

Revised Statutes of 1846 (EXCERPT)
R.S. of 1846

REMOVALS FROM OFFICE.

201.4 Repealed. 1954, Act 116, Eff. June 1, 1955.

Compiler's note: The repealed section enumerated grounds for removal of certain officers.

201.5 Vacancy appointee, removal by governor.

Sec. 5. All officers who are or shall be appointed by the governor to fill a vacancy which shall have existed during the recess of the legislature, may be removed by the governor.

History: R.S. 1846, Ch. 15;—CL 1857, 477;—CL 1871, 619;—How. 652;—CL 1897, 1158;—CL 1915, 244;—CL 1929, 3352;—CL 1948, 201.5.

Compiler's note: This section as originally enacted was numbered section 6.

201.6 Repealed. 1954, Act 116, Eff. June 1, 1955.

Compiler's note: The repealed section provided procedure for removal by governor of municipal officers.

201.7 Inquiry by attorney general or prosecutor; procedure; compensation of nonresident probate judge; endorsement of witnesses on charges; grand jury testimony.

Sec. 7. The governor may direct the attorney general or the prosecuting attorney of the county in which such officer may be, unless such prosecuting attorney be the officer charged, to conduct an inquiry into the charges made, and the said attorney general or such prosecuting attorney shall thereupon give at least 8 days' notice to the officer accused of the time and place at which he will proceed to the examination of witnesses in relation to such charges before some circuit court commissioner or judge of probate for the same county, or any judge of probate who may be appointed by the governor for such purpose, and he shall also, at the time of giving such notice, serve upon the officer accused a copy of such charges. If the judge of probate so appointed resides other than in the county in which the accused resides, such judge of probate shall be paid by such county the sum of \$10.00 per day and expenses for time actually used in such hearing.

Upon application of the accused officer, the commissioner or probate judge shall require the endorsement of witnesses on the charges in the same manner and subject to the same rules of law as is required in criminal cases.

In proceedings under this act originated by complaint filed by a grand juror acting pursuant to section 4 of chapter 7 of Act No. 175 of the Public Acts of 1927, as amended, being section 767.4 of the Compiled Laws of 1948, the testimony of a witness before the grand juror, if he is also a witness in the removal proceedings, shall be made available for the purpose of determining whether it is consistent with or different from the testimony before the grand juror. The commissioner or probate judge shall make a preliminary examination of the testimony given by the witness before the grand juror and shall limit the availability thereof to those portions relevant to the removal proceeding.

History: R.S. 1846, Ch. 15;—Am. 1853, Act 19, Imd. Eff. Jan. 29, 1853;—CL 1857, 479;—Am. 1871, Act 63, Eff. July 18, 1871;—CL 1871, 621;—How. 654;—CL 1897, 1160;—CL 1915, 246;—Am. 1923, Act 8, Eff. Aug. 30, 1923;—CL 1929, 3354;—CL 1948, 201.7;—Am. 1960, Act 145, Eff. Aug. 7, 1960.

Constitutionality: Order of court of appeals, declaring this section unconstitutional, affirmed by an equally divided court on grounds that statute unlawfully imposes executive functions on judicial officers in contravention of Const 1963, art III, § 2. Buback v Governor, 380 Mich 209; 156 NW2d 549 (1968).

Compiler's note: This section as originally enacted was numbered section 8.

201.8 Subpoenas; issuance, enforcement, witness fees.

Sec. 8. The attorney general or prosecuting attorney may issue subpoenas, signed by him with his name of office, to compel the attendance of any witness whom he shall deem material, before said circuit court commissioner or judge of probate, and such commissioner or judge of probate shall have the same power to enforce obedience to such subpoena by attachment, and to commit any person who shall refuse to be sworn or to answer, as the circuit court would have in a civil cause pending therein, and the fees of such witnesses shall be the same as in civil cases, and shall be a charge against the county.

History: R.S. 1846, Ch. 15;—CL 1857, 480;—Am. 1871, Act 63, Eff. July 18, 1871;—CL 1871, 622;—Am. 1879, Act 243, Eff. Aug. 30, 1879;—How. 655;—CL 1897, 1161;—CL 1915, 247;—CL 1929, 3355;—CL 1948, 201.8.

Compiler's note: This section as originally enacted was numbered section 9.

201.9 Subpoenas; accused entitled to.

Sec. 9. On the application of the officer accused to the prosecuting attorney, or to any justice of the peace, he shall be entitled to the like process of subpoena, obedience to which may be enforced in the same manner as provided in the last preceding section by the commissioner, or judge of probate, before whom the witness may be conducted.

History: R.S. 1846, Ch. 15;—CL 1857, 481;—Am. 1871, Act 63, Eff. July 18, 1871;—CL 1871, 623;—How. 656;—CL 1897, 1162;—CL 1915, 248;—CL 1929, 3356;—CL 1948, 201.9.

Compiler's note: This section as originally enacted was numbered section 10.

201.10 Testimony; transcript, summary transmitted to governor and accused; fees.

Sec. 10. At the time and place there specified in the notice, the commissioner or judge of probate, before whom such inquiry shall be conducted, shall proceed to take the testimony of the witnesses produced before him by the attorney general or prosecuting attorney and by the officer accused, which witnesses shall be sworn by such commissioner or judge of probate and every answer given by them to any question, which either party shall require to be reduced to writing, shall be taken stenographically or in writing under the direction of such commissioner or judge of probate, and such testimony shall be certified by the commissioner or judge of probate, taking the same to be a correct transcript of all of the testimony so taken in said hearing. The commissioner or judge of probate shall observe the rules of evidence as are followed in chancery cases and shall have authority to rule on questions of procedural law. He may authorize the taking of depositions in the same manner as is provided for civil cases. Such testimony so taken and certified shall be delivered by said commissioner or judge of probate to such prosecuting attorney or attorney general, who shall transmit the same with a summary of such testimony to the governor, and the fees of the commissioner or other officer for the performance of such services shall be a charge against the county. If requested by the accused officer prior to the close of taking testimony, a copy of the summary shall be transmitted to him at the same time it is transmitted to the governor. The accused officer shall then be permitted to examine the transcript of testimony furnished to the governor and to prepare his own summary thereof and deliver it to the governor, with a copy to the prosecuting attorney or attorney general, not later than 15 days after the original summary was transmitted to the governor.

History: R.S. 1846, Ch. 15;—Am. 1853, Act 19, Imd. Eff. Jan. 29, 1853;—CL 1857, 482;—Am. 1871, Act 63, Eff. July 18, 1871;—CL 1871, 624;—Am. 1879, Act 243, Eff. Aug. 30, 1879;—Am. 1883, Act 27, Eff. Sept. 8, 1883;—How. 657;—CL 1897, 1163;—CL 1915, 249;—Am. 1923, Act 8, Eff. Aug. 30, 1923;—CL 1929, 3357;—CL 1948, 201.10;—Am. 1960, Act 145, Eff. Aug. 17, 1960.

Compiler's note: This section as originally enacted was numbered section 11.

201.11 Charges against prosecuting attorney; investigation, procedure.

Sec. 11. Whenever charges shall be made against any prosecuting attorney as provided in section 7(6) of this chapter, the governor shall direct the attorney general, or the prosecuting attorney of some county adjoining that in which the accused resides, or some other attorney at law, to conduct the inquiry into such charges, and such officer or attorney, when so directed, shall have and exercise the same powers to conduct such inquiry, and shall proceed therein in the same manner, as the prosecuting attorney of the proper county is authorized and required to do in other cases.

History: R.S. 1846, Ch. 15;—CL 1857, 483;—CL 1871, 625;—How. 658;—CL 1897, 1164;—CL 1915, 250;—CL 1929, 3358;—CL 1948, 201.11.

Compiler's note: This section as originally enacted was numbered section 12.

The reference to section 7(6) in this section evidently should be to section 6, which was repealed by Act 116 of 1954.

201.12, 201.13 Repealed. 1954, Act 116, Eff. June 1, 1955.

Compiler's note: The repealed sections provided for removal of county clerks and for declaration by governor of vacancies.