

OATHS: Notaries public, Commissioners of deeds,  
ELECTIONS: army officer above rank of lieutenant,  
naval officer above rank of ensign and  
Kansas City election officials are  
officers "authorized by law to administer  
oaths.

February 7, 1951

FILED 26



Board of Election Commissioners  
County Courthouse  
Kansas City 6, Missouri

Attention: Mr. Wm. E. Tipton  
Attorney

Gentlemen:

This will acknowledge receipt of your letter dated  
January 25, 1951, requesting an opinion from this department  
on the following question:

"The Kansas City Board of Election  
Commissioners would like to have an  
opinion from your office setting forth  
what persons fall within the category  
of 'any officer authorized by law to  
administer oaths,' and also specifying  
what persons the Board is obliged by  
law to recognize as 'any officer author-  
ized by law to administer oaths,' in  
other states."

For your information and guidance, there is enclosed an  
opinion from this office addressed to the Honorable Horace T.  
Robinson, prosecuting Attorney of Pulaski County, under date  
of July 18, 1950, which you may find helpful.

Because of the wide scope of your question, we are limited  
to directing your attention to a part of those statutes author-  
izing named officers to administer oaths.

By the terms of Section 486.020, R. S. Mo. 1949, notaries  
public are authorized to administer oaths generally in the  
following terms:

"They may administer oaths and affirma-  
tions in all matters incident or belonging  
to the exercise of their notarial offices.  
They may receive the proof or acknowledg-  
ment of all instruments of writing relating

Board of Election Commissioners

to commerce and navigation, take and certify relinquishments of dower and conveyances of real estate of married women; the proof or acknowledgment of deeds, conveyances, powers of attorney and other instruments of writing, in like cases and in the same manner and with like effect as clerks of courts of record or authorized by law; take and certify depositions and affidavits and administer oaths and affirmations, and take and perpetuate the testimony of witnesses, in like cases and in like manner as magistrates are authorized by law; make declarations and protests, and certify the truth thereof under their official seal, concerning all matters by them done by virtue of their offices, and shall have all the power and perform all the duties of register of boatmen."

Section 492.010, R.S. Mo. 1949, under the title "Officers authorized to administer oaths," reads as follows:

"Every court and judge, justice and clerk thereof, and all magistrates, shall respectively have power to administer oaths and affirmations to witnesses and others concerning any thing or proceeding depending before them, respectively, and to administer oaths and take affidavits and depositions within their respective jurisdictions, in all cases where oaths and affirmations are required by law to be taken."

Under the title "Oaths required to be taken before particular officer may be taken before others, when," Section 492.020, R.S. Mo. 1949, further extending the power of particularly named officers who are authorized to administer oaths, states the following:

"Whenever any oath or affirmation is required by law to be taken before a particular court or officer, the same may be done before any other court or officer empowered to administer oaths, unless it is expressly prohibited; and

Board of Election Commissioners

when no court or officer is named by whom an oath may be administered or affidavit taken, the same may be done by any court or officer authorized to administer oaths."

Section 486.100, R.S. Mo. 1949, provides for the appointment of "Commissioners of deeds in other states," and is followed by Section 486.130 authorizing such commissioners to administer oaths in the following words:

"Every commissioner shall have power to administer any oath which may be lawfully required in this state, to any person willing to take it; and to take and certify all depositions to be used in any of the courts of this state, in conformity to the laws thereof, either on interrogatories proposed under commission from a court of this state, or by consent of parties, or on legal notice given to the opposite party; and all such acts may be as valid as if done and certified according to law by a magistrate in this state."

Army officers above the rank of lieutenant and Navy officers above the rank of ensign are authorized to administer oaths by Sections 492.070 and 442.170, R.S. Mo. 1949, which sections read as follows:

Sec. 492.070. "Oaths, affirmations and commissions to take the deposition of any person without this state engaged in the military service of the United States may be executed before and by an officer in the said service above the rank of lieutenant; and of any person engaged in the naval service of the United States before any officer in that service above the rank of ensign; and affidavits and depositions of such persons so taken, if otherwise taken in accordance with law, shall be received and may be used in evidence, or for any other purpose, in the same manner as if taken before any officer now authorized by the laws of this state to administer oaths and affirmations or take depositions."

Board of Election Commissioners

Sec. 442.170. "For the purpose aforesaid, the officers named in section 442.160 shall have the same power and authority to administer oaths and affirmations and take depositions, affidavits and acknowledgments of persons in the military or naval service of the United States in accordance with provisions of sections 442.160 and 492.070, RSMo 1949, as officers now authorized by the laws of this state for like purposes. The certificates of the officers referred to in sections 442.160 and 492.070, RSMo 1949, of their rank shall be prima facie evidence thereof."

Section 117.280, R.S. Mo. 1949, enumerates the election officials in Kansas City who are authorized to administer oaths in the following terms:

"All oaths in writing provided for in this chapter must have a jurat, or certificate of the officer taking the same, attached and signed by him; and said election commissioners, said assistants of the board of election commissioners or other employees assigned to take registrations and said judges of election are hereby empowered to administer all oaths and affirmations required in the administration of the affairs of their several offices without charge therefor."

By listing the sections quoted above we do not purport to include all officers authorized by law to administer oaths. However, authorization for administering oaths most commonly coming before the Board of Election Commissioners is included herein. The broad scope of the question presented does not allow a more detailed discussion, and if you have questions arising which are not covered by the sections quoted herein this office will assist you, upon request, with your particular problems.

CONCLUSION

Authorization for officers to administer oaths may be found in Revised Statutes of Missouri, 1949, Section 492.010;

Board of Election Commissioners

for notaries public to administer oaths, Section 486.020; for commissioners of deed to administer oaths, Section 486.130; for Army and Navy officers to administer oaths, Sections 492.070 and 492.170; for election officials in Kansas City to administer oaths, Section 117.280.

Respectfully submitted,

JOHN E. MILLS  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

JEM:ml  
Enc.