

EXECUTIVE DEPARTMENT

CHAPTER 4

THE GOVERNOR

4.01 CUSTODIAN OF STATE PROPERTY.

HISTORY. P.S. 1858 c. 5 s. 2; G.S. 1866 c. 6 s. 1; G.S. 1878 c. 6 s. 1; G.S. 1894 s. 298; R.L. 1905 s. 26; G.S. 1913 s. 54; G.S. 1923 s. 54; M.S. 1927 s. 54.

4.02 SECRETARY AND OTHER EMPLOYEES.

HISTORY. 1870 c. 40; 1879 c. 100 s. 1; G.S. 1878 vol. 2 (1888 Supp.) c. 6 s. 66; 1889 c. 251 s. 1; 1893 c. 79 s. 1; 1893 c. 241; G.S. 1894 c. 304; R.L. 1905 s. 27; G.S. 1913 s. 55; G.S. 1923 s. 55; M.S. 1927 s. 55.

4.03 PROCLAMATIONS.

HISTORY. P.S. 1858 c. 5 s. 8; 1858 c. 87; G.S. 1866 c. 6 ss. 2, 3; 1866 c. 122; G.S. 1878 c. 6 ss. 2, 3; 1893 c. 19; G.S. 1894 ss. 299, 300; R.L. 1905 s. 28; G.S. 1913 s. 57; G.S. 1923 s. 57; M.S. 1927 s. 57.

THANKSGIVING PROCLAMATION. Since the proclamation does not make Thanksgiving Day a legal holiday, the rule that when the last day for doing an act falls on Sunday or a holiday the act may be done on the next succeeding business day thereafter has no application. *Lucke v Gas Traction Co.* 129 M 522, 151 NW 273.

PASSAGE OF AMENDMENT. The question of whether an amendment becomes effective when the vote is canvassed or only upon the subsequent proclamation of the governor is expressly left open. *City of Duluth v Dul. St. Ry. Co.* 60 M 178, 62 NW 267.

4.04 POWERS.

HISTORY. P.S. 1858 c. 5 ss. 6, 7, 9; G. S. 1866 c. 6 s. 5; G.S. 1878 c. 6 s. 5; G.S. 1894 s. 302; R. L. 1905 c. 29; G.S. 1913 s. 58; G.S. 1923 s. 58; M.S. 1927 s. 58.

APPOINTMENT. Where the constitution has conferred on the governor the power of making certain appointments, the legislature cannot interfere with the exercise of his discretion. *State ex rel v Griffen*, 69 M 311, 72 NW 117.

When the legislature has set up certain qualifications for offices to which it has given the governor power of appointment, if the qualifications of his appointee are legally questioned, the appointment will be sustained if there is evidence reasonably tending to support it even though the preponderance is the other way. *State ex rel v Gylstrom*, 77 M 355, 79 NW 1038.

See *Dawley*, The Governor's Constitutional Powers of Appointment and Removal, 22 MLR 451.

REMOVAL. Writ of mandamus will not issue to compel the governor to remove a county attorney from office since this requires the exercise of the governor's discretion and will not be compelled. *State ex rel v Christianson*, 179 M 337, 229 NW 313.

Where the governor is given power to remove for malfeasance in the performance of official duties, this includes only those misdeeds which affect the performance of his official duties. *State ex rel v Burnquist*, 141 M 308, 170 NW 201, 209.

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Section 351.03, which empowers the governor to remove from office any collector, receiver or custodian of public moneys for malfeasance or nonfeasance, does not extend to the removal of a collector of the public money of a city. State ex rel v Essling, 157 M 15, 195 NW 539.

The governor has no power to remove a village constable. 1934 OAG 636.

Under Laws 1943, Chapter 600, Section 18(3), a tax levy for civilian defense should not be larger than the actual disbursements, and no levy should be made after cessation of civilian defense activities. OAG Oct 27, 1944 (835a).

4.05 SALE OF PERSONAL PROPERTY OF STATE; PROCEEDS.

HISTORY. 1923 c. 94 s. 1; 1925 c. 384; M.S. 1927 s. 58-1.

PROPRIETARY RIGHTS. The legislature is the only department that represents the state in its proprietary capacity and it alone can exercise the power necessary to its enjoyment and protection through the enactment of statutes for that purpose. State of Wisconsin v Torinus, 26 M 1, 49 NW 25.