

ANNOTATIONS TO MINNESOTA STATUTES

PART I

PUBLIC RIGHTS

SOVEREIGNTY, JURISDICTION, and CIVIL DIVISIONS

CHAPTER I

SOVEREIGNTY AND JURISDICTION

1.01 EXTENT.

The district court has jurisdiction to render a judgment of adoption of a child residing in this state and having its domicile in another state. The jurisdiction of the state extends to all persons within the state territorial limits. *Gale v Lee*, 219 M 414, 18 NW(2d) 147.

Owner of land taken or damaged in condemnation proceedings, even though omitted from proceedings, is nevertheless entitled to compensation. The state cannot raise the defense of nonsuability, after having taken property without legal authority. *State ex rel v Anderson*, 220 M 139, 19 NW(2d) 70.

A statute of Minnesota denying to all foreign corporations the right to maintain any action in the courts of the state unless they have previously obtained a certificate of authority to do business within the state, for which a filing fee of \$5.00 plus an initial license fee of \$50 is exacted, is valid as applied to a federally licensed custom-house broker whose business was localized in the state. *Affirming*, 215 M 207, 9 NW(2d) 721. *Union Brokerage Co. v Jensen*, 322 US 202.

A general Minnesota personal property tax applied to all personal property within the state and without discrimination applied on the corporation's entire fleet of airplanes did not violate the commerce clause, nor the due process clause of the fourteenth amendment, of the federal constitution. *Affirming* 213 M 395, 7 NW(2d) 691 *Northwest Airlines v Minnesota*, 322 US 292.

To constitute a franchise, the right possessed must be such as cannot be exercised without the express permission of the sovereign power, a privilege or immunity of a public nature which cannot be legalized without a legislative grant. *General Utilities v Carlton County Co.* 221 M 510, 22 NW(2d) 673.

The public waters between Minnesota and Wisconsin are subject to the jurisdiction of Minnesota. OAG Nov. 11, 1945 (238-L).

The shifting basis of jurisdiction. 17 MLR 146.

The act of state. 23 MLR 446.

The decisions of the United States courts are final as to what constitutes interstate commerce. Nothing which is a direct burden upon interstate commerce can be imposed by the state without the consent of congress. Silence of the congress with respect to any matter is a declaration on its part that it should be forever free. *City of Waseca v Braun*, 206 M 154, 288 NW 229.

A claim statute may recognize legal obligations if it sees fit so to do. It may compensate by direct appropriation or it may waive immunity from suit. L. 1939, c. 420, waives the sovereign immunity of the state to suit for damages caused by the location, relocation, construction, reconstruction, improvement, maintenance, and supervision of the trunk highway system to the extent and within the limits therein specified. *Westerson v State*, 207 M 412, 291 NW 900; *Underhill v State*, 208 M 498, 294 NW 643.

A foreign corporation which maintains an office in Minnesota, engages in a substantial wholesale business here through an agent employed on a commission basis, and otherwise engages in business activities here, is doing a local business, and the plaintiff having failed to qualify under section 303.20 cannot maintain an action on a guaranty agreement. *Cohn v Feinberg*, 214 M 584, 8 NW(2d) 825.

In the exercise of freedom of speech, secured by the federal constitution, a labor union may peacefully picket the premises, where a person is engaged in building a house for the purpose of sale, to induce him to let work in the construction thereof, done by him with his own hands, to others, who would employ union labor to do the same. *Glover v Minneapolis*, 215 M 533, 10 NW(2d) 481.

The legislature can take property against the will of the owner only for public use and after just compensation to the owner has been paid and secured. It is within the province of the legislature or some agency designated to determine what property shall be taken for a given project. Whether the use is public and proper compensation has been made are judicial questions. *Peterson v Bentley*, 216 M 146, 12 NW(2d) 347.

Contracts of deposit, where incurred and to be performed in this state, are subject to state's dominion. In such situation, state is possessed of constitutional power to protect interests of depositors from risks which attend long-neglected accounts by taking them into custody when they have been inactive so long as to be presumptively abandoned. *State v N. W. Bank*, 219 M 471, 18 NW(2d) 569.

Based upon the rule laid down in *Arkansas v Tennessee*, 246 US 158, the deepest water and the principal navigable channel are not necessarily the same. It refers to actual or probable use in ordinary course. In determining the boundary between Wisconsin and Minnesota the narrow "entry" between upper and lower St. Louis Bay is the proper point of boundary. *Minnesota v Wisconsin*, 252 US 273.

The power of the federal government over navigation covers the entire bed of a navigable stream, including all lands below ordinary highwater mark. Whether title to the bed is retained by the state or is in the riparian owner, the rights of the title-holder are subservient to this dominant easement; and a railroad company whose road traverses an embankment built up from low-water mark, cannot recover from the government the cost of protecting its property because of raise caused by a dam which the government built to aid navigation. *United States v Chicago, Milwaukee*, 312 US 592.

The contract transferred the equity in the land from the United States to a Minnesota citizen, leaving in the federal government only a legal title as security. Where the purchaser took possession the property became subject to the territorial jurisdiction of the state; and the state may tax the purchasers interest in the land. *SRA v Minnesota*, 327 US 558.

The jurisdiction of the federal courts may not be limited or impaired by state legislation which confers exclusive jurisdiction of litigation upon state courts or prescribes exclusive methods of invoking that jurisdiction. Whenever the citizens of a state may secure a trial of their controversies by its courts of general jurisdiction either by original process, or by appeal, or by other proceedings, the citizens of different states may obtain the trial of like controversies between them by some appropriate action in the federal courts. The United States circuit courts

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of appeals have jurisdiction to issue writs of mandamus in the exercise of, and in aid of, their appellate jurisdiction. *Barber Asphalt Co. v. Morris*, 132 F 945.

Preferential transfer to one knowing or having notice of circumstances inciting inquiry by reasonably prudent person is voidable. *Musk v Burk*, 58 F(2d) 77.

The United States has the power to acquire by condemnation lands for use as an Indian reservation which are suitable for that purpose, although the lands belong to the state and although the state has devoted them to a public use. *State v United States*, 125 F(2d) 638.

In a suit by a stockholder of a Michigan corporation, who resided in Minnesota, to compel issuance of stock and to recover dividends thereon, under interstate commerce act provision requiring interstate motor carriers to appoint agents to receive process in each state in which carriers were authorized to operate, neither state nor federal courts in Minnesota could acquire jurisdiction by service of summons on designated agent of such corporation which was authorized to operate in Minnesota as interstate motor carrier but which never qualified to do business therein, conducted no business therein, and had no property or office therein. *Madden v Truckaway*, 46 F. Supp. 702.

Power of the state to control the use of its natural resources. 11 MLR 129.

Tax on gross receipts from radio broadcasting as a burden on interstate commerce. 21 MLR 96.

Power of the state to investigate a federal agency. 21 MLR 113.

Power of the state court to entertain civil actions arising within territorial limits of land over which the federal government has exclusive jurisdiction. 24 MLR 109.

Indian rights and the federal courts. 24 MLR 145.

Governmental responsibility for torts. 26 MLR 293.

Constitutional aspects of the conflict of laws. 27 MLR 500.

Power to regulate intrastate production and consumption. 27 MLR 575.

1.02 JURISDICTION OVER WATERS.

In a judgment in an action to determine adverse claims and in which no answer was served, awarding relief beyond the prayer of the complaint or the scope of its allegations, the excessive relief appearing from the face of the record is void for want of jurisdiction before or after the time of appeal therefrom, even by a person not a party to the action, but who is affected by the judgment in his property rights. *Sache v Wallace*, 101 M 169, 112 NW 386.

See, *Minnesota v Wisconsin*, 252 US 239.

The Webster-Ashburton treaty of 1842 does not preclude the improvement of Pigeon River by sluice-ways, booms and dams, rendering it capable of transporting timber products, a use theretofore impossible because of the natural obstructions; nor does it prevent the exaction of a non-discriminatory charge for the use of such improvement. *Pigeon River Co. v Cox*, 291 US 138.

The main channel of a navigable stream, called for as a boundary between states, means the "thalweg" or deepest and most navigable channel as it then existed, and there the boundary remains, subject to the changes which come to such channel by the slow processes of erosion and accretion. A sudden change in the channel from natural causes, or a change made artificially by man does not change the boundary. *Whiteside v Norton*, 205 F. 5. (See, 239 US 144.)

A treaty for location of boundary line between the United States and Canada had the force and effect of law. Taxpayers who had been paying real estate taxes to Cook county in the mistaken belief that the islands were located in the United States were conclusively presumed to know that islands were located in Canada after the International Boundary Commission completed its work and filed plat and report with the Secretary of State, and tax payments to Cook county made there-

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after were "voluntary payments" which could not be recovered back. *Pettibone v Cook County*, 120 F(2d) 850.

Boundary controversies between states bordering on a navigable river. 4 MLR 463.

1.041 CONCURRENT JURISDICTION OF STATE AND UNITED STATES.

Laws of the United States relating to punishment of crime apply to the Indian country and the reservation created for the Chippewas in 1867 is Indian country. Allotments remain Indian territory held in trust, and Indians residing thereon are wards of the federal government and amenable only to federal laws as to acts committed upon said allotments. An Indian living upon an allotment cannot be punished by the state for taking muskrat out of season. *State v Cloud*, 179 M 180, 228 NW 611.

The war power of the federal government is plenary and includes the mobilization and utilization of the manpower and resources of the nation and the adoption of such incidental measures as may be necessary to wage war successfully. War powers are not unlike the police power of the states raised to the highest degree. *Orme v Atlas*, 217 M 34, 13 NW(2d) 757.

A tribal Indian cannot be prosecuted by the state for shooting game out of season for consumption by himself and family 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. *State v Jackson*, 218 M 429, 16 NW(2d) 752.

Where the whole equitable ownership of realty formerly owned by the United States for federal buildings was in private party purchasing from the United States under executory contract, value of such ownership for tax purposes would be ascertained on basis of full value of the land, without deduction for the government's interest, which was not beneficial but was retained for security purposes only. *S. R. A. v State*, 66 SC 751.

1.15 BOUNDARY COMPACT BETWEEN MICHIGAN, WISCONSIN, AND MINNESOTA.

HISTORY. L. 1947, c. 589, s. 1.

1.16 MAPS ON FILE.

HISTORY. L. 1947, c. 589, s. 2.

1.17 RATIFICATION BY GOVERNOR.

HISTORY. L. 1947, c. 589, s. 3.