon request and whenever he deems it essential to the best interest of the people of the state, co-operate with counties, towns, corporations, and individuals in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, on consideration and under an agreement that the parties obtaining such assistance pay his field expenses while he is employed in preparing said plans. [L. 1909, ch. 128, sec. 3.] ¶ 2. The state forester, under the direction of the commission, may execute free of charge to counties, municipalities, and public institutions owning land suitable for reforestation, a planting plan for the reforestation of such land, and may furnish trees free of charge, arrange for and supervise the planting of such land and any other land suitable for reforestation owned or acquired by the state; *provided*, that in the case of land owned by counties or municipalities, the said counties or municipalities shall pay the cost of planting the trees furnished by the state, shall protect and care for them as recommended by the state forester, and, when required, shall furnish the state forester with information

PART I—Contd.]

as to the condition and growth of the trees. [L. 1915, ch. 163, sec. 3.]

c. **With the management of municipal forests.** (See III, 9.)

9. **Establishes and Maintains State Forest Nursery.**

Acquirement of land.—The state forester, under the supervision of the forestry commission, is hereby empowered to acquire in the name of the state suitable land and maintain the same as a state forest nursery. **Management.**—He shall raise seedling trees of useful varieties for planting and shall, on terms approved by the commission, sell said seedling trees to persons who desire to plant them within the state. He may under the supervision of the commission enter into agreement with persons or institutions to grow seedling trees to be disposed of as above prescribed, if the commission deems it expedient so to do. [L. 1909, ch. 128, sec. 23; L. 1911, ch. 166, sec. 2.] **Revenues reinvested in the nursery.**—(See III, 3.)

10. **Makes a Biennial Report, Recommendations, and Statement of Expenses.**

He shall, under the direction of the forestry commission, prepare biennially a report to the governor on the progress and condition of state forest work and recommend therein plans for improving the state system of forest protection, management, replacement and extension. Such report shall contain an itemized statement of all expenses incurred or authorized by the state forester or by the forestry commission. [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

Other Duties.

Directs and aids officers and employees in general forestry work. (See II, 2.)

DISTRICT CHIEFS.**Duties.**

Perform such duties in the protection, improvement and extension of forests, as the State forester and the forestry commission may direct. (See II, 9.)

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

FORESTRY COMMISSION.**Supervisory Duties.**

Directs the State forester as to the division of the State into fire districts. (See II, 1.)

Fixes wages and expenses of the district chiefs. (See II, 8.)

Fixes remuneration of forest fire wardens and deputy forest fire wardens, in conjunction with State forester. (See II, 11.)

Instructs wardens and other employees as to cooperating with railroad deputy forest fire wardens, and giving notice of, and combating fires along railroad rights of way. (See II, 16.)

Files complaint in cases of neglect or refusal of wardens or deputy wardens to perform duties. (See II, 19.)

Acquires lands under power of eminent domain, for observatory sites and rights of way in connection with lookout stations. (See II, 4c.)

*Assists public service commission in enforcing the railroad forest fire act.*¹ (See II, 6a; 29.)

Enforces requirements as to brush and slash disposal adjacent to rights of way of railroads and highways. (See II, 35.)

STATE FORESTER.1. **Divides the State into Fire Districts.**

The state forester shall, under the direction of the forestry commission, divide the state into not more than four fire districts, fixing the boundaries of such districts according to efficiency of supervision, and * * *. [L. 1909, ch. 128, sec. 6; * * *; L. 1913, ch. 159, sec. 2.]

2. **Directs and Aids Forest Fire Officers in their Work.**

It shall be the duty of the state forester to direct, aid and cooperate with all district chiefs, forest fire wardens

and other employees of the state as provided for in this act¹ and see that they take such action as is authorized by law to prevent and extinguish forest fires and do other work which the forestry commission may undertake for the protection, improvement and extension of forests. [L. 1909, ch. 128, sec. 2; * * *; L. 1913, ch. 159, sec. 1.]

3. **Employs Various Means to Prevent and Extinguish Fires.**

Establishes supply stations for fire-fighting apparatus.—For the purpose of prevention of fire, the state forester may establish at advantageous points throughout the state supply stations for tools and apparatus used in fire fighting and provisions necessary to men employed; **[Makes maps for use of district chiefs, and wardens.]** make proper maps for the use of district chiefs and forest fire wardens; **[Builds fire trails and fire lines.]** build fire trails and fire lines; **[Employs patrolmen.]** employ paid patrols at suitable points and at necessary times, and **[Uses other means needed.]** use other means as seem advisable to the commission within the limits of the appropriation. [L. 1909, ch. 128, sec. 26; L. 1911, ch. 166, sec. 2.]

4. **Acquires and Maintains Lookout Stations.**

a. **Existing stations—Purchase of equipment.**—The state forester, with the consent of the forestry commission, is empowered to purchase in the name of the state the equipment of the present mountain lookout stations and to maintain such stations thereafter, and * * *

b. **Additional stations.**—[The State forester, with the consent of the forestry commission, is empowered] to es-

¹ L. 1913, ch. 155. (See table, on p. 13.)

¹ See table, on p. 13.

PART II—Contd.]

publish and maintain additional mountain lookout stations connected by telephone lines to be used for the discovery and control of forest fires, and * * *

c. **Acquires, in connection with stations, observatory sites and rights of way, by gifts, purchase, or power of eminent domain.**—[The State forester] shall have the right to receive and hold in the name of the state gifts of land for observatory sites and rights of way for paths and telephone lines. If observatory sites or rights of way necessary for the maintenance and effective operation of lookout stations cannot be acquired by gift or purchase, the forestry commission shall have the right to acquire the same under the power of eminent domain. [Determination of values.—]and the value thereof shall be determined as in the case of lands taken for highways, with the same rights of appeal and jury trial. [L. 1909, ch. 128, sec. 24; L. 1911, ch. 166, sec. 2.]

d. **Cooperates with forestry departments of adjoining States in establishing and maintaining stations.**—[The state forester may co-operate with the forestry departments of the states of Maine, Massachusetts, and Vermont in the establishment and maintenance jointly of lookout stations serving New Hampshire and any of the other said states. [L. 1909, ch. 128, sec. 24; L. 1911, ch. 166, sec. 2; L. 1915, ch. 12, sec. 1.]

5. Calls Conferences of the Forest Fire Wardens, and Deputy Wardens, and Employees.

¶1. The state forester, under the direction of the forestry commission, may call conferences of the forest fire wardens, deputy forest fire wardens, and other employees of the forestry department in different sections of the state for the purpose of improving the service. Secures attendance of expert foresters from without the State.—

¶2. He may, with the consent of the forestry commission, secure the attendance at such conferences of expert foresters from without the state. * * * [L. 1909, ch. 128, sec. 25; L. 1911, ch. 166, sec. 2; L. 1915, ch. 127, sec. 1.]

6. Assists Public Service Commission in Enforcing the Railroad Forest Fire Act.¹

a. **Enters upon railroad or other property, when necessary—Reports to Public Service Commission.**—The forestry commission or its authorized agents shall have the right to enter upon railroad or other property to ascertain facts in regard to the carrying out of this act,¹ and from time to time shall report such facts to the public service commission. [L. 1913, ch. 155, sec. 5.]

b. **Furnishes information in cases concerning right of railroads to clear adjacent lands.** (See II, 29.)

Additional Duties.

Appoints district chiefs. (See II, 7.)

Appoints and removes forest fire wardens, and deputy forest fire wardens:

a. *In towns and cities.* (See II, 10a.)

b. *In unincorporated places.* (See II, 10b.)

c. *In connection with railroad operations.* (See II, 32.)

Acts in conjunction with the forestry commission in fixing the remuneration of forest fire wardens and deputy wardens. (See II, 11.)

Directs patrol of woods by forest fire wardens and deputy wardens. (See II, 12.)

Audits and approves expense accounts of wardens and deputy wardens for preventing and fighting fires in unincorporated places. (See II, 15b.)

Regulates making of reports by forest fire wardens and deputy wardens. (See II, 18.)

Enforces the use of spark arresters on portable steam mills. (See II, 34.)—*Prescribes form for report upon examination of mills.* (See II, 17.)

Arrests violators without warrant, and lodges complaint against them. (See II, 37a, b.)

Reports cases of violations of fire laws to the attorney general of the State. (See II, 38.)

DISTRICT CHIEFS.

7. Appointment—Term of Office.

[The State forester, under the direction of the forestry commission] may appoint a district chief in each [fire] district.¹ Said district chiefs shall serve at the will of the state forester and * * * [L. 1909, ch. 128, sec. 6; * * *; L. 1913, ch. 159, sec. 2.]

8. Wages and Expenses.

[The district chiefs] shall be allowed such wages and expenses as may be fixed by the forestry commission within the limits of the appropriation. [L. 1909, ch. 128, sec. 6; * * *; L. 1913, ch. 159, sec. 2.]

9. Direct Wardens and Deputies, and Perform Other Duties.

It shall be the duty of the district chief to assist the state forester in directing and aiding all forest fire wardens and deputy forest fire warden[s] in his district in the performance of their duties and to perform such duties as the state forester and forestry commission may direct in the protection, improvement, and extension of forests. [L. 1909, ch. 128, sec. 6; * * *; L. 1913, ch. 159, sec. 2.]

FOREST FIRE WARDENS AND DEPUTY FOREST FIRE WARDENS.

10. Appointment—Term of Office—Removal.

a. **In towns and cities.**—The selectmen of all towns and the mayors of all cities shall, and other citizens may, as soon as may be, after this act takes effect, recommend to the state forester the names of such persons as may in their estimation be fit to fill the offices of forest fire warden and deputy forest fire warden in their respective towns and cities. After investigation the state forester may choose and appoint from the persons recommended, as above prescribed, not more than one competent person in each town or city to be the forest fire warden for said town or city and such deputy forest fire wardens as he deems necessary. Upon the appointment of a forest fire warden by the state forester in any town or city, the term of office

¹L. 1913, ch. 155. (See table, on p. 13.)

¹See II, 1.

PART II—Contd.]

of the forest fire warden then or theretofore acting in said city or town shall immediately cease and the new appointee or appointees shall thereafter serve for one year, or until a successor is appointed as hereinbefore provided. The state forester shall have the power in the exercise of his discretion, to remove any forest fire warden or deputy forest fire warden from office. Upon the termination in any manner of the term of office of any forest fire warden or deputy forest fire warden, a successor shall be appointed in the manner hereinbefore provided for the appointment of such officers originally. [L. 1909, ch. 128, sec. 4; L. 1911, ch. 166, sec. 1.]

b. In unincorporated places.—In unincorporated places the state forester may appoint a forest fire warden and one or more deputy forest fire wardens [Duties and powers same as those of town forest fire wardens.] to have the same powers and the same duties as the town forest fire wardens. When so appointed by the state forester, said forest fire wardens and deputy forest fire wardens shall succeed the present incumbent or incumbents, if any. The state forester shall have the power to remove said forest fire wardens and deputy forest fire wardens from office, at his discretion. [L. 1909, ch. 128, sec. 5; L. 1911, ch. 166, sec. 1.]

c. In connection with railroad operations.—(See II, 32.)

11. Remuneration Fixed by Forestry Commission and State Forester.

Forest fire wardens and deputy forest fire wardens in towns and unincorporated places shall be allowed for their services such remuneration as may be fixed by the forestry commission and the state forester. [L. 1909, ch. 128, sec. 7; L. 1911, ch. 166, sec. 1.]

12. Patrol the Woods, and Warn Campers and Others.

Forest fire wardens and deputy forest fire wardens, themselves, or some agent or agents designated by them, shall, when directed by the state forester, patrol the woods in their respective cities or towns,¹ warning persons who traverse the woods, campers, hunters, fishermen and others, about lighting and extinguishing fires. [L. 1909, ch. 128, sec. 4; L. 1911, ch. 166, sec. 1.]

13. Post Fire Notices.

They shall post extracts from the fire laws, and other notices sent them by the state forester, along the highways, along streams and waters frequented by tourists and others, at camp sites, and in other public places. [L. 1909, ch. 128, sec. 4; L. 1911, ch. 166, sec. 1.]

14. Extinguishing Fires.

¶1. It shall be the duty of the forest fire warden and deputy fire warden to extinguish all brush and forest fires occurring in his town, [Impress assistance and property.] and either of them may call such assistance as he deems

necessary to assist him in so doing, and may require the use of wagons, tools, horses, etc., for that purpose, but such authority shall not interfere with the authority of chiefs of city fire departments. **Penalty for refusing assistance or use of property.**—If any person fails to respond to the warden's call for his assistance or the use of his property, he shall be fined not exceeding ten dollars for each offense. * * * **Compensation for property.**—² The owners of all property required by the forest fire warden or deputy forest fire warden in the extinguishment of a forest or brush fire shall receive reasonable compensation therefor. [L. 1909, ch. 128, sec. 7; L. 1911, ch. 166, sec. 1.] **Disagreement as to fire-fighting compensation referred to county commissioners for settlement.**—³ In case the forest fire warden or deputy forest fire warden and the persons summoned to assist him or furnish the use of property, shall fail to agree upon the terms of compensation at the time or after the required service has been rendered, the dispute shall be referred to the commissioners of the county in which the city or town is located, for final settlement.¹ [L. 1909, ch. 128, sec. 8; L. 1911, ch. 166, sec. 1.]

15. Render Account of Expenses.

a. To selectmen or mayor, in towns and cities.—The forest fire wardens shall render to the selectmen or the mayor, as the case may be, a statement of said expenses² within one month of the date they are incurred, which said bill shall show in detail the amount and character of the services performed, the exact duration thereof, and all disbursements made by said wardens, [Bills approved by wardens and deputy wardens.] and must bear the approval of the forest fire warden, and the approval also of the deputy forest fire warden, if said expenses were incurred by the authority of said deputy forest fire warden; [Bills audited and approved by selectmen or mayor.—Town or city makes initial payment.—] said bill shall be audited and if approved by the selectmen of the town or mayor of the city wherein such services were incurred, shall be paid on the order of the selectmen by the town or city treasurer. Duplicate filed with State Forester.—State reimburses town, or city, for its share.—A duplicate bill, showing that the same has been audited and paid by the town, shall be filed by the selectmen or the mayor with the state forester, who shall draw his order on the state treasurer in favor of said town or city for the portion of said bill for which the state is liable in accordance with the provisions of this section.³ [L. 1909, ch. 128, sec. 9; L. 1911, ch. 166, sec. 1.]

b. To State forester, in unincorporated places.—The forest fire wardens and the deputy forest fire wardens in

¹ While there is no specific provision fixing the amount of compensation to be paid for the services rendered by parties who are impressed for fire-fighting, by inference it would appear that the forest fire warden, or the deputy forest fire warden, has authority to fix that amount, in each instance, by agreement with the parties concerned, since the law provides that whenever there is a failure to agree the dispute shall be referred, for final settlement, to the commissioners of the county in which the city or town is located.

² For preventing and extinguishing fires. (See II, 21a.)

³ See II, 21a.

¹ Including by inference unincorporated places, since the fire wardens and deputy wardens there are clothed with the same powers and duties as wardens elsewhere.

PART II—Contd.]

unincorporated places shall render to the state forester a statement of such expenses as they have lawfully incurred under this act in fighting or preventing fires in woodlands within one month of the date upon which such expenses are incurred. The aforesaid statement shall show in detail the amount and character of the services performed, the exact duration thereof, and all disbursements so made by the state fire warden, and the deputy forest fire warden, if said expenses were incurred by the authority of said deputy forest fire warden. **Account audited and approved by the State Forester—Paid by State.**—The aforesaid statement shall be audited by the state forester and if by him approved he shall draw an order upon the state treasurer for the same. **Expenses borne equally by State and unincorporated places.**—The expenses incurred in fighting forest and brush fires and other expenses lawfully incurred by a forest fire warden or a deputy forest fire warden in preventing forest fires in an unincorporated place shall be borne equally by the state and said unincorporated place; [State makes initial payment of total amount—Reimbursed one-half through additional tax on those places.—] but the total expense shall be paid in the first instance from the state treasury, and one half thereof shall be added to the tax assessed the following year against said place in the same manner as is provided by chapter 62 of the Public Statutes for the assessment of taxes in unincorporated places generally. [L. 1909, ch. 128, sec. 10; L. 1911, ch. 166, sec. 1.]

16. Cooperate with Railroad Deputy Forest Fire Wardens, and Give Notice of, and Combat Fires Along Rights of Way till Relieved by Railroad Officials.

The forestry commission shall instruct all wardens and other employees of the forestry department to co-operate with the railroad deputies in the prevention and extinguishment of railroad fires, to immediately notify the nearest station agent or railroad deputy upon the discovery of a fire along the right of way, and to combat such fire until the railroad deputy or other railroad official shall assume charge. [L. 1913, ch. 155, sec. 2.]

17. Examine Portable Steam Mills, and Report to State Forester.

It shall be the duty of the town forest fire warden to examine portable steam-mills, when requested to do so by the state forester, and make reports on the same in such form as the state forester may require. [L. 1911, ch. 95, sec. 2.]

18. Make Reports to District Chiefs or to the State Forester.

Forest fire wardens and deputy forest fire wardens shall make reports to the district chief of the district in which they are located or to the state forester at such time and in such form as the state forester may require. [L. 1909, ch. 128, sec. 11; L. 1911, ch. 166, sec. 1.]

19. Forfeitures for Neglect or Refusal to Perform Duties.

If any forest fire warden or deputy forest fire warden provided for in this act shall wilfully neglect or refuse to

perform the duties prescribed for him he shall forfeit not less than \$100 nor more than \$500, [Recovered in an action for debt, upon complaint of the forestry commission.—] to be recovered in an action for debt, upon complaint of the forestry commission [Paid into State Treasury.—] and all forfeitures so recovered shall be paid into the state treasury. [L. 1909, ch. 128, sec. 17; L. 1911, ch. 166, sec. 1.]

Additional Duties.

Issue permits for:

Kindling fires or burning brush in or near woodlands when ground not covered with snow. (See II, 23b.)

Kindling fires on public lands. (See II, 23a.)

Burning slash on lands adjacent to rights of way of railroads and public highways. (See II, 35.)

Burning trees or brush within highway limits. (See II, 36c.)

Arrest violators, without warrant, and bring them before a justice. (See II, 37a, b.)

Report to State forester the circumstances of violation when persons are not taken in the act. (See II, 38.)

File complaint against parties who, upon discovering forest or brush fires, fail to extinguish or report them. (See II, 39.)

Travelling expenses allowed when attending forest fire conferences. (See II, 22 ¶1.)

FISH AND GAME WARDENS.

20. Fire Duties.

a. **Caution persons as to danger of causing fires in forests.**—It shall be the duty of all such wardens while in and about the forests, to caution persons of the danger from fires in the forests, and to extinguish a fire left burning if in their power.

b. **Give timely notice, to parties affected and to town forest fire wardens, of fires beyond control.**—It shall be their duty to give notice to all parties interested when possible, and to the forest fire warden of the town interested in particular, of fires threatening to extend beyond control.

c. **Exercise powers of town forest fire wardens, pending his arrival.**—Pending the arrival of such fire warden, they shall assume all the powers of such wardens as provided by statute. [L. 1915, ch. 133, sec. 69.]

OTHER OFFICIALS AND CITIZENS.

Patrolmen.

Employed by State forester. (See I, 3.)

Wardens and deputy wardens, or agents designated by them, serve as. (See II, 12.)

Railroad employees organized to maintain a system of patrol. (See II, 27.)

Fire-fighting laborers.

Impressed by wardens and deputy wardens. (See II, 14 ¶1.)

Penalty for refusing to assist, or allow use of property. (See II, 14 ¶1.)

Compensation for property used. (See II, 14 ¶2.)

Compensated for services. (See II, 14 ¶3, footnote.)

PART II—Contd.]

Selectmen of towns and mayors of cities.

Recommend appointment of wardens and deputy wardens in towns and cities. (See II, 10a.)

Adopt and approve forest fire expense accounts of wardens and deputy wardens in towns and cities. (See II, 15a.)

Governor.

Proclaims close season for hunting during season of drought. (See II, 24.)

Public service commission.

Enforces railroad fire provisions. (See II, 25 ¶2.)

Expert foresters from without the State.

Attend conferences of forest fire wardens. (See II, 5 ¶2.)

Travelling expenses paid by the State. (See II, 22 ¶2.)

EXPENDITURES.**STATE.****21. Pays One-Half the Cost of Preventing and Fighting Forest Fires.**

a. In towns and cities.—The expenses of fighting forest and brush fires in towns and cities and other expenses lawfully incurred by forest fire wardens and deputy forest fire wardens of said towns and cities in preventing forest fires, shall be borne equally by the town or city and by the state. [L. 1909, ch. 128, sec. 9; L. 1911, ch. 166, sec. 1.]

b. In unincorporated places.—(See II, 15b.)

c. Method of payment.—See II, 15a, b.)

22. Pays Travelling Expenses of Forestry Officials and Experts Attending Forest Fire Conferences.

¶1. Those summoned by the state forester [to forest fire conferences¹] shall be allowed their traveling expenses in attending such conferences. ¶2. * * * the said experts² to be paid their necessary traveling expenses. [L. 1909, ch. 128, sec. 25; L. 1911, ch. 166, sec. 2; L. 1915, ch. 127, sec. 1.]

Other Payments.

Pays, out of the fish and game fund, costs of publishing and posting proclamations suspending open season for hunting during time of drought. (See II, 24 ¶3.)

TOWNS, CITIES, AND UNINCORPORATED PLACES.**Towns and Cities.**

Pay one-half of the costs of preventing and fighting forest fires. (See II, 21a.)

Make initial payment of whole amount. (See II, 15a.)

Unincorporated Places.

Pay, indirectly, through a tax, one-half of the costs of preventing and fighting forest fires. (See II, 15b.)

¹ See II, 5 ¶1.

² See II, 5 ¶2.

KINDLING FIRES IN THE OPEN.**PERMIT RESTRICTIONS.****23. Camp Fires and all other Fires in the Open.**

a. On any public or private land, except with the consent of the custodian.—No person shall kindle a fire upon public land without permission first had from the forestry commission, state forester, district chief [,] forest fire warden, deputy forest fire warden, or from the official caretaker of such public land. No person shall kindle a fire upon the land of another without permission first had from the owner thereof or from the owner's agent. [L. 1909, ch. 128, sec. 12; L. 1911, ch. 166, sec. 1.]

b. On or near all forest lands, except with the consent of a forest fire warden, or when ground is covered with snow.—No person shall kindle a fire or burn brush in or near woodland, except when the ground is covered with snow,¹ without the written permission of the forest fire warden, or the presence of the forest fire warden or person appointed to represent him. [L. 1909, ch. 128, sec. 13; * * * L. 1915 ch. 112, sec. 1.]

c. Penalties: ¶1. For setting fires without consent of owner and of forest fire warden.—Fires kindled by throwing down a lighted match, cigar, or other burning substance, shall be deemed within the provisions of sections 12² and 13,³ and every person violating any provision of said sections shall be fined not more than two hundred dollars, or imprisoned not more than sixty days, or both. [L. 1909, ch. 128, sec. 14.] ¶2. *For failing to extinguish fires.*—Whoever by himself or by his servant, agent or guide, or as the servant, agent or guide of any other person, shall build a camp, cooking, or other fire, or use an abandoned camp, cooking, or other fire in any, or adjacent to any, woods in this state, shall before leaving said fire totally extinguish the same, and upon failure to do so such person shall be punished by a fine not exceeding fifty dollars. **Exception: (Fires on sea beach).**—*Provided* that such fires built upon the sea beach in such situation that they cannot spread into forest, wood or cultivated land, or meadows, shall not be construed as prohibited by this act. [L. 1911, ch. 151, sec. 1.]

OTHER PRECAUTIONARY RESTRICTIONS.**24. Close Season for Hunting May be Proclaimed During Season of Drought.**

¶1. Whenever during an open season for hunting it shall appear to the governor that by reason of drought the use of firearms in forests is liable to cause forest fires, he may by proclamation suspend such open season for such time as he may designate. [L. 1915, ch. 133, sec. 10 (a).] **Laws for close season in force, and an additional penalty imposed for shooting animals not included thereunder.**—¶2. During the time which shall by such pro-

¹ See also special brush and slash disposal provisions in II, 35; 36.

² See subsec. a.

³ See subsec. b.

PART II—Contd.]

lamation be made a close season, all provisions of law covering and relating to the close season shall be in force, and a person violating a provision of the same shall be subject to the penalties therein prescribed. A person who, during the close season fixed by the governor as provided in the preceding paragraph, shoots a wild animal or bird, for the hunting of which there is no close season otherwise provided by law, shall be fined not exceeding fifty dollars. [L. 1915, ch. 133, sec. 10 (b).] **Publication and posting of proclamation—Copy to fish and game commissioners—Payment of expenses.**—§3. Such proclamation shall be published in such newspapers of the state and posted in such places and in such manner as the governor may order. A copy of such proclamation and order shall be furnished to the commission [fish and game commissioners], who shall attend to the publication and posting thereof. The expenses of such publication and posting shall be paid out of the fish and game fund.¹ [L. 1915, ch. 133, sec. 10 (c).]

RAILROADS.

25. Equip Locomotives with Approved Spark Arresters and Ash Pans, and Require Employees to Maintain Them in Good Condition.

¶1. Every railroad company or corporation operating locomotives within the state shall, subject to the approval of the public service commission, equip and maintain in good condition a spark arrester and a suitable ash pan on every engine, [Exceptions: Oil and electric engines.—] except such engines as are operated by oil or electricity; and shall require its employees operating such engines to exercise due care to keep such devices in good order and to prevent the escape of live coals or sparks which may cause fires along the right of way; and * * * **Compliance enforced by public service commission.**—¶2. In carrying out this section, the public service commission may serve orders and enforce compliance with such orders as provided in chapter 164, Laws of 1911,² and amendments thereto. [L. 1913, ch. 155, sec. 1.]

26. Issue Instructions to Employees on Fire Prevention and Extinguishment.

Railroad companies shall promulgate among their employees instructions for the prevention and extinguishment of fires along the right of way; and * * * [L. 1913, ch. 155, sec. 3.]

27. Organize and Maintain System of Patrol, through Railroad Deputies or Other Officials, During Danger Seasons.

[Railroad companies] shall, through the railroad deputies or other officials, organize and maintain a system of

patrol during dry weather along the sections of its right of way where there is danger of fire. **Failure to patrol, not evidence of negligence to debar railroads from insurance on property.**—The fact that a section of the right of way was not patrolled shall not be admissible as evidence of negligence to debar such railroad from insurance on property, as provided in chapter 159 of the Public Statutes.¹ [L. 1913, ch. 155, sec. 3.]

28. Make and Enforce Regulations for Signalling and Notifying Employees about Fires.

[Every railroad company or corporation operating locomotives within the State] shall[,] subject to the approval of the public service commission, make and enforce regulations for the giving of fire signals and notifications of the existence and location of fires along the right of way to its employees. [L. 1913, ch. 155, sec. 1.] **Compliance enforced by public service commission.**—(See II, 25 ¶2.)

29. Enter upon and Clear Adjacent Forest or Brush Lands.

Railroad companies shall have the right, subject to the provisions of this section, to enter upon forest or brush land adjacent to the right of way, without liability for trespass, for the purpose of clearing brush, grass and inflammable material from such land for a distance of twenty-five feet from the railroad right of way, [Compensation to owner.—] but shall not remove valuable timber growth without recompense to the owner. **Notice required.**—Prior to making such a clearing, the railroad company shall give the owner thereof notice of its intention by letter deposited in the United States mail to his last known address, and thereafter by publishing said notice at least once in two papers of general circulation in the county. Said notice shall quote section 4 of this act. **Failure of owner to file objections, deemed consent.**—If the owner shall not file an objection to such clearing with the public service commission within fifteen days from the date of such publication, he shall be deemed to have given consent. **Public service commission determines case, upon a hearing, when objections are filed.**—Upon the filing of such an objection by an owner, the public service commission shall notify the owner the time and place when he may appear to show cause why such clearing should not be done. After a hearing, the public service commission may sustain the objection or permit the clearing to be done and may prescribe the extent and methods of any and all such clearings. **May secure assistance from forestry commission and State forester.**—The public service commission may require the assistance of the forestry commission and the state forester in furnishing information pertinent to the carrying out of this section.² [L. 1913, ch. 155, sec. 4.]

¹ See II, 31.

¹ These provisions in the fish and game act (L. 1915, ch. 133) appear to have replaced the earlier provisions contained in L. 1909, ch. 59.

² Act establishing a public service commission. (See volume of Session Laws.)

² In view of the provisions in II, 29; 35, the taking of lands or of rights and easements therein, by railroads, for purposes of fire protection, under sec. 2 of the Public Service Commission act, is rendered practically unnecessary. (See ch. 125, L. 1913, in volume of Session Laws.)

PART II—Contd.]

LIABILITY.

Criminal.

(See II, Legal Procedure—Criminal, on p. 10.)

30. Civil.

a. **For fire-fighting costs.**—All just and proper expenses incurred in extinguishing forest or brush fires caused by the railroad company or its employees shall be paid by such railroad company; [Payment, not evidence of company's liability.—] but the fact that such payment has been made shall not be admissible as evidence that such fire was so caused. [L. 1913, ch. 155, sec. 2.]

b. **For fire damages to person or property.**—The proprietors of every railroad shall be liable for all damages to any person or property by fire or steam from any locomotive or other engine upon their road. [R. S. 1842, ch. 142, sec. 8; * * *; Pub. Stat., 1900, ch. 159, sec. 29.]

31. Insurable Interest in Property Exposed to Injury along Their Routes.

a. **Insurance effected by the company.**—Such proprietors [proprietors of every railroad] shall have an insurable interest in all property situate upon the line of their road which is exposed to such damage, and they may effect insurance thereon for their own benefit. [R. S. 1842, ch. 142, sec. 9; * * *; Pub. Stat., 1900, ch. 159, sec. 30.]

b. **Insurance effected by the owner.**—Such proprietors shall be entitled to the benefit of any insurance effected upon such property by the owner thereof, less the cost of premium and of expense of recovery. **Method of recovery.**—The insurance shall be deducted from the damages if recovered before the damages are assessed, or if not, the policy shall be assigned to the proprietors, who may maintain an action thereon. [L. 1861, ch. 2489, sec. 1; * * *; Pub. Stat., 1900, ch. 159, sec. 31.]

EMPLOYEES.

32. Section Foremen and Others Appointed Deputy Forest Fire Wardens.

The state forester is hereby authorized to appoint as deputy forest fire wardens the section foremen or such other railroad employees as the authorized officials of the railroad may recommend. [L. 1913, ch. 155, sec. 2.]

33. Powers and Duties.

Same as forest fire wardens', with modifications.—¶1. Such deputies when so appointed shall be vested with the powers and duties of deputy forest-fire wardens as provided in chapter 128, Laws of 1909, and amendments thereto,¹ except as such powers and duties are limited or extended by this act.¹ Railroad deputies thus appointed shall extinguish and supervise the fighting of forest and brush fires originating along the railroad right of way. [Attendance on fires limited to those along the railroad right of way.—] but shall not be required to supervise the fighting of fires

which do not originate along the right of way. * * * **Take prompt action in case of fires.**—¶2. A railroad deputy who receives notice of the existence of a fire adjacent to the right of way shall proceed forthwith to extinguish it. [L. 1913, ch. 155, sec. 2.]

PORTABLE STEAM MILLS.

34. Required to be Equipped with Approved Spark Arresters Except when Ground is Covered with Snow.

¶1. No person, except when the ground is covered with snow, shall operate any portable steam-mill unless the same is provided with a suitable spark arrester, approved by the state forester. **Approval and revocation must be in writing, and signed by State forester.**—Such approval shall be in writing, signed by the forester, and said approval may be revoked by the state forester in the same manner. [L. 1911, ch. 95, sec. 1.] **Penalty.**—¶2. Any person operating a portable steam-mill when the ground is not covered with snow, without a suitable spark arrester and the approval of the state forester, as herein provided, and any owner or part owner of said mill knowingly permitting its operation, shall be fined not less than fifty dollars and not more than one hundred dollars. [L. 1911, ch. 95, sec. 3.] **Subject to examination by State forester.**—¶3. It shall be the duty of the state forester to examine all portable steam-mills, or cause them to be examined, whenever he deems it necessary, to determine whether they are provided with suitable spark arresters, and whether the same are kept in constant use, as provided for in section 1 of this act.¹ [L. 1911, ch. 95, sec. 2.] **Examination and report made by town forest fire wardens, upon request from State forester.**—(See II, 17.)

COMPULSORY BRUSH AND SLASH DISPOSAL.
INCIDENT TO LUMBERING.

35. Adjacent to Rights of Way of Steam or Electric Railroad, or Public Highway.

On and after July 1, 1915, any person, firm or corporation cutting wood or lumber on property adjacent to the right of way of any steam or electric railroad or public highway shall dispose of the slash caused by such cutting in such a manner that the inflammable material shall not remain on the ground within forty (40) feet of the right of way of any steam railroad, or within twenty (20) feet of the right of way of any electric railroad or the traveled part of any public highway. **Penalty—Limitation of time for disposing of material.**—Any operator of wood or timber on such land, or any owner of such land where cutting is done, may be fined not more than ten dollars for each acre of such land or fraction thereof from which the inflammable material is not properly disposed of within sixty days from the cutting of the trees thereon; *provided*, that any owner or operator who cuts wood or timber during the winter, after November 1, shall have until May 1 in Grafton, Carroll and Coös counties, and until April 1 in other

¹ See table, on p. 13.¹ See ¶1 of this section.

PART II—Contd.]

counties, to remove the slash in accordance with the provisions of this section. **Permit from town forest fire warden required for burning slash.**—If such slash is destroyed by burning, such burning shall be done with the permission of the town forest fire warden. **Forestry Commission charged with execution of provisions.**—The Forestry Commission is hereby charged with the execution of this section. **Liability of owners or operators.**—All owners or operators shall be required to use due care in clearing such land, and shall not be relieved of liability for damage imposed by chapter 128, Laws of 1909, and amendments thereto;¹ but no owner of such land shall be liable for damages resulting from fires not set by himself or his agents. [L. 1913, ch. 155, sec. 6; L. 1915, ch. 100, sec. 1.]

INCIDENT TO PUBLIC WORKS.

36. Within Highway Limits.

a. **Local administrative officers have jurisdiction over disposal, other than by burning, on other than State highways.**—Mayors of cities, selectmen of towns, and county commissioners for unincorporated places, shall annually during the months of August or September, and at other times when advisable, cause to be cut and disposed of from within the limits of the highway, all trees and bushes that cause damage to the highway, traveling public, or that are objectionable from the material or artistic standpoint. * * *

b. **State highway department has jurisdiction over disposal other than by burning, on State and trunk-line highways.**—On all state roads and trunk-line highways the plan of carrying out the provisions of this act shall be under the supervision of the State Highway Department. Said department shall make such rules and regulations for the purpose of carrying out the provisions of this act as shall, in its judgment, seem for the best interests of the state. *

c. **Forest fire wardens have jurisdiction over disposal by burning on all classes of highways.**—Whenever any trees or brush cut along the highway are disposed of by burning, the cut trees or brush shall be removed a safe distance from any adjoining woodland or from any tree or hedge designated or desirable for preservation, and such burning shall be done with the permission of the forest fire warden. **Limitation of time.**—All trees or brush thus cut from within the limits of the highway shall be disposed of within 30 days from the cutting thereof. [L. 1901, ch. 98, sec. 7; * * * L. 1915, ch. 138, sec. 1.]

d. **Penalty.**—Persons violating any of the provisions of this act shall forfeit not less than five nor more than one hundred dollars, to be recovered in an action of debt by the tree warden or any other person for the benefit of the town or city in which the tree is situated, or be fined not less than five nor more than one hundred dollars. [L. 1901, ch. 98, sec. 8.]

¹ See table, on p. 13.

LEGAL PROCEDURE.

CRIMINAL.

37. Officials Arrest, without Warrant, when Persons are Taken in the Act of Violating the Following:

a. **Any law for the protection of forest lands.**—The state forester, or the forest fire warden, or the deputy forest fire warden, may arrest, without a warrant, any person or persons taken by him in the act of violating any of the laws for the protection of forest lands, and bring such person or persons forthwith before a justice of the peace or other justice having jurisdiction, [Justices dispose of cases.—] who shall proceed without delay to dispose of the matter as justice may require. [L. 1909, ch. 128, sec. 15; L. 1911, ch. 166, sec. 1.]

b. **Any order or warning concerning the kindling and extinguishment of fires on the lands of another.**—If, in or near woodlands, any person, other than the owner of said land or his agents acting under his direction, shall build a fire when warned not to do so by an authorized official, or shall fail to extinguish a fire when ordered to do so by an authorized official, he may be arrested by such official without a warrant. [L. 1909, ch. 128, sec. 4; L. 1911, ch. 166, sec. 1.]

38. Officials Report to State Forester the Circumstances of Violations when Persons are not Taken in the Act.

If a warden has any reason to believe that any forest or brush fire in his city or town was caused in violation of statute he shall report to the state forester all the facts coming within his knowledge. **State forester lays facts before attorney general of the State.**—The state forester may then bring the facts before the attorney general of the state, [Attorney general takes action to recover penalty.—] who if the facts as reported to him seem to be sufficient, shall take action to recover the penalty fixed by statute for such violation. [L. 1909, ch. 128, sec. 11; L. 1911, ch. 166, sec. 1.]

39. Officials Enter Complaint Against Persons Liable to a Fine for Failure to Extinguish or Report Fires.

It shall be the duty of any person who discovers a forest or brush fire not under control or supervision of some person to extinguish it or report it immediately to the forest fire warden or deputy forest fire warden or official in charge of forest protection, and failure so to do shall be punished by a forfeiture not exceeding ten dollars to be recovered upon the complaint of the warden. [L. 1909, ch. 128, sec. 18; L. 1911, ch. 166, sec. 1.]

40. Fines Under Forestry Act Paid into State Treasury as a Special Fund for Prevention and Suppression of Forest Fires.

All moneys received from fines imposed under and by virtue of the provisions of this act¹ shall be paid to the state treasurer and kept by him as a separate fund, [Paid

¹ See table, on p. 13.

PART II—Contd.]

out on requisition of State forester.—] to be paid out by him upon the requisition of the state forester, for use in connection with the prevention and suppression of forest fires. [L. 1909, ch. 128, sec. 19; L. 1911, ch. 166, sec. 1.]

Forfeitures paid into State treasury.—(See 11, 19.)

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests, and for the practice of forestry on these and on other lands owned by the State.)

STATE FORESTS.

1. Lands Acquired by Several Means.

a. By purchase with State appropriations: ¶1. **Regular appropriations.**—The commission is empowered to purchase, with the consent of the governor and council, suitable tracts of land for use in demonstrating the principles of forestry, and * * * [L. 1909, ch. 128, sec. 20; L. 1911, ch. 166, sec. 1.] ¶2. **Special appropriation.**— * * *

NOTE.—Special appropriation is made for purchase, by the governor, with the advice of the council and the forestry commission, of such lands as may be deemed necessary for the preservation of the forests in the tract known as the Crawford Notch for the purpose of a forest reservation and State park. (See, in volumes of Session Laws, secs. 1, 2, ch. 130 of L. 1911, and ch. 264 of L. 1913.)

b. Through gift: ¶1. **Of money with which to purchase.**—Whenever any person or persons shall supply the necessary funds therefor, so that no cost or expense shall accrue to the state, the forestry commission is hereby authorized to buy any tract of land and devote the same to the purposes of a public reservation. **Exercise of right of eminent domain.**—If they cannot agree with the owners thereof as to the price, they may condemn the same under the powers of eminent domain, and the value shall be determined as in the case of lands taken for highways, with the same rights of appeal and jury trial. **Title vests in State.**—On the payment of the value as finally determined, the land so taken shall be vested in the state, and forever held for the purposes of a public reservation. ¶2. **Of the land direct.**—The commission is empowered to receive in the name of the state free gifts of land for the purposes of forestry, in such manner that no cost of purchase shall accrue to the state, and may arrange for the registration of necessary papers. * * * [L. 1909, ch. 128, sec. 20; L. 1911, ch. 166, sec. 1.]

2. Management.

a. Of tracts acquired with State appropriations: ¶1. **Regular appropriations.**—[The forestry commission may] make provisions for the management of the same, [tracts purchased with regular State appropriations], as is advisable within the limits of the appropriation. [L. 1909, ch. 128, sec. 20; L. 1911, ch. 166, sec. 1.] ¶2. **Special appropriation.**— * * *

NOTE.—Special provision is made for the care and management of the Crawford Notch tract by the forestry commission. (See sec. 4, ch. 130, L. 1911,

CIVIL.

41. For Permitting Fire to Spread to Lands of Another.

Every person who shall set fire on any land, that shall run upon the land of any other person, shall pay to the owner all damages done by such fire. [L. 1909, ch. 128, sec. 16.]

in volume of Session Laws.) Sale of the tract by the governor and council is also provided for in ch. 203, L. 1913. (See volume of Session Laws.)

b. Of tracts acquired by gifts of money: ¶1. **Forestry commission protects lands and improves forest conditions.**—The forestry commission may take means for the protection of such reservation [tracts purchased with donated funds] from forest fires, and, as far as compatible with the wishes of the donor, may plant and remove trees and otherwise improve the forest conditions. ¶2. **Donors improve lands under direction of forestry commission.**—The persons furnishing the money to buy said land shall be at liberty to lay out roads and paths on the land, and otherwise improve the same under the direction of the forestry commission, and [Tracts open to use of public.—] the tract shall at all times be open to the use of the public.

c. Of tracts acquired by gifts of land: Forestry commission provides for protection and management.—[The forestry commission may] map and survey the land, [acquired through gift direct], protect it from fire, plant, cut and otherwise improve the forests as it is advisable within the limits of the appropriation.¹ [L. 1909, ch. 128, sec. 20; L. 1911, ch. 166, sec. 1.]

3. Revenues from State Lands, Except those from State Nurseries, go into State Treasury.

All revenue derived from the sale of forest products from state land shall revert to the state treasury, [Exception: Revenues from State forest nursery.—] except the revenue derived from the state nursery, which shall be re-vested in the state nursery by the forestry commission. [L. 1909, ch. 128, sec. 20; L. 1911, ch. 166, sec. 1.]

OTHER STATE LANDS.

LANDS ACQUIRED FOR PURPOSE OF REFORESTATION.

4. Forestry Commission Empowered to Acquire.

For the purpose of reforesting waste and cut-over land, the forestry commission is hereby instructed and authorized to promulgate throughout the state the offers made by section 2 of this act.² [L. 1915, ch. 163, sec. 1.]

5. Are Acquired by Gift.

¶1. Whenever any person or persons shall deed to the state any tract of land adapted for forest growth, so that no cost of purchase shall accrue to the state, the Forestry

¹ Special provision is made for the care and management, in like manner, by the forestry commission, of the tract known as the General Miller Park. (See ch. 157, L. 1915, in volume of Session Laws.)

² See table, on p. 13.

PART III—Contd.]

Commission is authorized to accept and hold such tracts in the name of the state, and * * * **Limitation as to amount that may be acquired from any person, firm, or corporation.**—[2, * * * nor shall the state accept a deed from any person, firm, or corporation that is, on the date of such proposed conveyance, the owner of any lands which shall have been reforested by the state. [L. 1915, ch. 163, sec. 2.]

6. Reconverted to Original Donor by Reimbursement of State for Improvements Made.

The donors of such land,¹ or their heirs and assigns, shall have the right, within ten years from the date of conveyance, to purchase it from the state at the cost of improvements with interest at four per cent per annum, and the secretary of state shall, upon the recommendation of the Forestry Commission, convey such land to said donor or donors. [L. 1915, ch. 163, sec. 2.]

7. Control and Management.

a. Forestry commission controls and manages lands.—[The forestry commission is authorized] to reforest, protect, and manage them² subject to the limitations of this section.³

b. Reforestation limited to 25 acres: ¶1. In any one tract, annually.—The state shall not be required to reforest more than twenty-five acres of any tract acquired under this act in any one year. ¶2. For any one owner.—Not more than twenty-five acres of land shall be reforested by the state for any one person, firm, or corporation, * * *

c. Extinguishment of fires.—Any forest fire on such tracts shall be extinguished as provided in chapter 128, Laws of 1909, and amendments thereto.¹

d. Sale of land, or of wood and timber.—If the donor, or his heirs or assigns, shall not acquire the land within ten years from the date of conveyance, such land may be sold, or the wood and timber thereon may be sold, by the Forestry Commission, with the approval of the Governor and Council; provided, that such sale shall be advertised and awarded to the highest bidder, and the state may reject any such bids.

e. Revenues derived from lands to be paid into State treasury.—All revenue from the sale of such tracts, or of the wood and timber thereon, shall revert to the state treasury. [L. 1915, ch. 163, sec. 2.]

MUNICIPAL FORESTS.

8. Towns and Cities Authorized to Acquire and Hold Lands for Forestry Purposes.

Towns and cities may at any legal meeting grant and vote such sums of money as they shall judge necessary to purchase, manage and improve lands for the purpose of growing wood and timber. [L. 1913, ch. 27, sec. 1.]

9. Managed under Direction of State Forester.

Any lands so purchased shall be managed under the direction of the state forester. [L. 1913, ch. 27, sec. 2.]

10. Proceeds Turned into Town Treasury.

The net proceeds, after deducting necessary expenses, from the sale of wood and timber from such lands shall be turned into the town treasury. [L. 1913, ch. 27, sec. 3.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

REBATE OF TAXES TO ENCOURAGE FOREST PLANTING.

1. On Lands Planted with not Less than 1,200 Timber or Forest Trees.

In consideration of the public benefit to be derived from the planting and cultivation of timber or forest trees, the owners of any and all land which shall be planted with timber or forest trees, not less than 1,200 to the acre, shall be entitled, from and after the first day of April, 1903, to a rebate of the taxes assessed upon said land as follows: [Rates of rebate.—] For the first ten years after the land has been so planted, a rebate of ninety per cent. of all the taxes assessed upon said land; for the second period of ten years after such planting a rebate of eighty per cent. of all said taxes and for the third and final period of rebate after

such planting, a rebate of fifty per cent. of all said taxes. **Rebate conditioned on trees being kept in sound condition.**—Said rebate to be allowed only on condition that said planted trees are kept in sound condition. **Return of planting made annually to selectmen.**—A return of such planting shall be made to the selectmen when taking the annual inventory, which return shall be verified by the selectmen and made the basis of such tax exemption. **Thinning allowed after ten years.**—After said trees have been planted ten years it shall be lawful for the owners to thin out the same so that not less than six hundred trees shall be left to the acre; [Clearing of land prohibited during period of rebate.—] but no portion of said planted land shall be absolutely cleared of trees during the period for which said rebate may be allowed. [L. 1903, ch. 124, sec. 1.]

¹ See III, 5 ¶1.

² Tracts acquired as provided in III, 5 ¶1.

³ See table on p. 13.

¹ See table, on p. 13.

United States Department of Agriculture

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

COLORADO

(Serial I—Through Reg. Sess., 1917)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

The compilation of which this leaflet is but a part aims to meet a manifest need of the times for a work of reference by means of which the legislation underlying the forestry activities of the various States can readily be studied and compared. To this end, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other laws concerning timber and trees, of all detailed forest insect and fungus provisions (which, while germane to forestry, usually arise from acute local conditions, and are not of general interest), as well as of all annual or biennial appropriations, and other similarly transitory provisions. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions. The laws themselves have been analyzed and classified, in detail, to show the activities of the various officers and governing bodies, as these bear on "Administration," "Fire Protection," "Public Forests," and "Taxation," the text being skeletonized in blackface type, and copiously cross-referenced, in italics, to aid the rapid scanning of the entire legislation or of any particular part of it. A Table of Acts is appended to this leaflet for the benefit of any who do not have access to the original enactments from which the provisions used in the compilation were taken, and who desire to reconstruct them.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

STATE BOARD OF AGRICULTURE.

1. Vested with Authority as State Board of Forestry.

That the State Board of Agriculture shall have, and hereby is vested with authority, in addition to and in connection with its duties heretofore provided, as a State Board of Forestry, and * * *. [L. 1911, ch. 138, sec. 1; Mills An. Stat., 1912, sec. 2986.]

2. Furnishes Office and Equipment for State Forester, and Necessary Assistance.

The State Board of Agriculture is further hereby authorized to furnish the necessary office, furniture, office supplies, stamps and postage, and office and field equipment, and such necessary assistance as may be required for the proper conduct of the office of State Forester.¹ [L. 1911, ch. 138, sec. 1; Mills An. Stat., 1912, sec. 2986.]

3. Additional Duties.

Appoints State forester, and determines his term of office. (See I, 4.)

Fixes salary of State forester. (See I, 5.)

STATE BOARD OF FORESTRY.

(For establishment of board, see "State Board of Agriculture," I, 1: 2.)

STATE FORESTER.

4. Appointment—Term of Office.

* * * the said The State Board of Agriculture is hereby given authority to appoint an officer to be known as the State Forester. The incumbent in said office to be the professor or instructor of forestry at The State Agricultural College, said State Forester to hold office at the will of the State Board of Agriculture and except as herein-after provided, to be under the control of The State Board of Agriculture. [L. 1911, ch. 138, sec. 1; Mills An. Stat., 1912, sec. 2986.]

5. Salary Fixed by State Board of Agriculture—Limitation of Amount.

The State Forester shall receive a reasonable salary, to be fixed by the State Board of Agriculture, not to exceed \$2,500.00 per year, which sum shall include his salary as professor or instructor of Forestry at the State Agricultural College, and shall be paid out of the money hereby appropriated.² [L. 1911, ch. 138, sec. 2; Mills An. Stat., 1912, sec. 2987.]

6. Manages State Forests, if Any.

It shall be the duty of the State Forester to direct the management of State Forest Reserves, if any; * * * [L. 1911, Ch. 138, sec. 3; Mills An. Stat., 1912, sec. 2988.]

¹ The state board of agriculture is charged, independently, with the management of a school of horticulture, forestry, and vocational learning, at the Grand Junction Indian School, in Mesa county, Colorado (see secs. 101, 102, Mills An. Stat., 1912); and the Secretary of the board is also required to "address circulars to societies and the best practical farmers in the state and elsewhere, with the view of eliciting information upon * * * the culture of * * * trees, etc., adapted to soil and climate of this state" [Colorado]; and to distribute, for cultivation and report thereon, such trees as he may secure. (See secs. 60, 61, Mills An. Stat., 1912.)

² See p. 6, footnote 3.

7. Studies Conditions for Preserving and Growing Forests.

[It shall be the duty of the state forester] to study the best conditions for preserving and growing of trees and forests. [L. 1911, ch. 138, sec. 3; Mills An. Stat., 1912, sec. 2988.]

8. Collects and Publishes Forest Data.

[It shall be the duty of the state forester] to collect and publish all data relative to the forests and other timber growing in the State. [L. 1911, ch. 138, sec. 3; Mills An. Stat., 1912, sec. 2988.]

9. Cooperates with the Following:

a. U. S. Forest Service.—[It shall be the duty of the state forester] to cooperate, so far as is practical, with the Department of Forestry of the United States Government; * * * [L. 1911, ch. 138, sec. 3; Mills An. Stat., 1912, sec. 2988.]

b. State board of land commissioners in the matter of granting permits to cut timber on State lands.—The State Forester shall cooperate with the State Board of Land Commissioners in the matter of granting of permits for cutting timber upon State lands, giving them data concerning the proper timber to be cut and the proper method of cutting and removing the timber and the removal of the strippings and advising the State Board of Land Commissioners concerning any matters of importance relative to the removal of the timber and the replanting and reforestation of State lands, but nothing herein contained shall be construed as amending the law at present existing¹ giving the State Board of Land Commissioners authority in said matter. [L. 1911, ch. 138, sec. 4; Mills An. Stat., 1912, sec. 2989.]

c. Individuals, associations, corporations, towns, or cities, at their expense.—The State forester may advise or assist any individual, individuals, association or corporations, towns or cities, and examine any tract of land that it may be desired to devote to the growing of trees or forests, to advise as to the planting thereof and the protection, preservation or reforestation of any private lands under an agreement with the owners of such land, whereby the owner or owners of such land shall pay to the State Board of Agriculture a sum equal to the total expense of the State Forester or such assistants as may be appointed for said purpose. [L. 1911, ch. 138, sec. 6; Mills An. Stat., 1912, sec. 2991.]

10. Prosecutes Violators for Cutting or Destroying Timber.

[It shall be the duty of the state forester * * * to prosecute violation of all laws pertaining to * * *] the cutting or destruction of timber in the State, * * *. [L. 1911, ch. 138, sec. 8; Mills An. Stat., 1912, sec. 2993.]

11. Reports Derelictions on Part of State Officers Concerning Timber or Forests.

[It shall be the duty of the state forester to * * * report to the proper authority any violation or dereliction on the part of any officer or officers of the State * * *]

¹ L. 1901, ch. 83. (See Table of Acts on p. 9. For law, in full, see

PART I—Contd.]

in relation to the timber or forests in the State. [L. 1911, ch. 138, sec. 8; Mills An. Stat., 1912, sec. 2993.]

12. Makes Biennial Report and Recommendations.

Said State Forester shall, biennially, make to the Governor, a report of the transactions of his office, and shall

make such recommendations as he shall deem necessary with a view toward prescribing laws necessary to make his office an effective factor for the purposes for which it is created. [L. 1911, ch. 133, sec. 11; Mills An. Stat., 1912, sec. 2396.]

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection of state-owned lands, see Part III.)

STATE FORESTER.**1. Advises and Assists in Preventing and Extinguishing Forest Fires.**

¶ 1. The State Forester shall advise, aid and assist in preventing and extinguishing forest fires on State lands and private lands in the National Forests in the State, [Fire duties of sheriffs not interfered with.—] but nothing herein contained shall be construed as amending the law making it the duty of the Sheriffs of the various Counties of the State to prevent and extinguish forest fires.¹ [L. 1911, ch. 138, sec. 5; Mills An. Stat., 1912, sec. 2990.] ¶ 2. * * * upon receiving notice from any source of a fire or fires in any forest, it shall be the duty of the State Forester to aid and assist in extinguishing the same. [L. 1911, ch. 138, sec. 7; Mills An. Stat., 1912, sec. 2992.]

2. Examines into Causes of Fires.

It shall be the duty of the State Forester to examine and inquire into the cause of fires occurring in the forests of the State, either on private or public lands, * * * [L. 1911, ch. 138, sec. 8; Mills An. Stat., 1912, sec. 2993.]

3. Prosecutes Violators of Fire Laws.

[It shall be the duty of the state forester] to prosecute violation of all laws pertaining to fires or * * * [L. 1911, ch. 138, sec. 8; Mills An. Stat., 1912, sec. 2993.]

4. Reports Derelictions on Part of State Officers Concerning Fires.

* * * and [he shall] report to the proper authority, any violation or dereliction on the part of any officer or officers of the State with relation to fires and * * * [L. 1911, ch. 138, sec. 8; Mills An. Stat., 1912, sec. 2993.]

5. Publishes and Posts Forest-Fire Regulations.

[It shall be the duty of the State forester] to promulgate and publish rules for the prevention of forest fires and to cause the same to be posted in the forests upon State lands; * * * [L. 1911, ch. 138, sec. 3; Mills An. Stat., 1912, sec. 2983.]

6. Other Duties.

Furnishes forest fire notices to commissioner of game and fish. (See II, 18.)

OTHER STATE OFFICIALS WITH INCIDENTAL FIRE DUTIES.**SHERIFFS.****7. Act as Fire Wardens.**

The sheriff of every county shall, in addition to other duties, act as fire wardens of their respective counties in case of prairie or forest fires. [L. 1903, ch. 83, sec. 1; * * *; Mills An. Stat., 1912, sec. 1396.]

¹ See II, 7-9.

8. Compensation.

The county commissioners may allow the sheriff five dollars per day for such services,¹ and the deputies not to exceed three dollars per day, and such other expenses necessarily incurred as they may deem just. [L. 1903, ch. 83, sec. 2; * * *; Mills An. Stat., 1912, sec. 1397.]

9. Assume Charge of Fires.

It shall be the duty of the sheriff, under sheriff and deputies, in case of any forest or prairie fire, to assume charge thereof, for controlling and extinguishing the same, [Summon citizens.—] they may call to their aid, such person or persons of their county as they may deem necessary. [L. 1903, ch. 83, sec. 2; * * *; Mills An. Stat., 1912, sec. 1397.]

10. Report Fires Promptly to State Forester.

It shall be the duty of the Sheriffs of the various Counties of the State to report as soon as practical the occurrence of any fire in any forest or forests in the State, either on private or public lands, and * * * [L. 1911, ch. 138, sec. 7; Mills An. Stat., 1912, sec. 2992.]

11. Additional Duties.

Enforce fire provisions of game and fish law. (See II, 14; 17.)—*Failure to enforce constitutes violation.* (See II, 35b.)—*Penalty, prosecution and fine.* (See II, 35c-j.)

Enforce fire provisions of forestry act. (See II, 20.)—*Penalty and prosecution.* (See II, 36.)

Deprive violators of camping permits. (See II, 30b.)

CONSTABLES.**12. Duties.**

Enforce fire provisions of game and fish law. (See II, 14; 17.)—*Failure to enforce constitutes violation.* (See II, 35b.)—*Penalty, prosecution and fine.* (See II, 35c-j.)

Enforce fire provisions of forestry act. (See II, 20.)—*Penalty and prosecution.* (See II, 36.)

Deprive violators of camping permits. (See II, 30b.)

STATE GAME AND FISH COMMISSIONER AND WARDENS.**13. Commissioner Prescribes Regulations Under Fire Provisions of the Game and Fish Law.²**

The commissioner³ shall have power to prescribe such rules, regulations and forms as may be required to carry out the true intent of this act,² and not inconsistent herewith. [L. 1899, ch. 98, sec. 7, p. 186; * * *; Mills An. Stat., 1912, sec. 3140.]

¹ Services as fire wardens. (See II, 7.)

² Game and fish law in ch. 98, L. 1899. (See Table of Acts, on p. 9.)

³ As used in this act, unless otherwise specifically restricted or enlarged, * * * the word commissioner means the state game and fish commissioner; the word warden or wardens includes the chief wardens, deputy wardens and special wardens provided for herein; * * * [L. 1899, ch. 98, p. 189, sec. 15; * * *; Mills An. Stat., 1912, sec. 3157.]

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14. Commissioner and Wardens Enforce Fire Provisions of the Game and Fish Law.¹

The commissioner and every warden² throughout the State, and every sheriff and constable in his respective county, is authorized and required to enforce this act³ * * *. [L. 1899, ch. 98, sec. 11, p. 187; Mills An. Stat., 1912, sec. 3144.]

15. Prosecute Violators of Fire Provisions.

It shall be the duty of the commissioner and chief wardens to devote their entire time to the performance of the duties specified in this act,¹ and to cause prosecutions to be instituted and conducted for the punishment of violations thereof. [L. 1899, ch. 98, sec. 9, p. 186; Mills An. Stat., 1912, sec. 3142.]

16. Have Rights and Powers of Sheriffs and Constables.

In the performance of their duties the commissioner and wardens shall have all the rights and powers, throughout the state, of sheriffs and constables in their respective counties, except as herein otherwise provided. [L. 1899, ch. 98, sec. 9, p. 186; Mills An. Stat., 1912, sec. 3142.]

17. Arrest Violators, With or Without Warrant.

* * * and he [commissioner and every warden throughout the state, and every sheriff and constable in his respective county] shall have full power and authority, and it shall be the duty of every such officer, with or without a warrant, to arrest any person whom he has reason to believe guilty of a violation thereof;¹ * * *. [L. 1899, ch. 98, sec. 11, p. 187; Mills An. Stat., 1912, sec. 3144.]

18. Post Fire Notices.

It shall be the duty of the Commissioner of Game and Fish to have posted, in manner as required by the State Forester, all notices prepared by the State Forester concerning the prevention and extinguishing of forest fires. [L. 1911, ch. 138, sec. 9; Mills An. Stat., 1912, sec. 2994.]

19. Additional Provisions.

Failure to enforce fire provisions of game and fish law¹ constitutes violation. (See II, 35b.)—*Penalty, prosecution and fine.* (See II, 35c-j.)

Commissioner has supervision and control over prosecutions for violation of fire provisions of game and fish act. (See II, 35g.)

Commissioner makes biennial report to governor. (See vol. of Sess. Laws, 1899, ch. 98, sec. 10, p. 186; and Mills An. Stat., 1912, sec. 3143.)

GAME AND FOREST WARDENS.

20. Enforce Fire Provisions of Forestry Act.⁴—Arrest Violators With or Without Warrant.

Game and forest³ wardens, the land appraisers, and all peace officers of the state, are hereby charged with the

¹ Game and fish law in ch. 98, L. 1899. (See Table of Acts, on p. 9.)
² As used in this act, unless otherwise specifically restricted or enlarged * * * the word commissioner means the state game and fish commissioner; the word warden or wardens includes the chief wardens, deputy wardens and special wardens provided for herein; * * * [L. 1899, ch. 98, p. 189, sec. 18; * * * ; Mills An. Stat., 1912, sec. 3157.]

³ There is no provision in the laws of the State of Colorado for the appointment of officials under the specific designation, "forest wardens." The term, as used in this act, seems to refer in a general way to officials who are appointed to protect the forests of the State.

⁴ Forestry act in ch. 83, L. 1901. (See Table of Acts, on p. 9.)

enforcement of this act so far as it relates to fires in forest areas, and shall have full power to arrest, with or without warrant, all violators and deliver them to the nearest constable or sheriff, to be dealt with according to law. [L. 1901, ch. 83, sec. 13; * * * ; Mills An. Stat., 1912, sec. 3013.]

21. Additional Provisions.

Enforce fire provisions of game and fish law. (See II, 14; 17.)—*Failure to enforce constitutes violation.* (See II, 35b.)—*Penalty, prosecution and fine.* (See II, 35c-j.)

Penalty and prosecution for failure to enforce fire provisions of forestry act. (See II, 36.)

Deprive violators of camping permits. (See II, 30b.)

Are responsible for care of fires when employed by non-resident campers. (See II, 30c.)

DEPUTY APPRAISERS.

22. Specially Employed to Enforce Fire and Forestry Provisions.

For the purpose of more fully carrying out the provisions of this act^a the state board of land commissioners are hereby empowered to employ such number of persons, not exceeding six, as in their judgment are necessary. Such persons shall be known as deputy appraisers. **Compensation.**—They shall receive for their services the sum of five (\$5.00) dollars per diem, [Arrest violators, with or without warrant.—]and shall have authority to arrest all violators of this act, with or without warrant, [Take violators before justice of the peace, or other officer.—] and deliver them to the most accessible justice of the peace or other officer authorized by law to act in such cases. [L. 1901, ch. 83, sec. 15; * * * ; Mills An. Stat., 1912, sec. 3016.]

LAND APPRAISERS.

23. Duties.

Enforce fire provisions of forestry act. (See II, 20.)—*Penalty and prosecution.* (See II, 36.)

Deprive violators of camping permits. (See II, 30b.)

BOARD OF COUNTY COMMISSIONERS.

24. Post Camp Fire Notices.

It shall be the duty of the Board of County Commissioners of each county in this state, within thirty days after this act shall take effect, to cause to be erected and maintained, in conspicuous places at the side of each and every traveled highway, and at such other places as they may deem proper, at suitable distances along the main traveled highways of their respective counties, notices printed in large letters, on strong cloth, substantially in the following form, to wit:

FIRE.

Camp fires must be totally extinguished before breaking camp, under penalty of not to exceed one month imprisonment, or one hundred dollars fine, or both as provided by law.¹ A standing reward of one hundred dollars (\$100) is offered by the state, for information which may lead to the conviction of any person, or persons, guilty of causing forest fires, in violation of law.

..... } Commissioners.
..... } County.

^a See Table of Acts, on p. 9.

¹ The provision referred to is contained in sec. 2, p. 165, L. 1885; which provision appears to be superseded by later legislation. (See II, 29, footnote.)

PART II—Contd.]

Counties pay cost.—The erection of such notices shall be at the expense of the respective counties; [Number of notices posted in each county.—] and at least twenty in number shall be posted and maintained in each and every county in this state.¹ [L. 1885, p. 161, sec. 1; * * * ; Mills An. Stat., 1912, sec. 1341.]

FEDERAL FOREST OFFICERS AND TIMBER OFFICERS.

25. Enforce all Fire Provisions by Direct Authority as Fire Wardens, when so Appointed.

The Governor may, at his discretion, appoint forest officers of the United States to act without pay * * * as Fire Wardens in enforcing the laws of this state as to forest fires. [Power to incur fire-fighting expenses.—] who shall have power to incur necessary expenses to extinguish forest fires. **Term of office.**—Such forest officers shall hold their positions as * * * Fire Wardens during the pleasure of the Governor. [L. 1909, ch. 168, sec. 1; Mills An. Stat., 1912, sec. 3014.]

26. Enforce the Fire Provisions of the Game and Fish Law by Ex Officio Authority as Federal Forest or Timber Officers.

* * * every officer having authority in relation to timber or forest reserves of the United States shall have the same authority under this act² as a deputy [game] warden. [L. 1899, ch. 98, sec. 14, p. 188; * * * ; Mills An. Stat., 1912, sec. 3147.] **Enforce the forest fire provisions of the forestry act, as game wardens, whenever so commissioned.**² (See II, 20.)

DISTRIBUTION OF COSTS OF FIRE PROTECTION.

STATE.

27. Pays:

Expenses incidental to enforcing forest fire protection⁴ incurred by the following officers: State forester (see II, 1-3); State game and fish commissioner and wardens (see volume of Session Laws of 1899, ch. 98); deputy appraisers (see II, 22); land appraisers (see II, 23); Federal forest and timber officers (see II, 25).

Costs of publishing and posting fire regulations (see II, 5).

COUNTIES.

28. Pay:

Sheriffs' and deputies' salaries and expenses⁴ necessary and incidental to their fire protection duties. (See II, 8.)

Costs of posting camp fire notices. (See II, 24.)

¹ The remainder of this section, embracing the provision for posting of similar notices by the state forest commissioner, was doubtless rendered inoperative by the repeal, in 1897, of the act which provided for the appointment of a state forest commissioner (act of Apr. 4, 1885).

² See Table of Acts, on p. 9.

³ It is customary to commission national forest officers to be game wardens so that they may enforce the game and fish laws.

⁴ *Continuing appropriations.*—* * * there is hereby appropriated, for each successive biennial period [following 1911 and 1912], the said sum of Ten Thousand (\$10,000) Dollars for such purposes [those of ch. 138, L. 1911 (see Table of Acts on p. 9)], and the Auditor of State is hereby authorized to draw his warrants upon said funds, upon the order of the State Board of Agriculture, signed by its President and counter signed by its Secretary. [L. 1911, ch. 138, sec. 12; Mills An. Stat., 1912, sec. 2397.]

⁵ Inasmuch as these officers are authorized to extinguish fires, such expenses would necessarily include a part at least of the cost of fire fighting.

KINDLING FIRES IN THE OPEN.

PROHIBITIVE RESTRICTIONS.

29. On State and Federal Lands, or Lands from which Fires may Spread thereto.¹

a. No person shall set fire to any timber or grass on land belonging to this state or to the United States, or set fire in any place where it is liable to spread to such timber or grass, [Camp fires required to be extinguished.—] nor leave any camp fire unextinguished, and * * * [L. 1899, ch. 98, sec. 14, p. 188; * * * ; Mills An. Stat., 1912, sec. 3147]. **Penalties, prosecutions and fines.** (See II, 35.)

b. **Protection of smaller trees.**—[Every person applying to cut trees on state lands is required to state in the application] that he will carefully protect from fires or other damage all trees less in size than those desired to cut. * * * [L. 1901, ch. 83, sec. 2, c. 1; Mills An. Stat., 1912, sec. 3302 (c)]. **Criminal and civil liability and prosecutions.** (See II, 36; 33.)

30. On all Lands.

a. **Except as to open fires sufficiently guarded.**—No open fires not sufficiently guarded to prevent spreading shall be allowed in any forest area in this State. [Live coals extinguished with water.—] and all live coals emptied from any stove or remaining from any open fire shall be at once and completely extinguished with water before leaving. [L. 1901, ch. 83, sec. 10; * * * ; Mills An. Stat., 1912, sec. 3010.]

b. **Except as to legal residents of the State, either in their own county, or having a camping permit in any other county.**—No person, party or parties, shall be allowed to camp, either for business or pleasure, in any forest district of this State outside of the county in which they legally reside, without first taking out a permit so to do. **Permit contains fire provisions of forestry act.**—Such permit shall bear such part of this act as relates to fires and their care, and shall be issued by the clerk of any county court within the State upon the payment of the sum of fifty cents as a fee. **Produced on demand**—Permits must at all times be produced and shown to any game or forest warden,² land appraiser, constable, sheriff, or other official empowered by law to demand the same, [Subject to recall.—] and such permit may be taken up by such warden, land appraiser or other official whenever the holder thereof shall willfully violate the provisions of this act. [L. 1901, ch. 83, sec. 11; * * * ; Mills An. Stat., 1912, sec. 3011.]

c. **Except as to non-residents who have a guide.**—Non-residents of this State shall not camp within the forest districts for pleasure until they shall have obtained the services, at their own cost, of a game or forest warden as

¹ The legislators' shown in this and the following sec. (II, 29, 30) appears to supersede, practically, the earlier provisions prescribing penalties for the setting of fires endangering woodlands, and for failure to extinguish camp fires, contained in L. 1891, pp. 317, 318, secs. 129, 130, 131, 132, and certain subsequent enactments, shown in Mills An. Stat., 1912, secs. 2011, 2312, 2313, 2311.

² See II, 24, footnote 3.

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conservator of the State's interests, [Wardens responsible for fires.—] and such wardens will be held strictly responsible for the care and prevention of fires from extending to the forest areas. [L. 1901, ch. E3, sec. 12; * * *; Mills An. Stat., 1912, sec. 3012.] **Criminal and civil liability and prosecutions.** (See II, 36; 33.)

RAILROADS.

GENERAL REQUIREMENTS.

31. Equip and Operate Locomotives to Prevent Causing Fires.

¶1. * * * every locomotive used in such forest area shall be so equipped and operated as to prevent the setting on fire of any tree growth along or adjacent to such right of way. [L. 1901, ch. E3, sec. 14; * * *; Mills An. Stat., 1912, sec. 3015.] **Each day's neglect constitutes a separate offense.**—¶2. Each day's neglect to properly equip and operate as herein directed any locomotive shall be deemed a separate offense, punishable in like manner and with like penalties. [L. 1901, ch. E3, sec. 14; * * *; Mills An. Stat., 1912, sec. 3015.] **Civil liability (Special provisions in forestry act).** (See II, 32, ¶2.) **Criminal and civil liability, and prosecutions (General provisions in forestry act).** (See II, 36; 33.)

32. Clear Rights of Way.

¶1. The right of way of any railroad within the forest areas of this state shall be kept free from inflammable material, and * * * [L. 1901, ch. E3, sec. 14; * * *; Mills An. Stat., 1912, sec. 3015.] **Civil liability (Special provisions in forestry act).**—¶2. Any destruction caused by a violation of this section¹ of this act shall be appraised by the appraiser of the state board of land commissioners, [Suit if payment not made within ninety days.—] and if the appraised value of such destruction is not paid by the offending railroad company within ninety days of such appraisal, then and in that case the state board of land commissioners shall bring suit in the name of the state to recover all damages, losses and costs caused by or arising out of the wrongful acts or negligence of the offending railroad company. **Damages include value of trees: (1) Commercially; (2) As conservators of waters; (3) As promoters of adjacent tree growth.**—The measure of damages shall consist of not only the actual commercial value of the trees destroyed, but also their value as conservators of the snows, ice or irrigation waters contemplated in this act and promoters of adjacent tree growth.¹—[L. 1901, ch. E3, sec. 14; * * *; Mills An. Stat., 1912, sec. 3015.] **Criminal and civil liability, and prosecutions (General provisions in forestry act).** (See II, 36; 33.)

¹ See Table of Acts, on p. 9.

² So far as concerns precautions against fires along railroad rights of way adjacent to or through forest lands, and as concerns the operation of roads, the general provisions in sections 14, 16, 17, of this forestry act, appear to supersede the earlier requirements in L. 1871, p. 225, secs. 1, 2, 3, in respect to ploughing fireguards and burning vegetation along the tracks, with provision for criminal and civil liability, and payment of fines into the county school fund. (For the earlier provisions, see Mills An. Stat., 1912, secs. 6158, 6159, 6160.)

LIABILITY.

33. Recovery of Damages for Injuries Caused by Fires from Operating Railroads is Restricted.

Limitation of time for bringing action.—Every railroad company operating its line of road, or any part thereof, within this state shall be liable for all damages by fires that are set out or caused by operating any such line of road, or any part thereof, in this state, whether negligently or otherwise; and such damages may be recovered by the party damaged, by the proper action, in any court of competent jurisdiction; Provided, The said action be brought by the party injured within two years next ensuing after it accrues; [Right of recovery may not be assigned or otherwise passed to another.—] and Provided further, That the liability herein imposed shall inure solely in favor of the owner or mortgagee of the property so damaged or destroyed by fire; and the same shall not pass by assignment or subrogation to any insurance company that has written a policy thereon; Provided, That nothing in this act shall be held to apply to or in any manner affect any right which has accrued prior to the passage hereof or any cause or suit now pending. [L. 1903, ch. 153, sec. 1; * * *; Mills An. Stat., 1912, sec. 6161.]

COMPULSORY BRUSH AND SLASH DISPOSAL.

INCIDENT TO LUMBERING.

34. On State Lands.

[Every person applying to cut trees on State lands is required to state in the application:] That he will entirely remove, as directed by the state board of land commissioners, all cut trees and their branches in such manner that fires may not consume the smaller trees; * * * [L. 1901, ch. E3, sec. 2 (d); * * *; Mills An. Stat., 1912, sec. 3002 (d).] **Criminal and civil liability, and prosecutions.** (See II, 36; 33.)

LEGAL PROCEDURE.

CRIMINAL.

35. For Violations or Attempted Violations of Fire Provisions in the Game and Fish Act.¹

a. **Attempted violations.**—Every attempt to violate any provision of this act¹ shall be punishable to the same extent as an actual violation thereof, and any such attempt or violation by an agent, clerk, officer, or employe while acting for a corporation, shall render such corporation liable also, and an accessory may in all cases be prosecuted and punished as a principal. [L. 1899, ch. 98, sec. 1, p. 217; * * *; Mills An. Stat., 1912, sec. 3290.]

b. **Failure to perform the acts or duties required.**—The failure by any person or officer to perform any act, duty or obligation enjoined upon him by this act shall be deemed a violation thereof. [L. 1899, ch. 98, sec. 2, p. 217; * * *; Mills An. Stat., 1912, sec. 3291.]

c. **Penalty.**—Every person or officer violating any of the provisions of this act, * * *, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25, not more than \$500, or by imprisonment in the county jail not less than ten days nor more than six months, or by

¹ L. 1899, ch. 98. (See Table of Acts, on p. 9.)

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both such fine and imprisonment. [L. 1899, ch. 98, sec. 4, p. 217; * * *; Mills An. Stat., 1912, sec. 3293.]

d. Imprisonment for non-payment of fine.—Every person convicted and fined under this act shall be imprisoned until the fine and costs are paid, and shall not be discharged therefrom on account of his inability to pay the same, until he shall have been actually imprisoned one day for each \$5 of the fine. [L. 1899, ch. 98, sec. 5, p. 217; * * *; Mills An. Stat., 1912, sec. 3294.]

e. Initiation of proceedings.—¹1. In case of a violation of this act by a corporation, the warrant of arrest may be read to the president, secretary or manager in this state, or any general or local agent thereof in the county where the action is pending, and upon the return of such warrant so served, the corporation shall be deemed in court subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation, but this section shall not be deemed to exempt any agent or employe from prosecution. [L. 1899, ch. 98, sec. 21, p. 193; * * *; Mills An. Stat., 1912, sec. 3160.] ²2. Prosecutions under this act may be commenced either by indictment, complaint or information, and district and county courts and justices of the peace in their respective counties shall have concurrent original jurisdiction of all offenses under this act, * * *, of which justices of the peace shall not have jurisdiction, otherwise than as committing magistrates. [L. 1899, ch. 98, sec. 6, p. 218; * * *; Mills An. Stat., 1912, sec. 3295.]

f. Jury trial—Appeals.—The accused shall be entitled to a jury as in other criminal cases, and an appeal shall lie from a justice of the peace as in cases of assault and battery. Appeals from and writs of error to the district and county courts shall lie as in other criminal cases. [L. 1899, ch. 98, sec. 7, p. 218; * * *; Mills An. Stat., 1912, sec. 3296.]

g. District attorneys prosecute.—It shall be the duty of each district attorney to prosecute all violations of this act, occurring within his district, that may come to his knowledge, or when so requested by the commissioner [State game and fish commissioner] or any officer charged with its enforcement, the same at all times to be subject to the supervision and control of the commissioner. [L. 1899, ch. 98, sec. 8, p. 218; * * *; Mills An. Stat., 1912, sec. 3297.]

h. Participants testify.—In any prosecution under this act, any participant in a violation thereof, when so requested by the district attorney, commissioner, warden or other officer instituting the prosecution, may testify as a witness against any other person charged with violating the same, and his evidence so given shall not be used against him in any prosecution for such violation. [L. 1899, ch. 98, sec. 9, p. 218; * * *; Mills An. Stat., 1912, sec. 3298.]

i. Disposition of fines.—All moneys collected for fines under this act shall be immediately paid over by the justice or clerk collecting the same, as follows: One third into the treasury of the county where the offense was committed, one third to the commissioner, and one third to the person instituting the prosecution. Provided,

That if the person instituting the prosecution shall fail for ten days after such collection and due notice thereof, to demand the portion to which he is entitled, the same shall be paid to the commissioner and the right of such person thereunder shall be deemed forfeited.¹ The commissioner, any warden or officer instituting a prosecution shall be entitled to a share in the fines collected the same as any other person, and it shall be a personal requisite for which he need not account. [L. 1899, ch. 98, sec. 10, p. 218; * * *; Mills An. Stat., 1912, sec. 3299.]

j. Result of prosecutions reported to commissioner.—It shall be the duty of every justice of the peace and clerk of a court before whom any prosecution under this act is commenced or shall go on appeal, and within twenty days after the trial or dismissal thereof, to report in writing the result thereof and the amount of fine collected, if any, and the disposition thereof to the commissioner at Denver. [L. 1899, ch. 98, sec. 11; p. 219; * * *; Mills An. Stat., 1912, sec. 3300.]

36. For Violations of the Forestry Act.²

Penalty.—[¹1. Any person violating any of the provisions of this act² shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of not less than twenty-five nor more than one hundred dollars or by imprisonment of not less than fifteen days nor more than sixty days or by both fine and imprisonment as the court may direct. [L. 1901, ch. 83, sec. 16; * * *; Mills An. Stat., 1912, sec. 3017.] *Prosecution.*—²2. The district attorneys of the various judicial districts of the state are hereby directed to prosecute in the name of the state all cases arising under this act.³ [L. 1901, ch. 83, sec. 17; * * *; Mills An. Stat., 1912, sec. 3018.]

37. For Removing or Destroying Posted Notices.

a. Forest fire notices.—Any person who removes, injures, or defaces any sign or signs placed or maintained in pursuance of section 9³ shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not to exceed \$25.00 and costs of prosecution, or imprisonment, not to exceed thirty days in the County jail, or both, at the discretion of Court. [L. 1911, ch. 138, sec. 10; Mills An. Stat., 1912, sec. 2995.]

b. Camp-fire notices.—Whoever shall willfully destroy, remove, injure, or deface, any such notice,⁴ erected on any highway as aforesaid, or shall willfully injure or deface any inscription or device comprising such notice, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any justice of the peace or court of competent jurisdiction, shall be fined not exceeding one hundred dollars, or imprisonment [imprisoned] in the county jail not exceeding three months, or both, in the discretion of the court. [L. 1885, sec. 2, p. 162; * * *; Mills An. Stat., 1912, sec. 1342.]

¹ Certain moneys received by the wardens and the commissioner, under this act, are paid over to the State treasurer, and constitute a game fund. (See volume of Session Laws, 1899, ch. 98, sec. 8; Mills An. Stat., 1912, sec. 3141.)

² L. 1901, ch. 83. (See Table of Acts, on p. 9.)

³ See II, 18.

⁴ Notices posted by boards of county commissioners. (See II, 24.)

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CIVIL.

38. For destroying Timber of the State by Fires in Violation of the Forestry Act.¹

Damages.—Suit may also be brought in the name of the state for damages arising from fires destroying the timber or the trees of the state whenever such damage has been caused by any violation of the provisions of this act¹ by any person or persons engaged in any business or pleasure pursuit whatever. [L. 1901, ch. 83, sec. 16;

¹ L. 1901, ch. 83. (See Table of Acts, on p. 9.)

* * * Mills An. Stat., 1912, sec. 3017.] **Prosecution.**—
(See II, 36 ¶2.)

39. For Causing Damage to Another Through Setting on Fire Woods or Prairies.

If any person shall set on fire any woods or prairie, so as to damage any other person, such person shall make satisfaction for the damage to the party injured, to be recovered in an action before any court of competent jurisdiction. [G. L. 1877, sec. 2150; * * * Mills An Stat., 1912, sec. 2189.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of state and municipal forests, and for the practice of forestry on these and on other lands owned by the State.)

NOTE.—No specific provision is made for the establishment of State forests, or for the practice of forestry on other State lands, except in so far as it may be accomplished by the State board of land commissioners, when making sales of timber from such lands, through the observance of the watershed protection and diameter-limit provisions of the law of 1901,¹ supplemented and extended, when the board so de-

sires, by technical data and advice supplied by the State forester. (See I, 96.)

Provision is made for the management of State forests whenever they are established. (Sec I, 6.)

¹ See volume of 1901 Sess. Laws, ch. 83, secs. 1, 2, 6; Mills An. Stat. 1912, secs. 3001, 3002, 3006.**PART IV.—TAXATION.**

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning state or municipal forests, or other state lands, see Part III.)

1. Value Due to Forest Planting not to be Taxed for Thirty Years unless Economic Maturity Occurs Prior to that Time.

¶ 1. That the increase in value of private lands caused by the planting of timber thereon, other than fruit trees and hedges, shall not, for a period of 30 years from the date of planting, be taken into account in assessing such lands for taxation; such exemption to apply to all lands hereto-

fore or hereafter planted, except as hereinafter provided. [L. 1911, ch. 218, sec. 1; Mills An. Stat., 1912, sec. 6199.]

¶ 2. In the event that any of such timber shall, prior to the expiration of the 30 years, become sufficiently mature to be suitable for economic use, then the increase of value caused by that so maturing shall be taken into account in assessing the land for taxation thereafter. [L. 1911, ch. 218, sec. 2; Mills An. Stat., 1912, sec. 6200.]

TABLE OF ACTS.

LEGISLATION, AS AMENDED THROUGH REG. SESS., 1917.

Session laws prior to 1912 codification. ¹	Mills An. Stat. 1912. ²	Equivalent references in this leaflet.
Gen. Laws, 1877*, sec. 2153.....	Sec. 2189	II 39.
L. 1885, p. 161, sec. 1.....	1341	II 24.
p. 162, sec. 2.....	1342	II 37b.
L. 1899, ch. 98, p. 186, sec. 7.....	3140	II 13.
9.....	3142	II 15, 16.
p. 187, sec. 11.....	3144	II 14, 17.
p. 188, sec. 14.....	3147	II 23a, 26.
p. 183, sec. 18.....	3157	II 13, footnote 3.
p. 190, sec. 21.....	3160	II 35*1.
p. 217, sec. 1.....	3290	II 35a.
2.....	3291	II 35b.
4.....	3293	II 35c.
5.....	3294	II 35d.
p. 218, sec. 6.....	3295	II 35e*2.
7.....	3296	II 35f.
8.....	3297	II 35g.
9.....	3298	II 35h.
10.....	3299	II 35i.
p. 219, sec. 11.....	3300	II 35j.
L. 1901, ch. 83, sec. 2 (c), (d).....	3392 (c), (d)	II 23b, 34.
10.....	3010	II 30a.
11.....	3011	II 30b.
12.....	3012	II 30c.
13.....	3013	II 29.
14.....	3015	II 32*1, 31*1, 32*2, 31*2.
15.....	3016	II 22.
16.....	3017	II 36*1, 38.
17.....	3018	II 36*2.
L. 1903, ch. 83, sec. 1.....	1396	II 7.
2.....	1387	II 9, 8.
133, sec. 1.....	6161	II 33.
L. 1905, ch. 168, sec. 1.....	3014	II 25.
L. 1911, ch. 138, sec. 1.....	2986	I 1, 4, 2.
2.....	2987	I 5.
3.....	2988	I 6, 8, 9a. II, 5, I, 7.
4.....	2989	I 9b.
5.....	2990	II 1*1.
6.....	2991	I 9c.
7.....	2992	II 10, 1*2.
8.....	2993	II 2, 3, I, 10. II, 4, I, 11.
9.....	2994	II 18.
10.....	2995	II 37a.
11.....	2996	I 12.
12.....	2997	II p. 5, footnote 3.
ch. 218, sec. 1.....	6199	IV 1*1.
2.....	6200	IV 1*2.

¹ See also L. 1861, pp. 317, 318, secs. 123, 130, 131, 132; and secs. 2011, 2012, 2013, 2014, Mills An. Stat., 1912, referred to in footnote 2 to II, 29, 30.
² This reference indicates an earlier code (General Laws of 1877), instead of a session law.

STATE FORESTRY LAWS LEAFLETS ALREADY PUBLISHED:³

1. Wisconsin.	6. Texas.	11. New Jersey.*	16. Illinois.
2. Louisiana.	7. Virginia.	12. Washington.	17. Ohio.
3. North Carolina.	8. Idaho.	13. Indiana.	18. Connecticut.
4. Maryland.	9. Oregon.	14. Minnesota.	19. Massachusetts.
5. Missouri.	10. Wyoming.	15. Montana.	20. New Hampshire.

³ The laws of other States, so far as they have been compiled, are available for loan through the Forest Service Library, Washington, D. C.
 * Indicates that the supply is exhausted.

United States Department of Agriculture

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

WEST VIRGINIA

(Serial 1—Through Reg. and Sp. Sessions, 1917)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

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PURPOSE OF COMPILATION.

The compilation of which this leaflet is but a part aims to meet a manifest need of the times for a work of reference by means of which the legislation underlying the forestry activities of the various States can readily be studied and compared. To this end, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other laws concerning timber and trees, of all detailed forest insect and fungus provisions (which, while germane to forestry, usually arise from acute local conditions and are not of general interest), as well as of all annual or biennial appropriations, and other similarly transitory provisions. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions. The laws themselves have been analyzed and classified, in detail, to show the activities of the various officers and governing bodies, as these bear on "Administration," "Fire Protection," "Public Forests," and "Taxation," the text being skeletonized in blackface type, and copiously cross-referenced, in *italics*, to aid the rapid scanning of the entire legislation or of any particular part of it. A Table of Acts is appended to each leaflet for the benefit of any who do not have access to the original enactments from which the provisions used in the compilation were taken, and who desire to reconstruct them.

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PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

FOREST, GAME AND FISH WARDEN.

1. Appointment—Term of Office—Discharge of Duties.

¶1. The governor shall between the first day of June and the first day of July, one thousand nine hundred and nine, appoint some person, a citizen of this state, whose term of office shall begin on the first day of July, one thousand nine hundred and nine, to the office of forest, game and fish warden. Said warden shall hold his office for four years and until his successor has been appointed and qualified, unless sooner removed for cause by the governor. * * * ¶2. Said warden shall devote all his time to the discharge of the duties of his office, imposed upon him by law. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

2. Salary and Expenses.

He shall receive for his services the sum of eighteen hundred dollars per annum, to be paid out of the treasury, quarterly, after being duly audited; and shall be allowed mileage of three cents a mile while traveling by railroad or steam-boat, and ten cents a mile while traveling otherwise than railroad or steam-boat, for the distance necessarily traveled while actually in the discharge of his official duties as such warden. Mileage expense approved quarterly—Amount limited.—*Provided, however,* That the mileage expenses of said warden shall be reported quarterly under oath to the governor and approved by him; *and provided, further,* That such mileage expenses shall not, in any one year exceed five hundred dollars. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

3. Bond.

The forest, game and fish warden and the chief deputy wardens, shall each, before entering upon the discharge of their respective duties, execute a bond in the penalty of three thousand five hundred dollars, with security therein to be approved by the governor, and conditioned for the faithful performance of their duties, and to account for and pay over all moneys and property coming into their hands, due and belonging to the state, * * * which said bonds, after having been approved by the governor, shall be deposited with the auditor. [L. 1909, ch. 60 (sec. 6); Code 1913, sec. 3454 (ch. 62, sec. 6); L. 1915, ch. 14 (sec. 6).]

4. Allowed Printing and Stationery Privileges.

The forest, game and fish warden shall be allowed all necessary printing, printed blanks, stationery and postage; [Expense for printing approved by governor.—] but before he shall incur any expense for printing, he shall first make requisition therefor upon the governor, who, in his discretion, approving the same, shall issue his warrant to the warden for said printing, the cost and expense therefor to be paid out of the state treasury. [L. 1909, ch. 60 (sec. 10); Code 1913, sec. 3468 (ch. 62, sec. 10).]

5. General Powers and Duties.

The forest, game and fish warden shall have general charge of the following public matters, and necessary powers therefor. Publishes information concerning the forests. The collection and diffusion of such statistics, literature and information as he may deem

regard to the protection of forest and the protection and propagation of game and fish, the publishing thereof, [Has charge of official reports and books.—] and the taking charge of and keeping all reports, books, papers and documents which shall, in the discharge of his duties hereunder, come into his possession and control, [Prosecutes violators of forest laws.—] and the institution of all proper legal proceedings to enforce the provisions of law, now in force, or hereafter enacted, in reference to forests, game and fish.¹ [L. 1909, ch. 60 (sec. 2); Code 1913, sec. 3450 (ch. 62, sec. 2).]

6. Makes Biennial Report and Fiscal Statement.

Said warden shall, on or before the first day of January, one thousand nine hundred and eleven, and biennially thereafter, submit to the governor, a detailed report showing what has been done by him during the preceding biennial period, the amount of all moneys received by him and from what sources, in detail, a complete inventory of all game and other property seized and sold, and the amount received therefor, and the amount of disbursements in detail. Books and vouchers subject to examination by state auditor.—The books and vouchers of said warden shall be subject to examination by the auditor of the state at all times. [L. 1909, ch. 60 (sec. 2); Code 1913, sec. 3450 (ch. 62, sec. 2).]

7. Pays into State Treasury One-Half of Fines.

[After payment to each deputy warden of half of every fine resulting from prosecutions by him² the other half of such fine shall be paid to forest, game and fish warden, who shall pay the same over to the treasurer of the state, to be credited by him as other fines are credited; * * * [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

8. Additional Duties.

Appoints:

State forester. (See I, 9.)

Chief deputy wardens. (See I, 12.)

Deputy wardens. (See I, 18.)

Approves and submits to governor mileage accounts of chief deputy wardens. (See I, 13.)

Furnishes report blanks to deputy wardens. (See I, 16.)

STATE FORESTER.

9. Appointment.³

[The forest, game and fish warden] shall appoint some suitable person of sufficient education, training and practical experience in forestry, as state forester, * * * [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

10. Bond.

Before entering upon the discharge of his duties, the said state forester shall execute a bond in the penalty of three thousand five hundred dollars, with surety therein, to be approved by the forest, game and fish warden, and condi-

¹ See also I, 27.

² See I, 19.

³ There is no specific provision of law concerning the state forester's salary and expenses. They are, accordingly, paid out of the general "Forest, Game and Fish Protective Fund." See

PART I—Contd.]

tioned for the faithful performance of his duties and to account for and pay over all moneys coming into his hands due and belonging to the state, * * * which said bond, after having been approved by the warden, shall be deposited with the auditor. [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).] Penalty for false returns as to moneys collected or disbursed, or failure to pay over fines.—(See I, 32.)

11. Duties in General.

Reforesting lands.—* * * who [the state forester] shall work under the direction of the forest, game and fish warden, and assist him in formulating the best methods of re-foresting cut over and denuded lands, [Preventing fires.—] preventing the destruction of forests by fire, [Administering state forest lands.—] administering the forests on forestry principles, [Promoting private forest management.—] instructing and encouraging private owners in preserving and growing timber for commercial and manufacturing purposes, [Establishing and maintaining patrol and lookout work.—] establishing, equipping and maintaining patrol routes and lookout stations, [Securing cooperation of private and federal agencies.—] and securing the aid and co-operation of individuals, companies, organizations and the federal government. [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

DEPUTY FOREST, GAME AND FISH WARDENS.

CHIEF DEPUTY WARDENS.

12. Appointment—Term of Office.

Said warden [forest, game and fish warden] shall appoint two persons who are citizens of this state and one of whom shall reside in the eastern section of the state, chief deputy wardens of forests, game and fish, said chief deputies shall hold their office at the pleasure of the warden appointing them. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

13. Salary and Expenses.

Said chief deputies shall each receive for their service, the sum of nine hundred dollars a year, to be paid out of the treasury quarterly after being duly audited, and shall be allowed mileage of three cents a mile while traveling by railroad or steamboat, and ten cents a mile while traveling otherwise than by railroad or steamboat, for the distance necessarily traveled for the purpose of performing the duties imposed upon them by law, and they shall devote all their time thereto, [Quarterly reports made as to mileage—Approval.—] such mileage expense of either of said chief deputies, shall be reported quarterly [quarterly] under oath to the warden and approved by him, and forwarded to the governor and approved by him; [Limitation of mileage.—] provided, however, that said mileage in any one year, shall not exceed four hundred dollars to each chief deputy warden. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

14. Are Under Direction of the Forest, Game and Fish Warden.

1. The chief deputy and deputy wardens shall act and be under the direction and supervision of said forest, game and fish warden. * * * 2 and shall be immediately responsible to the warden, and * * * 3 receive instructions from him. [L. 1909, ch. 60 (sec. 3); Code 1913, sec. 3451 (ch. 62, sec. 3).]

15. Enforce Forest Laws.

Said chief deputy and deputy wardens shall have authority, and it shall be their duty to enforce the game, fish and forest laws of this state, now in force or heretofore enacted, for the protection of forests and protection, preservation and propagation of game, fish and birds. * * * [L. 1909, ch. 60 (sec. 3); Code 1913, sec. 3451 (ch. 62, sec. 3).] Prosecute offenders.—(See I, 27b, c.)

16. Make Reports to Forest, Game and Fish Warden.

a. Quarterly reports upon work in general.—The appointed deputy wardens shall on the first of the months of January, April, July and October of each year make a report under oath to the forest, game and fish warden, which reports shall show in detail the work done by them severally during the three months next preceding. The forest, game and fish warden shall furnish the deputy wardens all necessary blank forms and stationery for making said reports. Accounting required in respect to suits, showing moneys received from fines, etc.—All such reports shall show an account of the suits commenced, the justice of court before whom such proceedings were had, the number and kinds of game, fish, birds and property seized, and what disposition was made of the same, the amount of proceeds of sale, and the amount of money, if any, received by him for fines imposed, or from any other source provided for by this chapter. [L. 1909, ch. 60 (sec. 15); Code 1913, sec. 3473 (ch. 62, sec. 15); L. 1915, ch. 14 (sec. 15).] Upon mileage expenses.—(See I, 13.)

b. Special reports, upon request.—[The chief deputy and deputy warden] shall report all matters under their jurisdiction, whenever requested by him [the forest, game and fish warden] and * * * [L. 1909, ch. 60 (sec. 3); Code 1913, sec. 3451 (ch. 62, sec. 3).]

17. Additional Duties.

Give bonds. (See I, 3.)

Pay over one-half of fines to the forest, game and fish warden. (See I, 20.)

DEPUTY WARDENS.

18. Appointment—Term of Office.

The warden [forest, game and fish warden] shall appoint such persons as he may deem fit, who are citizens of this state, to act as deputy wardens in the several counties of this state. Said deputy wardens shall hold their office at the pleasure of the forest, game and fish warden. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

19. Compensation Consists Exclusively of One-Half of Fines, if Any, from Their Individual Prosecutions.

1. All said deputy wardens, either appointed or ex officio, shall receive for their services one-half of the fines imposed by any justice or court having jurisdiction, and collected in each prosecution instituted by any such deputy warden, and * * * 2. but no fees or moneys shall be paid any deputy for services rendered as such deputy warden, out of the treasury of this state, and * * * [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

20. Pay Over to Forest, Game and Fish Warden, Within 30 Days, the Remaining Half of the Fines.

* * * all deputy wardens shall within thirty days after its receipt pay over to the forest, game and fish warden the fines collected by him [them], and the bonds of all *ex-officio* wardens shall be liable for any such moneys

PART I—Contd.]

received by them. [L. 1909, ch. 60 (sec. 15); Code 1913, sec. 3473 (ch. 62, sec. 15); L. 1915, ch. 14 (sec. 15).]

21. Additional Duties.

Are under direction of forest, game, and fish warden. (See I, 14.)

Enforce forest laws. (See I, 15; 27b. c.)

Make reports, quarterly and special, to forest, game, and fish warden. (See I, 16a, b.)

EX OFFICIO DEPUTY WARDENS.**22. Sheriffs and Constables, and Chiefs of Police are Deputy Wardens, Ex Officio—Jurisdiction.**

The sheriffs, deputy sheriffs and constables in the several counties of this state shall be ex officio deputy wardens therein, and the chiefs of police of the cities, towns and villages of this state shall also be ex officio deputy wardens therein and their jurisdiction shall extend no further than their respective counties, cities, towns and villages. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, s.p.c. 1).]

23. Make Reports to Forest, Game, and Fish Warden.

a. Quarterly reports, if proceedings instituted, or moneys collected.—All ex-officio deputy wardens shall make a report to the forest, game and fish warden on the first day of January, April, July and October of each year if they have instituted any proceedings or collected any moneys under the provisions of this chapter during such preceding three months, and * * *. [L. 1909, ch. 60 (sec. 15); Code 1913, sec. 3473 (ch. 62, sec. 15); L. 1915, ch. 14 (sec. 15).]

b. Special reports, upon request.—(See I, 16b.)

24. Additional Duties—Compensation.

Act under direction of forest, game, and fish warden. (See I, 14.)

Enforce forest laws. (See I, 15; 27b (footnote 2), c.)

Compensation consists of one-half of fines collected. (See I, 19.)

Pay over other half of fines to forest, game, and fish warden—Bonds responsible. (See I, 20.)

EXPENDITURES.**STATE.****25. Pays:**

*a. Salaries and expenses of forest, game, and fish warden, and chief deputy wardens.*¹ (See I, 2; 13.)

b. Costs of requisitions and extractions in prosecutions for violations of forest laws, when not collected from the offenders. (See I, 29 ¶4.)

GENERAL FUNDS APPROPRIATED.²**26. "Forest, Game and Fish Protective Fund" Made Available for the Payment of General Expenses Under the Forest Game and Fish Laws.**

* * * all other moneys³ due the state by virtue of any of the provisions of this chapter, as now amended, shall be paid into the state treasury and credited to the

"forest, game and fish protective fund," and the same shall be applicable to the payment of the expense of inaugurating, carrying out and maintaining any and all of the purposes of this act set forth in this chapter as now amended, and of any other law relating to the protection of forests or the protection and propagation of game and fish, [Paid out upon requisition of the forest, game and fish warden.—] and shall be paid out upon the requisition of the forest, game and fish warden, approved by the governor, for which purposes said fund is hereby appropriated. [L. 1909, ch. 60 (sec. 31); Code 1913, sec. 3491 (ch. 62, sec. 31); L. 1915, ch. 14 (sec. 31).]

LEGAL PROCEDURE.⁴**INSTITUTION OF PROCEEDINGS.****27. Forest Officials are Vested with Power in Respect to the Following Matters:**

a. The forest, game, and fish warden has general charge of, and necessary powers for, the institution of legal proceedings to enforce forest laws.—(See I, 5.)

b. The forest, game, and fish warden and deputy wardens execute and serve warrants, arrest violators without warrant, and make complaint before proper officer.—¶1. The forest, game and fish warden, and appointed deputy wardens² shall have full power to execute and serve any warrant or process of law, issued by any justice of the peace or by any court having jurisdiction under the law, relating to game, fish, birds and forests, in the same manner as any constable or sheriff might serve or execute such process; and may arrest on sight without a warrant, any person or persons, detected by them, actually violating any of the provisions of the laws of this state relating to the game, fish, birds and forests, and may take such person or persons, so offending, before any court, or justice of the peace, having jurisdiction of the offense, and make proper complaint before such court, or justice, which shall proceed with the case in the manner as provided by law. Penalty for failure to proceed against violators.—Any such appointed warden, who on receiving information from a reliable person, of the violation of the game, fish or forest laws, neglects or refuses to thoroughly investigate such alleged violation, and apprehend or attempt to apprehend the offender, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars for each offense. [L. 1909, ch. 60 (sec. 4); Code 1913, sec. 3452 (ch. 62, sec. 4).] Impress citizens in making arrests, seizures, etc.—¶2. Any of the officers herein, whose duty it is to enforce the game, fish, bird and forest laws of this state, shall have the same right and power as sheriffs to summon aid in making arrests, seizures, or executing any process; [Penalty for refusing to arrest.—] and any person, or persons, so summoned, and refusing to act, shall be liable, upon conviction, to the same fines and penalties, the same as if summoned by a sheriff. Arrests may be made on Sunday—Prompt procedure.—Such arrests may be made on a Sunday, in which case the person, or persons arrested

¹ The State also pays the salary of the State forester, out of the "Forest, game, and fish protective fund" (see I, 26), and certain fire-protection expenses (see II, 14).

² Only such laws concerning appropriations are compiled as provide funds available, from year to year, until expended. Appropriations limited to a fixed annual or biennial period of expenditure are omitted because of the frequent changes in the amounts.

³ Moneys other than the net proceeds from fines mentioned in I, 30 a, b.

⁴ The subject of Legal Procedure is, for obvious reasons, most appropriately placed, ordinarily, in Part II. The unusually broad scope of this legislation, however, seemed to require its consideration in connection with the general subject of Administration.

⁵ Ex officio deputy wardens (sheriffs, constables, and chiefs of police) have the same powers in virtue of their office. (See also, I, 15.)

PART I—Contd.]

shall be taken before a justice, having jurisdiction, and proceeded against as soon as may be on a week day following such arrest. [L. 1909, ch. 60 (sec. 14); Code 1913, sec. 3472 (ch. 62, sec. 14).] **Wardens exempt from certain legal procedure.**—[§3. * * * in any prosecution under this chapter, section two of chapter thirty-six of the code of one thousand eight hundred and ninety-nine and section one thousand one hundred and fifty-nine of the code of one thousand nine hundred and six¹ shall not apply to any warden. [L. 1909, ch. 60 (sec. 1); Code 1913, sec. 3449 (ch. 62, sec. 1).]

c. **The forest, game and fish warden and deputy wardens institute proceedings without sanction of prosecuting attorney for the county.**—The forest, game and fish warden and deputy wardens may make complaint and cause proceedings to be instituted against any person or persons, or corporation, for the violation of any of the game, fish, bird and forest laws, without the sanction of the prosecuting attorney of the county wherein such proceedings are instituted; [Security for costs not required.] and in all such cases they shall not be required to give security for costs. **Conduct prosecutions with same authority as prosecuting attorney.**—Any of said officers may also appear in any court of competent jurisdiction in this state, in any case for violation of any of the laws for the protection of forests, or the protection, preservation and propagation of game, fish and birds, and prosecute the same in the manner and with the same authority, as the prosecuting attorney of the county in which such proceedings are had. **May employ attorney.**—And in such cases they may, in the event of the refusal or neglect of the prosecuting attorney to act, employ an attorney of their choice, [Attorney's fee taxed in the costs.] and to such attorney, or to the prosecuting attorney if he shall act, there shall be taxed in the costs, upon conviction, a fee of ten dollars in such case. [L. 1909, ch. 60 (sec. 11); Code 1913, sec. 3469 (ch. 62, sec. 11).]

28. Penalty for Hindering Forest Officials.

Any person who hinders, obstructs or interferes with, or attempts to hinder, obstruct or interfere with, the forest, game and fish warden and deputy wardens in the discharge of any of their respective duties herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, together with the costs of the prosecution, and in default of payment thereof shall be confined in the county jail until said fines and costs are paid; *provided, however*, that such imprisonment shall not exceed ninety days. [L. 1909, ch. 60 (sec. 17); Code 1913, sec. 3475 (ch. 62, sec. 17).]

29. Method of Procedure.

Prosecutions are in the name of the State.—[§1. All prosecutions under this chapter shall be in the name of the state of West Virginia, before any court or justice having jurisdiction, and the justice shall have concurrent jurisdiction with the circuit and other courts in all misdemeanors, and in any case in which the prosecuting attorney appears, a fee of ten dollars shall be

allowed him, to be taxed as a part of the costs of the case, and collected off the defendant, in case he is convicted. [L. 1909, ch. 60 (sec. 29); Code 1913, sec. 3489 (ch. 62, sec. 29).] **May not be adjusted by deputy wardens.**—[§2. It shall be unlawful for any deputy warden, either appointed or ex officio, to settle, compromise or adjust any prosecution under this chapter and to receive moneys from any violator or alleged violator of any of the provisions thereof, unless the same are moneys received in the payment of fines imposed in due process of law by a justice or court having jurisdiction of the offense charged, [Penalty.—] and if any such deputy warden shall receive any moneys from any such violator or alleged violator, either as such settlement and compromise or to prevent any prosecution [prosecution] therefor, such deputy warden shall be guilty of a felony and upon conviction thereof, shall be confined in the penitentiary not less than one nor more than five years. [L. 1909, ch. 60 (sec. 3); Code 1913, sec. 3451 (ch. 62, sec. 3).] **Competency of witnesses.**—[§3. Every person called as a witness in any case for the violation of any of the provisions of this chapter, shall be compelled to testify fully, but his testimony shall not be given in evidence against him in any prosecution for such offense; and no person against whom such witness shall so testify, shall be competent as a witness for the state, in the prosecution against such witness for the same offense or matters to which said witness so testified, nor for any violation of any provisions of this chapter, alleged to have been committed before the commencement of the prosecution in which he is examined as such witness. [L. 1909, ch. 60 (sec. 30); Code 1913, sec. 3490 (ch. 62, sec. 30).] **Expenses of requisitions and extraditions included in costs of prosecutions.**—[§4. In all cases where any person has been indicted for the violation of any of the provisions of this chapter, and has escaped or removed to another state, all costs of requisition and extradition papers and all other costs and expenses of securing and bringing such person back into this state, shall be charged as a part of the costs of prosecution against such person; [Paid out of "forest, game and fish protective fund," if not collected from offenders.—] and if such costs of requisition and extradition papers and expenses cannot be secured from such person, they shall be paid out of the "forest, game and fish protective fund." [L. 1909, ch. 60 (sec. 32); Code 1913, sec. 3492 (ch. 62, sec. 32).]

FINES AND OTHER MONEYS.**30. Disposition of Fines:**

a. **One-half of fines goes to deputy wardens for services rendered.**—(See I, 19 §1.)

b. **The other half is turned into state treasury, through the forest, game and fish warden.**—[§1. (See I, 7.) **Is credited to the "school fund."**—[§2. All moneys collected and due the state, under and by virtue of the provisions of this chapter, shall be disposed of as follows: The net proceeds of all fines collected from convictions of the violations of any section of this chapter, shall, after the payment of the amounts fixed by this chapter to the proper deputy wardens and the costs as provided by law, be paid into and credited to the "school fund" of the state, as

¹ The certain legal procedure referred to requires that indictments, etc., shall have the name of the informer or prosecutor endorsed on them.

¹ See I, 26.

PART I—Contd.]

provided by the constitution; * * * [L. 1909, ch. 60 (sec. 31); Code 1913, sec. 3491 (ch. 62, sec. 31); L. 1915, ch. 14 (sec. 31).]

31. Disposition of Moneys Other than Fines.¹

Moneys other than fines¹ are paid into the state treasury, and credited to the "Forest, Game and Fish Protective Fund." (See I, 26.)

32. Penalty for Making False Returns as to Moneys Collected or Disbursed, or Failure to Pay Over Fines.

The forest, game and fish warden and deputy wardens, or any other officer who shall make any false return as to moneys collected or disbursed by him, as provided for in this chapter or does not pay over to the proper officer as provided in this chapter, moneys collected by him for

finer, shall be deemed guilty of a felony, and upon conviction thereof shall be confined in the penitentiary not less than one year nor more than five years. [L. 1909, ch. 60 (sec. 16); Code 1913, sec. 3474 (ch. 62, sec. 16).]

33. Court Officials Make Quarterly Reports, to the Forest, Game and Fish Warden, as to Moneys Collected.

All justices and clerks of circuit and criminal courts before whose courts any case under this chapter comes, shall, on the first day of January, April, July and October, of each year, if there has been before this court [their courts] any case under this chapter, report to the state forest, game and fish warden all money collected by him [them] and the status of all cases pending or started in his court [their courts]. [L. 1909, ch. 60 (sec. 15); Code 1913, sec. 3473 (ch. 62, sec. 15); L. 1915, ch. 14 (sec. 15).]

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of state-owned lands, see Part III.)

FIRE WARDEN.

1. Forest, Game and Fish Warden is Ex-Officio Fire Warden.

The forest, game and fish wardens shall be ex-officio fire warden of the state of West Virginia, and * * * [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

2. Certifies Fire Reports to County Courts for Payment.

It shall be the duty of the * * * [fire] warden to carefully audit such report [deputy fire warden's report²], and after having satisfied himself of the correctness of same, he shall approve said report and certify same to the county court of the county wherein the fire occurred for payment. * * * [L. 1909, ch. 60 (sec. 52); Code 1913, sec. 3516 (ch. 62, sec. 52); L. 1915, ch. 15 (sec. 52).]

3. Additional Duties.

Enforces fire laws. (I, 5; 27.)

Takes necessary action to prevent destruction of forests by fire. (See I, 11.)

Has power to enter upon lands. (See II, 10d.)

Pays into State treasury one-half of fines. (See I, 7.)

Recovers, in name of county, fire-fighting expenditures and costs. (See II, 26d.)

STATE FORESTER.

4. Duties.

Assists the fire warden in preventing the destruction of forests by fire. (See I, 11.)

Has power to enter upon lands. (See II, 10d.)

SPECIAL DEPUTIES AND INSPECTORS.

5. Appointment:

The * * * [fire] warden may also appoint³ such special deputies and inspectors as are necessary to meet the conditions and requirements of the federal government in securing federal co-operation under the provisions of the Weeks law, and * * * [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

¹ Moneys other than the net proceeds from fines mentioned in I, 30 a, b.

² See II, 11.

³ No specific provision is made for compensating these special deputies and inspectors. They are, accordingly, paid out of the "forest, game and fish protective fund," on a salary basis. (See I, 26.)

SPECIAL DEPUTY FIRE WARDENS.

6. Appointment—General Powers and Duties, and Compensation.

[The fire warden] may appoint special deputy fire wardens for each county, whose duty it shall be to assist in preventing and controlling forest fires, who shall be vested with the same authority with regard to such fires and be paid in the same manner as is provided for the deputy forest, game and fish wardens. [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515, ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

7. Additional Provisions.

Are under direction of fire warden. (See I, 14.)

Enforce fire laws. (See I, 15; 27b, c.)

Make reports, quarterly and special, to fire warden. (See I, 16a, b.)

Receive as compensation:

a. *One-half of fines in prosecutions instituted by them.* (See I, 19.)

b. *Two dollars per day for time employed at forest fires.* (See II, 9.)

Pay over to fire warden fines collected. (See I, 20.)

Have jurisdiction in adjoining counties, or elsewhere, in cases of emergency. (See II, 8.)

Attend and take measures to confine and extinguish fires. (See II, 10a.)

Back-fire and take other precautions. (See II, 10b.)

Hire volunteers or impress assistance. (See II, 10c.)

Have power to enter upon lands. (See II, 10d.)

Make reports on fires, to fire warden. (See II, 11.)

DEPUTY FIRE WARDENS.

8. Created—Jurisdiction.

All deputy forest, game and fish wardens¹ shall also be deputy fire wardens for their respective counties in which they may reside, and shall have jurisdiction in the adjoining counties thereto in case of emergency or where their services may be required. [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

¹ See "Deputy Forest, Game and Fish Wardens," I, pp. 3, 4.

PART II—Contd.]

9. Compensation for Time Employed at Forest Fires.

Deputy [fire] wardens shall receive the sum of two dollars per day for the time actually employed at forest fires, [Compensation of fire-fighting laborers.—] and all persons employed or summoned by them, not to exceed the sum of one dollar [dollar] and fifty cents per day for their services. [L. 1909, ch. 60 (sec. 52); Code 1913, sec. 3516 (ch. 62, sec. 52); L. 1915, ch. 15 (sec. 52).]

10. Have the Following Fire-fighting Powers and Duties:

a. **Attend, and take measures to confine and extinguish fires.**—In case of fire in or threatening to forests or woodlands, the deputy fire wardens, shall upon receiving notice thereof, forthwith attend and use all necessary means to confine and extinguish the same.

b. **Back-fence, and take other precautions.**—He may destroy fences, plough land, or, in an emergency, set back fires to check fire.

c. **Hire volunteers, or impress assistance.**—He may hire volunteers or summon any resident of his county to assist in putting out fires. **Penalty for refusing to assist.**—Any person summoned, who is physically able, and refuses to assist, shall be guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten, nor more than fifty dollars, and in the discretion of the court or justice trying the case, be confined in the county jail for a period of not more than sixty days; and upon the default of the payment of fine and costs, he shall be confined in the county jail for not less than twenty, nor more than thirty days, unless said fine and costs are sooner paid.

d. **May enter upon lands.**—An action of trespass shall not lie against persons crossing or working upon lands of another to extinguish fire. [L. 1909, ch. 60 (sec. 51); Code 1913, sec. 3515 (ch. 62, sec. 51); L. 1915, ch. 15 (sec. 51).]

11. Make Fire Reports and Accounting to the Fire Warden.

* * * each deputy [fire] warden shall within twenty days after such [forest] fire render to the * * * [fire] warden a sworn report, in duplicate, giving the location and area burned over, the quantity of timber, wood, logs, bark or other forest product, and of fences, bridges and buildings destroyed, with an estimate of the value thereof, the time used by him, the names and post-office address of all persons hired or summoned by him, who assisted him thereat, together with the time each worked.

Penalty for making any false statement in reports or accounting.—Any deputy [fire] warden who shall make any false statement in his said report, hereinbefore required to be made to the * * * [fire] warden, as to the time used by him, the names of the persons so hired or summoned by him, and who assisted him in fighting such fire, or as to the time of any such person working thereat, shall be guilty of a misdemeanor, and upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars, and for such cause shall be removed from office by the said * * * [fire] warden. [L. 1909, ch. 60 (sec. 52); Code 1913, sec. 3516 (ch. 62, sec. 52); L. 1915, ch. 15 (sec. 52).]

12. Additional Duties.

Act under direction of fire warden. (See I, 14.)

Enforce fire laws. (See I, 15; 27b, c.)

Pay over fines to fire warden. (See I, 20.)

FIRE-FIGHTING LABORERS.

13. Employment and Compensation.

Are impressed by deputy fire wardens. Penalty for refusing to assist. (See II, 10c.)

Have power to enter upon lands. (See II, 10d.)

Compensation for time employed at fires. (See II, 9.)

DISTRIBUTION OF COSTS OF FIRE PROTECTION.

STATE.

14. Pays:

a. *Salaries and expenses of special deputies and inspectors* (see II, 5, footnote 3), and also contributes the salaries and expenses of the following officers, to the extent of such time as each devotes to fire protection work: *Fire warden* (see I, 2); *State forester* (see I, 9, footnote 3).

b. *Costs of requisitions and extraditions in prosecutions for violations of fire laws, when not collected from the offender* (see I, 29 *4).

COUNTIES.

15. Pay Fire-Fighting Costs.

Incurred by deputy wardens.—¹ All services so rendered [at fires by deputy wardens and fire-fighting laborers] shall be a charge against the county, and * * *, ² which amounts [shown in fire report accountings by deputy wardens¹] shall be paid to the parties entitled thereto, out of the county funds, at the first session of said court² thereafter [after being certified to the county court by the fire warden for payment]. [L. 1909, ch. 60 (sec. 52); Code 1913, sec. 3516 (ch. 62, sec. 52); L. 1915, ch. 15 (sec. 52).] **Incurred by special deputy fire wardens.**—³ (See II, 6.) Amounts of fire-fighting costs recovered through legal proceedings go into treasury of the county in which the fire occurred.—⁴ (See II, 26d.)

KINDLING FIRES IN THE OPEN.

GENERAL PRECAUTIONARY RESTRICTIONS.

16. Action Required in Advance, to Prevent Spreading of Fires.

Notice to neighbors.—It shall be unlawful for any person or corporation as land owner to set, or procure another to set fire to any woods, brush, logs, leaves, grass or clearing upon their own land, unless they shall have previously given notice of their intention of firing such lands, to adjoining land owners [Disposal of brush and clearing around the land.—] and taken all possible care and precaution against the spread of such fire to other lands not their own, by previously having cut and piled the same, or carefully cleared around the land which is to be burned, so as to prevent the spread of such fire. **Prima facie evidence of wilfulness or neglect.**—The setting of fire contrary to the provisions of this section,¹ or allowing it to escape to the injury of adjoining lands, shall be *prima facie* proof of wilfulness, or neglect. [Liability for damages and fire-fighting costs.—] and the land owner from whose land the fire originated shall be liable in a civil action for damages for the injury resulting from such fire and also for the cost of fighting and extinguishing the same. [L. 1909, ch. 60 (sec. 53);

¹ See II, 11.

² County court of the county wherein the fire occurred.

³ See 3517, Code 1913 (ch. 62, sec. 53). See Table of Acts on p. 10.

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Code 1913, sec. 3517 (ch. 62, sec. 53); L. 1915, ch. 15 (sec. 53).] **Rights of damages between parties not barred by recovery, in the name of the county, of fire-fighting expenditures and costs.**—(See II, 26d.)

PROHIBITIVE RESTRICTIONS.

17. Criminal Liability.

a. For unintentionally setting fire to woods, etc.—**Penalty.**—If any of the acts mentioned in the next preceding section¹ be done unlawfully but not wilfully or maliciously, the person guilty thereof shall be fined not exceeding fifty dollars, and * * * [L. 1882, ch. 148 (sec. 9); Code 1913, sec. 5200 (ch. 145, sec. 9).]

b. For negligently setting fire to woods, etc.—If any person, or persons, negligently set on fire, any woods, fields or lands within this state, so as thereby to occasion loss, damage or injury to any other person, he shall be guilty of a misdemeanor, [Penalty.—] and on conviction thereof, shall be fined not less than fifty dollars nor more than five hundred dollars, and in the discretion of the justice or court trying the case, be imprisoned in the county jail not to exceed one year. [L. 1909, ch. 60 (sec. 53); Code 1913, sec. 3517 (ch. 62, sec. 53); L. 1915, ch. 15 (sec. 53).] **Prima facie proof of wilfulness or neglect.**—(See II, 16.)

c. For maliciously setting fire to woods.—If any person unlawfully and maliciously set fire to any woods, fence, grass, straw or other inflammable material which may spread fire on lands, he shall be guilty of a felony, [Penalty.—] and on conviction thereof shall be confined in the penitentiary not less than one year nor more than two years, and² * * * [L. 1909, ch. 60 (sec. 53); Code 1913, sec. 3517 (ch. 62, sec. 53); L. 1915, ch. 15 (sec. 53).] **Prima facie proof of wilfulness or negligence.**—(See II, 16.)

d. For failure to totally extinguish fires.—Whoever by himself, or by his servants, agents or guide, or as the servant, agent or guide of any other person, shall build any fire, or use an abandoned fire in a field, public or private road, or adjacent to, or in any woods or forest in this state, shall, before leaving such fire, totally extinguish the same, [Penalty, when damage is caused thereby.—] and upon failure to do so, if failure to do so shall cause damage to any property within [sic], such person or persons, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars and the costs of the prosecution, and upon default in paying said fine and costs, shall be confined in the county jail not more than ninety days unless said fine and costs be sooner paid. [L. 1909, ch. 60 (sec. 53); Code 1913, sec. 3517 (ch. 62, sec. 53); L. 1915, ch. 15 (sec. 53).] **Prima facie proof of wilfulness or neglect.**—(See II, 16.)

18. Civil Liability.

a. For unintentionally setting fire to woods, etc.—[If any of the acts mentioned in II, 17c be done unlawfully but not wilfully or maliciously, the person guilty thereof] shall moreover be liable to any person injured thereby,

or in consequence thereof, for all such damages as may be sustained by such person. [L. 1882, ch. 148 (sec. 9); Code 1913, sec. 5200 (ch. 145, sec. 9).]

b. For maliciously setting fire to woods, etc.—[If any person unlawfully and maliciously set fire to any woods, fence, grass, straw or other inflammable material which may spread fire on lands, he] shall moreover be liable to any person injured thereby, or in consequence thereof, for double the amount of damages sustained by such person.¹ [L. 1909, ch. 60 (sec. 53); Code 1913, sec. 3517 (ch. 62, sec. 53); L. 1915, ch. 15 (sec. 53).] **Prima facie proof of wilfulness or negligence.** (See II, 16.)

c. For setting fire or allowing it to escape without taking required precautions in advance. (See II, 16.)

d. Rights of damages between parties not barred by recovery, in name of county, of fire-fighting expenditures and costs. (See II, 26d.)

RAILROADS.

GENERAL REQUIREMENTS.

19. Provide Spark Arresters and Devices to Prevent Escape of Fire from Ash Pans and Furnaces.

* * * every person, firm or corporation operating any locomotive steam engine in this state shall provide the same with netting of steel or iron wire so constructed, and at all such times² maintained as to prevent the escape of fire and sparks from the smoke stacks thereof, and with adequate devices to prevent the escape of fire from ash pans and furnaces which shall be used on such locomotives. [L. 1909, ch. 60 (sec. 54); Code 1913, sec. 3518 (ch. 62, sec. 54); L. 1915, ch. 15 (sec. 54).]

20. Clear Rights of Way at Least Twice a Year.

1. Every railroad company shall, on such part of its road as passes through forest land or lands, subject to fires from any cause, cut and remove from its right of way along such lands, at least twice a year, all grass, brush and other inflammable materials, [Employ trackmen during seasons of drought and early spring, to put out fires.—] and employ in seasons of drought and before vegetation has revived in the spring, sufficient trackmen to promptly put out fires on its right of way; and * * *

Leave no deposits of fire coals or ashes.—2. No railroad company or employee thereof shall deposit fire coals or ashes on its track or right of way near such lands.² [L. 1909, ch. 60 (sec. 54); Code 1913, sec. 3518 (ch. 62, sec. 54); L. 1915, ch. 15 (sec. 54).]

21. Extinguish Fires on Their Own and Neighboring Lands.

In case of fire on its own or neighboring lands, the railroad company shall use all practicable means to put it out. [L. 1909, ch. 60 (sec. 54); Code 1913, sec. 3518 (ch. 62, sec. 54); L. 1915, ch. 15 (sec. 54).]

EMPLOYEES.

22. Fire Duties.

Train employees report fires to station agent.—Engineers, conductors or trainmen discovering or knowing of fires in fences or other material along or near the right of way of the railroad in such lands² shall report the same at the first station to the station agent, [Station agent notifies nearest

¹ The term "the next preceding section" has reference to sec. 8 of ch. 148, L. 1882 (Code 1913, sec. 5199). (See footnote 2 to subsec. c of this section, and footnote 1 to II, 185.)

² While the provisions contained in II, 17c, 18a are direct amendments of certain provisions in L. 1909, ch. 60 (sec. 53), they appear to supersede also sec. 8 of ch. 148, L. 1882.

¹ While the provision contained in II, 17c, 18a are direct amendments of certain provisions in L. 1909, ch. 60 (sec. 53), they appear to supersede also sec. 8 of ch. 148, L. 1882.

² See II, 20 51.

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fire warden, and takes measures to extinguish fires.—] and such station agent shall forthwith notify the nearest fire warden and use all necessary means to extinguish the same. [L. 1909, ch. 60 (sec. 54); Code 1913, sec. 3518 (ch. 62, sec. 54); L. 1915, ch. 15 (sec. 54).]

23. Criminal.

And any railroad company or officer, or employee thereof, and any person, firm, or corporation operating any such locomotive steam engine who shall violate any provisions of this section, shall each be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than twenty nor more than two hundred dollars. [L. 1909 ch. 60 (sec. 54); Code 1913, sec. 3518 (ch. 62, sec. 54); L. 1915 ch. 15 (sec. 54).]

24. Civil.

For damages and costs of fire-fighting in cases of injury resulting from setting fire on their own lands without taking required action in advance. (See II, 16.)

COMPULSORY BRUSH AND SLASH DISPOSAL.

IN GENERAL.

25. Notice to Neighbors, Cutting and Piling Brush, and Clearing Around Land, Required in Advance, to Prevent Spreading of Fire.

(See II, 16.) Civil and criminal liability.—(See II, 16; 17a, b, c; 18a, b.)

LEGAL PROCEDURE.

26. Forest Fire Officials are Vested with Power in Respect to the Following Matters:

a. The fire warden has general charge of, and necessary powers for the institution of, legal proceedings to enforce fire laws.—(See I, 5.)

¹ See 3518, Code 1913. (See Table of Acts, on p. 10.)

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of state and municipal forests, and for the practice of forestry on these and on other lands owned by the state.)

STATE FORESTS.

1. Acquisition.

a. By purchase.—The forest, game and fish warden, by and with the consent of the governor, shall have the power to purchase lands in the name of the state, suitable for forest culture and reserves, [Price limited.—] at a price which shall not exceed five dollars per acre, [Available funds.—] using for such purchase any surplus money not otherwise appropriated which may be standing to the credit of the forest, game and fish protective fund; [Administration.—] and to make all rules and regulations governing state reserves; and * * *

b. By gift.—[The forest, game and fish warden] is hereby authorized, by and with the consent of the governor, to accept gifts of land to the state, [Administration—

b. The fire warden and deputy fire wardens execute and serve warrants, arrest violators without warrant, and make complaint before proper officer.—(See I, 27b ¶1.) Impress citizens in making arrests, seizures, etc.—(See I, 27b ¶2.)

c. The fire warden and deputy fire wardens institute proceedings without sanction of prosecuting attorney for the county.—(See I, 27c ¶1.) Conduct prosecutions with same authority as prosecuting attorney—Employ attorney, when necessary.—(See I, 27c ¶2.)

d. The fire warden recovers fire-fighting expenditures and costs from offenders, in name of county.—The * * * [fire] warden in the name of the county in which any forest fire has occurred, and which has been extinguished or suppressed by his efforts, shall recover from the person or persons, firm or corporation, giving origin to such fire, the amount so expended in extinguishing said fire and the costs thereof, [Rights of damages between parties not barred.—] and the same shall not bar the rights of damage between the parties thereto. [L. 1909, ch. 60 (sec. 55); Code 1913, sec. 3519 (ch. 62, sec. 55); L. 1915, ch. 15 (sec. 54a).]

27. Additional Provisions.

Penalty for hindering forest officials. (See I, 28.)

Method of procedure. (See I, 29.)

Disposition of fines and other moneys:

a. Fines: One-half of fines goes to deputy fire wardens for services rendered. (See I, 19 ¶1.)—The other half is turned into the State treasury through the fire warden, and credited to the "school fund." (See I, 7; 30 b ¶2.)

b. Moneys other than fines: Are paid into the State treasury, and credited to the "forest, game and fish protective fund." (See I, 26.)

c. Penalty for fals returns as to moneys, or failure to pay over fines. (See I, 32.)

d. Court officials make quarterly reports to fire warden, as to moneys collected. (See I, 33.)

Object.—] the same to be held, protected and administered by the forest, game and fish warden as state forest reserves, and to be used so as to demonstrate the practical utility of timber culture and as a breeding place for game.

Reservation of mineral rights.—Such gifts must be absolute, except for the reservation of all mineral and mining rights over and under said lands, and a stipulation that they shall be administered as state forest reserves. [Title.—] and the attorney general of the state is directed to see that all deeds to the state of lands mentioned above are properly executed before the gift is accepted. [Code 1913, sec. — (ch. 62, sec. 54b); L. 1915, ch. 15 (sec. 54b).]

2. Management.

The state forester acts as executive officer of the forest, game and fish warden, in the work of forest management. (See I, 11.)

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning state or municipal forests, or other state lands, see Part III.)

TABLE OF ACTS.

Legislation, as amended through regular and special sessions, 1917.

Equivalent references in this leaflet.

Session laws prior to Code 1913.	Code 1913.	Session laws subsequent to Code 1913.	Equivalent references in this leaflet.
L. 1882, ch. 148 (sec. 8).....	Sec. 5199 (ch. 145, sec. 8).....	.....	(See footnotes to II, 17a, c, 18b.)
L. 1882, ch. 148 (sec. 9).....	Sec. 3200 (ch. 145, sec. 9).....	.....	II 17a, 18a.
L. 1903, ch. 60 (sec. 1).....	Sec. 3443 (ch. 62, sec. 1).....	.....	I 1*1, 2, 1*2, 12, 13, 18, 22, 19*1, 7, 19*2, 27b*3.
L. 1902, ch. 60 (sec. 2).....	Sec. 3450 (ch. 62, sec. 2).....	.....	I 5, 6.
L. 1903, ch. 60 (sec. 3).....	Sec. 3451 (ch. 62, sec. 3).....	.....	I 14*1, 15, 14*2, 16b, 14*3, 23*2.
L. 1903, ch. 60 (sec. 4).....	Sec. 3452 (ch. 62, sec. 4).....	.....	I 27b*1.
L. 1903, ch. 60 (sec. 6).....	Sec. 3454 (ch. 62, sec. 6).....	L. 1915, ch. 14 (sec. 6).....	I 3.
L. 1904, ch. 60 (sec. 10).....	Sec. 3468 (ch. 62, sec. 10).....	.....	I 4.
L. 1902, ch. 60 (sec. 11).....	Sec. 3463 (ch. 62, sec. 11).....	.....	I 27c.
L. 1902, ch. 60 (sec. 14).....	Sec. 3472 (ch. 62, sec. 14).....	.....	I 27b*2.
L. 1904, ch. 60 (sec. 15).....	Sec. 3473 (ch. 62, sec. 15).....	L. 1915, ch. 14 (sec. 15).....	I 18a, 21a, 20, 33.
L. 1903, ch. 60 (sec. 16).....	Sec. 3474 (ch. 62, sec. 16).....	.....	I 32.
L. 1903, ch. 60 (sec. 17).....	Sec. 3475 (ch. 62, sec. 17).....	.....	I 28.
L. 1902, ch. 60 (sec. 23).....	Sec. 3489 (ch. 62, sec. 23).....	.....	I 23*1.
L. 1902, ch. 60 (sec. 30).....	Sec. 3490 (ch. 62, sec. 30).....	.....	I 23*3.
L. 1903, ch. 60 (sec. 31).....	Sec. 3491 (ch. 62, sec. 31).....	L. 1915, ch. 14 (sec. 31).....	I 30b*2, 26.
L. 1903, ch. 60 (sec. 32).....	Sec. 3492 (ch. 62, sec. 32).....	.....	I 29*1.
L. 1902, ch. 60 (sec. 51).....	Sec. 3515 (ch. 62, sec. 51).....	L. 1915, ch. 15 (sec. 51).....	II 1, 1, 9, 11, 10, II 8, 5, 6, 10a, b, c, d.
L. 1904, ch. 60 (sec. 52).....	Sec. 3516 (ch. 62, sec. 52).....	L. 1915, ch. 15 (sec. 52).....	II 9, 13*1, 11, 2, 15*2.
L. 1902, ch. 60 (sec. 53).....	Sec. 3517 (ch. 62, sec. 53).....	L. 1915, ch. 15 (sec. 53).....	II 17a, b, c, 18b, 16.
L. 1904, ch. 60 (sec. 54).....	Sec. 3518 (ch. 62, sec. 54).....	L. 1915, ch. 15 (sec. 54).....	II 20*1, 19, 20*2, 21, 22, 21.
L. 1902, ch. 60 (sec. 55).....	Sec. 3519 (ch. 62, sec. 54-c).....	L. 1915, ch. 15 (sec. 54-b).....	II 20a.
L. 1904, ch. 60 (sec. —).....	Sec. — (ch. 62, sec. 54-b).....	L. 1915, ch. 15 (sec. 54-b).....	III 1a, b.

STATE FORESTRY LAWS LEAFLETS ALREADY PUBLISHED.¹

1. Wisconsin.	7. Virginia.	13. Indiana.	19. Massachusetts.
2. Louisiana.	8. Idaho.	14. Minnesota.	20. New Hampshire.
3. North Carolina.	9. Oregon.	15. Montana.	21. Colorado.
4. Maryland.	10. Wyoming.	16. Illinois.	
5. Missouri.	11. New Jersey.*	17. Ohio.	
6. Texas.	12. Washington.	18. Connecticut.	

¹ The laws of other States, so far as they have been compiled, are available for loan through the Forest Service Library, Washington, D. C.

* Indicates that the supply is exhausted.

United States Department of Agriculture

FOREST SERVICE

Henry S. Graves, Forester

STATE FORESTRY LAWS¹

A parallel classification by States, showing the comparative progress of each in forestry legislation

NEW YORK

(Serial 1—Through Reg. Sess., 1918²)

Compiled by Jeannie S. Peyton, under the direction of Louis S. Murphy, Forest Examiner, in the Office of State Cooperation

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PURPOSE OF COMPILATION.

The compilation of which this leaflet is but a part aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying the general forestry, administrative and executive activities of the various States can readily be studied and compared. To this end only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest insect and fungus control laws except general provisions, and all transitory provisions.

¹ When a State leaflet of the Forestry law series is reprinted for local use, please append thereto the following:

NOTE.—This arrangement of the Forestry laws of is reprinted from "State Forestry Laws," compiled and issued in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to "The Forester, Forest Service, Washington, D. C."

² In the case of the 1918 legislation, only the text of the conservation law has been used, and that was procured informally in advance of the official publication of the volume of session laws.

of law, including those concerning annual or biennial appropriations. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions. The laws themselves have been analyzed and classified, in detail, to show the activities of the various officers and governing bodies, as these bear on "Administration," "Fire Protection," "Public Forests," and "Taxation," the text being skeletonized in black-face type and copiously cross-referenced in italic, to aid the rapid sensing of the entire legislation or of any particular part of it. A Table of Acts is appended to each leaflet for the benefit of any who do not have access to the original enactments from which the provisions used in the compilation were taken and who desire to reconstruct them.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted state forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other state officers in connection with forest fires, state and municipal forests, or other state lands, or forest taxation, see Parts II, III, and IV, respectively.)

CONSERVATION COMMISSIONER.

1. "Commissioner" Includes "Commission."

The terms "commission," "conservation commission" and "commissioner," when used in this chapter,¹ * * * shall each mean the conservation commissioner, and * * * [C. L.,² sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

2. Authorization.

¶1. The conservation department is hereby created and shall have four divisions. The department shall continue to be in charge of a commission³ to be known as the conservation commission which, except as otherwise provided in this chapter, shall have all the powers and be subject to all the duties of the forest purchasing board, the forest, fish and game commission or commissioner, * * * as fixed by law on July eleventh, nineteen hundred and eleven.⁴

¶2. Action is taken by formal order of the commissioner.— * * * wherever by the terms of this chapter

¹ The term "this chapter," as used throughout this compilation, has reference to ch. 647, Laws of 1911, and its equivalent, ch. 65 of the Consolidated Laws, both as amended through 1918 (Reg. Sess.).

² The abbreviation "C. L.," in this compilation, has reference to the short title prescribed for chapter 647, Laws 1911, which reads as follows: This chapter shall be known as the Conservation Law. [C. L., sec. 1.]

³ All suits and proceedings brought upon the order of or against the forest, fish, and game commission, * * * or the forest purchasing board shall be continued by or against the conservation commission * * * but the forest, fish, and game commission, * * * and the forest purchasing board * * * shall continue as now constituted until the appointment and qualification of the members of the conservation commission to be appointed pursuant to this chapter at which time the forest purchasing board shall cease to exist and the terms of office of the forest, fish, and game commissioner and * * * shall expire and thereafter the conservation commission shall be deemed and held to constitute a continuation of the forest purchasing board, the forest, fish, and game commission, * * * and not a new commission for the purpose of succession to all the rights, powers, duties and obligations for the forest purchasing board, the forest, fish, and game commission * * * except as modified by this act, with the same force and effect as if such modification were made without any change in the membership of such commission. [C. L., sec. 10.]

⁴ These powers and duties are now contained in Article IV of the Conservation Law, as amended to date. (See Table of Acts, on p. 38.)

or any other statute, action by the conservation commission is required to be taken by resolution or in any manner by the concurrence of a majority of the members, such action shall be taken by a formal order of such commissioner entered in the records of the conservation department. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

3. Appointment.

¶1. The commission shall hereafter consist of one member to be appointed by the governor, by and with the advice and consent of the senate. * * * ¶2. **Limitation of time for making appointment.**—A commissioner shall be appointed hereunder within twenty days after the amendment to this section takes effect. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

¶3. **Eligibility.**—No person shall be eligible to or shall continue to hold the office of commissioner, deputy commissioner, chief of a division or secretary to the commission who is engaged in the business of lumbering in any forest preserve county or who is engaged in any business in the prosecution of which hydraulic power is used or in which water is distributed or sold under any public franchise or who is an officer or holder of the stock or bonds of any corporation engaged in such business within the state. [C. L., sec. 5; L. 1915, ch. 318, sec. 4.]

4. Salary.

The commissioner shall receive an annual salary of eight thousand dollars. [C. L., sec. 2; * * * ; L. 1917, ch. 486, sec. 1.]

5. Expenses.

The commissioner, secretary, deputy commissioner, superintendent of forests, assistant superintendent of forests, chief game protector, deputy chief game protector, * * * shall each have reimbursed to him all actual and necessary traveling and other expenses and disbursements incurred or made by him in the discharge of his official duties. [C. L., sec. 3; * * * ; L. 1917, ch. 486, sec. 2.]

(See also I, 26.)

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PART I—Continued.]

6. Bond.

The commissioner, deputy, secretary and each chief of a division shall execute and file with the comptroller a bond to the people of the state in the sum of ten thousand dollars, with sureties to be approved by the comptroller, conditioned for the faithful performance of his duties, and that he will account for and pay over pursuant to law all moneys received by him. [C. L. sec. 3; * * *; L. 1917, ch. 486, sec. 2.]

7. Term of Office.

The regular term of office of the commissioner shall be six years to be computed from the first day of January of the calendar year in which he shall have been appointed. [C. L., sec. 2; * * *; L. 1917, ch. 486, sec. 1.]

8. Removal.

The governor may remove the commissioner for inefficiency, neglect of duty or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than ten days' notice. If such commissioner shall be removed the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and his findings thereon, together with a complete record of the proceedings. [C. L., sec. 2; * * *; L. 1917, ch. 486, sec. 1.]

9. Appoints a Secretary, Deputy Commissioner, Superintendent and Assistant Superintendent of Forests, and Other Subordinates.

¶1. The commission shall have its principal office in the city of Albany. The commission shall appoint, to hold office during its pleasure, a secretary to the commission at an annual salary of three thousand dollars, a deputy commissioner at an annual salary of six thousand dollars, a superintendent of forests at an annual salary of five thousand dollars, an assistant superintendent of forests at an annual salary of three thousand dollars. * * * ¶2. The commission shall also appoint such other subordinates as shall be needed, to carry out the provisions of this chapter, within the amount appropriated therefor. [C. L., sec. 3; * * *; L. 1917, ch. 486, sec. 2.] ¶3. [The commission is empowered to] Appoint necessary employees to perform such duties as are required by this article.¹ [C. L., sec. 50, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.] *General authorization of employees.* (See I, 12.)

10. Assigns Duties to Subordinates.

The subordinates of the department, except as specially prescribed in this chapter, shall have such powers and shall perform such duties as shall be assigned or required of them by the commission. [C. L., sec. 7; L. 1915, ch. 318, sec. 5.]

General Cross-References.

Other general powers and duties. (See "Administrative Officers' General Powers and Duties," I, p. 5).

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

DEPUTY COMMISSIONER.**General Cross-References.**

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

General powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

SECRETARY.**General Cross-References.**

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

General powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

DIVISION OF LANDS AND FORESTS.**11. Establishment and Jurisdiction.**

¶1. There shall be in the department a division of lands and forests under which shall be administered all laws relating to tree culture and reforestation by the state and to the care and management of such parks, reservations or lands of the state as now are or hereafter shall be placed under the jurisdiction of the commission; * * *

¶2. **The chief and administrative head is the superintendent of forests.**—The superintendent of forests shall be the chief and administrative head of the division of lands and forests. [C. L., sec. 4; L. 1915, ch. 318, sec. 3.]

GENERAL AUTHORIZATION OF EMPLOYEES.**12. Employees Authorized and Their Duties Defined.**

Preamble.—For the purposes of administration and to carry out the provisions of this article,² the following employees are hereby authorized and their duties defined. [C. L., sec. 51, preamble; * * *; L. 1917, ch. 266, sec. 2; L. 1918, ch. 421, sec. 1.]

NOTE.—The respective provisions³ specifying these employees and defining their duties are placed under the following headings: "Superintendent of Forests," p. 4; "Assistant Superintendent of Forests," p. 4; "Chief Land Surveyor," p. 27; "Foresters and Assistant Foresters," p. 4; "Forest Pathologist," p. 5; "Chief Railroad Inspectors," p. 10; "Land Clerk," p. 27; "Auditor of Fire Accounts," p. 10; "District Forest Rangers," pp. 8, 9; "Forest Rangers," pp. 9, 37; "Observers," p. 9; "Fire Wardens," p. 9; "Fire-fighting Laborers and Foremen," p. 10.

¹ See also I, 9 ¶2, ¶3.

² Article IV. (See Table of Acts, on p. 38.)

³ See sec. 51 of C. L., in Table of Acts, on p. 38.)

¹ Article IV. (See Table of Acts, on p. 38.)

PART I—Continued.]

GENERAL PERSONNEL REQUIREMENTS.

13. The Superintendent and Assistant Superintendent of Forests, Foresters and Assistant Foresters are required to be Trained Foresters.

The employees enumerated in subdivisions one,¹ two,² four,⁴ and five⁵ of this section⁹ shall be trained foresters. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

14. The above Officials and Certain Others are Under Competitive Civil Service Classification.

The employees enumerated in subdivisions one,¹ two,² three,³ four,⁴ five,⁵ six,⁶ seven,⁷ eight⁸ of this section⁹ shall be under the competitive civil service classification. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

15. Vacancies in Offices of Superintendent and Assistant Superintendent of Forests are Required to be Filled by Promotion Examination.

The positions enumerated in subdivisions⁹ one¹ and two² shall in case of vacancy be filled by promotion examination. [C. L., sec. 51, subsec. 15; * * * L. 1916, ch. 451, sec. 1.]

SUPERINTENDENT OF FORESTS.

16. Powers and Duties.

¶1. Is executive head of the division of lands and forests.—A superintendent of forests [is hereby authorized], who shall, subject to the direction of the commission, administer all of the provisions of this article. [C. L., sec. 51, subsec. 1; * * * L. 1917, ch. 266, sec. 2.] (See also I, 11.)

¶2. Has police powers.—The employees enumerated in subdivisions one,¹ two,² three,³ four,⁴ seven,⁷ ten,¹⁰ eleven¹¹ and twelve¹² of this section⁹ shall have the power to arrest without warrant any person committing a misdemeanor under the provisions of this article,¹³ and may take such persons immediately before a magistrate having jurisdiction for trial, and exercise such other powers of peace officers as may be necessary for the enforcement of the provisions of this article. [C. L., sec. 51, subsec. 16; * * * L. 1916, ch. 451, sec. 1.]

Other general powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

¹ Superintendent of forests.

² Assistant superintendent of forests.

³ Chief land surveyor.

⁴ Foresters.

⁵ Assistant foresters.

⁶ Forest pathologist.

⁷ Chief railroad inspectors.

⁸ Land clerk.

⁹ See sec. 51 of the C. L., in Table of Act, on p. 38.

¹⁰ District forest rangers.

¹¹ Forest rangers.

¹² Observers.

¹³ Article IV, of C. L. (See Table of Acts, on p. 38.)

General Cross-References.

Appointment and salary. (See I, 9 ¶1.)

Eligibility. (See I, 3 ¶3.)

Qualification and requirements. (See I, 13, 14, 15.)

Expenses. (See I, 5.)

Bond. (See I, 6.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

ASSISTANT SUPERINTENDENT OF FORESTS.

17. Powers and Duties.

Assists, and acts in place of, superintendent of forests when necessary.—An assistant superintendent of forests [is hereby authorized], who shall assist the superintendent of forests in the performance of his duties, and, in the absence or inability of the latter, shall have power to act in his place. [C. L., sec. 51, subsec. 2; * * * L. 1917, ch. 266, sec. 2.]

Other general powers and duties. (See I, 10; and "Administrative Officers' General Powers and Duties," I, p. 5.)

General Cross-References.

Appointment and salary. (See I, 9 ¶1.)

*Qualification and other requirements.*¹ (See I, 13, 14, 15.)

Expenses. (See I, 5.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FORESTERS AND ASSISTANT FORESTERS.

18. Powers and Duties.

a. Of foresters.—Five foresters [are hereby authorized], who shall perform such duties in reforestation, fire protection, surveys, investigations, preparation of publications and other branches of forestry as may be required. [C. L., sec. 51, subsec. 4; * * * L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

Arrest violators, without warrant, and bring them before a magistrate; and exercise other necessary police powers. (See I, 16 ¶2.)

b. Of assistant foresters.—Such assistant foresters as may be required [are hereby authorized], who shall assist the foresters in their duties, and perform such other duties as may be assigned them. [C. L., sec. 51, subsec. 5; * * * L. 1916, ch. 451, sec. 1.] (See also I, 10.)

General Cross-References.

*Appointment.*² (See I, 9 ¶2, ¶3.)

Qualification and competitive civil service requirements. (See I, 13, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

¹ The eligibility restrictions imposed on several officers, including chiefs of divisions, would possibly apply, by inference, to the assistant superintendent of forests, inasmuch as he has the power and authority, under certain circumstances, to act in the place of the superintendent of forests.

² No specific provision is made as to the amount of their compensation.

PART I—Continued.]

FOREST PATHOLOGIST.

19. Duties.

Makes forest pathological investigations and studies.—A forest pathologist [is hereby authorized], who shall examine forest trees with respect to disease, and carry on such studies as may be deemed advisable in connection with diseases attacking or liable to attack forest trees in this state. **Qualification.**—The forest pathologist shall have pursued a thorough course in forest pathology. [C. L., sec. 51, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

Performs such other duties as commission may require. (See I, 10.)

General Cross-References.

*Appointment.*¹ (See I, 9 §2, ¶3.)

Competitive civil service requirements. (See I, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See I, 54, 55.) *Civil.* (See II, 57.)

ADMINISTRATIVE OFFICERS': GENERAL POWERS AND DUTIES.

20. Empowered to Institute and Conduct Investigative Proceedings.

¶1. The conservation commission shall have power, for the state, to initiate and conduct, of its own motion, any proceeding provided for in any article of this chapter for the construction of improvements or development of natural resources, for the public health or safety or welfare, or any of them, and if a petition is presented by any person or persons or by a corporation, municipal or otherwise, under any such article, the commission may, in its discretion, extend the scope of such proceeding to and including any or all improvements or developments of natural resources which may be done under all or any provision or provisions of this chapter, and if any part of the procedure governing the matters concerning which the petition is presented can not be made applicable in all respects to the subject matter of the proceeding as thus extended, then the procedure peculiar to such additional matters as provided for in this chapter shall be adopted to the extent necessary. [C. L., sec. 20.]

¶2. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before the commissioner, the deputy commissioner or the chief of a division, or before any other officer or employee of the department, designated for such purpose by written order of the commission,

¹ No specific provision is made as to the amount of his compensation.

² The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17), and, when specifically provided, such other officers as may be designated.

³ In addition to the forestry duties enumerated, the commission is charged, under a 1917 amendment to the conservation law, with the control of the white-pine blister-rust disease. (See volume of Session Laws of 1917, ch. 283, which amends Art. IV of the Conservation Law by adding thereto section 57-a.)

filed in its office. All investigations, inquiries, hearings and decisions of the commissioner, the deputy commissioner or the chief of a division, shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission, [Commissioner approves certain orders and decisions.—] and every order or decision made by the commissioner, and every order or decision made by the deputy commissioner or a chief of division and approved and confirmed by the commissioner and ordered filed in the office of the commission, shall be and be deemed to be the order or decision of the commission. [C. L., sec. 6; L. 1915, ch. 318, sec. 5.]

¶3. **Have power to administer oaths.**—The commissioner, deputy commissioner, a chief of division or duly designated officer or employee of the department, shall have power to administer oaths in any proceeding which the commission is required or authorized by law to institute or conduct. [C. L., sec. 14; L. 1915, ch. 318, sec. 10.]

¶4. **Have right of subpoena and other necessary powers.**—The commission shall have power to subpoena and require the attendance in this state of witnesses and the production by them of books and papers pertinent to the investigations and inquiries which it is authorized to make under any article of this chapter, and to examine them and such public records as it shall require in relation thereto, and for the purposes of such examinations the conservation commission shall possess all the powers conferred by the legislative law upon a committee of the legislature or by the code of civil procedure upon a board or committee, and may invoke the power of any court of record in the state to compel the attendance and testifying of witnesses and the production by them of books and papers as aforesaid. [C. L., sec. 24.]

¶5. **Immunity of witnesses.**—No person shall be excused from testifying or from producing any books or papers in any investigation or inquiry by or upon any hearing before the commission or any commissioner, when ordered to do so by the commission, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving, unto any corporation immunity of any kind. [C. L., sec. 25.]

21. Prescribe Rules and Regulations.

¶1. **Preamble.**—The commission shall for the purpose of carrying out the provisions of this article¹ have the following power, duty and authority: [C. L., sec. 50, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² For these provisions, in full, see sec. 50 of C. L., in Table of Acts, on p. 38.

PART I—Continued.]

¶2. Make necessary rules and regulations¹ to secure proper enforcement of the provisions hereof. [C. L., sec. 50, subsec. 2; * * * ; L. 1916, ch. 451, sec. 1.]

¶3. Record and posting of rules and regulations.—Rules and regulations established by the commission for the enforcement of the provisions of article four of this chapter shall be entered by the commission in its book of minutes and at least three copies thereof posted in public places in the towns in which such rules and regulations apply, at least thirty days before the same shall take effect.

¶4. Criminal liability for violations of rules and regulations.—Any person who violates any provision of any rule or regulation so established by the commission, pursuant to the provisions of this section, shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not to exceed one hundred dollars or imprisonment for not more than thirty days or by both such fine and imprisonment. [C. L., sec. 33; L. 1912, ch. 444, sec. 4.]

22. Conduct Forestry Investigations.

[The commission is empowered to] Make investigations or experiments with regard to forestry questions. [C. L., sec. 50, subsec. 5; * * * ; L. 1916, ch. 451, sec. 1.]

Same authority is also conferred by I, 20.

23. Cooperate with the Following:

a. With state institutions, boards, etc.: ¶1. General provision.—[The commission is empowered to] Examine the forest lands under the charge of the several state institutions, boards or other management for the purpose of advising and co-operating in securing proper forest management of such lands. [C. L., sec. 50, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. Pay over to institutions a portion of the proceeds from sale of trees grown at the institutions.—Such portion of the proceeds of the sale of trees grown at state institutions, as the commission determines is equitable, may be paid over to that institution. [C. L., sec. 50, subsec. 9; * * * ; L. 1916, ch. 451, sec. 1.]

Propagate trees for such institutions. (See I 24 ¶3.)

¶3. Special provision for Palisades interstate park.—Nothing in this chapter shall be construed as extending the jurisdiction of the conservation commission over the real or personal property now or hereafter under the control or in the custody of the commissioners of the Palisades interstate park, but said conservation commission is authorized to co-operate with said commissioners of the Palisades interstate park by the joint employment of wardens, foresters and keepers, for the mutual protection of the lands under the jurisdiction of said respective commissions and other state commissions and the preservation of the forests thereon and of the fish and game therein. [C. L., sec. 50, subsec. 31; * * * ; L. 1917, ch. 71, sec. 1.]

b. With private owners.—[The commission is empowered to] Examine private forest lands for the purpose of

advising the owners as to the proper methods of forest management. [C. L., sec. 50, subsec. 14; * * * ; L. 1916, ch. 451, sec. 1.]

Supply trees from nurseries at cost of production. (See I, 24 ¶2.)

c. With governing boards of counties, cities, towns, and school districts.—*In reforestation work, and furnish trees without charge, if planted as directed.* (See III, 32 b ¶2.)

24. Establish and Maintain State Forest Nurseries.

¶1. [The commission is empowered to] Establish, operate and maintain nurseries for the production of trees to be used in reforestation. [C. L., sec. 50, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

Convict and other institutional labor used. (See I, 25.)

¶2. Purposes, in general, for which the trees may be used.—Such trees may be used to reforest any land owned by the state; supplied to owners of private land at a price not exceeding cost of production; or used for planting on public lands under such terms as may be deemed to be for the public benefit. [C. L., sec. 50, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

¶3. Special provision for propagating trees for state institutions and highway purposes.—[The commission is empowered to] Propagate trees and shrubs for the several state institutions or for planting along improved highways. Reduction in transportation rates.—Any common carrier may transport trees or shrubs grown by the state at a rate less than the established tariff. [C. L., sec. 50, subsec. 10; * * * ; L. 1916, ch. 451, sec. 1.]

25. Employ Convict and Other Institutional Labor for Nursery and Tree Planting Work.

¶1. General authority.—[The commission is empowered to] Employ, with the approval of the superintendent of prisons, convicts committed to any penal institution or, with the approval of the governing board thereof, the inmates of other state institutions, for the purpose of producing or planting trees. [C. L., sec. 50, subsec. 9; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. Special authority.—When desirable for the best interests of the state, as well as the wards thereof, the superintendent [of the Rome State Custodial Asylum], subject to the approval of the board of managers, may grant to groups of inmates in colonies on rented premises or on land owned by the state, parole or leave of absence to do * * * reforestation and forestry work under the direction of the conservation commission, and any expense connected therewith shall be a charge upon the regular maintenance of the asylum. [State Charities L.,¹ sec. 95, subsec. 11; L. 1916, ch. 71, sec. 1.]

26. Reimburse Employees for Official Expenditures.

[The commission shall] Reimburse employees for actual and necessary expenses incurred while upon official business. [C. L., sec. 50, subsec. 30; * * * ; L. 1916, ch. 451, sec. 1.]

(See also I, 5.)

¹ The rules and regulations duly adopted by the forest, fish and game commission or commissioner * * * shall continue in full force and effect until otherwise ordered by the conservation commission. [C. L., sec. 13.]

¹ The State charities law is contained in L. 1909, ch. 57, and its equivalent, ch. 55 of the Consolidated Laws.

PART I—Continued.]

27. Collect and Compile Statistics on Forests Products.

It shall be the duty of all manufacturers of timber and consumers of round wood or timber or wood for commercial purposes to report to the conservation commission, annually, when called upon to do so, on blanks furnished by the commission, the amount of round wood or timber used, or lumber manufactured from trees grown in this state, during the calendar year. [C. L., sec. 58; * * *; L. 1916, ch. 451, sec. 1.]

28. Provide Printed Information Concerning Forestry Matters.

[The commission is empowered to] Prepare, print, post or distribute printed matter relating to forestry. [C. L. sec. 50, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

29. Make Reports.

a. Annual report to legislature.—The commission shall annually report to the legislature on or before January fifteenth, with such recommendations as it deems proper, specifying the receipts, expenditures and work of the

department for the preceding fiscal year. Such report shall include a brief description of all lands purchased during the year, and the statistics of various fires, and any trespass upon state lands, and a brief summary of all litigation prosecuted or defended by the commission.

b. Special reports for information of the public.—It shall be the duty of the commission to publish and distribute for public information reports in which shall be briefly set forth the work of the department and of its several divisions. [C. L., sec. 12; * * *; L. 1916, ch. 318, sec. 9.]

30. Have Such Other Powers and Duties as May Be Provided.

[The commission] Shall have such other powers and duties as are provided by law. [C. L., sec. 50, subsec. 29; * * *; L. 1916, ch. 451, sec. 1.]

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

LEGAL PROCEDURE.

Provisions concerning the subject of legal procedure. (See Part II, page 15, and Part III, page 27.)

PART II.—FIRE PROTECTION.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State or municipal forests, see Part III.)

STATE ORGANIZED PROTECTION.**ADMINISTRATIVE OFFICERS' GENERAL POWERS AND DUTIES.****1. In Fire Towns.**

¶1. Preamble.—The following classification of districts² is made for the purpose of protecting the forests from fire. [C. L., sec. 52, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Conservation commission maintains a forest fire protective system.—The commission, for the prevention of forest fires and the extinguishment of fires burning or threatening forests, shall, in the fire towns,³ maintain a force of forest rangers, observers and fire wardens. It shall maintain an approved fire protective system, including fire observation stations and other equipment necessary to prevent and extinguish forest fires. Territory is subdivided into districts, in charge of district forest rangers.—The territory included within the fire towns shall be divided into five districts, each of which shall be in charge of a district forest ranger. [C. L., sec. 52, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

2. In Other than Fire Towns, where Commission Deems State Organized Fire Districts Necessary.

Establish, equip, and operate observation stations, prepare and post fire notices, and organize a fire force.—The commission may establish a forest fire protective system in such other parts of the state as it may deem necessary

¹The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17).

²For the three classes of districts, see II, 1, 2, 216, 226, 236.

³A list of the fire towns referred to will be found in the Appendix, on p. 35.

where there are contiguous areas of forest land aggregating seventy-five thousand acres or upwards. In such regions the commission may establish, equip and operate fire observation stations with the necessary accessories, prepare and post fire notices, organize a fire protective force, [May require the town authorities to perform their forest fire duties.—] and require the town authorities to perform their duties in forest fire protection.¹ May appoint fire wardens when necessary.—If the town supervisor fails to certify to the conservation commission by February fifteenth of any year a list of the fire wardens for such town then the conservation commission may appoint necessary fire wardens. [C. L., sec. 52, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

3. Maintain a Fire Protective System.

[The commission shall] Maintain a system of forest fire protection in the fire towns and such other areas as the commission determines necessary. [C. L., sec. 50, subsec. 16; * * *; L. 1916, ch. 451, sec. 1.]

4. Incur Necessary Expenses for Fire Protection Purposes.

¶1 [The commission shall] Purchase necessary equipment, tools or supplies, employ men or incur other expenses as may be necessary to furnish adequate forest fire protection. [C. L., sec. 50, subsec. 17; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Interfering with supplies or other material so maintained for purposes of fire protection constitutes a misdemeanor.—Any person² who molests, injures, removes,

¹See II, 226, 236.

²The term "person," as used in Article IV of the conservation law includes a copartnership, joint-stock company, or a corporation. See Appendix, p. 35.

PART II—Continued.]

destroys, or withholds supplies or other material maintained for forest fire protection purposes shall be guilty of a misdemeanor. [C. L., sec. 63, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

Liability of violators: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

5. Establish and Operate Observation Stations, Telephone Lines, Etc.

¶1. [The commission shall] Establish, maintain, equip, and operate forest fire observation stations, telephone lines, or other structures therefor as the public interest requires. [C. L., sec. 50, subsec. 18; * * * ; L. 1916, ch. 451, sec. 1.]

¶2. **Contract for, or purchase, telephone lines, for construction or operation.**—[The commission shall] Make contracts, agreements or purchases either for construction, operation or maintenance of telephone lines for fire protection purposes. **Preferred rates may be granted to the State.**—Any telephone company may grant the state a preferred rate. [C. L., sec. 50, subsec. 19; * * * ; L. 1916, ch. 451, sec. 1.]

6. Build Fire Lines, Trails, Roads, Etc.

[The commission shall] With consent of the owner, build or improve fire roads, ditches, trails, or fire lines. **Not liable for trespass.**—No action for trespass shall lie on account of injury to private property on such account, if the act is performed in the protection of the forests from fire. [C. L., sec. 50, subsec. 20; * * * ; L. 1916, ch. 451, sec. 1.]

7. Make Working Agreements with Land Owners as to Forest Fire Protection.

[The commission] May enter into working agreements with land owners for the purpose of securing better forest fire protection in the fire towns. [C. L., sec. 50, subsec. 27; * * * ; L. 1916, ch. 451, sec. 1.]

Certain Additional Powers and Duties.

Appoint necessary employees. (See I, 9.)

Provide for posting, or distribution of, necessary information concerning forest fires. (See I, 28.)

Include statistics of fires in annual report to the legislature, and publish and distribute special reports for information of the public. (See I, 29.)

Rate forest rangers in three grades. (See A, p. 37.)

Fix salaries of observers. (See II, 12.)

May request comptroller to advance funds for facilitating payment of fire accounts. (See II, 26 ¶2.)

Certify to need for emergency loan for fire protection purposes. (See II, 29 ¶2.)

In fire towns, reimburse persons for fire-fighting expenditures. (See II, 26 ¶3.)

Submit expense accounts of fire towns to boards of county supervisors, for reimbursement of State in respect to towns' share of the expenditures. (See II, 27.)

Make required disposition of moneys received in actions for penalties under Article IV of C. L. (See II, 30.)

Designate persons to issue permits for kindling fires in the open in fire towns. (See II, 31.)

Approve fire protective devices for locomotives operating through forest lands. (See II, 36.)

Have access, for purposes of inspection, to railroad records as to condition of fire protective devices. (See II, 37 ¶1.)

May order to be removed from service any locomotive not properly equipped with fire protective devices, operating in fire towns. (See II, 37 ¶2.)

Require railroads operating through forest lands, to keep their rights of way cleared (see II, 39); and have discretionary powers as to relieving railroads from this requirement and also from that of maintaining fire patrol along such rights of way (see II, 40 ¶2).

May request public service commission to determine the adequacy of precautions taken by railroads. (See II, 41.)

Furnish blanks to railroads for reports on forest fires. (See II, 42.)

Approve fire protective devices for portable engines and other steam power plants. (See II, 44.)

May grant extension of time in which to top-top evergreen trees. (See II, 45 ¶2.)

Institute and conduct proceedings under Article IV of the Conservation Law. (See II, 48.)

May request appointment of a deputy attorney general. (See II, 49.)

Are empowered to issue orders for bringing actions for penalties under the Conservation Law. (See II, 50 ¶1.)

Have authority to compromise cases of civil liability, and may confer the authority upon subordinates. (See II, 53.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FORESTERS AND ASSISTANT FORESTERS.

Powers and Duties.

a. Of foresters:

Perform such fire protection work as may be required. (See I, 18a.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

b. Of assistant foresters:

Assist the foresters in fire protection work. (See I, 18b.)

c. Perform such other duties as the commission may require.

 (See I, 10.)

d. Liability for failure to perform duties: Criminal.

 (See II, 54, 55.) *Civil.* (See II, 57.)

DISTRICT FOREST RANGERS.

8. Salary.

Five district forest rangers [are hereby authorized], who shall receive a salary of eighteen hundred dollars per annum, and * * * [C. L., sec. 51, subsec. 10; * * * ; L. 1918, ch. 421, sec. 1.]

9. Powers and Duties.

a. Have charge of fire districts comprising portions of fire towns.—* * * each of whom [district forest rangers] shall have charge of a certain portion of the fire towns, to be known as a fire district, for the purpose of securing forest fire protection and preventing trespass upon state land. [C. L., sec. 51, subsec. 10; * * * ; L. 1918, ch. 421, sec. 1.]

PART II—Continued.]

b. Employ fire-fighting laborers, foremen, and teams—Compensation.—District forest rangers, forest rangers, observers, fire wardens and game protectors or any other officer charged with the duty of fire fighting may, when necessary, employ men who shall be paid at the rate of twenty cents per hour and teams to fight forest fires, and also engage other men to be known as foremen for particular fires to direct the work of men engaged in fighting such fires. Such foremen shall be paid at the rate of thirty cents per hour for time actually employed. **Other expenses authorized.**—These employees may incur other necessary expenses in connection with extinguishing forest fires. **Power to summon assistance.**—They shall have the power to summon any male person of the age of eighteen years and upwards to assist in fighting such fires, and any person so summoned shall forthwith proceed to help extinguish the fire as directed by the person summoning him.¹ [C. L., sec. 51, subsec. 14; * * * ; L. 1918, ch. 421, sec. 1.]

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26; II 9b.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FOREST RANGERS.***10. Salaries and Ratings.**

NOTE.—The text of this section has been transferred to the Appendix (p. 37) for the reason that it has been considerably expanded by a 1918 amendment, which was received too late to be incorporated in the body of the compilation.

11. Are not Subject to Civil Service Classification.

Those persons employed under subdivisions eleven,² twelve³ and thirteen⁴ of this section, who are temporary, occasional or emergency employees, shall not be under competitive civil service classification. [C. L., sec. 51, subsec. 15; * * * ; L. 1916, ch. 451, sec. 1.]

Powers and Duties.⁵

Prevent and extinguish forest fires. (See II, 1.)

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II 9b.)

¹ For penalties and liability to comply with summons to assist, see II, 54, 55, 57, and the Appendix, p. 36 (Penal L., sec. 1900).

² See also "Forest Rangers and Assistants," under "Town Organized Protection," p. 11.

³ Forest rangers.

⁴ Observers.

⁵ Fire wardens.

⁶ Forest rangers are also required to enforce all fish and game laws. (See, in volume of Session Laws, sec. 169 of C. L., as amended by ch. 521, L. 1916.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Approve compromises of civil liability, upon order of commission. (See II, 53b, ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26; II, 9b.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

OBSERVERS.**12. Salary and Expenses.**

*1. Such observers [are hereby authorized] as may be required * * *, [¶2.] to be employed at a monthly compensation of not exceeding eighty-five dollars including allowance for expenses. **Commission determines compensation.**—The conservation commission shall fix and determine the compensation of these employees. [C. L., sec. 51, subsec. 12; * * * ; L. 1918, ch. 421, sec. 1.]

(See also I, 26; II, 9b.)

13. Powers and Duties.

Operate forest fire observation stations.—[Observers are] to operate the forest fire observation stations, * * * [C. L., sec. 51, subsec. 12; * * * ; L. 1918, ch. 421, sec. 1.]

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Are not subject to civil service classification. (See II, 11.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FIRE WARDENS.¹**14. Rate of Compensation.**

a. In fire towns.—They [fire wardens] shall be paid at the rate of thirty cents per hour for time actually employed. [C. L., sec. 51, subsec. 13; * * * ; L. 1918, ch. 421, sec. 1.]

Authority for incurring fire-fighting expenses. (See II, 9b.)

Are reimbursed for necessary expenses. (See I, 26.)

b. In state organized fire districts.—Is prescribed by town supervisors. (See II, 23.)

15. Powers and Duties.

a. In fire towns.

Extinguish fires.—Necessary fire wardens [are hereby authorized], who shall, when fires are actually burning,

¹ See also "Fire Wardens" under "Town Organized Protection," p. 11.

PART II—Continued.]

have power and authority to take steps to extinguish fires. [C. L., sec. 51, subsec. 13; * * *; L. 1918, ch. 421, sec. 1.]

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

b. In State organized fire districts.—None are specifically prescribed. (See II, 23.)

Appointment.

a. In fire towns.—Are appointed by commission, under its general authority. (See I, 9 ¶2, ¶3.) Are not subject to civil service classification. (See II, 11.)

b. In State organized fire districts.—Are appointed by the supervisors of the respective towns comprising the fire districts (see II, 23b), or by the commission, when the supervisor fails in his duty. (See II, 2.)

CHIEF RAILROAD INSPECTORS.**16. Qualification.**

They [chief railroad inspectors] must be familiar with the construction of locomotives and experienced in their operation. [C. L., sec. 51, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

17. Powers and Duties.

Inspect engines and rights of way, and perform such other duties as may be assigned them.—Two chief railroad inspectors [are hereby authorized], who shall inspect railroad locomotives and other engines, railroad rights-of-way, and perform such other duties as may be assigned them. [C. L., sec. 51, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

Arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16, ¶2.)

Consent to compromises of civil liability, upon order of commission. (See II, 53b, a ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

General Cross-References.

*Appointment.*¹ (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

AUDITOR OF FIRE ACCOUNTS.**18. Salary.**

An auditor of fire accounts [is hereby authorized], who shall receive a salary of one thousand eight hundred dollars per annum. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

19. Bond.

He shall execute and file with the comptroller a bond to the people of the state in the sum of five thousand dollars for the faithful performance of his duties and that he

will account for and pay over pursuant to law all moneys received by him. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

20. Duties.

He shall audit fire bills and accounts of the forestry bureau, and perform such other duties as may be required. [C. L., sec. 51, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

(See also I, 10.)

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

GAME PROTECTORS.¹**Forest Fire Powers and Duties.²**

Extinguish fires. (See II, 9b.)

Employ fire-fighting laborers, foremen, and teams, and incur other necessary expenses. (See II, 9b.)

Impress assistance. (See II, 9b.)

Are reimbursed for expenses. (See I, 5, 26; II, 9b.)

Approve compromises of civil liability upon order of the commission. (See II, 53b, a ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

FIRE-FIGHTING LABORERS AND FOREMEN.**General Provisions Concerning:**

a. Fire-fighting laborers:

Are employed by district forest rangers and certain other officials to extinguish fires. (See II, 9b.)

Are paid at the rate of twenty cents per hour. (See II, 9b.)

b. Foremen:

Are employed by district forest rangers and certain other officials to extinguish fires. (See II, 9b.)

Are paid at the rate of thirty cents per hour. (See II, 9b.)

c. Liability for failure to perform duties: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

TOWN ORGANIZED PROTECTION.**TOWN SUPERINTENDENT OF FIRES.****21. In Towns Other Than Fire Towns.**

Supervisor of town serves as superintendent of fires:

a. Under the Town Law.³—¶1. In towns other than those mentioned in section ninety-seven of the conservation law,⁴ the supervisor shall, by virtue of his office, be superintendent of fires of his town and * * *.

¹ Special game protectors have the same powers and duties as game protectors. (See, in volume of Session Laws of 1913, C. L., sec. 171, as amended by ch. 508 of L. 1913.)

² For provisions concerning game protectors' powers and duties under the fish and game department, and also their appointment, salary, expenses, and the like, see Article V of the conservation law.

³ The Town Law (ch. 63, Laws 1909, and its equivalent, ch. 62 of the Consolidated Laws, both as amended through 1917) is indicated in this compilation by the abbreviation "Town L."

⁴ The list of towns referred to is now contained in sec. 62, subsec. 10 of the conservation law. (See Table of Acts, on p. 39.)

¹ No specific provision is made as to their compensation.

PART II—Continued.]

¶2. **Member of town board to be designated to act as substitute, when necessary.**—The town board of each town shall at its first annual meeting designate one of its members to act as such superintendent of fires for the ensuing year in case of absence of the supervisor. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Under the Conservation Law.**—In the towns other than the fire towns the town supervisor shall be superintendent of fires in his town * * *. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

22. Prevents and Extinguishes Fires.

a. **Under the town law.**—[The superintendent of fires shall be] charged with the duty of preventing and extinguishing forest fires. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Under the conservation law.**—* * * he [the superintendent of fires] shall be charged with the duty of preventing and extinguishing forest fires. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

23. Employs Assistants.

a. **Is empowered to employ forest rangers and other assistants.**—He [the superintendent of fires] shall have power to employ persons to act as forest rangers in preventing and fighting fires and to employ necessary assistants therefor, and * * * [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

b. **Is required to appoint fire wardens, and to report names of appointees to commission.**—He [the superintendent of fires] shall have the power and is hereby required to appoint necessary and competent fire wardens. On or before February fifteenth of each year, the town supervisor [the superintendent of fires] shall state to the commission, in writing, the names of the persons whom he appoints to act as fire wardens during the current calendar year. [C. L., sec. 52, subsec. 3; * * * ; L. 1916, ch. 451, sec. 2.]

24. Has Certain Powers and Authority Similar to those Conferred Upon the Commission and Certain of its Subordinates.

¶1. [The superintendent of fires] shall possess all the power and authority conferred upon the conservation commission, district forest ranger, forest ranger and fire warden under sections ninety-two and ninety-three¹ of the conservation law. [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

NOTE.—The portions of said sections 92 and 93¹ which concern the powers and authority referred to, read as follows:

§ 92. 1. * * *

2. * * * The district forest ranger, the forest ranger, game protector, or any other officer charged with the duty of fighting fires, may, when necessary, employ men and teams to fight forest fires and foremen, to be known as fire wardens, to direct the work of men who are actually engaged in fighting forest fires, and may incur any other necessary expenses, and may summon any male person of the age of eighteen years and upwards to assist in fighting forest fires. * * *

3. An action for trespass shall not lie against persons crossing or working upon lands of another to prevent or fight fires, or performing any other duties required by this chapter.

¹ These two sections (92 and 93) constituted a part of the conservation law of 1912, since materially amended and revised.

4. Where owners of woodlands, or any organization, shall maintain a fire patrol for protection of woodlands the commission may designate such patrolman as special fire warden and give to him, for the protection of lands patrolled by him or adjacent thereto, all the rights and powers of forest rangers as herein provided; and such special fire warden shall be paid wholly by such owners or organizations [L. 1912, ch. 444, secs. 92 and 93.]

¶2. **Penalty for persons refusing to assist when summoned to fight forest fires.**—Any person summoned to fight forest fires who is physically able and refuses to assist shall be liable to a penalty of twenty dollars. [Town L., sec. 98, subsec. 8; * * * ; L. 1916, ch. 371, sec. 2.]

General Cross-References.

Liability for failure to perform duties under Article IVa of the C. L.: Criminal. (See II, 54, 55.) *Civil.* (See II, 57.)

TOWN BOARDS.**Powers and Duties.**

In fire towns:

Provide the means for reimbursing the State for one-half of expenses incurred, by the State protective organization, in extinguishing fires which actually burned within their respective towns. (See II, 27.)

In all other towns:

Designate a member of the board to act as superintendent of fires, in absence of their respective town supervisors. (See II, 21a ¶2.)

Fix compensation of forest rangers, fire wardens, and other assistants authorized to be appointed by the town superintendent of fires. (See II, 25.)

Provide necessary means for maintaining the town fire protective system. (See II, 28 ¶2.)

FOREST RANGERS AND ASSISTANTS.¹**25. Compensation.**

The town board shall fix the compensation of all forest rangers and assistants employed under the provisions of this section and * * * [Town L., sec. 98, subsec. 8; * * * ; L. 1912, ch. 371, sec. 2.]

General Cross-References.

Are employed by superintendents of fires. (See II, 23a.)

Prevent and fight forest fires. (See II, 23a.)

FIRE WARDENS.²**General Cross-References.**

Are appointed by town superintendents of fires.³ (See II, 23.)

Rate of compensation is fixed by the town board.⁴ (See II, 25.)

Duties: None are specifically prescribed by law. (See II, 23.)

¹ See Table of Acts, on p. 38.

² See also "Forest Rangers," under "State Organized Protection," on p. 9, and in the appendix, p. 37.

³ See also "Fire Wardens," under "State Organized Protection," p. 9.

⁴ In a State organized fire district, if a town superintendent of fires fails to perform his duty, the commission may appoint the necessary fire wardens. (See II, 2.)

⁵ There is no specific provision for the compensation of fire wardens outside of State organized towns further than the general authority concerning compensation of forest rangers and necessary assistants. (See II, 25.)

PART II—Continued.]

DISTRIBUTION OF COSTS OF FIRE PROTECTION.

STATE.

26. In Fire Towns.

¶1. Makes initial payment of all fire protection expenses, of which the following constitute the state's share, namely, the salaries and ordinary personal expenses of the regular employees of the commission, and one-half of the expenses incurred in extinguishing fires actually burning.—All salaries and other expenses incurred by the commission and its employees in protecting the forests in the fire towns from fire shall be paid by the state. [C. L., sec. 53, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

(See also ¶3 of this section.)

¶2. Comptroller advances funds, in installments of \$5,000 each, to facilitate payment of expenses.—The comptroller may upon request of the conservation commission advance, not to exceed five thousand dollars at any time, to said commission for the purpose of facilitating payment of fire accounts. [C. L., sec. 53, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

¶3. Reimburses persons¹ for fire-fighting expenditures.—If any person¹ incurs expenses fighting forest fires in a fire town, the commission may upon the receipt of satisfactory proof and accounts filed in its offices within sixty days from the time the expense was incurred audit and pay all or such portion thereof as in its judgment the public interest requires. [C. L., sec. 53, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

In Certain Other Towns, Namely, those Comprising State Organized Fire Districts.

Pays fire protection costs other than those specifically imposed upon town organizations. (See II, 2.)

TOWNS.

27. Fire Towns.

Reimburse state for one-half of expenses incurred in extinguishing fires actually burning.—One-half of all expense incurred under subdivision two^a of this section in extinguishing fires actually burning, except salaries and expenses of regular employees, shall be a charge, upon the town in which the fire burned. Expense account submitted by commission to boards of county supervisors.—The commission shall, on or before November twentieth of each year, transmit to the clerk of the board of supervisors of each county containing fire towns a summary statement of expenses incurred together with the amount charged against each town in such county. Reimbursement funds raised through additional tax on the towns.—The said clerk shall immediately deliver such statement to the board of supervisors who shall thereupon levy the said amount due from each town to the state upon the taxable property of such town by including the said amount in the sums to be raised and collected in the next levy and assessment of taxes therein, and

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

^a See Table of Acts, on p. 38.

the same shall be collected as other town taxes are collected [Limitation of time for making reimbursements.—] and the amount due the state shall be paid by the supervisor to the conservation commission on or before May first following the levy thereof. [C. L., sec. 53, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

28. All Other Towns, Including those Within the State Organized Fire Districts.

¶1. Pay all expenses authorized to be incurred, under Town Law, in preventing and extinguishing forest fires.—* * * all expenses incurred under the provisions of this section¹ shall be a charge upon and paid by the town. [Town L., sec. 98, subsec. 8; * * *; L. 1912, ch. 371, sec. 2.]

¶2. Raise funds for such purposes through an additional tax, or temporary loans by supervisors.—Towns other than fire towns may raise necessary funds for prevention and extinguishment of forest fires in their towns either by levy or by the supervisor making temporary loans. [C. L., sec. 53, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

CONTINUING APPROPRIATIONS AND FUNDS.

29. Fund for Emergency Fire Protection Purposes Secured Through Temporary Loan.

¶1. Preamble.—In order to carry into effect the provisions of this article² the following² is prescribed. [C. L., sec. 53, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Comptroller makes loan with governor's approval.—The state comptroller shall have, subject to the approval of the governor, the authority to make, on behalf of the state, a temporary loan not exceeding one hundred thousand dollars in any fiscal year, for the use of the conservation commission in protecting the forests and extinguishing fires as provided by this article [Commission certifies existence of emergency.—] upon the certification of the conservation commission that an emergency exists whereby through insufficiency of appropriations it is found to be impossible to protect the forests from fire. Legislature makes appropriation to cover loan, reported by comptroller.—The comptroller shall thereupon borrow such sums as may be directed by the governor for such purposes and shall report such transactions to the legislature which shall thereupon appropriate the moneys borrowed. Section thirty-five of the finance law shall not apply to any indebtedness so incurred. [C. L., sec. 53, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

30. Disposition of Net Proceeds from Moneys in Actions for Penalties under Article IV.²

Moneys received in actions for penalties brought under article four of this chapter shall be paid to the commission, who shall apply so much thereof as may be necessary to the payment of the expenses of collections. The

¹ See 98 of Town Law. (See Table of Acts, on p. 38.)

² Article IV of C. L. (See Table of Acts, on p. 38.)

³ For these provisions, in full, see sec. 53 of the C. L., in Table of Acts, on p. 38.

PART II—Continued.]

balance of such receipts shall be available for enforcing the various provisions of law for the protection of forests against fire. [C. L., sec. 30; L. 1912, ch. 444, sec. 4.]

KINDLING FIRES IN THE OPEN.

PERMIT RESTRICTIONS.

31. Permit Required, in Fire Towns, for Setting Fires to Clear Land, Burn Logs, Brush, Etc.

¶1. No person¹ shall set or cause to be set fire for purpose of clearing land or burning logs, brush, stumps, or dry grass, in any of the fire towns, without first having obtained from the commission a written permit so to do. Presence of person issuing permit required when forest land is endangered.—If such burning is done near forest lands and if there is danger of the fire spreading, a person designated to issue such permits must be present. [C. L., sec. 54, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Commission designates persons to issue permits.—[The commission] May designate persons who shall have authority to issue permits as required by subdivision five, section fifty-four.² [C. L., sec. 50, subsec. 26; * * *; L. 1916, ch. 451, sec. 1.]

Liability for failure to comply with requirement:

Criminal. (See II, 54, 55.)

Civil: Penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire fighting.* (See II, 62.)

PROHIBITIVE RESTRICTIONS.

32. Various Acts Prohibited On or Near Forest Land.

a. Setting forest land on fire.— * * * no person¹ shall set forest land on fire; * * *

Sec. also, Penal L., sec. 1421; and, also, sec. 1900, subsec. 1. (Appendix, p. 36.)

b. Setting fires for camping purposes without removing surrounding inflammable material.— * * * no fire shall be set in or near forest land in connection with camping without all inflammable material having first been removed for a distance of three feet around the fire; * * *

c. Leaving fires unquenched.—No fires shall be set on or near forest land and left unquenched; * * *

d. Using combustible gun wads or carrying naked torches.— * * * no person shall use combustible gun wads or carry naked torches on forest lands; * * *

e. Throwing down lighted matches, cigars, etc.— * * * no person shall drop, throw, or otherwise scatter lighted matches, burning cigars, cigarettes or tobacco; * * *

f. ¶1. Setting fires that will endanger, or negligently allowing fires to extend to, neighboring property.— * * * no fire shall be set which will endanger the property of another; * * *

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² See ¶1 of this section.

¶2, * * * no person¹ shall negligently suffer fire on his own property to extend to property of another; * * *
See also Penal L., sec. 1900, subsecs. 2 and 3. (Appendix, p. 36.)

g. Defacing or destroying posted forest fire notices.— * * * no person shall deface or destroy any notice posted containing forest fire warnings, laws, or rules and regulations. [C. L., sec. 51, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

General Cross-References to this Section.

Criminal liability:

For violation of subsecs. a, b, c, d, e, f, ¶1:

Fire set wilfully (felony). (See II, 56.)

Fire caused accidentally or negligently (misdemeanor). (See II, 51, 55.)

For violation of subsecs. f, ¶2, g (misdemeanor). (See II, 51, 55.)

Sec. also, Appendix, p. 36., secs. 1421, and 1900.

Civil liability:

For violation of above subsecs.:

Penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.)

Costs of fire fighting. (See II, 62.)

33. Close Season for Hunting, Camping, Etc., within Fire Towns, may be Proclaimed During Time of Drought.

¶1. Preamble.—The following provision shall apply in protecting forests from fire. [C. L., sec. 54, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Proclamation by governor.—Whenever, by reason of drought, the forests of the state are in danger of fires which may be caused by hunters, fishermen, trappers, or campers, the governor shall have the power to determine and shall determine and declare that such pursuits are contrary to the public interest, and shall have the further authority to forbid by proclamation any person or persons carrying on such pursuits in so much of the territory included within the fire towns as he deems the public interest requires. Such proclamations shall be in full force and effect at the expiration of twenty-four hours after notice is given in the manner the governor may determine. [C. L., sec. 51, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

34. Sending up Unpiloted Hot Air Balloons Prohibited in, or Adjacent to, Fire Towns.

No unpiloted hot air balloon shall be sent up in any fire town or in a town adjacent thereto. [C. L., sec. 54, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

Liability for violation of requirement:

Criminal. (See II, 51, 55.)

Civil: Penalty. (See II, 57.) *Damages.* (See II, 59, 61.)

Costs of fire fighting. (See II, 62.)

General Cross-Reference Under Kindling Fires in the Open.

In connection with brush and slash disposal in fire towns. (See II, 45, 46, 47.)

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

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RAILROADS.

35. Terms "Railroad" and "Railroad Company" Defined.

Railroad or railroad company includes all common carriers, logging or lumbering roads for public or private uses wherever the motive power is generated by steam. [C. L., sec. 62, subsec. 13; * * *; L. 1916, ch. 451, sec. 1.]

PRECAUTIONARY REQUIREMENTS THROUGH FOREST LANDS.

36. Equip Locomotives with Approved Fire Protective Devices of Ash Pan and Front Ends—Maintain and Properly Use Devices.

¶1. **Preamble.**—In order to secure proper protection to the forests from fire the railroads which operate through such territory shall be subject to the following restrictions.¹ [C. L., sec. 55, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. No locomotive shall be operated unless equipped with fire protective devices of ash pan and front end which have been approved by the commission. Such devices shall be maintained and properly used. [C. L., sec. 55, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶6.)

Employees required to use fire protective devices effectively. (See II, 43.)

37. Make Daily Inspection and Record of Condition of Devices During Danger Season.

¶1. Every railroad company shall examine each coal burning locomotive each day it is operated between March first and December first, and record the condition of the fire protective devices in a book, or books, kept for that purpose. **Make record accessible to inspection by commission.**—Such book, or books, shall be kept on file at such place or places in this state, as may be selected by each railroad company, and shall at all times at such places be accessible to inspectors of the conservation commission. Each railroad company shall within thirty days after the taking effect of this act file with the conservation commission a statement of the place or places at which it keeps such books; and in the event of a change of such place or places by said company, it shall file a statement of such change within five days after such change takes effect. [C. L., sec. 55, subsec. 5; * * *; L. 1917, ch. 266, sec. 4.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶7.)

¶2. **Are liable to notice from commission to remove from service locomotives not properly equipped with fire protective devices, operating in fire towns.**—[The commission] May order removed from service, on forty-eight hours' notice, any railroad locomotive, operating in the fire towns, not properly equipped with fire protective devices.

[C. L., sec. 50, subsec. 22; * * *; L. 1916, ch. 451, sec. 1.]

38. Leave no Unprotected Deposits of Fire, Live Coals, or Hot Ashes on Track or Right of Way, to Endanger Forest Lands.

¶1. Fire, live coals or hot ashes shall not be deposited unless properly protected upon any track or right of way on or near forest land. [C. L., sec. 55, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **The term "right of way," defined.**—Right of way is the land adjacent to the tracks of a railroad and shall be construed to be fifty feet in width on each side of the center of the track but if the company own a lesser width it shall include the entire width owned by them. [C. L., sec. 62 subsec. 11; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of requirement. (See II, 58 ¶1, ¶8.)

39. Clear Rights of Way, when Required by Commission.

The right of way of all railroads which are operated through forest lands shall be kept cleared of all inflammable material whenever required by the commission. [C. L., sec. 55, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

Discretionary power, as to requirement, vested in the commission. (See II, 40 ¶2.)

Special penalty (civil) for violation of requirement. (See II, 58 ¶1, ¶5.)

40. Maintain Patrol Along Rights of Way, During Danger Season, Unless Relieved by Commission.

¶1. All railroads shall, on such parts of their rights of way as are operated through forest lands, maintain from April first to November fifteenth of each year a sufficient number of competent fire patrolmen unless relieved by the commission. **File list of patrolmen in office of commission.**—The railroad shall file in the office of the commission on or before April first of each year a complete list of such patrol indicating the names of the men, their post-office addresses and portion of right of way assigned each patrolman. If any changes are subsequently made similar data shall be furnished on request of the commission. [C. L., sec. 55, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

Special penalty (civil) for violation of these requirements. (See II, 58 ¶1, ¶5.)

¶2. **Discretionary power, as to requiring patrol and clearing rights of way, vested in commission.**—[The commission] May relieve railroads from maintaining railroad fire patrol, or clearing rights of way when in the judgment of the commission the absence of such patrol or clearing will not subject the forests to fire menace. [C. L., sec. 50, subsec. 24; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Duties of fire patrolmen defined.**—A fire patrolman shall be an able bodied man whose duty is to patrol a given portion of right of way for the purpose of detecting promptly any fires which may be caused by the operation of the railroad, or other fires which may occur upon such portion of the right of way, and secure their extinguishment. [C. L., sec. 62, subsec. 12; * * *; L. 1916, ch. 451, sec. 1.]

¹ For these restrictions, in full, see sec. 55 of the C. L., in Table of Acts, on p. 38.

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41. Subject to Investigation, by Public Service Commission, as to Adequacy of Precautions Taken.

[The commission] May request the public service commission to hear and determine whether any railroad, person,¹ or company operating railroad locomotives through forest land is using such devices and precautions against the setting of forest fires, as the public interest requires. [C. L., sec., 50, subsec. 25; * * *; L. 1916, ch. 451, sec. 1.]

42. Report to Commission Upon Forest Fires Along Rights of Way, Within Fire Towns or Protected Forest Lands.

A verified report of every forest fire which originates on the right of way or within two hundred feet thereof, in any of the fire towns or protected forest lands, shall be prepared by the railroad concerned, upon blanks furnished by the commission, and filed in the office of the commission within ten days after such fire occurs. [C. L., sec. 55, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

EMPLOYEES.

43. Required to Use Fire Protective Devices Effectively.

Employees of a railroad shall at all times use in a proper and effective manner the fire protective appliances provided by such railroad. [C. L., sec. 55, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]
(See also II, 36.)

Duties of Fire Patrolmen.

(See II, 40 ¶3.)

LIABILITY.

General Cross-References.

Criminal: Misdemeanor. (See II, 54, 55.) *Felony.* (See II, 56.)

Civil: General penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

NOTE.—For references to additional penalties for violation of certain specific provisions, see II, 58 ¶1, ¶4, ¶5, ¶6, ¶7, ¶8.

STEAM OPERATED ENGINES, MACHINES, AND POWER PLANTS, OTHER THAN RAILROAD LOCOMOTIVES.**44. Prevent the Escape of Sparks, Cinders and Coals, On or Near Forest Lands, Under Direction of Commission.**

No device for generating power which burns wood, coke, lignite or coal shall be operated in, through or near forest land, unless the escape of sparks, cinders or coals shall be prevented in such manner as may be required by the commission. [C. L., sec. 54, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

Liability for failure to comply with requirement:

Criminal. (See II, 54, 55.)

Civil: General penalty. (See II, 57.) *Special penalty.* (See II, 58 ¶1, ¶3.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

COMPULSORY BRUSH AND SLASH DISPOSAL.

(In fire towns.)

INCIDENT TO LUMBERING, PUBLIC WORKS, AND FARMING.**45. Evergreen Trees must be Top-Lopped at Time of Felling—Exceptions.**

'1. Every person¹ who shall within any of the fire towns fell or cause to be felled or permit to be felled any evergreen tree for sale or other purposes shall cut off or cause to be cut off from the said tree at the time of felling the said tree, unless otherwise authorized by the commission before the trees are felled, all the limbs thereof up to a point where the trunk of the said tree has a longest diameter which does not exceed three inches, unless the said tree be felled for sale and use with the limbs thereon or for use with the limbs thereon. [C. L., sec. 54, subsec. 2; L. 1916, ch. 451, sec. 1.]

'2. Extension of time may be granted by commission.—[The commission] May grant an extension of time in which owners may comply with subdivision two of section fifty-four² when the commission is satisfied that such an extension of time will not endanger the forests to fire, but in no case shall an extension be granted for a period of more than six weeks from the time of cutting. [C. L., sec. 50, subsec. 23; * * *; L. 1916, ch. 451, sec. 1.]

46. Logs and other Inflammable Slashings must not be Left within Certain Designated Distances of Rights of Way of Railroads and Public Highways.

In any of the fire towns, brush, logs, slash or other inflammable material resulting from the cutting of trees hereafter shall not be left or allowed to remain on land within twenty-five feet of the right of way of a railroad or within twenty feet of the right of way of a public highway. [C. L., sec. 54, subsec. 7; * * *; L. 1917, ch. 266, sec. 3.]

47. Brush or Other Inflammable Material must not be Left Upon Rights of Way of Highways.

No person¹ shall deposit, and leave in any of the fire towns, brush or inflammable material upon the right of way of highways. [C. L., sec. 54, subsec. 8; * * *; L. 1916, ch. 451, sec. 1.]

General Cross-References.

Permit required if slash is disposed of by burning. (See II, 31.)

Liability for failure to comply with requirements:

Criminal. (See II, 54, 55.)

Civil: General penalty. (See II, 57.) *Damages.* (See II, 59, 60, 61.) *Costs of fire-fighting.* (See II, 62.)

NOTE.—For references to additional penalties for violation of certain specific provisions, see II, 58 ¶1, ¶2, ¶4.

LEGAL PROCEDURE.

INSTITUTION OF PROCEEDINGS.

48. Power of Commission to Institute and Conduct Proceedings Under Article IV^a of the Conservation Law.

[The commission is empowered to bring] Such actions or proceedings as may be necessary to insure the enforce-

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² See ¶1 of this section.

^a See Table of Acts, on p. 38.

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ment of the provisions of this article. [C. L., sec. 50, subsec. 11 (b); * * * ; L. 1916, ch. 451, sec. 1.]

49. Deputy Attorney General Acts for Commission in Legal Proceedings.

It shall be the duty of the attorney general, when requested by the commission, to appoint a deputy attorney-general, and such assistants as may be necessary, and assign them to the commission. The deputy attorney-general shall receive an annual salary of five thousand dollars. The salaries of the assistants shall be fixed by the commission. It shall be the duty of such deputy, in the name of the attorney-general, to conduct all prosecutions for penalties imposed by the forest, fish and game law or by this chapter, and to bring all actions, suits and proceedings, which the commission shall be authorized to institute and maintain, and to defend all actions, suits and proceedings brought against the commission. Such deputy shall also act as counsel to the commission. [C. L., sec. 9; * * * ; L. 1915, ch. 318, sec. 7.]

50. Actions for Penalties Are Brought in the Name of the "People of the State of New York."

¶1. Actions for penalties for violations of any provision of this chapter shall be in the name of the "People of the State of New York;" [Brought on order of the commission.—] and must be brought on the order of the commission, and may be compromised, settled and discontinued as provided in section nine¹ of this chapter. Such actions, if in justice courts, may be brought in any town of the county in which the penalty is incurred, or, if the defendant resides in another county, in any town of the county in which the defendant resides. [C. L., sec. 26; L. 1912, ch. 444, sec. 4.]

¶2. Jurisdiction of courts in criminal cases.—Subject to the power of removal provided in the code of criminal procedure, courts of special sessions and police courts shall have, in the first instance, jurisdiction of offenses committed under this chapter, within their respective counties. A warrant shall be returnable before the magistrate issuing the same. And, for the purpose of this chapter only, the jurisdiction of the courts mentioned in this section is extended as to misdemeanors to permit the imposition of the fines and sentences authorized by this chapter. [C. L., sec. 31; L. 1912, ch. 444, sec. 4.]

METHOD OF PROCEDURE.

51. Immunity of Witnesses.

No person shall be excused from testifying or producing any books, papers or other documents in any civil or criminal action, or proceeding taken or had under this chapter, upon the ground that his testimony might tend to convict him of a crime, or to subject him to a penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concern-

¹ The commission has no authority to compromise, settle, or discontinue under sec. 9, mentioned above, which has to do solely with questions of land titles and the authority of the court thereunder, but is otherwise granted compromise powers as to civil judgments acting under Article IV. (See II, 53.)

ing which he shall, under oath, have testified or produced documentary evidence, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained is intended to give, or shall be construed as in any manner giving, unto any corporation, immunity of any kind. [C. L., sec. 35; L. 1912, ch. 444, sec. 4.]

52. Full Costs May Be Recovered in Actions for Penalties.

¶1. In case of recovery of any amount in an action brought for a penalty under this chapter or in any action authorized by this chapter, in any court of record, the people shall be entitled to recover full costs, of course, and at the rates as provided by section thirty-two hundred and fifty-one of the code of civil procedure, together with witnesses' fees and other disbursements. [C. L., sec. 27; * * * ; L. 1915, ch. 554, sec. 1.]

¶2. Enforcement of judgment.—Judgments recovered under this chapter may be enforced by execution against the person as provided by the code of civil procedure. A person taken into custody upon such an execution shall not be admitted to the liberties of the jail and shall be confined for not less than one day, and at the rate of one day for each dollar of the amount of the judgment recovered. No person shall be imprisoned more than once, or for more than six months on the same judgment. Imprisonment shall not operate to satisfy a judgment. [C. L., sec. 28; L. 1912, ch. 444, sec. 4.]

(See also II, 57 ¶2.)

53. Compromise in Cases of Civil Liability.

a. Authority to compromise such cases.—¶1. By the commission.—[The commission] May compromise or adjust any judgment or claims arising out of violations of any provisions of this article,¹ [Cases involving titles to lands excepted.—] except where title to land is involved. [C. L., sec. 50, subsec. 12; * * * ; L. 1916, ch. 451, sec. 1.] ¶2. By employees, when specifically authorized.—No employees shall compromise or settle any violation of this article without the order of the commission. [C. L., sec. 51, subsec. 16; * * * ; L. 1916, ch. 451, sec. 1.]

b. Procedure in such cases.—A person who has violated any of the provisions of this chapter and who desires to compromise and settle his civil liability therefor may appear with any regular or special game protector, fisheries protector, fire superintendent, forest ranger or inspector, before a court or justice having jurisdiction in civil actions, and thereupon such person may, upon the consent of the representative of the conservation commission appearing, compromise and settle his liability for civil penalties under this chapter, for an amount agreed upon between said court or justice, the representative of the conservation commission and the person who committed such violation, which amount

¹ Article IV of the C. L. (See Table of Acts, on p. 38.)

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shall be not less than ten dollars nor more than the amount for which such person would be liable in a civil action for penalties. If such compromise be made, such person shall forwith subscribe his name to a statement setting forth concisely the facts constituting such violation, the amount agreed upon, and that a judgment may be entered against him for that sum. Upon said statement being sworn to before and filed with said court or justice, he shall forthwith enter in his civil docket a record of the proceedings and the amount of the judgment.

Said court or justice shall upon the entry of such judgment be entitled to a fee of one dollar and fifty cents to be paid by the person who committed such violation.

A judgment entered as provided herein may be enforced by an execution against the property of the defendant; but no body execution shall issue thereon. Such judgment shall be a bar to a criminal action for the same violation, if satisfied within thirty days from the date of the entry thereof. [C. L., sec. 36; * * *; L. 1917, ch. 486, sec. 3.]

General Cross-References.

Court reports, to the commission, disposition of cases, tried or compromised. (See sec. 37, C. L., in vol. of 1917 Laws, ch. 486, sec. 4.)

Actions pending in 1911 are continued by, or against, the commission. (See I, 2 ¶1, footnote 3.)

CRIMINAL LIABILITY.**54. Misdemeanors Under Article IV¹ of Conservation Law.**

¶1. **Preamble.**—In order to secure the enforcement of the several sections of this article,¹ the following fines and penalties² are provided. [C. L., sec. 63, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Defined.**—Any person³ who violates any provisions of this article¹ or who fails to perform any duty imposed by any provision thereof shall be guilty of a misdemeanor, * * * [C. L., sec. 63, subsec. 1; * * *; L. 1917, ch. 266, sec. 6.]

Penalties. (See II, 55.)

55. Penalties for Misdemeanors Under Conservation Law, in General.

For first offense.—A person³ convicted of a misdemeanor under this chapter, except as otherwise provided herein,⁴ shall be punished by a fine of not less than ten dollars nor more than one hundred dollars; and if such fine is not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine; [**For second offense.**—] if any person be convicted a second time of a misdemeanor under this chapter, except as otherwise provided herein, he shall be punished

either by a fine of not less than twenty-five dollars nor more than one hundred and fifty dollars; or by imprisonment in a county jail or penitentiary for not more than one hundred days, or by both such fine and imprisonment; if a fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied which imprisonment shall be at the rate of one day for every dollar of such fine; [**For third offense.**—] if a person shall be convicted a third time of a misdemeanor under this chapter, unless otherwise provided herein, he shall be punished by imprisonment in a county jail or penitentiary for not less than ten days nor more than six months; and by a fine of not less than ten dollars nor more than one hundred dollars; and if the fine imposed be not paid, he shall be imprisoned in a county jail or penitentiary until such fine is satisfied; which imprisonment shall be at the rate of one day for every dollar of such fine and shall be in addition to the prison sentence. [C. L., sec. 32; * * *; L. 1916, ch. 521, sec. 2.]

56. Felony, Under the Conservation Law.

Setting fire wilfully on or near forest lands.—Any person¹ who sets fire wilfully in violation of section fifty-four, subdivision three,² shall be guilty of a felony. [C. L., sec. 63, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

See also Appendix p. 36, "Excerpts from the Penal Law."

CIVIL LIABILITY.**57. General Penalty for Violation of Provisions Under Article IV³, or Failure to Perform Duties Thereunder.**

* 1. [Any person¹ who violates any provision of Article IV³, or who fails to perform any duty imposed by any provision thereof, shall be guilty of a misdemeanor⁴] and in addition thereto shall be liable to a penalty of not less than ten nor more than one hundred dollars. [C. L., sec. 63, subsec. 1; * * *; L. 1917, ch. 266, sec. 6.]

* 2. **Imprisonment in case of default in respect to payment of penalties imposed under section 63⁵ of the conservation law.**—In default of the payment of any fine⁶ or penalty imposed under this section,⁵ the defendant may be committed to jail until such fine or penalty is paid, but the term of confinement shall not exceed one day for each dollar of fine imposed. [C. L., sec. 63, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.] (See also II, 52 ¶2.)
Civil penalties may be compromised. (See II, 53.)

58. Additional Special Penalties for Failure to Comply with Certain Requirements of Article IV.³

¶1. **Preamble.**—The violation of any of the provisions of the following sections⁷ shall subject the person¹ guilty

¹ The term "person," as used in Article IV of the conservation law includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² Subsec. 3 of sec. 51 of the conservation law. (See Table of Acts, on p. 38.)

³ See Article IV of the conservation law, in Table of Acts, on p. 38.

⁴ See II, 54 ¶2.

⁵ For section 63 of the conservation law, see Table of Acts, on p. 38.

⁶ The fines in cases of misdemeanor, which were formerly imposed by this section (sec. 63 of the conservation law), were omitted by the 1917 amendment of subsec. 1, thereof. (See ¶1 of this section.)

⁷ Secs. 54, 55 of conservation law. (See Table of Acts, on p. 38.)

¹ See Article IV of conservation law, in Table of Acts, on p. 38.

² For provisions, in full, concerning these fines and penalties, see sec. 63 of the C. L., in Table of Acts, on p. 38.

³ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

⁴ See I, 21 ¶3, ¶1.

PART II—Continued.]

thereof to the following penalties in addition to the liability prescribed in subdivision one¹ of this section; ¶2. [Properly top-logging evergreen trees.—]section fifty-four, subdivision two,² penalty of two dollars per tree; ¶3. [Equipment of portable engines, operating near forest lands, with proper fire protective devices.—]for failure to comply with the provisions of subdivision six³ of section fifty-four, penalty of twenty-five dollars per day; ¶4. (a) [Must not leave logs and other inflammable slashings within certain designated distances of rights of way of railroads and public highways.—]for violation of subdivision seven⁴ of section fifty-four, penalty of ten dollars per mile per day, and the owner, and every other person engaged in such cutting shall be liable therefor; * * * (b) Limitation as to time when liability begins to run, under (a).—Nevertheless, liability for penalty for violation of subdivision seven⁴ of section fifty-four shall not arise until the expiration of twenty days after notice in writing of failure to comply with the requirements of such subdivision. Service of notice, how made.—Service of such notice may be made personally or by mail to the last known place of residence or locality of such person. ¶5. Clearing rights of way and maintenance of fire patrol.—* * * for violation of the several subdivisions of section fifty-five⁵ as follows: subdivisions one⁶ and two⁷, ten dollars per mile per day; ¶6. [Equipment of locomotives with fire protective devices.—]subdivision three,⁸ one hundred dollars per day per locomotive; ¶7. [Examination of devices on coal-burning locomotives, and keeping records open to commission.—]subdivision five,⁹ penalty of twenty-five dollars per day per place and penalty of one hundred dollars for failure to show record of inspector; ¶8. [Must not leave deposits of live coals, etc., upon tracks and rights of way on or near forest lands.—]for violation of subdivision six,¹⁰ one hundred dollars for each offense. [C. L., sec. 63, subdiv. 2; * * *; L. 1917, ch. 266, sec. 6.]

Imprisonment is provided in case of default in respect to payment of penalties imposed under section 63^a of the conservation law. (See II, 57 ¶2.)

Civil penalties may be compromised. (See II, 53.)

59. Damages when Forest Fires Are Caused Through Negligence.

Preamble.—In case of damage by forest fire negligently caused the injured party may maintain actions in accordance with such of the following provisions¹¹ as are applicable thereto and shall have redress therefor. [C. L., sec. 56, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¹ See II, 57 ¶1.

² See II, 45 ¶1.

³ See II, 44.

⁴ See II, 46.

⁵ See 55 of conservation law. (See Table of Acts, on p. 38.)

⁶ See II, 40 ¶1.

⁷ See II, 39.

⁸ See II, 36.

⁹ See II, 37 ¶1.

¹⁰ See II, 38 ¶1.

¹¹ See Table of Acts, on p. 38.

¹² For these provisions, in full, see this section and: be two sections which immediately follow (secs. 59, 60, 61).

a. ¶1. On state lands.—Any person¹ who causes a fire which burns on or over state lands shall be liable to the state for treble damages and, in addition, to a penalty of ten dollars for every tree killed by such fire. [C. L., sec. 56, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Rates of damages same as for private lands.—Damages to state lands and timber shall be ascertained and determined at the same rate of value as if such property were privately owned. [C. L., sec. 56, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

b. On municipal or private lands.—Any person¹ who causes a fire which burns on or over lands belonging to another person or to a municipality shall be liable to the party injured for actual damages in case of fire negligently caused or * * *; [C. L., sec. 56, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

c. Liability not affected by distance from origin of fire, or fact of intervening tracts.—The state, a municipality or any person¹ may sue for and recover under subdivisions one² or two³ of this section, however distant from the place where the fire was set or started and notwithstanding the same may have burned over and across several separate, intervening and distinct tracts, parcels or ownerships of land. [C. L., sec. 56, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

60. Prima Facie Evidence of Negligence.

a. By railroad company, when fire originates upon right of way.—The fact that a fire originates upon the right of way of a railroad shall be prima facie evidence that the fire was caused by negligence of the railroad company. [C. L., sec. 56, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

b. By owner or occupant of the land, when fire is set for clearing land, or disposing of brush, logs, etc., within a fire town.—Whenever a fire has been set for the purpose specified in subdivision five of section fifty-four^a in any of the fire towns it shall be prima facie evidence that the fire was started by the owner or occupant of the land. [C. L., sec. 56, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

61. Damages when Forest Fires Are Wilfully Caused.

On municipal, or private lands.—[Any person¹ who causes a fire which burns on or over lands belonging to another person or to a municipality shall be liable to the party injured] for damage at the rate of one dollar for each tree killed or destroyed in case of fire wilfully caused. [C. L., sec. 56, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

Liability not affected by distance from origin of fire, or fact of intervening tracts. (See II, 59c.)

62. Costs of Fire-Fighting May Be Recovered, in Addition to Damages and Penalties.

Any moneys necessarily expended by the state, a municipality, or any person¹ in fighting forest fires may be sued for by the state, municipality or person expending

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² See subsec. a ¶1 of this section.

³ See subsec. b of this section, and II, 61.

^a See Table of Acts, on p. 38.

PART II—Continued.]

the same and recovered from the person¹ causing the fire. Such actions may be maintained in addition to other actions for damages or penalties and may be demanded in the same or separate actions. [C. L., sec. 53, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of state and municipal forests and for the practice of forestry on these and on other lands owned by the state.)

STATE FORESTS.

PURPOSE OF ESTABLISHMENT.

1. For Use of All the People.

All lands within such park,² now owned, or which may hereafter be acquired by the state, shall be forever reserved and maintained for the free use of all the people. [C. L., sec. 62, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

NOTE.—Included in the above general purpose, the law specifically provides that these lands may be used, under certain conditions, in connection with river improvement and regulation works to the extent necessary, except that not to exceed 3 per cent of the area may be used for construction and maintenance purposes. [C. L., sec. 456-a; L. 1914, ch. 493, sec. 1; and C. L., sec. 446; L. 1916, ch. 584, sec. 1.]

2. Protective Restrictions.

Preamble.—In order to protect the lands described in this article³ the following provisions⁴ shall apply. [C. L., sec. 61, preamble; * * *; L. 1916, ch. 451, sec. 1.]

a. Certain acts prohibited:

¶1. **Tresspass upon timber, in general, or other property.**—No person⁵ shall cut, remove or destroy any trees or timber or other property thereon or enter upon such lands with intent so to do. [C. L., sec. 61, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Injury to trees planted for reforestation.**—No person⁵ shall injure or cause to be injured any trees planted for the purpose of reforestation. [C. L., sec. 61, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Special penalties for cutting trees.**—Any person⁵ who cuts or causes to be cut any tree or trees upon the

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² This statement of purpose is applicable to the forest preserve, as a whole, notwithstanding that the above text constitutes a part of the description of the Catskill Park, since a similar declaration of purpose is appended to the description of the Adirondack Park. (See III, 39 ¶2.)

³ The term "lands described in this article" (Art. IV of C. L.), would seem to lead to the inference that the provisions of this section apply to lands in municipal forests, as well as to those belonging to the State. In most of the provisions, however, the restrictions are specifically placed upon State lands.

⁴ For these provisions, in full, see Sec. 61 of C. L., in Table of Acts, on p. 38.

⁵ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

DISPOSITION OF MONEYS RECOVERED IN ACTIONS FOR PENALTIES.

Under Article IV^a of the Conservation Law.

Net proceeds available for forest fire protective work. (See II, 30.)

forest preserve shall be liable to a penalty of ten dollars per tree or treble damages or both. [C. L., sec. 63, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

¶4. **Use of lands for agricultural or grazing purposes.**—No person¹ shall use any portion of the forest preserve for agricultural purposes, nor shall cattle or domestic animals of any kind be permitted to graze thereon. [C. L., sec. 61, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶5. **Depositing rubbish or other waste material.**—No person¹ shall deposit or leave thereon any rubbish or other waste material. [C. L., sec. 61, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

¶6. **Leasing or transferring of lands or improvements.**—No person¹ shall lease, transfer or accept any lease or transfer of any lands in the forest preserve or of any improvements thereon. [C. L., sec. 61, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

b. Permit required for erection or use of buildings.

¶1. No buildings shall be erected, used or maintained upon the forest preserve except under permits from the commission. [C. L., sec. 61, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **In connection with working mines.**—Permission to erect buildings for working mines upon state lands within the forest preserve may be given by the * * * [conservation] commission, and elsewhere, by the commissioners of the land office, when such lands are entirely denuded of timber or when such commission or commissioners are satisfied that the erection or occupation of such buildings will not be detrimental to the interests of the state. **Trees may only be removed incident to road-making.**—Nothing in this article² shall authorize any person working a mine upon state lands to cut or destroy any timber whatever except such trees as it may be actually necessary to remove in order to uncover or make a road to such mine. **Payment required for trees removed, over a certain size.**—For each tree measuring four inches or more in diameter at a height of one foot from the ground, which shall be so cut, the party operating the mine shall pay into the state treasury the sum of one dollar. [Pub. Lands L.,³ sec. 84.]

^a See Table of Acts, on p. 33.

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

² Article 7 of public lands law.

³ The public lands law is contained in L. 1909, ch. 50, and its equivalent in ch. 46 of the consolidated laws, both as amended through 1917.

PART III—Continued.]

c. **Permit required to work mines.**—Nothing contained in this article¹ shall affect any grant heretofore made by the legislature to persons having discovered mines; nor be construed to give any person a right to enter upon or break up the lands * * * of the state, or to work any mine in such lands, unless the written consent * * * of the commissioners of the land office, when the lands belong to the state, shall be previously obtained. [Pub. Lands L., sec. 84.]

General provisions as to liability for violations of provisions of Article IV^a of C. L.: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

d. **Suitable conditions may be imposed by commission in disposing of improvements.**—The commission may dispose of any improvements upon the forest preserve under such conditions as it deems to be to the public interest. [C. L., sec. 61, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

e. **Permit required for removal of material belonging to the state.**—No person² shall remove any material belonging to the state from the state lands without the authorization of the commission. [C. L., sec. 61, subsec. 8; * * *; L. 1916, ch. 451, sec. 1.]

General provisions as to liability for violations of provisions of Article IV^a of C. L.: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

ESTABLISHMENT.

3. Forest Preserve Defined.

a. **General description of areas.**—The forest preserve shall include the lands owned or hereafter acquired by the state within the county of Clinton, except the towns of Altona and Dannemora, and the counties of Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, Saratoga, Saint Lawrence, Warren, Washington, Greene, Ulster and Sullivan, except

(a) Lands within the limits of any village or city, and
(b) Lands not wild lands and not situated within either the Adirondack park or the Catskill park acquired by the state on foreclosure of mortgages made to loan commissioners. [C. L., sec. 62, subsec. 1; * * *; L. 1917, ch. 266, sec. 5.]

b. **¶1. Adirondack park.**—All lands³ located in the forest preserve counties of the Adirondacks within the following-described boundaries, to wit: * * * [¶2.] shall constitute and be known as the Adirondack park. All lands within said park now owned, or which may hereafter be acquired by the state, shall be forever reserved and maintained for the use of all the people. [C. L., sec. 62, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

c. **¶1. Catskill park.**—All lands⁴ located in the counties of Greene, Delaware, Ulster and Sullivan within the fol-

lowing-described boundaries, to wit: * * * [¶2.] shall constitute and be known as the Catskill park. [C. L., sec. 62, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

Lands reserved for free use of all the people. (See III, 1.)

4. Lands Acquired by Purchase.

a. **Under conservation law, with approval of the governor.**—[The commission may] Purchase, subject to the approval of the governor, lands, forests, rights in timber or any interest therein, situated within the Adirondack or the Catskill parks or lands contiguous, connected with or adjacent to either park. [C. L., sec. 50, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

b. **Under bond issue appropriation act, with approval of commissioners of the land office.**—Any such lands⁵ [as are indicated in sec. 1 of this act (see III, 14 ¶2.)] may be acquired under the direction of the conservation commission by purchase, by and with the advice and consent of the commissioners of the land office,² without other approval, or * * * [L. 1917, ch. 146, sec. 2.]

Payment made only upon warrant and audit of comptroller, based on approved vouchers of conservation commission and commissioners of the land office, with certificate of attorney general as to title and conveyance. (See III, 13.)

5. Lands Acquired by Entry and Appropriation.

a. **Under conservation law, with approval of the governor:**

¶1. **Preamble.**—The commission shall, with the approval of the governor, have the power and authority to appropriate real property in the manner and under the conditions herein³ defined: [C. L., sec. 59, preamble; * * *; L. 1916, ch. 451, sec. 1.]

¶2. The commission may enter upon and take possession of any lands or waters or both, or of any forests and rights in timber upon such lands, or upon any part, or portion thereof, within the Adirondack or Catskill parks or adjacent thereto, the appropriation of which, in the judgment of said commission, shall be necessary for public park purposes, or for the protection and conservation of the lands, forests and waters within the state, and [sic] * * * [C. L., sec. 59, subsec. 1 (a); * * *; L. 1916, ch. 451, sec. 1.]

b. **Under bond issue appropriation act, with approval of the commissioners of the land office.**—* * * they [such lands as are indicated in sec. 1 of this act (see III, 14 ¶2)] may be acquired under the direction of the conservation commission by entry and appropriation in the manner

¹ The term "lands," as used in this act, includes the improvements thereon, if any. All land acquired under this act shall be for the use of all the people. [L. 1917, ch. 146, sec. 4.]

² The [Bond Issue] enabling act concerning this bond issue contains the following provision: "Subject to the filing of such consent, any such proceedings shall be conducted by and in the name of the conservation commission; Provided, however, that if any other board, officer or commission shall succeed by law to the general powers of the conservation commission in relation to the care of the forest preserve, such latter board, officer or commission shall have and exercise all of the powers and duties conferred by any provision of this section upon the conservation commission." [L. 1916, ch. 569, sec. 4.]

³ For these provisions, in full, so far as they concern forestry, see sec. 59 of C. L., in the Table of Acts on p. 33.

e See Table of Acts, on p. 38.

¹ Article 7 of public lands law.

² The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company, or a corporation. (See Appendix, p. 35.)

³ The text of this description, in detail, which is here omitted, will be found in the Appendix (see p. 33).

⁴ The text of this description, in detail, which is here omitted, will be found in the Appendix (see p. 34.)

PART III—Continued.]

provided by section fifty-nine^a of the conservation law, as amended, relating to lands within the Adirondack or Catskill parks or adjacent thereto. **Sec. 59 of C. L. applies.**—All the provisions of such section shall apply to lands to be acquired under this act¹ and the acquisition thereof and to compensation or damages therefor. **[Exceptions.]**—excepting as follows: (1) the entry and appropriation shall be with the advice and consent of the commissioners of the land office instead of the approval of the governor, and (2) such consent, in writing, shall be filed with the county clerk of each county in which lands proposed to be taken are situated. [L. 1917, ch. 146, sec. 2.]

Lands acquired subject to retention by owner of title to timber. (See III, 8.)

6. Lands Acquired by Gift or Devise.

Under conservation law.—[The commission may] Receive and accept in the name of the people of the state, by gift or devise, the fee or other estate therein of lands or timber or both, for forestry purposes. [C. L., sec. 50, subsec. 7; * * *; L. 1916, ch. 451, sec. 1.]

7. Lands Acquired by Tax Sales.

NOTE.—The provisions under which the State acquires lands through tax sales are general, and the text is, accordingly, omitted here as not being properly forestry legislation. Briefly, the general scope of these provisions may be stated as follows:

1. By bidding in in the first instance. (See Tax L.,² secs. 122, 123, 133.)

2. By reversion through default in payment by the original purchaser. (See Tax L., sec. 126.)

3. By purchase, through priority right, when originally bid in by the following counties: Saint Lawrence, Lewis, Clinton, Warren, Washington and Oneida. (See Tax L., secs. 150, 151.)

8. Lands Acquired by Entry and Appropriation Subject to Retention of Title to Timber by Owner, Under Both Conservation and Bond Issue Appropriation Acts.³

a. Through agreement.—Land acquired by purchase⁴ may be taken subject to the reservation of the trees thereon **[Diameter limit.]**—down to eight inches in diameter, breast high, at the time of such purchase, **[Right to owner to remove timber, subject to any existing encumbrances.]** with the right to the owner to remove the same within the time specified in the next section,⁵ or upon agreement between the commission and the owner, subject to any lease, mortgage, or other encumbrance, not extending fifteen years beyond the date of acquisition. **Value of timber reserved and of other encumbrances, to be deducted from purchase price.**—The amount or value of any such lien, encumbrance or timber reservation, upon land so pur-

chased, shall be deducted from the purchase price thereof. [C. L., sec. 59, subsec. 10; * * *; L. 1916, ch. 451, sec. 1.]

b. Through court of claims proceedings.—The owner of land taken under this article¹ may, **[With consent of commission and under certain conditions.]** with the written consent of the conservation commission, and within the limitations hereinafter prescribed,² reserve trees thereon **[Diameter limit.]**—not less than eight inches in diameter, breast high, at the time of the service of the notice **[Removal not to destroy forest floor.]**—provided the removal of such trees will not destroy the forest cover. **Time limit for making reservation.**—Such reservation must be exercised within six months after the service upon the owner of a notice of the appropriation, by the owner serving upon such commission a written notice that he elects to reserve such trees. **Waiver of right.**—If such 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 trees shall thereupon become and be the property of the state. 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. [C. L., sec. 59, subsec. 9; * * *; L. 1916, ch. 451, sec. 1.]

9. Such Retention of Title to Timber Subject to Certain Limitations.

Preamble.—The right to reserve timber, and the manner of exercising and consummating such right, are subject to the following restrictions, limitations and conditions:³ [C. L., sec. 59, subsec. 11; preamble, * * *; L. 1916, ch. 451, sec. 1.]

a. As to location with reference to lakes, ponds, or rivers.—Timber within twenty rods of a lake, pond or river cannot be reserved. **Roadway rights, and conditions attached.**—Under the supervision of the commission roads may be cut or built across or through such excepted space of twenty rods, for the purpose of removing trees from adjoining lands, and the person⁴ reserving such timber on the adjoining lands, his legal representatives or assigns, shall have the right, which right shall be deemed a part of such reservation, to construct such roads, through and across the reserved timber land, and through and across such excepted strip, as may be necessary to remove the timber so reserved; but in constructing such roads only such trees shall be cut as are within the limits of such roads. The commission may prescribe the manner of all such roads **[Use of dead, down, and other necessary timber.]** and may permit the use of any dead, down or other necessary timber for the construction only of roads, skidways, lumber camps, or for fuel, which right shall also be deemed a part of the soft wood timber reservation by the owner. No trees or timber shall be cut for the construction of roads, camps or other

^a See Table of Acts, on p. 38.

¹ L. 1917, ch. 146. (See Table of Acts, on p. 38.)

² "Tax L.," as used in this compilation of the forestry laws of New York, indicates the tax law (ch. 62, Laws 1909, and its equivalent, ch. 60 of the Consolidated Laws, both as amended through 1917).

³ See III, 56.

⁴ See III, 47.

⁵ See III, 96.

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² See III, 9.

³ For provisions, in full, see subsecs. a and b of this section.

⁴ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

PART III—Continued.

purposes, except such as are reserved by the owner, or for which permission to cut has been given as provided in this section. [C. L., sec. 59, subsec. 11 (a); * * *; L. 1916, ch. 451, sec. 1.]

b. As to time of removal.—All timber reserved by the owner must be removed from the land within fifteen years after the service of notice of reservation or the making of the contract of purchase, subject to reasonable regulations to be prescribed by the commission; such land shall not be cut over more than once, and said commission may prescribe reasonable regulations for the purpose of enforcing this limitation. **Forfeiture of title.**—All timber reserved, and not removed from the land within such time, shall thereupon become and be the property of the state, and all title or claim thereto by the original owner, his legal representatives or assigns, shall thereupon be deemed abandoned. [C. L., sec. 59, subsec. 11 (b); * * *; L. 1916, ch. 451, sec. 1.]

c. As to use of waters for removal.—Persons¹ entitled to cut and remove timber under this article may use streams or other waters of the state within the forest preserve counties for the purpose of removing such timber, under such regulations and conditions as may be prescribed or imposed by the commission. **Liability for damages suffered by state.**—The persons using such waters shall be liable for all damages suffered by the state or any person caused by such use. [C. L., sec. 59, subsec. 19; * * *; L. 1916, ch. 451, sec. 1.]

d. As to payments:

¶1. Payment is deferred until the following conditions are complied with.—A person¹ who reserves timber as provided in this article² shall not be entitled to any compensation for the value of the land purchased or taken and appropriated by the state, or for any damages caused thereby, until []

(a) **Timber has been removed.**—The timber so reserved is all removed and the object of the reservation fully consummated; or

(b) **Time limit for removal has expired, or right of removal has been waived.**—The time limited for the removal of such timber has fully lapsed, or the right to remove any more timber is waived by a written instrument filed with said commission; and

(c) **Commission satisfied that no cause of action by State exists against owner.**—Said commission is satisfied that no trespass on state lands has been committed by such owner, or his assigns, or legal 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

(d) **Rules and regulations have been fully complied with.**—That the owner, his assignee or other legal representatives, has fully complied with all rules, regulations

and requirements of said commission concerning the use of streams, or other property of the state, for the purpose of removing such timber. **Proviso: Payment, upon conditions prescribed, may be directed at any time.**—Provided, however, that said commission may at any time by its certificate filed with the comptroller direct the payment to the owner of such land, his legal representatives or assigns, of the compensation therefor, or a part thereof, at such time and upon such conditions as may be set forth in the certificate. [C. L., sec. 59, subsec. 12; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Interest not payable on purchase price, or award, for value of lands or for damages caused—Exception.—If timber is reserved upon land purchased or appropriated as provided by this article,³ 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 subdivision seven of this section.² [C. L., sec. 59, subsec. 17; * * *; L. 1916, ch. 451, sec. 1.]

10. Procedure in Taking Possession of Lands, Under Both Conservation and Bond Issue Appropriation Acts.³

a. A description of such lands, properly endorsed, is filed in the office of the Secretary of State.—An accurate description of such property so entered upon and appropriated⁴ shall be made by the commission, who shall certify under its seal that the description is correct, and shall endorse thereon a notice that the property described therein is appropriated by the people of the state of New York for the purpose described in this section.⁵ The original of such description and certificate shall be filed in the office of the secretary of state. The conservation commission may make such additional copies of this certificate and description as may be necessary and certify the same. [C. L., sec. 59, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

b. ¶1. One copy of such endorsed description given, in person, or otherwise, to the owner of the lands, completes the procedure.—The said commission shall thereupon cause a duplicate of said description and certificate, with notice of the date of filing thereof in the office of said secretary of state, to be served on the owner or owners of the lands, forests, and rights in timber upon such lands and waters so appropriated; and from the time of such service the entry upon and appropriation by the people of the state of the property described in such notice shall be deemed complete, and thereupon such property shall become, and be, the property of the people of the state. **Effect upon status of lands.**—Such notice shall be conclusive evidence of an entry and appropriation by the state; but the service of such notice shall raise no presumption that the lands, forests, and rights in timber

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² See III, 12.

³ See III, 5b.

⁴ See III, 5a, b.

⁵ Sec. 59 of C. L. (See Table of Acts, on p. 38.)

¹ The term "person," as used in Article IV of the conservation law, includes a copartnership, joint-stock company or a corporation. (See Appendix, p. 35.)

² Article IV of C. L. (See Table of Acts, on p. 38.)

PART III—Continued.)

upon such lands described therein are private property. [C. L., sec. 59, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Service of the notice and papers provided for under subdivision three must be personal if the person to be served can be found within the state. If the person to be served falls within any of the classes mentioned in section four hundred and thirty-eight of the code of civil procedure, the provisions of article second, title one of chapter five of the code of civil procedure relating to the service of a summons in an action in the supreme court, shall apply, so far as practicable, to the service of such notice and papers. [C. L., sec. 59, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

c. A second copy of such endorsed description, together with evidence that the owner has been duly notified, to be filed in the office of the county court.—Said commission shall thereupon cause a duplicate of such description, certificate, and notice of filing, with an affidavit of due service thereof on such owner or owners, to be recorded in the books used for recording deeds in the office of the clerk of any county in this state in which any of the property described therein may be situated; [Evidence of due service of notice.—]and the record of such notice, and of such proof of service, shall be presumptive evidence of due service thereof. [C. L., sec. 59, subsec. 5; * * *; L. 1916, ch. 451, sec. 1.]

11. Payment for Lands Acquired through Agreement with the Owner, Incident to Entry and Appropriation, and for Damages Caused Thereto.

¶1. Commission may adjust, by agreement with owner, payment for lands, and for any damages caused. (Applies under both Conservation Law and Bond Issue Appropriation Act.¹)—Claims for the value of the property appropriated, and for legal damages caused by any such appropriation, may be adjusted by the commission, if the amount thereof can be agreed upon with the owner or owners thereof. Commission certifies to comptroller amount due.—Upon making any such adjustment and agreement the commission shall deliver to the comptroller a certificate stating the amount due to said owner on account of such appropriation of his land or other property. [Payment made upon warrant of the comptroller.—]and the amount so fixed shall be paid by the treasurer upon the warrant of the comptroller. [C. L., sec. 59, subsec. 6; * * *; L. 1916, ch. 451, sec. 1.]

¶2. Value of any timber reserved must be taken into consideration in determining amount of compensation.—If timber be reserved, its value at the time of making an agreement between the owner and said commission for the value of the land so appropriated, and the legal 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. [C. L., sec. 59, subsec. 13; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 8 a.)

¶3. Amount of damages and penalties for trespass or other injuries to lands may be adjusted by commission, and must be deducted from the compensation agreed upon, or amount awarded by court.—In case of trespasses or other injuries to lands or property purchased or acquired by the state the commission may settle and adjust any claims for damages due to the state on account of any such 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 land, or for damages, or from a judgment rendered by the court of claims on account of the appropriation of such land. Judgments recovered by State for such trespass or injuries must also be deducted from payments for lands.—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. [C. L., sec. 59, subsec. 14; * * *; L. 1916, ch. 451, sec. 1.]

Amount of any lease, mortgage, or other encumbrance must be deducted from payments for lands. (See III, 8 a.)

¶4. Commission must certify to the comptroller that these conditions have been complied with, in advance of issuance of warrant for amount of compensation agreed upon, or amount awarded by court.—A warrant shall not be drawn by the comptroller for the amount of compensation agreed upon between the owner and said commission, nor for the amount of a judgment rendered by the court of claims, until a further certificate by the commission is filed with the comptroller to the effect that the owner has not reserved any timber and that he, his assignee or other representative, has complied with the provisions of this article,² or has otherwise become entitled to receive the amount of the purchase price, award or judgment. [C. L., sec. 59, subsec. 16; * * *; L. 1916, ch. 451, sec. 1.]

For special procedure under the bond issue appropriation act, see III, 13.

12. Payment for Lands Acquired Through Court Procedure, Incident to Entry and Appropriation, and for Damages Caused Thereto. (Applies Under Both Conservation and Bond Issue Appropriation acts².)

¶1. Court of claims may determine value of lands and legal damages due, when commission and owner fail to agree thereon.—If the commission and the owner or owners of the property so appropriated fail to agree upon the value of such property, or upon the amount of legal damages resulting from such appropriation, within one year after the service of the notice and papers provided for in section sixty-eight³ of this chapter, such owner

¹ Article IV of C. L. (See Table of Acts, on p. 38.)

² See III, 5b.

³ Sec. 61 has been revised and renumbered as sec. 59, subsec. 3. (See III, 10b ¶1.)

¹ See III, 7 ¶ 4

PART III—Continued.]

may, within two years after the service of such notice and papers, present to the court of claims a claim for the value of such land and legal damages; and said court shall have jurisdiction to hear and determine such claim and render judgment thereon. **Payment made upon warrant of comptroller.**—Upon filing in the office of said commission, and in the office of the comptroller, a certified copy of the 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. [C. L., sec. 59, subsec. 7; L. 1916, ch. 451, sec. 1.]

¶2. **Court may examine lands and secure local testimony.**—The court of claims, if requested by the claimant or the attorney-general, shall examine the real property affected by the claim of damages for the appropriation thereof and take testimony in relation thereto in the county where such property or a part thereof is situated. [C. L., sec. 59, subsec. 8; * * *; L. 1916, ch. 451, sec. 1.]

¶3. **Judgment must show encumbrances upon property.**—When a judgment for damages is rendered for the appropriation of any lands or waters for the purposes specified in this article, and it appears that there is any lien or encumbrance upon the property so appropriated, the amount of such lien shall be stated in the judgment, and * * * [C. L., sec. 59, subsec. 15; * * *; L. 1916, ch. 451, sec. 1.]

Value of any timber reserved must be taken into consideration in determining amount of compensation. (See III, 11 ¶2.)

Amount of damages and penalties for trespass or other injuries to lands also deducted. (See III, 11 ¶3.)

¶4. **Taxing of costs and disbursements.**—If an offer is made by said commission for the value of land appropriated, or for damages caused by such appropriation, and such offer is not accepted, and the recovery [of the amount awarded] 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. [C. L., sec. 59, subsec. 18; * * *; L. 1916, ch. 451, sec. 1.]

¶5. **Comptroller may deposit in bank amount awarded, subject to payment under the judgment.**—* * * 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. [C. L., sec. 59, subsec. 15; * * *; L. 1916, ch. 451, sec. 1.]

Commission must certify to the comptroller that required conditions have been complied with, in advance of payment of amount of award or judgment. (See III, 11 ¶4.)

13. Restrictions on Payment for Lands Acquired Under the Bond Issue Appropriation Act.¹

Payment made only upon warrant and audit of comptroller, based on approved vouchers of conservation commission and commissioners of the land office, with certificate of attorney general, as to title and conveyance of lands purchased.—No moneys appropriated by this act¹, shall be paid out for any purpose, other than to pay judgments of the court of claims², except upon the warrant and audit of the comptroller and only after submission to him of vouchers therefor approved by the conservation commission and by the commissioners of the land office, accompanied, in the case of payments for lands acquired by contract, with the certificate of the attorney-general approving the title to and conveyance of lands purchased. [L. 1917, ch. 146, sec. 3.]

14. Appropriation of Funds, Under Bond Issue Appropriation Act.

¶1. **Issuance and sale of bonds authorized.**—Whenever the comptroller shall receive from the conservation commission an estimate in writing, approved by the commissioners of the land office, of the amount of moneys presently required for the objects and purposes of such appropriation, he shall issue and sell bonds, pursuant to chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen,³ to the amount of such estimate. The approval of such estimate by the commissioners of the land office shall be by resolution, which shall be attached to the estimate. [L. 1917, ch. 146, sec. 5.]

¶2. **Appropriation made of \$2,500,000 for acquisition of lands for state park purposes within the forest preserve counties.**—The sum of two million five hundred thousand dollars (\$2,500,000) is hereby appropriated out of moneys realized from the sale of bonds⁴ issued in accordance with the provisions of chapter five hundred and sixty-nine of the laws of nineteen hundred and sixteen,⁵ to acquire lands pursuant to such chapter for state

¹ L. 1917, ch. 146. (See Table of Acts, on p. 28.)

² Judgments of the court of claims under section fifty-nine of the conservation law shall be paid as therein provided. [L. 1917, ch. 146, sec. 3.] See also III, 12.

³ See volume of session laws.

⁴ The [Bond Issue] enabling act concerning this bond issue contains also the following provisions:

"The moneys realized from such bonds, after appropriation by the legislature, shall be available for payment of the purchase price, where lands are acquired by contract, and for the payment of judgments and awards in case of proceedings by condemnation or by entry and appropriation." [L. 1916, ch. 569, sec. 4.]

PART III—Continued.]

park purposes within the forest preserve counties, which lands, if owned by the state on the seventh day of November, nineteen hundred and sixteen, under the existing law would be part of the forest preserve. [L. 1917, ch. 146, sec. 1.]

LANDS LEVIED UPON FOR GENERAL PROPERTY TAXES, AND BRIDGE AND HIGHWAY LOANS.

15. Assessment of Taxes.

Assessed and taxed at like valuation and rate as similar private lands.—All wild or forest land within the forest preserve and also all such lands owned by the state in the towns of Altona and Dannemora, county of Clinton, except the lands in the town of Dannemora upon which buildings and inclosures are erected and maintained by the state for the use of state institutions, together with said buildings thereon, shall be assessed and taxed at a like valuation and rate as similar lands of individuals within the counties where situated. **Assessment roll recorded in office of comptroller and of conservation commission.** **Amount of forest and state lands shown.**—On or before August first in every year the assessors of the town within which the lands so belonging to the state are situated shall file in the office of the comptroller and of the conservation commission, a copy of the assessment-roll of the town, which in addition to the other matter now required by law, shall state and specify which and how much, if any, of the lands assessed are forest lands, and which and how much, if any, are lands belonging to the state; such statements and specifications to be verified by the oaths of a majority of the assessors. **Assessment subject to readjustment upon request of commission.**—The comptroller shall thereupon and before the first day of September following, and after hearing the assessors and the conservation commission, if they or any of them so desire, correct or reduce any assessment of state lands which may be in his judgment an unfair proportion to the remaining assessment of land within the town, and shall in other respects approve the assessment and communicate such approval to the assessors. **Comptroller approves assessment.**—No such assessment of state lands shall be valid for any purpose until the amount of assessment is approved by the comptroller, and such approval attached to and deposited with the assessment roll of the town, and therewith delivered by the assessors of the town to the supervisors thereof or other officer authorized to receive the same from the assessors. [Tax L., sec. 22; L. 1912, ch. 245, sec. 1.]

16. Levy of Taxes.

a. Taxes for school house or road purposes may be imposed on state lands only if approved by commission.—No tax for the erection of a schoolhouse or opening of a

road shall be imposed on the state lands unless such erection or opening shall have first been approved in writing by the conservation commission. [Tax L., sec. 22; L. 1912, ch. 245, sec. 1.]

b. Amount of tax credited to county treasurer, on account.—The treasurer of the state, upon the certificate of the comptroller as to the correct amount of such tax, shall pay the tax levied upon state lands in the forest preserve, by crediting to the treasurer of the county in which such lands may be situated, such taxes, upon the amount payable by such county treasurer to the state for state tax. No fees shall be allowed by the comptroller to the county treasurer for such portion of the state tax as is so paid. [Tax L., sec. 80.]

17. Loans for Bridge and Highway Purposes.

a. Throughout the forest preserve.

1. On certificates of indebtedness in anticipation of taxes.—The supervisor may, when authorized by the town board, borrow money in anticipation of taxes to be levied and collected, on the credit of the town, and issue certificates of indebtedness therefor in the following cases [for bridge and highway purposes]: * * * [Highway L.,¹ sec. 96.]

2. On bonds or other obligations.—A proposition may be submitted at a regular or special town meeting in the manner provided by the town law, authorizing the town to borrow money upon its bonds, or other obligations, to be expended for the following purposes [bridge and highway purposes]:

* * * * *

If the town adopting any such proposition shall contain any portion of the land of the forest preserve, the board of supervisors shall not authorize such town to borrow moneys without the written approval of the * * * [conservation] commissioner, except in payment of a debt lawfully incurred by the town. [Highway L., sec. 97; L. 1914, ch. 202, sec. 1.]

b. Within the Adirondack park.

Certain loans authorized above are null and void unless approved in advance by the state comptroller.—No money shall be borrowed, as provided in sections ninety-six and ninety-seven of this act,² by a town containing lands of the Adirondack park, where the assessed value of the real property of the state equals or exceeds twenty-five per centum of the assessed value of the taxable property of the town, until the consent, in writing, of the state comptroller that such loan or loans be made, be procured and filed in the office of the town clerk of the town intending to negotiate the loan or loans. Any loan made in violation of this section, for an indebtedness thereby intended to be created, shall be null and void and no moneys of the town shall be paid thereon. [Highway L., sec. 97-a; L. 1917, ch. 565, sec. 1.]

¹ The following property shall be exempt from taxation:

1. * * *

2. Property of this state other than its wild or forest lands in the forest preserve. [Tax L., sec. 4.]

¹ The highway law is contained in L. 1909, ch. 30, and its equivalent, ch. 25 of the consolidated laws.

² See subsec. a §1, ¶2.

PART III—Continued.]

ADMINISTRATIVE OFFICERS': GENERAL POWERS AND DUTIES.

18. Have Care and Control of State Owned Lands within State Forests.

[The commission shall] Have the care, custody, and control of the several preserves, parks,² and other state lands described in this article.³ [C. L., sec. 50, subsec. 1; * * * ; L. 1916, ch. 451, sec. 1.]

Acquire control of additional lands therein by means of: Purchase (see III, 4); Entry and appropriation—(see III, 5); Gift or devise (see III, 6); Tax sales effected through the comptroller (see III, 7).

Include in each annual report a description of all lands purchased during the year, and statement as to any trespass upon state lands; and publish and distribute special reports, for information of the public. (See I, 29.)

Maintain state forest nurseries and use trees therefrom to reforest state lands. (See I, 24.)

Laws relating to care and management of state forests are administered under the division of lands and forests. (See I, 11 ¶1.)

19. Have Custody of Abstracts of Titles, Contracts, etc.

[The commission shall] Have the custody of all abstracts of title, papers, contracts or memoranda relating thereto, [Original deeds excepted.—] except original deeds to the state, for any lands purchased for forest preserve purposes. [C. L., sec. 50, subsec. 13; * * * ; L. 1916, ch. 451, sec. 1.]

20. Survey and Determine Boundaries of State Lands.

[The commission shall] Survey, map and determine boundaries of lands owned by the state. [C. L., sec. 50, subsec. 15; * * * ; L. 1916, ch. 451, sec. 1.]

21. Make Rules and Regulations, and Issue Permits for Use of Lands.

[The commission] May make rules, regulations and issue permits for the temporary use of the forest preserve. [C. L., sec. 50, subsec. 28; * * * ; L. 1916, ch. 451, sec. 1.] (See also I, 21.)

Certain Additional Powers and Duties.

Approve the reservation of timber rights on lands being acquired for forestry purposes (see III, 8b); and prescribe and enforce conditions and regulations concerning such rights. (See III, 9.)

Take required action concerning taking possession of lands. (See III, 10.)

Enter into an agreement with owner as to payment for land being acquired under entry and appropriation proceedings, and for damages caused thereby (see III, 11); and

¹ The several officers who are concerned in these general powers and duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), and assistant superintendent of forests (see I, 17).

² The text matter concerning these park reservations other than state forests has been placed in the Appendix (pp. 33-35), since it is not deemed altogether pertinent to this compilation of forestry laws, even though incidental forestry may be practiced on the reservations.

³ Article IV of C. L. (See Table of Acts, on p. 38.)

certify to the comptroller the fulfillment of its conditions, in advance of payment. (See III, 11 ¶4.)

Approve, and submit to comptroller, vouchers for payment in cases of lands acquired under the bond issue appropriation act, except in cases involving court of claims procedure. (See III, 13.)

Submit to comptroller approved estimate of moneys required to acquire lands under the bond issue appropriation act. (See III 14 ¶1.)

May request a hearing by the comptroller as to the fairness of assessment on State lands within the forest preserve. (See III, 15.)

Approve the erection of school houses and opening of roads, in advance of tax therefor being imposed upon state lands within the forest preserve. (See III, 16.)

Approve loans, for bridge and highway purposes, to be negotiated through bonds or other obligations by towns containing forest preserve lands. (See III, 17 ¶1, ¶2.)

Issue permits for erecting and maintaining buildings upon the forest preserve for:

a. Purposes in general. (See III, 25 ¶1.)

b. In connection with working mines. (See III, 26 ¶2.)

Dispose of improvements upon the forest preserve. (See III, 2d.)

Authorize removal, from state lands, of material belonging to the state. (See III, 2e.)

Bring actions or proceedings for:

Enforcing rights of state in real property. (See III, 26.)

Determining questions of land titles. (See III, 26.)

Cancelling or setting aside cancellations of tax sales. (See III, 26.)

Superintendent of forests directs the locating of boundaries of State lands. (See III, 23.)

COMMISSIONERS OF THE LAND OFFICE.

Powers and Duties.

Approve purchases of lands. (See III, 4b.)

Approve vouchers for payment in cases of lands acquired under the bond issue appropriation act, except in cases involving court of claims procedure. (See III, 13.)

Grant permits for working mines. (See III, 2c.)

STATE COMPTROLLER.

Powers and Duties.

Is required to issue a warrant, supported by duly approved vouchers, as a basis for payment in cases of lands acquired under the bond issue appropriation act, except in those involving court of claims procedure. (See III, 13.)

Issues warrant, for payment of amount of award, to owner of lands acquired through court proceedings. (See III, 12 ¶1.)

Deposits in bank amount so awarded, subject to payment under the judgment. (See III, 12 ¶5.)

Issues and sells bonds under bond issue appropriation act. (See III, 14 ¶1.)

Grants hearings, upon request of commission, concerning assessments on State lands within the forest preserve. (See III, 15.)

PART III—Continued.]

Approves assessments on State lands within the forest preserve. (See III, 15.)

Validates, by his approval, proposed town loans for bridge and highway purposes in the Adirondack park, only, on:

- a. Town certificates of indebtedness. (See III, 17a ¶1, b.)
- b. Town bonds and other obligations. (See III, 17a ¶2, b.)

FORESTERS AND ASSISTANT FORESTERS.

General Cross-References.

Perform such duties in connection with reforestation, fire protective work, surveys, investigations, and other lines of forestry on State forests, as may be required. (See I, 18.)

DISTRICT FOREST RANGERS.¹

General Cross-Reference.

Have direction of the protection of State lands from fire and trespass. (See II, 9.)

CHIEF LAND SURVEYOR.

22. Salary.

A chief land surveyor [is hereby authorized], who shall receive a salary of two thousand four hundred dollars per annum; and who * * * [C. L., sec. 51, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

23. Determines Boundaries of State Lands, under Direction of Superintendent of Forests.

[The chief land surveyor] shall, under the direction of the superintendent of forests, have charge of locating and determining the boundaries of state land. [C. L., sec. 51, subsec. 3; * * * ; L. 1916, ch. 451, sec. 1.]

General Cross-References.

Appointment. (See I, 9 ¶2, ¶3.)

Competitive civil service requirement. (See I, 14.)

Expenses. (See I, 26.)

May arrest violators, without warrant, and bring them before a magistrate, and exercise other necessary police powers. (See I, 16 ¶2.)

Perform such other duties as the commission may require. (See I, 10.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

LAND CLERK.

24. Salary.

A land clerk [is hereby authorized] at two thousand dollars per annum, who * * * [C. L., sec. 51, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

25. Records Titles to State Lands, and Performs Other Duties Assigned Him.

[The land clerk] shall be employed in filing and preparing records of state's title to lands and perform such other duties as may be assigned him. [C. L., sec. 51, subsec. 8; * * * ; L. 1916, ch. 451, sec. 1.]

¹ The provisions, in general, concerning district forest rangers are contained in Part II. (See p. 7.)

Performs such other duties as the commission may require. (See I, 10.)

General Cross-References.

Appointment. (See II, 9 ¶2, ¶3.)

Competitive civil service requirement. (See I, 14.)

Expenses. (See I, 26.)

Liability for failure to perform duties: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

LEGAL PROCEDURE.

(See also Part II, p. 15.)

26. Purposes for which Proceedings may be Instituted by the Commission.

Preamble. [The commission may] Bring any action or proceeding for the following purposes: [C. L., sec. 50, subsec. 11, preamble; * * * ; L. 1916, ch. 451, sec. 1.]

¶1. Enforcing rights of state in real property.—[The commission may bring] Any action or proceeding, for the purpose of enforcing the state's rights or interests in real property, which an owner of land would be entitled to bring in like cases. [C. L., sec. 50, subsec. 11 (a); * * * ; L. 1916, ch. 451, sec. 1.]

¶2. Determining questions of land titles.—[The commission may bring any action or proceeding] To determine in trespass, ejectment or other suitable actions the title to any land claimed adversely to the state. [C. L., sec. 50, subsec. 11 (c); * * * ; L. 1916, ch. 451, sec. 1.]

¶3. Cancellation, or setting aside cancellations, of tax sales.—[The commission may] Bring proceedings before the comptroller or bring actions to cancel tax sales or to set aside cancellations of tax sales.¹ [C. L., sec. 50, subsec. 11 (d); * * * ; L. 1916, ch. 451, sec. 1.]

27. Settlements in Cases of Pending Actions.

No action, suit or proceeding in which the title to lands of the state in forest preserve counties shall be involved shall be withdrawn or discontinued, nor shall judgment therein against the state be entered on consent except on special permission of the court and after application made in open court, on which application all the terms and conditions of the settlement shall be fully stated in writing and the reasons therefor set forth at length. [C. L., sec. 9; * * * ; L. 1915, ch. 318, sec. 7.]

The commission is expressly inhibited from undertaking such settlements. (See II, 53a ¶1.)

General Cross-References.

Special provision as to damages and penalty for negligently causing forest fires on state lands. (See II, 59 preamble, a.)

Costs of fire-fighting may be recovered, in addition to damages and penalties. (See II, 62.)

General provisions as to liability for violations of provisions of Article IV^a of C. L., or failure to perform duties thereunder: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

¹ See III, 7.

^a See Table of Acts, on p. 38.

PART III—Continued.]

MUNICIPAL FORESTS.

28. Municipalities¹ Authorized to Acquire Lands for Forestry Purposes.

a. **By purchase, gift, lease, or condemnation.** (G. M. L.²)—The governing board of a county, town or village may severally acquire for such county, town or village, by purchase, gift, lease or condemnation, and hold as the property of such municipality, tracts of land having forests or tree growth thereon, or suitable for the growth of trees, [May appropriate necessary funds therefor.—] and may appropriate therefor the necessary moneys of the county, town or village for which the lands are acquired. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. **By purchase, gift, or utilizing municipally owned lands.** (C. L.)—A county, city, town, or school district may acquire by purchase, or gift, or take over lands in its possession within the boundaries thereof and use the same for forestry purposes.³ [C. L., sec. 60, preamble; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 326, ¶1.)

29. Publication of Intention to Acquire Lands for Forestry Purposes.

a. Under the general municipal law.

¶1. The determination of any such board to acquire lands under the provisions of this section shall be by resolution; but the question of the final adoption of such resolution shall be taken up by the board only after public notice thereof has been published for at least two weeks, as follows: [By county boards.—] If it be a resolution of a board of supervisors, the publication shall be made in the newspapers in which the session laws and concurrent resolutions are required to be published;⁴ [By town or village boards.—] if it be a resolution of a town board or of a board of trustees of a village, the publication shall be made in a newspaper published in the town or village, respectively.

¶2. The board shall give a hearing to all persons appearing in support of or in opposition to such proposed resolution. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Under the conservation law.

Such boards may undertake such work at regular or special meetings by majority vote of such board after two weeks public notice setting forth the fact that such plan is contemplated and that moneys are to be appropriated for such purposes. [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.]

¹ The term "Municipalities" embraces counties, towns, and villages, as applied under the general municipal law, and counties, cities, towns, and school districts, under the conservation law.

² The abbreviation, "G. M. L.," as used in this compilation, indicates the general municipal law (ch. 29, L. 1909, and its equivalent, ch. 24 of the consolidated laws, both as amended through 1917).

³ See also III, 2 preamble, and footnote 3 thereto.

⁴ See county law (L. 1909, ch. 16), sec. 20; legislative law (L. 1909, ch. 37), sec. 48, as amended by L. 1911, ch. 97.

30. Funds for Purchase of Lands Provided.

a. Through taxation, or bond issue. (G. M. L.)

If it be determined to purchase such lands the moneys necessary therefor may be provided as follows: [By counties.—] If the acquisition be by a county, the board of supervisors may cause such moneys to be raised by taxation and levied and collected as other county taxes, or may borrow money therefor on the credit of the county by the issuance and sale of county bonds in the manner provided for by law¹ for the issuance and sale of other county obligations; [By towns.—] if the acquisition be by a town, the moneys necessary therefor shall constitute a town charge and be raised by taxation as other town charges, or the town board may in its discretion cause town bonds to be issued and sold in the manner provided by law for the issuance and sale of town bonds, under the town law,² to pay judgments; [By villages.—] if the acquisition be by a village, the moneys therefor may be raised by taxation, as other village taxes, or by the issuance and sale of village bonds in the manner provided by the laws⁴ governing such village relating to village obligations, after the adoption of a resolution therefor by the board of trustees, without other authorization. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Through appropriation, or bond issue. (C. L.)

The governing board of a county, city, town, or school district may appropriate money or issue bonds either for purchase of lands for the purposes herein provided, * * * [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 326 ¶1.)

31. Funds for Management of Lands Provided.

a. Through appropriation of moneys raised by taxation. (G. M. L.)

Moneys may be appropriated for the care and maintenance of such lands and the development and use of forests thereon annually, by the county, town, or village, respectively, and the amount thereof raised by taxation in the same manner that other expenditures of such county, town, or village are provided for by law. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. Through appropriation of moneys, or bond issue. (C. L.)

[The governing board of a county, city, town, or school district may appropriate money or issue bonds] to establish forest plantations or for the care and managements⁴ of forests. [C. L., sec. 60, subsec. 1; * * *; L. 1916, ch. 451, sec. 1.] (See also III, 326 ¶1.)

32. Management and Use of Lands Are Under Control of the Governing Boards.

a. Under the general municipal law.

¶1. Such lands shall be under the management and control of such board [county, town, or village, as the

¹ See general municipal law (L. 1909, ch. 29), art. 2; county law, sec. 235, as added by L. 1909, ch. 466, and amended by L. 1910, ch. 8.

² L. 1909, ch. 63, sec. 139.

³ See village law (L. 1909, ch. 64), secs. 129, 130.

⁴ So in the original.

PART III—Continued.]

case may be] and shall be developed and used for the planting and rearing of trees thereon and for the cultivation thereof according to the principles of scientific forestry, for the benefit and advantage of the county, town, or village. * * * §2. **Lands are subject to rules and regulations prescribed by such boards.**—Such forest lands shall be subject to such rules and regulations as such governing board of the municipality shall prescribe; [Principal objects of management.—] but the principal object to be conserved in the maintenance of such lands shall be the sale of forest products in aid of the public revenues and the protection of the water supply of the municipality. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. **Under the conservation law.**

¶1. Such governing board [county, city, town, or school district, as the case may be] shall have full power and authority to acquire, maintain, manage and operate such forests for the benefit of the inhabitants of its district. [C. L., sec. 60, subsec. 3; * * *; L. 1916, ch. 451, sec. 1.]

¶2. **Assistance in reforestation work may be secured from the conservation commission, and also trees without cost.**—The conservation commission may assist and advise such boards in its [their] reforesting work, and the commission may furnish trees for reforesting such publicly owned lands without charge provided they are planted in accordance with the instructions of the commission. [C. L., sec. 60, subsec. 2; * * *; L. 1916, ch. 451, sec. 1.]

33. **Proceeds From Lands Turned Into the Several Municipal Treasuries.**a. **Under the general municipal law.**

For general purposes and reduction of taxes.—All revenues and emoluments from lands so acquired shall belong to the municipality and be paid to its chief fiscal officer for the purposes of such municipality and in reduction of taxation therein. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. **Under the conservation law.**

To be used only upon order of their several governing boards.—The net income from such lands shall be paid into the general fund of such municipal division and shall be used only upon order of its governing board. [C. L., sec. 60, subsec. 4; * * *; L. 1916, ch. 451, sec. 1.]

34. **Sale or Lease of Lands.**a. **Under the general municipal law.**

May be effected upon a two-thirds vote of the members of their several governing boards.—Such lands or portions thereof may be sold and conveyed, or leased, if a resolution

¹ The term "such municipal division" as used in this section, has reference to a county, city, town, or school district, as shown in the preceding provisions in sec. 60 of the conservation law. (See Table of Acts, on p. 35.)

therefor be adopted by the affirmative vote of two-thirds of all the members of such governing board; [Public hearing, after due published notice, required in case of absolute conveyance.—]but no such resolution directing an absolute conveyance shall be effectual unless adopted after a public hearing, held upon notice given in the manner required in the case of a resolution to acquire such lands. [Officers by whom deeds of conveyance or leases may be executed.—]A deed of conveyance or lease of such lands, when authorized as aforesaid, shall be executed by the county treasurer of the county, supervisor of the town or president of the village by which the conveyance or lease is made. [G. M. L., sec. 72-a; L. 1912, ch. 74, sec. 1.]

b. *No provision is made in the conservation law for sale or lease of municipal forest lands.*

Powers and Duties of Municipal Boards.

Authorized to acquire lands, for forestry purposes, by:

Purchase, gift, lease, or condemnation (G. M. L.). (See III, 28a.)

Purchase, gift, or utilizing municipally owned lands (C. L.). (See III, 28b.)

Publish notice of intention to so acquire lands (G. M. L. and C. L.). (See III, 29.)

Provide funds for purchase of lands through:

Taxation or bond issue (G. M. L.). (See III, 30a.)

Appropriation or bond issue (C. L.). (See III, 30b.)

Provide funds for management of lands through:

Appropriation of moneys raised by taxation (G. M. L.). (See III, 31a.)

Appropriation of moneys, or bond issue (C. L.). (See III, 31b.)

Control the management and use of lands (G. M. L. and C. L.). (See III, 32.)

Obtain assistance in reforestation work, and also trees, from conservation commission. (See III, 32b ¶2.)

Control, by special authority, use of funds derived from proceeds from the lands (C. L.). (See III, 33b.)

Sell and convey, or lease the lands, or portions thereof (G. M. L.). (See III, 34a.)

General Cross References.

The conservation commission cooperates with the governing board in reforestation work. (See III, 32b ¶2.)

Special provision as to damages for causing fires either negligently or willfully on lands belonging to a municipality. (See II, 59 preamble, b, c, 61.)

Costs of fire-fighting may be recovered, in addition to damages and penalties. (See II, 62.)

General provisions as to liability for violations of provisions of Art. IV^a of C. L.: Criminal. (See II, 54, 55.) Civil. (See II, 57.)

^a See Table of Arts, on p. 35.

PART IV.—TAXATION.¹

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning state or municipal forests, or other state lands, see Part III.)

PURPOSE OF FORESTRY TAXATION PROVISIONS.

1. Defined.

a. Planted and underplanted lands.—In consideration of the public benefit to be derived from the planting and growing of forest trees, and to the end that the growth of forest trees may be encouraged and the water supply of the state protected and conserved, and that floods may be prevented, [the owner of lands fulfilling certain conditions² may have his lands subjected to a special form of taxation.] [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—In order to encourage the maintenance of wood lots by private owners and the practice of forestry in the management thereof, the owner of any tract of land in the state, [fulfilling certain conditions,³ may have his land subjected to a special form of taxation.] [Tax L.,⁴ sec. 17; L. 1912, ch. 363, sec. 1.]

CLASSIFICATION OF FOREST LANDS.

Land Classes Recognized.

a. Planted and underplanted.—(See IV, 2*a*.)

b. Woodlot.—(See IV, 2*b*.)

2. Basis of Classification.

a. Planted and underplanted lands:

¶1. *Character of land.*—[Classification may be secured by] the owner of any waste, denuded or wild forest lands, of the area of five acres or upwards, within the state, which are unsuitable for agricultural purposes, [Forest growth established and maintained.—] who shall agree with the commission to set apart for reforestation or for forest tree culture, the whole, or any specific portion of such waste, denuded or wild forest lands, of the area of five acres or upwards, * * *

¶2. *Valuation of the land.*—[Such] lands shall be valued at the same rate as other waste, denuded or wild forest lands in said tax district, similarly situated; * * *
 ¶3. *Proviso 1.*—[Such] valuation shall not in any event be greater than the average valuation at which the same lands were assessed for the last five years preceding the date of said application, or the value of such lands as appears by the aforesaid sworn statements of the assessors of such tax district, * * *
 ¶4. [Proviso 2.—] * * *
 and [such] lands may be classified only if it can be shown that they] have not been assessed during the period of

¹ Part IV comprises an analysis of the forest taxation provisions contained in the "wood-lot act" (ch. 363, L. 1912), and in sec. 57 of the conservation law. A third act (ch. 249, L. 1912) is placed in the Appendix (see p. 35). This additional act is omitted from the above analysis for the reason that it overlaps to a large extent the other two acts and its inclusion would obscure their well-balanced scope.

² See IV, 2*a*.

³ See IV, 2*b*.

⁴ "Tax L." as used in this compilation of the forestry laws of New York, indicates the tax law (ch. 62, Laws 1909, and its equivalent, ch. 60, of the consolidated laws, both as amended through 1917).

five years next preceding the date of such application at an average valuation of more than five dollars per acre, or that similar lands in said vicinity have not been assessed for more than five dollars per acre, * * * [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

Acreeage, character and location of land.—[Classification may be secured for any tract of land,] not exceeding fifty acres, which is occupied by a natural or planted growth of trees, or by both, which shall not be situated within twenty miles of the corporate limits of a city of the first class, nor within ten miles of the corporate limits of a city of the second class, nor within five miles of the corporate limits of a city of the third class, nor within one mile of the corporate limits of an incorporated village, * * * [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Valuation of such lands shall be the same as other similar adjacent lands which contain no forest or tree growth, and shall not exceed \$10 an acre. (See IV, 8*b*.)

Lands must be maintained as a production woodlot, in compliance with the provisions of the act and the instructions of the commission. (See IV, 8*b*.)

3. Application for Classification.

a. ¶1. Planted and underplanted lands.—[the owner of lands fulfilling certain conditions,¹] may apply to the conservation commission, in manner and form to be prescribed by it, to have such lands separately classified as lands suitable for reforestation or underplanting within the purposes and provisions of this section. *Description and other data.*—Each application for such classification shall be accompanied by a plot and description of the land, and shall state the area, character and location thereof, and such other information in reference thereto as the commission may require; [Valuation certificate of assessors, or sworn statement.—] such application shall be accompanied by a certificate of the assessors of the tax district or districts in which said lands are located, which shall set forth the assessed valuation of said lands for the last five years preceding the date of such application; or if said lands have not been separately assessed during any part of said period, or the timber has been removed therefrom at any time during said period of five years, by a sworn statement of the assessors of the value of said lands, which * * *; ¶2. [Must contain declaration of intention by owner.—] such application shall also contain a declaration that the owner intends to reforest or underplant the lands described in such application with such number and kind of trees per acre and in such manner as the commission shall specify, and to comply with all reasonable rules and regulations of the commission in reference to future care and management of said lands and trees. [C. L., sec. 57; * * *; L. 1916, ch. 451, sec. 1.]

¹ See IV, 2*a*.

PART IV—Continued.]

b. Woodlot lands.—[The owner of any tract of land in the state fulfilling certain conditions¹] may apply to the conservation commission in manner and form to be prescribed by it, to have such land separately classified for taxation. **Form of application.**—Application for such classification shall be made in duplicate and accompanied by a plot and description of the land, and such other information as the commission may require. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

4. Suitability of Lands Investigated by Commission.

a. Planted and underplanted lands.—¹If it appears from said application and certificate or sworn statement² that said lands are suitable for reforestation or underplanting purposes * * * [2.] the said commission shall, as soon as practicable after the receipt of such application, cause an examination to be made of the lands for the purpose of determining whether or not it is of a character suitable to be reforested or underplanted and to be classified as such. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—Upon the filing of such application³ it shall be the duty of the commission to cause an inspection of such land to be made by a competent forester for the purpose of determining whether or not it is of a suitable character to be so classified. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

5. Completion of Classification.*a. Planted and underplanted lands:*

¹**1. Commission enters into cooperative agreement with owner for foresting the lands.**—After such examination⁴ if the commission shall determine that such lands are suitable for reforestation or underplanting, it is hereby empowered to enter into a written agreement with the owner, which agreement shall be to the effect that the commission will furnish said owner, at a price not to exceed cost of production, trees to be set out upon said lands, the kind and number to be prescribed by the commission, and to be set forth in said agreement; that the owner will set out upon said land the number and kind of trees per acre designated by the commission; and that said land will not be used for any purpose other than forestry purposes, during the period of exemption, without the consent of the commission; and that said lands and the trees thereon will be managed and protected at all times during the period of said exemption in accordance with the directions and instructions of the commission. Said agreement shall be recorded in the office of the county clerk of the county where the lands are situated, and the provisions thereof shall be deemed to be and be covenants running with the land. **Limitation of time for compliance with planting requirements—Proof.**—Within one year after the making of such agreement, said lands shall be planted by the owner with the number and kind of trees specified therein; and the owner shall file with the commission an affidavit making due proof of such planting, which affidavit shall

remain on file in the office of said commission * * * ²**2. Compliance Constitutes acceptance.**—The planting or underplanting of a tract in forest trees in compliance with the agreement as provided in this section shall be taken and deemed to be an acceptance by the owner of the exemption privileges herein granted and of the conditions herein imposed; * * * ³**3. Inspection by commission.**—Upon the filing of such affidavit¹ the commission shall cause an inspection of such lands to be made by a competent forester who shall make and file with said commission a written report of such inspection.

⁴**4. Certificate of classification issued and recorded in office of county treasurer.**—If the commission is satisfied from said affidavit¹ and report that the lands have been forested in good faith as provided in said agreement, it shall make and execute a certificate under its seal, and file the same with the county treasurer of the county in which the lands or any part thereof so forested are located, which certificate shall set forth a description of said lands, the area and the owner thereof, the town in which the same are situated, a statement that the land has been separately classified for taxation in accordance with the provisions of this section [Must show maximum valuation for the 35-year period.—] and a valuation, in excess of which, said lands shall not be assessed for the period of thirty-five years, which * * * ⁵**5. [Also exemption provision.—]** and a statement that the trees and timber thereon shall be exempt from taxation during said period. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

Assessors are notified of filing of certificate. (See IV, 8a.)

b. Woodlot lands:

¹**1. Commission furnishes working plan to owner.**—If the commission shall determine that such land² is suitable to be so classified, it shall submit to the owner a plan for the further management of said land and trees [Certificate of classification recorded in county treasurer's office.—] and shall make and execute a certificate under the seal of the commission and file the same with the county treasurer of the county in which the land is located, which certificate shall set forth a description and plot of the land so classified, the area and owner thereof, the town or towns in which the same is situated, and that the land has been separately classified for taxation in accordance with the provisions of this section. **Assessors notified.**—Upon the filing of such certificate it shall be the duty of the county treasurer to file with the assessors of the tax district in which the land described therein is located, within ten days after receipt thereof, a certified copy of such certificate. * * * ²**2. Lands assessed accordingly.**—The assessors of each tax district where said land so classified is located shall insert upon the margin of said assessment and opposite the description of such land a statement that said land is assessed in accordance with the provisions of this section. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

¹ Making proof of compliance with planting requirements. (See § 1 of this subsection.)

² See IV, 4b.

¹ See IV, 2b.

² See IV, 3a § 1.

³ See IV, 3b.

⁴ See IV, 4a § 2.

PART IV—Continued.]

6. Period of Classification.

a. Planted and underplanted lands:

¶1. Until end of the 35-year exemption period.—Such lands¹ shall be assessed, and continued to be assessed, and carried in such manner, upon the assessment-rolls, of such towns until the end of the exemption period. ¶2. * * * and in consideration of the public benefit to be derived from the planting, underplanting, cultivation and growth of such trees² the exemption of such trees from taxation and the taxation of the land upon which such trees are grown as herein provided, shall be continued and is hereby assured; and the right to such exemption and taxation shall be inviolable and irrevocable as a contract obligation of the state, so long as the owner of the land so planted shall fully comply with and perform the conditions of such contract not exceeding said period of thirty-five years. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

For an indefinite time.—

Assessment continues so long as the owner complies with requirements. (See IV, 8b.)

7. Cancellation of Classification.

a. Planted and underplanted lands.—In the event that lands so classified¹ shall, in the judgment of the commission, cease to be used exclusively for forestry purposes to the extent provided in the agreement between the conservation commission and the owner, or that said owner has violated its terms, or any reasonable rules and regulations of the commission in respect to the use of or the cutting of timber on said lands, the exemption from taxation provided in this section shall no longer apply; [Injunction to restrain use of lands and timber.—] or at the election of the commission such owner may be also restrained from said acts by injunction; [Land, thereafter, assessed under General Property Tax Law.—] and the assessors having jurisdiction shall, upon the direction of the commission, assess said lands against the owner at the value, and in the manner provided by the tax law for general assessment of land. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands.—In the event that land so classified² as above prescribed shall at any time by act of the owner or otherwise cease, in the judgment of the commission, to be used exclusively as a wood lot to the extent provided by this section to entitle the owner of such land to the privileges of this section, the exemption and valuation in taxation provided for in this section shall no longer apply [Land, thereafter, assessed under General Property Tax Law.—] and the assessors having jurisdiction shall, upon the direction of the commission assess the said land at the value and in the manner provided by the tax law for the general assessment of land. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

¹ See IV, 5a ¶4.² See IV, 5a ¶2.³ See IV, 5b ¶1.

ANNUAL, OR GENERAL PROPERTY, TAX.

8. Assessment.

a. Planted and underplanted lands:

Lands are assessed at a fixed valuation, based on a fair cash value, exclusive of value of tree growth.—Upon the filing of such certificate¹ it shall be the duty of the county treasurer to file with the assessors of each tax district in which the lands described are located, a certified copy thereof, and the assessors of such tax district shall place the lands according to the description contained in said certificate upon the next assessment-roll, prepared for the assessment of lands within such tax district, at a valuation not to exceed the amount stated in said certificate, and not to exceed the assessed valuation of similar lands in said tax district; and said assessors shall insert upon the margin of said assessment-roll opposite the description of said lands, a statement that said lands shall not be assessed during the period of thirty-five years at a value in excess of said amount, and that the trees and timber growing upon said land shall be wholly exempted from taxation during said period; and said assessors shall also insert upon the margin of said assessment-roll the date of expiration of said exemption. [C. L., sec. 57; * * * ; L. 1916, ch. 451, sec. 1.]

b. Woodlot lands:

Lands are assessed at a maximum valuation of \$10.00 per acre, exclusive of value of tree growth.—So long as the land so classified² is maintained as a wood lot, and the owner thereof faithfully complies with all the provisions of this section³ and the instructions of the commission, it shall be assessed at not to exceed ten dollars per acre and taxed annually on that basis. In fixing the value of said lands for assessment, the assessors shall in no case take into account the value of the trees growing thereon, and said land shall not be assessed at a value greater than other similar lands within the same tax district, which contain no forest or tree growth, are assessed. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Exemption From the Tax.

a. Timber on planted and underplanted lands:

Throughout 35-year classification period. (See IV, 8a.)

b. Trees on woodlot lands:

Throughout an indefinite classification period. (See IV, 8b.)

YIELD TAX.³

9. Preliminary Measures.

Advance notice required of intention to cut.—Whenever the owner shall propose to cut any live trees from

¹ See Table of Acts, on p. 33.² See IV, 5a, ¶4.³ See IV, 5b, ¶1.

³ The yield tax applies only to lands classified under the woodlot act. Lands classified as "planted and underplanted" under the conservation law become subject to taxation under the general property tax law at the end of the prescribed 35-year exemption period, unless reclassified under the woodlot act.

PART IV—Continued.]

said land,¹ [Exception. —] except for firewood or building material for the domestic use of said owner or his tenant, he shall give the commission at least thirty days notice prior to the time he desires to begin cutting, [Cutting and removal subject to direction of commission.—] who shall designate for the owner the kind and number of trees, if any, most suitable to be cut for the purpose for which they are desired, and the cutting and removal of the trees so designated shall be in accordance with the instructions of said commission. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Penalty for failure to give advance notice. (See IV, 11.)

10. Tax Levied After Cutting and Before Using.

Owner files with assessors returns as to measurement, or count, of trees cut, and kind and value thereof.—After such trees² are cut and before their removal from the land, the owner shall make an accurate measurement or count of all of the trees cut and file with the assessors of the tax district a verified, true and accurate return of such measurement or count and of the variety and value of the trees so cut. **Pays, before removal, five per cent of stumpage value.**—The assessors shall forthwith assess the stumpage value of the timber so cut, and such owner shall pay to the tax collector of the town in which such land is situated, before the removal of any such timber, five per centum of such valuation. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Penalty for failure to pay tax. (See IV, 11.)

11. Penalty for Failure to Give Notice in Advance of Cutting, or to Pay the Tax.

If such owner shall fail to give such notices and pay such taxes³ he shall be liable to a penalty of three times the amount of such tax, and the supervisor of the town may bring an action to recover the same for the benefit

of the town in any court of competent jurisdiction. [Tax L., sec. 17; L. 1912, ch. 363, sec. 1.]

Exemption from the Tax.

Trees cut for firewood or building material for domestic use. (See IV, 9.)

DUTIES OF FORESTRY OFFICIALS.¹**Concerning Planted and Underplanted Lands.**

Prescribe form of application for classification, and rules and regulations concerning the care and management of lands and trees. (See IV, 3a.)

Investigate suitability of lands described in application for classification. (See IV, 4a ¶2.)

Enter into cooperative agreement with owner for foresting the lands. (See IV, 5a ¶1.)

Cause inspection and report to be made upon planting work. (See IV, 5a ¶3.)

Issue certificate of classification, and record same in office of county treasurer. (See IV, 5a ¶4.)

Determine whether classification of lands shall be canceled; and, in event of cancellation, direct their reassessment under the general property tax law. (See IV, 7a.)

Secure, when necessary, injunction to restrain unlawful use of lands and timber. (See IV, 7a.)

Concerning Woodlot Lands.

Prescribed form of application for classification. (See IV, 3b.)

Investigate suitability of lands described in application. (See IV, 4b.)

Furnish working plan to the owner. (See IV, 5b ¶1.)

Issue certificate of classification, and record same in office of county treasurer. (See IV, 5b ¶1.)

Direct cutting and removal of timber. (See IV, 9.)

Determine whether lands cease, at any time, to be rightly used as a woodlot; and, in such event, direct their reassessment under the general property tax law. (See IV, 7b.)

PART A—APPENDIX.**DEFINITIONS OF THE TERMS "PERSON," "FOREST LAND," "FOREST FIRE," "FIRE TOWNS," AND OTHER TERMS.**

(Conservation Law.)

§ 62. **Definitions.**—The following words and phrases used in this article are defined as follows:⁴

1. * * *

2. **Adirondack park.**—* * * [The following is a description of the boundaries of lands constituting the Adirondack park:] Beginning at the southeast corner of the town of Hope in the county of Hamilton, and running thence westerly along the southerly lines of Hamilton county, and continuing and following the southerly line

of the town of Wilmurt, in Herkimer county to the point of intersection with the westerly line of Herkimer county, and thence northerly along the westerly lines of Herkimer county to its junction with the southwestly line of Saint Lawrence county; thence westerly along said southwestly line of Saint Lawrence county to the most westerly corner of township fourteen, great tract three, Macomb's purchase; thence easterly along the northerly line of said township fourteen to the northeast corner

¹ See IV, 5b ¶1.

² See IV, 9.

³ See IV, 9, 10.

⁴ For sec. 62, in full, containing all of these "words and phrases," see Table of Acts, on p. 38.

⁵ See III, 3a.

¹ The several administrative officers who are concerned in these duties are the commissioner, deputy commissioner (see I, 3, 9), superintendent of forests (see I, 16), assistant superintendent of forests (see I, 17), and, when specifically provided, such other officers as may be designated. For additional duties of these officers concerning forestry taxation under act 246, L. 1912, see that act in the Appendix, p. 35.

PART A—Continued.]

thereof; thence northerly along the west line of township thirteen, great tract three, Macomb's purchase, to the northwest corner of said township thirteen; thence east along the north line of said township thirteen and the south line of township ten, tract and purchase aforesaid, to the southwest corner of the southeast quarter of said township ten; thence north along the west line of the said southeast quarter of the aforesaid township ten and the west line of the northeast quarter thereof to the north line of said township; thence east along said north line to the west line of township seven, great tract two, Macomb's purchase; thence northerly along the west line of township seven aforesaid to the northwest corner of the township; thence easterly along the northerly lines of townships seven and eight, great tract two, Macomb's purchase, to the southwest corner of township twelve of said great tract two; thence northerly along the west line of township twelve to the northwest corner of lot one in the south half of said township; thence easterly along the north line of said south half of said township twelve to the west line of the county of Franklin; thence north along the west line of the county of Franklin to the northwest corner of the south half of township thirteen of great tract one, Macomb's purchase; thence easterly along the northerly line of the south half of townships thirteen, fourteen and fifteen of said great tract one, Macomb's purchase, to the west line of the old military tract; thence south along said west line to the northwest corner of township ten of said old military tract; thence easterly along the north line of said township ten to the west line of Clinton county; thence southerly along the west line of Clinton county to the north line of Essex county; thence easterly along the north line of Essex county to the northeast corner of the town of Wilmington; thence along the east and easterly line of the town of Wilmington to the intersection with the north line of the town of Keene; thence east to the northeast corner of said town of Keene; thence southerly along the easterly line of the town of Keene to the southeast corner thereof; thence easterly along the northerly line of the town of North Hudson to the most northeasterly corner of the said town; thence southerly along the easterly lines of the towns of North Hudson and Schroon to the southeast corner of the said town of Schroon; thence westerly along the southerly line of the towns of Schroon and Minerva to the northeasterly corner of Leggett's survey of the southwest quarter of township fourteen of Totten and Crossfield's purchase; thence southeasterly along the line of Leggett's survey to the southerly line of said township fourteen; thence southwestwesterly along the line of Leggett's survey, being the southerly line of said township fourteen, to the most southerly corner of said township; thence southeasterly along the easterly line of township thirteen and the westerly line of township twelve, to the south-easterly corner of lot twenty-five of township eleven of said Totten and Crossfield's purchase; thence southwestwesterly along the southerly line of lots twenty-five, twenty-six,

twenty-seven and twenty-eight to the southwestwesterly corner of said lot twenty-eight; thence southeasterly along the easterly lines of lots forty-four, fifty-three, sixty-eight, seventy-seven and five of said township eleven, and of lots nine, twenty-one, thirty, thirty-seven and forty of the gore between township eleven of Totten and Crossfield's purchase and the Dartmouth patent and of lot five of ranges six, seven, eight, nine and ten of the Dartmouth patent, great tract, to the southeasterly corner of lot five of said range six of said patent in Warren county; thence westerly along the southerly line of said range six of said Dartmouth patent to the northeasterly line of Palmer's purchase; thence southeasterly along the easterly line of said Palmer's purchase to the most easterly corner of the middle division of said purchase; thence southwestwesterly along the southerly line of the said middle division of Palmer's purchase through Saratoga county to the easterly boundary of the town of Hope in Hamilton county; thence southerly along the east line of the town of Hope to the place of beginning. * * *

3. **Catskill park.**—* * * [The following is a description of the boundaries of lands constituting the Catskill park.—] Beginning in Ulster county at the south-easterly corner of great lot five of the Hardenburgh patent; thence running northwestwesterly along the southerly boundary of said great lot five through Sullivan county to the east branch of the Delaware river in Delaware county; thence along the southerly bank of said east branch of the Delaware river to the Ulster and Delaware railroad at the village of Arkville; thence along the said Ulster and Delaware railroad easterly to the line between the counties of Delaware and Ulster; thence northeasterly along that line to the southerly line of Greene county; thence northwestwesterly along the southerly line of Greene County to the line between the towns of Halcott and Lexington; thence northerly along the easterly line of the town of Halcott to the line between great lots twenty and twenty-one of the Hardenburgh patent; thence northerly along said line to the south bank of the Bataviakill; thence along the southerly bank of the Bataviakill easterly, to the west line of the state land tract; thence northerly, easterly and southerly along the line of the said state land tract to the line between the towns of Cairo and Catskill; thence southwestwesterly along said town line to the easterly line of the town of Hunter; thence southerly along the said easterly line of the town of Hunter to the line of the Hardenburgh patent; thence easterly, southerly and westerly along the general easterly line of the Hardenburgh patent to the line between the towns of Olive and Rochester of Ulster county; thence easterly on said line to the point where the Mettacaohonts creek crosses the same flowing easterly; thence southwestwesterly parallel with the northwestwesterly line of the town of Rochester to the line between the towns of Rochester and Wawarsing; thence westerly and southerly along the line of the Hardenburgh patent to the place of beginning. * * *

4. **Saint Lawrence reservation.**—All that part of the river Saint Lawrence lying and being within the state,

PART A—Continued.]

with the islands therein, and all that portion of Lake Ontario adjacent to Jefferson county, including Chaumont bay, Guffins bay, Black river bay and Henderson bay, with the islands therein, and such lands along the shore thereof as are now owned by, or shall hereafter be acquired by the state, is continued as an international park which shall be known as the "Saint Lawrence reservation."

5. **John Brown farm.**—All that certain tract of land in the Adirondack park, known as the "John Brown farm," in the town of North Elba, in the county of Essex and state of New York, being the greater part of lot number ninety-five, Thorn's survey, of township number twelve, Old Military Tract, now owned by the state pursuant to a deed of gift made and executed the twenty-ninth day of March, eighteen hundred and ninety-five, by Henry Clews and Lucy Madison Clews, his wife, to the people of the state of New York, shall be and continue to be dedicated and used for the purposes of a public park or reservation forever.

6. **Cuba reservation**¹ shall include all the lands owned by the state surrounding Cuba lake in the counties of Allegany and Cattaraugus.

7. **Person.**—Person includes a copartnership, joint-stock company or a corporation.

8. **Forest land.**—Forest land includes not only lands which may be covered with tree growth but also lands which are best adapted to forests.

9. **Forest fire.**—Forest fire is a fire which is not only burning forest or woodlands, but which if permitted to extend, would burn forest or upon forest lands.

10. **Fire towns.**—Fire towns are as follows: All towns in Hamilton county; the towns of Altona, Ausable, Black Brook, Dannemora, Ellenburg and Saranac, Clinton county; the towns of Andes, Colchester, Hancock and Middletown, Delaware county; the towns of Chesterfield, Elizabethtown, Jay, Keene, Lewis, Minerva, Moriah, Newcomb, North Elba, North Hudson, Saint Armand, Schroon and Wilmington, Essex county; the towns of Altamont, Belmont, Brighton, Duane, Franklin, Harriettstown, Santa Clara and Waverly, Franklin county; the towns of Bleeker, Caroga, Mayfield and Stratford, Fulton county; the towns of Hunter, Jewett, Lexington and Windham, Greene county; the towns of Ohio, Russia, Salisbury, Webb and Wilmurt, Herkimer county; the towns of Croghan, Diana, Greig, Lyonsdale and Watson, Lewis county; the towns of Forestport and Remsen, Oneida county; the towns of Corinth, Day, Edinburg and Hadley, Saratoga county; the towns of Clare, Clifton, Colton, Fine, Hopkinton, Parishville, Piercefield, Pitcairn, Saint Lawrence county; the towns of Neversink, Rockland, Sullivan county; the towns of Denning, Gardiner, Hardenburgh, Olive, Rochester, Shandaken, Shawan-

gunk, Wawarsing and Woodstock, Ulster county; the towns of Bolton, Caldwell, Chester, Hague, Horicon, Johnsbury, Luzerne, Queensbury, Stony Creek, Thurman and Warrensburgh, Warren county; the towns of Dresden, Fort Ann and Putnam, Washington county. [C. L., sec. 62, preamble, subsecs. 2-10; * * * L. 1916, ch. 451, sec. 1.]

ADDITIONAL TAXATION ACT (CH. 249, L. 1912).¹

Section 1. Article one of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws," is hereby amended by adding at the end a new section to be section sixteen, and to read as follows:

§16. **Exemption and reduction in assessment of lands planted with trees for forestry purposes.**—Whenever the owner of lands, to the extent of one or more acres and not exceeding one hundred acres, shall plant the same for forestry purposes with trees to the number of not less than eight hundred to the acre, and whenever the owner of existing forest or brush lands to the extent of one or more acres and not exceeding one hundred acres, shall underplant the same with trees, to the number of not less than three hundred to the acre, and proof of that fact shall be filed with the assessors of the tax district or districts in which such lands are situated as hereinafter provided, such lands so forested shall be exempt from assessment and taxation for any purpose for a period of thirty-five years from the date of the levying of taxes thereon immediately following such planting, and such existing forest or brush lands so underplanted shall be assessed at the rate of fifty per centum of the assessable valuation of such land exclusive of any forest growth thereon for a period of thirty-five years from the date of the levying of taxes thereon immediately following such underplanting. The owner or owners of lands forested as above provided, in order to secure the benefits of this section, shall file with the conservation commission an affidavit making the due proof of such planting or underplanting and setting forth an accurate description of such lands, the town and county in which the same are situated, the number of trees planted or underplanted to the acre and the number of acres so forested, which affidavit shall remain on file in the office of said commission. Upon the filing of such affidavit it shall be the duty of the conservation commission to cause an inspection of such forested lands to be made by a competent forester or other employee of said commission who shall make and file with said commission a written report of such inspection. If the commission is satisfied from the said affidavit and the report of inspection that the lands have been forested as above provided, in good faith and by adequate methods to produce a forest plantation, and are entitled to the exemption of assessment or to a reduction of assessment as provided in this section, it shall make and execute a certificate under the seal of its office, and file the same with the county treasurer of the county in which the lands so forested are located, which certificate shall set forth a description of the lands affected by this section. the

¹ In addition to the general provision made in Article IV of the conservation law for the control of certain park reservations by the commission (see III, 18), the care and administration of the Cuba reservation is also specifically vested in the commission by L. 1917, ch. 286, sec. 1, which amends sec. 59 of the C. L. by adding thereto subsec. 32. (See volume of Session Laws of 1917.)

PART A.—Continued.]

area and owner or owners thereof, the town or towns in which the same are situated, the description upon the last assessment-roll which included said lands, the period of exemption or of reduction of assessment to which such lands are entitled and the date of the expiration of such exemption or reduction of assessment. Upon the filing of such certificate it shall be the duty of the county treasurer to file with the assessors of the tax district in which the lands described therein are located within ten days after the receipts thereof a certified copy of such certificate, and the assessors of such tax district shall place the lands according to the description contained in said certificate upon the next assessment-roll prepared for the assessment of lands within such tax district, and shall exempt, or reduce the assessment upon, the lands so described as hereinbefore provided, and shall insert upon the margin of said assessment-roll opposite the description of said lands, a statement that in accordance with the provisions of this section of the tax law said lands are exempt from taxation or that the assessment thereof is reduced fifty per centum as the case may be and insert also in the margin the date of the expiration of such exemption or reduction of assessment and such lands shall continue to be exempted, assessed and carried in such manner upon the assessment-rolls of such town until the date of the expiration of such exemption or reduction of assessment. Lands which have been forested as above provided within three years prior to the taking effect of this section may come within its provisions if application therefor is made to the conservation commission within one year from the time when this section takes effect, but except as provided by this section the period of exemption or reduction as certified to by the conservation commission shall not exceed the period of thirty-five years from the date of the original planting. Lands situated within twenty miles of the corporate limits of a city of the first class, or within ten miles of the corporate limits of a city of the second class, or within five miles of the corporate limits of a city of the third class, or within one mile of the corporate limits of an incorporated village shall not be entitled to the exemption or reduction of assessment provided for by this section. In the event that lands exempted or reduced in taxation as above provided shall, by act of the owner or otherwise, at any time during the period of exemption or reduction in taxation cease to be used exclusively as a forest plantation to the extent provided by this section to entitle such land to the privileges of this section, the said exemption and reduction in taxation provided for in this section shall no longer apply and the assessors having jurisdiction are hereby empowered and directed to assess the said land at the value and in the manner provided by the tax law for the general assessment of land. If any land exempted under this section continues to be used exclusively for the growth of a planted forest after the expiration of the period of exemption provided hereby, the land shall be assessed at its true value and the timber growth thereon shall be exempt from taxation, except if such timber shall be cut before the land has been duly assessed and taxes regularly paid for five consecutive

years after the exemption period has expired, such timber growth shall be subject to a tax of five per centum of the estimated stumpage value at the time of cutting, unless such cuttings are thinnings for stimulating growth and have been made under the supervision of the conservation commission. Whenever the owner shall propose to make any cutting of such timber growth for a purpose other than for thinning as above provided, he shall give thirty days' notice to the assessors of the tax district on which the land is located, who shall forthwith assess the stumpage value of such proposed cutting, and such owner shall pay to the collector of the town in which such land is situated before cutting such timber five per centum of such assessed valuation. If such owner shall fail to give such notice and pay such taxes he shall be liable to a penalty of three times the amount of such tax, and the supervisor of the town may bring an action to recover the same for the benefit of the town in any court of competent jurisdiction.

EXCERPTS FROM THE PENAL LAW.¹

NOTE.—Although the following sections appear to conflict, in a measure, one with another, they are, nevertheless, both incorporated into and constitute a part of the Penal Law, as amended through 1917. However this may be, the enactments of the Conservation Law upon the same subjects doubtless materially modify, if they do not nullify, the operation of these provisions, as far as they concern forests. They are, however, included here for the benefit of such investigators as may desire to work out the interrelation of the several provisions in more detail than appears to be necessary in this compilation.

SEC. 1421 OF THE PENAL LAW, AS AMENDED BY LAWS 1910, CH. 474.

§1421. **Burning crops or timber, how punished.**—A person who, under circumstances not amounting to arson in any of its degrees:

1. Wilfully burns or sets fire to any grain, grass or growing crop, or standing timber, or to any building, fixtures or appurtenances to real property of another, or
2. Wilfully sets fire to, or assist[s] another to set fire to any wild, waste or forest lands, belonging to the state or to another person whereby such forests are injured or endangered;

Is guilty of felony and is punishable by imprisonment for not more than ten years or by a fine of not more than two thousand dollars, or by both.

SECTION 1900 OF THE PENAL LAW.

§1900. **Negligently managing and refusing to extinguish fires.**—A person who:

1. Wilfully or negligently sets fire to, or assists another to set fire to any waste or forest lands belonging to the state or to another person whereby such forests are injured or endangered; or,
2. Negligently sets fire to his own woods, by means whereof the property of another is endangered; or,
3. Negligently suffers any fire upon his own land to extend beyond the limits thereof; or,

¹ The penal law is contained in L. 1909, ch. 88, and its equivalent, ch. 40 of the consolidated laws.

EXCERPT FROM THE CONSERVATION LAW.

SALARIES AND RATINGS OF FOREST RANGERS.¹

PART A—Continued.]

4. Having been lawfully ordered to repair to a place of a fire in the woods, and to assist in extinguishing it, omits without lawful excuse to comply with the order.

Is guilty of a misdemeanor.

Such forest rangers [are hereby authorized] as may be necessary, to be employed in the fire towns, who shall be rated by the commission on the basis of merit and efficiency in three grades to be known as the first, second and third grades. Such forest rangers shall receive monthly salaries of seventy-five dollars; provided, however, that each forest ranger who shall be rated in the first grade shall receive increased salary at the rate of one hundred dollars per annum, and for each year thereafter in which he shall so qualify he shall receive a like increase or any part

thereof until his salary is at the rate of one thousand three hundred dollars per annum, but the commission shall have the power in its discretion, for cause shown, to cancel such increase or any part thereof on the failure of any ranger receiving such increase to qualify for the first grade in any year. Rangers rated in the second grade shall receive increased salary at the rate of fifty dollars per year, in the year in which they shall so qualify, and while in said second grade, provided, however, that the salary of a ranger rated in the second grade shall not exceed the rate of ten hundred dollars per year, unless such increased salary shall have accrued by reason of his having been rated in the first grade. [C. L., sec. 51, subsec. 11; * * *; L. 1918, ch. 421, sec. 1.]

¹ See II, 10; also, p. 1, footnote 2.

TABLE OF ACTS.
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* Indicates the omission of matter irrelevant to forestry.

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7	II, 43.	6	A (see p. 35).
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57 a.	I (see p. 5, footnote 3).	subsec. 1	II, 544 ² , 574 ¹ .
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5	III, 10c.	VII-A, Sec. 446	III, 1 (see note).
6	III, 114 ¹ .	TOWN LAW.	
7	III, 124 ¹ .	(L. 1909, ch. 63, constituting Consolidated Laws, ch. 62.)	
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9	III, 8b.	TAX LAW.	
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2	III, 32b4 ² .	Sec. 72 a	III, 28a, 32a ¹ 1, 29, 30a, 33a, 32a ¹ 2, 34a, 31a.
3	III, 32b4 ¹ .	BOND ISSUE ACTS.	
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* Indicate, the omission of matter irrelevant to forestry.

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¹ Indicates the omission of matter irrelevant to forestry.

STATE FORESTRY LAWS LEAFLETS ALREADY PUBLISHED.¹

1. Wisconsin.	7. Virginia.	13. Indiana.	19. Massachusetts.
2. Louisiana.	8. Idaho.	14. Minnesota.	20. New Hampshire.
3. North Carolina.	9. Oregon.	15. Montana.	21. Colorado.
4. Maryland.	10. Wyoming.	16. Illinois.	22. West Virginia.
5. Missouri.	11. New Jersey.*	17. Ohio.	
6. Texas.	12. Washington.	18. Connecticut.	

¹ The laws of other States, so far as they have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.

* Indicates that the supply is exhausted.



United States Department of Agriculture

U. S. FOREST SERVICE

WILLIAM B. GREELEY, Forester

STATE FORESTRY LAWS

INTRODUCED BY CLASSIFIED SYNOPSES

VERMONT

(SERIAL 1—THROUGH REG. SESS., 1919.)

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PURPOSE OF COMPILATION.

The compilation of State Forestry Laws, of which this leaflet is a part, aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying forestry administration in the several States, and the various activities thereunder, may readily be studied and compared. To facilitate this purpose of comparing the legislation of one State with another, the Synopses introducing the laws in the several leaflets are classified and arranged to take up in a definite order the various subjects usually covered in such legislation. To further extend its educational purpose, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest-insect and fungus-control laws, except general provisions, and all transitory provisions of law, including those concerning annual or biennial appropriations.

For the same reason, those finer points of reference proper only to a legal or administrative manual have also been omitted. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions.¹

SYNOPSIS OF LAWS.

GENERAL FORESTRY ORGANIZATION AND ACTIVITIES.

Commissioner of Agriculture.

Is appointed by the governor, with consent of the senate, to serve for a term of two years, subject to having his commission revoked by the governor upon recommendation of the board of control. Nos. 2, 38.

Receives a salary of \$3,000 per annum, and expenses and office supplies. Nos. 76, 77.

Is, ex officio, State forester. No. 6.

Promotes forestry by means of institutes, lectures, publications, and other educational work. No. 4. See also "Publications," on p. 3.

Employs assistants, lecturers, and other experts, subject to the approval of the governor, and of the board of control, including the fixing of salaries or other compensation. Nos. 4, 2, 39.

Attends meetings in other States or countries. No. 4.

Expends funds for exhibits, etc., outside of the State. No. 4.

Apportions to forestry, under approval of the governor, proper proportion of the funds annually available for agriculture and forestry. No. 3.

Expends, for forestry purposes, the revenues derived from royalties and the sale of timber resulting from the operation of mines and quarries upon public lands of the State. No. 69.

Makes report and recommendations to the governor, biennially, including therein the report of the State forester. No. 5.

Willful neglect to perform any of the above-described duties is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both. Nos. 72, 73, 74.

State Forester.

Receives appointment, salary, expenses, and office supplies, and holds office, in his capacity as commissioner of agriculture. Nos. 6, 2, 38, 76, 77.

Has direction of all forestry matters. No. 6.

Appoints the chief forester. No. 6.

Is, ex officio, in charge of, and manages, the State forest nursery. No. 6.

Cooperates with private owners, at their expense. No. 6. See also "Cooperation," on p. 3.

Employs assistance subject to approval of the governor and of the board of control, including the fixing of salaries or other compensation. Nos. 4, 2, 6, 39.

Causes the prosecution of persons violating laws concerning forests. No. 6.

Collects data and makes expert forest studies. No. 6.

Prepares and circulates at the expense of the State bulletins and circulars, delivers lectures, and conducts demonstrations. No. 19. See also "Publications," on p. 3.

Makes report and recommendations to the governor biennially. (Published with report of commissioner of agriculture.) Nos. 7, 5.

Is, ex officio, State firewarden. No. 6.

Is subject to a fine of not more than \$10 for neglect to perform any of the above-described duties. No. 23.

Determines the value of trees cut by mine and quarry operators on the public lands of the State and makes report thereon to the secretary of state, under penalty, in case of willful neglect to perform such duties, of imprisonment for not more than one year, or a fine of not over \$1,000, or both fine and imprisonment. Nos. 68, 72, 73, 74.

Chief Forester.

Is appointed by the State forester, to hold office during his pleasure. No. 6.

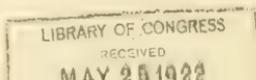
Receives such salary and expenses as are fixed by the board of control. No. 39.

Is required to be a professionally trained forester. No. 6.

Is subject to the orders of the State forester. No. 6.

Cooperates, under approval of the governor, with: (a) The Vermont Agricultural Experiment station and the U. S. Forest Service, in experimental forestry investigations; and (b) the state agricultural college, in lectures

¹ Whenever this leaflet or any other comprising a part of this compilation of "State Forestry Laws" is reprinted for local use, please append thereto the following note: This arrangement of the Forestry Laws of is reprinted from "State Forestry Laws," compiled and issued, in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to "The Forester, Forest Service, Washington, D. C." The State Forestry Laws leaflets which have been already published are as follows: No. 1, Wisconsin; No. 2, Louisiana; No. 3, North Carolina; No. 4, Maryland; No. 5, Missouri; No. 6, Texas; No. 7, Virginia; No. 8, Idaho; No. 9, Oregon; No. 10, Wyoming; No. 11, New Jersey (supply exhausted); No. 12, Washington; No. 13, Indiana; No. 14, Minnesota; No. 15, Montana; No. 16, Illinois; No. 17, Ohio; No. 18, Connecticut; No. 19, Massachusetts; No. 20, New Hampshire; No. 21, Colorado; No. 22, West Virginia; No. 23, New York. Requests for leaflets should always identify the particular ones desired by giving their respective numbers, as here indicated, in addition to mentioning the names of the States. The laws of other States, so far as they have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.



and demonstrations concerning forestry; each of said agencies bearing its proportional share of the total expenses. No. 6.

Is subject to a fine of not more than \$10 for neglect to perform any of the above-described duties. No. 23.

Expert or other Assistants.

Are employed subject to the approval of the governor, and of the board of control. Nos. 4, 2, 6, 39.

Salary or other compensation of persons so employed is fixed by the board of control. No. 39.

Cooperation.

Is authorized:

With private owners of forest lands, at their expense. No. 6.

With certain State and Federal agencies, under approval of the governor; each of which agencies bears its proportional share of the total expenses. No. 6.

State Forest Nursery.

Supplies forest seedlings:

At cost, within the State, together with directions for planting the seedlings, and, as far as practicable, skilled assistance or supervision, at applicant's expense, upon request therefor. Nos. 24, 25, 26.

At market prices, outside of the State. No. 27.

Is located on land of the Vermont Agricultural Experiment Station. No. 24.

Is in charge of, and managed by, the State forester. No. 6.

Revenue acquired through sales of surplus stock for use outside of the State is turned into the State treasury for general forestry purposes. No. 25.

Costs of management are defrayed out of the general funds available for forestry purposes. No. 25.

Investigation and Education.

Are promoted:

By institutes, lectures, publications, and other activities conducted by the commissioner of agriculture,

including the authority to expend funds for exhibits, etc., outside of the State. No. 4. See also, below, "Publications."

By collection of data, expert studies, bulletins, addresses, lectures, and demonstrations by the State forester. Nos. 6, 19.

By cooperation, on the part of the chief forester, with the Vermont Agricultural Experiment Station and the U. S. Forest Service, in experimental forestry investigations; and with the State agricultural college, in lectures and demonstrations concerning forestry. No. 6.

By instruction in forestry provided in the State school of agriculture at Randolph, and the Theodore N. Vail agricultural school and farms at Lyndon; and in Middlebury College. Nos. 59, 60.

Publications.

Are issued in the form of bulletins, circulars, and annual reports, by the commissioner of agriculture and the State forester, relative to State forest conditions, the care of woodlands, best methods of lumbering, promotion and preservation of forest growth, prevention and control of forest fires, with the State laws thereon, and kindred subjects. Nos. 4, 5, 6, 7, 19.

Income From Sources Other Than Annual or Biennial Appropriations.

For general forestry purposes, is derived:

From sales of forest seedlings, propagated in the State forest nursery. No. 25.

From sales of timber and other products of State forests. No. 8. See also No. 69.

From royalties and sales of timber on other State lands. No. 69.

For forest fire protection,² is derived from private lands not sufficiently protected. No. 11.

FIRE ORGANIZATION AND ACTIVITIES.

Commissioner of Agriculture.

Is, ex officio, State forester. No. 6.

State Forester (State Firewarden).

Is, ex officio, State firewarden. No. 6.

Receives appointment (including term of office), salary, expenses, and office supplies, in his capacity as commissioner of agriculture. Nos. 6, 2, 38, 76, 77.

Is empowered to exercise such powers and to perform such duties¹ as a firewarden in a town or gore, and with like

effect; and is subject to a fine of not more than \$25 for failure to perform the same. Nos. 6, 14.

Approves appointment of town forest firewardens by town boards of selectmen; and appoints such firewardens when the selectmen fail to do so. No. 11.

Divides towns into districts, as conditions may demand and appoints necessary district forest firewardens. No. 17.

Appoints forest firewardens for unorganized towns and gores. No. 12.

¹ For the powers and duties of a firewarden in a town or gore, see "Forest Firewardens," on p. 4, and also "Municipal Forests," on p. 6.

² While the State fund which is available, annually, for meeting unforeseen forest fire emergencies can not be considered as a permanent source of income, it nevertheless constitutes a fund upon which, on ap-

proval by the committee on budget, the State depends to cover: (a) All sums spent for forest protection purposes, by organized towns, in excess of 10 per cent of the grand list of each town (see No. 11); and (b) all per diem and other expenses of forest fire-protection work in unorganized towns and gores (see No. 12), with the exception of the costs of employing watchmen at fire lookout stations (see No. 16).

Approves, or directs, establishment of patrol by forest firewardens. No. 14.

Uses portions of the money apportioned for forestry:¹

To defray costs of maintaining watchmen at fire lookout stations. No. 16.

To defray expenses of wardens attending meetings for discussion of forest fire problems. No. 15.

Determines what unoccupied or uninclosed lands containing inflammable material in organized towns have not been provided during the previous year with adequate protection against fire, such lands being subject to a special tax levy. No. 11.

Certifies to State auditor of accounts, for payment, approved accounts of town forest firewardens and their assistants for services rendered in adjoining towns, whenever those towns fail to make such payments. No. 11.

Prepares and furnishes to firewardens and landowners forest fire notices for posting. No. 22.

Prepares and publishes bulletins or circulars concerning prevention and control of forest fires, and containing the State laws thereon. No. 19. See also "Publications," on p. 3.

Furnishes blank forms to firewardens for reports upon forest fires. No. 13.

Causes the prosecution of persons who violate forest or fire laws of the State. No. 6.

Makes report, biennially, to the governor of his official acts and all matters in his charge, with recommendations. No. 7.

Is subject to a fine of not more than \$10 for failure to perform any of the above-described duties.² No. 23.

Forest Firewardens.

In organized towns.

Town forest firewardens:

Are appointed by the board of selectmen of each town, annually, on or before January first, subject to the approval of the State firewarden, to serve for one year; except in the case of the chiefs of fire departments, who act in such capacity, ex officio, (without additional compensation) whenever there are woodlands within the limits of a city. Nos. 11, 18.

Are also appointed by the State firewarden when the selectmen fail to do so by the first of March. No. 11.

Receive from the town \$3 a day for time spent in the discharge of their official duties. Nos. 11, 14.

Are restricted to specified districts within their respective towns whenever, in the judgment of the State firewarden, the conditions in a town call for the services of more than one firewarden. No. 17.

¹ See No. 5.

² The penalty provision here referred to is that prescribed for any state officer, who is firewardens, a fellow coming within the class of state officers, are subject to a special fine of not more than \$25. See, below, under "Forest Firewardens," the penalty statement, on this page.

District forest firewardens:

Are appointed by the State forest firewarden, and assigned to take charge of specified districts within towns which are found to require more than one firewarden, and receive the same compensation from towns as town forest firewardens. No. 17.

In unorganized towns and gores.

Forest firewardens:

Are appointed by the State firewarden, for a term of one year; and receive from the State \$3 a day for time spent in the discharge of their official duties. No. 12.

In all towns and gores.

All forest firewardens:

Establish fire-patrol, subject to approval of the State firewarden, in dangerous localities, during the danger season; the expense of which is paid the same as costs of fire-fighting.³ No. 14.

Take required measures for the prompt control or extinguishment of forest fires, actual or threatened, within their respective jurisdictions, and also in adjoining towns when necessary. Nos. 11, 18, 17, 12, 6.

Enter any premises. Nos. 11, 18, 17, 12, 6.

Impress residents of the town to render assistance; which authority, in the case of firewardens for unorganized towns or gores, is extended to include also summoning persons from outside thereof. Nos. 11, 18, 17, 12, 6.

Determine when watchmen shall be maintained at fire-lookout stations. No. 16.

Post warning notices in suitable places. No. 22.

Perform patrol duty. No. 14.

Arrest without warrant violators of forest fire laws, and make complaints to the proper officer. Nos. 11, 23, 18, 17, 12, 6.

Attend local meetings for discussion of fire problems, upon request of the State firewarden. No. 15.

Keep official records, showing expenses incurred, and number and causes of fires within their respective jurisdictions, with the areas burned over, and the character and amount of damage done; and make report thereon to the State firewarden, within two weeks after a fire. No. 13.

Suffer no abridgement of authority in consequence of the similar authority given the State firewarden. No. 6.

Are subject to a fine of not more than \$25 for failure to perform their duties, without sufficient reason therefor.⁴ No. 14.

Patrolmen.

Are employed, in dangerous localities, during the danger season, by the town (or by the State, in unorganized towns or gores), under the direction of the forest fire-

³ For payment of costs of fire-fighting, see Nos. 11, 12.

⁴ See footnote 2 in column 1.

wardens, subject to the approval or direction of the State firewarden; and the cost thereof is paid in the same manner as expenses for fire-fighting.¹ No. 14.

Watchmen.

Are employed, by the State, under the direction of the State firewarden, at fire-lookout stations, whenever, in the judgment of a forest firewarden, their services are needed; and receive not to exceed \$2 per day. No. 16.

Landowners.

Establish, at their expense, fire-lookout stations, and connect the same, by telephone, with regular lines of telephones. No. 16.

Are furnished with fire warning notices for posting in suitable places. No. 22.

Are subject to a special tax levy by towns if they neglect to protect their forest lands. No. 11.

Fish and Game Officials.²

State fish and game commissioner:

Attends to the publication and posting of proclamations establishing and reopening close seasons for hunting during times of drought and payment of costs thereof. No. 67.

County and deputy fish and game wardens:

Enforce forest fire provisions of title 38 of the General Laws. No. 64.

Have power to require aid in enforcing the duties of their office. No. 64.

Arrest violators. No. 61.

Serve criminal processes. No. 64.

Make and subscribe to the necessary complaints or informations. No. 64.

Caution persons concerning danger from fires in woods. No. 64.

Extinguish fires left burning. No. 64.

Notify all parties interested and the forest firewarden of the town whenever a fire threatens to extend beyond their control, and exercise all the powers and duties of such firewarden until his arrival.³ No. 64.

Render expense accounts for forest fire work to the treasurers of the towns in which the fires occur, who arrange for payment thereof in the manner provided for payment of forest firewardens.³ No. 64.

Fire-fighting Laborers.

Are impressed by any one of the several classes of fire-fighting officials having authority to take such action, and are subject to a penalty of not more than \$10 for neglect or refusal to comply with such summons. Nos. 11, 18, 17, 12, 6, 64.

Are paid by the town concerned if the same is organized; otherwise, by the State, at the same rate per hour as is paid for labor on highways, upon a minimum basis of 5 hours' pay (see Nos. 11, 12); and, in event of failure on the part of any organized town to duly make payment for such service, rendered in an adjoining town, the State pays therefor, and is subsequently reimbursed by the town. No. 11.

Distribution of Costs of Fire Protection.

State pays:⁴

Entire cost of fire protection in unorganized towns and gores.⁵ No. 12.

Such portion of the cost of fire protection in organized towns as may be in excess of 10 per cent of the grand list of each town.⁵ No. 11.

Cost of employing watchmen at fire-lookout stations in all towns and gores. No. 16.

Expenses of forest firewardens attending meetings for discussion of forest-fire problems. No. 15.

Costs of printing and circulating bulletins or circulars concerning prevention and control of forest fires, and the forest fire laws of the State. No. 19.

Expenses of publishing and posting proclamations establishing, and, if necessary, reopening close seasons for hunting during times of drought. No. 67.

Organized towns pay:

Per diem of town forest firewardens, and district forest firewardens. Nos. 11, 17.

Expenses of fire-fighting within their respective limits, to an extent not to exceed 10 per cent of the grand list of each town; of which amount the town recovers not to exceed one-half, through a special tax levy of not to exceed five cents per acre, upon all unoccupied or uninclosed lands, or both, which contain inflammable material, and which are shown not to have been provided by the owner with adequate fire protection during the previous year. No. 11.

Expense of patrolmen employed within their respective limits, in the same manner as expenses for fighting fires. No. 14.

Costs of the performance of various duties incidental to forest fire protection. No. 14.

Landowners pay:

On account of their unoccupied and uninclosed lands, or both, containing inflammable material that has not been, during the previous year, provided with adequate protection against fire, a special tax levy of not to exceed five cents per acre, in reimbursement of the town for not to exceed one-half of the forest fire expenses in that year. No. 11.

⁴ In addition the State advances any amounts that may be due for fire-fighting services rendered by forest firewardens and their assistants in adjoining towns, when such towns neglect or refuse to pay for the same, the State being reimbursed therefor by the towns. (See No. 11.)

¹ For payment of costs of forest fire-fighting, see Nos. 11, 12.

² Willful neglect to perform any of these duties is punishable by imprisonment for not more than one year or a fine of not over \$1,000, or by both. (See Nos. 72, 73, 74.)

³ For powers and duties and payment of forest firewardens, see "Forest firewardens," on p. 4, and "Municipal forests," on p. 6.

⁵ Payment is made from the moneys annually available for purposes of any unforeseen contingency, upon approval by the committee on budget, under the provisions of section 654, G. L. (See Nos. 11, 31.)

Fire Provisions for Special Classes of Hazards.*Railroads.*

Are required to use suitable devices and to exercise due caution to prevent injuring property through causing fires; and, in default thereof, when injuries are inflicted, the rolling stock or other property used in the running or management of the road is subject to attachment to furnish indemnity therefor, and the employee or agent guilty of the negligence is subject to imprisonment for not more than one year, or a fine of not more than \$1,000; which criminal procedure does not exempt either the railroad or its employees from an action for damages. Nos. 63, 62, 61.

Have an insurable interest in the property along their route. No. 63.

Compulsory brush and slash disposal.

Penalty for leaving brush and slash is imposed in the form of a tax upon unoccupied or uninclosed lands which have not been protected during the previous year. No. 11.

Fire Provisions for Miscellaneous Classes of Hazards.*Require:*

All unoccupied or uninclosed lands, or both, containing inflammable material, to be afforded adequate protection, under penalty of a special tax levy thereon, in event of failure to comply with the requirement. No. 11.

The times and conditions of kindling fires in the open shall be such as to insure control of the fires, under penalty of a fine not to exceed \$10. Nos. 20, 23.

Fires kindled in or adjoining woods to be totally extinguished before leaving them, under penalty of imprisonment for not more than 30 days, or a fine of not more than \$50, or both. No. 21.

In seasons of drought, that the governor, in the exercise of his discretion, may proclaim a close season for hunting. Nos. 65, 66, 67.

Prohibit:

Willful and malicious setting woods or forests on fire, so as to occasion injury to another, under penalty of imprisonment in the State prison for not more than 5 years, or fine of not more than \$500. No. 70.

Entering upon lands of another and setting a fire that causes damage, under penalty of imprisonment for not more than 60 days, nor less than 30 days, or fine of not more than \$100, nor less than \$10.³ No. 71.

Fire-warning Notices.*Are required:*

To be printed in large letters. No. 22.

To contain proper warnings as to the danger of forest fires, incorporating therein the provisions of sec. 478, G. L.⁴ which require total extinguishment, before leaving, of fires built in or adjoining woods, under penalty of imprisonment or fine, or both. No. 22.

To be furnished by the State firewarden, and posted by the firewardens in suitable places. No. 22.

Are permitted to be furnished also to private landowners. No. 22.

Willful removal or defacing thereof subjects the offender to a fine of not more than \$10 for each offense. No. 23.

PUBLIC FORESTS.**State Forests.**

Are established for the purpose of promoting and exemplifying a State forest policy. Nos. 8, 9.

Are acquired by the governor and State forester by means of gift,¹ of purchase, or of lease of lands. Nos. 8, 9, 1.

Are administered by the State forester and the commissioner of agriculture (Nos. 6, 8, 10); who are authorized:²

To provide necessary improvements, such as shelters, lookout towers, etc. No. 10.

To lease or sell mine or quarry sites. No. 69.

To sell timber and other products; and must turn the proceeds into the State treasury, for general forestry purposes. No. 8.

To survey and reforest the lands. No. 9.

To use for reforesting purposes, free of cost, seedlings raised in the State forest nursery. No. 25.

To prosecute for trespassing upon or injuring such lands through fire or other causes. No. 6.

Are taxed as are privately owned forest lands similarly utilized for forest production. Nos. 8, 46.

Municipal Forests.

Are established for the purpose of producing supplies of wood and timber. No. 28.

Are acquired by means of donation or by vote of the towns for purchase thereof, subject to examination as to their suitability for such use, in cases of tracts of not less than 40 acres. Nos. 28, 29.

¹ For general authority conferred upon the governor to accept gifts, to the State, of real and personal property, see, in volume of the General Laws, secs. 357, 358.

² Failure on the part of an officer to perform any of these duties named renders him liable to a fine of not more than \$10 (see No. 23), except in the cases of the duties of leasing and selling mines and quarry sites, and leasing additional lands for state forests, which cases fall under a general penalty; for which, see Nos. 72, 73, 74.

³ The provisions in No. 70 are not affected by these provisions in No. 71.
⁴ See No. 21.

Are administered under the direction of the State forester, who is required:¹

To advise what trees shall be planted. No. 29.

To use for reforestation purposes, free of cost, seedlings raised in the State forest nursery. No. 25.

To direct what trees may be cut and what products may be sold; and to see that the proceeds there-

from are turned into the treasury of the town owning the lands. Nos. 29, 30, 31.

To prosecute for trespassing upon or injuring such lands through fire.² No. 6.

Are protected by their respective town firewardens; who are paid for such services by the towns at the same rate as they receive for fighting forest fires, subject to the approval of their accounts by the State forester.³ No. 30.

TAXATION.

Classification of Forest Lands.

Groups lands to be classified on the basis of average age of stands, namely, as group 1 for "young timber lands" (under 15 years old), and as group 2 for "wild forest lands" (over 15 years old). Nos. 46, 50.

Provides, as a basis therefor:

That the lands in both groups shall be located outside the limits of a city or village. Nos. 46, 50.

That the lands in group 1 shall be adequately stocked with trees; the species, approximate spacing, and manner of planting being specified, where planting is necessary. No. 46.

That the lands of group 2 shall be unsuited to agriculture, and of 5 acres or more in extent. No. 50.

That State forests shall be classified with group 1. No. 46.

Requires:

That application for group 1 shall be made to the State forester; and, for group 2, to the listers in each organized town or to the board of appraisers for the unorganized towns and gores. Nos. 45, 50, 51, 56.

That the suitability of the land for classification shall be determined by the State forester for group 1; and, by the listers (or board of appraisers) for group 2, subject to appeal therefrom by the owner. Nos. 45, 51, 56, 55.

Becomes finally effective:

For group 1, through the issue of a certificate of classification by the State forester. No. 45.

For group 2, by being set in the grand list by the listers (or board of appraisers). Nos. 51, 56.

Continues in effect, for both groups, so long as the land is maintained in condition suitable to continuous forest production; and, whenever this condition ceases, the classification is canceled. Nos. 47, 52, 54, 56.

Valuation.

Requires:

That, for purposes of the general property tax, assessed values, for both groups, be established, once for all, at the time of classification, and so remain until 1950. Nos. 46, 52.

That, for group 1, the assessed value of the land be the only value so established and at not to exceed \$3 an acre. No. 46.

That, for group 2, the assessed value of the land and timber together be so established, namely at the same figure at which they were assessed at the quadrennial appraisal immediately preceding. Nos. 51, 56.

That, in each group, a reassessment, on the same basis, but without the limitations as to value originally imposed, be made in 1950 and continue unchanged for a period of 50 years. Nos. 46, 52.

That, in both groups, for purposes of the yield tax, the appraised stumpage value of the timber shall be determined on the basis of the quantity and stumpage value of material cut, as reported by the owner, or as reviewed and revalued by the listers (or board of appraisers); or, in event of an appeal by the owner, as again reviewed, by a special board. Nos. 48, 53, 55, 56.

Annual, or General Property, Tax.

Is levied, up to 1950, in both groups, upon the assessed values established at time of classification; and, thereafter, for a period of 50 years, upon the reassessments of those values. Nos. 46, 52.

Yield Tax.

Is imposed:

Upon the appraised value of any products cut from lands in either group, with the exception of such products as are devoted to personal use, and, in the case of group 1, with the further exception of such material as may be removed in the process of thinning, the stumpage value of which does not exceed the cost of removal. Nos. 46, 48, 53, 56.

Is levied:

In the case of group 1 at the rate of 10 per cent. No. 46.

In the case of group 2 at the rate of one-tenth of 1 per cent. for each year that the land in any given tract has been classified, up to a maximum rate of not to exceed 7 per cent. No. 53.

Is due:

Whenever a taxable product is cut on lands in either group, and notice to that effect by the town treasurer is issued. Nos. 49, 53.

¹ In this connection special reference is made to the following specific provision in No. 6: "Said forester shall, by complaint to the proper prosecuting officer, cause the prosecution of a person who violates a provision of law relating to forests and forest fires," * * *.

² For powers and duties and pay of town forest firewardens, see "Forest firewardens," on p. 4.

³ Failure on the part of the State forester to perform any of the duties named renders him liable to a fine of not more than \$10. (See No. 23.)

Is payable:

To the town treasurer, in full, within 30 days, and in triple amount, beyond 30 days, following his notice. Nos. 49, 53.

Is collectible:

Through an action of tort by the town, whenever payment is refused. Nos. 49, 53.

Special Cancellation Tax.**Is imposed upon the stumpage value of the standing timber:**

Whenever the land is not maintained in a condition suitable to continuous forest production, including the holding thereon, uncut, of a stand of timber which has matured; and is in addition to any annual or special tax that may have been paid, or may be collectible. Nos. 47, 54.

Is levied:

At a unit rate per cent for each year that the land in any given tract has been classified; such unit rate is one-half of 1 per cent in the case of group 1, and one-tenth of 1 per cent in the case of group 2. Nos. 47, 54, 53.

At a maximum rate of not to exceed 7 per cent in the case of group 2 only. No. 53.

Is due:

In the case of group 1, whenever the classification of lands is canceled. No. 47.

In the case of group 2, whenever an owner, upon notification from the listers (or the board of appraisers) that his timber is mature and should be cut, elects to surrender classification rather than cut such timber. Nos. 51, 56.

Is payable:

In the case of group 1, in full, within 30 days, and in triple amount, beyond 30 days, following notification, from the town treasurer, that the tax is due. No. 49.

In the case of group 2, within three months from receipt of notification from the listers (or appraisers), that the timber is mature and should be cut. No. 54.

Is collectible:

In the case of both groups, through an action of tort by the town. Nos. 49, 54.

State Forester.¹**In the case of both groups:**

Directs manner of making application for classification. Nos. 45, 51.

In the case of group 1:

Also determines suitability of lands, and issues certificate of classification. No. 45.

Approves species of trees that may be grown on such lands, and the manner of planting thereon. No. 46.

Examines classified lands, whenever deemed necessary, and cancels classification when proper forest conditions are not maintained. No. 47.

In the case of lands planted and exempted prior to 1913, for a term of 10 years, under the provisions of an earlier act:

Makes rules and regulations for care of the trees planted thereon, and, upon request, furnishes copies of the same. No. 32.

Revokes the certificate of exemption when necessary, by written notice to the town clerk. No. 33.

Chief Forester.¹

Is, ex officio, a member of all boards of appeal in cases of forest classification. No. 57.

Owners of Lands.**Are required:**

To give 30 days' notice to the listers (or appraisers) of intention to cut on lands in group 2, under penalty of payment of three times the amount of the tax. Nos. 53, 56, 49.

To file, with the listers (or appraisers), in the case of both groups, a statement as to the appraised value of the timber cut; which action, in the case of group 2, must be in advance of removal of the timber. Nos. 48, 53, 56.

May appeal from decisions by the listers (or appraisers):

As to the suitability of lands for classification in group 2; as to the maturity of trees growing on such lands; and as to the appraised value of material cut from lands in either group. Nos. 55, 48, 56.

Are entitled to have their lands which were planted and exempted prior to 1913 for a term of 10 years under the provisions of an earlier act continue to be exempted subject to conforming to the rules and regulations laid down by the State forester. Nos. 44, 32.

Exemption from the General Tax Law.

Is granted for a term of 10 years in the case of certain tree plantations established prior to 1913. No. 44.

Is subject to revocation for violation of the State forester's rules and regulations governing the plantations. No. 33.

¹ Willful neglect of any duties here indicated is punishable by imprisonment for not more than one year or a fine of not over \$1,000, or by both. (See Nos. 72, 73, 74.)

MISCELLANEOUS PROVISIONS.

Board of Control.

Consists of the governor (serving as chairman), State treasurer, auditor of accounts, director of State institutions, and a member appointed, biennially, by the governor with the advice and consent of the senate. Nos. 35, 36.

Utilizes as its secretary and recording officer the secretary of civil and military affairs, who is allowed necessary expenses in connection with such work. No. 36.

Serves without compensation further than necessary expenses of its members, with the exception of the member appointed by the governor, who receives both salary (\$8 a day for services rendered) and his expenses. Nos. 35, 75.

Holds meetings at least monthly. No. 35.

Receives from State boards, institutions, commissions, officers, and departments other than judicial officers monthly reports as to work done and expenses incurred and utilizes the same for purposes of publicity. No. 37.

Has inquisitorial powers as to the operations of all State boards, institutions, commissions, officers, and departments, and may cause the governor to revoke the commission of any officer or member of a board appointed by him, with or without the advice and consent of the senate. No. 38.

Approves employment of expert or other assistance by any State board, institution, commission, officer, or department. No. 39.

Fixes salary or other compensation of persons appointed or employed by any State board, institution, commission, officer, or department, when not fixed by law;

but may not change such as may be so fixed; nor authorize expenditures in excess of any maximum limit that may be fixed by law. No. 39.

Provides office room, with furnishings, for certain State officers, commissions, boards, and departments, including the commissioner of agriculture, State forester, and chief forester, and charges costs against the moneys annually available for the support of such officers, boards, etc. Nos. 40, 41, 42.

Makes reports and recommendations to the general assembly, biennially. No. 43.

The members thereof are subject to imprisonment for not more than one year, or a fine of not more than \$1,000, or both, for willful neglect to perform any of the above described duties. Nos. 72, 73, 74.

Committee on Budget.

Has authority to make any expenditures necessitated by unforeseen circumstances or emergencies, and may pledge the credit of the State therefor; the moneys so used being appropriated for such purposes and included in the budget for the next biennial fiscal period. No. 34.

General Penalty for Failure to Perform Official Duties.

Imprisonment for not more than one year or a fine of not over \$1,000, or both such fine and imprisonment, are, in the absence of a specific penalty for the offense in question, imposed upon any State, county, town, or fire district officer who willfully neglects to perform the duties imposed upon him by law. Nos. 72, 73, 74.

TEXT OF LAWS.

NOTE.—The abbreviation G. L., whenever used below, has reference to the State code, entitled, "General Laws", issued 1917.

(No. 1.) Sec. 359, G. L., am. by L. 1919, act 12, sec. 1. The governor may, in the name of the state, lease for a term of years or otherwise, such land or lands as he deems necessary for the protection and proper management of state forest reserves, or for use by the state in connection with state forest reserves; and the governor may also, in like manner, lease any land or lands he deems can be used to advantage by the state in connection with any state institution or department. Leases so entered into shall be kept on file in the office of the secretary of state. The auditor of accounts is hereby authorized to draw orders for obligations incurred under the provisions of this section. [L. 1917, act 14, sec. 1.]

(No. 2.) Sec. 428, G. L. The governor shall biennially in the month of January, with the advice and consent of the senate, appoint a commissioner of agriculture. Said commissioner shall maintain such office and employ such assistance, clerical or otherwise, as the governor deems necessary for the proper performance of his duties. [L. 1917, act 17, sec. 2; * * *; L. 1908, act 11, sec. 6.]

(No. 3.) Sec. 429, G. L. Said commissioner shall, from time to time, apportion, subject to the approval of the

governor, the moneys annually available for carrying out the provisions of this¹ and the following chapter² between agriculture and forestry, as in his judgment will best preserve the interests of the state. [L. 1917, act 17, sec. 1; * * *; L. 1908, act 11, sec. 11.]

(No. 4.) Sec. 430, G. L. Said commissioner shall promote the agricultural interests and education throughout the state by means of institutes, farmers' meetings, lectures, essays, bulletins, * * * nature leaflets and such other means as he deems advisable, and may employ, subject to the approval of the governor, assistants, lecturers, essayists and experts in conducting meetings, in the preparation of bulletins * * * and in the proper discharge of his duties. Such educational work shall include, among other topics, forestry, * * * Lectures and essays shall be given and institutes and meetings held at such places and times as said commissioner deems advisable. Said commissioner may attend conventions, meetings, or institutes relating to agriculture, held in other states or countries.

¹ Chapter 25 (Agriculture) of the General Laws, which contains secs. 428, 429, 430, 435.

² Chapter 26 (Forestry) of the General Laws, which contains secs. 403-490.

Said commissioner may, with the approval of the governor, use a portion of the moneys apportioned for agriculture, to represent the state by exhibit or otherwise outside of the state. [L. 1917, act 17, sec. 3; * * *; L. 1908, act 11, sec. 7.]

(No. 5.) Sec. 435, G. L. Said commissioner shall, in each even year, submit a detailed report of his work to the governor, together with such facts and abstracts as are hereinafter required to be included therein, and together with such suggestions in regard to the duties of his office and the advancement of the agricultural interests of the state as may seem pertinent. Said commissioner may, include in such report such addresses, lectures and essays delivered under the provisions of this chapter¹, as he deems advisable, and may reprint therein bulletins, * * * and leaflets. Said commissioner may include in such report an abstract of the proceedings of such agricultural clubs or other organizations or institutions for the furtherance of agricultural education and interests, as he deems advisable. There shall be published with such report, * * * the report of the state forester * * * [L. 1917, act 17, secs. 4, 9; * * *; L. 1908, act 11, sec. 9.]

(No. 6.) Sec. 463, G. L. The commissioner of agriculture shall, by virtue of his office, be state forester. Said forester shall have direction over all forest interests and all matters pertaining to forestry, and shall be, ex officio, forester in charge of the nursery for forest seedlings. Said forester shall be, ex-officio state firewarden and may, in his discretion, exercise all the authority of the firewarden in a town or gore and may do any act which said warden may do under the provisions of this chapter²; and every person and town shall be governed and bound by such acts of said forester as if the same had been performed by said warden, but this provision shall not affect the authority of said warden. Said forester shall manage the state forest reserves. Said forester shall collect data and make expert studies relative to state forest conditions. Said forester may prepare bulletins, deliver addresses, lectures and demonstrations in forestry. Said forester may advise owners of forest lands in this state relative to the management of the same, provided that all necessary expenses incident thereto are met by those requesting such services. Said forester shall, by complaint to the proper prosecuting officer, cause the prosecution of a person who violates a provision of law relating to forests and forest fires, and shall cause actions to be instituted by the attorney general in behalf of the state against all persons trespassing upon or injuring any state forest property. Said forester shall appoint a deputy who shall be a professionally trained forester, who shall be known and officially designated as the chief forester of the state of Vermont, who may, subject to the approval of the governor, conduct and report upon experimental investigations pertinent to forestry in coopera-

tion with the Vermont agricultural experiment station and the United States forest service, and deliver addresses, lectures, and demonstrations in forestry in connection with the resident and extension service of the state agricultural college, provided, however, that said station, service and college bear their proportional shares of the total expense involved in such work. Said deputy shall hold office during the pleasure of said forester; and said forester may employ such other assistance as the governor deems necessary to properly perform the duties of said forester. Said deputy shall at all times be subject to the orders of said forester. [L. 1917, act 17, sec. 8; L. 1908, act 11, secs. 2, 5; * * *; L. 1904, act 16, sec. 1.]

(No. 7.) Sec. 464, G. L. Said forester shall, in each even year, make a report to the governor of his official acts and of all matters in his charge, together with such recommendations as he deems proper. [L. 1917, act 17, sec. 9; * * *; L. 1904, act 16, sec. 2.]

(No. 8.) Sec. 465, G. L., am. by L. 1919, act 28, sec. 1. The governor is hereby authorized, upon recommendation of said forester, to accept gifts of land to the state³ the same to be held, protected and administered as a state forest reserve. All proceeds from the sales of timber or other products from such lands shall be paid to the state treasurer and be used at the discretion of said forester in the furtherance of the forestry interests of the state. All lands held as state forest reserves shall be appraised under the provisions of section seven hundred and twenty-two of the General Laws⁴ and set to the state in the grand list of the town where located and the state shall pay taxes thereon. [L. 1917, act 17, sec. 10; L. 1908, act 11, sec. 3.]

(No. 9.) Sec. 466, G. L. Said forester, with the consent of the governor, is authorized to purchase lands in the name of the state, to be held, protected and administered as state forests as provided in the preceding section. The moneys annually available for the purposes of this section in addition to paying the purchase price of such lands may be used for surveying same and for reforestation such portions thereof as are suitable for such purpose. [L. 1912, act 28, sec. 1.]

(No. 10.) Sec. 467, G. L. The commissioner of agriculture may use such portion of the moneys apportioned for forestry as he deems advisable for the erection of shelters, lookout towers, storehouses or barns on any of the state forest property. [L. 1917, act 17, sec. 11; L. 1912, act 29.]

(No. 11.) Sec. 468, G. L., am. by L. 1919, act 16, sec. 1. The board of selectmen of each town shall annually, on or before the first day of January, appoint a town forest firewarden, who, upon his acceptance and upon the approval of said forester, shall serve for the calendar year. Said warden shall receive three dollars a day for time spent in the performance of the duties of his office, which shall be paid by the town. Upon the failure of said selectmen to make such appointment by the first day of March in any

¹ Chapter 25 (Agriculture) of the General Laws, which contains secs. 428, 429, 430, 435.

² Chapter 26 (Forestry) of the General Laws, which contains secs. 463-490.

³ For general authority conferred upon the governor to accept gifts, to the State, of real and personal property, see, in volume of the General Laws, secs. 357, 358.

⁴ See p. 14.

year, said forester shall appoint such town forest fire warden. Said warden shall, when a forest fire or fire threatening a forest is discovered in his town enter upon any premises and take measures for its prompt control and extinguishment, and he may call upon any person in the town for assistance, and said person shall be paid by the town at the same rate per hour as is paid for labor upon highways. A minimum of five hours' pay shall be allowed persons who are officially summoned to assist in the extinguishment of forest fires. A person who neglects or refuses to assist when so called by said warden, and not excused shall be fined not more than ten dollars. Said warden may arrest without warrant any person found in the act of violating a provision of law pertaining to forest fires. A town shall not be held liable in any one year for an amount greater than ten per cent of its grand list, for the purpose of extinguishing forest fires of which sum not to exceed one half shall be recovered by the town through a special levy of not to exceed five cents per acre, which levy shall be assessed on a per acre basis as an extra item in the regular tax bill against all unoccupied lands or uninclosed lands or both containing inflammable material, which, in the opinion of the state forester, from facts placed before him by the owner of such lands or the selectmen of the town in which the lands lie or both, have not been provided during the previous year by said owner with adequate protection against fire. Failure of an owner of such lands to provide them with such protection, or failure to file on or before November first a statement in proof thereof with said forester shall be prima facie evidence of the absence of such protection. Occupancy of a farm by an owner or his tenant shall constitute adequate protection of the timberlands thereon. All sums spent by a town in forest protection in excess of ten per cent of its grand list shall be paid by the state from the moneys annually available for the purposes of any unforeseen contingency, and the auditor of accounts shall draw an order for any such excess, when the same is approved by the committee on budget under the provisions of section 654 of the General Laws.¹ Whenever said warden employs men in extinguishing a fire in a town adjoining his own the expense incurred shall be paid by the town in which the work was done. If a town neglects or refuses to pay said warden or his assistants for their services, said forester shall, if he finds the same to be justly due, certify the amounts to the auditor of accounts, together with the names and addresses of the claimants, and said auditor shall draw an order therefor payable to such claimants, and the town liable for such services shall reimburse the state for the amount so paid. [* * *; L. 1904, act 16, sec. 3.]

(No. 12.) Sec. 469, G. L., am. by L. 1919, act 16, sec. 2. Said forester may appoint a forest fire warden for an unorganized town or gore, who shall hold office for one year. Said wardens shall have the same powers and duties as town forest fire wardens and shall receive three dollars a day for the time spent in the performance of the duties of

his office. Said warden may call on any person, whether resident or not of such town or gore, for assistance and such person shall receive the same pay and be liable to the same penalties as prescribed for persons called upon by a warden under the provisions of the preceding section. The per diem of said warden and said persons and all expenses incurred by said warden in extinguishing forest fires shall, on the approval of the committee on budget under the provisions of section 654 of the General Laws² be paid by the state from the moneys annually available for the purposes of any unforeseen contingency, and the auditor of accounts shall draw orders therefor. [* * *; L. 1904, act 16, sec. 4.]

(No. 13.) Sec. 470, G. L. A forest fire warden shall keep a record of his acts, the amount of expenses incurred, the number of fires and causes, the areas burned over and the character and amount of damages done in his jurisdiction, and shall, within two weeks after the discovery of such a fire, report the same to said forester on blanks which shall be furnished by him. [* * *; L. 1904, act 16, sec. 7.]

(No. 14.) Sec. 471, G. L., am. by L. 1919, act 16, sec. 3. Such a warden shall, during the danger season and subject to the approval or direction of said forester, establish a patrol in dangerous localities, and the expense for the same shall be paid as expenses for fighting fires. Said wardens shall receive the same pay for time spent in posting notices, patrolling or making reports that they receive for time spent in actual fire fighting. A warden who fails to perform his duties without sufficient reason shall be fined not more than twenty-five dollars. [L. 1910, act 20, sec. 4.]

(No. 15.) Sec. 472, G. L. Said forester may use such portion of the money apportioned for forestry as he deems necessary, for paying the expense of such wardens as he may invite to a local meeting for the discussion of fire problems. [L. 1917, act 17, sec. 12; L. 1910, act 20, sec. 5.]

(No. 16.) Sec. 473, G. L. Whenever an owner of forest lands establishes at his expense a fire-lookout station on any prominent hill or mountain overlooking timber lands in the state and connects the same by telephone with some regular telephone line, said forester is authorized to use such portion of the moneys apportioned for forestry, for maintaining a watchman at such station during such period, as said warden deems advisable, but such expense shall not exceed two dollars per day. [L. 1910, act 20, sec. 6.]

(No. 17.) Sec. 474, G. L. Whenever said forester deems it difficult in any town for one warden to successfully take charge of protecting the entire town from forest fires, he may divide such town into two or more districts and designate the district to be under the charge of the town warden and appoint a district forest fire warden in charge of the other district. Said wardens shall have the same powers, duties and pay, and make the same reports to said forester as town forest fire wardens. [* * *; L. 1910, act 20, sec. 7.]

¹ See No. 34, on p. 13.

² See No. 31, on p. 13.

(No. 18.) Sec. 475, G. L. Whenever there are woodlands within the limits of a city, the chief of the fire department of such city shall act as firewarden with all the powers and duties of town forest firewardens, but without additional salary. [L. 1910, act 20, sec. 8.]

(No. 19.) Sec. 476, G. L. Said forester may prepare bulletins or circulars treating of forest fires, their prevention, the best methods of controlling and extinguishing the same, the laws of the state on the subject, the care of woodlands, the best methods of lumbering, the promotion or preservation of forest growth and kindred subjects, and such bulletins or circulars may be printed and circulated at the expense of the state and may be included in the printed report of said forester. [* * *; L. 1904, act 16, sec. 8.]

(No. 20.) Sec. 477, G. L. Fires kindled for the purpose of burning brush or for other lawful purpose shall be kindled only at such times and under such conditions as will enable the parties starting them to keep them entirely under control.¹ [* * *; L. 1904, act 16, sec. 9.]

(No. 21.) Sec. 478, G. L. A person who builds a fire in or adjoining any woods shall totally extinguish such fire before leaving it. A person who violates a provision of this section shall be imprisoned not more than thirty days or fined not more than fifty dollars, or both. [* * *; L. 1904, act 16, sec. 5.]

(No. 22.) Sec. 479, G. L. Said forester shall have notices printed in large letters, containing the provisions of the preceding section and proper warning as to danger of forest fires. Such notices shall be furnished to firewardens, who shall post them in suitable places, and may also be furnished to private landowners. [* * *; L. 1904, act 16, sec. 6.]

(No. 23.) Sec. 480, G. L. An officer who neglects to perform the duties imposed upon him by this chapter² a person who willfully tears down or defaces a notice posted under the provisions of this chapter or a person who disobeys any of its provisions for which no other penalty is provided, shall be fined not more than ten dollars for each offense. The firewarden shall make complaint to the proper officer of offenses under this chapter. [* * *; L. 1904, act 16, sec. 10.]

(No. 24.) Sec. 481, G. L. The Vermont agricultural experiment station shall, at its own expense, furnish the necessary land for a nursery for the propagation of forest seedlings of useful varieties and shall furnish the necessary expert supervision thereof, and shall, as soon as may be and as far as practicable, furnish to all applicants who are residents of or landowners in this state, material for forest planting at the actual cost of the same, and such material shall be used for forest planting in this state. [* * *; L. 1906, act 15, secs. 2, 3.]

(No. 25.) Sec. 482, G. L. Said forester may, subject to the approval of the governor, use such portion of the moneys apportioned for forestry as seems reasonable, for the development of nurseries for forest seedlings, and for the purpose of supplying, at cost, seedlings for the planting of State forest reserves, municipal forests and private lands, as provided in

the preceding section. All moneys received from the sale of such seedlings shall be covered into the state treasury and may be used by said forester in the furtherance of the forestry interests of the state. [L. 1917, act 17, sec. 13; * * *; L. 1908, act 11, sec. 4.]

(No. 26.) Sec. 483, G. L. Said forester shall furnish to an applicant for such forest seedlings suitable directions for planting the same and shall, when requested, so far as he may be able, furnish skilled assistance or supervision for such work, and the applicant therefor shall pay the expense thereof. [* * *; L. 1906, act 15, sec. 4.]

(No. 27.) Sec. 484, G. L. Any surplus stock in such nursery from time to time after the demands mentioned in the third preceding section have been supplied, may be sold at fair market prices to parties for use without the state. [* * *; L. 1906, act 15, sec. 5.]

(No. 28.) Sec. 485, G. L. A town may, at any legal meeting, vote such sums of money as it deems best for the purchase, management and improvement of lands for the purpose of growing wood and timber thereon. [L. 1915, act 24, sec. 1.]

(No. 29.) Sec. 486, G. L. A town owning, either through donation or purchase, a tract of land of not less than forty acres, may have the same examined without cost by said forester, for the purpose of determining whether the same is suitable for a municipal forest. If, upon such examination, said forester decides that it is suitable for such purposes, it shall be designated as a municipal forest, and said forester shall give advice as to what trees shall be planted thereon and as to the subsequent management thereof. [* * *; L. 1915, act 24, sec. 2.]

(No. 30.) Sec. 487, G. L. Such municipal forests shall be managed under the direction of said forester, and only such trees may be cut as he may, from time to time, designate. The protection of such forests shall be under the town forest firewarden, who shall be paid for his services in connection therewith by the town, at the same rate as he is paid for fighting forest fires, upon the approval of his account by said forester. [L. 1915, act 24, sec. 4.]

(No. 31.) Sec. 488, G. L. All moneys received for the sale of lumber, wood or other products from such a forest, shall be paid into the treasury of the town owning the same. [L. 1915, act 24, sec. 5.]

(No. 32.) Sec. 489, G. L. Said forester shall make rules and regulations relating to the care of timber or forest trees planted prior to January first, nineteen hundred and thirteen, under the provisions of section three hundred and sixty-eight of the Public Statutes.³ Said forester shall furnish a printed copy of such rules and regulations to any person upon request. [L. 1912, act 40, sec. 5; P. S., sec. 368; L. 1904, act 17, sec. 2.]

(No. 33.) Sec. 490, G. L. Said forester shall revoke the certificate of exemption of an owner or occupant of exempt land who violates or knowingly permits to be violated

¹ For penalty in case of violation of these provisions see No. 23.

² Chapter 26 (Forestry) of the General Laws, which contains secs. 463-494.

³ Sec. 368 of the Public Statutes gave the state forester authority to determine upon the manner in which such lands as were exempted from taxation were to be planted, the number and kinds of trees to be used, and other similar details.

such rules or regulations of said forester, by giving notice in writing of such revocation to the town clerk with whom the original certificate was filed; and, upon the filing of such notice, such exemption shall cease. [L. 1912, act 40, sec 5; P. S., sec. 370; L. 1904, act 17, sec. 5.]

(No. 34.) Sec. 634, G. L. Said committee [the committee on budget] shall have the authority to make any expenditures necessitated by unforeseen circumstances or emergencies and may pledge the credit of the state for the same, * * * and all sums of money used under the provisions of this section are hereby appropriated for the purposes mentioned in this section. All moneys used and expended under the provisions of this section shall be included in the budget for the next biennial fiscal period. [* * *; L. 1915, act 26, sec. 14.]

(No. 35.) Sec. 655, G. L. The board of control shall consist of the governor, state treasurer, auditor of accounts, director of state institutions and a person to be appointed biennially by the governor with the advice and consent of the senate. Such appointed member shall hold office for the term of two years from and including the first day of February in the year of his appointment. The members of said board except the person appointed by the governor and confirmed by the senate shall serve without pay, but all shall be paid their necessary expenses when away from home on official business. Said board shall meet in the state capitol or at such other places as the governor may designate at least monthly to transact such business as may properly come before it. [L. 1917, act 32, sec. 1.]

(No. 36.) Sec. 656, G. L. The governor shall be the chairman of said board, and the secretary of civil and military affairs shall be its secretary and recording officer and as such shall be allowed his necessary expenses incurred in carrying out the duties of his office. [L. 1917, act 32, sec. 2.]

(No. 37.) Sec. 657, G. L. All state boards, institutions, commissions, officers and departments other than judicial officers shall make monthly reports to said board, and such reports shall contain a statement of work done and expenses incurred during the preceding month. The board of control shall deliver such reports to the legislative reference librarian, who shall make condensed statements thereof and furnish copies of the same to newspapers of the state. [L. 1917, act 32, sec. 3.]

(No. 38.) Sec. 659, G. L. The board of control shall, at all times, have power to examine the books, accounts and business of every state board, institution, commission, officer or department, and the governor may, and shall, upon recommendation of said board, revoke the commission of any member of a board or commission or of any officer appointed by him with or without the advice and consent of the senate. [L. 1917, act 32, sec. 4.]

(No. 39.) Sec. 660, G. L. Clerical, expert or other assistance shall not be employed by any state board, institution, commission, officer or department without the approval of the board of control. Such a board, institution, commission, officer or department being in

need of clerical, expert or other assistance shall make application to the board of control setting forth the reasons for such need and if the board of control finds that such assistance is necessary, it shall authorize such board, institution, commission, officer or department to employ such assistance. The salary or compensation of all persons who are appointed or employed by any state board, institution, commission, officer or department shall be fixed by the board of control, but whenever the law fixes the maximum limit to be expended by any such board, institution, commission, officer or department for clerical, expert or other assistance, the board of control shall not authorize the expenditure of moneys in excess of such limit, and where the law fixes the salary or per diem of a person appointed by such a board, institution, commission, officer or department, the board of control shall not have power to change such salary or per diem. [L. 1917, act 32, sec. 5.]

(No. 40.) Sec. 662, G. L. The following officers, commissions, boards and departments shall have their offices in Montpelier in rooms to be designated by the board of control, when said board shall direct: the governor, state treasurer, secretary of state, auditor of accounts, attorney general, department of education, * * *, commissioner of agriculture, * * *, state forester and chief forester, * * *, fish and game commissioner, * * *. [L. 1917, act 35, sec. 1.]

(No. 41.) Sec. 663, G. L. If there is not available room for such offices in the state house or new administration building, said board shall contract for the rental of such rooms in the city of Montpelier as it deems necessary. Said board is authorized to furnish each office with necessary furniture and equipment, which shall be purchased by the purchasing agent, as said board directs. [L. 1917, act 35, secs. 2, 3, 4.]

(No. 42.) Sec. 664, G. L. The auditor of accounts shall draw orders on account of contracts or purchases made by said board or purchasing agent under the provisions of the preceding section and charge the amounts of such orders to the moneys annually available for the support of such office, commission, board or department. [L. 1917, act 35, sec. 5.]

(No. 43.) Sec. 665, G. L. Said board shall in each even year make a report to the general assembly showing the work done during the preceding two years and may include such recommendations and other matter as seems pertinent. [L. 1917, act 32, sec. 12.]

(No. 44.) Sec. 720, G. L. Uncultivated land planted with timber or forest trees under the provisions of section three hundred and sixty-eight of the Public Statutes¹ prior to January first, nineteen hundred and thirteen, shall be exempt from taxation for a term of ten years, commencing on the first day of April in the second year after such lands were so planted and the certificate of planting is filed as provided in section three hundred and sixty-nine of the Public Statutes. The listers shall note

¹ See footnote to No. 32, on p. 12.

such exemption in the grand list. [L. 1912, act 40, sec. 5; P. S., sec. 496, subsec. XIV; L. 1904, act 17, secs. 1, 3, 4.]

(No. 45.) Sec. 721, G. L. An owner of land of the description specified in the following section, who wishes to have it classified under the provisions thereof, shall make application therefor to the state forester, accompanied by such description thereof as said forester may require. Said forester shall thereupon examine the land in question, and if he finds the requirements of the following section have been fulfilled, he shall issue a triplicate certificate of classification, the original to be filed in his office, one copy in the office of the clerk of the town in which the land lies and one copy given the owner. [L. 1912, act 40, sec. 1.]

(No. 46.) Sec. 722, G. L., am. by L. 1919, act 28, sec. 2. Land fully stocked with forest trees not more than fifteen years old, except scattered trees the presence of which does not increase the assessed value of the property; land incompletely or partially stocked with forest trees not more than fifteen years old, when planted with a sufficient number of additional trees to assure a spacing of approximately six by six feet over the entire area; lands held as state forest reserves; and open land planted with not less than one thousand forest trees to the acre, shall be classified as forest land; provided in each case that the trees planted are of the following species: ash, bass wood, oak, maple, white, Scotch or Norway pine, European larch, white or Norway spruce, or any other species approved by the state forester, and provided further that said forester approves the manner in which the trees are planted, and provided further that such land is outside the limits of a city or village. Land so classified shall thereafter be taxed annually, under the general tax law, at the local rate on a valuation of the land alone, such valuation to be established by the listers¹ at the time of classification, in no case to exceed three dollars an acre, and such valuation shall be maintained until the year nineteen hundred and fifty. In such year, the land alone shall be revalued without regard to the above limit, and the valuation then established shall be maintained for a further period of fifty years, taxes being levied annually, under the general tax law, on such valuation at the local rate. Whenever a commercial cutting is made, the owner of the timber shall pay a special tax on the gross stumpage value of the amount cut, which is hereby assessed at ten per cent of such value. [L. 1912, act 40, sec. 2.]

(No. 47.) Sec. 723, G. L., am. by L. 1919, act 29, sec. 1. Classification as forest land under the provisions of the preceding section shall continue so long as proper forest conditions are maintained thereon. Use of such land for pasture to the detriment of the trees thereon; destruction by fire of the tree growth and failure of the owner to restore forest conditions; removal of tree growth and use of land for other purposes; or any other changed conditions which, in the opinion of the state forester, indicate that proper forest conditions are not maintained, shall be

sufficient ground for cancellation of classification. When requested by the listers¹ or whenever he deems it necessary, said forester shall examine forest land so classified, and, if he finds that the provisions of law are not fully complied with, he shall forthwith cancel such classification, and send notice thereof to the clerk of the town in which the land lies and to the owner thereof. Such land shall thereafter be taxed under the general tax law, unless it is granted re-classification as forest land at a subsequent date. Whenever a classification is cancelled, the owner of the land shall pay a special tax on the stumpage value of the standing timber, which is hereby assessed at a half of one per cent per annum for the entire number of years such land has been under classification. Such tax shall be in addition to any annual tax or special tax which may have been paid, or may be collectible. [L. 1912, act 40, sec. 3.]

(No. 48.) Sec. 724, G. L., am. by L. 1919, act 29, sec. 2. All products of cuttings on classified land shall pay the special tax provided in the second preceding section, except material cut for domestic use and which is not to be sold, or material removed in the form of thinnings to improve the condition of the remaining stand, and whose stumpage value does not exceed the cost of removal. Whenever a cutting is made other than herein excepted the owner of the timber shall file with the listers¹ a sworn statement of the quantity cut and its stumpage value. If the listers deem the value as so stated too low, said listers shall determine the same and report it to the owner. Should the owner be unwilling to accept the valuation so determined, said owner may take an appeal therefrom in the manner provided for appeals in chapter forty-three.² [L. 1912, act 40, sec. 4.]

(No. 49.) Sec. 725, G. L. As soon as taxes specially assessed by either the second or third preceding section become due, the town treasurer shall send written notice thereof to the person liable for the same, requiring payment within thirty days thereafter; and if such tax is not so paid, said person shall be liable to a penalty of three times the amount thereof, to be recovered by the town in an action of tort, on this statute. [L. 1917, act 254, sec. 693.]

(No. 50.) Sec. 726, G. L. The owner of waste, partially denuded or wild forest land of the area of five acres or more, outside of city or village limits, occupied wholly or in part by a natural or planted growth of trees more than fifteen years old, or by both, which land is unsuitable for cultivation, may apply to the listers¹ of the town in which it lies to have it separately classified for taxation. [L. 1912, act 41, sec. 1.]

(No. 51.) Sec. 727, G. L. Each such application shall be made in duplicate on blanks furnished by the state forester, and shall give a brief description of the land, its area, character and location, and such other information as said forester may require. Upon the filing of such application with the listers,¹ they shall make an inspection of such land to determine whether the same is of a suitable character to be so classified. If, upon examination, the listers are satisfied that it is suitable for the growing of

¹ See also No. 56.

² See volume of General Laws.

forest trees, they shall classify such land as forest land and set it in the grand list at the valuation fixed at the preceding quadrennial appraisal.¹ [L. 1912, act 41, sec. 2.]

(No. 52.) Sec. 728, G. L. From the time of such classification and so long as such land is maintained as a wood and timber lot, it shall be classified and taxed as provided in this and the preceding section. From the time of such classification and thereafter until the year nineteen hundred and fifty, it shall be taxed, under the general tax law, at the local rate upon the valuation established at the preceding quadrennial appraisal. In the year nineteen hundred and fifty, a revaluation of both land and timber shall be made and such revaluation shall be subject to an annual tax under the general tax law at the local rate for a period of fifty years from the date of such revaluation. [L. 1912, act 41, sec. 3.]

(No. 53.) Sec. 729, G. L. An owner who purposes to cut live trees from such land, except for firewood, repairs on his own buildings or for the domestic use of himself or tenant, shall give the listers¹ of the town in which such land lies at least thirty days' notice prior to the time he desires to begin such cutting. After the trees on such land are cut and before their removal from the land, the owner shall make an accurate measurement or count thereof and file the same, together with a description of the variety and value of such trees, in the town clerk's office, and the listers¹ shall forthwith appraise the stumpage value of the timber so cut; and before the removal of any of such timber, such owner shall pay to the treasurer of the town a special tax which is hereby assessed at a tenth of one per cent of such valuation for each year that such land has been classified and taxed as provided in the two preceding sections, but in no case shall such tax exceed seven per cent of such valuation. Such tax shall be collected as provided in section seven hundred and twenty-five; and if such owner fails to give the notice herein required, or fails to pay the tax as required, he shall be liable to the penalty prescribed in such section. [L. 1912, act 41, sec. 4.]

(No. 54.) Sec. 730, G. L. Whenever in the opinion of the listers¹ the trees growing on such forest land are mature or such land ceases to be used as a wood or timber lot to an extent entitling the owner thereof to the privileges of this chapter, they shall report that fact to the owner or manager of the land; and if the owner declines to cut such trees, he shall, within three months after receiving such report, pay to the town treasurer the amount of tax that would be due the town if such trees were cut as provided in the preceding section; and, on his refusal or neglect to make such payment, such tax may be recovered by the town in an action of tort, on this statute. Thereafter the provisions of the four preceding sections shall no longer apply, and the listers¹ shall appraise such land in the manner provided for the appraisal of other land. [L. 1912, act 41, sec. 5.]

(No. 55.) Sec. 731, G. L., am. by L. 1919, act 29, sec. 3. If the listers¹ and the owner of a wood or timber lot, the

classification of which has been applied for under the fourth and fifth preceding sections, can not agree as to such classification, or if after such classification they can not agree as to the maturity of the trees growing thereon or the stumpage value thereof when cut, the listers¹ shall make their decision thereon and the owner may appeal therefrom in the manner provided for appeals in chapter forty-three.² [L. 1912, act 41, sec. 6.]

(No. 56.) Sec. 4³ act 29, L. 1919. For the purpose of this act annual appraisals in unorganized towns and gores shall be considered quadrennial appraisals and the board of appraisers for such unorganized towns and gores shall have the same duties and powers as listers; and appeals shall be from their decisions under this act as from the decision of a board of civil authority of a town.

(No. 57.) Sec. 5, act 29, L. 1919. The chief forester shall be a member ex-officio of all boards constituted by the commissioner of taxes for the purpose of hearing appeals under this act.

(No. 58.) Sec. 6, act 29, L. 1919. The commissioner of taxes shall forthwith appoint a board of appeal as hereinbefore constituted which shall hear all appeals in matters relating to the classification of forest lands as provided in sections 723, 724 and 731 of the General Laws, which are pending at the passage of this act.

(No. 59.) Sec. 1403, G. L. The state school of agriculture at Randolph and the Theodore N. Vail agricultural school and farms at Lyndon shall constitute the special agricultural schools of the state for the purpose of developing the agricultural resources of the state through practical instruction in agriculture, including * * * forestry,

[L. 1910, act 66, sec. 1, 2, 3.]
(No. 60.) Sec. 1438, G. L. Twenty-four thousand dollars of the moneys annually available for the use of Middlebury College shall be expended annually in * * *, and in providing instruction in forestry and * * *. [L. 1910, act 75, sec. 3.]

(No. 61.) Sec. 5254, G. L. An engineer, fireman or other agent of a railroad who is guilty of negligence or carelessness, whereby an injury is done to a person or corporation, shall be imprisoned not more than one year or fined not more than one thousand dollars. This section shall not exempt a person or corporation from an action for damages. [* * *; L. 1849, act 41, sec. 60.]

(No. 62.) Sec. 5255, G. L. When the property or person of another is injured through the default of a person or corporation owning or operating a railroad, or the agents or employees thereof, the cars, engines and other property, which, at the time of such injury, are subject to use in the running and management of such road, and which have, at any time, been owned by said person or corporation, shall be held to be the property of the person or corporation, for the purpose of furnishing indemnity for such injury, and may be attached and levied upon as such at the action of the party injured. [* * *; L. 1855, act 26.]

¹ See volume of General Laws.

² The preceding sections of this act amended secs. 723, 724, 731, G. L., to read, respectively, as they are shown above, on pp. 14, 15.

³ See also No. 56.

(No. 63.) Sec. 5256, G. L. A person or corporation owning or operating a railroad shall be responsible in damages for injury to a building or other property caused by fire communicated by a locomotive engine on such road, unless due caution and diligence are used and suitable expedients employed to prevent such injury. Said person or corporation shall have an insurable interest in the property along its route, and may procure insurance thereon. [* * *, L. 1849, act 41, secs. 61, 62.]

(No. 64.) Sec. 6359, G. L. Said wardens [*county, fish and game wardens, and deputy fish and game wardens*] shall enforce all provisions of this title [*Title 38. Preservation of Fish, Game and Fur-Bearing Animals*], and all orders and regulations issued thereunder, and arrest all violators thereof. They shall have power, in matters pertaining to this title, to serve criminal process, and power to require aid in enforcing the duties of their office. They shall have the same powers as other informing officers to make and subscribe to complaints or informations for violations of provisions of this title. * * * Said wardens shall, while in and about the woods, caution persons of the danger of fires in the woods, and shall extinguish a fire left burning, if within their power. In case of such a fire which is threatening to extend beyond their control, said wardens shall notify all parties interested, when possible, and the forest firewarden of the town in which such fire occurs. Pending the arrival of such firewarden, they shall have all the powers of such firewardens. Said fish and game wardens shall render a statement accompanied by proper vouchers, for time consumed and the expense incurred in respect to such fires, to the treasurer of the town in which the fire occurs, who shall arrange for payment therefor in the manner provided for the payment of forest firewardens. [* * *, L. 1910, act 183, sec. 2.]

(No. 65.) Sec. 6432, G. L. Whenever, during an open season for the taking of game, it appears to the governor that, by reason of drouth, the use of firearms in forests is liable to cause forest fire, he may, by proclamation, suspend such open season and make it a close season for such time as he may designate. In such proclamation, he may except from the provisions thereof localities not affected by drouth. If, during such period of suspension, it appears to the governor that the necessity therefor has ceased to exist, he may, by proclamation, reopen the season so closed; * * * [* * *, L. 1908, act 13, sec. 1.]

(No. 66.) Sec. 6433, G. L. During the time which shall be made a close season as provided in the preceding section, the several provisions of law relating to close seasons shall be in force, and a person who violates a provision thereof shall be subject to the penalties therein provided. * * * [* * *, L. 1908, act 13, sec. 2.]

(No. 67.) Sec. 6434, G. L. Proclamations made under the provisions of the second preceding sections shall be published in such newspapers of the state and posted in such places and in such manner as the governor may order in writing. A copy of such publication and order, attested by the secretary of civil and military affairs,

shall be filed with the secretary of state and a like copy shall be furnished to the state fish and game commissioner, who shall attend to the publication and posting thereof. The expenses of such publication and posting shall be paid by said commissioner and allowed by the auditor of accounts. [* * *, L. 1908, act 13, sec. 3.]

(No. 68.) Sec. 6664, G. L. Nothing in this chapter [*Chapter 286—Mines and Quarries upon Public Lands*¹] shall authorize a person working a mine or quarry upon such lands [*public lands belonging to the people of the State, or lands beneath public waters*], to cut or destroy any timber whatever, except such trees as it may be actually necessary to remove in order to uncover or make a road to such mine or quarry. For all trees which are cut, the party operating such mine or quarry shall pay into the state treasury, as soon as the amount thereof is determined, such sum as the state forester, in writing filed with the secretary of state, declares to be the value of such trees. Such value in the case of merchantable timber shall, in no instance, be less than five dollars per thousand. [L. 1910, act 171, sec. 4.]

(No. 69.) Sec. 6667, G. L. The provisions of this chapter [*Chapter 286—Mines and Quarries upon Public Lands*¹] shall not be construed so as to apply to state forests. The commissioner of agriculture is hereby authorized to lease or sell, upon the approval of the auditor of accounts, such mine or quarry sites as may at any time be discovered upon any of the state forests unconditionally owned by the state. All money received by the state under the provisions of this chapter shall be used, at the discretion of said commissioner, in the furtherance of the forestry interests of the state. [L. 1917, act 17, sec. 15; L. 1915, act 22, sec. 1.]

(No. 70.) Sec. 6856, G. L. A person who willfully and maliciously sets on fire, or causes to be set on fire, woods or forest, so as to occasion injury to another person, shall be imprisoned in the state prison not more than five years or fined not more than five hundred dollars. [* * *, L. 1787, p. 161.]

(No. 71.) Sec. 6857, G. L. A person who enters upon lands of another and sets a fire that causes damage, may be imprisoned not more than sixty days nor less than thirty days or fined not more than one hundred dollars nor less than ten dollars. The provisions of this section shall not affect the provisions of the preceding section. * * * [* * *, L. 1908, act 166.]

(No. 72.) Sec. 7104, G. L. A state, county, town, village fire district or school district officer who willfully neglects to perform the duties imposed upon him by law, either express or implied, shall be imprisoned not more than one year or fined not more than one thousand dollars, or both. [* * *, L. 1906, act 190, sec. 1.]

(No. 73.) Sec. 7105, G. L. When a duty, express or implied, is imposed by law upon a board or commission,

¹ Chapter 286 controls the operation of mines and quarries upon public lands of the State; the revenues from which consist of royalties and the sale of timber therefrom. (See also, in volume of General Laws, Secs. 6661-6663, 6665, 6666.)

any member thereof may, for any wilful neglect of such duty on his part, be accused, tried and punished separately as provided in the preceding section. [* * *; L. 1906, act 190, sec. 2.]

(No. 74.) Sec. 7106, G. L. The two preceding sections shall not be construed as affecting any statute providing a punishment for any specific neglect or omission of duty on the part of any public officer, nor as covering the offenses penalized by such special provisions of law, nor as affecting any offense committed or prosecution begun before the first day of February, nineteen hundred and seven, under any other statute or the common law. [* * *; L. 1906, act 190, sec. 3.]

(No. 75.) Sec. 7346, G. L. The member of the board of control appointed by the governor shall receive eight dollars a day for services rendered, and he shall be paid his necessary expenses when away from home on official business. * * * [L. 1917, act 32, sec. 1.]

(No. 76.) Sec. 7352, G. L. The annual salary of the commissioner of agriculture shall be three thousand dollars and he shall be paid his necessary expenses when away from home in connection with his duties as commissioner of agriculture, nursery inspector, * * * state forester and * * * [L. 1908, act 11, sec. 6; L. 1917, act 17, sec. 18.]

(No. 77.) Sec. 7394, G. L. The * * * commissioner of agriculture, * * * state forester, * * * in addition to those officers the payment of whose expenses is otherwise provided for by law, shall be supplied with office supplies and stationery necessary for official use; and payment of postage, freight, telephone, telegraph and express charges necessarily made in connection with their official duties shall be allowed in the settlement of their accounts. * * * but the provisions of this section shall not be interpreted to increase the appropriation made for the support of any office or department of government herein mentioned. * * * [* * *; L. 1912, act 247, sec. 1.]



United States Department of Agriculture

FOREST SERVICE

WILLIAM B. GREELEY, Forester

STATE FORESTRY LAWS¹

INTRODUCED BY CLASSIFIED SYNOPSES

CALIFORNIA

(SERIAL 1—THROUGH REG. SESS., 1919.)

Compiled by JEANNIE S. PEYTON, under the direction of LOUIS S. MURPHY, Forest Examiner, Eastern Division, Branch of Forest Management.

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¹ The State Forestry Laws leaflets which have been already published are as follows: No. 1, Wisconsin; No. 2, Louisiana; No. 3, North Carolina; No. 4, Maryland; No. 5, Missouri; No. 6, Texas; No. 7, Virginia; No. 8, Idaho; No. 9, Oregon; No. 10, Wyoming; No. 11, New Jersey (supply exhausted); No. 12, Washington; No. 13, Indiana; No. 14, Minnesota; No. 15, Montana; No. 16, Illinois; No. 17, Ohio; No. 18, Connecticut; No. 19, Massachusetts; No. 20, New Hampshire; No. 21, Colorado; No. 22, West Virginia; No. 23, New York; No. 24, Vermont. Requests for leaflets should always identify the particular ones desired by giving their respective numbers, as here indicated, in addition to mentioning the names of the States. The laws of other States, so far as they have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.

Whenever this leaflet or any other comprising a part of this compilation of State Forestry Laws is reprinted for local use, please append thereto the following: NOTE.—This arrangement of the Forestry Laws of is reprinted from State Forestry Laws, compiled and issued in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to The Forester, Forest Service, Washington, D. C.

PURPOSE OF COMPILATION.

The compilation of State Forestry Laws, of which this leaflet is a part, aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying forestry administration in the several States, and the various activities thereunder, may readily be studied and compared. To facilitate this purpose of comparing the legislation of one State with another, the Synopses introducing the laws in the several leaflets are classified and arranged to take up in a definite order the various subjects usually covered in such legislation. To further extend this educational purpose, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest-insect and fungus-control laws, except general provisions, and all transitory provisions of law, including those concerning annual or biennial appropriations. For the same reason, those finer points of reference proper only to a legal or administrative manual have also been omitted. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions.

SYNOPSIS OF LAWS.

GENERAL FORESTRY ORGANIZATION AND ACTIVITIES.

State Board of Forestry.

Is appointed by the governor, and consists of the State forester, who is a technically trained forester (No. 2), and four additional members, one of whom is familiar with the timber industry, one with the live stock industry, one with the grain and hay industry, and one who is a member at large; none of whom receives compensation, except the State forester, but each is reimbursed for actual traveling expenses. No. 1. (*See also note 1, on p. 22.*)

Prescribes rules and regulations for its government. No. 1.

Meets at such times and places as it sees fit. No. 1.

Supervises and directs all matters of State forest policy, management and protection. No. 1.

Directs disposal of the forestry fund for purposes of forest protection, management and replacement. No. 20.

State Forester.

Is a technically trained forester, certified to by either the Secretary of the United States Department of Agriculture or the Department of Forestry of the State University, and is appointed by the governor. No. 2.

Holds office at the pleasure of the governor. No. 2.

Receives a salary of \$3,000 per annum. No. 22.

Is paid traveling and field expenses. No. 2.

Maintains headquarters at the State capitol. No. 2.

Is a member of and acts as secretary to, and executive officer of, the State board of forestry. No. 2.

Appoints the deputy and assistant foresters, and assigns them duties, under approval of the board. No. 22.

Manages the State forest nursery; and purchases and distributes, at cost, nursery stock and seed, for public planting and reforestation. Nos. 23; 24.

Cooperates:

With counties and municipalities, under approval of the State board of control (*see note 2, par. 4, on p. 22*) whenever they appropriate for the protection and forest management of any lands over which they have jurisdiction, or for reforestation or afforestation on lands therein, under agreements, based on such terms as the State forester may deem advisable. No. 39 (b).

With counties, towns, corporations, and individuals, without approval of the board of control (*see note 2, par. 4, on p. 22*), in preparing plans for the protection, management and replacement of trees, woodlots, and timber tracts, under agreement that the parties assisted pay at least the field expenses of the men who prepare the plans. No. 4.

Publishes and distributes:

Forestry data. No. 2.

Abstracts of State forest laws with rules and regulations and list of firewardens, under approval of the State board of forestry. No. 5.

Furnishes to firewardens notices for posting, calling attention to forest trespass and fire laws, and their penalties. No. 5.

Makes report and recommendations, annually. No. 2.

Deputy State Forester and Assistant State Forester.

Are appointed by the State forester, at the respective salaries of \$2,400 and \$1,600. No. 22.

Receive traveling and field expenses. No. 2.

Act under direction of the State forester. No. 7.

Deputy forester also exercises powers and duties of the State forester when necessary. No. 22.

State Board of Control. (See note 12, on p. 23.)

Approves cooperative agreements by the State forester with counties and municipalities concerning reforestation, reforestation, protection, and general forest management. No. 39 (b).

State Forest Nursery.

Supplies nursery stock for reforesting public lands, planting of trees along public streets and highways, and the beautifying of parks and school grounds. No. 23.

Is located upon State land. Nos. 23; 25.

Is managed by the State forester. Nos. 23; 24.

Has the benefit of a continuing appropriation of \$14,000, until expended. No. 26.

Cooperation.

Is authorized:

With counties and municipalities, under approval of the State board of control (see note 2, par. 4, on p. 22) whenever they appropriate for the protection and forest management of any lands over which they have jurisdiction, or for reforestation or afforestation on lands therein, under agreements, based on such terms as the State forester may deem advisable. No. 39 (b).

With counties, towns, corporations, and individuals, without approval of the board of control (see note 2,

par. 4, on p. 22) in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, under agreement that the parties assisted pay at least the field expenses of the men who prepare the plans. No. 4.

NOTE.—County boards of supervisors are empowered to make appropriations for the purpose of aiding the State and Federal authorities in forestry work. Nos. 21; 56.

Investigation and Education.

Are promoted by the collection and publication of forestry data. Nos. 2; 5.

Publications.

Are issued by the State forester in the form:

Of individual publications furnishing such information concerning forestry as he may deem advisable. No. 2.

Of annual reports to the governor, on the progress and condition of State forest work, recommending plans for improving the State system of forest protection, management, and replacement. No. 2.

Of an abstract of State forest laws with rules and regulations, and list of fire wardens, under approval of the board. No. 5.

Of fire and other warning notices. No. 5.

Income from Sources Other Than Annual or Biennial Appropriations. (See note 4, on p. 22.)

Is derived from:

The forestry fund (created by moneys received as penalties under ch. 264, L. 1905). No. 20.

A continuing appropriation of \$14,000 for State forest nursery work, until expended. No. 26.

A continuing appropriation of \$25,000 for forest fire prevention and suppression, until expended. No. 47.

FIRE ORGANIZATION AND ACTIVITIES.**STATE PROTECTIVE ORGANIZATION.****State Board of Forestry.**

Organizes and directs operation of the fire-protective system, by and through the State forester, as follows:

Makes and enforces rules and regulations therefor. No. 38.

Divides the State into the necessary number of fire districts. No. 38.

Appoints district fire rangers. No. 38.

Provides necessary implements and apparatus for fire prevention and fire fighting. No. 38.

Organizes fire companies. No. 38.

Establishes observation stations in fire districts, and employs attendants. No. 38.

Constructs and maintains telephone lines and provides other needed means of communication. No. 38.

Approves:

Rules by the State forester for the deputy forester and assistant forester. No. 7.

Abstract of State forest laws, and list of firewardens published by the State forester. No. 5.

Prescribes rules and regulations for burning brush, slash, stumps, grass, etc., on lands other than lands within municipalities. No. 57 (3), (7).

Abates public nuisances resulting from failure of owners to properly protect forest land. No. 19.

State Forester.

Takes required action, under supervision of the board, to prevent and extinguish forest, brush, and grass fires. No. 2.

Organizes and directs operation of the fire-protective system, and enforces the rules and regulations of the board. Nos. 38-44. (See also No. 57, (3), (7), concerning regulations governing fires in the open.)

Divides the State into the necessary number of fire districts, Nos. 6; 38 (b); and appoints a district fire ranger for each district. No. 38 (c).

Creates a separate fire district, consisting of any county or combination of less than four counties, upon request therefor from the county board or boards of supervisors, and on the condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (See also note 2, par. 4, on p. 22.)

Appoints, as voluntary firewardens, in such number and localities as he deems advisable, public-spirited citizens, and also the supervisors and rangers on the National Forests within the State, whenever they formally accept the duties and responsibilities of the position. No. 8.

Investigates and prosecutes paid firewardens when they fail to perform their duties. No. 9.

Establishes a fire patrol:

Upon his own initiative, through the firewardens and at the expense of the county, in times of particular fire danger, and at such places in brush or forest land as the public interest may require. No. 11.

Upon written request by counties, corporations, or individuals, on their forest lands, and at their expense. No. 11.

Designates privately maintained patrolmen as special fire rangers, with all the rights and powers of district fire rangers. No. 40; and "District Fire Rangers," on p. 5.

Provides necessary implements and apparatus for fire prevention and fire fighting. No. 38.

Organizes fire companies. No. 38.

Establishes observation stations in fire districts, and employs attendants. No. 38.

Constructs and maintains telephone lines and provides other needed means of communication. No. 38.

Takes required action to abate public nuisances caused by failure of owners to adequately protect forest lands. No. 19.

Impresses assistance for fire fighting, and authorizes district fire rangers, special fire rangers, and voluntary firewardens to take such action. No. 41.

Sets backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (See also Nos. 14; 16.)

Enforces laws pertaining to forest and brush-covered lands, and prosecutes violators thereof. No. 2.

Has powers of a peace officer to make arrests without warrant for violations of any State or Federal forest laws

under the provisions in section 9, chapter 264, Laws 1905 (No. 9); and has the same powers under section 5, chapter 176, Laws 1919, for violations of any State, county, or Federal fire laws. No. 42. (See also note 2, par. 3, on p. 22.)

Is not liable to civil action for trespass committed in the discharge of his duties. No. 42.

Requests action against district attorneys who fail to prosecute offenders for violation of the provisions in chapter 264, Laws 1905. No. 12.

Cooperates in fire protection operations:

Upon a basis of mutual expenditures—

With the Federal Government. Nos. 39 (a); 47.

With counties and municipalities, whenever they appropriate for such work on any lands therein, or over which they have jurisdiction. Nos. 39 (b); 47.

With persons, firms, associations, and corporations. Nos. 39 (c); 47.

With owners of land, or any organization, when they maintain, under cooperative agreements, a forest fire patrol designated by the State forester as special forest ranger. Nos. 40; 39; 47.

With various agencies for work in certain limited areas upon condition of advance deposits by the collaborating parties. Nos. 48; 49; 50; 51.

NOTE.—Cooperation in all of the above cases is required to be under approval of the State board of control, as shown in the note under the heading, "Cooperation," on p. 7.

Without cost to the State—

With counties, by creating a separate fire district consisting of any county or combination of less than four counties, upon request therefor from the county or counties, and on condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (See also note 2, par. 4, on p. 22.)

With counties and private agencies by the appointment of citizens to act as voluntary firewardens under his direction, and to receive payment for their services from such counties or private sources. No. 8. (See also note 2, par. 4, on p. 22.)

With counties, corporations, and individuals, by establishing a fire patrol on their forest lands, upon their request, and at their expense. No. 11. (See also note 2, par. 4, on p. 22.)

With counties, towns, corporations, and individuals in preparing plans for the protection of trees, woodlots, and timber tracts at their cost as regards, at least, field expenses. No. 4. (See also note 2, par. 4, on p. 22.)

With owners of land, or any organization, when they maintain, wholly at their expense, a forest fire patrolman, designated by the State forester as special fire ranger. No. 40.

Furnishes forest fire notices, and notices of forest fire and trespass laws. No. 5.

Publishes and distributes abstract of State forest laws with rules and regulations and list of firewardens, under approval of the State board of forestry. No. 5.

Deputy State Forester and Assistant State Forester.
Act under direction of the State forester. No. 7.

Take prompt measures to prevent and extinguish forest fires, and keep records thereof. No. 7.

Impress assistance for fire fighting; and authorize district fire rangers, special fire rangers, and voluntary firewardens to take such action. No. 41.

Set backfires, without permission from the owner, on lands other than lands within any municipal corporation. Nos. 57 (1), (7); 14; 16.

Perform such other duties as may be directed by the State forester. No. 7.

Have powers of peace officers to make arrests for violation of any State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 42.

Deputy forester also exercises powers and duties of the State forester when necessary. No. 22.

District Fire Rangers.

Are appointed by the board, one for each fire district, to serve during the seasons when fires are liable to occur. No. 38.

Receive a salary of not to exceed \$150 per month, and necessary expenses. No. 38.

Have charge, under direction of the State forester, of the fire-fighting service and men in their respective districts. No. 38.

Prevent and extinguish forest fires in their respective districts, and perform such other duties as may be required by the State forester. No. 38.

Impress assistance for fire fighting, under authority from the State forester, deputy or assistant State forester. No. 41.

Set backfires, without permission from the owner, on lands other than lands within any municipal corporation. No. 57 (1), (7). (*See also Nos. 14; 16.*)

Have powers of peace officers to arrest, without warrant, violators of State, county, or Federal fire laws. No. 42. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 42.

Firewardens.

Voluntary firewardens—

Are appointed by the State forester. No. 8.

Receive compensation from counties or private sources. No. 8.

Are under the immediate direction of the several district fire rangers. No. 38 (c).

Take prompt action to extinguish fires. No. 8.

Have authority under the law to call upon citizens, between ages of 16 and 50 years, to assist in extinguishing fires (*see note 2, par. 1, on p. 23*). No. 10; and are also authorized by the State forester, and the deputy and assistant State foresters to impress assistance for such purpose. No. 41.

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (*See also Nos. 14; 16.*)

Serve as fire patrol under direction of the State forester. No. 11.

Report all fires, and violations of forest laws, and assist in apprehending and convicting offenders. Nos. 8; 9.

Have powers of peace officers to make arrests without warrant for violations of any State or Federal forest laws under the provisions in section 9, chapter 264, Laws of 1905. No. 9. (*See also note 2, par. 3, on p. 22.*)

Are not liable to civil action for trespass committed in the discharge of their duties. No. 9.

Issue permits for burning brush, slash, etc., or for blasting or setting off fireworks, on lands other than lands within municipalities. No. 57 (3), (7). (*See also Nos. 16; 18; and note 11, on p. 23.*)

Serve notices under brush and slash disposal requirements. No. 19.

Post forest-fire notices, and notices of forest-fire and trespass laws. No. 5.

Perform such other duties as the State forester may direct. No. 8.

Are subject, when serving as paid firewardens, to criminal prosecution for failure to perform duties prescribed in chapter 264, Laws 1905, and to a fine of not less than \$20, nor more than \$250, or imprisonment for not less than 10 days nor more than three months, or both such fine and imprisonment (No. 9); which fines go into the State treasury to the credit of the forestry fund. No. 20.

District firewardens—

NOTE.—No provision concerning authority or duties of such officers appears to have been made other than that "such special district [a district created upon request of a county or a combination of less than four counties] shall pay the cost of maintaining its district fire wardens." No. 6.

Deputy firewardens and special firewardens—

NOTE.—No provision concerning the authority or duties of such officers appears to have been made other than that the service of notices under the brush and slash disposal requirements may be made by "any firewarden, deputy firewarden or special firewarden." No. 19.

National Forest Officers (Supervisors and Rangers within the State).

Are given State police powers through appointment as voluntary firewardens by the State forester; and, as such have all the powers given to firewardens by the act contained in chapter 264, Laws 1905. No. 8.

Patrolmen.

Are firewardens, selected by the State forester to do patrol duty, in times and localities of particular fire danger, at the expense of the county. No. 11.

Are also assigned for such duty by the State forester, upon receipt of written request from counties, corporations, or individuals, for patrol on their forest land, at their expense. No. 11.

May be designated special fire rangers, by the State forester, when maintained by landowners or organizations, and be given the rights and powers of district fire rangers as regards their patrol areas and adjacent lands; and, as such, they are paid either wholly by such owners or organizations, or under cooperative agreements between such parties and the State forester. No. 40; and "District Fire Rangers," on p. 5.

Special Fire Rangers.

Patrolmen may be so designated by the State forester when privately maintained, by owners of lands, or any organization, as fire patrolmen. No. 40.

Are given all the rights and powers of district fire rangers as regards their patrol areas and adjacent lands. No. 40; and "District Fire Rangers," on p. 5.

Are paid either wholly by the parties employing them, or under cooperative agreement between such parties and the State forester. No. 40.

Justices of the Peace, Constables, and Road Overseers.

Order citizens to assist in extinguishing fires. No. 55.

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (See also Nos. 14; 16.)

Fire-Fighting Laborers.

Are impressed:

By the State forester, and deputy and assistant State foresters, and also by district fire rangers, special fire rangers and voluntary firewardens, under authority from said administrative officers; subject, in case of failure to comply with summons, to a penalty of a fine

of not less than \$50, nor more than \$500, and, in event of refusal to pay such fine, imprisonment in the county jail for a period of not to exceed one day for every \$2 of the fine imposed, or to both such fine and imprisonment. Nos. 41; 44.

By firewardens, in the exercise of their authority as such officers; in which event, refusal to comply with such summons, without good and sufficient reasons, subjects the offender to a fine of not less than \$10, nor more than \$500, or imprisonment in the county jail for not less than 15 days, nor more than 6 months, or to both such fine and imprisonment. (See note 2, par. 1, on p. 22.) Nos. 10; 57, penalty clause, (5). (See also note 6 on p. 22.)

By justices of the peace, constables, and road overseers. No. 55. (See also note 6 on p. 22.)

Receive compensation at the rate of 25 cents per hour of service actually rendered, in response to summons from the State forester, or deputy or assistant State forester, or from a district fire ranger, special fire ranger, or voluntary firewarden, under authority from any one of said administrative officers. No. 41. (See also note 6 on p. 22.)

Set backfires, without permission from the owner, on lands other than those within any municipal corporation. No. 57 (1), (7). (See also Nos. 14; 16.)

State Board of Control. (See note 12, on p. 23.)

Approves cooperative agreements by the State forester for forest fire protection work, under certain conditions, and also makes contracts direct for such work, in various localities, as shown under the heading, "Cooperation." (See immediately below.)

Cooperation.

Is authorized:

By the State forester.

Upon a basis of mutual expenditures—

With the Federal Government for maintaining a patrol system for the prevention and suppression of fires upon timber, brush, grass, or other lands containing inflammable material. Nos. 39 (a); 47.

With counties and municipalities whenever they appropriate for the prevention or suppression of forest fires on any lands therein or over which they have jurisdiction. Nos. 39 (b); 47.

With persons, firms, associations, and corporations, owning or controlling forest, brush, grass, or grain lands, for the prevention and suppression of forest fires. Nos. 39 (c); 47.

With owners of lands, or any organization, when they maintain, under agreement, a forest fire patrol, designated by the State forester as special fire ranger. Nos. 40; 39; 47.

With the San Dimas Fruit Exchange, the county of Los Angeles, or any individual or corporation, or any or all of them, for prevention and extinguishment of forest fires, and constructing and maintaining fire trails and fire breaks in the San Dimas Canyon in the San Gabriel Mountains, Calif., and adjacent canyons. Nos. 48; 49.

With the Azusa and Covina Irrigation companies, the county of Los Angeles, or any individual, or corporation, or any or all of them, for prevention and extinguishment of forest fires, and constructing and maintaining fire trails and fire breaks in the San Gabriel Canyon in the San Gabriel Mountains, Calif., and the mountains adjacent thereto. Nos. 50; 51.

NOTE.—Since the cooperation contemplated in all of the above cases involves the paying out of money by the State for purposes other than the fixed operating charges of the State forester's department, approval of the agreements by the State board of control is requisite. See also the specific provision made to this end in Laws 1919, chapter 176, section 2 (No. 39), and in Laws 1919, chapter 414 (No. 47).

Cooperation in all cases under the two last provisions, above (Nos. 48; 49, and 50; 51), is further conditioned upon advance deposits, in the State treasury by the collaborating parties, of amounts equaling the State's contributions.

Without cost to the State—

With counties, by creating a separate fire district containing any county or combination of less than four counties, upon request therefor from the county or counties, and on condition that such special fire district shall pay the cost of maintaining its district firewardens. No. 6. (*See also note 2, par. 4, on p. 22.*)

With counties and private agencies by the appointment of citizens to act as voluntary fire wardens under the direction of the State forester, and to receive payment for their services from such counties or private sources. No. 8. (*See also note 2, par. 4, on p. 22.*)

With counties, corporations, and individuals, by establishing a fire patrol on their forest lands, upon their request, and at their expense. No. 11. (*See also note 2, par. 4, on p. 22.*)

With counties, towns, corporations, and individuals in preparing plans for the protection of trees, woodlots, and timber tracts, at their cost as regards at least field expenses. No. 4. (*See also note 2, par. 4, on p. 22.*)

With owners of lands, or any organization, when they maintain, wholly at their own expense, a forest fire patrol designated by the State forester as special fire ranger. No. 40. (*See also note 2, par. 4, on p. 22.*)

By the State board of control (*see note 12 on p. 23*).

With the Federal Government, for constructing and maintaining fire lanes and fire trails to protect the watershed of the San Bernardino Mountains, Calif. Nos. 53; 54.

With the San Antonio Fruit Exchange, in connection with the San Antonio Water Co. and the counties of San Bernardino and Los Angeles, for preventing forest fires, and the construction and maintaining of fire trails and fire breaks in the San Antonio Canyon, in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 45; 46.

With the public corporation known as the Tamalpais forest fire district, in Marin County, for the purpose of preventing forest fires and the construction and maintenance of fire trails and fire breaks within that district. No. 52.

Distribution of Costs of Fire Protection.

Federal Government pays its proportionate share for protective operations, under cooperative agreements with the State. Nos. 39 (a); 47; 53 and 54.

State pays its proportionate share for protective operations under cooperative agreements:

With the Federal Government. Nos. 39 (a); 47; 53 and 54.

With counties, municipalities, persons, firms, associations, and corporations. Nos. 39 (b) (c); 47; 45 and 46; 48 and 49; 50 and 51; 52.

Municipalities pay a proportionate share for protective operations under cooperative agreements with the State. Nos. 39 (b); 47.

Counties pay:

A proportionate share for protective operations under cooperative agreements with the State. Nos. 39 (b); 47; 45 and 46; 48 and 49; 50 and 51.

The cost of fire patrol maintained by the State forester. No. 11.

Voluntary firewardens for services rendered in their interests. No. 8.

District firewardens of duly constituted special fire districts. No. 6. (*See also note 2, par. 4, on p. 22.*)

NOTE.—County boards of supervisors are empowered to make appropriations, annually, for the purpose of protecting the forest, brush, and grass lands within their respective counties. Nos. 21; 56.

Persons, firms, associations, and corporations pay:

A proportionate share for protective operations, under cooperative agreements with the State. No. 39 (c); 47; 45 and 46; 48 and 49; 50 and 51; 52.

The cost of fire patrol established by the State forester. No. 11.

Voluntary firewardens for services rendered in their interest. No. 8.

Costs incurred by the State in abating public nuisances caused by failure on their part to properly clean-up forest lands owned by them. No. 19.

LOCAL PROTECTIVE ORGANIZATION.**Tamalpais Forest Fire District.**

Is established in Marin County and boundaries defined. No. 27.

May be enlarge through required action being taken by its board of trustees. No. 33.

May be reduced in area through required acting being taken by the board of supervisors of the county. No. 33.

May be abolished upon the vote of two-thirds of the qualified electors thereof, at an election called either by its board of trustees, or by petition of 25 per cent of the registered voters therein. No. 34.

Is financed by contributions from the State and such of its political corporations as may be landholders therein, and by a property tax. Nos. 31; 32.

Is governed by a board of trustees, the members of which are appointed: One from the district at large, by the county supervisors, and one from each of the municipalities in the district, by the governing boards thereof (*see note 7 on p. 23*); and serve terms of two years each without compensation, but are allowed traveling expenses (Nos. 28; 29); which board:

Provides for meetings and establishes rules for its proceedings. No. 29.

Takes necessary action for prevention and extinguishment of forest, brush, and grass fires within the district. No. 30.

Purchases supplies and materials and employs such labor or skilled service as may be needed therefor. No. 30.

Constructs, maintains, and keeps clear necessary fire roads or trails and maintains hydrant or other fire-fighting apparatus within or adjacent to the district. No. 30.

Acquires by purchase, condemnation, or otherwise, in the name of the district, needed lands, rights of way, easements, or property or material. No. 30.

Makes contracts to indemnify owners for causing injury to their property; and, generally, to take such further action as may be incident to its powers. No. 30.

Procures and accepts, annually or otherwise, proposals as to the amount to be contributed by the State and such political corporations as may be interested landholders therein, in consideration of the payments thereunder binding the board by direct contract to take over the supervision and concurrent control of the lands held by each, so far as concerns fire-protection work. No. 32. (*See also note 8 on p. 23*).

Furnishes annually to the supervisors and auditor of Marin County, an estimate as to the amount of money needed for the district during the next fiscal year. No. 31.

Issues warrants for withdrawal, from the county treasury, of funds needed for the district. No. 31.

Takes necessary steps to include additional lands in the district upon receipt of a written petition therefor. No. 33.

Calls an election for the purpose of determining the advisability of abolishing the district. No. 34.

NOTE.—In the event of any portion of the act which contains the above provisions (ch. 560, L. 1917) being declared unconstitutional, such action would not affect the validity of the remaining portions of the act. No. 37.

Various Restricted Areas in California.

Are protected by either local agencies or the Federal government in cooperation with the State, which localities are as follows:

The San Antonio Canyon in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 45; 46.

The San Dimas Canyon in the San Gabriel Mountains, Calif., and the canyons adjacent thereto. Nos. 48; 49.
The San Gabriel Canyon, in the San Gabriel Mountains, Calif., and the mountains adjacent thereto. Nos. 50; 51.

The watershed of the San Bernardino Mountains, in California. Nos. 53; 54.

COMPULSORY RESPONSIBILITY IMPOSED UPON LANDOWNERS AND OTHERS FOR PROTECTION OF FOREST LANDS.**Public Nuisance.**

Inadequately protected forest areas which are covered, wholly or in part, with inflammable debris, and are so located as to endanger life or property, are declared by law a public nuisance, and the board is required:

To notify owners of forest areas of proposed inspection thereof to ascertain existing conditions. No. 19.

To make inspection; in which the owners are permitted to participate. No. 19.

To notify owners to abate nuisances. No. 19.

To take required action to abate the same, in event of failure of owner to do so. No. 19.

To file claim for reimbursement of the State for all costs incurred in abating nuisances; which costs constitute a lien on the land, and are recovered through enforcement procedure. No. 19.

Brush and Slash Disposal.

Is required to be accompanied with proper precautions to prevent the escape of fire, whenever it is effected by means of burning. Nos. 16; 57, penalty clause (3), (7).

Is compulsory to whatever extent the "Public Nuisance" provision (above) is enforced in connection with such debris. No. 19.

Kindling Fires in the Open.

The following acts are prohibited on lands other than lands within any municipal corporation:

Setting fire to any forest, brush, or other inflammable vegetation on lands of another without permission of the owner, back-firing excepted. No. 57, penalty clause, (1), (7). (*See also Nos. 14; 16.*)

Allowing fire to escape from control, or to spread to lands of another. No. 57, penalty clause, (2), (7). (*See also No. 14.*)

Burning brush, stumps, logs, rubbish, fallen timbers, fallows, grass or stubble, or blasting or setting off fireworks, whether on one's own land or that of another, without taking proper precautions to prevent the escape of fire. No. 57, penalty clause, (3), (7). (*See also No. 16.*)

Leaving camp fires burning or allowing them to spread. No. 57, penalty clause, (6), (7). (*See also No. 15.*)

Willful or negligent violation of the above restrictions in No. 57 subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$50, nor more than \$500, or imprisonment for not less than 15 days, nor more than 6 months, or both such fine and imprisonment; all of which fines go to the county. No. 57, penalty clause.

NOTE.—The above requirements in No. 57 (Penal Code, sec. 384) are, to a certain extent, similar to certain of the requirements previously enacted in sections 14; 15; 16, chapter 264, Laws 1905 (*see Nos. 14; 15; 16*). The attorney general for California is, however, of the opinion that the later reenactment (Penal Code, sec. 384) does not repeal said earlier one, but that, should any cases arise which are not covered by both enactments, the one under which they fall would be operative and may be applied; and that, "In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail." (*See note 2, par. 2, on p. 22.*)

Injury or destruction of property through such fires subjects the offender to civil action also, as follows:

For double damages when the fires are the result of willfulness, malice, or negligence. No. 18.

For actual injury sustained, determined by the value of the property injured, or destroyed, and the detriment to the land and vegetation, when fires are caused, or escape accidentally. No. 18.

For costs of fire fighting, in all cases. No. 18.

Locomotive and Other Engines.

Are required:

To use fire-protective devices on smokestacks, ash pans, fire boxes, and other parts, when operated in or near forest, brush, grass, grain, or stubble lands, other than lands within any municipal corporation, and to take all reasonable precautions to prevent causing fires. No. 57, penalty clause, (4), (7). (*See also No. 17.*)

To keep ready for use (when operating on lands other than lands within any municipal corporation) on each combined harvester, header, or stationary threshing machine, or hay press, two suitable chemical fire extinguishers, approved by the underwriters' laboratories. No. 57, penalty clause, (4a), (7). (*See also No. 17.*)

To maintain an effective spark-arresting and burning carbon-arresting device, attached to the exhaust, on all gas tractors, oil-burning engines, gas-propelled harvesting machine or auto trucks, when operated or moved in or near any grain or grass lands, other than lands within any municipal corporation. No. 57, penalty clause, (4b), (7). (*See also No. 17.*)

Willful or negligent violation of the above requirements in No. 57 subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$50, nor more than \$500, or imprisonment for not less than 15 days, nor more than 6 months, or both such fine and imprisonment; all of which fines go to the county. No. 57, penalty clause.

NOTE.—The above requirements in No. 57 (Penal Code, sec. 384) are, to a certain extent, similar to certain of the requirements previously enacted in section 17, chapter 264, Laws 1905 (*see No. 17*). The attorney general for California is, however, of the opinion that the later reenactment (by Penal Code, sec. 384) does not repeal the earlier one, but that, should any cases arise which are not covered by both enactments, the one under which they fall would be operative and may be applied; and that "In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail." (*See note 2, par. 2, on p. 22.*)

Injury or destruction of property by fires, caused through violation of the above requirements, subjects the offender to civil action also, as follows:

For double damages when fires are the result of willfulness, malice, or negligence. No. 18.

For actual injury sustained, determined by the value of the property injured or destroyed, and the detriment to the land and vegetation, when fires are caused, or escape, accidentally. No. 18.

For costs of fire fighting in all cases. No. 18.

LANDOWNERS' RESPONSIBILITIES.**Require owners:**

To abate, upon receipt of notice from the board, public nuisances caused by failure on their part to properly clean up forest areas. (See "*Public Nuisance*," on p. 8.)

To take proper precautions to prevent the escape of fire in burning brush, grass, stumps, logs, etc. (See "*Kindling Fires in the Open*," on p. 9.)

FIRE AND OTHER WARNING NOTICES.**Are required:**

To be printed on cloth, in large letters, calling attention to the danger from forest fires, and to forest fire and trespass laws, and their penalties. No. 5.

To be furnished by the State forester, and posted by the firewardens in conspicuous places along highways in brush and forest-covered country, along streams and lakes frequented by tourists, hunters, or fishermen, and at camping sites and post offices in the forested region. No. 5.

Injury, destruction, or removal thereof subjects the offender to criminal prosecution, and is punishable by a fine of not less than \$15, nor more than \$100, or imprisonment for not less than 10 days, nor more than 3 months, or by both such fine and imprisonment; all of which fines are paid into the State treasury to the credit of the forestry fund. Nos. 13; 20.

PUBLIC FORESTS.**STATE FORESTS.**

Are in the charge of the State board of forestry (No. 3); and are under the immediate care of the State forester,

who directs their protection and improvement. No. 2. See also No. 20, concerning funds made available for forest protection, management, and replacement.

LEGAL PROCEDURE.**Criminal Liability.****Is incurred:**

Through willful or negligent violation of requirements in connection with the use of locomotive and other engines, in or near any forest, brush, grass, grain, or stubble land; and subjects the offender to fine or imprisonment, or both. (See "*Locomotive and Other Engines*," on p. 9.)

Through willful or negligent violation of restrictions prescribed in connection with kindling fires in the open; and subjects the offender to fine or imprisonment, or both, as shown under the heading, "*Kindling Fires in the Open*," on p. 9.

Through failure to obey summons to assist in suppressing forest fires; and subjects the offender to fine or imprisonment, or both, as shown under the heading, "*Fire-Fighting Laborers*," on p. 6.

Through violation of any of the provisions for fire prevention and suppression in the act contained in chapter 176, Laws 1919; and subjects the offender to a fine of not less than \$50, nor more than \$500, and, in event of refusal to pay fine, to confinement in the county jail for a period not to exceed one day for every \$2 of the fine imposed; or to both such fine and imprisonment. No. 44.

Through failure on the part of any paid firewarden to comply with the duties specified in the act contained in chapter 264, Laws 1905; and is punishable by a fine of not less than \$20, nor more than \$250, or imprisonment for not less than 10 days nor more than 3 months, or both such fine and imprisonment. No. 9.

Through failure on the part of any district attorney or magistrate to prosecute violators of the act contained

in chapter 264, Laws 1905; and is punishable by a fine of not less than \$100, nor more than \$1,000. No. 12.

Through injury or removal of any fire or other warning notice; and is punishable by a fine of not less than \$15, nor more than \$100, or imprisonment in the county jail for not less than 10 days, nor more than 3 months, or both such fine and imprisonment. No. 13.

Civil Liability.**Is incurred:**

Through injury or destruction of property by fires resulting from violation of requirements prescribed in connection with the use of locomotive and other engines, in or near any forest, brush, grass, grain, or stubble land; and subjects the offenders to action, as shown under the heading, "*Locomotive and Other Engines*," on p. 9.

Through violation of restrictions prescribed in connection with kindling fires in the open; and subjects the offenders to action, as shown under the heading, "*Kindling Fires in the Open*," on p. 9.

Through failure, on the part of any owner of an inadequately protected forest area constituting a public nuisance, to take required action to abate the same; and subjects the offender to payment of all costs of abatement incurred by the State, and secured through a lien on the land, as shown under the heading, "*Public Nuisance*," on p. 8.

Is not incurred for trespass committed in the discharge of duties by the following officers: State forester, deputy and assistant State foresters, district fire rangers, special fire rangers and firewardens. Nos. 42; 9.

Institution of Proceedings for Violation of Forest and Fire Laws.

State forester is charged with procuring the prosecution of violators. Nos. 2; 9; 12.

Firewardens assist in apprehending and convicting offenders (Nos. 8; 9); and are themselves, when serving as paid firewardens, subject to prosecution, under penalty of fine or imprisonment, or both, for failure to perform the duties assigned them in chapter 264, Laws 1905. No. 9.

State forester and firewardens have powers of peace officers to make arrests without warrant for violations of any State or Federal forest laws (No. 9); and the State forester, deputy and assistant State foresters, district fire

rangers, and special fire rangers have the same powers for violations of any State, county, or Federal fire laws. No. 42. (See also note 2, par. 3, on p. 22.)

District attorneys (county), and magistrates are required to cause the prosecution of violators with all due diligence, under penalty of a fine of not less than \$100, nor more than \$1,000; and the attorney general for the State is required to bring the necessary action in such cases, upon request of the State forester. No. 12.

Moneys Received as Penalties in Prosecutions Under Chapter 264, Laws 1905.

Are paid into the State treasury to the credit of the forestry fund. No. 20.

TAXATION.

NOTE.—There are no provisions of law by the State of California for the special classification and taxation of forested lands and lands to be forested, with a view to encouraging the practice of forestry by private owners.

TEXT OF LAWS.

No. 1. The governor shall appoint four persons, one of whom shall be familiar with the timber industry, one with the live stock industry, one with the grain and hay industry, and one at large, who together with the state forester, shall constitute the state board of forestry, which shall supervise and direct all matters of state forest policy, management and protection. Said board shall make rules and regulations for its government, and shall meet at such times and places as it sees fit. The members, except the state forester, shall receive no compensation for their services, but shall be paid actual traveling expenses which may be incurred in the performance of their official duties, which shall be paid out of the fund appropriated for the support of the state board of forestry. [L. 1905, ch. 264, sec. 1; L. 1919, ch. 544, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1216, sec. 1.]

No. 2. There shall be a state forester, who shall be a civil executive officer, and who shall be a technically trained forester, appointed by the governor to hold office at the pleasure of the appointing power; and whether any candidate for the position is a technically trained forester shall be determined by certificate from the Secretary of the United States Department of Agriculture, or from the Department of Forestry of the State University after such department is established. * * * He shall maintain headquarters at the state capitol in an office provided by the secretary of state, and shall be allowed necessary office and contingent expenses. He and his assistants shall be paid reasonable traveling and field expenses which may be incurred in the necessary performance of their official duties. He shall act as secretary of the state board of forestry. He shall, under the supervision of the state board of forestry, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens in the state, and direct and aid them in their duties; direct

the protection and improvement of state parks and forests; collect data relative to forest destruction and conditions; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce all laws pertaining to forest and brush-covered land, and prosecute for any violation of such laws; cooperate with land owners, as described in section 4 of this act; and publish from time to time such information of forestry as he may deem wise. He shall prepare annually a report to the governor on the progress and condition of state forest work, and recommend therein plans for improving the state system of forest protection, management, and replacement. [L. 1905, ch. 264, sec. 2=Gen. Laws 1915 (Deering), act 1216, sec. 2.]

NOTE.—The provisions which are omitted in the above section concerned the salary of the State forester and the appointment and salaries of two assistant foresters, which provisions have been repealed, in effect, by chapter 393, Laws 1909 (since amended by ch. 238, L. 1917). (See No. 22.)

No. 3. The California Redwood Park and the Mt. Hamilton tract, together with all moneys heretofore or hereafter appropriated for the purchase of land for or care of said parks, tracts and stations, shall be in charge of the state board of forestry, said board to take the place of and forthwith shall have all the powers and duties now possessed in accordance with law by persons or commissions with regard to the state parks, tracts of land, and forest stations mentioned in this act, and also any forest or brush land which may hereafter become state property, or be placed definitely in the care of the state; and it is hereby further enacted that, if the government of the United States or any individual or corporation shall, at any time, donate or entrust to the State of California, for state park or state forest reserve purposes, any tract or tracts of wholly or partially wooded land, such tract or

tracts of land shall be administered at the expense of the state, as provided by law. [L. 1905, ch. 264, sec. 3=Gen. Laws 1915 (Deering), act 1216, sec. 3.] (See also note 9, on p. 23.)

No. 4. The state forester shall, upon request and whenever he deems it essential to the best interests of the people and the state, cooperate with counties, towns, corporations, and individuals in preparing plans for the protection, management and replacement of trees, woodlots and timber tracts, on consideration and under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. [L. 1905, ch. 264, sec. 4=Gen. Laws 1915 (Deering), act 1216, sec. 4.]

No. 5. The state forester shall prepare and print for public distribution an abstract of all the forest laws of California, together with such rules and regulations in accord therewith as he may deem necessary, and shall annually print and distribute a list of all fire wardens with their addresses, all such matter to be published with the approval of the state board of forestry. He shall also furnish notices, printed in large letters on cloth, calling attention to the danger from forest fires and to forest fire and trespass laws and their penalties. Such notices shall be posted by the fire wardens in conspicuous places along every highway in brush and forest-covered country, at frequent intervals along streams and lakes frequented by tourists, hunters or fishermen, at established camping sites, and in every post-office in the forested region. [L. 1905, ch. 264, sec. 5=Gen. Laws 1915 (Deering), act 1216, sec. 5.]

No. 6. The state forester shall divide the state into such number of fire districts as shall be deemed by him most necessary to the efficiency of his work; and, furthermore, any county, or combination of less than four counties, shall be made a separate fire district, upon request of the county board or boards of supervisors, in which case such special fire district shall pay the cost of maintaining its district fire warden. [L. 1905, ch. 264, sec. 6=Gen. Laws 1915 (Deering), act 1216, sec. 6.] (See also No. 38, and note 2, par. 4, on p. 22.)

No. 7. The duties of the assistant foresters [*deputy forester and assistant forester*] shall be to devote their entire time to state forest interests according to rules and directions to be determined by the state forester, with the approval of the state board of forestry. They shall take prompt measures to prevent and extinguish forest fires; keep a record of the cause, extent and damage of all forest fires in their respective districts, and perform such other duties as the state forester may direct. [L. 1905, ch. 264, sec. 7=Gen. Laws 1915 (Deering), act 1216, sec. 7.]

No. 8. The state forester shall appoint, in such number and localities as he deems wise, public-spirited citizens to act as voluntary fire-wardens, who may receive payment

for their services from the counties or from private sources. They shall promptly report all fires and take immediate and active steps toward their extinguishment, report any violation of the forest laws, assist in apprehending and convicting offenders, and perform such other duties as the state forester may direct. The supervisors and rangers on the federal forest reserve[s] within the state, whenever they formally accept the duties and responsibilities of fire-wardens, may be appointed as voluntary fire-wardens, and shall have all the powers given to fire-wardens by this act. [L. 1905, ch. 264, sec. 8=Gen. Laws 1915 (Deering), act 1216, sec. 8.]

No. 9. The state forester and all fire wardens shall have the powers of peace officers to make arrests without warrant, for violations of any state or federal forest laws, and no fire warden shall be liable to civil action for trespass committed in the discharge of his duties. Any fire warden who has information which would show, with reasonable certainty that any person had violated any provision of such forest laws, shall immediately take action against the offender, either by using his own powers as a peace officer or by making complaint before the proper magistrate, or by information to the proper district attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed by this act shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than two hundred and fifty dollars, or imprisonment for not less than ten days nor more than three months, or both such fine and imprisonment, and the state forester is hereby authorized to investigate and prosecute such violations. [L. 1905, ch. 264, sec. 9=Gen. Laws 1915 (Deering), act 1216, sec. 9.] (See also No. 42; and note 2, par. 7 on p. 22.)

No. 10. All firewardens shall have authority to call upon able-bodied citizens between the ages of sixteen and fifty years, for assistance in putting out fires, and any such person who refuses to obey such summons, unless prevented by good and sufficient reasons, is guilty of a misdemeanor, [and must be fined in a sum not less than fifteen dollars, nor more than fifty dollars, or imprisonment in the county jail of the county in which such conviction shall be had, not less than ten days, nor more than thirty days, or both such fine and imprisonment; provided that no citizen shall be called upon to fight fire a total of more than five days in any one year.] [L. 1905, ch. 264, sec. 10=Gen. Laws 1915 (Deering), act 1216, sec. 10.]

NOTE.—See note 2, par. 1, on page 22, containing the opinion of the attorney general for California to the effect that the authority granted firewardens, by this section, to impress citizens is still operative; but that the penalty provision thereof (inclosed in [] above) is now superseded by the penalty provided in Penal Code, section 384; for which, see No. 57, penalty clause and subsection 5.

No. 11. In times and localities of particular fire danger the state forester may maintain a fire patrol through the

fire wardens, at such places in brush or forest land as the public interest may require, the expense of such patrol to be paid by the county in which such patrol is maintained; and, furthermore, he may, upon written request by counties, corporations or individuals, maintain a fire patrol on their forest lands, *provided*, that the expense of said patrol be paid by the party or parties requesting same. [L. 1905, ch. 264, sec. 11=Gen. Laws 1915 (Deering), act 1216, sec. 11.]

No. 12. Whenever an arrest shall have been made for violation of any provision of this act, or whenever any information of such violation shall have been lodged with him, the district attorney of the county in which the criminal act was committed must prosecute the offender or offenders with all diligence and energy. If any district attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars in the discretion of the court. Action against the district attorney shall be brought by the attorney-general in the name of the people of the state on the relation [*request?*] of the state forester. The penalties of this section shall apply to any magistrate, with proper authority, who refuses or neglects to cause the arrest and prosecution of any person or persons when complaint, under oath, of violation, of any terms of this act has been lodged with him. [L. 1905, ch. 264, sec. 12=Gen. Laws 1915 (Deering), act 1216, sec. 12.]

No. 13. Any person who shall destroy, deface, remove or disfigure any sign, poster or warning notice posted under the provisions of this act shall be guilty of a misdemeanor and punishable, upon conviction, by a fine of not less than fifteen dollars nor more than one hundred dollars, or imprisonment in the county jail for a period of not less than ten days nor more than three months, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 13=Gen. Laws 1915 (Deering), act 1216, sec. 13.]

No. 14. Every person, who willfully, maliciously or negligently sets on fire or causes or procures to be set on fire any woods, brush, prairies, grass, grain or stubble on any lands not his own, or allows the fire to escape from his own land, whereby any property of another is injured or destroyed, or accidentally sets any such fire or allows it to escape from his control without extinguishing it or using every effort to extinguish it, shall be guilty of a misdemeanor and upon conviction is punishable by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment for not less than thirty days nor more than one year, or both such fine and imprisonment. Setting such fires or allowing them to escape shall be prima facie proof of willfulness, malice or neglect under this section, *provided*, that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. [L. 1905, ch. 264, sec. 14=Gen. Laws 1915 (Deering), act 1216, sec. 14.] (*See also No. 57, penalty clause, (1), (2), (7); and note 2, par. 2, on p. 22.*)

No. 15. Every person who, upon departing from a camp or camping place, leave [*leaves*] fire burning or unextinguished, or who, after building such fire allows it to spread, shall be guilty of a misdemeanor and punishable by a fine of not less than fifty dollars nor more than five hundred dollars, with costs of suit and collection, one-half of such fine or such a portion thereof as shall not exceed fifty dollars, to be paid to the person securing the arrest and conviction of such offender, and if the defendant refuses or neglects to pay the fine and costs imposed, he shall be confined in the county jail of the county in which conviction shall be had, for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment. [L. 1905, ch. 264, sec. 15=Gen. Laws 1915 (Deering), act 1216, sec. 15.] (*See also No. 57, penalty clause, (6), (7).*)

No. 16. It shall be unlawful during what is locally known as the "dry season," this to be considered as the period between May fifteenth and the first soaking rains of autumn or winter, for any person or persons to burn brush, stumps, logs, fallen timber, fallows, grass or forest-covered land, or blast wood with dynamite, powder or other explosives, or set off fireworks of any kind in forest or brush-covered land, either their own or the property of another, without written permission of and under the direction or supervision of a fire warden in that district; these restrictions not to apply to the ordinary use of fire or blasts in logging redwood, nor in cases where back fires are set in good faith to stop an existing fire. Violation of these provisions shall be a misdemeanor, punishable, upon conviction, by a fine of not less than fifty dollars, nor more than one thousand dollars, or imprisonment not less than thirty days nor more than one year, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 16=Gen. Laws 1915 (Deering), act 1216, sec. 16.] (*See also No. 57, penalty clause, (1), (3), (7); note 2 par. 2, on p. 22; and note 11, on p. 23.*)

No. 17. Logging locomotives, donkey or threshing engines, and other engines and boilers operated in, through or near forests, brush or grass land, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smokestacks thereof, and with devices to prevent the escape of fire from ash-pans and fireboxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars, and any person violating any provision of this section shall be liable to a penalty of not less than fifty dollars nor more than one hundred dollars, for every such violation, or imprisonment for not less than thirty days nor more than three months, or both such fine and imprisonment. [L. 1905, ch. 264, sec. 17=Gen. Laws 1915 (Deering), act 1216, sec. 17.] (*See also No. 57, penalty clause, (4), (4a), (4b), (7); and note 2, par. 2, on p. 22.*)

No. 18. In addition to the penalties provided in sections fourteen, fifteen, sixteen and seventeen of this act, the

United States, state, county, or private owners, whose property is injured or destroyed by such fires may recover in a civil action, double the amount of damages suffered if the fires occurred through wilfulness, malice or negligence; but if such fires were caused or escaped accidentally or unavoidably, civil action shall lie only for the actual damage sustained as determined by the value of the property injured or destroyed, and the detriment to the land and vegetation thereof. The presumption of wilfulness, malice or neglect shall be overcome; *provided*, that the precautions set forth are observed; *or, provided*, fires are set during the "dry season" with written permission of and under the direction of the district firewarden. Persons or corporations causing fires by violations of this act shall be liable to the United States, state, county, or private owners in action for debt to the full amount of all expenses incurred by the United States, state, county or private owners in fighting such fires. [L. 1905, ch. 264, sec. 18; L. 1919, ch. 149, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), Penal Code, sec. 384.] (See also No. 57; note 2, par. 2, on p. 22; and note 11, on p. 23.)

NOTE.—The provision in the above section for double damages in cases of fires caused by negligence, being the latest legislation on the subject, supersedes all prior inconsistent enactments, such as Political Code, section 3344, and Civil Code, section 3346a, both of which provided treble damages in such cases.

No. 19. It shall be the duty of the state board of forestry, whenever it shall be deemed necessary, to notify the owner of any forest area within the state by a written notice to be served upon the person or persons or corporation, or either of them, owning or having charge of such area, or upon the agents, attorney or representative of either, by any firewarden, deputy firewarden or special firewarden or any employee of the state board of forestry, in the same manner as a summons in a civil action, or if such area belongs to any non-resident person or corporation and there is no person in control or possession thereof, and such non-resident person or corporation has no tenant, attorney, representative or agent upon whom such service can be had, or if the owner or owners of such area, or their tenants, attorneys, representatives, or agents can not after due diligence be found, then by posting the said notice in some conspicuous place upon such area and by mailing a copy thereof to the owner thereof at his last known place of residence if the same is known or can be ascertained, that the said state board of forestry intends to cause an inspection to be made of the said forest area for the purpose of ascertaining whether or not the same constitutes a nuisance as hereinafter provided. The said notice shall describe the forest area to be inspected by general description and shall designate the time of such inspection. At the time so designated in said notice the said state board of forestry shall cause an inspection to be made of the said forest area and the said owner or his agent shall be permitted to be present during such inspection and shall be given a full opportunity of showing that such forest area is not a nuisance as contemplated by this act. If the said state board

of forestry after such inspection finds any forest area inadequately protected adjoining, lying near, or intermingled with other forest and covered wholly or in part with inflammable debris, which by reason of such location or condition or lack of protection endangers life or property, the state board of forestry shall in writing notify the owner or owners of such areas that the condition of said areas endangers life or property and shall require such person or corporation to clean up such areas by the use of fire or otherwise at a time and in a manner to be therein specified. Said notice may be served upon the person or persons or corporation, or either of them, owning or having charge of such areas or upon the agents of either, by any firewarden, deputy firewarden or special firewarden or any employee of the state board of forestry, in the same manner as a summons in a civil action; *provided, however*, that if any such area belong to any non-resident person or corporation and there is no person in control or possession thereof and such non-resident person or corporation has no tenant, bailie, depository or agent upon whom such service can be had; or if the owner or owners of such areas can not after due diligence be found, then such notice may be served by posting the same in some conspicuous place upon such area, and by mailing a copy thereof to the owner thereof at his last known place of residence, if the same is known or can be ascertained. Any and all such inadequately protected forest areas adjoining, lying near, or intermingled with other forest and covered wholly or in part with inflammable debris, which by reason of such location or condition or lack of protection endangers life or property, are hereby declared to be a public nuisance; and whenever any such nuisance shall exist within the state, and the proper notice shall have been served, as herein provided, and the time specified in said notice shall have elapsed without the nuisance having been abated, it shall be the duty of the state board of forestry to cause said nuisance to be at once abated, by burning or otherwise disposing of the inflammable debris. The expense thereof shall be paid by the state in like manner as bills for fire fighting are paid. Any and all such sum or sums so paid shall be and become a lien on the property from which said nuisance has been removed or abated in pursuance of this section, and said lien shall continue as long as the said sum or sums above referred to shall remain unpaid. The claim for any lien shall be filed by the state forester, or, under his direction, by any of his assistants or firewardens, in the office of the county recorder of the county in which the property on which said nuisance existed is situated. Proceedings for the enforcement of such lien shall be instituted by the district attorney of the county where the nuisance existed, at the request of the state board of forestry and in the name of the State of California as claimant; and the costs shall be recovered in the usual manner. The state board of forestry is hereby vested with the power to cause any and all such nuisances to be abated in a summary manner. [L. 1905, ch. 264, sec. 19; L. 1911, ch. 392, sec. 1=Gen. Laws 1915 (Deering), act 1216, sec. 19.]

No. 20. All moneys received as penalties for violations of the provisions of this act, less the cost of collection, and not otherwise provided for, shall be paid into the state treasury to the credit of the forestry fund, which fund is hereby created, and the moneys therein are hereby appropriated for purposes of forest protection, management and replacement under direction of the state board of forestry. [L. 1905, ch. 264, sec. 20=Gen. Laws 1915 (Deering), act 1216, sec. 20.] (See also note 5, on p. 22.)

No. 21. County boards of supervisors may appropriate money for purposes of forest protection, improvement and management. [L. 1905, ch. 264, sec. 21=Gen. Laws 1915 (Deering), act 1216, sec. 21.] (See also No. 56.)

No. 22. The salary of the state forester shall be three thousand dollars per annum. The state forester shall have authority to appoint a deputy forester at a salary of two thousand four hundred dollars per annum and an assistant forester at a salary of one thousand six hundred dollars per annum. The deputy forester shall exercise all the powers and duties of the state forester during the latter's absence. All the salaries mentioned herein are to be paid in the same manner as the salaries of other state officers are paid. [L. 1905, ch. 264, sec. 2; L. 1909, ch. 393, sec. 1; L. 1917, ch. 238, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1222.]

No. 23. There is hereby established a state nursery under the jurisdiction and management of the state forester for the growing of stock for reforestation of public lands, the planting of trees along public streets and highways and for the beautifying of parks and school grounds. The state nursery shall be located by the state forester upon lands now owned by the state or donated to the state for that purpose. [L. 1917, ch. 475, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 1.]

No. 24. The state forester shall construct and maintain such buildings, improvements and equipment, and shall employ and fix the compensation of such employees as may be necessary to carry out the provisions of this act. He may also purchase nursery stock and seed and distribute the same at cost for public planting or reforestation. [L. 1917, ch. 475, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 2.]

No. 25. The governor, on behalf of the state, is hereby authorized to receive all such deeds, conveyances, assurances or donations of real or personal property as may be necessary in law to vest in the people of the State of California the title to any site or sites for said nursery and any equipment and supplies therefor that may be donated to the state and accepted by the governor. [L. 1917, act 475, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 3.]

No. 26. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of fourteen thousand dollars for the purposes of this

act. [L. 1917, ch. 475, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1224, sec. 4.] (See also note 4, on p. 22.)

No. 27. There is hereby organized, created, established and incorporated a forest fire district within the county of Marin, to be known as "Tamalpais forest fire district," the boundaries of which are hereby established, described and determined as follows, to wit: Commencing at the point where the electric pole line of the Pacific Gas and Electric Company running from the Alto power house to Bolinas first joins the state highway between the town of Mill Valley and Alto; running thence along the line of said pole line, southerly, southwesterly, and westerly across the Rancho Saucelito and the Rancho Las Llanitas until the said pole line crosses the county road along the easterly side of Bolinas inner bay or lagoon; running thence northwesterly along said county road to its intersection with the lower county road leading from Bolinas to Olema; running thence northwesterly along said Bolinas and Olema county road to its intersection with the Tocaloma road at the village of Olema; running thence easterly along said county road leading to Tocaloma to its intersection with the county road running along the easterly bank of Paper Mill creek; running thence northerly and easterly along said county road running along the easterly bank of Paper Mill creek to the mouth of Nicasio creek; running thence up the county road running up Nicasio creek, in an easterly and southerly direction, through the village of Nicasio to the intersection of the Nicasio and San Geronimo county road with the Lucas Valley county road; thence easterly along said Lucas Valley county road to its intersection with the state highway at Las Gallinas; thence southerly along the state highway as at present laid out to the northerly corporate limits of the city of San Rafael; thence westerly along said northerly corporate limits of said city of San Rafael to the easterly corporate limits of the town of San Anselmo; thence southerly along the easterly corporate limits of the town of San Anselmo to the easterly corporate limits of the town of Ross; thence southerly along the easterly corporate limits of the town of Ross and westerly along the southerly corporate limits of the town of Ross to the intersection thereof with the state highway; thence southerly along the state highway to the northwesterly corporate limits of the town of Larkspur; thence northerly, easterly and southerly, along the corporate limits of the town of Larkspur to their intersection with the northerly corporate limits of the town of Corte Madera; thence easterly, southerly and westerly along the corporate limits of the town of Corte Madera to their intersection with the state highway; and thence southerly along the state highway to the point of beginning. [L. 1917, ch. 560, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 1.]

No. 28. Within thirty days after this act shall go into effect, a governing board of trustees for said district shall be appointed. Said board shall consist of one trustee to

be appointed from said district at large by the board of supervisors of said county of Marin, and of one trustee to be appointed from each municipality lying wholly or partially within said district by the governing board of such municipality. The governing board of such district shall be called "the board of trustees of Tamalpais forest fire district." Each trustee appointed by a municipal board shall be an elector of the municipality from which he is appointed, and each appointee of the board of supervisors shall be an elector of the district. All such trustees shall hold office for the term of two years from and after the second day of the calendar year succeeding their appointment; *provided, however*, that the first board of trustees appointed under the provisions of this act shall, at their first meeting, so classify themselves by lot that one-half of their number, if the total membership is an even number, and if uneven then that a majority of their number, shall go out of office at the expiration of one year and the remainder at the expiration of two years, from the second day of the calendar year succeeding their appointment. [L. 1917, ch. 560, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 2.]

No. 29. The members of the board of trustees shall meet on the first Monday subsequent to thirty days after this act shall go into effect and shall organize by the election of one of their members as president and one thereof as secretary. The members of the board shall serve without compensation provided that the necessary expenses of each member for actual traveling expenses on meetings or business connected with said board shall be allowed and paid. In event of the resignation, death or disability of any member, his successor shall be appointed by the board of supervisors, if such board originally made such appointment, or by the governing board of the appropriate municipality, if such appointment were originally made by the board of a municipality. The board of trustees shall provide for the time and place of holding its regular meetings, and the manner of calling the same, and shall establish rules for its proceedings. Special meetings may be called by three trustees and notice of the holding thereof shall be given to each member at least three hours before the meeting. All sessions, whether regular or special, shall be open to the public and a majority of the members of the board shall constitute a quorum for the transaction of business. [L. 1917, ch. 560, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 3.]

No. 30. The board of trustees of such district shall have power to take all necessary or proper steps for the prevention or extinguishing of forest, brush, or grass fires within the district, and for the protection of persons or property from any injury, loss, or damage resulting from any such fire or fires; to purchase such supplies and materials and to employ such labor or skilled services as may be necessary or proper in furtherance of the objects of this act, and if necessary or proper in the furtherance of the same to build, construct, and thereafter to keep clear and maintain necessary fire roads or fire trails, hydrants, or other fire-

fighting apparatus upon the lands within the district or adjacent thereto, and to acquire by purchase, condemnation, license or other lawful means, in the name of the district, all necessary lands, rights-of-way, easements or property or material requisite or necessary for any of such purposes; to make contracts, to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers by this act conferred, or arising out of the use, taking or damage of such property for any such purposes, and generally to do any and all things necessary or incident to the powers hereby granted and to carry out the objects specified herein. [L. 1917, ch. 560, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 4.]

No. 31. The board of trustees of said district shall at least fifteen days before the first day of the month in which the board of supervisors of Marin county is required by law to levy the amount of taxes required for county purposes, furnish to said board of supervisors and to the county auditor of said county, respectively, an estimate in writing of the amount of money necessary for all purposes required under the provisions of this act during the next ensuing fiscal year. The board of supervisors of such county shall thereafter at the time and in the manner of levying other county taxes levy upon all of the taxable property within the district and cause to be collected a tax, to be known as the "Tamalpais forest fire district tax," the maximum rate of which must not be greater than sufficient to raise the amount estimated to be raised by the said board of trustees of the district, nor in any event shall such tax exceed ten cents on each one hundred dollars of taxable property in such district.

All taxes levied under the provisions of this section shall be computed and entered on the county assessment roll of said county by the county auditor thereof, and collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury of said county for the use of said district.

The funds shall be withdrawn from said county treasury upon the warrant of the board of trustees of such district signed by the president or acting president of the board, and countersigned by its secretary. [L. 1917, ch. 560, sec. 5=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 5.]

No. 32. The board of trustees of such forest fire district, prior to its estimate of the amount of money necessary for all purposes of the district for the ensuing fiscal year, as hereinabove provided, may request from the governing board or body having jurisdiction and control over any forest, brush or grass lands within such district owned or held for any purpose whatsoever by the State of California, or any county, city, township, municipal corporation, public corporation, or other political corporation or subdivision of the state, a proposal or promise as to what amount, if any, the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state own-

ing or holding such lands, will agree to pay to such district towards its necessary expenses for the next ensuing fiscal year, or such proposal may be for the next two ensuing fiscal years in the event that such lands shall be under the control of the State of California, in consideration of said district taking over the supervision and concurrent control, as hereinafter set forth, of such lands so owned or held, only, however, in so far as is necessary or proper to prevent or extinguish forest, brush or grass fires thereon or within such district, or to protect persons or property from any injury, loss or damage resulting from any such fire, and said governing body having jurisdiction and control over such lands is hereby authorized and empowered, for the consideration aforesaid, to propose or promise, as aforesaid, and so obligate the State of California or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of the state owning or holding such lands respectively, to such district upon its board of trustees accepting such proposal for such purpose, whereupon such agreement shall be duly executed in the form of a contract, and such district shall thereupon take over the supervision and control of the prevention and extinguishing of forest, brush or grass fires upon such lands in the manner aforesaid for the next ensuing fiscal year, or for the life of such contract. [L. 1917, ch. 560, sec. 6=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 6.] (See also No. 52; and note 8, on p. 23.)

No. 33. Any territory, incorporated or unincorporated, lying adjacent and contiguous to said forest fire district, and within the same county therewith, may be added and annexed to such district, at any time, upon proceedings being had and taken as in this act provided and any territory, incorporated or unincorporated, laying within said district, may be withdrawn and excluded therefrom upon proceedings being had and taken as in this act provided. The board of trustees of such district upon receiving a written petition containing a description of the new territory sought to be annexed to such district, signed by the owners comprising more than one-half of the assessed value of such territory as shown by the last county assessment roll, must thereupon submit to the electors of the district and also to the electors residing in the territory sought to be annexed, the proposition of whether such proposed territory shall be annexed and added to such district. The proposition to be submitted to the electors at such election, both within said district and within said territory so proposed to be annexed, shall be as follows: "for annexation," or "against annexation," or words equivalent thereto. Such election must be called and held, and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district, and also in a newspaper, if any, printed and published in such territory so proposed to be annexed. The board of trustees, shall canvass, separately, the votes cast within said district, and the votes cast within said territory

so proposed to be annexed, and if it shall appear from such canvass that a majority of all the ballots cast in such district and a majority of all the ballots cast in such territory so proposed to be annexed are in favor of annexation, the board of trustees shall certify such fact to the secretary of state describing said property proposed to be annexed and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that the territory (describing the same) has been annexed and added to the Tamalpais forest fire district and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the territory named therein shall be deemed added and annexed to and form a part of said forest fire district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. If the property so proposed to be annexed is included within a municipality, consent to such annexation shall first be obtained from the governing board of such municipality, and an authenticated copy of the resolution or order of such board so consenting to such annexation, shall be attached to the petition, and be made a part thereof. At any time after the organization of said forest fire district, and the appointment of the board of trustees thereof, the owner or owners of the record title to any land or lands within said district may file a petition with the board of supervisors of the county praying that his or their lands be excluded from the district; *provided*, that no petition shall be presented or received for the exclusion of lands which, either by themselves, or together with other lands included in the same petition, do not lie adjacent to the exterior boundaries of said forest fire district. At its first regular meeting after the filing of such petition the board of supervisors shall, by its order, set said petition for hearing, which hearing shall not be more than forty days nor less than ten days from the date of its said order. Notice of such hearing shall be mailed to the petitioners, and to the members of the board of trustees of the forest fire district at least one week before the hearing. At such hearing, or at any continuation thereof, the board of supervisors shall hear and determine the facts urged for or against said petition, and shall make a finding determining whether or not the said lands petitioned to be withdrawn, or any part thereof, shall be withdrawn from the district. In case such finding shall be in favor of excluding such lands, or any portion thereof from the district, the board of supervisors shall make its order certifying such fact to the secretary of state, describing said property proposed to be excluded by said findings, and upon receipt of such last mentioned certificate, the secretary of state shall issue his certificate reciting that the territory (describing the same) has been excluded from the Tamalpais forest fire district, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of the county of Marin. From and after the date of such certificate, the territory described therein shall be deemed excluded from

said forest fire district. [L. 1917, ch. 560, sec. 7=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 7.]

No. 34. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof, upon an election called either by its board of trustees or by petition signed by twenty-five per cent of the registered voters within the district upon the question of dissolution, and the proposition which shall be submitted to the electors at such election shall be as follows: "Shall the district be dissolved?" Such election must be called and held; and notice thereof shall be published for at least four weeks prior to such election in a newspaper printed and published in such district. If two-thirds of the votes at such election shall be in favor of the dissolution of the district, the board of trustees shall certify such fact to the secretary of state, and upon receipt of such last mentioned certificate, the secretary of state shall thereupon issue his certificate reciting that said forest fire district has been dissolved, and a copy of such certificate of the secretary of state shall be transmitted to and filed with the county clerk of said county in which such forest fire district is situated. From and after the date of such certificate the district named therein shall be deemed dissolved, and the property of the district shall thereupon vest in the county wherein said district is situate, if the district at the time of its dissolution comprises unincorporated territory alone, and if it comprises incorporated territory alone, or partly incorporated and partly unincorporated territory, then in such event its property shall be ratably apportioned amongst the several municipalities and the county in proportion to the assessed value of the property included within said district as shown upon the last county assessment roll; *provided, however*, that any real property, easements or rights of way belonging to said district shall in such event remain the property of the municipality wherein the same is situate, if situated within incorporated territory, other wise the same shall remain the property of the county. [L. 1917, ch. 560, sec. 8=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 8.]

No. 35. Every notice herein required to be published may be published in a daily or weekly or semiweekly newspaper; and if there is no daily, or weekly or semi-weekly newspaper published within the district or within a subdivision thereof or other territory wherein the same is required to be published, then such notice shall be posted for the length of time herein required for the publication of the same in three public places of such district or such subdivision thereof or such other territory as the case may be. The term "municipality," as used in this act, shall include a city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing, and those hereafter organized, for municipal purposes. The word "district" shall apply,

unless otherwise expressed or used, to said forest fire district formed under the provisions of this act, and the word "trustees," and the words "board of trustees," shall apply to the trustees and the board of trustees of such district. [L. 1917, ch. 560, sec. 9=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 9.]

No. 36. The provision herein contained for the entering into proposals and contracts with said forest fire district by the State of California, or any county, city, township, municipal corporation, public corporation or other political corporation or subdivision of this state, is hereby declared to be optional and permissive and no further authority of law shall be required for such proposals or contracts than that herein contained, and no further authority of law shall be required than that contained in this act for the levy of taxes by boards of supervisors for the purposes herein specified, and no further authority shall be required by law for the bringing of actions in eminent domain, for the acquiring by said forest fire district of rights of way for fire roads or trails, and easements to cut timber, brush or grass thereon, and to maintain the same, than the authority contained in this act. [L. 1917, ch. 560, sec. 10=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 10.]

No. 37. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. [L. 1917, ch. 560, sec. 11=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1185, sec. 11.]

No. 38. For the prevention and suppression of forest fires the state board of forestry shall—

(a) Make and enforce such rules and regulations as may be necessary and proper for the organization, maintenance, government and direction of the fire protective system provided for in this act:

(b) Divide the state into such number of suitable and convenient fire districts as may be necessary;

(c) Appoint a district fire ranger for each of such fire districts to serve during the seasons when fires are liable to occur at a salary of not to exceed one hundred fifty dollars per month and necessary expenses. Said district fire rangers shall, under the direction of the state forester, have charge of the fire fighting system and men in such districts; and shall be charged with the duty of preventing and extinguishing forest fires and with the performance of such other duties as may be required by the forester;

(d) Provide all proper fire-prevention and fire-fighting implements and apparatus, organize fire companies and establish observation stations and employ men to attend them in all fire districts established as herein provided;

construct and maintain telephone lines and provide such other means of communication as shall be necessary to prevent and extinguish forest fires. [L. 1919, ch. 176, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 1.]

No. 39. For the purpose of co-operating with federal, county, municipal and private agencies for fire protection, forest management, reforestation and afforestation the state forester may—

(a) Enter into agreements with the federal government, under such terms as he deems advisable or as may be provided by law, and renew, revise or terminate such agreements, for the purpose of maintaining a fire patrol system for the prevention and suppression of any forest fires in any timber, brush, grass or other inflammable vegetation or material; *provided*, that the expenses incurred by the terms of said agreements shall be paid from the appropriations or funds available for forest fire protection.

(b) Whenever any county or municipality shall make any appropriation for the prevention and suppression of forest fires on any lands within said county, or municipality, or for the protection and forest management of any lands over which such county or municipality has jurisdiction, or for reforestation or afforestation on lands within said county or municipality, the state forester may, with the approval of the state board of control, enter into agreements with such county or municipality for said purposes on such terms and under such consideration as he deems wise.

(c) Enter into agreements, with the approval of the state board of control, with any person, firm, association or corporation owning or controlling any forest, brush, grass or grain lands, under such terms as he deems advisable or as may be provided by law, and renew, revise or terminate such agreements, for the prevention and suppression of forest fire; *provided*, that said agreements shall not provide that the state shall pay more than one-third of the expenses for said prevention and suppression of forest fires; *provided, however*, that the expenses incurred by the terms of said agreements shall be paid from the appropriations or funds available for forest fire protection. [L. 1919, ch. 176, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 2.] (*See also note 2, par. 4, on p. 22.*)

No. 40. Where owners of land, or any organization, shall maintain a fire patrol for the prevention and suppression of forest fires the state forester may designate such patrolman as special fire ranger and give to him, for the protection of lands patrolled by him or adjacent thereto, all the rights and powers of district fire rangers as herein provided; and such special fire rangers shall be paid wholly by such owners or organizations or as may be provided for by section two of this act. [L. 1919, ch. 176, sec. 3=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 3.] (*See also "District Fire Rangers," on p. 5.*)

No. 41. The state forester, deputy state forester and assistant state foresters shall have power to summon any able-bodied male to assist in suppressing any forest fire; and whosoever fails to obey such summons shall be guilty of a violation of this act; and the above-mentioned officers shall have power to authorize any district fire ranger, special fire ranger or any voluntary fire warden to summon any able-bodied man to assist in suppressing any forest fire within their respective jurisdictions, and whosoever fails to obey such summons from any such authorized district fire ranger, special fire ranger or voluntary fire warden shall be deemed guilty of a violation of this act; and every person who in obedience to such summons assists in extinguishing any forest fire shall be compensated at the rate of twenty-five cents per hour of service actually rendered; *provided*, that said compensation shall be paid from the appropriations or funds available for forest fire protection. [L. 1919, ch. 176, sec. 4=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 4.] (*See also note 2, par. 1, on p. 22.*)

No. 42. The state forester, deputy state forester, assistant state foresters, district fire rangers and special fire rangers, shall have the powers of peace officers to make arrests without warrant, for violation of any state, county or federal fire law, and none of them shall be liable to civil action for trespass committed in the discharge of their duties. [L. 1919, ch. 176, sec. 5=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 5.] (*See also No. 9; and note 2, par. 3, on p. 22.*)

No. 43.—The term "forest fire" as used in this act, means any fire burning uncontrolled on any lands covered wholly or in part by timber, brush, grass, grain, or other inflammable vegetation. [L. 1919, ch. 176, sec. 6=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 6.]

No. 44.—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punishable upon conviction by a fine of not less than fifty dollars nor more than five hundred dollars, and if the defendant refuses, on conviction, to pay said fine he shall be confined in the county jail of the county in which conviction shall be had for a period not to exceed one day for every two dollars of the fine imposed, or may be subject to both such fine and imprisonment. [L. 1919, ch. 176, sec. 7=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1216a, sec. 7.]

No. 45.—Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of five thousand dollars during the seventy-first and seventy-second fiscal years, which money shall be used and expended for the purpose of preventing forest fires, and the construction and maintenance of fire trails and fire breaks in the San Antonio canyon in the San Gabriel mountains, California, and the canyons adjacent thereto. [L. 1919, ch. 409, sec. 1=Supp. 1917-1919 to Codes and

Gen. Laws 1915 (Deering), act 1171a.] (See also note 4, on p. 22.)

No. 46.—The state board of control is hereby authorized and empowered to enter into a contract or contracts with the San Antonio Fruit Exchange, a corporation organized and existing under and by virtue of the laws of the State of California, for the purpose of protecting San Antonio canyon from devastation by fire; *provided, however*, that the expenditures for such purposes shall not be in excess of the amount expended by the said San Antonio Fruit Exchange, the San Antonio Water Company, and the counties of San Bernardino and Los Angeles, in collaboration with the specific work named above; *provided, further*, that in the event that the said San Antonio Fruit Exchange, San Antonio Water Company, the county of San Bernardino or the county of Los Angeles do not contribute an amount equal to the appropriation hereby made for the purposes hereinbefore specified, the state board of control shall not have power to enter into such contract or contracts with the said San Antonio Fruit Exchange for such expenditure of said money. [L. 1919, ch. 409, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws 1915 (Deering), act 1171a.] (See also note 4, on p. 22.)

No. 47.—The sum of twenty-five thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to be used by the state board of forestry in preventing and fighting forest, brush, grass and grain fires within the State of California. To this end the said board with the approval of the state board of control may enter into co-operative agreements with proper representatives of the United States government, or with counties, municipalities, or individuals. [L. 1919, ch. 414, sec. 1.] (See also note 4, on p. 22.)

No. 48.—Out of any money in the state treasury not otherwise appropriated, there is hereby appropriated the sum of one thousand six hundred dollars, of which eight hundred dollars is to be expended annually during the seventy-first and seventy-second fiscal years, which moneys shall be used and expended for the purpose of preventing and extinguishing forest fires and the constructing and maintaining of fire trails and firebreaks in the San Dimas canyon in the San Gabriel mountains, California, and the canyons adjacent thereto; *provided, however*, that the money herein appropriated to be expended annually shall not become available until there shall have been deposited in the state treasury for this purpose an amount equal thereto, by the San Dimas Fruit Exchange, the county of Los Angeles, or by any individual or corporation of by any or all of them. [L. 1919, ch. 581, sec. 1.] (See also note 4, on p. 22.)

No. 49.—The moneys provided under the provisions of section one hereof shall be expended under the direction of the state forester. [L. 1919, ch. 581, sec. 2.]

No. 50. Out of any moneys in the state treasury not otherwise appropriated, there is hereby appropriated the

sum of three thousand dollars, of which one thousand five hundred dollars is to be expended annually during the seventy-first and seventy-second fiscal years, which moneys shall be used and expended for the purpose of preventing and extinguishing forest fires, and constructing and maintaining of fire trails and fire breaks in the San Gabriel canyon in the San Gabriel mountains, California, and the mountains adjacent thereto; *provided, however*, that the money herein appropriated to be expended annually shall not become available until there shall have been deposited in the state treasury for this purpose an amount equal thereto by the Azusa Irrigation Company, the Covina Irrigation Company, the county of Los Angeles or by any individual or corporation or by any or all of them. [L. 1919, ch. 582, sec. 1.] (See also note 4, on p. 22.)

No. 51. The moneys provided under the provisions of section one hereof shall be expended under the direction of the state forester. [L. 1919, ch. 582, sec. 2.] (See also note 4, on p. 22.)

No. 52. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated annually the sum of two thousand five hundred dollars during the seventy-first and seventy-second fiscal years which money shall be used and expended for the purposes of preventing forest fires and the construction and maintenance of fire trails and fire breaks in the Tamalpais forest fire district in Marin county, California. The state board of control is hereby authorized and empowered to enter into a contract or contracts with the Tamalpais forest fire district, a public corporation of the State of California, for the purpose of protecting the area embraced in the Tamalpais forest fire district from devastation by fire; *provided, however*, that the expenditures for such purposes shall not be in excess of the amount expended by the said Tamalpais forest fire district; *provided, further*, that in the event the said Tamalpais forest fire district does not contribute an amount equal to the appropriation hereby made during the fiscal years herein above specified, the state board of control shall not have power to enter into such contract or contracts with the Tamalpais forest fire district for such expenditure of said money. [L. 1919, ch. 593, sec. 1.] (See also No. 32; and note 4, on p. 22.)

No. 53. The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated, which money shall be used and expended for the purpose of constructing and maintaining fire lanes and fire trails to protect the timber and brush and other growth on the water shed now standing or that may be planted upon the San Bernardino mountains, in the State of California. [L. 1919, ch. 597, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1223.] (See also note 4, on p. 22.)

No. 54. The state board of control is hereby empowered to enter into a contract or contracts with the forest service of the United States government for the purpose of constructing and maintaining fire lanes and fire trails for the

protection of the forest and brush specified in section one of this act; *provided, however*, that these expenditures shall not be in excess of the amount or amounts to be expended by the forest service of the federal government in collaboration with the specific work named above; and *provided, further*, that in case the forest service above mentioned does not contribute the fund for said co-operation, that the state board of control shall not have power to enter into such contract or contracts with the said forest service for the expenditure of the said money. [L. 1919, ch. 597, sec. 2=Supp. 1917-1919 to Codes and Gen. Laws (Deering), act 1223.] (See also note 4, on p. 22.)

No. 55. Whenever the woods are on fire any justice of the peace, or constable, or road-overseer of the township or district where the fire exists, may order as many of the inhabitants liable to road poll-tax, residing in the vicinity, as may be deemed necessary, to repair to the place of the fire and assist in extinguishing or stopping it. [Pol. Code 1872, sec. 3345; * * *; Pol. Code (Deering), 1915, sec. 3345.] (See also note 6, on p. 22.)

No. 56. The boards of supervisors, in their respective counties shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

Subsection 40. * * * * * To appropriate a sum not exceeding two cents per 100 dollars of the assessed valuation of their county in any one year, in addition to any sum which may be chargeable to the county for the repayment of money expended by the state for protection against fire in such county, for the purpose of protecting forest, brush and grass lands therein, against fire or other injury, and of aiding the state and federal authorities in forestry work. [L. 1905, ch. 337, sec. 1=Gen. Laws 1906 (Deering), act 837, sec. 33; * * *; Pol. Code, sec. 4011, preamble and subsec. 40, as reenacted in L. 1919, ch. 377, sec. 1=Supp. 1917-1919 to Codes and Gen. Laws (Deering), Pol. Code, sec. 3041, preamble and subsec. 40.]

No. 57. Any person who shall wilfully or negligently commit any of the acts herein enumerated in this section shall be guilty of a misdemeanor, and upon conviction thereof be punishable by a fine of not less than fifty nor more than five hundred dollars, or imprisonment in the county jail not less than fifteen days nor more than six months, or both such fine and imprisonment, except that in the case of an offense against subsection five of this section the fine imposed may be not less than ten dollars. (See also note 10, on p. 23.)

1. Setting fire, or causing or procuring fire to be set to any forest, brush or other inflammable vegetation growing on lands not his own, without the permission of the owner of such land; *provided*, that no person shall be convicted under this section who shall have set in good faith and with reasonable care, a backfire for the purpose of stopping the progress of a fire then actually burning.

2. Allowing fires to escape from the control of the persons having charge thereof, or to spread to the lands of any per-

son other than the builder of such fire without using every reasonable and proper precaution to prevent such fire from escaping.

3. Burning brush, stumps, logs, rubbish, fallen timbers, fallows, grass or stubble, or blasting with dynamite, powder or other explosives, or setting off fireworks, whether on his own land or that of another, without taking every proper and reasonable precaution both before the lighting of said fire and at all times thereafter to prevent the escape thereof; *provided*, that any firewarden may, at his discretion, give a written permit to any person desiring to burn or blast as aforesaid; such permit shall contain such rules and regulations for the building and management of such fires as the state board of forestry may from time to time prescribe; and in any prosecution under this subsection it shall be prima facie evidence that the defendant has taken proper and reasonable precautions to prevent the escape of such fire, when he shall show that he has received such a permit and has complied with all the rules and regulations therein prescribed. (See also note 11, on p. 23.)

4. Using any logging locomotive, donkey or threshing engine, or any other engine or boiler, in or near any forest, brush, grass, grain or stubble land, unless he shall prove upon the trial, affirmatively, that such engines or boilers used by him were provided with adequate devices to prevent the escape of fire or sparks from smokestacks, ash pans, fire boxes, or other parts, and that he has used every reasonable precaution to prevent the causing of fire thereby.

4a. Harvesting grain or causing grain to be harvested by means of a combined harvester, header, or stationary threshing machine, or baling hay by means of a hay press, unless he shall keep at all times in convenient places upon each said combined harvester, header, or stationary threshing machine, or hay press, fully equipped and ready for immediate use, two suitable chemical fire extinguishers, approved by the underwriters' laboratories, each of the capacity of not less than two and one-half gallons.

4b. Operating or causing to be operated any gas tractor, oil-burning engine, gas-propelled harvesting machine or auto truck in harvesting or moving grain or hay, or moving said tractor, engine, machine or auto truck in or near any grain or grass lands, unless he shall maintain attached to the exhaust on said gas tractor, oil-burning engine or gas-propelled harvesting machine an effective spark-arresting and burning carbon-arresting device.

5. Refusing or failing to render assistance in combating fires at the summons of any firewarden unless prevented by good and sufficient reasons.

6. Leaving a camp fire burning or unextinguished without some person in attendance, or allowing such fire to spread after being built.

7. The provisions of this section shall not apply to the setting of fire on lands within any municipal corporation of the state. [L. 1852, ch. 48, sec. 1=Penal Code, 1872, sec. 351; * * *; L. 1911, ch. 609, sec. 1=Penal Code, 1917-1919 to Codes and Gen. Laws (Deering), Penal Code, sec. 384.] (See also Nos. 10; 14; 15; 16; 17; and note 2, pars. 1 and 2, on p. 22.)

EXPLANATORY NOTES.

Note 1.—No terms of office are prescribed for the several members of the State board of forestry. The State forester, however, is appointed to hold office "at the pleasure of the appointing power." No. 2.

Note 2.—The attorney general for California, in a letter to the Forest Service, dated July 8, 1920, states as follows:

¶1. "A reading of the California forestry act of 1905, which will be termed the basic act, discloses that the terms 'voluntary firewardens' and 'firewardens' are used interchangeably. Therefore, both firewardens and voluntary firewardens have authority, by the basic act, to call upon able-bodied citizens to assist in fighting fire, as provided by section 10 of that act. A refusal to comply will make such persons subject to the penalty imposed originally by section 10 of the basic act but now superseded by the penalty provided in section 384 of the Penal Code. [See No. 57, penalty clause and subsec. 5.] With this interpretation there is no conflict with chapter 176 of the statutes of 1919, for the penalty imposed by that act would be operative against a person who refused to fight fire when commanded to do so by a firewarden acting pursuant to authorization of the State forester, deputy State forester or an assistant State forester." [See Nos. 41 and 44.]

¶2. [Your] "Queries four, five, and six deal with the fact that sections 14, 15, 16, and 17 of the basic act are similar to the provisions of section 384 of the Penal Code which is a later enactment dealing with the same or similar subject matter and in many ways similar. But this reenactment does not repeal any of the sections of the basic act or render them inoperative.

"Many cases may arise which are not covered by both enactments. As to these cases, the act under which they fall is operative and may be applied. In cases to which both enactments might equally apply the latter enactment and the penalty imposed thereby would, of course, prevail."

¶3. "These sections [sec. 9, ch. 264, L. 1905, and sec. 5, ch. 176, L. 1919] both confer power on the State forester and other officers mentioned and these officers will draw power from both of the statutes, as the same are not in conflict. They will draw power to make arrests for forest loss from one statute and powers to make arrests for violations of fire laws from another or from both. When these officers are constituted peace officers it is, of course, incumbent upon them, without further authority, to make arrests for violation of any State law or county ordinance, and it is within the powers of the State of California to direct and empower its peace officers to make arrests for violations of Federal Law."

¶4. "Section 4 of the basic act provides for cooperation by the State forester with counties, towns, corporations,

and individuals for protection and management without approval of any board. The act of 1919 [ch. 176] enlarges the class of cooperators by adding the Federal Government. Under this later act, section 2 (a) the State forester may enter into agreements with the Federal Government without the approval of the board of control.

"Section 2 (b) he may enter into agreements with counties or municipalities for protection, fire suppression or management with the approval of the board of control. This subsection apparently contemplates expenditure by the State. Section 4 of the basic act evidently intended that the cooperators bear the expense, especially since the State had not until 1919 made any appropriation to cover such expenses. Moreover, this section 4 applies only to the preparation of plans, while section 2 (b), act of 1919, embraces active participation by the State forester not only in plans but in the actual suppression and management. The State forester, under section 4 of the basic act, would still have authority to prepare plans without approval of the board. The two acts should be construed together, since they are not inconsistent. Section 2 (c), the State forester may enter into agreements with private agencies with the approval of the board, the State to bear not more than one-third of the expense."

* * * * *

"The provisions of chapter 176 contemplate agreements to be made by the State forester wherein the State is to bear a portion of the expense not exceeding one-third, and if money is to be paid out by the State other than the ordinary fixed operating charges of the State forester's department, the agreements which it is contemplated that the State forester will make must have the approval of the State board of control. If, however, agreements are to be made wherein the State is to bear no expense, as contemplated by the basic act, the State forester may proceed as provided in that act without the approval of the State board of control."

Note 3.—*This note has been deleted.*

Note 4.—Only such laws concerning appropriations are usually compiled as provide funds available from year to year until expended. Appropriations limited to a fixed annual or biennial period of expenditure are generally omitted because of the frequent changes in the amounts. An exception to this general rule is, however, made in the case of the allotments by the State for fire protective work in certain restricted areas in California, the allotments for which are derived from appropriations made biennially. (See Nos. 45; 46; 48-54.)

Note 5.—A so-called "State forestry fund" was also provisionally created by Laws 1905, chapter 187, sections 1, 2; General Laws 1915 (Deering), act 1217, sections 1, 2. (See volume of Session Laws.)

Note 6.—There appears to be no specific provision made for compensating fire-fighting laborers when impressed by firewardens under the authority granted them

in section 10, chapter 264, Laws 1905 (see No. 10), or when impressed by justices of the peace, constables, or road overseers (see No. 55); nor for penalties in case of failure to comply with such summons from a justice of the peace constable, or road overseer.

Note 7.—The terms "trustees," "board of trustees," "municipality," and "district," as used in chapter 560, Laws 1917, are defined and applied in section 9 thereof. (See No. 35.)

Note 8.—Such proposals and contracts are optional and permissive on the part of the State or any of its political corporations or subdivisions within the district. No. 36.

Note 9.—The California Redwood Park is the only park mentioned in the act contained in chapter 264, Laws 1905, and it has since been transferred to other jurisdiction. (See, in *Sess. Laws vols.*, L. 1911, ch. 12, secs. 1, 2, 2½; L. 1913, ch. 16, sec. 1.) The Hamilton tract is also the only tract mentioned in said 1905 act; and it makes no further mention of any forest stations.

Note 10.—The disposition of fines recovered under Penal Code, section 384, is governed by the general provisions in Penal Code, sections 1457, 1570, under which they go into the county treasury. (See *Penal Code volume*, *Deering, 1915*.)

Note 11.—The permit feature of Penal Code, section 384 (see No. 57, *subsec. 3*), and also of sections 16 and 18 of chapter 264, Laws 1905 (see Nos. 16, 18) is a most unusual one, since the intention of this particular provision appears to be to perform the reverse of the commonly accepted function of such legislation in a majority of the other States, namely, to provide the Government a means of controlling burning, and of prosecuting offenders. In the cases under which this feature of the California law would seem most likely to be resorted to, the permit would appear to function chiefly as a means of legal defense of the permittee, rather than as a safeguard of the public interests, since possession of a permit from a firewarden and compliance therewith constitutes prima facie evidence of precautions taken. Issuance of such permit is, however, entirely discretionary with the firewarden.

Note 12.—The State board of control consists of three members, appointed by the governor, to hold office at his pleasure, one being designated by the governor to be chairman. The board supervises the financial and business policies and activities of the State, including all advertisements, publications, and notices by State officers, boards, etc., to be inserted in newspapers or other mediums. (See *Pol. Code*, sec. 654 (*Deering, 1915*); L. 1911 (*extra sess.*), ch. 5, sec. 1=*Gen. Laws (Deering, 1915), act 250*.)

United States Department of Agriculture
FOREST SERVICE
WILLIAM B. GREELEY, Forester

STATE FORESTRY LAWS.¹
INTRODUCED BY CLASSIFIED SYNOPSES
PENNSYLVANIA
(SERIAL 1—THROUGH REG. SESS., 1921.)*

Compiled by JEANNIE S. PEYTON, under the direction of LOUIS S. MURPHY, Forest Examiner, Eastern Division, Branch of Forest Management.

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have been compiled, are available only for loan, through the Forest Service Library, Washington, D. C.

Whenever this leaflet or any other comprising a part of this compilation of State Forestry Laws is reprinted for local use, please append thereto the following: Note.—This arrangement of the Forestry Laws of . . . is reprinted from State Forestry Laws, compiled and issued in leaflet form by the Forest Service, U. S. Department of Agriculture. Similar leaflets for other States, so far as available, and information concerning forestry laws generally will be furnished upon request addressed to The Forester, Forest Service, Washington, D. C.

* See footnote 13, attached to No. 11, on p. 24.

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PURPOSE OF COMPILATION.

The compilation of State Forestry Laws, of which this leaflet is a part, aims to meet a manifest need of the times for a work of reference by means of which the basic legislation underlying forestry administration in the several States, and the various activities thereunder, may readily be studied and compared. To facilitate this purpose of comparing the legislation of one State with another, the Synopses introducing the laws in the several leaflets are classified and arranged to take up in a definite order the various subjects usually covered in such legislation. To further extend this educational purpose, only such of the State laws as bear more or less directly upon the practice of forestry are here compiled, to the exclusion of all other timber and tree laws, all forest-insect and fungus-control laws, except general provisions, and all transitory provisions of law, including those concerning annual or biennial appropriations. For the same reason, those finer points of reference proper only to a legal or administrative manual have also been omitted. Succeeding issues of each State leaflet, to form a separate series for each State, will serve to keep these fundamental laws up to date and free from encumbrance by obsolete provisions.

SYNOPSIS OF LAWS.

GENERAL FORESTRY ORGANIZATION AND ACTIVITIES.

Department of Forestry, and State Forest Commission (formerly, *State Forestry Reservation Commission*), with their Bureau and Office organization.

Consist of the Commissioner of Forestry and four other citizens, the Commissioner being the President and executive officer of the Commission (Nos. 11 (a); 13); and all of said members:

Are appointed by the Governor with the advice and consent of the senate, for terms of four years each. No. 11 (a).

NOTE.—As provided by the legislation originally enacted (L. 1901, act 9, sec. 1), the terms which are being served by the present members expire in pairs, separated by an interval of two years.

Are allowed travelling and other necessary expenses; and the Commissioner receives, in addition, a salary of \$8,000, and is provided with office and supplies at the State Capitol. Nos. 14; 15.

Comprise the following Bureaus and Offices: Bureau of Operation, Bureau of Silviculture, Bureau of Lands, Bureau of Forest Protection, Office of Research, Office of Information, and Office of Maintenance; and assign to such Bureaus and Offices the powers and duties of the Department; subject, however, to the complete supervisory control and direction of the Commission and Commissioner. No. 11 (c).

Appoint and assign to selected lines of work Forest Officers specially qualified therefor, to act as Chiefs and Assistant Chiefs of said Bureaus and Offices, whenever and to the extent that the Commission may deem such Assistant Chiefs necessary, and also as District Foresters, Foresters, and Forest Rangers; and employ and assign to duty other necessary personnel; and fix their compensation. Nos. 11 (e), (d); 13; 120.

Enforce forest laws, and adopt and execute rules and regulations thereunder. Nos. 11 (d), (e), (g); 13.

Divide the State into such Forest Districts as the Commission may deem necessary for general administrative purposes (*see "Forest Districts," on p. 4*); and assign District Foresters to take active charge thereof, and also such Foresters, Forest Rangers, and other help as may be necessary. No. 11 (d), (e).

Grow and distribute young forest trees and give necessary instructions and assistance in planting the same. Nos. 79; 80; 81; 11 (d).

Approve selections of lands for National Forests. No. 48.

Notify all forest officers and employees of requirements concerning safeguarding the State's forestry, game, and fish interests; and refer to the proper department all reports received in regard to violation of laws in relation thereto. No. 82.

Report upon the work of the Department, and also issue individual publications furnishing information in regard to forest lands and forestry. Nos. 11 (d); 13.

Apportion to the several appropriations for the Department the proportionate amounts to be paid therefrom for expenses incurred, respectively, for forest protection and for other lines of administrative work. No. 92.

Perform various additional duties in connection with forest fires, State forests, and forest taxation; which see under the following captions, respectively: "Fire

Organization and Activities," p. 5; "Public Forests," p. 14; "Taxation," p. 19.

Commissioner of Forestry.

Is appointed by the Governor, with the advice and consent of the senate, for a term of four years, and is required to be a technically trained forester. No. 11 (a), (f).

Receives a salary of \$8,000 per annum, and travelling expenses. No. 14.

Is required to give bond. No. 19.

Has office and supplies furnished him at the State capitol. No. 15.

Is President and Executive Officer of the Commission. No. 13. *For the powers and duties of which, see "Department of Forestry and State Forest Commission," above.*

Deputy Commissioner of Forestry.

Is appointed by the Governor; and is required to be a technically trained forester. Nos. 22 (a); 11(f).

Receives a salary of \$6,000 per annum. No. 14.

NOTE.—From the character of the office, it may reasonably be presumed, in the absence of any specific provision on the subject, that the Deputy Commissioner acts under the direction of the Commissioner, and also acts for, and performs the duties of the Commissioner in his absence.

Is required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Chiefs and Assistant Chiefs of Bureaus and Offices.

Are forest officers, appointed by the Commission, and assigned thereby to act as such chiefs and assistant chiefs, and who are required to be specially qualified to perform the duties thereof—the Chiefs and Assistant Chiefs of the Bureau of Operation, Forest Protection, and Silviculture, and the Chief and Assistant Chief of the Office of Research being also required to be technically trained Foresters. Nos. 11(e), (f); 86.

Receive compensation in amounts fixed by the Commission, subject, however, to the provision, "That the salary of any of the chiefs of bureaus and offices shall not exceed the sum of five thousand dollars per annum." No. 11(e), (c). *See also No. 88.*

District Foresters.

Are technically trained foresters, appointed by the Commission, and assigned thereby to take active charge of Forest Districts, for which work they must be especially qualified; and are subject to the authority and control of the Commissioner. Nos. 11(d), (e), (f); 85.

Receive a salary fixed by the Commission, No. 11 (e); and necessary expenses. No. 92.

Perform such duties as are required to effect the purposes for which the Forest Districts are established. See *Forest Districts, on p. 4.*

Are required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Other Officers and Employees.

Foresters and Forest Rangers—

Are appointed by the Commission, and assigned thereby to selected lines of work for which they must be specially qualified; with the added requirement, in the case of Foresters, that they shall be educated and trained in forestry. No. 11(d), (e), (f).

Receive compensation in amounts fixed by the Commission. 11(e); and necessary expenses. No. 92.

Are required, under penalty, to make reports to the Department, upon all cases coming to their knowledge of violation of any of the forestry, game, or fish laws of the State, and to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Forest Wardens—

Members of the State Police Force are authorized and empowered to act as Forest Wardens. No. 138.

Specialists to Combat Destructive Agencies Other than Fires—

Are assigned to the Bureau of Forest Protection by the Commissioner, who fixes their salaries at rates not to exceed the amounts usually paid for such services; their salaries being paid out of the general forest protection appropriation. No. 120. *For other miscellaneous personnel, see, under "Administrative Officers' General Powers and Duties," on p. 16, the powers of such officers to employ and assign to duty necessary assistants, and labor.*

May enter upon lands in the discharge of their duties. No. 103.

Are required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Game and Fish Officers—

Are required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Department of State Police.

Is required to aid in the enforcement of all laws relating to forestry, game, fish, and water supply (No. 138); and may, with the approval of the Governor, be called upon, by any other department of the State, to enforce all laws or regulations applicable thereto. No. 138 (a).

Reciprocal Enforcement of the Forestry, Game, and Fish Laws of the State.

Is required of each of the departments and of all the officials therein; their powers being extended accordingly, and the following duties imposed upon them:

The officials of each department are required, under penalty, to make reports to their respective departments upon all cases coming to their knowledge of violation of any of the forestry, game, or fish laws of the State, for due reference, if necessary, to the department having charge of the subject in question, and for prosecution of the offenders, under the direction of such department. No. 82.

Every person connected with said departments, and under pay of the State, is required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

The respective heads of the departments are required to notify their employees of the obligations so imposed upon them. No. 82.

Forest Districts.

Are established by the Commission in order to facilitate its work for the following purposes:

To administer, protect, develop, and utilize the State Forest lands and resources. No. 11(d);

To protect all forest lands in the State from forest fires, fungi, insects, and other enemies. No. 11(d);

To promote and develop forestry and knowledge of forestry throughout the State. No. 11(d);

To advise and assist landowners in the planting of fores and shade trees. No. 11(d);

To render reports upon the conduct of the Department. No. 11(d);

To obtain and publish information respecting forest lands and forestry in the State. No. 11(d);

To assist in Arbor Day work; and promote and advance any other activity⁵⁴ of local forestry which the Department may deem helpful to the public interests. No. 11(d);

To execute its rules and regulations for the protection of forests from fire and depredation. No. 11(d).

State Forest Nurseries.

Supply young forest-trees for planting by the Department, and also, in event of excess stock, for distribution to applicants (without charge, further than cost of boxing and shipping), under agreement by the applicant to plant the same in accordance with regulations by the Department—sale thereof being prohibited. Nos. 79; 80; 81.

Are managed by the Department. Nos. 79; 80; 81.

Cooperation.

By the State with the Federal Government is authorized, under approval of the State Forest Commission and the Water Supply Commission, for the purpose of enabling the United States to acquire title to lands for National Forests and to provide for the management thereof (Nos. 48-52), subject to the following conditions:

Concurrent jurisdiction with the United States is retained by the State in and over such lands in respect to the execution of civil and criminal processes. No. 48.

State Forest lands are not subject to condemnation for such purposes. No. 51.

By the Department with the Board of Game Commissioners, and the Department of Fisheries is required,

in order to insure reciprocal enforcement of the forestry, game, and fish laws of the State. No. 82.

Investigation and Education.

Are promoted by the collection and publication of forestry data. Nos. 11 (d); 13; 87 (e), (f), (g); 91 (b).

Publications.

Are issued by the Commissioner in the form:

Of reports upon the progress and general management of the work of the Department. Nos. 11 (d); 87 (e), (f), (g).

Of individual publications concerning the extent and condition of forest lands in the State, and furnishing such information in regard to forestry and other related matters as may be deemed advisable. Nos. 13; 11 (d); 87 (f), (g).

FIRE ORGANIZATION AND ACTIVITIES.**Department of Forestry and State Forest Commission.**

Direct operation of the Bureau of Forest Protection, established therein. No. 85; 11(c).

Fix rate per hour of compensation of Local Forest Firewardens. No. 97.

Commissioner of Forestry.

Has executive charge and control of the personnel of the Bureau. No. 85; 11.(c); 13.

Appoints a forester in the employ of the Department to be Chief of the Bureau of Forest Protection, who, by virtue of his appointment, becomes also Chief Forest Firewarden. No. 86.

Assigns duties to district firewardens whenever necessary. No. 91(f)

Hears and disposes of charges against firewardens. No. 107.

Assigns clerical assistants to the Bureau. No. 89.

Cooperates in fire protection work:

Under General Authority Given the Department—

With county, township, municipal, and private agencies. No. 123.

With the Board of Game Commissioners, and the Department of Fisheries, through reciprocal enforcement of the forestry, game, and fish laws of the State. No. 82.

Under Direct Authority Given Him—

With persons, firms, corporations, and associations, through approval of agreements entered into, by the Chief Forest Firewarden, with such agencies. No. 87 (j).

Enforces rules and regulations prescribed by the Commission for protection of forests from fire. Nos. 13; 11 (d), (e).

Files information concerning violation of forest fire laws, with Attorney General, for legal action. No. 87 (p).

Approves rate of compensation for fire-fighting laborers, fixed by the Chief Forest Firewarden. No. 106.

Furnishes forms for fire-fighting expense accounts. No. 96 (b).

Audits and approves monthly expense accounts for forest fire protection work under cooperative agreements authorized by act 361, L. 1915, and transmits them to the Auditor General (No. 123); and also transmits to the Auditor General bills for forest fire protection work which have been audited by the Chief Forest Firewarden, under authority of act 353, L. 1915. No. 87 (i).

Authorizes the educational work conducted by the Chief Forest Firewarden concerning forest fires. No. 87 (k).

Directs publication of the annual report of the Chief Forest Firewarden, with list of Firewardens (No. 87e), and the publication of such maps, drafts, and tables, submitted by the Chief Firewarden, as may be deemed advisable, either as a part of said report or as a separate bulletin. No. 87 (f), (g).

NOTE.—Under the fire protection system (Nos. 152-180) which preceded the present system, the Commissioner acted as Chief Firewarden. (See footnote 29, on p. 39.)

Deputy Commissioner of Forestry.

Note.—As regards the present duties, in general, of the Deputy Commissioner, which include the matter of forest fires, see note on p. 3, under the heading "Deputy Commissioner of Forestry." Under the previous fire protective system, the Deputy Commissioner acted as Deputy Chief Firewarden. (See No. 160; and also footnote 29, on p. 39.)

Foresters and Forest Rangers.

Are Forest Firewardens, ex officio (No. 99), in addition to being required to enforce all laws relating to forestry. No. 82. See also "Special and Ex Officio Firewardens," on p. 9; and "Foresters and Forest Rangers," on p. 4.

Bureau of Forest Protection.

Is established within the Department; and its executive officer, who is appointed by the Commissioner, is designated Chief of the Bureau of Forest Protection, and is a technically trained forester, especially qualified for the work; who, with the other personnel, is subject to the supervisory control and direction of the Commission and Commissioner. Nos. 85; 86; 11 (e), (f), (c).

An Assistant Chief of the Bureau may also be appointed or assigned thereto, in the discretion of the Commission. No. 11 (e).

Compensation of its officers and employees is fixed by the Commission—the maximum amount of salary, in the case of the Chief of the Bureau, being \$5,000 per annum; and all salaries, wages, and expenses of the Bureau are paid from the appropriation for forest protection. Nos. 11 (e), (c); 88.

Chief Forest Firewarden.

Is the Chief of the Bureau of Forest Protection, who, by virtue of his appointment, becomes also the Chief Forest Firewarden; and is subject to the supervisory control and direction of the Commission and Commissioner. Nos. 86; 85; 11 (c).

Receives compensation in his capacity as Chief of the Bureau. No. 88. Concerning the amount and payment of such compensation, see "Bureau of Forest Protection," above.

Takes such measures for the prevention and extinguishment of forest fires as will insure a reasonable protection to woodlots, forests, and wild lands within the State. No. 87 (a). See also footnote 29, on p. 39, concerning reorganization of the earlier fire protection system in order to make it conform to this present system.

Enters upon lands for fire protection purposes, and otherwise discharges his firewarden duties without in-

curring personal liability (Nos. 103; 105); all attempts at hindering him being prohibited under a penalty of fine or imprisonment, or both (No. 115), in conjunction with the right of appeal to the Commissioner being reserved to all who may feel aggrieved by the act of a Firewarden. No. 107.

Organizes and manages the present system of Forest Firewardens; and, in doing so, reorganizes the former system (see Nos. 153-180) to conform thereto as rapidly as possible. No. 87 (b), (c). See also footnote 29, on page 39.

Assigns duties to District Firewardens whenever necessary. No. 91 (1).

Appoints:

Local Firewardens upon recommendation of the District Firewardens, or upon his own personal knowledge of their fitness, when there is no District Firewarden for the fire district in question (Nos. 91 (c); 93; 94); and appoints them to serve as Watchmen or Patrolmen, whenever conditions require such services. Nos. 87(1); 96 (f).

Special and Ex Officio Forest Firewardens; and may change or extend their duties. No. 98.

Enters into agreements, with the consent of the Commissioner, with persons, firms, corporations, and associations, upon satisfactory terms, for prevention and control of forest fires. No. 87 (j). See also Nos. 123; 91 (h).

Organizes and operates a system of fire-towers and lookout stations; purchases material and equipment therefor, and hires the necessary labor. No. 87 (h).

Has authority, when property constitutes a special forest fire hazard, to declare it a public nuisance; and notifies and advises the owner as to abatement or removal. No. 87 (n), (o). See also No. 116.

Prescribes, under approval of the Public Service Commission, regulations to prevent railroads from causing forest fires (No. 109); and, when necessary, issues notices to railroads requiring compliance therewith within a stated time limit. No. 118.

Employs, or impresses, assistance in extinguishing forest fires (No. 101); and fixes rate of compensation for such services, under approval of the Commissioner. No. 106.

Audits bills for forest fire protection work under act 353, L. 1915; transmits to the Commissioner such as are correct and have been presented within the 60-days time limit; and, upon receipt of checks therefor, forwards same to the payees. Nos. 87 (1), (m).

Administers oaths or affirmations to persons who furnish information concerning forest fires, or who claim compensation for services rendered. No. 102.

Arrests, without warrant, persons detected in the act of violating any of the laws for the protection of forests, woodlots, timber, or wild lands, or when there is reasonable evidence to that effect or for believing that such offense is about to be committed; and takes the offenders before a justice of the peace or other magistrate, for hearing, trial, or other process of law. No. 104.

Submits to the Commissioner, for legal action, information concerning violation of forest fire laws. No. 87 (p).

Conducts educational work concerning forest fires under approval of the Commissioner. No. 87 (k).

Compiles forest fire data for the information of the Commissioner and the public; the maps, drafts, and tables being published in the discretion, and under the direction of the Commissioner, either as a part of the annual report of the Chief Forest Firewarden or as separate bulletins of the Department. No. 87 (f), (g).

Makes annual report to the Commissioner; which, with a list of the Firewardens is published by the Department. No. 87 (e).

Is required, under penalty, to safeguard in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Is criminally liable for neglect of duty or falsifying accounts, or for failure to settle promptly for services rendered by others, and subject to a fine of not exceeding \$100, or imprisonment not to exceed three months, or both fine and imprisonment (No. 113); the fines being paid into the county treasury. No. 119.

Subordinate Forest Firewardens.

District Firewardens—

Are District Foresters, who, in virtue of their appointment, become also District Firewardens (No. 90); and who are subject to the supervisory control and direction of the Commission and Commissioner. Nos. 85; 11 (c).

Receive compensation in their capacity as District Foresters. *Concerning the matter of such salaries and expenses, see "District Foresters," on p. 3.*

Establish headquarters within their districts. No. 91 (a).

Act as field representatives of the Chief Forest Firewarden, and are under his direction. No. 91 (a).

Recommend: Appointment of Local Firewardens; location of fire-towers; employment of patrolmen; regions to be patrolled; and other details in the protection system. No. 91 (c).

Inspect the work of, and assist, Local Firewardens (No. 91g); and assign duties to them when they are designated Patrolmen or Watchmen. No. 96 (f).

Arrange annual meetings of the Firewardens within their respective districts, for instruction. No. 91 (d).

Employ or impress assistance in extinguishing forest fires. No. 101.

Enter upon lands for fire protection purposes, and otherwise discharge their firewarden duties without incurring personal liability (Nos. 103; 105), all attempts at hindering them being prohibited under a penalty of fine or imprisonment, or both. No. 115.

Report to the Chief Forest Firewarden conditions existing in their respective districts conducive to forest fire hazards; and serve notices, issued by the Chief Forest Firewarden, for the correction of such conditions. No. 91 (e)

Develop cooperation between local agencies and the Department for the prevention and suppression of forest fires. No. 91 (h). *See also Nos. 123; 87 (j).*

Arrest, without warrant, persons detected in the act of violating any of the laws for the protection of forests, woodlots, timber, or wild lands, when there is reasonable evidence to that effect or for believing that such offense is about to be committed; and take the offenders before a justice of the peace or other magistrate for hearing, trial, or other process of law. No. 104.

Administer oaths to persons who furnish information concerning forest fires, or who claim compensation for services rendered. No. 102.

Receive, audit, and approve, before submitting to the Chief Forest Firewarden, reports and accounts of the Local Firewardens, No. 91 (f); and in the case of fire accounts are required to forward them within sixty days from the date of the fire. No. 96 (b).

Conduct educational work. No. 91 (h).

Are responsible for the collection of forest fire data. No. 91 (b).

Are required, under penalty, to safeguard in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Perform such other duties as may be assigned them by either the Commissioner or the Chief Forest Firewarden. No. 91 (i).

Are criminally liable for neglect of duty or falsifying accounts, or for failure to settle promptly for services rendered by others; and are subject to a fine therefor not exceeding \$100, or imprisonment not to exceed three months, or both fine and imprisonment. (No. 113); the fines being paid into the county treasury. No. 119.

NOTE.—The firewarden system which preceded the present system also made provision for the appointment of District Firewardens and assigned them duties (*See No. 161, et seq.*; and also footnote 29, on p. 39).

Local Forest Firewardens—

Are appointed by the Chief Forest Firewarden, in such localities as he may deem best, upon recommendation of the District Firewardens for the several fire districts, or, where there is no District Firewarden, upon personal knowledge on the part of the Chief Forest Firewarden, as to their fitness. (Nos. 91 (c); 93; 94); and are subject to the authority and control of the Commissioner. No. 85.

Are required to possess the following qualifications: Physical fitness, sobriety, honesty, and ability to perform the duties of their office. No. 93.

Are furnished certificates of appointment, and may be given badges, in the discretion of the Chief Forest Firewarden. No. 95.

Receive compensation at a rate per hour to be fixed, from time to time, by the commission, not exceeding a maximum of 50 cents per hour for time actually employed, and expenses; the total amount that may be paid, from the forest protection appropriation to a Local Forest Firewarden, in any one month, being limited to a sum not to exceed \$75, unless he shall have been regularly employed as a patrolman or otherwise. No. 97.

Take prompt measures to extinguish forest fires on both State and private lands. No. 96 (a).

Employ or impress, needed assistance in extinguishing forest fires. No. 101.

Enter upon lands for fire protection purposes, and otherwise discharge their firewarden duties without incurring personal liability (Nos. 103; 105), all attempts at hindering them being prohibited under a penalty of fine or imprisonment, or both (No. 115); in connection with which, the right of appeal to the Commissioner is reserved to all who may feel aggrieved by the act of a Firewarden. No. 107.

Investigate causes of fires and report evidence and other facts to the Chief Forest Firewarden. No. 96 (c).

Administer oaths or affirmations to persons who furnish information concerning forest fires or who claim compensation for services rendered. No. 102.

File fire-fighting expense accounts with the District Firewardens, for forwarding to the Chief Forest Firewarden; and transmit, to payees, checks received from the State treasury. No. 96 (b), (d).

See also No. 168, prohibiting payment of compensation, under Act 353, L. 1915, for fire-fighting services, to any owner or lessee of land on which fire may burn or be started, or to any employe thereof, or other interested party; or payment by a Firewarden for such services, to any person responsible for the spreading of a fire to a woodlot, forest, or wild land, or to any one in his employ.

Serve as Watchmen and Patrolmen when so appointed by the Chief Forest Firewarden (No. 87i); and as such perform whatever duties may be assigned them by either the Chief Forest Firewarden or the District Firewardens. No. 96 (f).

Issue permits for setting fires, during the open seasons, on forest lands on which there are oil- or gas-producing wells; and are required to be present when such fires are started. No. 29.

Arrest, without warrant, persons detected in the act of violating any of the laws for the protection of forests, woodlots, timber, or wild lands, when there is reasonable evidence to that effect or for believing that such offense is about to be committed; and take the offenders before a justice of the peace or other magistrate, having jurisdiction for hearing, trial, or other process of law. No. 104. *See also No. 22, for similar authority granted all persons employed by the Commissioner for protection of State Forests.*

Attend annual district meetings of Firewardens when notified, or present a reasonable excuse. No. 96 (e).

Are required, under penalty, to safeguard in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Are criminally liable for neglect of duty or falsifying accounts, or for failure to settle promptly for services rendered by others; and subject to a fine therefor not exceeding \$100, or imprisonment not to exceed three months, or both fine and imprisonment (No. 113); the fines being paid into the county treasury. No. 119.

NOTE.—The firewarden system which preceded the present system also made provision for the

appointment of a class of Firewardens corresponding in grade to these Local Firewardens, under the title of Assistant Firewardens, and provided for their powers and duties (see Nos. 162, 166, *et seq.*) It also provided for the employment of substitutes when necessary (see No. 172).

See also Footnote 29, on p. 39.

Special and Ex Officio Forest Firewardens—

May be appointed by the Chief Forest Firewarden, to serve without compensation other than their expenses (Nos. 98; 100); and Foresters and Forest Rangers are also Forest Firewardens, *ex officio*. No. 99.

Have the same power and authority as Local Forest Firewardens (see above, "*Local Forest Firewardens*"); their duties being subject to change or extension by the Chief Forest Firewarden. No. 98.

Are criminally liable for neglect of duty or falsifying their accounts, or for failure to settle promptly for services rendered by others; and subject to a fine not exceeding \$100, or imprisonment not exceeding three months, or both fine and imprisonment (No. 113); the fines being paid into the county treasury. No. 119.

NOTE 1.—The firewarden system which preceded the present system also constituted the employees of the Department *Ex Officio* Firewardens, and assigned them duties (see No. 167; and also footnote 29, on p. 39).

NOTE 2.—In addition to performing the firewarden duties, above shown, such of the *Ex Officio* Firewardens as are in the pay of the State are required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Fire, Game, and Fish Wardens.—

NOTE.—The firewarden system which preceded the present system constituted Constables *Ex Officio* Fire, Game, and Fish Wardens, and assigned them duties. See Nos. 153-156; and also footnote 29, on p. 39.

Members of the State Police Force—

Are authorized and empowered to act as Firewardens. No. 188.

Watchmen and Patrolmen—

Are selected from the force of Local Firewardens, and appointed, by the Chief Forest Firewarden, during dry seasons and in regions subject to great fire risks, preference in selection being given to Firewardens who have proved efficient (No. 87 1); and recommendations for the employment of Patrolmen are also made by District Firewardens. No. 91 (c).

Perform such duties as may be assigned them by either the Chief Forest Firewarden, or the District Fire-

warden. No. 96 (f). See also, under the heading, "*Local Firewardens*," on p. 8, the powers and duties of *Local Firewardens*, and penalty for failure to properly discharge such duties.

NOTE.—The firewarden system which preceded the present system also made provision for patrol work during the fire seasons, by Firewardens designated for that duty (see Nos. 176; 177; and also Footnote 29, on p. 39).

Fire-Fighting Laborers.

Are employed, or impressed when necessary, by Firewardens (No. 101); subject, in case of failure, without just cause, to comply with such summons, to a penalty of a fine not exceeding \$100, or imprisonment not exceeding one month, or both such fine and imprisonment; the fines being paid into the county treasury. Nos. 114; 119.

Receive compensation at a rate per hour not to exceed 40 cents; which rate is fixed for each fire district by the Chief Forest Firewarden, with the approval of the Commissioner, and is based upon wage rates for day labor within the respective districts. No. 106.

May be required by Firewardens to make oath to their statements when claiming compensation. No. 102.

See also No. 108, prohibiting payment of compensation, under the fire protection act (No. 353, L. 1915), for fire-fighting services, to any owner or lessee of land on which fire may burn or be started, or to any employee thereof, or other party having a vested interest in the land; or payment, by a Firewarden, for such services, to any person responsible for the spreading of a fire to a woodlot, forest, or wild land, or to any one in his employ. (See also Nos. 165; 173.)

NOTE.—The firewarden system which preceded the present system made provision for Firewardens employing, or impressing assistance in fire-fighting, and also for compensating parties, who in the absence of a Firewarden, combatted forest fires without being previously employed for the purpose (see Nos. 163; 173; 179; and also footnote 29, on p. 39).

Constables and Other Peace Officers.

Arrest, without warrant, violators of any of the laws for the protection of forest or timber lands. No. 9.

Constables exercise the same authority when operating as Fire, Game, and Fish Wardens. Nos. 153-156.

Detective and Legal Services.

NOTE.—The firewarden system which preceded the present system required County Commissioners to appoint persons to detect and bring to punishment violators of forest fire laws; and to take

measures to extinguish fires (No. 152); and in event of their failure to do so or their appointment of inefficient persons, empowered the Commissioner of Forestry, upon request of residents or landowners, to appoint detectives and employ attorneys for the work (*see Nos. 157; 158; and also footnote 29, on p. 39.*)

For similar authority to employ such services under the present firewarden system, see No. 13, and the corresponding synopsis statement on p. 17, under the heading, "Administrative Officers' General Powers and Duties."

Department of State Police.

Is required to aid in the enforcement of all forestry laws, and the members of the force are authorized and empowered to act as Firewardens (No. 138); and may, with the approval of the Governor, be called upon, by any other department of the State, to enforce all laws or regulations applicable thereto. No. 138(a).

Game and Fish Officers.

Are required, under penalty, to safeguard, in a reasonable way, the forestry interests of the State. No. 82.

Public Service Commission.

Approves regulations prescribed by the Chief Forest Firewarden to prevent fires being caused by railroads. No. 100.

Attorney General.

Is required to take whatever measures are needed to insure proper disposition of cases in which Firewardens have made arrests and filed complaints involving charges of violations, actual or proposed, of laws for the protection of forests, woodlands, or wild lands. No. 104.

Clerical Assistants.

Are assigned to the Bureau by the Commissioner, as follows: (a) A forester to serve as clerk to the Chief Forest Firewarden; and (b) other assistants, from time to time, to serve as needed. No. 89.

Are subject to the control of the Commissioner. No. 85.

Are required, under penalty, to safeguard, in a reasonable way, the State's forestry, game, and fish interests. No. 82.

Cooperation.

Is authorized:

With county, township, municipal and private agencies, owning or controlling woodlots, forests, or wild lands, or whose activities, in whole or in part, are directed towards fire protection work; subject to the following requirements: (a) Cooperation to be upon a basis of mutual expenditures; (b) advance monthly statements of all ex-

penditures to be submitted to the Department by the parties collaborating, and followed, annually, by reports containing complete itemized statements, duly attested. Nos. 123; 124; 87 (j).

With the Board of Game Commissioners, and the Department of Fisheries, through reciprocal enforcement of the forestry, game, and fish laws of the State. No. 82.

Reciprocal Enforcement of Forestry, Game, and Fish Laws.

Powers of the forestry, game, and fish officials, in each of the several departments, are extended to cover the enforcement of laws concerning the other departments; and every person connected therewith and under pay of the State, is required, under penalty, to safeguard, in a reasonable way, the forestry, game, and fish interests of the State. 82.

Distribution of Costs of Fire Protection.

State pays—

One-half of the costs under cooperative agreements with county, township, municipal, and private agencies; the expense being defrayed from the general forest fire appropriation, upon approval by the Commissioner (Nos. 123; 87j), and, in cases involving expenses incurred under authority granted in act 353, L. 1915 (No. 87j), the Auditor General is also required to satisfy himself as to the correctness of the bills. No. 112.

In full, all other duly approved costs of fire protection work; the expense being defrayed from the general forest protection appropriation. Nos. 110-112; 92.

Counties, Townships, Municipal and Private Agencies pay—

One-half of the costs under cooperative agreements with the Department. Nos. 123; 124.

NOTE.—The firewarden system which preceded the present system also made provision for the distribution of costs of fire protection (*see Nos. 152-180; and also footnote 29, on p. 39.*) That earlier system has, however, been made subject to reorganization, in order to conform it to the present system.

Investigation and Education in Relation to Forest Fires.

Are promoted:

By the collection and publication of forest fire data. Nos. 11 (d); 13; 87 (e), (f), (g); 91 (b).

By educational work conducted, under approval of the Commissioner, by the Chief Forest Firewarden (No. 87k), and by the District Firewardens. No. 91 (h).

Publications.

Are issued by the Commission in the form:

Of reports upon the progress and general management of the forest fire activities of the Department. Nos. 11 (d); 87 (e), (f), (g).

Of individual publications containing data concerning forest fires. Nos. 11 (d); 13; 87 (f), (g); 91 (b).

COMPULSORY RESPONSIBILITY IMPOSED FOR PROTECTION OF FOREST LANDS.**Public Nuisance.**

Any property which, by reason of its condition or operation, is a special forest fire hazard, and, as such, endangers other property or human life, may be declared a public nuisance, by the Chief Forest Firewarden; who is required to notify the owner of the property, or the person responsible for the condition declared a nuisance, and advise him as to the abatement or removal thereof; such notice, in the case of railroads, being required to be served upon the superintendent of the division in which the nuisance exists. No. 87 (n), (o).

Refusal to comply with such an order of abatement from the Chief Forest Firewarden constitutes a misdemeanor, and subjects the offender (person or corporation) to a fine of not more than \$100, or to imprisonment for not more than one month, or to both (the fines being paid into the county treasury); and in all such cases, the neglect or refusal of any officer, agent, or other person acting for or employed by a corporation, and having supervision of the property complained about, is deemed the neglect or refusal of the corporation itself. No. 116; 119.

Every day's continuance of non-abatement, after receipt of abatement order, constitutes a separate and distinct offense, except as to any period of time during which a preliminary injunction, or interlocutory order of supersedeas, may be in force. No. 116.

Brush and Slash Disposal.

On Oil- or Gas-Producing Forest Lands—

Is required as follows:

a. Owners, lessees, or others in charge of forest lands on which there are producing oil-wells, or gas-wells, or rigs for drilling such wells, or owners of trees growing on said lands, are required to clear of inflammable material, at least once a year, land within one hundred feet of such wells, or rigs, or railroad rights of way thereon, in order that, during the close season, namely, from April 1 to May 20, and from Sept. 10 to Nov. 10 (see No. 29), the said areas may be clear of such ma-

terial; and, in case any person, partnership, or corporation shall neglect to perform the duty so imposed, the same shall be liable to the county in a penalty of \$50, recoverable in an action of assumpsit. No. 30.

(b). Railroads are required to cut and remove, at least once a year, from such parts of their rights of way as pass through such lands, all grass, brush, and other inflammable materials; and, in case of failure to do so, are answerable to the owner, or owners of any property which may, in consequence, be injured or destroyed by fire; and are also further liable, to the county, in a penalty of \$100, recoverable in an action of assumpsit. No. 31.

Is regulated on such lands, whenever it is effected by burning, as shown below, under the heading, "Kindling Fires in the Open." (*On Oil- or Gas-Producing Lands.*)

On All Lands—

NOTE.—There is no legislative provision which of itself specifically requires or regulates the disposal of brush and slash on non-oil or non-gas producing lands. There should, however, be borne in mind the wide authority conferred, by the provisions in No. 87 (n), (o), upon the Chief Forest Firewarden to deal with such a situation; under which he has power, presumably, to declare any brush or slash a public nuisance, which by reason of its condition is likely to start fires, and, consequently, constitutes a special fire hazard. *For action in such cases, see, above, under the heading, "Public Nuisance."*

Further provision for requiring the disposal of brush and slash is also found in the requirement that railroads shall, under penalty, put into effect such reasonable regulations for the prevention of forest fires as may be deemed necessary by the Chief Forest Firewarden, and approved by the Public Service Commission. Nos. 109; 118.

Kindling Fires in the Open.

On Oil- or Gas-Producing Forest Lands—

Is regulated as follows:

a. During the close season, namely, from the first day of April to the twentieth day of May, and from the tenth day of September to the tenth day of November, the burning of fallows, stumps, logs, brush, dry grass, fallen timber, or tree tops, on lands on which there are producing oil-wells, or gas-wells, or rigs erected for drilling such wells, is prohibited, under penalty. (*See subdiv. c, below.*) No. 29.

b. During the open season, namely, the remainder of the year, fires may be set on such lands, subject to the following conditions: That a permit

be obtained, in advance, from the proper Firewarden, who shall be present in person, when the fire is started; that it shall not be kindled in a high wind, or without sufficient help to control it; and that it shall be duly watched, by the person who starts it, until it is extinguished. No. 29.

c. Failure to comply with any of the above provisions or conditions, applying to either the close or the open season, subjects the offender to penalties as follows: For the first offense a fine of not less than \$10, or more than \$20, and for every subsequent offense, a fine of not less than \$20, or more than \$100, with imprisonment added, in event of default in respect to due payment; from which penalties appeal may be taken whenever the fine exceeds \$20. All fines in such cases go to the county. No. 29.

NOTE.—There are no permit restrictions applicable to non-oil, and non-gas producing forest lands.

On All Lands—

Unlawfully firing woodlands, or causing fire to spread thereto, constitutes a misdemeanor, and subjects the offender to prosecution under one or the other of the following provisions:

a. First alternative provision. (Under act to protect trees and woodlands, L. 1911, p. 861.)

Whenever a person willfully, negligently, or maliciously sets on fire any woodlands within the State, or sets fire upon adjacent lands which spreads to such woodlands, or directly or indirectly causes fire to burn therein without the consent of the owner, he is subject to a fine of not exceeding \$1,000 for each offense, or to imprisonment not exceeding six months, or to both such fine and imprisonment, with costs of suit; all fines being paid to the county. Nos. 53; 56.

NOTE.—The term "person," as used in this act, is defined to include not only individuals, or natural persons, but also "artificial persons," which term is construed to mean "partnerships, limited partnerships, joint stock companies and corporations, and the officers, agents, and employees of the same." The term "woodlands" is also construed as meaning "woods, farmers' woodlots, marshes, moors, brush, barrens, brush lands and wild unseated uncultivated land." Nos. 54; 55.

b. Second alternative provision. (Under act to establish a Bureau of Forest Protection, L. 1915, act 353.) Whenever a fire set by any person (except in the case of a back fire set in good faith) destroys property belonging to another, it constitutes prima facie evidence that the loss involved has resulted from negligence; and the guilty party is subject to a fine of not exceeding \$1,000 for each offense, or to imprisonment not

exceeding six months, or to both such fine and imprisonment; all fines being paid to the county. Nos. 117; 119.

In connection with constructing and maintaining public highways through or along forested, wild, or uncultivated lands, injury to adjoining standing timber through burning brush, or other debris on, or immediately along, the roadway, constitutes a misdemeanor, punishable with a fine of \$5 for every tree so injured or destroyed; payment of the fine, with costs of suit, being enforceable through imprisonment. (*See Vol. of Session Laws of 1909, act 58, secs. 1, 6—5 Pur. Dig., pp. 6250, 6251, secs. 132,² 137.*)

For general provisions concerning responsibility in respect to damages for causing injury or loss through firing woods see Nos. 1; 2; 31.

NOTE.—The above provisions and the similar ones for protection of State Forest lands (on p. 15), are the only ones concerning setting fires in the open which apply to non-oil or non-gas producing forest lands as well as to those which are oil- or gas-producing.

Railroads.

When operating through Oil- or Gas-Producing Forest Land.—

Are required:

To equip locomotives with steel netting or iron wire on the smokestacks, or other efficient spark arresters, to prevent the escape of fire or sparks, and also adequate devices to prevent the escape of fire from ash-pan and furnaces. No. 31.

To leave no deposits of fire, coals, or ashes, on their tracks or rights of way near such lands. No. 31.

To clear their rights of way at least once a year. No. 31.

NOTE.—Railroads, as landowners, lessees, or otherwise in charge of forest lands on which

² A footnote attached to sec. 132, 5 Pur. Dig., p. 6250, (which volume covers as far as through the 1915 session), calls attention to the case of *Commonwealth v. Miller et al.*, under sec. 2 of this act (L. 1909, act 58); the decision in which case suggests the possible unconstitutionality of this act, as follows:

"The statute is not attacked on constitutional grounds, and, therefore, no opinion in that regard will be expressed. It can not, however, escape notice that, in so far as the body of the act attempts to reorganize the powers of the constituted highway authorities, the sufficiency of the title is open to question, and sooner or later its validity is likely to be challenged."

As regards, however, this point of possible unconstitutionality of the act (No. 58, L. 1909), the provisions therein which are here referred to have been since reenacted, as far as regards townships, in the General Township Act. (*See Vol. of Session Laws of 1917, p. 840; secs. 830, 833, 834.*)

there are producing oil-wells, or gas-wells, or rigs for drilling such wells, or as owners of trees growing thereon, are also required, under special penalty recoverable by the county, to clear of inflammable material, at least once a year, land within one hundred feet of such wells, or rigs, or rights of way thereon. *See No. 30; and also its corresponding Synopsis-statement under the heading "Brush and Slush Disposal," above, on p. 11.*

To employ, during the close season, sufficient trackmen to promptly put out fires on their rights of way. No. 31.

To use all practicable means to extinguish fires on their own or neighboring lands, within 100 feet of their tracks. No. 31.

To exact of their employees the following obligations:

That they leave no deposits of fire, coals, or ashes, on their tracks or rights of way near such lands. No. 31.

That every engineer and fireman use the fire protection devices supplied by the company. No. 31.

Are liable, for failure to comply with any of the above requirements contained in No. 31, in a penalty of \$100, recoverable by the county in which the violation occurs, through an action of assumpsit; in addition to being answerable to the owner of any property destroyed or injured by fire in consequence of such violation. No. 31.

For general provisions concerning both criminal and civil liability for firing woods, and thereby causing loss or damage, see also, on p. 12, under the heading, "Kindling Fires in the Open." ("On All Lands.")

When Operating Through Forest Lands, In General.—

Both steam and electric railroads put into effect regulations prescribed by the Chief Forest Firewarden and approved by the Public Service Commission (No. 100), under penalty, as follows, for each neglect or refusal to take such required action: Forfeiture, and payment to the State, of the sum of \$100, recoverable in an action of assumpsit; each day's continuance of refusal to comply, after a notice from the Chief Forest Firewarden and lapse of the time-limit set therein, constituting a separate and distinct offense. No. 118.

NOTE.—The above is the only legislative provision which of itself specifically imposes restrictions upon the operation of railroads through non-oil or non-gas producing lands as well as through those which are oil- or gas-producing. In this connection, however, the general power conferred

upon the Chief Forest Firewarden, by the provisions of No. 87 (n), (o), should be borne in mind, since it clothes him with authority to deal with such a situation. Thereunder, he has authority, presumably, to declare any of the following objects a public nuisance, whenever they are likely to start fires and, in consequence, constitute a special fire hazard, namely: Locomotives or other operating equipment; deposits of fire, coals or ashes on tracks or rights of way; and debris along rights of way, and the like. *For action in all such cases, see "Public Nuisance," on p. 11.*

For general provisions concerning both criminal and civil liability for firing woods, and causing thereby loss or damage, see also on p. 12, under the heading, "Kindling Fires in the Open." ("On All Lands.")

Traction and Other Portable Steam Engines.

NOTE.—All traction and other portable steam engines using wood for fires, with certain stated exceptions, are required, under penalty of fine, to be equipped with efficient spark-arresters (bonnet spark-arresters conforming to given specifications), and to carry proper fire-extinguishers or buckets. *See Volume of Session Laws for 1919, act 303, secs. 2, 6 (b).*

See also general provisions concerning both criminal and civil liability for firing woods, and thereby causing loss or damage, under, "Kindling Fires in the Open." ("On All Lands.")

Landowners' Responsibilities.

Require owners, or others responsible for the condition of forest lands:

To abate, or remove, upon notice from the Chief Forest Firewarden, such forest fire hazards for which they are responsible, as have been declared a public nuisance. *For requirements and liability in such cases, and action thereunder, see "Public Nuisance," on p. 11.*

To observe the close season for burning fallows, stumps, logs, brush, dry grass, etc., on oil- or gas-producing forest lands; and to take required precautions, during the open season, to prevent the escape of fire thereon. *For requirements, in detail, in such cases, and liability for failure to comply therewith, see above, "Kindling Fires in the Open." ("On Oil- or Gas-Producing Forest Lands.")*

To extinguish as far as may be possible, fires burning or started upon their lands. No. 108. *For general provisions concerning liability for firing woods, see, above on p. 12, "Kindling Fires in the Open." ("On All Lands.")*
See also Nos. 165; 173, containing provisions on this subject under the firewarden system which preceded the present system.

PUBLIC FORESTS.

STATE FORESTS.

Purpose.

Are established for the purpose of protecting water supplies, and conserving forestry, health and recreation interests, in general, by holding, maintaining, and developing the lands as State Forests.³ Nos. 8; 38; 11 (g).

Acquirement of Lands and of Surface Rights.

Without Cost—

Whenever the State Forest Commission makes application for vacant or unappropriated lands, for forestry uses, title thereto is granted, free of cost. Nos. 38; 39.

See also under the heading, "By Exchange of Lands," on p. 14.

By Purchase.—

Any lands that are suitable for State Forests may be purchased by the Commissioner of Forestry and the State Forest Commission, with the consent of the Governor, subject to the requirements that the price paid therefor shall not exceed ten dollars (\$10) per acre, and that the amount so expended, in any biennial period, shall not exceed the appropriation for that purpose for such period, Nos. 11 (b); 84; and also subject to the following conditions:

In respect to lands which have been acquired by counties through tax sale, the consideration shall include all taxes levied, interest, and costs due to date of conveyance. Nos. 76; 77; 78.

In respect to unseated⁴ lands which are purchased direct at tax sale, the purchase is subject

³ In addition to serving such purposes, Game Preserves may be located on State Forests, with the consent of the State Forest Commission; not to exceed in area one-half of the area of the State Forest, and the greatest transverse dimensions thereof not to exceed ten miles. All Preserves so located are required to be surrounded by a well defined fire-line or clear strip of land and by at least one wire at the boundary thereof, and notices are also required to be posted, conspicuously, on the boundary, to read as follows: "State Game Refuge: Hunting is Unlawful." Such Preserves are subject to regulations established by the Board of Game Commissioners, under agreement with the Department of Forestry. Any citizen may go upon them without firearms during the close season for game; and any member or employee of either the Department of Forestry or the Board of Game Commissioners may go thereon for any purpose in compliance with his official duties, in any manner and at any time, with or without firearms. (See Volume of 1915 Session Laws, act 65, sec. 1-3.)

⁴ In connection with assessing realty, "unseated lands" are those on which there are no such improvements as indicate a personal responsibility for its taxes. (Stoetzel v. Jackson, 105 Pa., 562, 567.)

"Seated land," as used in the tax laws, is land that is occupied, cultivated, improved, reclaimed, farmed, or used

to redemption, and the bid made and price paid for the lands shall not exceed the amount of taxes for the non-payment of which the lands are sold, and costs. Nos. 4-8.

In respect to unseated lands which are purchased at private sale, the price paid for the land shall not exceed the assessed value thereof. No. 5.

Surface rights to any lands within the State may be purchased by the Department, and held as State Forests; the fact that the title to the lands in question may be subject to outstanding rights in respect to waters, valuable deposits, or any privileges or reservations, not being necessarily a bar to such acquirement, when such rights, privileges, or reservations will not interfere with the administration of scientific or practical forestry. Nos. 129; 130.

By Condemnation Proceedings—

Any lands that are suitable for State Forests may be secured through condemnation proceedings, by the Commissioner of Forestry and the State Forest Commission, with the consent of the Governor. No. 11 (b).

Whenever lands that are suitable for forestry purposes are desired for such uses, and a price therefor can not be agreed upon with the owner, or the owner can not be found, the lands may be acquired by the State Forest Commission, through condemnation proceedings; all damages awarded and costs in connection with the proceedings being paid by the State. Nos. 139-150.

By Exchange of Lands—

Whenever it shall be determined by the Commission to be to the advantage of the State Forest interests, the following action may be authorized by resolution, adopted and declared by the Commission and approved by the Governor: Exchange of State Forest lands, together with the buildings, improvements, and appurtenances thereof, for privately owned lands of equal or greater value, which are at least equally adapted to State Forest purposes; the exchange to be made after such public hearing as the Commission may prescribe, and to be consummated in accordance with certain prescribed legal procedure. Immediately after which, the lands so transferred to the State become a part of the State Forests, subject to all the laws and rules

as a place of residence. (Earley v. Enwer, 102 Pa., 338, 340.)

When land is seated, the person is only liable for the tax; but when it is unseated there is no personal liability, but the tax is laid specifically on the land, but not on the person or owner. (Kennedy v. Daily (Pa.), 6 Watts, 269, 272.)

governing the State Forests. Nos. 151; 151 (a); 151 (b); 151 (e).

Limit of Purchase Price—

May not exceed the sum of \$10 per acre. No. 84.

Limit of Amount of Expenditure for Acquisition of Lands.

May not exceed, in any biennial appropriation period, the appropriation for such purpose, for that period. No. 11 (b).

Status of Lands and of Surface Rights.

Title to such lands and rights vests in the State; subject, however, in the case of surface rights to any outstanding sub-surface rights, privileges, or reservations that may exist. Nos. 7; 18; 129; 130.

Such lands and surface rights are, from the date of acquirement, exempted:

From taxation. Nos. 7; 18.

From condemnation for National Forests. No. 51.

Disposal of Lands.

Whenever it shall be determined by the Commission to be to the advantage of the State Forest interests, either of the following actions may be authorized by resolution, adopted and declared by the Commission and approved by the Governor:

a. Exchange of State Forest lands, together with the buildings, improvements, and appurtenances thereof, for privately owned lands of equal or greater value, which are at least equally adapted to State Forest purposes; the exchange to be made after such public hearing as the Commission may prescribe, and to be consummated in accordance with certain prescribed legal procedure. Nos. 151; 151 (a); 151 (b); 151 (e).

b. Sale of State Forest lands, together with the buildings, improvements, and appurtenances thereof, when declared by the resolution to be more valuable for other use than for State Forest purposes and not needed for use in the administration and protection of the State Forests; the sale to be made, after due advertisement, to the party offering the highest price, and to be consummated in accordance with certain prescribed legal procedure. All receipts from such sales are deposited in the State treasury, and are appropriated and made available, until expended, for use separately or in conjunction with any other appropriations for the acquirement of lands for State Forest purposes. Nos. 151; 151 (a); 151 (c); 151 (d); 151 (e).

Fixed Annual Charge on State Forests, in Lieu of Taxes.

Is made for the benefit:

Of roads in the townships in which State Forests are located, in the sum of two cents per acre. Nos. 26; 27.

Of schools in the respective districts in which the State Forests are located, in the sum of two cents per acre; *provided*, the said school districts shall, each, levy and collect a tax, for the support of its schools, of not less than four mills on the dollar of the assessed valuation of property in such district. Nos. 41; 42.

Of counties in which State Forests are located, in the sum of one cent per acre. Nos. 136; 137.

Payment of the amounts so due to township, school districts, and counties, respectively, is made by the State Treasurer upon certified returns submitted by the Commissioner of Forestry. Nos. 27; 42; 137.

For a similar class of payments on account of so-called auxiliary Forest Reserves, see Nos. 65; 66.

Receipts and Proceeds from State Forests.

When derived from sale of State Forest lands are deposited in the State treasury for use separately or in conjunction with any other appropriations for the acquisition of lands for State Forest purposes, having been appropriated and made available therefor until expended. No. 151 (c).

All other receipts and proceeds constitute part of the fund designated, "The State School Fund of Pennsylvania," with the proviso that the State Forests continue wholly under the control of the State Forest Commission. No. 52 (a).

Are required to be paid promptly to the State Treasurer, and by him kept in a separate account, subject to the disposal of the State Board of Education. No. 52 (b).

See also No. 58.

Fires.

Unlawfully causing fires in State Forests constitutes a misdemeanor, and subjects the offender to prosecution under one or the other of the following provisions:

a. First alternative provision. (Under the special act to protect State Forests, L. 1911, p. 163.)

Every person who willfully, negligently, or maliciously kindles a fire within a State Forest, or on adjacent lands, from which fire spreads thereto, or causes any fire therein except in accordance with the rules prescribed by the Department of

Forestry is guilty of a misdemeanor and is subject to a fine not exceeding \$1,000 for each offense, or to imprisonment not exceeding six months, or to both such fine and imprisonment; all fines being paid to the State Treasurer, through the Commissioner of Forestry, for the use of the State. Nos. 43; 46.

NOTE.—The term "person," as used in this act, is defined to include not only individuals or natural persons, but also "artificial persons," which term is construed to mean "partnerships, limited partnerships, joint stock companies, and corporations, and the officers, agents, and employees of the same." No. 47.

b. Second alternative provision. (Under act to establish a Bureau of Forest Protection, L. 1915, act 353.)

Whenever a fire set by any person (except in the case of a back fire set in good faith), destroys property belonging to another, it constitutes prima facie evidence that the loss involved has resulted from negligence; and the guilty party is subject to a fine of not exceeding \$1,000 for each offense, or to imprisonment not exceeding six months, or to both such fine and imprisonment; all fines being paid to the county. Nos. 117; 119.

In connection with constructing and maintaining public highways through or along forested, wild, or uncultivated lands, injury to adjoining standing timber through burning brush or other debris on, or immediately along the roadway, constitutes a misdemeanor, punishable with a fine of \$5 for every tree so injured or destroyed; payment of the fine, with costs of suit, being enforceable through imprisonment. (See *Vol. of Session Laws 1909, act 58=5 Pur. Dig., pp. 6250, 6251, secs. 132²-137.*)

See also:

Provision requiring fire-lines around game preserves when located on State Forests, which is shown in footnote on p. 14.

Provision, in No. 13, for employment of detective, legal, or other services for the protection of State Forests and prosecution of violators.

Concerning civil responsibility for causing injury or loss through firing woods, see Nos. 1; 2; 31.

Timber Trespass and Other Damage.

Every person who willfully, negligently, or maliciously fells, cuts bark from, injures, destroys, or removes trees, on any of the State Forests, or otherwise causes injury to such Forests or to trees thereon, is guilty of a misdemeanor, and subject to a fine not exceeding \$500 for each offense, or imprisonment not exceeding

three months, or to both; all fines being paid, through the Commissioner of Forestry, to the State Treasurer, for the use of the State. Nos. 44; 46.

For definition of the term "person," see, above, the Note under the heading, "Fires."

See also (in volume of Session Laws of 1909, act 58=5 Pur. Dig., pp. 6250, 6251, secs. 132²-137), penalty for unlawfully injuring or destroying trees in connection with constructing or maintaining public highways through or along forested, wild, or uncultivated lands.

Fire and Other Warning Notices.

Are required to be conspicuously posted in or about the State Forests. Nos. 22; 45.

Willful, negligent, or malicious injury, destruction, or removal thereof subjects the person offending to criminal prosecution, and is punishable by a fine not exceeding \$100 for each offense, or imprisonment not exceeding 30 days, or to both fine and imprisonment; all fines being paid, through the Commissioner of Forestry, to the Treasurer of the State for the use of the State. Nos. 45; 46; 47.

Violation of Rules for Government of State Forests.

When willful, negligent, or malicious, constitutes a misdemeanor, punishable by a fine of not exceeding \$100 for each offense, or imprisonment not exceeding 30 days, or both, with costs of suit, *provided*, notices of such rules were prominently posted on or about the State Forests; all of said fines being paid, through the Commissioner of Forestry, to the State Treasurer, for the use of the State. Nos. 45; 46; 47.

Administrative Officers' General Powers and Duties.

Take required measures for the acquirement of lands for State Forests, as follows:

Without cost. Nos. 38; 39.

By purchase, No. 11 (b): a. Of lands sold for nonpayment of taxes (Nos. 4-8; and 76-78); b. Of lands at private sale. No. 5.

By condemnation. Nos. 11 (b); 139-150.

By exchange. Nos. 151; 151(a)-151(d).

Hold title, for the State, to all lands so acquired. Nos. 7; 18.

Acquire, by purchase, and hold surface rights, as State Forests. Nos. 129; 130.

⁵ The several officers upon whom these general powers and duties are directly imposed are the Commissioner of Forestry and the other members of the State Forest Commission. No. 11 (a), (c).

Manage, control, protect, maintain, utilize, and develop all lands acquired for State Forests; the Commissioner, as Superintendent thereof, having, under the direction of the Commission, immediate control and management of the Forests. Nos. 8; 11 (c); 13; 52 (a).

Prescribe and enforce rules and regulations for the control, management, protection, utilization, and development of the State Forests. Nos. 11 (d), (e), (g); 13.

Are empowered;

To employ and assign to duty such surveyors, draftsmen, stenographers, and other assistants and labor, and such scientific assistants and other employees as may be needed, and to fix their salaries. Nos. 11 (e); 120.

To employ detective, legal, and other services for the protection of the forests and prosecution of violators, under approval of the Commission and the Governor. No. 13.

Sell or dispose of timber on State Forests, and also execute contracts or leases for the mining or removal of any valuable minerals that may be found thereon, after due advertisement whenever the minerals exceed \$300 in value; the contracts or leases being awarded to the highest and best bidders, who are required to give bond for the proper performance of the contracts, No. 11 (g); and all proceeds from such sales of timber, and from such leases or contracts concerning the disposition of minerals, being paid into the State treasury to constitute a part of the State School Fund. Nos. 19; 52 (a); 52 (b).

Lease, upon reasonable terms, small areas of agricultural lands, within State Forests, which are better suited for agriculture than for forestry purposes (No. 131); subject to the following conditions:

Leases shall not exceed ten-year terms, and may be terminated earlier upon mutual agreement; and carry renewal privileges, upon the same or new conditions. No. 132.

In event of more than one applicant for a tract, award shall be made to the highest responsible bidder, after due advertisement of the proposed lease, *provided*, the amount of the bid is satisfactory to the Department. No. 133.

Buildings and fences which may be placed upon a tract by the lessee, at his expense, may be removed therefrom by him, at the termination of the lease; or the same may be purchased by the

Department upon reasonable terms, to constitute a part of the improvement of the tract. No. 134.

Refuse to lease such areas as may be needed by the Department. No. 135.

Lease, upon reasonable terms, for a period of not exceeding ten years, sites in State Forests, for church, school, health, recreational, or other purposes; all receipts therefrom being paid into the State treasury, to form a part of "The State School Fund of Pennsylvania." Nos. 57; 58; 52 (a); 52 (b).

Set aside within the State Forests unusual or historical groves of trees or natural features especially worthy of permanent preservation, in order to make them accessible and convenient for public use and to dedicate them in perpetuity to the people of the State for their recreation and enjoyment. No. 11 (g).

Give consent to location of State Game Preserves upon State Forests, under terms of agreement with the Board of Game Commissioners; which Preserves are thereafter subject to regulations established by the said board under the agreement. (*See volume of 1915 Session Laws, act 65, secs. 1-9.*)

Grant rights of way as follows:

To duly incorporated street railway companies, upon such terms and subject to such restrictions and regulations as they may deem proper, the privilege to construct, maintain, and operate their lines of railway, over, along, and upon public highways, in actual use, which lie within or bordering upon State Forests, whenever, in their judgment, the Forests will be benefited thereby. No. 23.

To individuals or corporations who may apply therefor, through State Forests, when, in the judgment of the Department, it will not interfere with the orderly administration of the Forests, and will promote the interests of the State or its citizens; the term, "right of way," being construed "to include a passage, haulage, flowage, or transmission for any lawful purpose." Nos. 126-128.

Make certified returns to the State Treasurer, and to the townships, school districts, and counties which contain State Forests, as to amounts of fixed charges, in lieu of taxes due thereon, annually for the benefit of roads (No. 27); schools (No. 42); and counties (No. 137).

Turn into the State treasury all fines received for violation of provisions of L. 1911, p. 163, for the protection of State Forests. No. 46.

Give municipalities, upon such terms and subject to such restrictions and regulations as may be necessary, the privilege of impounding water upon the State Forests, and of constructing, maintaining and operating lines of pipe upon and through said Forests, for the purpose of conveying water therefrom, whenever, in the judgment of said officers, it may be in the interest of the public to do so (No. 28); all receipts and proceeds, if any, from such privileges being paid into the State treasury to form a part of the State School Fund of Pennsylvania. Nos. 52 (a); 52 (b).

Establish and conduct a training school to prepare Forest Wardens for the proper use of the State Forests. No. 25.

Local Officers and Employees.⁴

Arrest, without warrant, violators of laws and regulations for the protection of State Forests and of fish and game therein, and take the offenders before a justice of the peace, or other magistrate, for proper action; the exercise of such powers being limited to State Forests and lands adjacent thereto. No. 22.

Department of State Police.

Is required to aid in the enforcement of all laws relating to forestry, game, fish, and water supply (No. 138); and may with the approval of the Governor, be called upon, by any other department of the State, to enforce all laws or regulations applicable thereto. No. 138(a).

AUXILIARY STATE FORESTS. (*Auxiliary Forest Reserves.*) Purpose.

NOTE.—The legislation creative of these so-called "Auxiliary Forest Reserves" is of such a dual character as to make a clean-cut separation of the Public Forest and Taxation aspects of it impossible. The primary aim, however, was, undoubtedly, to offer a tax concession to whoever would devote land to forest production. The detailed synopsis concerning it will, therefore, be found under "Taxation." (See p. 19.)

Status.

The reserves are composed of privately owned lands devoted exclusively to the growing of merchantable forest trees, subject to public forest regulation. Nos. 67; 69; 71.

Public Control Imposed by the State.

By requiring the owner:

To make the application, for classification of the lands, to the Commission, and in the form prescribed by it. No. 68.

⁴ The wording of the text upon which this synopsis-statement is based, which reads: "That the persons employed, under existing laws, by the Commissioner of Forestry, for the protection of State Forestry Reservations," etc., and "Such officers shall," etc., (see No. 22), appears to include all who are either appointed or employed by the Commissioner for that purpose.

To execute a written agreement to care for the trees, until mature, in accordance with instructions from the Commission; and, when necessary, to give bond, upon request from the Commission at the time the lands are classified, guaranteeing good faith throughout the transaction—involving compliance with instructions concerning removal and marketing of the trees and reforesting the lands, under approval of the Commission. Nos. 69; 71.

To cut and remove, under instructions of the Commission, only such timber as it may designate as suitable. No. 70.

To give bond, in advance of cutting, in 20 per cent of the amount of the estimated value of the timber to be cut, conditioned to pay 10 per cent of the value of the trees, within 90 days after harvesting them. No. 71.

To make sworn return, as to the value of the trees harvested, to the County Commissioners, County Treasurer, and the Commission, immediately after harvesting the same. No. 61.

To follow the cutting and removal of the timber, immediately, with reforestation of the lands. No. 71.

Concessions Granted by the State.

Are as follows:

Conferring of a quasi-public character upon the lands by specifically designating them Auxiliary Forest Reserves. No. 67.

Reduction in the assessed valuation of the lands for the Annual, or General Property, Tax (No. 59); and payment by the State of a fixed annual charge upon the lands for the benefit of schools and roads located within such school and road districts as contain any lands so classified. Nos. 65; 66.

Valuation and taxation of the timber separately from the lands; and postponement of the tax on the timber until the trees are mature. Nos. 61; 62; 70.

MUNICIPAL FORESTS.

Purpose.

Are established mainly for the purpose of producing a continuous municipal, or borough, revenue through the sale of forest products therefrom; and also for the protection of water supplies, promotion of healthful conditions, and use by the people as general outing and recreation grounds. Nos. 32; 36; 83 (e); 83 (g).

Acquirement of Lands.

Townships of the first-class, cities, and boroughs may acquire, for such purposes, by purchase, gift, or lease,

lands having tree-growth, or which are suitable therefor, after having secured approval by the Commissioner of Forestry of the area and location of the tracts, and having given, through publication of an ordinance, due notice of intention to acquire the lands. Nos. 32; 33; 83 (a); 83 (b); 83 (c).

The funds required for the acquirement of such tracts are derived from the usual sources in the case of expenditures for municipal, or borough, purposes, including, if necessary, a bond issue. Nos. 33; 83 (d).

Administration.

Are administered by the proper municipal, or borough, officers, under the direction of the Commissioner of Forestry, in accordance with the principles and practice of scientific forestry, for the benefit of the municipalities, or boroughs; the Commissioner being required to make the necessary rules therefor; which rules must have for their main purpose the production of a continuous revenue through the sale of forest products. Nos. 32; 34; 36; 83 (a); 83 (e).

The funds required for the administration, maintenance, protection, and development of the Forests are derived from the usual sources in the case of expenditures for municipal, or borough, purposes, and are applied in the usual manner. Nos. 35; 83 (f).

Disposition of Proceeds.

All proceeds from the Forests are applied to general municipal, or borough, purposes. Nos. 35; 83 (f).

TAXATION.*

AUXILIARY FOREST RESERVES.

Purpose.

Are composed of privately owned lands devoted exclusively to the growing of merchantable forest trees (No. 67); the owners of which desire to secure certain concessions in taxation (*see p. 18*) and are, accordingly, willing to subject their lands to public forest regulation (*see p. 18*).

Classification of Lands.

Requires:

That application therefor shall be made by the owner to the Commission in the form prescribed by it. No. 68.

That the suitability of the lands shall be determined by the Commission through an examination of the land and report thereon by a duly qualified

* For the taxation provisions which exempt State Forests from taxation, see Nos. 7; 18, and the corresponding synopsis-statement, on p. 15, under "Status of Lands and of Surface Rights."

Alienation of Lands.

Is made by an ordinance setting forth all the facts in the case, after due advertisement and approval thereof by popular vote. Nos. 37; 83(h).

Officers' General Powers and Duties.

Municipal and Borough Officers—

Take required steps for acquirement of suitable lands; including securing approval by the Commissioner of Forestry of the area and location of the tracts in question. Nos. 32; 33; 83(a); 83(b); 83(c).

Notify the Commissioner of Forestry of acquisition of lands, and, upon receipt from him of rules for their government, publish the same, declare the uses of the Forests, and make required provision for their administration, maintenance, protection, and development; and, thereafter, administer them, under the direction of the Commissioner. Nos. 34; 83(e).

Whenever necessary, take required action to secure the alienation of a Forest, or part thereof. Nos. 37; 83(h).

Commissioner of Forestry—

Approves area and location of lands prior to their acquirement. Nos. 32; 83(b).

Proscribes rules for the government of the Forests, and directs their administration. Nos. 32; 34; 83(a); 83(e).

person (No. 68); the cost of such examination being defrayed from the moneys appropriated for maintenance of the Department of Forestry. No. 71.

That, in event of the lands being found suitable, the Commission shall so certify to the County Commissioners, who shall, thereupon, place the lands in the class of Auxiliary Forest Reserves; with the proviso that the certificate shall not become operative to so classify the lands until the owner has made a written agreement to care for the trees under direction of the Commission; and it is also provided that, at the time the lands are so classified, the Commission may, in its discretion, require of the owner a bond guaranteeing his good faith throughout the entire transaction. Nos. 68; 69.

NOTE.—Timber lands have been separated from other lands, in making assessment returns of property, since 1883. No. 3.

That lands, while so classified, may be sold or encumbered without prejudice to such classification or obligations thereunder. No. 73.

That the classification shall continue so long as the owner continues to faithfully carry out the instructions of the Commission respecting the care of the trees, removal and marketing thereof, and reforesting the lands, under the approval of the Commission. Nos. 71; 69.

Removal from Classification.

Is made only upon request of the owner, or in event of his failure to comply with requirements of the Commission. Nos. 69; 71; 73.

When made prior to maturity of the timber and without payment of the Yield Tax thereon, the County Commissioners, on notice from the Commission, ascertain and certify to the County Treasurer: (a) The amount of taxes which would have been paid by the owner if based on the original assessment of the lands, before the reduction made under the special classification rating, with interest added upon all such payments from the date when such tax payment would have become delinquent; and also (b) the amount of taxes which have actually been paid upon the land, with interest added from the date of payment. The difference between the two amounts is, thereupon, recovered, with costs, from the owners, by the County Treasurer, in the usual manner; the amount recoverable constituting a lien upon the lands until payment is made. Nos. 63; 69.

When made after the due harvesting of a matured crop of trees and payment of the tax thereon, the owner is not liable for such past assessment; but the lands are thereafter, liable to assessment and tax in the same manner as other lands not classed as Auxiliary Forest Reserves. No. 63.

Annual, or General Property, Tax.

Is assessed upon the basis of the General Property Tax law.⁸ Nos. 59; 60.

Is levied upon such assessed valuation, reduced to a sum not to exceed \$1.00 per acre (No. 60); and an additional fixed annual charge on lands so classified is paid by the State in the sum of two cents per acre for schools and two cents per acre for roads, that are located within the several school and road districts which contain Auxiliary Forest Reserve lands; payment, of the proper amounts being made, by the State, to the respective districts upon warrants approved by the Commission. Nos. 65; 66.

For a similar class of payments on account of State Forests, see Nos. 26; 27; 41; 42; 136; 137.

⁸ Valuable minerals underlying the land may be separately assessed. No. 59.

Yield Tax.

Harvesting of Timber at Maturity—

Whenever the trees become suitable for forest products, the Commission, either at the request of the owner, or upon its own initiative, examines the lands and designates the kind and number of trees most suitable to be cut (No. 70); the cost of such examination being defrayed from the moneys appropriated for maintenance of the Department of Forestry. No. 71.

The cutting and removal of the trees so designated is required to be in accordance with instructions of the Commission. No. 70.

Determination of Taxable Values—

Requires:

That, in advance of cutting, the owner give bond, conditioned to pay, to the County Treasurer, 10 per cent of the value of the trees, within 90 days after harvesting. No. 61.

That sworn return as to the value of the trees harvested be made by the owner to the County Commissioners, County Treasurer, and the Commission, immediately after harvesting the same. No. 61.

That, in event of dissatisfaction on the part of the County Commissioners with such return, upon their request, a board of three appraisers shall be appointed by the Court of Common Pleas of the county, to determine and report the quantity and value of the trees; which return, subject to right of appeal by either party, shall form the basis of payment. No. 62.

That the compensation and expenses of such appraisers shall be fixed by the court, and paid by the County Commissioners. No. 62.

Payment of the Tax—

Is secured:

a. By a bond given, in advance of cutting, by the owner, in 20 per cent of the amount of the estimated value of the timber to be harvested, conditioned to pay 10 per cent of the value of the trees, within 90 days after harvesting them. No. 61.

b. By a lien on the lands. No. 61.

Distribution of the Tax to County and Township Funds—

Is made, by the Treasurer of each county in which lands so classified are located, pro rata for each of

the purposes named below, based upon the last assessed millage of taxation for such purposes:

a. For the county. No. 61.

b. For, respectively, the road, school, and poor districts of the respective townships which contain Auxiliary Forest Reserves; the road allotments being spent exclusively on roads passing into the Forests, or which are immediately adjacent thereto, if any roads are so located; otherwise, said allotments are spent for general township road purposes. No. 61.

Exemption from the Tax—

Is provided in the following cases:

Removal, by the owner, of trees which have been killed by fire, thrown or broken by the wind, or injured by other natural causes. No. 72.

Thinning or clearing out of undesirable species, by the owner, or removal by him of such timber as may be needed for general farm use upon any neighboring cleared lands owned by him. No. 72.

Reforestation of the Lands by the Owner.

Is required to follow harvesting of the timber, immediately, through either replanting other trees of valuable species, or taking proper care of young growth on the lands, under the approval of the Commission. No. 71.

Public Control Imposed by the State.

See Synopsis under this heading, on p. 18.

Concessions Granted by the State.

See Synopsis under this heading, on p. 18.

Commission's General Powers and Duties.

Prescribes form of application for classification of lands. No. 68.

Determines suitability of lands described in application; and certifies as to the same, to the County Commissioners. No. 68.

Secures written agreement from owner to care for trees in accordance with instructions and directions from the Commission; and, if necessary, secures, at the time of classification of the lands, a bond from the owner, guaranteeing his good faith throughout the entire transaction. No. 69.

Certifies to the several school and road districts which contain Auxiliary Forest Reserves, and also to the State Treasurer, the number of acres of lands classified therefor, and the charges thereon, and issues warrants for payment of the amounts. No. 66.

Directs thinning and clearing out undesirable species of trees and removal of trees for use for general farm purposes upon any neighboring cleared lands belonging to the owner. No. 72.

Determines, through an examination of the lands, made either at the request of the owner or upon its own initiative, what mature trees, if any, shall be cut, and designates the ones to be cut and removed; and gives instructions in regard to the removal and marketing of the timber. Nos. 70; 71.

Approves reforestation of the lands by the owner. No. 71.

Removes lands from classification, upon request of the owner, or for failure of the owner to comply with requirements in regard to the care of the trees, or concerning harvesting and marketing the timber, or renewing the tree-growth; and, gives notice of removal to the County Commissioners. Nos. 69; 71.

TEXT OF LAWS.³

NOTE.—The abbreviation, "Pur. Dig.," used in this leaflet, has reference to Stewart's Purdon's Digest, 13th ed. (vols. 1-4) and the 1916 supplement thereto (vols. 5-7).

No. 1. Whereas, It has been represented that numbers of persons are in the custom of setting fire to the woods for different purposes, thereby producing an extended conflagration, injurious to the soil, destructive to the timber, and the infant improvements within the State; therefore,

And be it further enacted by the authority aforesaid, That where any person or persons, so offending as thereby to occasion any loss, damage, or injury to any other person or persons, every such person or persons so offending shall be and hereby are declared liable to make satisfaction for the same, in any action or actions on the case, to be brought by the

³ The order of arrangement of the laws follows the chronological order in which they were passed.

party or parties grieved, in the court of common pleas of the county in which the offense was committed. [L. 1794 (3 Smith), p. 139, preamble and sec. 2=2 Pur. Dig., p. 1745, sec. 41.]

No. 2. Where any party is injured, and shall not demand above fifty dollars for his loss or damage, it shall and may be lawful to and for such person or persons to apply to any justice of the peace of the county where the offense is committed who is hereby empowered and required, by warrant under his hand and seal, to cause the party offending to be brought before him or some other justice of the peace of the same county; and if, upon examination, it shall appear to the justice, by the testimony of one or more credible witness or witnesses, that the defendant is guilty of the charge exhibited against him, then the said justice shall issue his war-

rant to two or more freeholders of the neighborhood, thereby commanding them, in the presence of the defendant, if he will be present, to view the place or thing damaged, or inquire into the loss sustained by the plaintiff, and to certify to the said justice, under their oath or affirmation, what damage, in their judgment, the plaintiff hath sustained by occasion of the premises; and upon the return of such certificate to the said justice, he is hereby empowered to grant execution for the recovery of the said damages, together with the costs of prosecution, as is usual in the recovery of debts under ten pounds: Provided, That if any person or persons shall apprehend him, her or themselves aggrieved by the determination of any justice of the peace, in consequence to this act, he, she or they shall have a right to appeal from the judgment of the said justice to the next court of common pleas of the proper county. [L. 1794 (3 Smith), sec. 3=2 Pur. Dig., p. 1746, sec. 42.]

No. 2 (a).

NOTE.—Section 1 of act 1206, L. 1870, as amended by section 1 of act 228, L. 1897, has been placed under the caption, "Group of Acts Constituting Firewarden System Prior to 1915." See No. 152.

No. 3. Be it enacted, &c., That it shall be the duty of the several assessors of this Commonwealth, in their return of real estate to the commissioners of the proper county, at the next triennial assessment, and at each triennial assessment thereafter, to make return of all the timber land in their proper district by specifying in separate columns, how many acres each tract contains of cleared land, and how many in timber. [L. 1883, act 100, sec. 1=4 Pur. Dig., p. 4628, sec. 201.]

No. 4. Be it enacted, &c., That from and after the first day of January, A. D. 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 * * *¹⁰ the Commissioner of Forestry each, ten copies of such printed advertisement immediately upon publication thereof. [L. 1897, act 10, sec. 1=2 Pur. Dig., p. 1742, sec. 16.]

No. 5. It shall be the duty of the Commissioner of Forestry to inquire into and examine the location and character of unseated lands advertised by the respective county treasurers and the county commissioners of this Commonwealth for sale for the non-payment of taxes, and if in his judgment the same are so located and are of such a character as to make them desirable for 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 non-payment of which the same are being sold, and the costs. For all purchases so made in behalf of the Common-

wealth, 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: Provided further, That the Commissioner of Forestry shall have power to purchase unseated lands other than such as are advertised for sale for the non-payment of taxes, upon such terms and conditions as may be agreed upon with the owners of such lands: Provided, That such purchase shall be approved by the Governor and the Board of Property, consisting of the Attorney General, Secretary of the Commonwealth, and Secretary of Internal Affairs. And provided further, That in no case shall the price paid for such unseated land exceed the assessed value of the same. 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 grantor, upon certificate filed by the Commissioner of Forestry, with approval as aforesaid: Provided, That in no case shall the amount paid for any tract of land purchased under the provisions of this act exceed the sum of five¹¹ dollars per acre. [L. 1897, act 10, sec. 2; L. 1899, act 81, sec. 1=2 Pur. Dig., p. 1743, secs. 17, 18.]

No. 6. 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. [L. 1897, act 10, sec. 3=2 Pur. Dig., p. 1743, sec. 19.]

No. 7. The title to all lands so purchased, and not redeemed after the expiration of the time limited for the 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 * * *¹⁰ [Commissioner of Forestry] 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 * * *¹⁰ [Commissioner of Forestry] 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. [L. 1897, act 10, sec. 4=2 Pur. Dig., p. 1743, sec. 20.]

No. 8. The lands so acquired by the Commonwealth shall be under the control and management of the * * *¹⁰ [Department 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. [L. 1897, act 10, sec. 5=2 Pur. Dig., p. 1742, sec. 21.]

No. 9. Be it enacted, &c., That if any person or persons shall be detected by any constable or other peace officer, in the act of trespassing upon any forest or timber land within this Commonwealth, under such circumstances as to warrant the reasonable suspicion that such person or persons have committed, are committing, or are about to commit, some offense or offenses against any of the laws now enacted or hereafter to be enacted for the protection of forests and timberland, such constable or other peace officer shall have

¹⁰ Jurisdiction concerning forestry matters has since been transferred from the Department of Agriculture to the Department of Forestry; hence, this deletion. Nos. 11; 13.

¹¹ This restriction of purchase price to not exceed five dollars per acre has been rendered inoperative by subsequent legislation, which places the limitation at not to exceed ten dollars per acre. See No. 84.

authority at once, without first procuring a warrant therefor, to arrest on view such person or persons, with like effect as though such warrant had first been procured. [L. 1897, act 25, sec. 1—2 Pur. Dig., p. 1751, sec. 62.] See also Nos. 22; 101.

No. 9 (n).

NOTE.—Section 1 of act 228, L. 1897, has been placed under the caption, "Group of Acts Constituting Firewarden System Prior to 1915." See No. 152.

No. 10.

NOTE.—Act 14, L. 1899, has been placed under the caption, "Group of Acts Constituting Firewarden System Prior to 1915." See Nos. 153-156.

No. 11. (a) 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 the authority of the same, That there be and is hereby established a Department of Forestry to consist of a Commissioner of Forestry and four other citizens of the Commonwealth, who together shall constitute the State Forest Commission each of whom shall be appointed and commissioned by the Governor by and with the advice and consent of the Senate, for terms of four years each, the present Commissioner of Forestry and members of the State Forestry Reservation Commission to serve for the terms for which they have heretofore been appointed and confirmed and thereafter as new appointments shall be made for the full term of four years each.

(b) The Commissioner of Forestry and the State Forest Commission shall be clothed with all the powers heretofore conferred by law upon the State Forestry Reservation Commission,¹² or which shall hereafter be conferred on the Commissioner of Forestry or the State Forest Commission, with full power by and with the consent of the Governor to acquire by purchase or by condemnation proceedings any suitable lands in any county of the Commonwealth which in the judgment of said Commission the State should possess for the purpose of holding, maintaining, and developing as State Forests. Provided, That the amount expended for the acquisition of lands for State Forest purposes in any biennial appropriation period shall not exceed the appropriation for that purpose for such period.

(c) The Commission shall have full power to manage, control, protect, maintain, utilize, and develop all lands which may be acquired under the provisions of this act, as well as those which have heretofore been purchased and are now owned and maintained as State Forests under existing law, and may in addition to the Bureau of Forest Protection established in the Department of Forestry by Act of June third, one thousand nine hundred fifteen, entitled, "An act to establish a Bureau of Forest Protection within the Department of Forestry, designating the officers who shall constitute the Bureau, their duties and salaries, prescribing penalties for the violation thereof, and repealing all laws, general, special, or local, or any parts thereof that may be inconsistent with or supplied by this act" (Pamphlet Laws, page seven hundred ninety-seven), organize in the Department of Forestry the following Bureaus and Offices: Bureau of Operation, Bureau of Silviculture, Bureau of Lands, Office of Research, Office of Information, Office of Maintenance, and shall assign the powers and duties of the Department of Forestry as now established by this or any other act or hereafter established by law to and divide such duties and powers among the above identified Bureaus and Offices (including the Bureau of Forest Protection) subject, however, always to the complete supervisory control and direction of the State Forest Commission and the Commis-

sioner of Forestry. Providing, however, That the salary of any of the chiefs of bureau and offices shall not exceed the sum of five thousand dollars per annum.

(d) The State Forest Commission may divide the State into such convenient Forest Districts as it deems economical and effective to administer, protect, develop, and utilize the State Forest lands and resources, to protect all forest land in the State from forest fires, fungi, insects, and other enemies, to promote and develop forestry and knowledge of forestry throughout the State, to advise and assist land owners in the planting of forest and shade trees, to render reports of its conduct of the Department of Forestry, to obtain and publish information respecting forest lands and forestry in the State, to assist in Arbor Day work, and to promote and advance any other activity in local forestry which the Department of Forestry may deem helpful to the public interest and to execute the rules and regulations of the State Forest Commission for the protection of forests from fire and depredation, and also may assign District Foresters to take active charge of such Forest Districts and also such Foresters, Forest Rangers, and other help for the administration of such Forest Districts as the Commission may deem necessary for the accomplishment throughout the State of the purposes for which the Department of Forestry is established.

(e) The Commission is also empowered to appoint and assign to selected lines of work Forest Officers to act as Chiefs of the Bureaus (including the Bureau of Forest Protection) and officers also to act as Assistant Chiefs of said Bureaus and Offices whenever and to the extent it may deem such assistant chiefs necessary, and also to act as District Foresters, Foresters, and Forest Rangers, which Forest Officers shall be especially qualified to perform the duties of the Bureaus, Offices, Forest Districts, and other divisions of the work of the Department of Forestry to which they shall be assigned; and it shall also employ and assign to duty such surveyors, draftsmen, stenographers, and other assistants and labor, and such scientific assistants, and other employees as may be necessary and needful for the control, protection, maintenance, utilization, and development of the State Forests to fix their compensation and to establish such rules for the control, management, protection, utilization, and development of the State Forests as in their judgment will conserve the interests of the Commonwealth.

(f) The Commissioner of Forestry, the Deputy Commissioner of Forestry, the Chiefs and Assistant Chiefs of the Bureaus of Operation, Forest Protection, and Silviculture, the Chief and Assistant Chief of the Office of Research, and the District Foresters and Foresters shall be persons educated and trained in Forestry.

(g) Whenever it shall appear that the welfare of the Commonwealth with reference to re-foresting and the betterment of the State Forests with respect to control, management, protection, utilization, and development will be advanced by selling or disposing of any of the timber on the State Forests, the Commission is hereby empowered to sell such timber on terms most advantageous to the State. Provided that the State Forest Commission is authorized and directed to set aside within the State Forests unusual or historical groves of trees or natural features especially worthy of permanent preservation to make the same accessible and convenient for public use and to dedicate them in perpetuity to the people of the State for their recreation and enjoyment; and the said Commission is hereby empowered to make and execute contracts or leases in the name of the Commonwealth for the mining or removal of any valuable minerals that may be found in said State Forests whenever it shall appear to the satisfaction of the Commission that it would be for the best interests of the State to make such disposition of said minerals. Provided, The proposed contracts or leases of valuable minerals exceeding three hundred

¹² The powers previously conferred are contained in L. 1897, act 10 (see Nos. 4-8), and L. 1897, act 228 (see No. 152).

dollars in value shall have been advertised once a week for three weeks in at least two newspapers published nearest the locality indicated in advance of said contract or lease. Said contracts or leases may then be awarded to the highest and best bidder who shall give bond for the proper performance of the contract, as the Commission shall designate. And the State Forest Commission is further empowered to provide by rules for any utilization of the land and resources of State Forests compatible with the purposes for which the State Forests are created, namely, to provide a continuous supply of timber, lumber, wood, and other forest products; to protect the water sheds of the rivers and streams of the State; and to furnish opportunities for health and recreation to the general public. [L. 1901, act 9, sec. 1—2 Pur. Dig., p. 1740, sec. 1; * * *; as amended by L. 1921,¹³ act 298, sec. 1.]

No. 12.

NOTE.—Section 2 of act 9, L. 1901, has been supplied by the act contained in L. 1911, p. 163. See Nos. 43-47.

No. 13. That the Commissioner of Forestry shall be the President and Executive Officer of the Forestry Reservation Commission, and also Superintendent of the State Forestry Reservations, and shall have immediate control and management, under the direction of the Forestry Reservation Commission, of all forest lands already acquired or which may hereafter be acquired by the Commonwealth, but the power so conferred upon said Commissioner of Forestry shall not extend to the enforcement of the laws relating to public health [or the protection of fish and game].¹⁴ It shall be the duty of the Commissioner of Forestry to encourage and promote the development of forestry, and to obtain and publish information respecting the extent and condition of forest lands in the State, and to execute all rules and regulations adopted by the Forestry Reservation Commission for the enforcement of all laws designed for the protection of forests from fire and depredation; and he is hereby empowered to employ such detective service, and such legal or other services, as may be necessary for the protection of the forestry reservations owned by the Commonwealth and for the apprehension and punishment of persons who may violate any of the forestry reservation laws or any of the rules and regulations, which, under the powers herein given, may be adopted by the Forestry Reservation Commission: Provided, That the services so employed and the expenses that may thereby be incurred shall be approved by said Forestry Reservation Commission and the Governor of the Commonwealth. [L. 1901, act 9, sec. 3—2 Pur. Dig., p. 1741, sec. 6.] See also Nos. 152; 157; 158.

No. 14. The Commissioner of Forestry shall receive a salary of eight thousand dollars per annum and the Deputy Commissioner of Forestry shall receive a salary of six thousand dollars per annum, and in addition thereto shall be reimbursed for all necessary expenses of travel which may be incurred in the discharge of the duties of their offices. The other members of the State Forest Commission shall serve without salary but shall be reimbursed for all necessary expenses incurred by them in the performance of the duties of their office. [L. 1901, act 9, sec. 4—2 Pur. Dig., p. 1741, sec. 7; * * *; as am. by L. 1921,¹³ act 298, Sec. 2.]

¹³ Authenticated copies of the 1921 legislation used in this leaflet were procured informally, from the office of the Commissioner of Forestry, in advance of the official publication of the volume of Session Laws.

¹⁴ The provision which is here enclosed in brackets has been modified by subsequent legislation to the extent of making it the duty of all forestry officers to safeguard, in a reasonable way, the fish and game interests of the State. Nos. 82; 83.

No. 15. The Commissioner of Forestry shall have an office at the State Capitol, and it shall be the duty of the Board of Commissioners of Public Grounds and Buildings to provide, from time to time, the necessary rooms, furniture, apparatus and supplies, for the use of the Department of Forestry created under the provisions of this act. [L. 1901, act 9, sec. 5—2 Pur. Dig., p. 1741, sec. 8.]

No. 16.

NOTE.—Section 6 of act 9, L. 1901, is omitted on account of its being obsolete.

No. 17.

NOTE.—While there has been no specific repeal of the provisions in section 7 of act 9, L. 1901, the effect of the present procedure—which makes specific appropriations for the purposes covered by said section, and also makes available therefor all receipts from the sale of State forest land (see No. 151 (c))—has been to render the provisions of said section 7 inoperative.¹⁵

No. 18. The title of all lands acquired by the Commonwealth for forestry reservations shall be taken in the name of the Commonwealth and shall be held by the Commissioner of Forestry, and such lands shall not be subject to warrant, survey or patent, under the laws of the Commonwealth authorizing the conveyance of vacant or unappropriated lands, and all such forestry reservation lands shall be exempt from taxation from the time of their acquisition.¹⁷ [L. 1901, act 9, sec. 8—2 Pur. Dig., p. 1741, sec. 11.]

No. 19. The Commissioner of Forestry shall receive the moneys to which the State may be entitled by virtue of the sale of any timber, or by virtue of any leases or contracts relating to the disposition of minerals, as hereinbefore provided, and he shall immediately pay the same over to the State Treasurer as a part of the revenue of the Commonwealth. The said Commissioner of Forestry shall give his bond to the Commonwealth, with two sureties, to be approved by the Governor, in the sum of ten thousand dollars, for the faithful discharge of the duties imposed by this act and for the proper accounting of any moneys to the Commonwealth that may come into his hands by virtue of his position as Commissioner of Forestry. [L. 1901, act 9, sec. 9—2 Pur. Dig., p. 1742, sec. 12.] See also Nos. 52(a); 52(b).

No. 19 (a). That an act entitled, "An act to limit the amount of money expended each year by the State Forestry Reservation Commission in the purchase of lands for the

¹⁵ Said section 7 reads as follows:

The purchase money for lands acquired and all expenses that may be incurred, except the salaries of the Commissioner of Forestry and his clerk, shall be paid by the State Treasurer out of any moneys in the Treasury or otherwise appropriated, on warrant of the Auditor General, upon vouchers duly approved by resolution of the Forestry Reservation Commission and the Governor of the Commonwealth. [L. 1901, act 9, sec. 7—2 Pur. Dig., p. 1741, sec. 10.]

¹⁷ An opinion rendered by the Assistant Deputy Attorney General for Pennsylvania, April 10, 1913 (see Pittsburgh Legal Journal, vol. 61, p. 319), holds that the remaining provisions of this section (sec. 8, act 9, L. 1901) were repealed by L. 1905, act 81. The said provisions read as follows:

In all cases where lands have been purchased, or may hereafter be purchased, by the Forestry Reservation Commission for forest reservations, where there are public roads, regularly established, running into or through said land, the Commissioner of Forestry, under such rules and regulations as the Forestry Reservation Commission is hereby authorized to adopt, may expend a sum not exceeding twenty-five dollars per mile in each year for the maintenance, repair or extension of any such roads, and on roads bordering on reservations one-half of this rate per mile may be expended. All expenses that may thus be incurred shall be subject to the approval of the Forestry Reservation Commission and the Governor of the Commonwealth, and shall be paid in the same manner as other expenses are provided for in this act. [L. 1901, act 9, sec. 8—2 Pur. Dig., p. 1743, sec. 20.]

commonwealth" approved April fifteen, one thousand nine hundred and three (Pamphlet Laws, page two hundred and one), and also an act entitled, "A Supplement to an Act entitled 'An Act to establish a Department of Forestry, to provide for its proper administration, to regulate the acquisition of land for the Commonwealth, and to provide for the control, protection, and maintenance of forest reserves by the Department of Forestry' approved the twenty-fifth day of February, Anno Domini, one thousand nine hundred and one (Pamphlet Laws, page eleven), authorizing the Department of Forestry to designate certain of the foresters within its employ to act as District Foresters in the performance of general forest work other than within the State Forests" approved July twenty-first, one thousand nine hundred thirteen (Pamphlet Laws page hundred sixty-four) be and the same are hereby repealed. All other acts or parts of acts inconsistent herewith or supplied by this act are hereby repealed. [L. 1901, act 9, sec. 10=2 Pur. Dig., p. 1742, sec. 13; as amended by L. 1921,²³ act 298, sec. 3.]

Nos. 20 and 21.

NOTE.—Act 86, L. 1901, has been placed under the caption, "Group of Acts Constituting Firewarden System Prior to 1915." See Nos. 137, 138.

No. 22. Be it enacted, &c., That the persons employed, under existing laws, by the Commissioner of Forestry, for the protection of State Forestry Reservations, shall, after taking the proper official oath before the clerk of the court of quarter sessions of any county of the Commonwealth, be vested with the same powers as are by existing laws conferred upon constables and other peace officers; to arrest on view, without first procuring a warrant therefor, persons detected by them in the act of trespassing upon any forest or timberland within this Commonwealth, under such circumstances as to warrant the reasonable suspicion that such person or persons have committed, are committing, or are about to commit, some offense or offenses against any of the laws now enacted or hereafter to be enacted for the protection of forests and timberlands. Such officers shall likewise be vested with similar powers of arrest, in the case of offenses against the laws or the rules and regulations enacted or to be enacted for the protection of the State Forestry Reservation, or for the protection of the fish and game contained therein: Provided, That the above mentioned rules and regulations shall have been previously conspicuously posted upon the reservation. Said officers shall further be empowered, and it shall be their duty, immediately upon any such arrest, to take and convey the offender or offenders before a justice of the peace or other magistrate having jurisdiction, for hearing and trial, or other due process of law: Provided further, That this act shall extend only to the case of offenses committed upon said Forestry Reservations and lands adjacent thereto; and the powers herein conferred upon said officers shall not be exercised beyond the limits thereof, except where necessary for the purpose of pursuing and arresting such offenders, or of conveying them into the proper legal custody, for punishment, as aforesaid. [L. 1903, act 29, sec. 1=2 Pur. Dig., p. 1742, sec. 14.] See also Nos. 9; 10; 82; 83.

No. 22 (a). Be it enacted, etc., That on and after the passage of this act, the Governor be and he is hereby authorized to appoint a deputy Commissioner of Forestry * * *. [L. 1903, act 59, sec. 1=2 Pur. Dig., p. 1740, sec. 2.] See also No. 14.

No. 23. Be it enacted, &c., That the Commissioner of Forestry and the Forestry Reservation Commission are hereby authorized and empowered to give to street railway companies, duly incorporated under the laws of this Commonwealth, upon such terms and subject to such restrictions and regulations as said Commissioner and Commission may deem

proper, the privilege to construct, maintain and operate their lines of railway over, along and upon public highways now laid out and in actual use, which lie within or border on any forest reservations now owned or hereafter to be acquired by the Commonwealth, whenever in the judgment of the said Commissioner and Commission the interests of the Commonwealth in the said reservations shall be benefited thereby. [L. 1903, act 144, sec. 1=2 Pur. Dig., p. 1752, sec. 68.]

No. 24.

NOTE.—The text of No. 24 has been deleted in consequence of the repeal of the act therein referred to [L. 1903, p. 201] by L. 1921, act 298, sec. 3. See No. 19 (a).

No. 25. Be it enacted, &c., That the Commissioner of Forestry is hereby directed, under the advice of the State Forestry Reservation Commission, to purchase suitable buildings and land adjacent to the Mont Alto State Forestry Reservation or to erect buildings on said Reservation, at a cost not to exceed six thousand dollars, and to establish and provide therein and on said Reservation practical instruction in forestry, to prepare forest wardens for the proper care of the State Forestry Reservation lands; [the said instruction not to cost a sum exceeding ten thousand dollars, for the two fiscal years ending June first, one thousand nine hundred and five; and the sum of sixteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of moneys not otherwise appropriated, for said purposes; to be paid by warrant drawn by the Auditor General upon resolution of the State Forestry Reservation Commission].²⁴ [L. 1903, act 295, sec. 1=2 Pur. Dig., p. 1752, sec. 69.]

No. 26. Whereas, The Commonwealth of Pennsylvania is acquiring large tracts of lands, in its several counties, for the purpose of establishing forest reservations; and

Whereas, The purchasing of said lands by the Commonwealth makes said lands exempt from taxation; and

Whereas, Because of said exemption from taxation, districts in the several counties lose the revenue secured from said prior taxation, and works a hardship upon the citizens thereof, by compelling them to make up the loss on [school and]²⁵ road-taxes thus brought about:

Be it enacted, &c., That from and after the passage of this act, all lands acquired by the Commonwealth for forest reserves, and now exempt from taxation, shall be subject to an annual charge of [three cents per acre, for the benefit of the schools in the respective districts in which said reserve or reserves are located, and]²⁶ two cents per acre, for the benefit of the roads in the townships where said reserve or reserves are located. [L. 1905, act 81, preamble and sec. 1=5 Pur. Dig., p. 6258, sec. 186.] See also Nos. 41; 42; 63; 66; 136; 137.

No. 27. The Commissioner of Forestry shall certify to the respective [school districts and]²⁷ townships, throughout the Commonwealth, in which forest reserves are located, the number of acres owned by the Commonwealth in each [district or] township, upon application of the [treasurer or] road supervisors of any of the said [districts or] townships, and the charge against the same; and shall, furthermore, certify to the State Treasurer the number of acres, as aforesaid, and the charge against the same and in favor of the respective [districts and] townships. The State Treasurer shall, upon the approval of the proper warrants of the Commissioner of Forestry, pay to the several [school-

¹⁹ The concluding portion of this text, which is here enclosed in [], is obsolete.

²⁰ The portions of this act (L. 1905, act 81) which are here enclosed in [] contain provisions concerning the charges for the benefit of schools, which provisions have been repealed by L. 1909, act 556. (See Nos. 41; 42.)

districts and] townships the amounts due the same from the Commonwealth, and derived under this act, upon due application therefor made by the [treasurers or] road supervisors of the said [districts and] townships. [L. 1905, act 81, sec. 2—5 Pur. Dig., p. 6258, sec. 187.] See also Nos. 47; 42; 65; 66; 186; 187.

No. 28. Be it enacted, &c., That the Commissioner of Forestry and the Forestry Reservation Commission are hereby authorized and empowered to give to boroughs and other municipalities of this Commonwealth, upon such terms and subject to such restrictions and regulations as said Commissioner and Commission may deem proper, the privilege of impounding water upon any Forest Reservations, now owned or hereafter to be acquired by the Commonwealth, and of constructing, maintaining and operating lines of pipes upon and through said reservations, for the purpose of conveying water therefrom, whenever in the judgment of the said Commissioner and Commission it shall be to the public interest so to do. [L. 1905, act 114, sec. 1=5 Pur. Dig., p. 6234, sec. 1.] See also Nos. 52 (a); 52 (b).

No. 29. Be it enacted, &c., That fallows, stumps, logs, brush, dry grass, fallen timber, or tree-tops shall not be burned in any forest lands of this Commonwealth, in which there are producing oil-wells or gas-wells, or rigs erected for drilling such wells, from the first day of April in each year to the twentieth day of May next ensuing, nor from the tenth day of September in each year to the tenth day of November, next ensuing. Excepting during the periods aforesaid, fires may be set in such lands upon the following conditions: First, that written permission thereto, of the fire-warden of the proper township, shall first be obtained; second, said firewarden shall be personally present when such fire is started; third, such fire shall not be started during a strong wind, nor without sufficient help to control the same at all times; fourth, such fire shall be watched and guarded, by the person by whom it is started, until it is extinguished. No fires shall be set, or allowed to burn, in said lands, excepting upon compliance with the conditions aforesaid. Any person violating any provisions of this section shall be deemed guilty of a misdemeanor; and, upon being convicted thereof before any alderman or magistrate, shall be fined by the said alderman or magistrate,—for the first offense, in the sum not less than ten dollars or more than twenty dollars, and for the second, and every subsequent offense, in a sum not less than twenty nor exceeding one hundred dollars, to be paid to the county wherein such offense may be committed; and if said fine or penalty and the costs of the proceedings be not paid, then said alderman or magistrate shall commit said offender to the county jail, there to remain until discharged by due course of law: Provided, That when the fine imposed exceeds the sum of twenty dollars, the party complained against may appeal from the decision of said alderman or magistrate to the court of quarter sessions, upon his entering bail, in the nature of a recognizance, in the usual manner, for his appearance at said court, where the offense shall be prosecuted in the same manner as is now directed by law in other cases of misdemeanor. [L. 1907, act 334, sec. 1=5 Pur. Dig., p. 6245, sec. 92.]

No. 30. Any owner or lessee of any forest lands, or owner of the premises upon said lands, or any person in charge of the premises upon which lands there are producing oil-wells or gas-wells, or rigs erected for drilling such wells, shall, at least once in each year, cause to be moved from said lands all brush, tree-tops and branches of trees, which such owner, lessee, or other person in charge of the premises, may have cut or felled thereon, within one hundred feet, respectively, of all such wells or rigs; and shall, at least once in the year, cause to be removed from said land all grass, brush, tree-

tops, and branches of trees, and other inflammable material, within one hundred feet of the right of way of any railroad company operating thereon; to the end that during the spring and autumn season, as defined in the first section of this act, the said area shall be free and clear of such inflammable material. In case any person, partnership, or corporation shall neglect to perform the duty imposed by this section, the same shall be liable to a penalty of fifty dollars for failure, in any instance, to comply with the duty imposed by this section; to be paid to the county where the offense may be committed, recoverable in an action of assumpsit, in which the county wherein such violation occurs shall be the plaintiff. [L. 1907, act 334, sec. 2=5 Pur. Dig., p. 6245, sec. 93.]

No. 31. Every railroad company shall, on such part of its road as passes through forest land on which there are producing oil-wells or gas-wells, or rigs erected for drilling such wells, cut and remove from its right of way through said lands, at least once a year, all grass, brush and other inflammable materials; employing, in the seasons defined in the first section of this act, sufficient trackmen to promptly put out fires on its right of way; provide locomotives thereon with steel netting or iron wire on the smokestacks, or other efficient spark arresters, to prevent the escape of fire or sparks, and adequate devices to prevent the escape of fire from ash pans and furnaces, and the same shall be used by every engineer and fireman on such part of its road. No railroad company, or employe thereof, shall deposit fire, coals, or ashes on its track or right of way near such lands. In case of fire on its own or neighboring lands, within one hundred feet of its tracks, the railroad company shall use all practicable means to put it out. In case of any violation of the provisions of this section, such railroad company shall be answerable to the owner or owners of any property destroyed or injured by fire in consequence of such violation; and said company shall further be liable to a penalty of one hundred dollars for such violation, to be paid to the county wherein the violation may occur, recoverable in an action of assumpsit in which the county wherein such violation occurs shall be the plaintiff. [L. 1907, act 334, sec. 3=5 Pur. Dig., p. 6245, sec. 94.]

No. 32. Whereas, It has been demonstrated by time and experience in the countries of continental Europe that properly managed municipal forests have proved to be important sources of municipal revenue, tending greatly to reduce the burden of municipal taxation; and

Whereas, many of the townships, and cities of this Commonwealth are so located that it would be proper and expedient for them to possess tracts of land to be used for the purposes of municipal forests, in many instances conserving and protecting the water supply and promoting the healthfulness of said municipality, and capable, as well, of yielding revenue applicable to the purposes of such municipalities; therefore:—

Be it enacted, &c., That all townships of the first class, and cities of this Commonwealth are hereby empowered to acquire, by purchase, gift, or lease, and hold as the property of the municipality, tracts of lands at present covered with forest or tree growth, or suitable for the growth of trees, and to administer the same, under the direction of the Commissioner of Forestry of the Commonwealth of Pennsylvania, in accordance with the practices and principles of scientific forestry, for the benefit and advantage of the said municipalities. Such tracts may be of any size suitable for the purpose, and may be located either within, adjacent to, or at a distance from the corporate limits of the municipality purchasing the same: Provided, That it shall be requisite for the commissioners, or mayor of any municipality, availing itself of the provisions of this act, to submit to the Commissioner of Forestry, and secure his approval of, the area and location of any lands

proposed to be acquired for the purposes of municipal forests, previous to the passage of the ordinance provided for in section two. [L. 1909, act 79, preamble and sec. 1—6 Pur. Dig., p. 6757, secs. 207; as am. by L. 1915, act 192, ch. XIII, art. 1, sec. 1 (c)²¹, pp. 446, 459—5 Pur. Dig., p. 5452 (C), p. 5460.] See also Nos. 83 (a)—(h).

No. 33. Whenever the township commissioners of any township of the first class, or the councils [council] of any city, shall deem it expedient for the municipality to acquire any such lands for the purposes of a municipal forest, they shall so declare in an ordinance, wherein shall be set forth all facts and conditions relating to the proposed action; which said proposed ordinance prior to its passage shall be duly advertised once a week for three weeks and after its passage and approval in accordance with existing law. All money necessary for the purchase of such tracts shall be appropriated in like manner as is now done, under existing law, for municipal purposes; and such funds may be provided out of current revenue, or by the proceeds of a sale of bonds, in accordance with existing law. [L. 1909, act 79, sec. 2—6 Pur. Dig., p. 6757, sec. 200; as am. by L. 1915, act 192, ch. XIII, art. 1, sec. 1 (c)²¹, pp. 446, 459—5 Pur. Dig., p. 5452 (C), p. 5460.] See also Nos. 83 (a)—(h).

No. 34. Upon the acquisition of any municipal forests or of lands suitable for such, under this act, the proper authorities shall notify the Commissioner of Forestry, who shall make such rules for the government and proper administration of the same as may be necessary. The municipal authorities shall thereupon publish such rules, declare the uses of the forests in accord with the true intent of this act, and make such provision for its administration, maintenance, protection, and development as shall be necessary or expedient. [L. 1909, act 79, sec. 3—6 Pur. Dig., p. 6757, sec. 210.] See also No. 83 (a)—(h).

No. 35. All moneys necessary to be expended, from time to time, for the administration, maintenance, protection, and development of said forest, shall be appropriated and applied as is now done, under existing law, for municipal purposes; and all revenue and emoluments arising from said forest shall be paid into the municipal treasury, to be used for general municipal purposes. [L. 1909, act 79, sec. 4—6 Pur. Dig., p. 6757, sec. 211.] See also No. 83 (a)—(h).

No. 36. The municipal forest may be used by the people for general outing or recreation grounds, subject to the rules governing its administration for the purpose of a municipal forest, in which the major idea shall be the sale of forest products for producing a continuing municipal revenue. [L. 1909, act 79, sec. 5—6 Pur. Dig., p. 6757, sec. 212.] See also No. 83 (a)—(h).

No. 37. The alienation of a municipal forest, or any part thereof, shall be made only in the manner prescribed herein for the purchase of the same; to wit, by ordinance duly advertised before and after passage, but such ordinance shall not be effective in legalizing such alienation until after it shall have been approved by a majority vote of the people at the next ensuing election. [L. 1909, act 79, sec. 6—6 Pur. Dig., p. 6757, sec. 213.] See also No. 83 (a)—(h).

No. 38. Be it enacted, &c., That whenever an application shall be made to the Secretary of Internal Affairs for any vacant or unappropriated land, of any kind or description whatsoever, * * * [and he shall have determined by in-

²¹ This subdivision (c) of the 1915 General Borough Act repealed in express terms all provisions in the 1909 General Borough Act which related to boroughs. Consequently, all references to boroughs are here omitted in the sections contained in Nos. 32; 33.

vestigation, and survey if necessary, that the land is vacant and unappropriated.] It shall be the duty of the Secretary of Internal Affairs to submit to the State Forestry Reservation Commission a copy of the application made for said vacant or unappropriated land, together with a description thereof as ascertained through said investigation and survey; whereupon it shall be the duty of the said State Forestry Reservation Commission to determine whether it is desirable or practicable that such vacant or unappropriated land should be acquired for forest culture or forest reservation; and said State Forestry Reservation Commission shall, within the period of two months, make report to the Secretary of Internal Affairs as to the desirability or practicability of securing such vacant or unappropriated land for forest culture or forest reservation; and if in said report a request shall be made for the conveyance of such vacant or unappropriated land to the State Forestry Reservation Commission, it shall be the duty of the Secretary of Internal Affairs to grant a warrant and patent, according to the usual custom of the Land Office Bureau, conveying such vacant or unappropriated land to the State Forestry Commission, without the payment of any purchase money, interest, or fees. [L. 1909, act 231,²² sec. 1—5 Pur. Dig., p. 6241, sec. 58.]

No. 39. That whenever the State Forestry Reservation Commission shall apply for vacant or unappropriated land for forest culture or forest reservation, the Secretary of Internal Affairs is hereby authorized to grant title to such applied for lands in the manner provided by law, without the payment of purchase money, interest, or fees. [L. 1909, act 231, sec. 4—5 Pur. Dig., p. 6241, sec. 61.]

No. 40.

NOTE.—Section 7 of act 231, L. 1909, contains the repealing clause.²³

No. 41. Whereas, The Commonwealth of Pennsylvania is acquiring large tracts of land in its several counties, for the purpose of establishing forest reserves, which lands are exempt from taxation; and

Whereas, Because of such exemption, the several school districts within which said reserves are located lose the revenue secured from prior taxation, thus working a hardship upon the citizens of said districts; therefore,

Be it enacted, &c., That from and after the passage of this act, all lands now acquired or hereafter to be acquired by the Commonwealth for forest reserves, and which by existing law are now exempt from taxation, shall be subject to an annual charge of two cents per acre for the benefit of the schools in the respective districts in which said reserves are located: Provided, That no school district shall be entitled to receive any sum of money from the State, under this act, unless said school district shall levy and collect a tax, for the support of its schools, of not less than four mills on the dollar of the assessed valuation of property

²² These excerpts from section 1 of act 231, L. 1909, and the portion of said section which is here paraphrased, together with sections 4 and 7 (see Nos. 39; 40), are the only portions of the act which are relevant to the purposes of this compilation. The remainder of the act is, accordingly, omitted.

²³ Section 7 reads as follows:

The act of Assembly, entitled "An act relating to the granting of titles by the Commonwealth to vacant or unappropriated land, the price to be paid for the same, the conveyance to the State Forestry Reservation Commission where desirable for forest culture or forest preservation, and preventing the granting of warrants for the beds of navigable rivers," approved the twenty-eighth day of March, Anno Domini one thousand nine hundred and five, is hereby repealed; and all other acts, or parts of acts inconsistent with the provisions of this act, are also hereby repealed. [L. 1909, act 231, sec. 7—5 Pur. Dig., p. 6241, sec. 64.]

in said school district. [L. 1909, act 556, preamble and sec. 1=5 Pur. Dig., p. 6257, sec. 183.] See also Nos. 26; 27; 63; 66; 136; 137.

No. 42. The Commissioner of Forestry shall certify to the respective school districts throughout the Commonwealth in which forest reserves are located, and to the State Treasurer, the number of acres owned by the Commonwealth therein, for forest reserve purposes, and the amount of the charge in favor of each district. The Commissioner of Forestry shall draw his warrant in favor of the treasurer of each of said school districts, which said warrants, after the approval and counter signature of the Auditor General of the Commonwealth, shall be paid by the State Treasurer to the respective school districts in whose favor the same may be so drawn; * * *²⁴ [L. 1909, act 556, sec. 2=5 Pur. Dig., p. 6257, sec. 184.] See also Nos. 26; 27; 63; 66; 136; 137.

No. 43. Be it enacted, &c., That if any person shall willfully, negligently or maliciously kindle a fire upon or within any of the forest reserves of this Commonwealth, cause a fire to burn thereon except in accord with such rules as may be prescribed by the Department of Forestry; or shall willfully, negligently or maliciously set fire upon adjacent lands, which fire shall be communicated to the State Forest Reserves; such person shall be guilty of a misdemeanor, and upon conviction thereof be subject to a fine not exceeding one thousand dollars for each offense, or imprisonment not exceeding six months, either or both, at the discretion of the court, together with costs of suit. [L. 1911, p. 163, sec. 1=5 Pur. Dig., p. 6252, sec. 148.]

No. 44. If any person, without the consent of the Commonwealth or any of her agents, shall willfully, negligently or maliciously cut bark from, or cut down, injure, destroy or remove, a tree or trees on any forest reserve of this Commonwealth, or shall willfully, negligently or maliciously do or cause to be done any other act to the damage of said reserve, or the trees growing therein, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding five hundred dollars for each offense, or imprisonment not exceeding three months, either or both, at the discretion of the court, with costs of suit. [L. 1911, p. 163, sec. 2=5 Pur. Dig., p. 6252, sec. 149.]

No. 45. If any person shall willfully, negligently or maliciously violate any of the rules made for the government of the State Forest Reserves, or shall cut, tear down, deface, or otherwise mutilate, injure or destroy, any of the copies of the rules or other notices relating to forest administration, which may be posted therein by the Department of Forestry or any of its officers or agents, such person shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding one hundred dollars for each offense, or imprisonment not exceeding thirty days, either or both, at the discretion of the court, with costs of suit: Provided, That no conviction shall be had for any act committed in violation of this section unless it shall affirmatively appear that copies of such rules or notices were prominently posted in, upon or about said Forest Reserves. [L. 1911, p. 163, sec. 3=5 Pur. Dig., p. 6253, sec. 150.]

No. 46. All fines collected for the violation of any of the provisions of this act shall be paid to the Commissioner of Forestry, who shall pay the same to the State Treasurer, for the use of the Commonwealth. [L. 1911, p. 163, sec. 4=5 Pur. Dig., p. 6253, sec. 151.]

²⁴The portion of this section which is here omitted provided an appropriation for the purposes of the act during the two fiscal years following.

No. 47. The term "person" as used in this act, shall include not only individuals, or natural persons, but, as well, artificial persons, existing only in contemplation of law; and shall be construed to mean partnerships, limited partnerships, joint-stock companies, and corporations, and the officers, agents and employes of the same. [L. 1911, p. 163, sec. 5=5 Pur. Dig., p. 6253, sec. 152.]

No. 48. Be it enacted, &c., That the United States of America is hereby empowered to acquire by purchase, or by making adequate compensation under condemnation proceedings, such lands in Pennsylvania as in the opinion of the Federal Government may be needed for the establishment of National Forest Reserves in this State, in accordance with an act of Congress, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," approved the first day of March, one thousand nine hundred and eleven: Provided, That the approval of the State Forestry Reservation Commission and the Water Supply Commission shall be first had and obtained. Provided further, That the Commonwealth of Pennsylvania shall retain a concurrent jurisdiction with the United States in and over such lands, so far that civil process, in all cases, and such criminal process as may issue under the authority of the Commonwealth of Pennsylvania against any person charged with the commission of any crime, without or within said jurisdiction, may be executed thereon in like manner as if this act had not been passed. [L. 1911, p. 271, sec. 1=5 Pur. Dig., p. 6253, sec. 154; as amended by L. 1921,²⁵ act 129, sec. 1.]

No. 49. That the said United States of America is hereby empowered to pass such laws as it may deem necessary to the acquisition of land in Pennsylvania, as hereinbefore provided, and for incorporation of such land into said National Forest Reserves, as in the opinion of the Federal Government may be needed for this purpose. [L. 1911, p. 271, sec. 2=5 Pur. Dig., p. 6253, sec. 155.]

No. 50. That the said United States of America is hereby empowered to pass such laws, and to make or provide for the making of such rules, of both a civil and criminal nature, and provide punishment for the violation thereof, as in its judgment may be necessary for the management, control, and protection of such lands acquired from time to time by the United States of America under the provisions of this act: Provided, however, That the authority hereby given shall be subject to all the conditions and stipulations and reservations contained in this act. [L. 1911, p. 271, sec. 3=5 Pur. Dig., p. 6253, sec. 156.]

No. 51. That this act shall not confer power to condemn land now held or hereafter to be acquired by Pennsylvania as and for a State Forest Reserve. [L. 1911, p. 271, sec. 4=5 Pur. Dig., p. 6253, sec. 157.]

No. 52. Nothing in this act shall be construed to repeal or invalidate or in any way affect the provisions of an act of Assembly, approved the twenty-second day of April, one thousand nine hundred and five, entitled "An act to preserve the purity of the waters of the State, for the protection of the public health," or the provisions of an act, approved the twenty-seventh day of April, one thousand nine hundred and five, entitled "An act creating a Department of Health, and defining its powers and duties," or the provisions of an act, approved the fourteenth day of May, Anno Domini one thousand nine hundred and nine, entitled "An act to safeguard human life and health throughout the Commonwealth by providing regulations for the control of

certain communicable diseases and the prevention of infection therefrom, and prescribing penalties for the violation of said regulations." [L. 1911, p. 271, sec. 5=5 Pur. Dig., p. 6253, sec. 158.]

No. 52(a). The receipts and proceeds derived in any way from, or on account of, the forest reservations, now or hereafter acquired by this Commonwealth, * * * shall belong to and constitute a fund, to be known and designated as "The State School Fund of Pennsylvania," which is to be maintained as herein provided: Provided, however, That the forest reservations shall continue to be wholly under the control of the State Forest Reservation Commission, as now provided by law. [L. 1911, p. 309, art. 27, sec. 2701, as am. by L. 1915, act 370, sec. 1=5 Pur. Dig., p. 5631, sec. 608.] See also No. 51c.

No. 52(b). * * * All receipts derived in any way from, or on account of, the State forest reservations, * * * shall always be promptly paid to the State Treasurer, and kept by him in a separate account, subject to the disposal of the State Board of Education as herein provided; * * * [L. 1911, p. 309, art. 27, sec. 2702, as amended by L. 1915, act 370, sec. 2=5 Pur. Dig., p. 5631, sec. 609.] See also No. 51c.

No. 53. Be it enacted, &c., That if any person shall willfully, negligently, or maliciously set on fire, or cause to be set on fire, any woodlands within the Commonwealth, or shall directly or indirectly, without the consent of the owner, cause fire to burn therein; or shall willfully, negligently, or maliciously set fire upon adjacent lands, which fire shall be communicated to woodlands; such person shall be guilty of a misdemeanor, and on conviction thereof be fined not exceeding one thousand dollars for each offense, or imprisonment not exceeding six months, either or both, at the discretion of the court, together with costs of suit. [L. 1911, p. 861, sec. 1=5 Pur. Dig., p. 6249, sec. 120.]

No. 53(a).

NOTE.—Sections 2, 3, 4 of act on page 861 of L. 1911, are omitted for the reason that the provisions thereof do not come within the scope of this compilation, as having for their purpose the practice of forestry.

No. 54. The term "person" as used in this act, shall include not only individuals or natural persons, but as well artificial persons, existing only in contemplation of law, and shall be construed to mean partnerships, limited partnerships, joint-stock companies and corporations, and the officers, agents, and employees of the same. [L. 1911, p. 861, sec. 5=5 Pur. Dig., p. 6249, sec. 121.]

No. 55. The term "woodlands," in this act, is intended to include, and shall be construed to mean, woods, farmers' woodlots, marshes, moors, brush, barrens, brush lands, and wild, unseated uncultivated land. [L. 1911, p. 861, sec. 6=5 Pur. Dig., p. 6249, sec. 122.]

No. 56. All fines which shall be collected or paid under this act shall be remitted at once to the treasurer of the county wherein the same shall be collected or paid, to become a part of the general fund of the county. [L. 1911, p. 861, sec. 7=5 Pur. Dig., p. 6249, sec. 123.]

No. 57. Be it enacted, &c., That the Department of Forestry is hereby authorized to lease, for a period of not exceeding ten years, on such terms and conditions as it may

consider reasonable, to any citizen, church, organization, or school board of Pennsylvania, such portion of the State Forest as the Department may deem suitable, as a site for a temporary building to be used by such citizen or family for health and recreation, or as a site for church or school purposes. [L. 1913, act 16, sec. 1=5 Pur. Dig., p. 6257, sec. 178.]

No. 58. The receipts from such leasing shall be paid into the State Treasury. [Eighty per centum]²⁸ thereof, so paid in, shall constitute a part of the State school fund of Pennsylvania. [L. 1913, act 16, sec. 2=5 Pur. Dig., p. 6257, sec. 179.]

No. 59. Be it enacted, &c., That all surface land which may hereafter be classified and set apart as auxiliary forest reserves, in the manner provided by law, shall be rated in value, for the purpose of taxation, not in excess of one dollar (\$1.00) per acre and shall continue to be so rated so long as the said land remains within the class designated as auxiliary forest reserves: Provided, however, That if the said surface land be underlaid with coal, iron ore, oil, gas, or other valuable minerals, said minerals may be separately assessed. The assessors in the several districts in which such lands are situate shall assess such land in the manner now or hereafter provided for the assessment of real estate for purposes of taxation, as if they had not been set apart as auxiliary forest reserves, and shall make their returns to the county commissioners in like manner as is now or hereafter may be provided by law, subject to exception, appeal, and final adjustment. [L. 1913, act 269, sec. 1=5 Pur. Dig., p. 6255, sec. 168.]

No. 60. Upon receipt of assessment returns from the various assessors, the county commissioners shall reduce, in their records, to a sum not in excess of one dollar (\$1.00) per acre, the assessment on all those lands which shall have been placed in the class known as auxiliary forest reserves, in accordance with certificates filed with them by the State Forestry Reservation Commission, and the original assessment returns made by said assessors shall be preserved. [L. 1913, act 269, sec. 2=5 Pur. Dig., p. 6255, sec. 169.]

No. 61. Whenever timber, on land which is included in the class of land known as auxiliary forest reserves, is about to be harvested, the then owner of the timber on said land shall give a bond to the county treasurer in twenty per centum of the amount of the estimated value of the timber to be harvested, and to be approved by the court of the county, conditioned to pay to the county treasurer, within ninety days after harvesting, ten per centum of the value of the trees immediately at and before the time of harvesting; which amount shall be ascertained by statement and return, under oath or affirmation, furnished in triplicate, one to the county commissioners, one to the county treasurer, and one to the commission, immediately after harvesting, by the then owner of the land, setting forth said value; which sum thus paid shall be divided and distributed by the county treasurer of each county—to the county, and the poor district, the road district, and the school district of the township in which the auxiliary reserve is situate, pro rata, based upon the last assessed millage of taxation for county, poor, road, and school purposes within said taxing district.

Such sum of money when ascertained to be due as a tax by the filing of the foregoing statement and return, under oath, and, as hereinbefore provided, directed to be paid to

²⁸The limitation contained in the words "Eighty per centum," here enclosed in [], is no longer operative, since sections 2701, 2702 of the School Code, as amended by act 370 of L. 1915, now require that all receipts and proceeds derived from such leasing, shall be paid into the State School Fund. See Nos. 52 (a) ; 52 (b).

²⁹The portions of sections 2701, 2702 of the School Code which are here included in Nos. 52(a) ; 52(b), are the only portions of those sections which are relevant to the purposes of this compilation.

the county treasurer by the owner of an auxiliary forest reserve, shall, from the time of such filing, be and remain a lien upon the land of such owner until payment shall have been made: And be it further provided, That all moneys received by the boards of supervisors shall be appropriated exclusively to the opening, maintenance, and repair of the public roads now or hereafter passing through or into said auxiliary forest reserves, or upon which said reserves now or hereafter may abut; and, in the event that no public highways pass through or into said reserves, or none of said reserves abut on such highways, then said moneys shall be used for general township road purposes. [L. 1913, act 269, sec. 3=5 Pur. Dig., p. 6255, sec. 170.]

No. 62. Should the county commissioners be dissatisfied with the return made, as hereinbefore provided in section three hereof, the court of common-pleas of the proper county, on petition of the commissioners, shall appoint a board of three appraisers, who shall go upon the land in question, estimate the quantity and value of the trees immediately at and before the time of harvesting, and make a return thereof to the court, which said return shall then be made the basis upon which each owner shall make payment to the respective county treasurers, unless changed upon appeal. The said appraisers shall be duly sworn or affirmed before entering upon their work, and either party, if dissatisfied with the report of the appraisers, shall have right of appeal to the court of common pleas of the county, within ten days after such report shall be filed and notice thereof given the owner. The said appraisers shall be allowed their expenses and a compensation to be fixed by the court, both to be paid by the county commissioners. [L. 1913, act 269, sec. 4=5 Pur. Dig., p. 6256, sec. 172.]

No. 63. In case of the removal of said lands from the class known as auxiliary forest reserves, prior to the maturity of the timber, and without payment of the tax of ten per centum of the value thereof, as provided in section three of this act, the county commissioners shall, on notice from the commission, ascertain the amount of the taxes which would have been paid by the said owner on the original assessment, before the reduction provided for in section two of this act, adding legal interest from the date when each tax payment would have become delinquent. The said commissioners shall likewise ascertain the amount of taxes which have actually been paid upon the land in question, adding legal interest upon all such payments from the date when paid, and certify the result thereof to the county treasurer, who shall then proceed, in the manner provided for the collection of county taxes under general laws, to recover from such owner the difference between the two amounts, with costs. Such difference, so ascertained to be due as tax as aforesaid, shall be and remain a lien upon the land of such owner until payment shall have been made.

If such land shall be so removed from said class after the due cutting of a matured crop and the payment of tax thereon, the owner shall, in that case, not be liable for such past assessment; but the land shall thereafter be liable to assessment and tax as all other land not classed as auxiliary forest reserves. [L. 1913, act 269, sec. 5=5 Pur. Dig., p. 6256, sec. 174.]

No. 64. This act shall take effect only beginning with assessments made for the purpose of levying taxes for the fiscal year one thousand nine hundred and fourteen. [L. 1913, act 269, sec. 6=5 Pur. Dig., p. 6256, sec. 175.]

No. 65. Whereas, By existing law the State forest reserves are subject to an annual charge of two cents per acre for the benefit of schools, and two cents per acre for the benefit of roads, in the respective districts in which said reserves are located; and

Whereas, It would be a hardship to withhold from school and road districts the taxes which would otherwise be collected from land classed as auxiliary forest reserves; therefore,—

Be it enacted, &c., That all lands which shall hereafter be classed as auxiliary forest reserves shall be subject to an annual charge of two cents per acre for the benefit of the schools, and two cents per acre for the benefit of the roads, in the respective districts in which said reserves are located. Said charge is hereby made payable by the State. [L. 1913, act 270, preamble and sec. 1=5 Pur. Dig., p. 6256, sec. 176.] See also Nos. 26; 27; 41; 42; 136; 137.

No. 66. The State Forestry Reservation Commission shall certify to the respective school districts and road districts, throughout the Commonwealth, in which auxiliary forest reserves are located, the number of acres thus set apart and classed in each district, and the charge against the same; and shall, furthermore, certify to the State Treasurer the number of acres as aforesaid, and the charge against the same, in favor of the respective school and road districts. The State Treasurer shall, upon the approval of the proper warrants of the commission, pay to the several school districts and road districts the amount due the same from the Commonwealth, as derived under this act. [L. 1913, act 270, sec. 2=5 Pur. Dig., p. 6256, sec. 177.] See also Nos. 26; 27; 41; 42; 136; 137.

No. 67. Be it enacted, &c., That in order to encourage the growing of such trees, now existing or hereafter produced, as will at the proper age be suitable for merchantable forest products, whether such be of natural reproduction or from seed sown, or trees planted out, or all combined, all surface land which may be set apart according to the provisions of this act, and exclusively used for growing such trees, is hereby constituted a separate and distinct class of land, to be known as auxiliary forest reserves. [L. 1913, act 284, sec. 1=5 Pur. Dig., p. 6259, sec. 159.]

No. 68. When any owner of surface land desires to have such land placed in the class established by section one of this act, such owner shall notify the State Forestry Reservation Commission of his desire in manner and form to be prescribed by said commission. Said notice shall contain a description of the land, its location, boundary, area, and character, and shall state as far as practicable the species, character, and condition of the trees growing thereon, and whether they are of natural reproduction or are from seed sown for the purpose, or have been set out on said land, or all combined, and such other information as the commission may require. If, upon receipt and consideration of this notice, the commission shall, in its discretion, deem the conditions such as to warrant action on its part to determine whether such land should rightfully be placed in the class established by section one of this act, it shall cause the same to be examined by some person learned in the practice and principles of forestry, and a report made thereon, and if, upon receipt and consideration of such report, it decides that such land should be placed in the class established by section one of this act, it shall so declare and certify to the commissioners of the county in which said land is located. [L. 1913, act 284, sec. 2=5 Pur. Dig., p. 6254, sec. 160.]

No. 69. Upon receipt by the county commissioners of such certificate of the commission it shall be their duty at once to place said surface land in the class established by section one of this act, and keep the same therein until the trees growing thereon shall, in the judgment of the commission, become sufficiently large and suitable for merchantable forest products, or the land be devoted to other purposes: Provided, however, That the certificate of the commission shall not become operative to place said surface land in the

class established by section one of this act until the owner of said surface land has agreed, in writing, with the commission, to care for the trees growing thereon, according to the instructions and directions of the commission, up to such time as such trees become suitable for merchantable forest products; and if any such owner at any time fails to care for the trees growing on said land as agreed with the commission, and due proof thereof is made, the commission may remove said surface land from the class established by section one of this act. In case of such removal, either through failure of the owner to care for the trees or on his expressed desire for removal before the trees shall have been cut at maturity and tax paid thereon, the county commissioners shall, on notice from the commission, proceed to recover from said owner, for the use of the county and township, by an appropriate action at law if necessary, the difference in the amount of tax which would have been paid by the said owner at the rates established for the years for which recovery is sought and the rate provided for auxiliary forest reserves, with costs of suit, to be recoverable from the time when such land was placed in the class of auxiliary forest reserves. And the commission shall remove said surface land from the class established by section one of this act at any time that the then owner shall, in writing, notify the commission that he desires such removal. The commission may, in its discretion, at the time said surface land is placed in the class established by section one of this act, require the owner to file with the commission his or its bond, of such kind and amount as the commission shall deem reasonable and sufficient to secure the obligations of such owner under this act. [L. 1913, act 284, sec. 3=5 Pur. Dig., p. 6254, secs. 161; 162.]

No. 70. Whenever trees growing on said surface land have become suitable for merchantable forest products, the commission shall, at the request of the owner or on its own motion, make an examination of said land, and designate for the owner the kind and number of trees most suitable to be cut, if, in the judgment of the commission, there be any, and the cutting and removal of said trees so designated shall be in accordance with the instructions of the commission. [L. 1913, act 284, sec. 4=5 Pur. Dig., p. 6255, sec. 163.]

No. 71. If the owner of said surface land faithfully carries out the instructions of the commission with regard to the removal and marketing of such mature or other trees, as may be designated in the instructions of the said commission, and shall immediately replant other trees of valuable species, or so protect the young growth that the said land may immediately become covered with young forest growth, and does so with the approval of the commission, then such surface land shall remain in the said class, established by section one of this act; otherwise, the commission shall notify the county commissioners that the said land is not being maintained in accordance with the written agreement of the owner and the instructions of the commission, in which event the county commissioners shall immediately remove said land from the class established by section one of this act. All expenses attendant upon the examination of the said surface land by the commission shall be paid for out of the moneys appropriated for the maintenance of the Department of Forestry, in like manner as other expenses for maintenance of said department are now paid. [L. 1913, act 284, sec. 5=5 Pur. Dig., p. 6255, sec. 164.]

No. 72. The owner of the said auxiliary forest reserves shall, at all times, have the right to remove therefrom trees, or portions of trees, which may be killed by fire, thrown or broken by the wind, or injured by other natural causes; and shall, under the direction of the commission, be privileged to make necessary thinnings or removal of undesirable species of trees, in order to improve the condition of the remaining

trees; and, under the same direction, may be privileged to remove therefrom such timber, from time to time, as may be necessary and essential for use upon the neighboring cleared lands of the said owner, for general farm purposes. [L. 1913, act 284, sec. 6=5 Pur. Dig., p. 6255, sec. 165.]

No. 73. Any tract of land while remaining in the class of auxiliary forest reserves as above provided, may, nevertheless, be sold or incumbered by or through the owner thereof, but no sale or incumbrance, whether voluntary by the owner or involuntary under any statutory or judicial proceeding whatsoever, whether of any State or of the United States, shall effect a discharge of any obligation imposed under this act, and said land shall be removed from said class only in accordance with the provisions hereof. [L. 1913, act 284, sec. 7=5 Pur. Dig., p. 6255, sec. 166.]

Nos. 74; 75.

NOTE.—The text of Nos. 74 and 75 has been deleted in consequence of the repeal of the act contained therein (L. 1913, act 414) by L. 1921, act 298, sec. 3. See No. 19 (a).

No. 76. Be it enacted, &c., That when county commissioners shall have received from the county treasurer a conveyance of lands which shall have been advertised and sold for unpaid taxes, in accordance with the several acts of Assembly relating to the sale and conveyance of lands for taxes, the said commissioners are hereby directed, after the period of redemption of said lands shall have expired, to offer said lands to the Department of Forestry, for acceptance or rejection by said department, for forestry purposes, when required so to do by the Department of Forestry. The county commissioners, in making such offer, shall describe the land by giving the name of its former owner, its location, warranty name or number, and its adjoining. They shall state the number of acres and perches in each tract so offered, and the amount of taxes, interest, and costs due thereon, which shall have been levied and become a lien and accrued to the time of making the offer. Every such offer shall be accompanied by a draft of the land, when required by the department, to be prepared by the county surveyor. The cost of the preparation of such draft shall be paid by the county commissioners, and in no case shall exceed the ordinary and usual amount paid for the making of similar drafts in the course of county business. The cost of the draft may be added by the commissioners to the amount of costs accrued against the land which they shall offer the Department of Forestry. Where adjoining tracts are so offered, they shall be included within one draft, and the cost of the draft shall be ratably apportioned among the several tracts in accordance with the area thereof. [L. 1915, act 68, sec. 1=5 Pur. Dig., p. 5803, Secs. 39; 40.]

No. 77. That upon receiving any such offer from the county commissioners, which offer shall be made upon blank forms to be prepared by the Department of Forestry and supplied to the commissioners, the department shall make an examination and valuation of the land so offered, to determine whether it is suitable for forestry purposes. If found not suitable for forestry purposes, the department shall so notify the commissioners. If found to be suitable for that purpose, it shall likewise notify the commissioners of its suitability, make a conditional acceptance, and proceed to examine the title. If such examination shall disclose that the title is marketable, and of such character as can be safely accepted, the department shall prepare a deed to be executed by the commissioners, conveying such land to the Commonwealth of Pennsylvania. The consideration shall include all taxes levied, interest, and costs due to date of conveyance; but shall, in no case, exceed the limit of purchase price now or hereafter fixed by law for the purchase of land by the Depart-

ment of Forestry for forestry purposes. [L. 1915, act 68, sec. 2=5 Pur. Dig., p. 5803, sec. 41.]

No. 78. That if the title examination shall disclose encumbrances upon the land, or other objections, which, in the judgment of the Department of Forestry, will render the title unmarketable or undesirable for the State to own, the county commissioners shall then proceed to remove such objections to title, and cure such defects, so far as it may be possible to do so, or may be required by the practice of the Department of Forestry, in the purchase of lands. The purchase of said land shall not be further proceeded with until the title shall be rendered acceptable to the Department of Forestry. In case the county Commissioners neglect or refuse to remove objections to title when required by the Department, the Department may, after a reasonable time, not exceeding six months, notify the commissioners that it refuses to consider the further purchase of the land so offered. The time for removal of objections may be extended by the department for cause shown. [L. 1915, act 68, sec. 3=5 Pur. Dig., p. 5803, sec. 42.]

No. 79. Be it enacted, &c., That the Department of Forestry is hereby authorized to grow young forest-trees, and to distribute them to those desiring to plant them, in such quantity and under such regulations as may be prescribed by the department, when the available stock in the forest nurseries shall be in excess of that required by the department for forest planting. No charge shall be made for the trees so distributed, but the cost of boxing and shipping shall be paid by the applicant. The applicant must enter into an agreement with the department to plant the young trees under such conditions or regulations as may be made by the department, and to protect and care for them when planted. The department may render such assistance and instruction in the planting of the trees as it may deem necessary to secure their proper planting. [L. 1915, act 76, sec. 1=5 Pur. Dig., p. 6243, sec. 78.]

No. 80. That all such young forest-trees, which shall be distributed as aforesaid, shall not be subject to sale in the hands of the applicant, but shall be properly planted, in accordance with the agreement entered into with the department. [L. 1915, act 76, sec. 2=5 Pur. Dig., p. 6243, sec. 79.]

No. 81. That all acts and parts of acts inconsistent with or supplied by this act are repealed. [L. 1915, act 76, sec. 3=5 Pur. Dig., p. 6243, sec. 80.]

No. 82. Be it enacted, &c., That from and after the approval of this act, it shall be the duty of each forester and forest ranger in this Commonwealth to enforce all the laws relating to forestry, fish, and game; it shall be the duty of every game-protector, deputy game-protector, or special deputy game-protector, commissioned in this Commonwealth, to enforce all the laws relating to fish, game, and forestry; it shall be the duty of every fish-warden or deputy fish-warden, commissioned in this Commonwealth, to enforce all the laws relating to game, fish, and forestry, under the direction of that department or commission into whose special care the interests of these several subjects have been entrusted, namely: All prosecutions for violation of laws relating to forestry shall be brought under the direction of the Department of Forestry; all prosecutions for violation of the fish laws shall be brought under the direction of the Department of Fisheries; and all prosecutions for violations of the game laws shall be brought under the direction of the Board of Game Commissioners; and, to that end, the powers of all the officers aforesaid are hereby extended in such a way as to give them full authority to carry out the purposes of this act. It shall be the further duty

of every such forester, forest ranger, game-protector, deputy game-protector, special deputy game-protector, fish-warden, and deputy fish-warden, whenever such official may have knowledge of the violation of any of the aforesaid laws, forthwith to make a full and complete report thereof to that department under which such official may be commissioned; which department, in case said law relates to a subject whose special care is entrusted to another department, shall at once forward such report to the appropriate department charged with the enforcement of said law.

Every person connected with either the Department of Forestry, or with the Department of Fisheries, or with the Game Commission, and under pay of the Commonwealth, who shall refuse or neglect to safeguard, in a reasonable way, the interests of the Commonwealth relating to either forestry, or fish, or game and wild birds, as provided for and intended by this act, or who, without prejudice to the work of that department to which he may specially belong, shall refuse or neglect to investigate to a reasonable conclusion any violation of the laws of this Commonwealth relating to either of the other departments named in this act that may be reported to him, or who may refuse or neglect to make the reports required by this act, shall be guilty of a misdemeanor, and for the first offense shall be liable to penalty of twenty-five dollars, or in lieu thereof to an imprisonment of one day for each dollar of penalty imposed, and for the second offense to double the penalty imposed for the first offense, and for the third offense shall be discharged from the service of the State; and it shall be the duty of the heads of the several departments mentioned in this act to notify the various employes of the State Government that may be under their control, and that are under the pay of the State, of the requirements of this act. [L. 1915, act 77, sec. 1=5 Pur. Dig., p. 6257, sec. 180; as am. by L. 1917, act 172, sec. 1.] See also No. 22.

No. 83. All acts or parts of acts inconsistent with this act, in so far as they relate to the various subjects and conditions considered by this act, and specifically changed by its provisions, are hereby repealed. [L. 1915, act 77, sec. 2=5 Pur. Dig., p. 6257, sec. 181.]

No. 83 (a). Boroughs may acquire by purchase, gift or lease, and hold tracts of land covered with forest or tree growth or suitable for the growth of trees and administer the same, under the direction of the Commissioner of Forestry, in accordance with the practices and principles of scientific forestry, for the benefit of the borough. Such tracts may be of any size suitable for the purpose, and may be located within or without the borough limits. [L. 1915, act 192, ch. IX, art. III, sec. 1=5 Pur. Dig., p. 5435, sec. 660.] See also Nos. 32-37.

No. 83 (b). Before the passage of any ordinance for the acquisition of land to be used as municipal forests, the burgess shall submit to the Commissioner of Forestry, and secure his approval of, the area and location of such land. [L. 1915, act 192, ch. IX, art. III, sec. 2=5 Pur. Dig., p. 5435, sec. 661.] See also Nos. 32-37.

No. 83 (c). Whenever the council of any borough deems it expedient to acquire any lands for the purposes of municipal forests, it shall so declare in an ordinance, wherein shall be set forth all facts and conditions relating to the proposed action; which proposed ordinance shall be advertised once a week for three weeks prior to its passage. [L. 1915, act 192, ch. IX, art. III, sec. 3=5 Pur. Dig., p. 5436, sec. 663.] See also Nos. 32-37.

No. 83 (d). All money necessary for the purchase of such tracts shall be appropriated in the same manner as appropriations for borough purposes, and such funds may be provided

from the current revenue, or by the proceeds of a sale of bonds in accordance with existing law. [L. 1915, act. 102, ch. IX, art. III, sec. 4=5 Pur. Dig., p. 5436, sec. 663.] See also Nos. 82-87.

No. 83 (e). Upon the acquisition of any municipal forests or lands suitable for such, the council shall notify the Commissioner of Forestry, who shall make such rules for the government and proper administration of the same as may be necessary, and the council shall publish such rules, declare the uses of the forest in accordance with the intent of this article, and make such provision for its administration, maintenance, protection and development as shall be necessary or expedient. The rules governing the administration of such forests shall have for their main purpose the producing of a continuing borough revenue by the sale of forest products. [L. 1915, act 192, ch. IX, art. III, sec. 5=5 Pur. Dig., p. 5436, sec. 664.] See also Nos. 82-87.

No. 83 (f). All moneys necessary to be expended for the administration, maintenance, protection and development of such forests shall be appropriated and applied as is now done for borough purposes; all revenue and emoluments arising from such forests shall be paid into the borough treasury to be used for general borough purposes. [L. 1915, act 192, ch. IX, art. III, sec. 6=5 Pur. Dig., p. 5436, sec. 665.] See also Nos. 82-87.

No. 83 (g). Municipal forests may be used by the public as general outing or recreation grounds subject to the rules governing their administration as municipal forests. [L. 1915, act 192, ch. IX, art. III, sec. 7=5 Pur. Dig., p. 5436, sec. 666.] See also Nos. 82-87.

No. 83 (h). Whenever the council of any borough deems it expedient to alienate any municipal forest or part thereof, it shall so declare in an ordinance wherein shall be set forth all the facts and conditions relating to the proposed action; which proposed ordinance shall be advertised once a week for three weeks prior to its passage. No ordinance shall be effective in legalizing such alienation until it has been approved by a majority vote of the people at the next ensuing election. [L. 1915, act 192, ch. IX, art. III, sec. 8=5 Pur. Dig., p. 5436, sec. 667.] See also Nos. 82-87.

No. 84. Be it enacted, &c., That the limit of purchase price to be paid by the Department of Forestry for land hereafter to be purchased by it, and used for State forest purposes, shall not exceed the sum of ten dollars per acre. [L. 1915, act 198, sec. 1=5 Pur. Dig., p. 6240, sec. 533.] See also No. 11 (b).

No. 85. Be it enacted, &c., That a Bureau of Forest Protection is hereby established within the Department of Forestry. The persons appointed thereto or assigned to duty therein shall be subject to the authority and under the control of the Commissioner of Forestry. [L. 1915, act 353, sec. 1=5 Pur. Dig., p. 6235, sec. 4.] See also Nos. 11 (c); 86.

No. 86. Immediately after this act becomes effective and thereafter whenever a vacancy occurs, the Commissioner of Forestry shall appoint a forester in the employ of the department to be Chief of the Bureau of Forest Protection, who by virtue of his appointment shall immediately become and be Chief Forest Fire Warden. [L. 1915, act 353, art. 1, sec. 101=5 Pur. Dig., p. 6235, sec. 5; as amended by L. 1921,¹³ act 299, sec. 1.]

No. 87. (a) It shall be the duty of the chief forest fire-warden to take such measures for the prevention, control, and extinction of forest fires as will assure a reasonable protection from fire to woodlots, forests, and wild lands within the State.

(b) The chief forest fire-warden shall institute the system of forest fire-wardens, as hereby created, and shall have authority to supervise and manage the same.

(c) He shall reorganize the former system of fire-wardens, and as rapidly as possible make it conform to the provisions of this act.

(d) **NOTE.**—The text of this subdivision (d), which required the Chief Forest Firewarden to divide the State into forest fire districts, has been deleted in consequence of its having been supplied by Nos. 11 (d); 30.

(e) At the end of each calendar year he shall render to the Commissioner of Forestry a report for the year, covering all phases of the work under his direction, which report, together with a list of the fire-wardens, shall be published annually as a bulletin of the Department of Forestry.

(f) He shall collect, with the assistance of the force and means at his command, data relating to location, area, and fire hazard of woodlots, forests, and wild lands within the State; data relating to forest fires, and losses resulting therefrom; and such other data as he may deem to come within the purview of his duties, and as he may desire to present to the commissioner or to the public.

(g) He shall tabulate and draft data in such manner that the information may be easily and readily appreciated. Maps, drafts, and tables shall be published, in the discretion and under the direction of the Commissioner of Forestry, as a part of the annual report of the chief forest fire-warden or as separate bulletins of the department.

(h) He shall plan and put into effect as convenient a system of fire-towers and observation stations, which shall cover the regions subject to forest fires, purchase the necessary material and equipment, and hire the necessary labor for the installation of the system.

(i) When, in his discretion, the purposes of this act may be accomplished better by the appointment of certain forest fire-wardens as watchmen or patrolmen during dry seasons, and within regions subject to great fire risk, he shall make such appointments; provided that no person shall be appointed watchman or patrolman without first having been appointed a forest fire-warden, and that wardens who have proved to be efficient shall be given preference.

(j) He may enter into agreements, with the consent of the Commissioner of Forestry, with persons, firms, corporations, or associations, upon satisfactory terms, for the successful accomplishment of forest fire prevention or control.

(k) He shall conduct such educational work in relation to forest fires as may be approved by the Commissioner of Forestry.

(l) He shall audit all bills incurred under this act. He shall approve those which are correct and should be paid and present them to the Commissioner of Forestry, who shall transmit them to the Auditor General.

(m) Upon receipt of checks from the State Treasurer, he shall send them to the persons entitled thereto.

(n) He shall have authority to declare a public nuisance any property which, by reason of its condition or operation, is a special forest fire hazard, and, as such, endangers other property or human life.

(o) He shall notify the owner of the property, or the person responsible for the condition declared a public nuisance, and advise him as to the abatement or removal of such nuisance. In the case of a railroad, such notice shall be served upon the superintendent of the division upon which the nuisance exists.

(p) He shall collect and arrange information obtained concerning violation of laws relating to the protection of forests from fire, and present the same to the Commissioner of Forestry, who shall file it with the Attorney General for legal action. [L. 1915, act 353, art. 1, sec. 102=5 Pur. Dig., pp. 6235, 6236, sec. 6.]

No. 88. The compensation of the Chief Forest Fire Warden shall be his salary as Chief of the Bureau of Forest Protection, and his salary and all necessary expenses incurred in the performance of his duties, and all salaries and wages of the Bureau of Forest Protection shall be paid from the appropriation for forest protection. [L. 1915, act 353, art. I, sec. 103=5 Pur. Dig., p. 6236, sec. 7; as amended by L. 1921,¹² act 299, sec. 2.]

No. 89. As soon as convenient after this act becomes effective, the Commissioner of Forestry shall assign to the Bureau of Forest Protection a forester in the employ of the department, to act as a clerk to the chief forest fire-warden; and, from time to time, may assign such other clerical assistants to the bureau as may be necessary. [L. 1915, act 353, art. II, sec. 201=5 Pur. Dig., p. 6236, sec. 8.]

No. 90. As rapidly as Forest Districts are created they shall become also Forest Fire Districts and the District Foresters appointed to take charge of them shall become by virtue of their appointment and be District Fire Wardens. [L. 1915, act 353, art. III, sec. 301=5 Pur. Dig., p. 6236, sec. 9; as amended by L. 1921,¹² act 299, sec. 3.]

No. 91. (a) The district fire-warden shall establish headquarters at some advantageous place within his district; shall act as the field representative of the chief forest fire-warden, and be under his direction.

(b) He shall be responsible for the collection of data, within his district, necessary for accomplishing properly the purposes of this act.

(c) He shall make recommendations to the Chief forest fire-warden for the appointment of local fire-wardens, the location of fire-towers, the employment of patrolmen, and the region to be patrolled, and regarding such other matters as may come to his attention which would tend to improve the protective system.

(d) He shall arrange for annual meetings of fire-wardens within his district, for instruction in forest fire matters.

(e) He shall report to the chief forest fire-warden situations and conditions existing within his district which are or may become forest fire hazards. He shall serve notices for the correction or removal of such conditions, when issued by the chief forest fire-warden.

(f) He shall receive, audit, and approve the reports and accounts of the local fire-wardens before submitting them to the chief forest fire-warden.

(g) He shall act as an inspector of the work of local fire-wardens, and render assistance to them.

(h) He shall conduct educational work, and develop co-operation between local agencies and the Department of Forestry for the prevention and suppression of forest fires.

(i) He shall perform such other duties as may be assigned to him by the Commissioner of Forestry or the chief forest fire-warden. [L. 1915, act 353, art. III, sec. 302=5 Pur. Dig., p. 6236, sec. 10.]

No. 92. The compensation of each District Fire Warden shall be his salary as District Forester, and such salary and all necessary expenses incurred in the performance of his duties; also the salaries, wages, and necessary expenses incurred in the performance of the duties of the Forest Officers assistants and labor employed in or assigned to his Forest District, as well as the other necessary expenses in the way of rent, material, equipment, et cetera of his said District, may all be paid from the appropriations for forest protection, and from other items of appropriation for the Department of Forestry respectively in proportion as such salaries, wages, and necessary expenses are incurred for forest protection or for the other administrative work of the Department of Forestry, the proportion to be paid from the appropriation for forest protection under the above rule to be

determined from time to time by the State Forest Commission. [L. 1915, act 353, art. III, sec. 303=5 Pur. Dig., p. 6236, sec. 11; as amended by L. 1921¹², act 299, sec. 4.]

No. 93. A person appointed a local fire-warden shall be chosen expressly by reason of his physical fitness, sobriety, honesty, and ability to perform the duties herein required, and must have the recommendation of the district fire-warden for the forest fire district in which he is located. Where no district fire-warden has been appointed, the chief forest fire-warden shall first satisfy himself as to the above qualifications before making an appointment. [L. 1915, act 353, art. IV, sec. 401=5 Pur. Dig., p. 6236, sec. 12.]

No. 94. Local fire-wardens shall be appointed by the chief forest fire-warden in such localities as he may deem necessary. [L. 1915, act 353, art. IV, sec. 402=5 Pur. Dig., p. 6237, sec. 13.]

No. 95. Every person appointed a forest fire-warden under this act shall be given a certificate of appointment, issued by the chief forest fire-warden, and may be furnished with an appropriate badge, in the discretion of the chief forest fire-warden. [L. 1915, act 353, art. IV, sec. 403=5 Pur. Dig., p. 6237, sec. 14.]

No. 96. (a) Whenever fire is discovered in or approaching woodlots, forests, or wild lands, whether the same be owned by individuals, corporations, or by the Commonwealth, it shall be the duty of a forest fire-warden immediately to take such measures as are necessary to extinguish the fire.

(b) Whenever fires have been combated or extinguished as provided for in this act, the forest fire-warden shall prepare a correct statement of expenses, upon forms to be furnished by the department; which statement must be verified by oath or affirmation, and must be filed with the district warden, and by him forwarded to the chief forest fire-warden within sixty days of the date of fire.

(c) He shall promptly investigate the cause of each fire which comes to his knowledge, collect such evidence as may be discovered relating thereto, and such other facts as he may be directed, and report the same to the chief forest fire-warden.

(d) Upon receipt of a check from the State Treasurer, he shall at once pay by check the amounts due to such persons as are entitled to receive pay from him.

(e) He shall attend an annual meeting of fire-wardens in his district when notified, or present a reasonable excuse.

(f) When designated as a patrolman or watchman, he shall perform such duties as may be assigned him by the chief forest fire-warden or by the district fire-warden. [L. 1915, act 353, art. IV, sec. 404=5 Pur. Dig., p. 6237, sec. 15.]

No. 97. Each Local Forest Fire Warden shall be paid at the rate per hour to be fixed from time to time by the State Forest Commission not exceeding a maximum of 50 cents per hour for the time actually employed in the performance of his duties. He shall also be paid for the necessary expenses incurred in the performance of his duties. A Local Forest Fire Warden shall not be paid from the forest protection appropriation in any one month an amount in excess of \$75.00 unless he shall have been regularly employed as a patrolman or otherwise. [L. 1915, act 353, art. IV, sec. 405=5 Pur. Dig., p. 6237, secs. 16, 17; as amended by L. 1921¹², act 299, sec. 5.]

No. 98. The chief forest fire-warden may appoint persons who will serve without compensation as special or as ex-officio forest fire-wardens. They shall have the same power and authority as local forest fire-wardens, but their duties

may be changed or extended by the chief forest fire-warden. [L. 1915, act 353, art. V, sec. 501=5 Pur. Dig., p. 6237, sec. 18.]

No. 99. Foresters and rangers in the employ of the Department of Forestry shall be forest fire-wardens ex-officio. [L. 1915, act 353, art. V, sec. 502=5 Pur. Dig., p. 6237, sec. 19.]

No. 100. Special and ex-officio forest fire-wardens shall receive no compensation under this act, other than the necessary expenses incurred by them in the performance of their duties as fire-wardens. [L. 1915, act 353, art. V, sec. 503=5 Pur. Dig., p. 6237, sec. 20.]

No. 101. A fire-warden shall have authority to employ such other persons as, in his judgment, may be necessary to render assistance in extinguishing fire; and, whenever it shall not otherwise be possible for him to secure a sufficient number of persons to assist in extinguishing fire, he is hereby authorized to compel the attendance of persons and to require them to render assistance in the extinguishing of fire, under penalties prescribed in this act. [L. 1915, act 353, art. VI, sec. 601=5 Pur. Dig., p. 6237, sec. 21.]

No. 102. A fire-warden shall have authority to administer an oath or affirmation, in order to examine any person who he believes knows facts relating to any fire, or who claims compensation for services rendered. [L. 1915, act 353, art. VI, sec. 602=5 Pur. Dig., p. 6237, sec. 22.]

No. 103. Every official provided for by this act shall have authority to enter upon any land at any time for the purpose of performing duties in accordance herewith. [L. 1915, act 353, art. VI, sec. 603=5 Pur. Dig., p. 6237, sec. 23.]

No. 104. A fire-warden shall have power to arrest on view, without first procuring a warrant, any person detected by him in the act of committing an offense against any of the laws now enacted or hereafter to be enacted for the protection of forests, woodlots, timber, or wild lands, or when he shall have a reasonable suspicion that any person is committing or is about to commit some such offense. The warden shall have further power to take the offender before a justice of the peace, or other magistrate having jurisdiction, for hearing, trial, or other due process of law. The further conduct of any such case shall be entrusted to, and be undertaken by, the Attorney General. [L. 1915, act 353, art. VI, sec. 604=5 Pur. Dig., p. 6237, sec. 24.] *See also Nos. 9; 23.*

No. 105. A fire-warden shall not be personally liable for any act required or permitted to be done under the provisions of this law, while acting within the scope of his duties as a fire-warden. [L. 1915, act 353, art. VI, sec. 605=5 Pur. Dig., sec. 25.]

No. 106. Persons who extinguish or help to extinguish forest fires except as otherwise provided shall be paid at a rate per hour to be determined for each forest fire district by the chief forest fire warden with the approval of the Commissioner of Forestry, and based upon the rates of wages received for day labor within the respective forest fire districts, provided the rate does not exceed forty cents per hour. [L. 1915, act 353, art. VII, sec. 701=5 Pur. Dig., p. 6238, sec. 26; as amended by L. 1921³, act 299, sec. 6.]

No. 107. If any person shall feel aggrieved by the act of any fire-warden, such person may appeal to the Commissioner of Forestry, who will examine into the complaint. After hearing the parties he shall decide as to him shall seem just and right. [L. 1915, act 353, art. VII, sec. 702=5 Pur. Dig., p. 6238, sec. 27.]

No. 108. Nothing in this act shall be so construed as to relieve the owner or lessee of lands, upon which fires may burn or be started, from the duty of extinguishing such fire so far as may lie within his power.

No owner or lessee of land upon which fire may burn or be started, nor any person during employment with such owner or lessee, nor any other person with a present vested interest in such land, shall receive compensation under this act for extinguishing fire upon his land or the land to which his interest is attached.

No person who is responsible for the spreading of a fire to a woodlot, forest, or wild land, nor any person in his employ, may receive compensation from a fire-warden for helping to extinguish such fire. [L. 1915, act 353, art. VII, sec. 703=5 Pur. Dig., p. 6238, secs. 28, 29, 30.]

No. 109. All steam and electric railroad companies owning or operating lines of railroad within the State shall put into effect such reasonable regulations for the prevention of forest fire as may be deemed necessary by the chief forest fire-warden, providing the regulations be approved by the Public Service Commission. [L. 1915, act 353, art. VIII, sec. 801=5 Pur. Dig., p. 6238, sec. 31.]

No. 110. Expenses incurred under this act shall be paid from the general forest protection appropriation. [L. 1915, act 353, art. IX, sec. 901=5 Pur. Dig., p. 6238, sec. 32.]

No. 111. No bills of expenses relating to the protection of forests from fire incurred under this act, shall be honored by the chief forest fire-warden unless presented to him within sixty days after the expense has been incurred. [L. 1915, act 353, art. IX, sec. 902=5 Pur. Dig., p. 6238, sec. 33.]

No. 112. The Auditor General shall satisfy himself as to the correctness of all bills transmitted to him by the Commissioner of Forestry for expense incurred under this act, and shall then draw his warrants against the general forest protection appropriation in favor of the persons and for the amounts shown by the approved bills. [L. 1915, act 353, art. IX, sec. 903=5 Pur. Dig., p. 6238, sec. 34.]

No. 113. If a fire-warden shall fail to perform his duty, or shall render a false or fraudulent statement of service alleged to have been performed, or shall fail to pay promptly the respective amounts due those who have rendered service, after said amounts have been transmitted to him, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding one hundred dollars, or undergo imprisonment not exceeding three months, or both, in the discretion of the court. [L. 1915, act 353, art. X, sec. 1001=5 Pur. Dig., p. 6238, sec. 35.] *See also No. 119.*

No. 114. If any fire-warden, being in need of assistance in the suppression of fire, shall call upon any person to render assistance, and such person shall refuse without a just and fair excuse he is hereby declared to be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one hundred dollars, or undergo imprisonment not exceeding one month, or both, in the discretion of the court. [L. 1915, act 353, art. X, sec. 1002=5 Pur. Dig., p. 6238, sec. 36.] *See also No. 119.*

No. 115. A person who shall prevent or obstruct, or attempt to prevent or obstruct, a fire-warden in the performance of a duty required by this act, or the exercise of the rights of entry, access, or examination by any warden or officer of this bureau, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one hundred dollars, or undergo imprisonment not exceeding one month, or both, in the discretion of the court.

[L. 1915, act 353, art. X, sec. 1003=5 Pur. Dig., p. 6238, sec. 37.] *See also No. 119.*

No. 116. Every person or corporation refusing to comply with an order of the chief forest fire-warden for the abatement of a nuisance, under this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars, or undergo imprisonment not exceeding one month, or both, in the discretion of the court. In construing or enforcing the provisions respecting the abatement of nuisances, under this act, the neglect or refusal of any officer, agent, or other person acting for or employed by a corporation, and having within the scope of his employment the supervision of the property complained about, shall in every case be deemed to be the neglect or refusal of the corporation itself.

Every day's continuance in the non-abatement of a nuisance, after an order by the chief forest fire-warden to abate the same, shall be a separate and distinct offense.

If a preliminary injunction be granted or any interlocutory order of supersedeas intervene, no penalty shall be incurred on account of non-abatement of such nuisance for the period of time such injunction or supersedeas is in force. [L. 1915, act 353, art. X, sec. 1004=5 Pur. Dig., p. 6238, secs. 38, 39, 40.] *See also No. 119.*

No. 117. Whenever a fire set by any person destroys property belonging to another, it shall be prima facie evidence that the loss occasioned is the result of negligence, and that the person responsible therefor is guilty of a misdemeanor. Upon conviction he shall be fined not exceeding one thousand dollars for each offense, or undergo imprisonment not exceeding six months, or both, in the discretion of the court. This section shall not apply to the setting of a back fire in good faith, to extinguish a fire then burning. [L. 1915, act 353, art. X, sec. 1005=5 Pur. Dig., p. 6239, sec. 41.] *See also No. 119.*

No. 118. Every steam and electric railroad company, owning or operating lines of railroad within the State, which shall neglect or refuse to put into effect such reasonable regulations for the prevention of forest fire as may be deemed necessary by the chief forest fire-warden and approved by the Public Service Commission, shall forfeit and pay to the Commonwealth of Pennsylvania, for each neglect or refusal, the sum of one hundred dollars, to be recovered by an action of assumpsit, instituted in the name of the Commonwealth by the Attorney General in the court of common pleas of Dauphin County, which court is hereby clothed with exclusive jurisdiction throughout the Commonwealth to hear and determine such actions.

Every day's continuance in refusal to comply with such regulations, after a notice from the chief forest fire-warden and the lapse of a reasonable length of time for compliance therewith, which time shall be fixed in the notice, shall be a separate and distinct offense. [L. 1915, act 353, art. X, sec. 1006=5 Pur. Dig., p. 6239, secs. 42, 43.] *See also No. 119.*

No. 119. Moneys received from the payment of fines shall be paid to the treasurer of the county in which suit is brought, for the use of the county, except as otherwise provided in this act. [L. 1915, act 353, art. X, sec. 1007=5 Pur. Dig., p. 6239, sec. 44.] *See also Nos. 113, 114, 115, 116, 117, 118.*

No. 120. When, in the judgment of the Commissioner of Forestry, he deems it necessary for general forest protection that causes or agencies injurious to trees and forests, other than fire, be investigated, reported upon, or abated, he is hereby authorized to assign to the Bureau of Forest Protection persons competent for such work. The salaries of such persons, so assigned, shall be fixed by the Commissioner of

Forestry, and shall in no case exceed the ordinary and usual amount paid for such services. Salaries and expenses shall be paid out of the general forest protection appropriation. [L. 1915, act 353, art. XI, sec. 1101=5 Pur. Dig., p. 6239, sec. 45.]

No. 121.

NORE.—The provisions of section 1201, which constitutes Article XII of act 353, L. 1915 are obsolete.

No. 122. All acts or parts of acts inconsistent with or supplied by this act are repealed. [L. 1915, act 353, art. XIII, sec. 1301=5 Pur. Dig., p. 6239, sec. 47.]

No. 123. Be it enacted, &c., That the Department of Forestry is authorized to enter into agreements for the prevention and suppression of forest fires with county, township, municipal, and private agencies owning or controlling woodlots, forests, or wild lands, or whose activities in whole or in part are directed toward the prevention and suppression of forest fires. The department is authorized to expend from its general forest fire appropriation, for such protective and preventive purposes as it deems effective, a sum of money equal in amount to the amount which shall be expended by such agencies in accordance with such agreements. All expenditures must first be presented to the Department of Forestry in monthly statements, in form and manner prescribed for the payment of any sum from the forest fire appropriation. The Commissioner of Forestry shall audit the same and transmit them to the Auditor General, who shall then draw his warrant for one-half of the amount of expenditures approved by the Commissioner of Forestry. [L. 1915, act 361, sec. 1=5 Pur. Dig., p. 6249, sec. 125.]

No. 124. That every county, township, municipal, or private agency working under agreement with the department, in accordance with this act, shall render to the department, at the end of each calendar year, a report setting forth a complete itemized statement of expenditures made with a view to the prevention and suppression of forest fires, and stating such other information as the department may request. The financial statement and facts relating thereto shall be accompanied by an affidavit subscribed to by the person authorized to make the report. [L. 1915, act 361, sec. 2=5 Pur. Dig., p. 6249, sec. 126.]

No. 125. All acts and parts of acts inconsistent with or supplied by this act are repealed. [L. 1915, act 361, sec. 3=5 Pur. Dig., p. 6250, sec. 127.]

No. 126. Be it enacted, &c., That the Department of Forestry is hereby empowered to grant rights of way through State forests to individuals or corporations who may apply therefor, when it shall appear to the department that the grant of a right of way will not so adversely affect the land as to interfere with its usual and orderly administration, and when it shall appear that the interests of the Commonwealth or of its citizens will be promoted by such grant. [L. 1915, act 362, sec. 1=5 Pur. Dig., p. 6240, sec. 50.]

No. 127. A right of way, under this act, is hereby construed to include a passage, haulage, flogage, or transmission for any lawful purpose. [L. 1915, act 362, sec. 2=5 Pur. Dig., p. 6240, sec. 51.]

No. 128. All acts or parts of acts inconsistent with or supplied by this act are repealed. [L. 1915, act 362, sec. 3=5 Pur. Dig., p. 6240, sec. 52.]

No. 129. Be it enacted, &c., That the Department of Forestry is hereby authorized to purchase and receive conveyance of surface rights to any lands within this Common-

wealth, for forestry purposes, and to hold such lands as State forests. [L. 1917, act 88, sec. 1.]

No. 130. Where the title to any such land is subject to outstanding rights conveying waters, minerals, oil, gas, or other valuable deposits, or any privileges or reservations whatsoever, the Department of Forestry may, in its discretion, accept conveyance of the surface rights to such lands, where the administration of scientific and practical forestry will not be interfered with or made impossible by such outstanding rights, privileges, or reservations. [L. 1917, act 88, sec. 2.]

No. 131. Be it enacted, &c., That, whenever the Department of Forestry shall acquire lands for State forest purposes, included in which in the judgment of the Department there may be small areas better suited for ordinary agriculture than for the growing of forest trees, the Department may execute leases for such agricultural land to those who will plant it in ordinary agricultural crops and cultivate it, at such rate of rental as shall be equitable, and under such conditions as the Department may deem necessary and useful, for the purpose of bringing into a state of food-plant production such areas as are normally better suited for agriculture than for other purposes. [L. 1917, act 295, sec. 1.]

No. 132. All leases for such agricultural areas shall be for a term not exceeding ten years, and may be terminated earlier by mutual agreement of the parties. At the expiration of the term, a renewal of the lease may be made for a like term, or a lesser period, upon the same or such new conditions as may be mutually satisfactory. [L. 1917, act 295, sec. 2.]

No. 133. If more than one person shall apply for the same tract, the lease shall be advertised for sale in three local county papers, if there be so many, once a week for three weeks, and may then be awarded to the highest responsible bidder, if said bid is satisfactory in amount to the Department of Forestry. [L. 1917, act 295, sec. 3.]

No. 134. At the termination of any such lease the lessee shall have the privilege of removing from the land buildings and fences which may have been placed there at his own expense, or the same may be purchased by the lessor, as a part of the permanent improvement of the tract, upon such terms as may be just and mutually satisfactory to the parties. [L. 1917, act 295, sec. 4.]

No. 135. Where such land must necessarily be retained in cultivation for Department purposes, or for the use of Department employes, the Department may, in its judgment, decline to receive bids and execute leases for such tracts. [L. 1917, act 295, sec. 5.]

No. 136. Be it enacted, &c., That from and after the passage of this act, all lands now acquired or hereafter to be acquired by the Commonwealth for State forests, shall be subject to an annual charge of one cent per acre for the benefit of the counties in which said State forests are located. [L. 1919, act 61, sec. 1.]

No. 137. The Commissioner of Forestry shall certify the respective areas in the counties to the State Treasurer, and the State Treasurer shall pay the amount of the charge in favor of each county in the same manner as the fixed charges upon State forests for road and school purposes are now certified and paid. [L. 1919, act 61, sec. 2.]

No. 138. It shall be the duty of the Department of State Police to aid in the enforcement of all laws relating to game,

fish, forestry, and water supply. Members of the State Police Force are authorized and empowered to act as game-protectors and as forest-, fish-, or fire-wardens. [L. 1919, act 179, sec. 11.]

No. 138 (n). The State Police, with the approval of the Governor, may be called upon, by any other department of the State Government, to enforce all laws applicable or pertaining to such department or any regulation thereof. [L. 1919, act 179, sec. 13.]

No. 139. Be it enacted, &c., That whenever the State Forestry Reservation Commission or the Commission of Conservation²⁷ desires to acquire land suitable and desirable for forestry purposes for the use and benefit of the State as forestry lands, and a price for such lands cannot be agreed upon with the owner or owners thereof, or where such owner or owners cannot be found, in all such cases the Department of Forestry or the Department of Conservation²⁷ is authorized to acquire the said lands by condemnation. [L. 1919, act 289, sec. 1.]

No. 140. The Commissioner of Forestry or the Commissioner of Conservation,²⁷ on behalf of the Commonwealth, may enter upon any of such lands and take possession thereof. Thereupon the Commissioner for Forestry or the Commissioner of Conservation,²⁷ through the Attorney General, or any of the owners, if known, may apply to the court of common pleas of the county wherein such lands are located for the appointment of viewers. The court shall appoint three viewers, and shall appoint a time, not less than twenty nor more than thirty days after the presentation of such petition, when the viewers shall meet upon the lands and view the same and all improvements in connection therewith. [L. 1919, act 289, sec. 2.]

No. 141. The viewers shall give at least ten days notice of their first meeting to the Commissioner of Forestry or the Commissioner of Conservation,²⁷ and to the Attorney General, and to the owners of such land, if known. If the owners of such lands are unknown, notice shall be given in at least two newspapers in such manner as the court may direct. The viewers, having been sworn or affirmed faithfully, justly, and impartially to decide and a true report to make, concerning all matters to be submitted to them and in relation to which they are authorized to inquire, and having viewed the lands and premises, shall hear the parties and their witnesses, and shall estimate and determine the value of the property so taken. Where the owner of such lands and premises is unknown, the viewers shall estimate and determine the value of the land and improvements upon the testimony of the witnesses for the Commonwealth and any witnesses called by the viewers. [L. 1919, act 289, sec. 3.]

No. 142. The viewers shall prepare their report and shall give at least ten days written notice of a time and place where they will meet and exhibit their report and hear all exceptions thereto. If any owners of said lands are unknown, notice shall be given in two newspapers in the same manner as the notice of their first meeting was given. [L. 1919, act 289, sec. 4.]

No. 143. After making whatever changes are necessary, the viewers shall report to court, showing the damages allowed, and, if necessary, shall also file a plan showing the property taken. In all cases where the owners are known, the report shall also state to whom the damages are payable.

²⁷The bill which proposed the creation of a Conservation Commission (or Department) was defeated at the 1919 session of the legislature.

In cases where the owners of the property are not known, that fact shall be clearly stated in the report. [L. 1919, act 289, sec. 5.]

No. 144. When the report is filed, notice thereof shall immediately be given to the Commissioner of Forestry or the Commissioner of Conservation,²⁷ the Attorney General and the owners of the land where known, which notice shall state that, unless exceptions be filed thereto within thirty days after the filing of the report, the same will be confirmed absolutely. Where any owners of such lands are unknown, notice shall be given in at least two newspapers in such manner as the court shall direct. [L. 1919, act 289, sec. 6.]

No. 145. Within thirty days after the filing of any report, the Commonwealth, or the owners of such lands, may file exceptions to the same, and the court shall confirm, modify, or change such report, or refer the same back to the same or new viewers. [L. 1919, act 289, sec. 7.]

No. 146. When the report is filed, the prothonotary shall mark it "confirmed nisi." In case no exceptions are filed thereto within the time herein specified, the court shall make a decree that the report is confirmed absolutely, which decree shall be entered by the prothonotary. [L. 1919, act 289, sec. 8.]

No. 147. Within thirty days after any report of viewers is filed under this act, the Commonwealth or the owners of such land may appeal to the court of common pleas and demand a trial by jury. Within six months after a confirmation absolute on exceptions, or within six months after a verdict and final judgment on appeal for a jury trial, the Commissioner of Forestry or the Commissioner of Conservation²⁷ or the owners of such land may appeal to the Supreme or to the Superior court, as in other cases. [L. 1919, act 289, sec. 9.]

No. 148. When the amount payable to the owner of such land has been finally determined, the same shall be paid by the Commissioner of Forestry or the Commissioner of Conservation²⁷ from the appropriations that may be made for such purposes; all costs in connection with any such proceedings shall be paid by the Commonwealth. [L. 1919, act 289, sec. 10.]

No. 149. When the owners of such lands are unknown, the Commissioner of Forestry or the Commissioner of Conservation²⁷ may enter upon and appropriate the land for the use of the State as herein provided. In all cases where the owners of lands are unknown, and the report of viewers has been finally confirmed, the Commonwealth shall be liable for all damages awarded therein. If at any time after the final confirmation of the report of viewers any person appears and proves title to said lands, such persons shall be entitled to, and receive from the Commonwealth, the sum so awarded by the viewers. Any such claimant of the land may petition the court of common pleas of the county wherein the land is located, giving a brief outline of the facts upon which the claim is based. Thereupon the court shall direct an issue to be framed, wherein the claimant shall appear as plaintiff and the Commonwealth of Pennsylvania as defendant. Such issue shall be tried according to the rules of procedure and evidence governing trials in ejectment, with a right of appeal by either party to the proper appellate court. If the final judgment on such issue is in favor of the plaintiff, the sum awarded by the report as

finally confirmed shall be paid by the Commonwealth to said claimant. The party to the action against whom the judgment is entered shall be liable for the costs as provided by law in other civil actions. [L. 1919, act 289, sec. 11.]

No. 150. The Department of Forestry or the Department of Conservation²⁷ of the Commonwealth shall have the control and supervision of all such lands acquired under the provisions of this act. All income and revenue derived from said lands shall be expended in the same manner and for the same purposes as provided by law for the expenditure of the income from the state forests. [L. 1919, act 289, sec. 12.]

No. 151. 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 the authority of the same, That whenever the State Forest Commission shall determine and declare by a resolution adopted unanimously at a meeting when a majority of its members are present and voting and approved by the Governor, that it will be to the advantage of the State forest interests, said State Forest Commission may by such resolution so approved authorize either of the following actions to be taken:

(a) That after such public hearing as the State Forest Commission may prescribe, any State forest land together with the buildings, improvements, and appurtenances thereof may be exchanged for privately owned land of equal or greater value, and at least equally adapted to State forest purposes.

(b) That after the advertisement provided for in section five hereof any State forest land together with the buildings, improvements, and appurtenances thereof declared by said resolution to be more valuable for other use than for State forest purposes and not needed for use in the administration and protection of the State Forests, may be sold to the party or parties offering the highest price therefor. [L. 1921,³³ act 194, sec. 1.]

No. 151 (a). Upon the adoption of any such resolution, the Attorney General shall prepare the necessary deed or deeds to consummate the exchange or sale provided for and authorized in section one hereof, and the Governor of the Commonwealth is hereby authorized to execute such deed or deeds for and on behalf of the Commonwealth of Pennsylvania, and affix thereto the seal of the Commonwealth, all to the intent and effect that the title of the State forest land together with its buildings, improvements, and appurtenances thus exchanged or sold may be vested in the party or parties entitled thereto, pursuant to the resolution of the State Forest Commission, but in case of sale no deed shall be delivered until the purchase price shall have been paid in full. [L. 1921,³³ act 194, sec. 2.]

No. 151 (b). Before the exchange of lands pursuant to section one hereof, the Attorney General shall examine and approve the title of the privately owned lands to be received in exchange and the deed or deeds from the Commonwealth of Pennsylvania shall be delivered only when a sufficient deed or deeds to the Commonwealth of Pennsylvania for the land to be received by the State shall have been approved by the Attorney General and delivered and immediately upon the execution, acknowledgment, approval, and delivery of the deeds to the Commonwealth of Pennsylvania, the lands thus granted shall become and be a part of the State forests subject to all the laws and rules governing the State forest land. [L. 1921,³³ act 194, sec. 3.]

³³ Authenticated copies of the 1921 legislation used in this leaflet were procured informally, from the office of the Commissioner of Forestry, in advance of the official publication of the volume of Session Laws.

²⁷ The bill which proposed the creation of a Conservation Commission (or Department) was defeated at the 1919 session of the legislature.

No. 151 (c). All receipts from the sale of any State forest land shall be deposited in the treasury and said receipts shall be and are hereby appropriated and made available until expended for use separately or in conjunction with any other appropriations for the acquisition of land for State forest purposes. [L. 1921,²² act 194, sec. 4.] *See also* Nos. 52a; 52b.

No. 151 (d). Before the sale of any State forest land under the power granted by this act, the State Forest Com-

mission shall advertise such proposed sale at least once each week for three successive weeks in at least two newspapers published within the State, one of which shall be published in the city or town nearest the land to be sold. [L. 1921,²² act 194, sec. 5.]

No. 151 (e). All acts or parts of acts inconsistent with or supplied by this act are hereby repealed. [L. 1921,²² act 194, sec. 6.]

GROUP OF ACTS CONSTITUTING FIREWARDEN SYSTEM PRIOR TO 1915.

No. 152. That it shall be the duty of the commissioners of the several counties of this Commonwealth to appoint persons, under oath, whose duty it shall be to ferret out and bring to punishment all persons or corporations who either wilfully or otherwise cause the burning of timber lands within the respective counties, and to take measures to have such fires extinguished where it can be done; and on failure of the commissioners of any county, after demand made upon them by the Commissioner of Forestry of this Commonwealth, to comply with this provision, they shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars, or suffer an imprisonment not exceeding two years, or both, at the discretion of the court. The expenses incurred in the employment of the persons contemplated by this act, on and after the first day of January, A. D. 1893, shall be paid, one-half out of the treasury of the respective county, and the remaining half of said expense shall be paid by the State Treasurer upon warrant from the Auditor General; but no such warrant shall be drawn until the commissioners of the proper county shall have first furnished, under oath or affirmation, to the Auditor General, a written itemized statement of such expense, and until the same is approved by the Auditor General: Provided, That in no case shall the expense to the Commonwealth growing out of this act exceed five hundred dollars for a single county in any one year. [L. 1870, act 1206, sec. 1; as amended by L. 1897, act 228, sec. 1=2 Pur. Dig., p. 1746, secs. 44, 45.]

No. 153. Be it enacted, &c., That from and after the passage of the act the constables of the various wards, boroughs and townships of the Commonwealth shall be ex-officio fire, game and fish wardens.²³ [L. 1899, act 14, sec. 1=1 Pur. Dig., p. 730, sec. 49.]

No. 154. It shall be the duty of said fire, game and fish wardens to enforce all statutes of this State now in force, or that may hereafter be enacted, for the protection of forests and timber lands from fire, and for the protection and propagation of game, game birds, game mammals, song and insectivorous birds, and fish, and said constables or wardens shall have authority to arrest without warrant any person or persons caught by them in the act of violating any of the aforesaid laws for the protection of forests and timber lands, game, and food and game fish, and take such person or persons forthwith before a justice of the peace or other magistrate having jurisdiction, who shall proceed without delay to hear, try and determine the matter. Such arrests may be also made on Sunday, in which case the person or persons arrested shall be taken before the proper officer, and proceeded against as soon as may be on a week day following the arrest.²⁴ [L. 1899, act 14, sec. 2=1 Pur. Dig., p. 730, sec. 50.]

No. 154 (a).

NOTE.—Section 3, act 14, L. 1899 (1 Pur. Dig., p. 730, sec. 51) gives said Constables and Wardens power to search and examine, without warrant, any boat conveyance, vehicle, fish box, etc., "when they have good reason to believe that any of the laws for the protection of forests and timber lands, game and fish have been violated," and exempts them from liability for damages in connection with such action. These are the only provisions of this section which are in anywise relevant to the purposes of this compilation.²⁵

No. 155. Any constable or warden, upon the arrest and prosecution of any offender to conviction under the provisions of this act, shall, in addition to the fees to which he may be entitled under existing laws, be paid for his services the sum of ten dollars on a warrant drawn by the county commissioners on the county treasurer, one-half of which shall be paid out of the treasury of the respective county, and the remaining half of said reward shall be paid by the State Treasurer into the treasury of said county, out of moneys not otherwise appropriated, upon warrant from the Auditor General, but no such warrant shall be drawn until the respective county commissioners shall have first furnished, under oath, to the Auditor General, a written itemized statement of such expense, and until the same is approved by the Auditor General: Provided, That no county shall be liable to pay for this purpose in any one year an amount exceeding five hundred dollars.²⁶ [L. 1899, act 14, sec. 4=1 Pur. Dig., p. 730, sec. 54.]

No. 156. Each of said constables or wardens shall, for the purpose of this act, have concurrent jurisdiction throughout his own proper county; and they shall in the first week in each term of the court of quarter sessions of their respective counties, make special returns to said court, under oath, of all violations occurring in their respective townships, or which may come or be brought to their notice, of any of the provisions of any law now in force, or that may hereafter be enacted, for the protection of forests and timber lands, game and fish; and it

²² Under the firewarden system (Nos. 159-180) which preceded the present system, the Commissioner acted as Chief Firewarden. That earlier system, and certain additional fire protection measures, imposing duties upon County Commissioners and the Commissioner of Forestry, and also making Constables Ex-officio Fire, Game, and Fish Wardens (*see* Nos. 152-158), have, however, been made subject to reorganization by the Chief Forest Firewarden, in order to conform those earlier provisions to the present system (*see* No. 87c); and, in consequence, the general operation of the earlier provisions during the process of reorganization rests with the Chief Forest Firewarden. It is, of course, impossible to indicate to what extent the reorganization, as made so far, may have resulted in replacing the former provisions. While, however, the reorganization is in course of being effected, the Chief Forest Firewarden operates under the earlier fire protection provisions to whatever extent they may not have been replaced.

²³ Authenticated copies of the 1921 legislation used in this leaflet were procured informally, from the office of the Commissioner of Forestry, in advance of the official publication of the volume of Session Laws.

shall be the duty of the judge of said court to see that such returns are faithfully made, and any constable or warden wilfully neglecting or refusing to make such returns, or to prosecute any offense under said laws of which he shall have personal knowledge, or of which he shall have notice in writing by any citizen, giving the name of the offender together with the names of the witnesses, shall be guilty of a misdemeanor, and upon conviction thereof be sentenced to pay a fine of fifty dollars, or to undergo an imprisonment in the county jail of two months, both or either, at the discretion of the court.²⁹ [L. 1899, act 14, sec. 5=1 Pur. Dig., p. 730, sec. 55.]

No. 157. Be it enacted, &c., That when the commissioners of any county or counties fail to "appoint persons under oath, whose duty it shall be to ferret out and bring to punishment all persons or corporations who either wilfully or otherwise cause the burning of timber land within their respective counties," as is provided for by the act of July 15th, 1897, or when they have appointed inefficient persons to do the work aforesaid; the Commissioner of Forestry may, on the request of residents of a county in which such fires have been created, or on the request of the owner or owners of land which has been injured by the fires so created, appoint a detective or detectives, and employ an attorney or attorneys, to ferret out and bring to punishment, as aforesaid, those who cause the burning of timber lands; and all expenses incurred by the Commissioner of Forestry under the operation of this act shall be paid by the State Treasurer, on warrant drawn by the Auditor General, if the said bills shall be approved by the Governor and the Commissioner of Forestry; and all the fines collected shall be paid by the magistrate or by order of the court to the Commissioner of Forestry, and be paid by him to the Treasurer of the Commonwealth.²⁹ [L. 1901, act 86, sec. 1=2 Pur. Dig., p. 1746, sec. 46.]

No. 158. When conviction is obtained, under the provisions of this act, of persons or corporations causing the burning of timber lands, then the Auditor General, on the request of the Commissioner of Forestry, may refuse to pay the State's share of the money due to the county for the services of the person or persons, appointed by the county commissioners, to ferret out and bring to punishment those who caused forest fires in the district where such persons served as fire detectives, to make arrests and secure convictions, and for which conviction was obtained by the detectives appointed by the Commissioner of Forestry.²⁹ [L. 1901, act 86, sec. 2=2 Pur. Dig., p. 1747, sec. 47.]

No. 159. Be it enacted, &c., That there be hereby instituted and created a system of fire-wardens, within this Commonwealth, whose duty it shall be to protect forests, farmers' woodlots, and wild lands by preventing and suppressing fires.²⁹ [L. 1909, act 601, sec. 1=5 Pur. Dig., p. 6246, sec. 96.]

No. 160. The Commissioner of Forestry and the Deputy Commissioner of Forestry shall be, respectively, the Chief Fire Warden and the Deputy Chief Fire Warden of this Commonwealth, for the enforcement of the provisions of this act. They shall have immediate supervision and control of the whole system of fire-wardens hereby created, and, as such, shall have full power and authority to carry the same into effect.²⁹ [L. 1909, act 601, sec. 2=5 Pur. Dig., p. 6246, sec. 97.]

No. 161. As soon after the approval of this act as may be convenient, the Commissioner of Forestry shall appoint in each borough and township in this Commonwealth, if in his judgment necessity exists for such appointment, a suitable and competent person, who shall be known as the dis-

trict fire-warden of the particular borough or township wherein he shall be appointed. The persons appointed district fire-wardens shall be expressly chosen to carry out the provisions of this act, by reason of their physical fitness and their good reputation for sobriety, honesty, and ability to perform the duties herein demanded and required.²⁹ [L. 1909, act 601, sec. 3=5 Pur. Dig., p. 6246, sec. 98.]

No. 162. Every district fire-warden and every assistant fire-warden, appointed or provided for under the provisions of this act, shall procure, at his own expense, and wear and be known by, an appropriate badge of authority, to be approved by the Commissioner of Forestry, which shall be produced and shown on all proper occasions, whenever demanded.²⁹ [L. 1909, act 601, sec. 4=5 Pur. Dig., p. 6246, sec. 99.]

No. 163. Whenever fire is discovered in or approaching woodlots, forests, or wild lands, whether the same be owned by individuals, corporations or by the Commonwealth, it shall be the duty of the fire-warden, immediately, to take such measures as are necessary for the extinguishment of the fire. He shall have authority to employ such other persons as, in his judgment, may be necessary to render assistance in extinguishing fire; and whenever it shall not otherwise be possible for him to secure a sufficient number of persons to assist in extinguishing fire, he is hereby given the power and authority to compel the attendance of, and the rendering of assistance by, persons, in the extinguishing of fire under the penalties prescribed in this act. The district fire-warden, while engaged in performing the duties imposed by this act, shall receive as compensation twenty-five (25c) cents per hour, and his actual, necessary expenses incurred; and the persons so employed, or compelled to assist the warden, in the extinguishment of fire, shall receive as compensation for their services fifteen (15c) cents per hour.²⁹ [L. 1909, act 601, sec. 5=5 Pur. Dig., p. 6246, sec. 100.]

No. 164. The employes of the Department of Forestry shall be ex-officio fire-wardens, whose duties and powers shall be the same as, by this act, are vested in the district fire-wardens appointed by the Commissioner of Forestry; but they shall not receive any compensation other than the regular pay allowed as an employe of the Department of Forestry, and the necessary expenses by them incurred in the performance of their duties as fire-wardens.²⁹ [L. 1909, act 601, sec. 6=5 Pur. Dig., p. 6246, sec. 101.]

No. 165. Nothing in this act shall be so construed as to relieve the owner or lessee of lands, upon which fires may burn or be started, from the duty of extinguishing such fire so far as may lie within his power. No such owner or lessee, nor any person in the employ of such owner or lessee, shall receive any compensation under this act for extinguishing fire upon the lands of such owner or lessee.²⁹ [L. 1909, act 601, sec. 7=5 Pur. Dig., p. 6247, sec. 102.] See also No. 173.

No. 166. In each township and borough the district fire-wardens, appointed by the Commissioner of Forestry, may appoint, by and with the consent of the Commissioner of Forestry, suitable persons, to be known as assistant fire-wardens, who shall possess the same qualifications demanded by this act for the district fire-wardens, and who are hereby vested with the same power and authority. They shall receive, as compensation for their services so to be performed, the sum of twenty cents per hour, and the necessary expenses incurred in the actual performance of their duty. They shall

make their reports to the district fire-warden, and be under his immediate supervision and control, subject to the supervision of the Commissioner of Forestry.²⁹ [L. 1909, act 601, sec. 8=5 Pur. Dig., p. 6247, sec. 103.]

No. 167. Whenever a forest, woodlot or wildland fire shall have been combatted or extinguished, by the means provided for in this act, the district fire-warden shall prepare a correct statement, showing the date of the fire, the number of men employed to extinguish the fire, the number of hours each was employed, and the actual amount of expense incurred, verified by oath or affirmation, and shall forward the same at once to the Commissioner of Forestry. It shall be the further duty of the district fire-warden thoroughly to investigate the cause or origin of the fire, to collect such evidence as may be discovered relating thereto, and make a report thereon to the Commissioner of Forestry, together with a statement showing the area burned over and damage done by the fire. The assistant fire-wardens shall render their accounts, under oath or affirmation, to the district fire-warden, who shall thoroughly investigate the facts therein stated, and, if he find them correct, shall transmit the same to the Commissioner of Forestry. The above reports and accounts shall be made upon uniform blanks to be furnished by the Commissioner of Forestry.²⁹ [L. 1909, act 601, sec. 9=5 Pur. Dig., p. 6247, secs. 104, 105.]

No. 168. Upon receipt of bills for extinguishing forest fires, the Commissioner of Forestry is hereby authorized and directed carefully to audit the same. He shall not approve any bill until he has first satisfied himself of its correctness, and that the services therein claimed were actually rendered, or the expense actually incurred. If the Commissioner of Forestry approve an account so rendered, he shall transmit the same to the Auditor General of the Commonwealth; who shall first satisfy himself of its correctness, and shall then draw his warrant, against the fund hereinafter appropriated to pay for the extinguishment of forest fires, and in favor of the respective district fire-wardens, as directed by the Commissioner of Forestry. Said warrants shall be delivered to the Commissioner of Forestry, for transmission to the district fire-wardens, who are hereby then required to pay the several sums so transmitted to the persons lawfully entitled thereto, taking proper receipts and vouchers for each payment so made, which vouchers shall be filed with the Commissioner of Forestry.²⁹ [L. 1909, act 601, sec. 10=5 Pur. Dig., p. 6247, sec. 106.]

No. 169. At the end of each calendar year, after the bill for the extinguishment of forest fires shall have been presented for that year, the Auditor General of the Commonwealth shall prepare a statement showing the expenditure made for the extinguishment of fires in each of the counties of the State, and shall transmit to the Commissioners of each county a copy of the statement relating to their respective county. The Auditor General shall, at the same time, state an account with each of the said counties, and collect from each county an amount equal to one-fifth of the amount expended by the Commonwealth for the extinguishment of forest fires in that particular county. The county commissioners of each county shall, immediately upon receipt of the stated account of the Auditor General, forward to him, for the use of the Commonwealth, the amount of money so found to be due and owing by the county for the extinguishment of forest fires. In case the said account is not settled within thirty days after its receipt by the county commissioners, the Auditor General is hereby authorized, empowered, and required to collect the amount of the then delinquent account stated, in manner provided by existing law for the collection of accounts due the Commonwealth.²⁹ [L. 1909, act 601, sec. 11=5 Pur. Dig., p. 6247, sec. 107.]

No. 170. The said fire-wardens shall not be limited in their jurisdiction, as such, to the boroughs, townships, or counties for or within which they may be appointed; but shall have power and authority to enter adjacent or other boroughs, townships, or counties, and there exercise the authority and perform the duties conferred upon them by this act: Provided, That when, for the purpose of extinguishing fire, a fire-warden shall enter adjacent or other territory than that for or within which he shall have been appointed, the local warden, if present, shall be in command and direct the work of the various fire-fighting crews.²⁹ [L. 1909, act 601, sec. 12=5 Pur. Dig., p. 6247, sec. 108.]

No. 171. Whenever any fire-warden, or person employed by him, shall have rendered service in the extinguishment of fire which may have burned within two or more counties, the district fire-warden shall render to the Commissioner of Forestry his report, as hereinbefore required, relating to each of the said counties, in order that the expense of extinguishing fire may be rightly and properly distributed between or among the counties in which fire may have burned.²⁹ [L. 1909, act 601, sec. 13=5 Pur. Dig., p. 6248, sec. 109.]

No. 172. Whenever any fire-warden, by reason of physical disability, or unavoidable absence from home during the fire season, or for any good and sufficient cause, shall be unable to perform the duties required by this act, he is, hereby empowered, with the consent of the Commissioner of Forestry, to employ a suitable person to act in his stead; which said person, so appointed, shall have all the qualifications demanded of the fire-warden, and for services so rendered, in the absence of the fire-warden, he shall receive the same compensation: Provided, That the reports hereinbefore required to be made to the Commissioner of Forestry shall be made by the district fire-warden. In case the death of the district fire-warden should occur before making the report herein required, or in case of his total physical disability, the said report may be made by an assistant fire-warden, after first ascertaining the facts; and in making such examination or investigation, such assistant fire-warden is hereby empowered to examine persons, under oath or affirmation to be administered by himself.²⁹ [L. 1909, act 601, sec. 14=5 Pur. Dig., p. 6248, sec. 110.]

No. 173. Whenever, in the absence of a fire-warden, a forest, woodlot, or wild land fire shall be extinguished or combatted by persons without first having been employed by said warden, such persons shall receive the compensation allowed by this act: Provided, That after a thorough investigation by the district fire-warden, wherein he shall have power and authority to examine persons under oath or affirmation, administered by himself, he shall have ascertained, as a result of his investigation, the facts hereinbefore required to be included in his report to the Commissioner of Forestry, the truth of which he shall first have fully demonstrated to his own satisfaction: Provided further, That if his investigation shall disclose that any person, so claiming compensation, set the fire, or in any manner, carelessly, negligently, or maliciously, contributed to its burning, such person not only shall not be allowed any compensation, but shall be proceeded against criminally, if in the judgment of the Commissioner of Forestry the evidence shall warrant such prosecution.²⁹ [L. 1909, act 601, sec. 15=5 Pur. Dig., p. 6248, sec. 111.] See also No. 165.

No. 174. No fire-warden, appointed in accordance with the provisions of this act, shall be personally liable to any person employed or required to combat or extinguish fire, by reason of such employment or requirement; and no action for any compensation alleged or claimed to be due any per-

son for combatting or extinguishing fire shall lie against such fire-warden.²⁹ [L. 1909, act. 601, sec. 16=5 Pur. Dig., p. 6248, sec. 112.]

No. 175. If any person shall feel aggrieved by the act of any fire-warden, in allowing or disallowing any sum as compensation for extinguishing fires, such person may appeal to the Commissioner of Forestry, who will examine into the complaint. After hearing the proofs and allegations of the parties, he shall decide as to him shall seem just and right, and his decision shall be final and not subject to review.²⁹ [L. 1909, act 601, sec. 17=5 Pur. Dig., p. 6248, sec. 113.]

No. 176. During the months of April and May and the period from September fifteenth to November fifteenth, in each year, commonly called the fire seasons, in order to prevent fire and provide for its immediate suppression, the fire-wardens may, in the discretion of the Commissioner of Forestry, be required to keep daily patrol in the regions under their care known to be especially hazardous or subject to outbreak of fire. For such services, so to be rendered, the fire-wardens, in addition to the compensation hereinabove allowed, shall be entitled to receive a stated sum, not in excess of twenty-five dollars per month, to be fixed and allowed by the Commissioner of Forestry. The Commissioner of Forestry shall, likewise, designate the fire-wardens for such continuous service, and the places to be patrolled by them, as in his judgment will produce the best results in the prevention or immediate suppression of fire. All sums of money which may thus become due to fire-wardens for continuous patrol service, and all other sums of money which may be earned by them and others in the prevention and suppression of fire, shall be paid, in manner hereinbefore provided, from the fund appropriated for the use of the fire-warden system created by this act.²⁹ [L. 1909, act 601, sec. 18=5 Pur. Dig., p. 6248, sec. 114.]

No. 177. Every fire-warden appointed, or so constituted and designated, in accordance with the provisions of this act, shall have the same powers as by existing law are con-

ferred upon constables and other peace officers, to arrest on view, without first procuring a warrant therefor, any person detected by them in the act of committing an offense against any of the laws now enacted or hereinafter to be enacted for the protection of forests, woodlots, timber or wild lands, or when they shall have a reasonable suspicion that any person is committing or is about to commit some such offense. The said warden shall have further power to take and convey the offender before a justice of the peace, or other magistrate having jurisdiction for hearing, trial, or other due process of law.²⁹ [L. 1909, act 601, sec. 19=5 Pur. Dig., p. 6248, sec. 115.]

No. 178. If any fire-warden shall fail, or wilfully or negligently refuse, to perform his duty, or shall render a false or fraudulent statement of services alleged to have been performed; or shall fail or refuse to pay promptly the respective amounts due those who have assisted in the extinguishing of said fires, after said amounts have been transmitted to him by the Commissioner of Forestry; such fire-warden shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars, or undergo imprisonment not exceeding three months, either or both, at the discretion of the court.²⁹ [L. 1909, act 601, sec. 20=5 Pur. Dig., p. 6249, sec. 116.]

No. 179. If any fire-warden, being in need of assistance in the suppression of fire, shall call upon any person to render such assistance, and such person shall refuse to render assistance, without a just, fair, and legal excuse, and one which is satisfactory to the fire-warden, he is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifty dollars, or imprisonment not exceeding one month, either or both, at the discretion of the court.²⁹ [L. 1909, act 601, sec. 21=5 Pur. Dig., p. 6249, sec. 117.]

No. 180.

NOTE.—The provisions of section 22, act 601, L. 1909,²⁹ making an appropriation for the fire protection work under that act, for the biennium following, is here omitted for the reason that it is obsolete.

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