

## CHAPTER 10

## GENERAL PROVISIONS RELATING TO EXECUTIVE DEPARTMENTS

**10.01 OFFICERS; ADDITIONAL DUTIES.**

A ministerial duty is one in which nothing is left to discretion; a simple, definite duty arising under and because of stated conditions and imposed by law. Official duty is ministerial when it is absolute, certain and imperative, involving merely the execution of a specific duty arising from fixed and designated facts. The duty imposed on the commissioner of agriculture by L. 1931, c. 394, involves the exercise of judgment and discretion and so is not in the class of ministerial official duties, nonperformance of which may result in liability to one proximately damaged by nonfeasance. *Cook v Trovatten*, 200 M 221, 274 NW 165.

A sheriff's official duty implies alertness and initiative to enforce the laws enacted by the people for their protection and well-being. *Mesenbrink*, who failed to meet these requirements, was properly removed from office. Removal of *Mesenbrink*, 211 M 114, 300 NW 398.

To justify an order removing a public officer, substantial grounds specially relating to and affecting the administration of his office and directly affecting the rights and interests of the public must exist. "Inefficiency" denotes incapability for office, and may be shown by the officer's record including that done or left undone during a former term of office. *State ex rel v State Board*, 213 M 184, 16 NW(2d) 251.

The rights, privileges, and immunities of citizens exist notwithstanding there is no specific enumeration thereof in the state constitution. *Thiede v Town of Scandia Valley*, 217 M 218, 14 NW(2d) 400.

**10.07 FEES OF DEPARTMENTS PAID INTO TREASURY.**

Interest collected by the state treasurer from the state's investments must be deposited in the state's treasury. OAG Jan. 8, 1946 (454-E).

**10.12 UNCOLLECTIBLE DRAFTS CANCELED.**

There is no authority for the cancelation of an account payable to the state except such as is granted the executive council upon the written recommendation of the public examiner, and in practice the executive council require the approval of the commissioner of administration. OAG May 22, 1947 (454-E).

**10.33 DEDICATED RECEIPTS.**

Commissioner of administration may engage services of an agent to care for the rental of property owned by the state, and acquired by virtue of L. 1945, c. 315. OAG March 3, 1947 (980-a).

**10.34 FUNDS PAID INTO STATE TREASURY.**

In cases where the federal government reimburses the state in the amount of salaries paid to certain employees, the federal warrants may be deposited to the credit of a special revolving fund and not in the general fund of the state treasury. OAG June 19, 1945 (9-a-21).

**10.37 HOLDING TWO APPOINTIVE OFFICES.**

Eligibility for other office as affected by membership in the legislature. 26 MLR 280.