

## Public Domain; Conservation

## CHAPTER 84

## DEPARTMENT OF CONSERVATION

**84.025 DEPARTMENT CONTINUED; SUPERVISION.**

HISTORY. 1943 c. 60 s. 1.

**84.027 COMMISSIONER HEAD OF DEPARTMENT.**

HISTORY. 1937 c. 310 s. 1; M. Supp. s. 53-23½L. 1939 c. 448 s. 40; 1943 c. 60 s. 2.

CONSTITUTIONALITY. A prior law (Laws 1931, Chapter 186) creating the department of conservation and inaugurating the new system of state land sale and control held constitutional. *State v Finnegan*, 188 M 54, 246 NW 521.

Although Laws 1919, Chapter 440, Section 2, stands unrepealed, the surveyor general of logs and lumber is now, in scaling state timber, no longer subject to the supervision of the state auditor but subject to the supervision of the commissioner of conservation and the director of the division of forestry. 1934 OAG 175, June 27, 1933 (429-e).

**84.03 POWERS AND DUTIES.**

HISTORY. 1905 c. 201 s. 1; 1907 c. 267 s. 5; G.S. 1913 s. 3951; 1923 c. 430 ss. 8, 14; G.S. 1923 ss. 74, 4342, 6460, 6466; M.S. 1927, ss. 77, 4342, 6460, 6466; 1941 c. 222; 1943 c. 8.

POWERS FORMERLY IN THE CONSERVATION COMMISSION. For discussion see 1934 OAG 161.

Construing Laws 1937, Chapter 310, and Laws 1937, Chapter 468, the commissioner may by written order filed in his office, delegate to the director of any division, powers vested in, or imposed upon the commissioner. 1938 OAG 95, Aug. 3, 1938 (983d).

In the matter of tax-forfeited lands, the rule that property devoted to one public use may be taken or acquired for another public use in accordance with a showing as to which use is paramount applies. 1938 OAG 457, April 13, 1938 (700a-3).

Section 92.09 is the general provision of law which has been in effect for many years, authorizing subdivision of any land in the public domain, when in the opinion of the commissioner of conservation the best interests of the state will be promoted thereby. The authority to subdivide into small parcels or lots, necessarily implies authority to set aside strips of land which will provide access for full use of the parcels. 1942 OAG 15, July 25, 1941 (700-D-26).

**84.081 DIVISIONS; DIRECTORS.**

HISTORY. 1937 c. 310 s. 3; 1937 c. 382 s. 6B; M. Supp. s. 53-23½n; 1941 c. 138; 1943 c. 60 s. 3; 1943 c. 601 s. 1.

The governor's power to suspend an officer who is under charges for malfeasance or nonfeasance in office is incident to the power to remove such officer, and upon such suspension it is the duty of the governor to appoint an acting officer to perform the duties of the office during the suspension. The official so appointed is a defacto officer, and may make valid appointments of subordinates.

# MINNESOTA STATUTES 1945 ANNOTATIONS

511

DEPARTMENT OF CONSERVATION 84.12

Title of the appointee cannot be attacked in mandamus proceedings. State ex rel v Strunk, 219 M 529, 18 NW(2d) 457.

## **84.082 POWERS OF DEPUTY COMMISSIONER OR DIRECTOR.**

HISTORY. 1943 c. 60 s. 4.

DELEGATION OF POWERS. 1938 OAG 95.

## **84.083 DIRECTORS, POWERS AND DUTIES.**

HISTORY. 1937 c. 310 s. 4; M. Supp. s. 53-23½o; 1943 c. 60 s. 5.

## **84.084 TRANSFER OF DUTIES BETWEEN DIVISIONS.**

HISTORY. 1943 c. 60 s. 6.

## **84.085 ACCEPTANCE OF GIFTS.**

HISTORY. 1943 c. 60 s. 7.

## **84.086 SEALS; BADGES; UNIFORMS.**

HISTORY. 1937 c. 310 s. 5; M. Supp. s. 53-23½p; 1943 c. 60 ss. 8, 9.

## **84.087 RECORDS, WHERE KEPT.**

HISTORY. 1937 c. 310 s. 6; M. Supp. s. 53-23½q; 1943 c. 60 s. 10.

## **84.088 DUTIES; APPROPRIATIONS.**

HISTORY. 1943 c. 60 s. 11.

## **84.09 CONSERVATION OF WILD RICE.**

HISTORY. 1930 c. 231 s. 1; M. Supp. s. 6131-4.

Prior to any legislation on the subject it was the attorney general's opinion that the wild rice and rushes grown in public waters were the property of the state in trust for the public generally, 1934 OAG 441.

The United States has the power to acquire by condemnation lands for use as an Indian reservation which are suitable for that purpose, even though the lands belong to a state which has devoted them to a public use. State v United States, 125 F(2d) 738; United States v Acres of Land, 27 F. Supp. 168.

Laws 1939, Chapter 231, reserves to the Indians of Minnesota the exclusive right to harvest wild rice on public waters within the boundaries of certain reservations. 24 MLR 241.

## **84.10 HARVESTED IN CERTAIN LAKES BY INDIANS ONLY.**

HISTORY. 1939 c. 231 s. 2; M. Supp. s. 6131-5; 1941 c. 217 s. 1; 1943 c. 220 1. 1.

## **84.11 CERTAIN BOATS AND DEVICES PROHIBITED.**

HISTORY. 1939 c. 231 s. 3; M. Supp. s. 6131-6; 1941 c. 217 s. 2.

As to cutting wild rice vegetation for feed where the water has receded, the right of any person to do so is subject to the limitation that he must not take it in such manner, as will unreasonably impair or infringe upon the rights of other people or so as to cause any harm to the crop of rice. 1934 OAG 441, Sept. 12, 1934 (211d-18).

## **84.12 UNLAWFUL TO HARVEST IMMATURE WILD RICE.**

HISTORY. 1939 c. 231 s. 9; M. Supp. s. 6131-12; 1941 c. 217 s. 7.

**84.13 NIGHT HARVESTING PROHIBITED; RICE POLE.**

HISTORY. 1939 c. 231 s. 10; M. Supp. s. 6131-13.

**84.14 DIRECTOR OF THE WILD RICE HARVEST.**

HISTORY. 1939 c. 231 s. 11; M. Supp. s. 6131-14; 1941 c. 217 s. 8.

**84.15 COMMISSIONER MAY RESTRICT HARVEST.**

HISTORY. 1939 c. 231 s. 12; M. Supp. s. 6131-15.

**84.153 PROPERTY, LEASING, RENTING.**

HISTORY. 1941 c. 291.

**84.154 LAC QUI PARLE WATER CONTROL PROJECT.**

HISTORY. 1941 c. 518; 1943 c. 476.

The state cannot avoid its duty to compensate for lands taken, on the grounds that the funds provided for the project are exhausted, since compensation is sufficiently "secured" within the meaning of Minnesota Constitution, Article 1, Section 13, if the amount when determined is made a charge upon the public treasury of the state or of some subdivision thereof. Courts will assume that the legislature will respect constitutional mandates. *State ex rel v Bentley*, 216 M 156, 12 NW(2d) 347.

**84.155 CONSERVATION PROJECTS, BELTRAMI ISLAND, PINE ISLAND.**

HISTORY. 1941 c. 215.

**84.156 INTERESTS IN CERTAIN LANDS TRANSFERRED TO UNITED STATES.**

HISTORY. 1945 c. 325.

**84.157 EXCHANGE OF CERTAIN STATE LANDS.**

HISTORY. 1945 c. 341 s. 1.

**84.361 TAXES CANCELED IN CERTAIN CASES.**

HISTORY. 1941 c. 278 s. 7.

**84.362 STRUCTURES MAY BE REMOVED.**

HISTORY. 1941 c. 278 s. 8.

**84.363 MAY SELL DEAD AND DOWN TIMBER.**

HISTORY. 1941 c. 278 s. 9.

**84.37 RIGHT OF EXPLORATION RESERVED TO STATE.**

HISTORY. 1939 c. 207 s. 1; M. Supp. s. 3109-1.

**84.38 LICENSES.**

HISTORY. 1939 c. 207 s. 2; M. Supp. s. 3109-2.

**84.39 LICENSEE TO RECEIVE 50 PER CENT.**

HISTORY. 1939 c. 207 s. 3; M. Supp. s. 3109-3.

# MINNESOTA STATUTES 1945 ANNOTATIONS

513

DEPARTMENT OF CONSERVATION 84.42

## **84.40 LICENSE FEES PAID INTO STATE TREASURY.**

HISTORY. 1939 c. 207 s. 5; M. Supp. s. 3109-5.

## **84.41 ENFORCEMENT.**

HISTORY. 1939 c. 207 s. 4; M. Supp. s. 3109-4.

## **84.415 LEASES AND EASEMENTS.**

HISTORY. 1941 c. 145; 1943 c. 540.

For discussion of the exercise of the rights of eminent domain in lands owned by the state or easements therein, see *Minn. P. & L. Co. vs. State*, 177 M 343, 225 NW 164, and 1938 OAG 391.

There is some question as to whether the legislature intended Laws 1941, Chapter 145, to apply to all tax-forfeited lands throughout the state, including those under the control of the county boards, or only to such lands as may have been subjected to the control of the commissioner of conservation. 1942 OAG 314, Aug. 21, 1941 (700A-3).

## **84.42 VIOLATIONS; PENALTIES.**

HISTORY. 1929 c. 258 s. 12; 1939 c. 207 s. 6; 1939 c. 231 s. 16; M. Supp. ss. 3109-6, 5620-12, 6131-19.

Subd. 1. VIOLATION OF COMMISSIONER'S ORDERS. When a provision makes failure to comply with any order of the commissioner a crime and provides for punishment, until an order has been made pursuant to a hearing duly held no criminal proceeding can be had thereunder. 1938 OAG 99.