

CHAPTER 489

COURT COMMISSIONERS

489.01 ELECTION; TERM.

HISTORY. 1858 c. 48 s. 1; P.S. 1858 c. 7 s. 80; 1860 c. 43 ss. 1, 6; G.S. 1866 c. 8 ss. 193, 197; 1867 c. 12; 1868 c. 18; 1872 c. 16; 1877 cc. 41, 42; G.S. 1878 c. 8 ss. 224, 228; 1885 c. 26 s. 1; 1885 c. 163; 1891 c. 35; G.S. 1894 ss. 823, 827; 1897 c. 311 s. 5; R.L. 1905 s. 147; G.S. 1913 s. 288; G.S. 1923 s. 246; M.S. 1927 s. 246.

Election of court commissioners. OAG April 17, 1939 (128b).

489.02 QUALIFICATION; POWERS.

HISTORY. 1860 c. 43 s. 2; G.S. 1866 c. 8 s. 194; G.S. 1878 c. 8 s. 225; G.S. 1894 s. 824; R.L. 1905 s. 148; 1909 c. 59 s. 1; G.S. 1913 s. 289; G.S. 1923 s. 247; M.S. 1927 s. 247.

The court commissioner has the powers of a judge in chambers, but not those of a district court in vacation. *Gere v Weed*, 3 M 352 (249).

The supreme court will not review the acts of the court commissioner, until they have been passed on by the court below. *Gere v Weed*, 3 M 352 (249); *Sacramento v Niles*, 131 M 129, 154 NW 748.

A court commissioner may allow a writ of habeas corpus, returnable before himself, to issue to his own county, or to an adjoining county, if there be no officer therein authorized to allow such writ. *State ex rel v Hill*, 10 M 63 (45).

A pretended writ of habeas corpus issued by a court commissioner under his own hand and official seal, and not under the seal of any court is unauthorized and void. General Statutes 1866, Chapter 81, Section 48, differs from that in force at the time of decision in case *State v Hill*, 10 M 63 (45). *State ex rel v Barnes*, 17 M 340 (315).

A court commissioner is authorized to admit persons held for crime to bail, and to take recognizances accordingly. *State v Perry*, 28 M 455, 10 NW 778.

Court commissioners have power to issue a warrant of arrest, and apprehend, examine, commit, or bail all persons charged with a crime. *Hoskins v Baxter*, 64 M 226, 66 NW 969.

The justification of the sureties on an appeal bond may be had before the court commissioner. *Betts v Newman*, 91 M 5, 97 NW 371.

Court commissioners still retain the power to authorize the issuance of writs of attachment, notwithstanding Laws 1897, Chapter 311, Section 2. *Clements v Utley*, 91 M 352, 98 NW 188.

A court commissioner is without power to vacate a judgment rendered by the district court, and an order made by him purporting to do so is a nullity. *Sacramento v Niles*, 131 M 129, 154 NW 748.

That part of General Statutes 1923, Section 247, requiring court commissioners to be learned in the law is unconstitutional. *State ex rel v Ries*, 168 M 11, 209 NW 327; *State v Welter*, 208 M 341, 293 NW 914.

A district judge has jurisdiction to vacate an order of the court commissioner for a writ of habeas corpus and to quash the writ if issued, the merits of the matter not having been decided by the commissioner; and the order having been served on the commissioner and also on the petitioner, the real party in interest. *State v Hemenway*, 194 M 124, 259 NW 687.

Court commissioner has the power to make orders waiving the five-day waiting period for issuance of marriage licenses; an expressed desire as to policy expressed by the judge of the district court is without effect; the clerk is bound to heed the orders of the commissioner. 1936 OAG 138, June 21, 1935 (128b).

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The court commissioner would not have power under section 280.38 to pass upon leasing of tax delinquent lands. His powers are confined to granting orders to show cause, extending time to plead, letting of bail, granting injunctions, and the like. He would have power under section 280.38 to issue an attachment for rents. 1938 OAG 170, Aug. 2, 1937 (128b).

A law creating a municipal court is not unconstitutional in its entirety, because it contains a provision that the municipal judge be a lawyer. It is effective in all that is outside of the unconstitutional provision. 1940 OAG 27, March 17, 1939.

Person having the majority of votes at a regular election, the votes being cast by writing the candidate's name in the blank space, may be declared duly elected. OAG April 17, 1939 (128e).

489.03 OATH.

HISTORY. 1860 c. 43 s. 3; G.S. 1866 c. 8 s. 195; G.S. 1878 c. 8 s. 226; G.S. 1894 s. 825; 1897 c. 311; R.L. 1905 s. 149; G.S. 1913 s. 290; G.S. 1923 s. 248; M.S. 1927 s. 248; 1945 c. 408 s. 1.

489.04 RECORDS; CLERKS.

HISTORY. 1858 c. 48 s. 3; P.S. 1858 c. 7 s. 82; 1860 c. 43 s. 4; G.S. 1866 c. 8 s. 196; G.S. 1878 c. 8 s. 227; G.S. 1894 s. 826; 1897 c. 311 s. 4; R.L. 1905 s. 150; G.S. 1913 s. 291; 1915 c. 203 s. 1; G.S. 1923 s. 249; M.S. 1927 s. 249.

The county shall furnish to the court commissioner such stationery as the county commissioners determine is necessary to the conduct of the office. 1912 OAG 133, Jan. 6, 1911.

489.05 VACANCY.

HISTORY. 1860 c. 43 s. 1; 1862 c. 42 s. 1; G.S. 1866 c. 8 s. 198; G.S. 1878 c. 8 s. 229; G.S. 1894 s. 828; R.L. 1905 s. 151; G.S. 1913 s. 292; G.S. 1923 s. 250; M.S. 1927 s. 250.

In case of a vacancy in the office of court commissioner, section 489.05 and not section 382.02 controls as to power of appointment. 1932 OAG 103, Jan. 27, 1931.