

## DIVISION OF FORESTRY AND PARKS.

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By F. B. MOCBY.

All of the powers granted by former legislatures to the State Board of Forestry and the State Park Board, with respect to the management of the so-called forest reserves and state parks, were delegated to the Conservation Commission. The work of the two divisions since August 1, 1915, has been under the direct supervision of the forester member of the commission.

The report of the former State Forester for the two preceding years prior to the consolidation of the Departments was not issued, and it has not been deemed necessary to report on the work of the Forestry Board for that period, except in a general way.

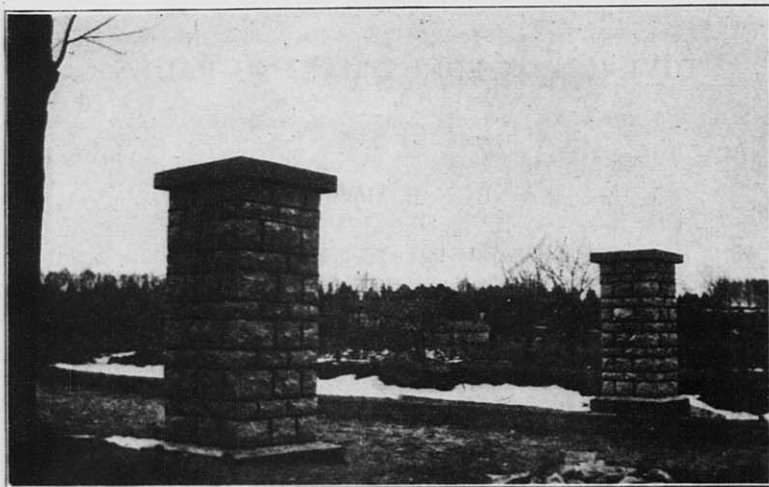
The status of forestry in Wisconsin is a peculiar one, and in order to present the matter clearly, the following statement is made, setting forth the reasons why the whole question was brought before the Supreme Court for adjustment.

## THE FORESTRY CASE.

The policy of the Forestry Board in acquiring large tracts of land under a land contract caused the questions to be raised during the 1913 session of the legislature as to whether the purchase of forest reserve lands is not "works of internal improvement" which is prohibited by the State Constitution. Since, upon careful study of the question by the Attorney-General's department, they were unable to find that this question had ever been decided by the courts in any state, they advised that the question be brought before the Supreme Court of Wisconsin. The Court agreed to take original jurisdiction of the case, and it was brought before the Court upon "the petition of the Attorney-General seeking to obtain a writ of mandamus against the defendant, the Secretary of State, to compel the auditing of certain vouchers issued by the State Forester and the issuance of warrants thereon against the State Treasurer for the payment of part of the purchase price of certain lands attempted to be purchased from the G. F. Sanborn company to be added to the State Forest Reserve."

The suit was a friendly one, and the Secretary of State agreed to refuse payment of the vouchers so the case could be brought promptly before the Supreme Court.

Upon the submission of briefs by both sides, other points were brought out, among them: (1) Whether the Forestry Board has correctly construed the Statute in presuming to have authority to bind the State by



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long time, interest bearing obligations; (2) whether the basis, itself, of the forestry scheme, the legislative diversion of the land and proceeds thereof granted to the State for particular purposes to a different one, is legitimate; (3) whether using revenues raised by present taxation to promote the production or improvement of forests for the benefit of future generations, is a public purpose within the meaning of the Constitution; (4) whether interest bearing obligations of the State in excess of \$100,000 is valid in any event; (5) whether the creation of interest bearing indebtedness of a less amount is valid in view of existing indebtedness of the State to the trust funds or otherwise; and perhaps still others, might, upon due consideration, aided by eminent counsel, be deemed worthy of judicial interference and of being brought to the attention of the courts in this litigation in an appropriate way. The case is of great importance.

"It is therefore considered that the court should and will decline to decide upon the duty of the Secretary of State in respect to making the payments in question on the motion of quash, but will permit such motion to be withdrawn and a return to be made to the alternative writ within thirty days, setting forth by answer every difficulty which he may be advised should be thus set forth in order that all questions in relation to his duty may be so solved as to protect the state and its officers in respect to the use of moneys for forestry purposes which are in the custody of the State Treasurer.

"In case of issue being joined as herein suggested, the Court will aid in reaching a final conclusion speedily by placing the case on the present calendar and advancing it for argument."

The decree of the court was rendered February 12, 1915, and is as follows:

"By the Court: It is considered, ordered, decreed and adjudged that: "First, The demurrer to defendant's pleading be and is overruled.

"Second. The land contract mentioned in the petition is void for reasons indicated in the opinion, particularly because:

"a. It created a state debt and created such when state indebtedness exceeded the constitutional limit.

"b. It is an evidence of indebtedness within the state constitutional prohibition.

"c. The contract was not authorized by statute.

"d. By section 10, Art. VIII, at the date of the contract, it is fatally within the 'Works of internal improvement' feature of the forestry statutes (though they are in important features, as indicated in the opinion, not so tainted) and the addition, in form, to such section in November, 1910, failed for reasons stated in the opinion.

"e. It is an inseparable part of the forestry legislation and particularly of the invalid features thereof stated in the opinion.

"Third. The forestry legislation, including section 1072-1, Chapter 367, Laws of 1897, Chapter 450, Laws of 1903, and Chapter 264, Laws of 1905, and such other acts as there may be, did not repeal or affect sections 250 and 251, Stats. 1898, for reasons cited in the opinion. Such sections are part of the written law of the state and govern the matters therein referred to.

"Fourth. All land derived by the state from the United States under the swamp land grants, the lands in lieu of swamp lands, set aside for educational purposes under Chapter 537, Laws of 1865, and confirmed by Chapter 151, Laws of 1869, and subsequent practice, and all other lands so derived or in lieu of swamp lands and required to be set apart under the terms of said sections 250 and 251, by section 2, Art. X of the constitution and the legislative action referred to became, and so far as not dis-