

ANNOTATIONS TO MINNESOTA STATUTES

PART I

PUBLIC RIGHTS

Sovereignty, Jurisdiction, and Civil Divisions

CHAPTER 1

SOVEREIGNTY AND JURISDICTION

1.01 EXTENT.

HISTORY. R.L. 1905 s. 1; G.S. 1913 s. 1; G.S. 1923 s. 1; M.S. 1927 s. 1.

EXTENT OF DOCTRINE OF CONCURRENT JURISDICTION. The practice of state and federal governments to grant and accept qualified jurisdiction over boundary waters is too long standing to permit questioning its validity. *Opsahl v Judd*, 30 M 126, 14 NW 575.

Concurrent jurisdiction over boundary waters extends to acts committed on a bridge spanning such water, *State v George*, 60 M 503, 63 NW 100; and to waters bounding Minnesota and Canada, *Minn. Canal & P. Co. v Koochiching Co.* 97 M 429, 107 NW 405, 5 LRA (N.S.) 638.

Under the facts appearing in this case, Minnesota was not prohibited by the requirements of due process from taxing the entire fleet of airplanes of defendant owners domiciled in Minnesota, although some proportion of the fleet was constantly and continuously in other states and was subject to tax there. *State v Northwest Airlines*, 213 M 395, 7 NW(2d) 691.

Activities of a foreign corporation doing business as a custom house broker is local and intrastate in character and had no substantial relation to interstate commerce, and renders the corporation subject to the provisions of Minnesota Statutes 1941, Section 303.20, requiring a certificate of authority before bringing an action in Minnesota courts. *Union Brokerage v Jensen*, 215 M 207, 9 NW(2d) 721.

The clear purpose and intent of the legislature in enacting Laws 1943, Chapter 662, was not only to lift the bar to the state's immunity to suit but likewise its immunity to liability. *White v State*, 215 M 609, 11 NW(2d) 151.

The war power of the federal government is plenary and includes the mobilization and utilization of manpower and the resources of the nation and the adoption of such incidental measures as may be necessary to wage war successfully. It may legally regulate business enterprises. *Orme v Atlas Gas*, 217 M 35, 13 NW(2d) 757.

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Subject to jurisdiction conferred upon Congress with regard to post roads, interstate commerce and national defense, the state has complete sovereignty of the air above its territory and may exert its police power therein. Laws 1943, Chapter 500, authorizing a metropolitan airports' commission is constitutional. *Erickson v King*, 218 M 98, 15 NW(2d) 201.

A state may not tax property in transit in interstate commerce, but exemption from state taxation depends on continuity of transit. *State v Continental Oil*, 218 M 123, 15 NW(2d) 542.

A tribal Indian cannot be prosecuted by the state for shooting game out of season for family consumption where the shooting occurs within the limits of the reservation of his tribe, upon ceded lands, not allotted to or occupied by him, but allotted to a deceased Indian of the same tribe, no fee-simple patent having been issued. The treaty in question was not a grant to the Indians, but a grant of rights from them, and a reservation of those not granted. *State v Jackson*, 218 M 429, 16 NW(2d) 752.

The state boundary line, where it is a water boundary, is at the center of the main channel. 1932 OAG 273, May 11, 1931 (211).

LIMITATIONS. The doctrine of concurrent jurisdiction cannot extend across the boundary line the application of any laws which conflict with those of the adjoining state. 1932 OAG 273, May 11, 1931 (211).

Industrial commission cannot enforce state laws on government property. 1934 OAG 524, July 28, 1933 (605b-23).

1.02 JURISDICTION OVER WATERS.

HISTORY. 1905 c. 242 s. 1; G.S. 1913 s. 2; G.S. 1923 s. 2; M.S. 1927 s. 2; 1943 c. 349 s. 1.

1.03 WATERS INCLUDED.

HISTORY. 1905 c. 242 s. 2; G.S. 1913 §. 3; G.S. 1923 s. 3; M.S. 1927 s. 3; 1943 c. 349 s. 2.

1.041 CONCURRENT JURISDICTION.

HISTORY. 1867 c. 79 ss. 1, 3; 1871 c. 36 s. 1; 1878 c. 38 ss. 96 to 99, 101 to 103; 1879 c. 79 ss. 1 to 3; G.S. 1894 ss. 4105, 4107, 4111; 1895 cc. 56, 57; 1903 c. 118; R.L. 1905 s. 2; G.S. 1913 s. 4; G.S. 1923 s. 4; M.S. 1927 s. 4; 1941 c. 66 s. 1; 1943 c. 343 s. 1.

CONCURRENT JURISDICTION IN LAND ACQUIRED BY THE UNITED STATES; EXCEPTION. This section does not apply to the sale to the United States of school lands owned by the state. The state's title to such land can be divested only by public sale or condemnation. 1928 OAG 269.

ENFORCEMENT OF GAME LAWS ON FEDERAL LANDS. Title to the wild animals upon lands purchased by the Resettlement Division and turned over to the Bureau of Indian Affairs of the Department of Interior of the United States government is and remains in the state, and it is the duty of the Department of Conservation to enforce the game laws with respect thereto upon such lands. Unless, and until, the federal government, by its congress, has seen fit to designate these lands as exclusive reservation lands, and the legislature of the State of Minnesota has consented thereto, Indians thereon are subject to prosecution for violation of the state game laws. 1940 OAG 12, July 7, 1939.

1.042 CONSENT.

HISTORY. 1874 c. 37 ss. 12 to 14; G.S. 1878 c. 38 s. 101; G.S. 1894 ss. 4105, 4106; 1895 cc. 56, 57; 1903 c. 118; R.L. 1905 s. 3; 1925 c. 55 ss. 1, 2; M.S. 1927 ss. 6-1, 6-2; 1939 c. 17; 1943 c. 343 s. 2.

LOSS OF STATE JURISDICTION. After sale to the United States under this section, the Minnesota Industrial Commission cannot enforce state safety laws in

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the erection of a building on that land. After sale the United States has exclusive jurisdiction. 1934 OAG 524.

See 24 MLR 109 for a discussion of this topic.

REGISTERED LANDS. Recording of a certificate of consent is full compliance with the law both as to registered and unregistered land. 1934 OAG 249. Recording fees for such certificates are payable by the secretary of state to the register of deeds. 1934 OAG 373 b-17f, Dec. 18, 1934.

1.043 JURISDICTION, WHEN VESTED.

HISTORY. 1925 c. 55 s. 3; M.S. 1927 s. 6-3; 1943 c. 343 s. 3.

Where land outside the state is taken for the construction of a project within the state and where the foreign land owner has submitted himself to the jurisdiction of the court within the state, compensation should not be denied because the land is located outside the state. *State ex rel v Bentley*, 216 M 148, 12 NW(2d) 347.

The federal government can exercise exclusive jurisdiction over land in a state only where the law is acquired for one of the purposes named under United States Constitution, Article I, Section 8, Clause 17, and the state has ceded such exclusive jurisdiction. *Orme v Atlas Gas*, 217 M 33, 13 NW(2d) 757.

The promotion of general welfare is the paramount duty of the state, and not its subdivisions, and involves exercise of purely governmental, as distinguished from local or proprietary, functions. *Thiede v Town of Scandia*, 217 M 218, 14 NW(2d) 401.

Immunity from suit is a prerogative of the state, which cannot be invoked by public officers or agents when sued for their own torts. *Thiede v Town of Scandia*, 217 M 218, 14 NW(2d) 401.

The state and its municipalities have a wide discretion in resorting to police power for the purpose of preserving public health, safety, and morals, or abating public nuisances. *State v Crabtree*, 218 M 36, 15 NW(2d) 98.

Certificate of consent when filed is full compliance with law. 1934 OAG 249, Dec. 17, 1934 (373b-17f).

State game laws may be enforced on lands owned by the federal government, and until designated as reservation lands the state law may be enforced against Indians as well as whites. 1940 OAG 12, July 7, 1939 (208c).

After property has been acquired by the federal government with the consent of the estate the federal government has exclusive criminal jurisdiction. OAG March 25, 1944 (605b-23).

See as to federal resettlement projects.

1.044 UPPER MISSISSIPPI WILD LIFE AND FISH REFUGE.

HISTORY. 1925 c. 76 ss. 1, 2; M.S. 1927 ss. 6-5, 6-6; 1943 c. 343 s. 4.

1.045 SUPERIOR AND CHIPPEWA NATIONAL FOREST.

HISTORY. 1941 c. 66 ss. 1, 2; 1943 c. 343 s. 5.

1.046 EVIDENCE OF ACQUISITION.

HISTORY. 1867 c. 79 s. 3; 1871 c. 36 s. 1; 1874 c. 37 s. 13; G.S. 1878 c. 38 ss. 97, 99, 103; G.S. 1894 ss. 4105, 4107, 4111; R.L. 1905 s. 2; G.S. 1913 s. 4; G.S. 1923 s. 4; M.S. 1927 s. 4; 1941 c. 66 s. 1; 1943 c. 343 s. 6.

1.047 CONDEMNATION.

HISTORY. 1874 c. 37 ss. 12, 13; G.S. 1878 c. 38 ss. 96, 97; Ex. 1881 c. 67 s. 1; G.S. 1894 ss. 4103, 4104, 4106; R.L. 1905 s. 3; G.S. 1913 s. 5; G.S. 1923 s. 5; M.S. 1927 s. 5; 1941 c. 66 ss. 1, 2; 1943 c. 343 s. 7.

1.048 EFFECT OF REPEAL.

HISTORY. 1943 c. 343 s. 8.

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EXCLUSIVE JURISDICTION OVER LAND ACQUIRED; EXCEPTIONS. 1934 OAG 524.

GOVERNMENT RESPONSIBILITY FOR TORTS IN MINNESOTA. 13 MLR 135, 26 MLR 293, 480, 613, 700, 854.

1.12 FEDERAL FLOWAGE EASEMENTS OVER HIGHWAYS.

HISTORY. 1937 c. 124 s. 1; M.S. 1927 s. 6-7.

1.13 MONEY RECEIPTS CREDITED TO HIGHWAY FUND.

HISTORY. 1937 c. 124 s. 2; M.S. 1927 s. 6-8.

1.14 STATE FLAG.

HISTORY. 1893 c. 16 ss. 1, 2, 3; G.S. 1894 ss. 8037, 8038, 8039; R.L. 1905 s. 1857; G.S. 1913 s. 3994; G.S. 1923 s. 4386; M.S. 1927 s. 4386.