

CHAPTER 137

UNIVERSITY OF MINNESOTA

137.01 GIFTS, GRANTS, BEQUESTS, AND DEVISES

Under Territorial Law 1851, Chapter 3 is legally binding on the university and a proviso that appropriations for maintenance and improvement of all non-academic employees of the University of Minnesota hospitals be paid a salary comparable to salaries paid to state employees in the classified state civil service is enforceable. OAG Dec. 16, 1949 (270-D).

137.02 POWERS AND DUTIES OF THE BOARD OF REGENTS

HISTORY. 1913 c 257 s 1; 1935 c 173 s 1, 2; Ex1937 c 81 s 2; 1941 c 523 s 2; 1943 c 655 s 2.

Claims against the state. 32 MLR 539.

Negroes, in state institutions of professional and higher education. 35 MLR 628.

Freedom of speech; restrictions of public employment; the Feinberg Act. 36 MLR 961.

The University of Minnesota board of regents has no discretionary power to do or permit any activity forbidden by its charter or the constitution, nor may it evade the constitutional proscription of forbidden activities under the guise of the exercise of its discretionary power or legislative function. *State v University of Minnesota*, 236 M 452, 54 NW(2d) 122.

Where the property is taken for public use in condemnation proceedings, any evidence is competent and any fact may properly be considered which legitimately bears on the market value of the property. Where it is apparent from the record that because of the particular location of the property condemned there had been almost continuous rental demands for rooms in the house located thereon, it was error to refuse to admit evidence of the rental value of the rooms. The court did not err in allowing evidence of salvage and investment value under the facts and circumstances of the case. *Regents of Minnesota v Irwin*, M, 57 NW(2d) 625.

It would be illegal on the part of the board of regents to delegate to any outside agency the discretionary duties and powers conferred upon members of the board. Such duties and powers are not subject to arbitration by any outside agency. Under the proposed civil service rules, upon a grievance being presented by an employee, the facts may be determined by arbitrators, and the facts applied to the civil service rules. Such procedure is purely ministerial and administrative, and confers only advisory duties on the arbitrators. OAG May 20, 1948 (270-D).

The regents are without power to define or legislate in relation to a crime. OAG Sept. 2, 1947 (618-A-2).

The rights and duties of a city to maintain a fire department have their origin in the police powers of sovereignty. The municipal government is not independent of all other agencies of the state government and must operate with the ultimate object of a coordinated, united state government. Certain powers in respect to local matters are exclusive but in the exercise of those powers, policies of the state must be executed and wherein the policies of the local government conflict with the governmental policies of the state, the local policies must yield. The city is a creature of the legislature as an agency of the state. It is responsible to its creator. Except as restrained by constitutional provisions, auxiliary agencies of government are under the absolute control of the legislature. For educational purposes the Regents of the

University of Minnesota have exclusive control of the executive affairs of the University; but that business is education, not fire control, nor fire prevention, nor fire fighting. As to fire control, prevention, or extinguishment, the city of Minneapolis have the exclusive authority, power and duty within the limits of the city of Minneapolis, including the campus and property under the control of the board of regents and the means used in performance of such duties rests in the judgment of the officers of the fire department. It is not an executive power of the University to furnish fire service and fire protection. If the city of Minneapolis asserts the power to enforce its ordinances and the state laws in respect to the construction and condition of the buildings on the campus, it is not an interference with the regents in the exercise of their executive power to control the operation of the University. It is not only the duty of the city of Minneapolis to furnish fire protection and fire fighting service to the property situated on and off the campus of the University of Minnesota, owned by the state and under control of the board of regents but the city has the power to enforce its municipal building ordinances which have a relation to fire control and fire protection. OAG March 5, 1948 (688-K).

137.03 INSTRUCTION IN LAW ENFORCEMENT

HISTORY. Ex1937 c 81 s 2; 1941 c 523 s 2; 1943 c 655 s 2.

CHAPTER 138**HISTORICAL SOCIETIES; HISTORIC SITES; ARCHIVES****HISTORICAL SOCIETIES****138.01 MINNESOTA STATE HISTORICAL SOCIETY AGENCY OF STATE GOVERNMENT**

NOTE: Minnesota Historical Society is a corporation created by Laws 1849, Chapter 44, as amended by Laws 1856, Chapter 15, and revised and amended by Laws 1951, Chapter 26. Laws 1878, Chapter 97, attached to the state appropriation for the society a proviso that before the sum appropriated be made available a determination be had before a competent tribunal determining which group claiming control were legally entitled to manage the affairs of the society. The dispute was determined by the decision in *State v Sibley*, 25 M 387. The court found that the charter of the society was an executed contract between the state and the incorporators; the society is a private corporation of an eleemosynary character, incorporated for the purpose of perpetuating the application of the bounties or donations received. It is not a department of the state. The corporation was made a state agency by Laws 1925, Chapter 426, Article 19, Section 1.

The Minnesota historic sites and marker commission was created by Laws 1941, Chapter 418; and the Minnesota State Archives Commission by Laws 1947, Chapter 547.

NOTE: See sections 84.37 to 84.41.

The limitation contained in Ex1951, Chapter 1, Section 54, on use of funds for salary or expenses of publicity representative is not applicable to the Minnesota Historical Society. OAG May 7, 1953 (230).

138.03 MINNESOTA HISTORICAL SOCIETY CUSTODIAN OF RECORDS; COPIES AS EVIDENCE

If the state archives commission should order any state records disposed of by committing the same to the custody of the state historical society, the said society in its disposition of such records would be bound by the six-year provision found in Laws 1947, Chapter 365. There is nothing in the law which prevents the archives