

WISCONSIN STATUTES

1943

TITLE I.

Sovereignty, Jurisdiction and Civil Divisions of the State.

CHAPTER 1.

SOVEREIGNTY AND JURISDICTION OF THE STATE.

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1.01 State sovereignty and jurisdiction. The sovereignty and jurisdiction of this state extend to all places within the boundaries thereof as declared in the constitution, subject only to such rights of jurisdiction as have been or shall be acquired by the United States over any places therein; and it shall be the duty of the governor, and of all subordinate officers of the state, to maintain and defend its sovereignty and jurisdiction. Such sovereignty and jurisdiction are hereby asserted and exercised over the St. Croix river from the eastern shore thereof to the center or thread of the same, and the exclusive jurisdiction of the state of Minnesota to authorize any person or corporation to obstruct the navigation of said river east of the center or thread thereof, or to enter upon the same and build piers, booms or other fixtures, or to occupy any part of said river east of the center or thread thereof for the purpose of sorting or holding logs, is denied; such acts can only be authorized by the concurrent consent of the legislature of this state.

Note: In general, when the United States acquires land within a state without the consent of the state for purposes other than those stated in par. 17, sec. 8, art. I, U. S. Const., the United States does not obtain exclusive jurisdiction thereover, and to vest exclusive jurisdiction in the United States even over lands in Indian country within a state a cession of such jurisdiction

by the state is essential, and where there is neither consent nor cession by the state, the United States is only a proprietor of the land, and the state's jurisdiction is unimpaired except that it may not interfere with the performance of the functions of the United States government for which the land was acquired. *State v. Shepard*, 239 W 345, 300 NW 905.

1.02 United States sites and buildings. Subject to the conditions mentioned in section 1.03 the legislature hereby consents to the acquisitions heretofore effected and hereafter to be effected by the United States, by gift, purchase or condemnation proceedings, of the title to places or tracts of land within the state; and, subject to said conditions, the state hereby grants, cedes and confirms to the United States exclusive jurisdiction over all such places and tracts. Such acquisitions are limited to the following purposes:

(1) To sites for the erection of forts, magazines, arsenals, dockyards, custom houses, courthouses, post offices, or other public buildings or for any purpose whatsoever contemplated by the seventeenth clause of section eight of article one of the constitution of the United States.

(2) To a tract of forty thousand acres of land in township 17 and 18 north, ranges 2 and 3 west, near Sparta, in Monroe county, to be used for military purposes as a target and maneuver range and such other purposes as the war department may deem necessary and proper.

(3) To erect thereon dams, abutments, locks, lockkeepers' dwellings, chutes, or other structures necessary or desirable in improving the navigation of the rivers or other waters within and on the borders of this state. [1935 c. 231]

1.03 Concurrent jurisdiction over United States sites; conveyances. The conditions mentioned in section 1.02 are the following conditions precedent:

(1) That an application setting forth an exact description of the place or tract so acquired shall be made by an authorized officer of the United States to the governor, accompanied by a plat thereof, and by proof that all conveyances and a copy of the record of all judicial proceedings necessary to the acquisition of an unincumbered title by the United States have been recorded in the office of the register of deeds of each county in which such place or tract may be situated in whole or in part.

(2) That the ceded jurisdiction shall not vest in the United States until they shall have complied with all the requirements on their part of sections 1.02 and 1.03, and shall continue so long only as the place or tract shall remain the property of the United States.

(3) That the state shall forever retain concurrent jurisdiction over every such place or tract to the extent that all legal and military process issued under the authority of the state may be served anywhere thereon, or in any building situate in whole or in part thereon.

Note: On transfer to United States of site plat of property transferred is presented for federal building, governor may not give with application. 20 Atty. Gen. 94.
certificate of consent to acquisition until

1.035 Wild life and fish refuge by United States. (1) The state of Wisconsin hereby consents that the government of the United States may acquire in this state, in any manner, such areas of land, or of land and water, as the United States may deem necessary for the establishment of the "Upper Mississippi River Wild Life and Fish Refuge," in accordance with the act of congress approved June 7, 1924; provided, that the states of Illinois, Iowa and Minnesota grant a like consent, and all rights respectively reserved by said states, in addition to the reservation herein made, are hereby reserved to the state of Wisconsin; and provided, further, that any acquisition by the government of the United States of land, or of land and water, shall first be approved by the governor, on the advice of the conservation commission.

(2) The consent hereby given is upon the condition that the United States shall not, by an act of congress or by regulation of any department, prevent the state and its agents from going upon the navigable waters within or adjoining any area of land, or land and water, so acquired by the United States, for the purpose of rescuing or obtaining fish therefrom; and the state shall have the right to construct and operate fish hatcheries and fish rescue stations adjacent to the areas so acquired by the United States; and the navigable waters leading into the Mississippi and the carrying places between the same, and the navigable lakes, sloughs and ponds within or adjoining such areas, shall remain common highways for navigation and portaging, and the use thereof, as well to the inhabitants of this state as to the citizens of the United States, shall not be denied.

(3) The legal title to and the custody and protection of the fish in the navigable waters leading into the Mississippi river and in the navigable lakes, sloughs and ponds within or adjoining such areas in this state, is vested in the state, for the purpose of regulating the enjoyment, use, disposition and conservation thereof.

(4) The state retains jurisdiction in and over such areas so far that civil process in all cases, and such criminal process as may issue under the authority of the state against any persons charged with the commission of any offense within or without such areas, may be executed thereon in like manner as if this consent had not been given.

(5) Subject to the conditions specified in section 1.02, the United States commissioner

of fisheries may establish fish hatcheries within Wisconsin and may take fish or fish eggs from the waters of this state for propagation in such hatcheries. The United States commissioner of fisheries and his duly authorized agents are hereby authorized to conduct fish culture operations, rescue work, and all fishing and other operations necessary therefor in connection with such hatcheries in such manner and at such times as is considered necessary and proper by the said commissioner and his agents. [1931 c. 61]

1.036 Bird reservations, acquisition by United States. Consent of the state of Wisconsin is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in Wisconsin, by and with the consent of the governor of the state, as the United States may deem necessary for the establishment of migratory bird reservations in accordance with the act of congress approved February 18, 1929, entitled "An Act to more effectively meet the obligations of the United States under the migratory bird treaty with Great Britain by lessening the dangers threatening migratory game birds from drainage and other causes by the acquisition of areas of land and of water to furnish in perpetuity reservations for the adequate protection of such birds; and authorizing appropriations for the establishment of such areas, their maintenance and improvement and for other purposes," reserving, however, to the state of Wisconsin full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of said act of congress. [1933 c. 159 s. 36]

1.04 United States sites exempt from taxation. Upon full compliance by the United States with the requirements of sections 1.02 and 1.03, relating to the acquisition of any place or tract within the state the governor shall execute in duplicate, under the great seal, a certificate of such consent given and of such compliance with said sections, one of which shall be delivered to such officer of the United States and the other filed with the secretary of state. Such certificate shall be sufficient evidence of such consent of the legislature and of such compliance with the conditions specified. All such places and tracts after such acquisition and while owned by the United States, shall be and remain exempt from all taxation and assessment by authority of the state.

1.05 United States sites for aids to navigation. Whenever the United States shall desire to acquire title to any land belonging to the state and covered by the navigable waters of the United States, for sites for lighthouses, beacons, or other aids to navigation, the governor may, upon application therefor by any authorized officer of the United States, setting forth an exact description of the place desired, and accompanied by a plat thereof, grant and convey to the United States, by a deed executed by him in the name of the state and under the great seal, all the title of the state thereto; and such conveyance shall be evidence of the consent of the legislature to such purchase upon the conditions specified in section 1.03.

1.055 National forest. (1) Consent of the state of Wisconsin is hereby given to the acquisition by the United States by purchase, gift, lease or condemnation, with adequate compensation therefor, of such areas of land not exceeding two million acres as the United States may deem necessary for the establishment of national forests in the state, in accordance with the act of congress approved June 7, 1924, and the commissioners of public lands are hereby authorized to sell and convey for a fair consideration to the United States any state lands included within such areas; provided, that the state of Wisconsin shall retain concurrent jurisdiction with the United States in and over such areas so far that civil process, in all cases, and such criminal process as may issue under the authority of the state of Wisconsin against any persons charged with the commission of any crime within or without said areas, may be executed thereon in like manner as if this consent had not been given. Provided, further, that the boundaries of any areas so selected shall be first approved by the governor, the commissioners of public lands, the conservation commission, and the county board of each county in which any such area is located.

(2) Power is hereby conferred upon the congress of the United States to pass such laws and to make or provide for the making of such rules and regulations, of both a civil and criminal nature and provide punishment therefor, as in its judgment may be necessary for the administration, control and protection of such lands as may be from time to time acquired by the United States under the provisions of subsection (1). [1933 c. 272; 1933 c. 491 s. 1]

Note: Section 1.055 supersedes 24.09, Stats. 1935 to extent that it is inconsistent therewith and commissioners of public lands are authorized to sell public lands to federal government for national forests under 1.055 without complying with provisions of 24.09, relating to sale at public auction. 26 Atty. Gen. 210.

1.056 State conservation areas. Consent of the state of Wisconsin is hereby given to the United States to acquire by purchase, gift, lease or condemnation, with adequate compensation therefor, areas of land and water within boundaries approved by the governor and the county board of the county in which the land is located, for the establish-

ment of state forests, state parks or other state conservation areas to be administered by the state under long-term leases, treaties or co-operative agreements, which the conservation commission is hereby authorized to enter into on behalf of the state with the federal government. [1935 c. 375]

Note: Under 1.056, conservation commission is charged with administration of Central Wisconsin Conservation Area, which is owned by federal government and leased to state on long term lease. Income from area must be deposited in state treasury under 25.29 and may be expended under 20.20. 15.17 and 15.28, relating to powers and duties of director of division of departmental research and director of purchases, do not grant any powers of reviewing discretion of conservation commission in making expenditures of income from area in accordance with terms of lease. 29 Atty. Gen. 381.

1.06 Surveys by United States; adjustment of damages. Any person charged, pursuant to the laws of the United States, with the execution of a survey or any part thereof, may enter upon any lands in this state for the purpose of doing any act necessary to the performance of the duty thereby imposed upon him, and may erect on such lands any signals, temporary observatories or other small frame structures, establish permanent marks of stations, and encamp thereon; provided, that he shall be liable for all actual damages done thereby. If the amount of such damages cannot be agreed upon by such person, or any representative of the government of the United States, and the owner or occupant of the lands so entered upon, either of them may petition the county judge of the county in which such lands, or any part of them, are situated for the appointment of a day for the hearing of the parties and their witnesses and the assessment of such damages. Such hearing shall be held at the earliest practicable time after fourteen days' notice of the time and place thereof is given to all the parties interested in such manner as such judge shall order. The damages may be assessed by such judge with or without a view of the premises. If the damages so assessed do not exceed the sum tendered the occupant or owner of the land, the person who made the tender shall recover costs; if they are in excess of that sum, the other party shall recover costs, which shall be allowed and taxed in accordance with the rules of the court.

1.07 State coat of arms. The coat of arms of the state of Wisconsin is hereby declared to be as follows, viz.:

ARMS.—Or, quartered, the quarters bearing respectively a plow, a crossed shovel and pick, an arm and held hammer, and an anchor, all proper; the base of shield resting upon a horn of plenty and pyramid of pig lead, all proper; over all, on fesse point, the arms and motto of the United States, viz.: Arms, palewise of thirteen pieces argent and gules; a chief azure; motto (on garter surrounding inescutcheon), "E pluribus unum."

CREST.—A badger, passant, proper.

SUPPORTERS.—Dexter, a sailor holding a coil of rope, proper; sinister, a yeoman resting on a pick, proper.

MOTTO.—Over crest, "Forward."

1.08 State flag. (1) The Wisconsin state flag is of dark blue silk, five feet six inches fly and four feet four inches on the pike; the state coat of arms embroidered on each side with silk of appropriate colors; the edges trimmed with knotted fringe of yellow silk two and one-half inches wide; the pike nine feet long including spearhead and ferrule; the cord eight feet six inches long with two tassels, and composed of blue and white silk strands intermixed.

(2) Service flags may be of bunting or other material, of such size as may be required, and the coat of arms represented otherwise than by embroidery, all conforming to proportionate specifications of subsection (1).

1.09 Seat of government. Be it enacted by the council and house of representatives of the territory of Wisconsin, that the seat of government of the territory of Wisconsin, be and the same is hereby located and established at the town of Madison, between the third and fourth of the four lakes, on the corner of sections thirteen, fourteen, twenty-three and twenty-four in township seven, north, of range nine, east.