

Revised Statutes of 1846 (EXCERPT)
REMOVALS FROM OFFICE.

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 Notes: This section as originally enacted was numbered section 8.