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Mason's Minnesota Statutes

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Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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Mason's Minnesota Statutes

Part I. Jurisdiction, Divisions, Civil Polity and Internal Administration

CHAPTER 1

Sovereignty and Jurisdiction

1. Extent.

Chicago Sanitary District authorized pursuant to stipulation with states bordering on Great Lakes to increase diversion of water for specified purpose. States of Wisconsin, Minnesota, Ohio, Pennsylvania, Michigan and New York v. Illinois, 309US569, 636, 61SCR155. See also 311US107.

Authority of government to make improvements in navigable stream is only a branch of the power to regulate interstate and foreign commerce and such power must be exercised when private property is taken in subordination to the Fifth Amendment. U. S. v. Chicago, M. St. P. & P. R. R. Co., (CCA8), 113F(2d)919. Cert. gr., 61SCR318.

Boundary locations and disputes belong to the sovereign power of the nation, and are not for a state, county or taxpayer to determine. Pettibone v. C., (DC-Minn), 31FSupp881.

Indian rights and the federal courts. 24MinnLawRev 145.

4. Lands of United States.—Jurisdiction is hereby ceded to the United States over all places within this state heretofore acquired by it for national purposes, subject to the right of the state to cause its civil and criminal process to be executed therein, and to punish offences against the laws of the state committed on the premises so acquired. Consent is hereby given to the acquisition by the United States of any other place within the state hereafter desired for any purpose authorized by Congress, subject to the concurrent jurisdiction aforesaid, upon condition, however, that application therefor shall be first made to the governor by an authorized officer of the United States, setting forth a description of the premises sought to be acquired, with a map thereof, when necessary to their proper designation, and that the governor shall find that such acquisition is consistent with the best interests of the state and shall thereupon approve the acquisition, provided, that such approval shall not be required in the case of lands lying within the original boundaries of the Chippewa national forest or the Superior national forest and acquired by the United States for any purpose incident to the development or maintenance of said forests. (As amended Act Mar. 13, 1941, c. 66, §1.)

Whether state court has jurisdiction of prosecution for crime committed on a C.C.C. camp depends upon whether conveyance, legislative act, or treaty expressly excludes the state's jurisdiction. Op. Atty. Gen., (605B-23), Feb. 24, 1941.

5. Sale of state lands to United States. The governor is hereby authorized, in behalf of the state, to sell, at its fair value, and to convey to the United States, any land owned by the state, and required by the government for any authorized purpose. The United States is hereby empowered to acquire by condemnation, under the laws of this state relating to the right of eminent domain, any lands which it may be necessary to take, overflow, or occupy in the prosecution of any public work authorized by Congress, upon condition, however, that application for consent shall have been first made to the governor and that he shall find that such proceedings or acquisition are not inconsistent with the best interests of the state and that he shall thereupon approve the same. All lands so ceded or conveyed to or acquired by the United States shall be exempt from assessments

and taxes so long as it shall own the same, provided, that such approval shall not be required in the case of lands lying within the original boundaries of the Chippewa national forest or the Superior national forest and acquired by the United States for any purpose incident to the development or maintenance of said forests. (As amended Act Mar. 13, 1941, c. 66, §2.)

6-5. Acquisition by United States of land and water for upper Mississippi River wild life and fish refuge; etc.

Laws 1941, c. 87, cedes jurisdiction over certain water areas to the United States for maintenance of a migratory waterfowl and wildlife refuge at Talcot Lake in Cottonwood County.

6-9. Definitions.—That the following definitions shall be applied to the terms used in this act:

(1) "Agreement" shall mean "contract", and shall include renewals and alterations of a contract.

(2) "Political subdivision" shall mean any agency or unit of this state which now is, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

(3) "Services" shall mean such public and municipal functions as are performed for property in and persons residing within a political subdivision.

(4) "United States" shall mean the United States of America.

(5) "County board" shall mean the county board of any county in this state.

(6) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision, and shall include the persons inhabiting such a project.

(7) "Governing body" shall mean the council, board, body, or persons in which the powers of a subdivision as a body corporate, or otherwise, are vested.

(8) "Fund" shall mean, unless otherwise expressed, the "Government Project Fund" to be established pursuant to Section 6 of this act. (Act Apr. 26, 1941, c. 480, §1.)

6-10. Agreement with the United States for services to be rendered, and payments to be made in lieu of taxes.—The county board of any county in this state is hereby authorized and empowered to make requests of the United States for and on behalf of the county and the political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay, and to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of the project and for the payment by the United States to the county, in one or more installments, of such sums in lieu of taxes; provided that at least ten days notice in writing of the meeting of the county board at which such proposed agreement will be considered and acted upon shall be given by the

county auditor to the clerk of each political subdivision affected. (Act Apr. 26, 1941, c. 480, §2.)

6-11. Distribution of payments.—Every such agreement shall state the year or years for which the payments are to be made in lieu of the taxes that would have been levied upon the premises concerned for such year or years if the same has been subject to taxation. All payments made by the United States under any such agreement shall be received by the county treasurer and shall be distributed in the same manner and in the same proportions as such taxes for each year or years would have been distributed. (Act Apr. 26, 1941, c. 480, §3.)

6-12. Statement of names of political subdivisions.—Each agreement entered into pursuant to Section 2 shall contain the names of the political subdivisions with respect to which it is consummated, and a statement of the proportionate share of the payment by the United States to which each subdivision shall be entitled. (Act Apr. 26, 1941, c. 480, §4.)

6-13. Political subdivision may make agreement with United States.—If the United States declines to deal with a county board with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie in more than one county, that subdivision is hereby authorized to make request of the United States for payment of such sums in lieu of taxes as the United States may agree to pay, and is hereby empowered to enter into agreements with the United States for the performance by the subdivision of services for the benefit of a project and for the payment by the United States to the subdivision, in one or more installments of such sums in lieu of taxes. The amount of such payment may be based upon the cost of performing such services during the period of the agreement, after taking into consideration the benefits to be derived by the subdivision from the project, but shall not be in excess of the taxes which would result to the political subdivision during said period if the real property of the project within the political subdivision were taxable. Whenever any

payment is received by a subdivision under an agreement entered into pursuant to this section, the governing body of such subdivision shall issue a receipt for such payment. (Act Apr. 26, 1941, c. 480, §5.)

6-14. Disposition of money received.—All money received by a political subdivision hereunder shall be used in like manner as the proceeds of taxes upon the premises concerned. (Act Apr. 26, 1941, c. 480, §6.)

6-15. Construction of Act.—No provision of this act shall be construed to relieve any political subdivision of this state, in the absence of an agreement for payment of sums in lieu of taxes by the United States as provided in this act, of the duty of furnishing, for the benefit of a project, all services which the subdivision usually furnishes for property in and persons residing within the subdivision without a payment of sums in lieu of taxes. (Act Apr. 26, 1941, c. 480, §7.)

COMMON LAW DECISIONS RELATING TO CHAPTER IN GENERAL

1. In general.

A claim statute may recognize legal obligations of state if it sees fit so to do, and it may compensate by direct appropriation or it may waive immunity from suit. *Westerson v. S.*, 291NW900. See Dun. Dig. 8831.

Repeal of remedy does not mean loss of right or of consent to suit by the state. *State v. Stassen*, 294NW647.

2. Liability for torts.

General rule is that a governmental agency is not answerable for damages sustained as result of negligence of its officers or agents in performance of governmental functions. *Westerson v. S.*, 291NW900. See Dun. Dig. 8831.

By Laws 1939, c. 420, the state waived its sovereign immunity to suit for damages caused by the location, relocation, construction, reconstruction, improvement, maintenance, and supervision of the trunk highways system to the extent and within the limits therein specified. *Id.* See Dun. Dig. 8831.

State cannot be sued without its consent, and laws 1937, ch. 480, §1, was not a consent to a suit for injuries in an explosion in a garage where trucks of maintenance department of state highway system were stored and where state employees negligently spilled gasoline. *Underhill v. S.*, 294NW643. See Dun. Dig. 8831.

3. Liability on contracts.

Legislature may prescribe such terms and conditions for right of recovery against state as it deems appropriate. *State v. Wm. O'Neil Sons Co.*, 296NW7. See Dun. Dig. 8831.

CHAPTER 3

The Legislature

40. Members of Legislature excused from court duties.—No member or officer of, or any attorney employed by the Legislature shall be compelled to attend as a witness in any court of this state during the session of the Legislature; unless the court in which the action is pending upon sufficient showing shall otherwise order with the consent of the presiding officer of the body of which such witness is an employe or the consent of the body of which such witness is a member. No cause or proceeding, civil or criminal, in court or before any commission or officer or referee thereof or motion or hearing therein, in which a member or officer of, or any attorney employed by the Legislature is a party, attorney or witness shall be tried or heard during such session of the Legislature, but shall be continued until the Legislature shall have adjourned. Such member or officer of, or attorney employed by the Legislature may, with the consent of the body of the Legislature of which he is a member or officer, or employed by, waive such privilege and in such case such cause or proceeding, motion, or hearing may be tried or heard as such time as will not conflict with legislative duties. (As amended Act Mar. 4, 1941, c. 45, §1.)

AMENDMENTS TO THE CONSTITUTION

46. Notice publication.—At least four months preceding such election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed showing clearly the form of the existing sections, and of the same as they will read if amended, except that when any section to which an amendment is proposed exceeds 150 words in length, the statement shall show that part of the section in which a change is proposed, both in its existing form and as it will be read when amended, together with such portions of the context as the attorney general deems necessary to an understanding of the proposed amendment. Prior to the election, the secretary of state shall give three weeks published notice of such statement in all legal newspapers of the state. The secretary of state shall furnish such statement in plate form to such newspapers, the expense of which shall be borne by said newspapers. The maximum rate for such publication shall be 25 cents per folio for each of the three publications, but shall not exceed \$50.00 for each newspaper unless the publication exceeds 80 inches in length, in which case the excess shall be paid for at the rate of 15 cents per inch for each publication thereof. Pro-