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1905

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COURT COMMISSIONER

147. Election—Term of office—There shall be elected in each county a court commissioner, who shall hold his office for four years and until his successor qualifies. One person may hold at the same time the offices of court commissioner and probate judge. (823, 827; '97 c. 311 s. 5)

148. Qualification and powers—Court commissioners shall be men learned in the law, and shall have and may exercise the judicial powers of a judge of the district court at chambers. (824)

Const. art. 6 § 15; 3-352, 249; 10-63, 45; 17-340, 315; 28-455, 10+778; 64-226, 66+969; 91-5, 97+371; 91-352, 98+188.

149. To give bond and take oath—Before entering upon his duties, each court commissioner shall give to the county a bond in the sum of two thousand dollars to be approved by the county board, conditioned for the faithful performance of his duties, which bond, with his oath of office, shall be filed for record with the register of deeds. (825; '97 c. 311)

150. Records—The court commissioner shall keep a record of all proceedings had before him in books procured at the expense of the county, and shall be supplied with necessary stationery, which books and all unused stationery shall be delivered to his successor. (826; '97 c. 311 s. 4)

151. Vacancy—Whenever a vacancy occurs in the office of court commissioner, the judge of the district court of the county shall appoint some competent person to fill such vacancy, who shall give the bond and take the oath by law required, and shall hold his office until the next general election, and until his successor qualifies. (828)

PROBATE AND JUSTICE COURTS

152. Jurisdiction—The jurisdiction of the probate courts and courts of justices of the peace, and the powers, duties, and compensation of the officers thereof, shall be such as are defined in the several chapters of the Revised Laws relating thereto.

See Const. art. 6 §§ 7, 8.

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CHAPTER 6

ELECTIONS

153. General, when held—What officers chosen—Presidential electors—A general election shall be held in the several election districts on the first Tuesday after the first Monday of November in each even-numbered year. All elective state and county officers, judges of the supreme and district courts, members of the legislature, and representatives in Congress shall be elected at the general election next before the respective terms thereof shall expire. And, at such election held in the year preceding the expiration of a term of President of the United States, presidential electors shall also be chosen. (6)

154. Definition of terms—Unless another meaning be clearly indicated by the context, the terms "city" and "village," as used in this chapter, shall mean an incorporated city or village, and the latter shall include boroughs. "Municipality" shall mean an incorporated place, and "municipal corporation" shall include municipalities, counties, and towns. "Council" shall mean the governing body of a municipality, and "municipal election" the election of officers of a municipality. "Peace officer" shall include sheriffs, constables, policemen, and citizens appointed and empowered to perform any of their duties. "Judge" and "clerk" shall mean the judges and clerks of election respectively, "district" an election district, and "voter" an elector qualified to vote at the election or upon the question referred to. "Senator" and "representative" shall mean senators and representatives in the legislature, and "polls" shall

include the place of voting. "Contestant" shall mean the person who begins any proceeding to contest the result of an election, and "contestee" the party adverse thereto.

155. Term of office, when it begins—The term of office of every state and county officer shall begin on the first Monday in January next succeeding his election, unless otherwise provided by law. (7)

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156. Election districts—How constituted and altered—Each town, each village that is separated from the town for election purposes, and each city ward, shall constitute at least one election district. No district, when first formed, shall contain more than four hundred male voters, and the council or town board shall so divide, consolidate, and rearrange the districts from time to time that the number of voters in each shall be substantially equal, and not exceed four hundred. All such changes shall be made by resolution adopted at least six weeks before the next ensuing election, and sixty days' posted notice thereof shall be given before the change shall take effect. (8; '5) c. 269)

When village separate district (38-222, 37+95; 37-322, 34+164; 38-186, 36+454). Town as separate district (37-26, 32+788; 67-119, 69+699). Districts in Indian reservations (67-119, 69+699; 82-328, 84+1002). Disfranchisement by creation of new district (37-26, 32+788).

157. Map or description to be made and posted—When a ward is so divided, the council shall make a map or description of each division, defining it by known boundaries, and file the same with the city or village clerk, who shall keep the same open for inspection at all times, and post copies of the same in at least five of the most public places in each district. Such council shall furnish copies thereof to the judges for use at the election. (9)

158. Notices to be furnished auditors and clerks—Between July 1 and September 1 in each election year the secretary of state shall cause to be delivered to the auditor of each county a notice, specifying all the officers to be voted for throughout such county at the next general election, and each auditor, on receipt thereof, shall cause a like notice to be delivered to each town, city, and village clerk in his county. (13)

159. Blanks and copies of law, how provided and distributed—At least sixty days before every general election, the secretary of state shall transmit to each county auditor a sufficient number of suitable blank forms for lists, registers, and affidavits, and such other blanks as are required in preparation for and conduct of such election; also copies of this chapter, or of so much thereof as pertains to the duties of election officers. The auditor shall forthwith deliver to the clerk of every city, town, and village in his county the necessary copies of each of such blanks, and one copy of the law for each judge. (14)

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160. Special elections, when and how called and conducted—Whenever, by reason of a tie vote, there shall be a failure to elect any state or county officer, member of the legislature, or representative in Congress, and whenever any vacancy occurs in any of such offices which is not otherwise provided for, the governor, within ten days after he is informed of such failure or vacancy, shall issue a proclamation directing a special election to be held, at a time therein specified, not more than twenty days from the date thereof, to fill such office. One copy of such proclamation shall be mailed to the auditor of each county wherein such special election is to be held. But if the vacancy occur in the office of representative in Congress or member of the legislature, and there be no session of the Congress or legislature between the happening thereof and the next general election occurring twenty-eight or more days thereafter, the vacancy shall be filled at such general election. Such special election shall be called, held, and conducted, and the returns thereof made and canvassed, in the same manner as in the case of general elections; and within fifteen days thereafter the auditor shall transmit a statement of the votes cast thereat to the secretary of state. (15, 16)

161. Vacancy after division of district, who may vote—No change in the boundaries of any legislative district shall be effective as to any election to

fill a vacancy in the representation therefrom when the term of the office which has become vacant commenced before such change was made. (17)

162. Printed instructions to voters—Uniform instructions to voters, printed in large type upon cards or heavy paper, shall be furnished by the secretary of state to the auditor of each county, containing such information as will enable the voters quickly and correctly to designate their choice. Whenever the auditor of any county shall notify the secretary of state that such instructions are also needed in any specified foreign language, the secretary shall furnish the same. Such cards shall be sufficient in number to allow one for each booth, and four additional for each district; and the auditor shall deliver such cards to the city, village, and town clerks in his county, who shall cause one to be posted in each booth, two in the polling room, and two on the outside of the building in which the voting takes place. (20)

163. Duty of officers—Proclamation by mayor—The mayor and all peace officers shall see that the law in relation to the sale and use of intoxicating liquors on election days is strictly enforced, and the mayor of each city, on the day preceding any election therein, shall issue a proclamation that the same will be so enforced; but the failure to issue such proclamation shall not exempt any person violating said law from the penalties thereof. (23)

164. Sample ballots—Notice—All ballots shall be printed as hereinafter prescribed, except where voting machines have been provided. At least three weeks before any general election, the secretary of state shall mail to the auditor of each county sample copies of the official state ballots, and at least two weeks before such election the auditor shall cause one week's published notice to be given of the contents of the official ballots for state and county officers. (24; '95 c. 275) See 1905 c. 87

165. White ballot—Contents—How provided and distributed—There shall be one ballot, on plain white paper, called in this chapter the "white ballot," upon which the names of all candidates for offices to be voted for throughout the state shall be printed. It shall be prepared under the direction of the secretary of state, and bound in blocks of fifty; and a sufficient number thereof to enable the clerks to comply with the provisions of this chapter shall be by him forwarded by express to the auditor of each county at least fifteen days before the election, and receipts, stating the number and date when received, taken therefor. On the fourth Tuesday preceding the day of election, the secretary of state shall file a sample thereof in his office for public inspection. (25; '97 c. 190)

166. Pink ballots for constitutional and other questions—The secretary of state shall also prepare and distribute a ballot printed on pink paper, hereinafter called the "pink ballot," upon which all propositions and questions to be voted upon throughout the state shall be so printed that the voter may conveniently indicate by a mark (X) either a negative or an affirmative answer to each. Such ballots shall be deposited in a separate box, painted pink. They shall be counted, canvassed, and returned as in the case of the white ballots, and the tally sheets and return blanks shall provide suitable columns and spaces therefor. ('03 c. 251)

167. Red ballot for city elections—There shall be one ballot on red paper, hereinafter called the "red ballot," upon which the names of all candidates for city offices, and all questions and propositions relating exclusively to city affairs, shall be printed. It shall be prepared under the direction of the city clerk, and bound in blocks of fifty, and, together with the other ballots and the instructions provided for in this chapter, shall be by him delivered to the judges of election for each polling place, and a receipt taken therefor, stating the number of each color and the date when received. On the Tuesday next preceding election day, such clerk shall file a sample printed ballot in his office for public inspection. (26) See 1905 c. 87

168. Blue ballots—Contents—How furnished and distributed—There shall be one ballot on blue paper, called in this chapter the "blue ballot," upon which shall be printed the names of all candidates for office, and all questions

and propositions to be submitted, except those required to be placed on other ballots. It shall be prepared under the direction of the county auditor, and, together with the white and pink ballots, shall be delivered by such auditor to the proper clerks in sufficient quantities to enable them to comply with the provisions of this chapter. The auditor shall give timely notice by mail to the clerks of the time when the official ballots will be ready; and such clerks, on the Thursday next preceding election day, shall go to the county seat and receive them, and give receipts therefor, stating the number of each and the date when received. On the second Thursday preceding election day, the auditor shall file a sample of such ballot in his office for public inspection.

(27)

See 1905 c. 214

Non-compliance with statute held not fatal (89-269, 94+879).

169. Number of ballots provided—At least one hundred ballots of each kind to be voted shall be provided by the clerk for each polling place for every seventy-five voters there registered at the preceding election. If for any known reason a greater number may be needed, sufficient additional ballots shall be furnished. (28)

170. General description of ballot—Uniformity required—All ballots shall be printed with black ink on paper of sufficient thickness to prevent the printing thereon from being discernible from the back; all ballots of the same color shall be substantially uniform as to style, size, thickness, and shade of color; and the same type shall be used for the names of all candidates on the same ballot. Whenever ballots of any class are printed on paper of the same general tint, but varying in shade, those used in any one district shall be of the same shade. (29)

171. White and pink ballots—General description—The white and pink ballots shall be not less than four nor more than six inches wide, and as long as the list of candidates to be voted for or the questions submitted may require, and shall contain, in such order of precedence as the secretary of state shall direct, conformably to this chapter, the official title of all offices proper to be placed thereon, followed by the names of the candidates for each. Such ballots shall be headed by the words "State Ballot" in heavy-faced plain letters, not smaller than long primer nor larger than great primer, with a heavy rule above and below the same. (30)

172. Same—Names, etc., how printed—The name of each candidate and of the office to be filled shall be printed at right angles with the length of the ballot, in plain roman type, not larger than long primer nor smaller than brevier; the name of each candidate in capital letters, preceded on the same line by the title of the office in capitals and small letters. Except in case of presidential electors each name shall be followed on the same line, in upper and lower case letters, by the party designation of the candidate. At the right of and on a line with such names and designations, near the margin, there shall be a space so inclosed by rule work as to make a square three-eighths of an inch in size, in which the voter may designate his choice by a mark (X). Above and below each name shall be printed across the ballot a light line, except that above and below each office a heavier line shall be so printed. Below the name of the last-named candidate for each office shall be placed as many blank lines as there are offices of the kind to be filled, preceded by the title of such office. The spaces for the names of candidates shall be three-eighths of an inch wide. At right angles with such lines and at the right of the small squares shall be printed opposite each office the words "Vote for one," or "Vote for two," or more, according to the number to be elected. (30)

Form of primary election ballots (87-221, 91+604, 840).

173. Same—Written names—Party precedence—Like squares shall be placed at the right of the blank lines, and on such lines the voter may write the names of persons for whom he desires to vote whose names are not printed, and in the squares opposite the same he may make marks as in the case of printed names. The first name printed for each office, or group of

names if more than one is to be voted for for the same office, shall be that of the candidate of the political party which at the last preceding general election polled the largest number of votes, the same to be determined by the average vote received by such of its candidates as were not indorsed by any other party; and, in case all of the state candidates of any political party were indorsed or renominated by another party, the position of the candidates of either such nominating or indorsing party shall be determined by taking the average vote of its candidates at the last preceding election wherein they were not so indorsed. In like manner the second and succeeding lines shall be filled with the names of candidates of the other political parties receiving respectively the highest number of votes. (30)

74-11, 76+788.

174. Same—Nominees by petition—Instruction to voters—The names of candidates nominated by petition shall follow those of candidates of conventions in the order in which the petitions are filed. Each such ballot shall contain, above the first name thereon, the words, "Put a cross (X) opposite the name of each candidate you wish to vote for, in the squares indicated by the arrow," and on a line with such words and over such squares shall be printed a small arrow, or point thereof, pointing downward. (30)

Nomination by petition (87-211, 91+1124, 92+93).

175. Same—Presidential electors—Groups voted for together—When presidential electors are to be voted for, the candidates of each party therefor shall be grouped and printed together, the names of each group to be arranged in the order in which they were filed. The political or party designation shall be printed as in the case of other candidates, and the entire group of electors of each party shall be inclosed by a scroll or bracket, to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right of and on a line with such surname, near the margin, shall be placed a square, in which the voter may indicate his choice by a mark (X), and one such mark opposite a group of presidential electors shall be counted as a vote for each elector in such group. The relative position of the several groups shall be determined by the rules applicable to other state officers. The groups of electors shall be separated by a blank space at least one inch in width, and no blank lines shall be printed therein as in the case of other candidates or groups. Above the names of the electors shall be printed in bold type, "Presidential ticket, vote once opposite group." The state ballot, with the required heading, shall be printed below the electors, with a blank space between, one inch in width. (30; '01 c. 109)

176. Party name—Use of on ballot—A political party which has adopted a party name, and whose state candidates, or any of them, polled at the preceding general election at least one per cent. of the vote cast, shall be entitled to the exclusive use of such name for the designation of its candidate on the official ballot, and no candidate of any other party shall be entitled to have printed thereon as a party designation any part of such name. Nor shall any person be named on the official ballot as the candidate of more than one party, or of any party other than that whose certificate of his nomination was first properly filed. (30; '01 c. 312; '03 c. 232)

Right to party name (86-138, 90+155; 87-211, 91+1124, 92+93; 87-316, 92+96; 92-98, 99+355; 93-178, 100+1124, 102+209). Title of 1901 c. 312 insufficient (93-178, 100+1124, 102+209).

177. Form of other ballots—The blue and red ballots shall be prepared and printed as nearly as may be in the same manner as the white, and, when a general election is to be held at the same time, the several tickets shall be arranged in the same order as on the white ballots, regardless of the vote polled in any particular county or municipality. When not held in conjunction with a general election, the local party tickets shall be placed on the ballot in the order of the vote polled by the parties at the last general election within the territory in which the election is to be held. (31)

178. Ballot, how printed on back—On the back of each ballot shall be printed, in plain type not smaller in size than great primer, the words "Official

Ballot," the date of the election, a facsimile of the official signature of the officer under whose direction the ballot is printed, and lines for the initials of two judges of election. Such printing shall be so placed as to be visible when the ballot is properly folded for deposit. (32; '01 c. 88 s. 1)

Non-compliance with statute held not fatal (89-269, 94+879).

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179. Ballot to contain only candidates properly nominated—Only the names of duly nominated candidates shall be placed upon the ballots, and no ballot shall be furnished to the judges of any district which contains the name of a candidate who cannot properly be voted for therein. (34)

180. Rotation of names, when required—Whenever two or more persons are to be elected to the same office, the names of all candidates of the several political parties for such office shall be so alternated on the ballots used in each election district that they shall appear thereon substantially an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list or group in which they belong. All officers charged with the preparation and distribution of such ballots shall cause the printer's forms to be so transposed and the blocks of ballots to be so made up as to carry out the intent hereof: Provided, that nothing in this section shall apply to the office of presidential elector. (34; '01 c. 88 s. 3)

NOMINATIONS BY DIRECT VOTE

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181. Primary election—Purpose—Time of holding—Notice—On Tuesday, seven weeks preceding any election, an election of party nominees, hereinafter designated as the "primary election," shall be held in each election district for the selection of party candidates for all elective offices, except offices of towns, villages and cities of the fourth class, and state offices, and members of school, park and library boards in cities having less than one hundred thousand inhabitants. Every town, city and village clerk shall give at least fifteen days' posted notice of the time and place of holding the same, of the hours during which the polls will be open, and of the offices for which candidates are to be nominated. The day of such primary election shall be the first day of registration. ('99 c. 349 ss. 1, 7; '01 c. 216 s. 1)

Primary law generally—Constitutional (86-19, 89+1126; 87-221, 91+604, 840; 87-308, 92+4). Does not embrace nomination of state officers (87-211, 91+1124, 92+93). Exclusive mode of nominating for offices embraced (86-19, 89+1126; 87-313, 91+1101). No blank spaces on ballot for voter to name candidate (87-221, 91+604, 840).

182. Political party defined—Nominations, how made—A political party, within the meaning of this chapter, is one which shall have maintained in the district or territorial division in question a party organization, and presented candidates for election, at three or more biennial elections within the preceding ten years; or whose members, to a number equal to at least ten per cent. of the total number of votes cast at the preceding general election in the county where the application is made, shall present to the auditor a petition for a place upon the primary election ticket. Candidates for office shall be chosen by the several political parties at such primary election, and not otherwise; but nothing herein shall prevent the nomination of candidates by groups, individuals, or so-called political parties which cannot be recognized as such, by certificate of voters to the number hereinafter specified. ('99 c. 349 s. 2)

Political party defined (87-211, 91+1124, 92+93).

183. Election districts for primary elections—The primary election shall be held, in the several districts established for the election next ensuing, at the place where the last election was held, or such other place as may be lawfully fixed. All officers required by law to establish, divide, or combine election districts shall perform their duties in that behalf at least two weeks prior to such election. The maps or descriptions of districts shall be posted at least one week preceding such election, and copies thereof shall be furnished to the judges of election. ('99 c. 349 ss. 3, 7)

184. Names of candidates, when placed on primary ballot—At least twenty days before the primary election, any person eligible, and desirous of having his name placed upon the primary ballot as a candidate for any office, shall file his affidavit with the secretary of state when to be voted for in more than one county, and with the county auditor when in a single county, stating his residence, that he is a qualified voter in the subdivision where he seeks a nomination, the name of his party, and the office for which he desires to be a candidate; that he affiliated with said party at the last general election, and, either that he did not vote thereat or voted for a majority of the candidates of said party at such election and intends to so vote at the ensuing election. If the office be one for which pecuniary compensation is provided, upon payment of twenty dollars to the secretary of state when the affidavit or petition is filed with him, and ten dollars to the auditor when filed with him, the auditor shall place such name upon the primary election ballot of the party designated. ('99 c. 349 s. 4; '01 c. 216 s. 2)

185. Order of filing—Fees, how disposed of—The secretary of state and county auditor respectively shall number each affidavit and petition in numerical order as received. The auditor shall immediately pay to the city treasurer all fees paid by candidates for city offices, and all other fees received from candidates to the county treasurer; but no fees shall be required from any candidate for an office to which no compensation is authorized to be paid. Immediately after the last day for filing nomination affidavits or petitions, the secretary of state shall divide the amount of all fees paid to him by candidates equally between the counties within which such candidates are to be voted for, and certify such division to the state auditor, who shall issue warrants therefor on the state treasurer for the amount due to each county. ('99 c. 349 s. 4; '01 c. 216 s. 2)

186. Voting to be by ballot—Sample ballot—All voting at a primary election shall be by ballot. On the nineteenth day before a primary election the secretary of state shall certify to the auditors of the several counties the names of all nominees to be voted for within such counties whose certificates have been properly filed with him, and on the fourteenth day before such primary each auditor shall group all candidates of each party by themselves, and prepare for public inspection a separate sample ballot for each party. The names shall be arranged alphabetically according to the surnames, and he shall post the sample ballot in a conspicuous place in his office, and give two weeks' published notice thereof. One sample ballot only of each party shall be printed for any county, and thereon shall be placed the names of all candidates to be voted for in such county. Each ballot shall be headed by the party name, the words "Primary Election Ballot," the names of the county and state, and a facsimile of the official signature of the auditor preparing it. Otherwise the ballot shall be arranged in the same general manner as the ballot used at elections, with suitable divisions and explanatory notes. Only one sample ballot for each party need be printed for any city, and thereon shall be placed the names of all the candidates to be voted for in the entire city, those to be voted for in any single ward being indicated by the words and figures "1st Ward," "2nd Ward," and so on. At the foot of the ballot shall be placed the heading "Ballot for Women," under which shall be placed the names of candidates to be voted for by women. ('99 c. 349 s. 5; '01 c. 216 s. 3)

No blank spaces on ballot for name of candidate (87-221, 91+604, 840).

187. Preparation of ballots—Rotation of names—The auditor shall have printed a sufficient number of separate primary election ballots for each political party, varied as may be necessary for the several districts and wards. The names of candidates, under headings designating each official position, shall be alternated on the ticket in the printing as in the case of election ballots. There shall be no printing on the back of the ballots, or any mark to distinguish them except the initials of the judge or clerk. ('99 c. 349 s. 6)

188. Election officers to act at primary election—The judges and clerks of election shall act on the day of such primary election both as judges and

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clerks of such election and as registration officers, and vacancies may be filled and additional appointments made as in the case of elections. They shall receive no additional pay on account of such extra service. ('99 c. 349 s. 8)

189. Registers—The blanks provided for registration of voters for general elections shall have an additional column, headed "Voted, Primary Election," and be used at such election. No names of voters shall be placed upon said registers prior to the day of such election, nor shall any be placed thereon upon said day, in any city, except the names of those who appear in person before the boards of registration for that purpose. ('99 c. 349 s. 8)

190. Polling places—Peace officers—Ballot boxes—So far as they shall be applicable, all provisions of this chapter relating to the location and arrangement of polling places, peace officers, procuring registers, ballots, boxes, and other supplies, opening polling places, and in reference to challengers and gatekeepers, shall apply to primary elections; except that only one ballot box for men and one for women shall be required. ('99 c. 349 ss. 13, 14)

191. Hours for voting—The polls shall be kept open from 6 o'clock a. m. until 9 o'clock p. m., and the officers shall remain in session during the same hours for the registration of voters. If at the hour of closing there are any voters in the polling place, or in line at the door, who are qualified to register and vote, and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to register and vote. But no one not present at the hour of closing shall be entitled to register and vote, although the polls were not closed when he arrived. No adjournment or intermission shall be taken except as provided in the case of elections. ('99 c. 349 s. 15)

See 1905 c. 92

192. Qualification of voters—Manner of voting—Every person qualified as a voter may register therein and vote at such primary election. Having registered, and, in case of challenge, the same having been determined in his favor, he shall be entitled to a ballot of the political party whose candidates he shall declare (under oath if his right thereto is questioned) that he generally supported at the last election and intends to support at that next ensuing, except that when voting for the first time he shall not be required to declare his past political affiliation. Such ballot shall be so indorsed with the initials of two of the judges that the same will show when folded. He shall be instructed by one of the judges as to the proper method of marking and folding his ballot, and shall then retire to an unoccupied booth, and without undue delay mark the same with the indelible pencil there found. If he shall spoil or deface such ballot he shall at once return the same and receive another. ('99 c. 349 ss. 16, 17; '01 c. 216 s. 4)

193. Marking primary ballots—The voter shall designate his choice on the ballot by marking a cross (X) in the small square opposite the name of each candidate for whom he wishes to vote. If he shall mark more names than there are candidates to be nominated for any office, or if for any reason it be impossible to determine his choice for any office, his ballot shall not be counted for such office; but the rest of his ballot, if properly marked, shall be counted. No ballot shall be rejected for any technical error which does not render it impossible to determine the voter's choice, even though such ballot be somewhat soiled or defaced. ('99 c. 349 s. 17)

194. Folding and depositing ballot—When a voter has marked his ballot, he shall fold it so that its face will be concealed and only the initials on the back be visible, and hand the same to the judge in charge of the boxes. Such folded ballot shall be placed in the proper box, and the name of the voter checked upon the register in the column headed "Primary Election." So far as applicable, all provisions of this chapter relating to false registration, defacing posted lists, time allowed employees for voting, ballots, voting room, removal from district, regulations at polling places, challenge of voters, rules for marking ballots, methods of voting, violations of such provisions, and penalties, shall be observed and enforced. ('99 c. 349 s. 18; '01 c. 216 s. 5)

195. Preliminary to canvass—As soon as the polls are closed, and before the boxes are opened, the judges and clerks shall prepare upon a blank furnished by the auditor a statement substantially as follows: "Poll-list statement of primary election held in (name of election district, town, village, or city, and date). The number of persons whose names appear upon the register as present at the above named primary election was, of whom were women. The number of ballots cast by men was, and the number cast by women was" Such statement shall have the blanks for numbers filled by words and figures, and shall be signed by each judge and attested by each clerk. Such judges and clerks shall place in the register column headed "Voted, Primary Election," the word "No" opposite the name of every person who did not vote. ('99 c. 349 s. 19)

196. Canvass of votes—They shall then take the ballots from the boxes, count those cast by each party, place them in a separate pile and fasten them together, count all the votes for each party separately, certify to the number of votes cast for each party candidate for the several offices, and replace the counted ballots in a box together. They shall seal the returns for all parties in one envelope and return the same to the auditor. Except as herein otherwise provided, all the provisions of this chapter relating to the count, canvass, and return of votes shall be applicable. ('99 c. 349 s. 20; '01 c. 216 s. 6)

197. Tally sheets and returns—The auditor shall furnish to each district, with the ballots, two books or sets of tally sheets for each political party having candidates to be voted for. Each sheet or book shall be headed: "Tally sheet for (name of political party), (name of city or village), (county), (ward or town), election district, for a primary election held (date)." The names of candidates shall be placed on the tally sheets in the order in which they appear on the official sample ballots, and in each case shall have the proper party designation at the head thereof. ('99 c. 349 ss. 21, 22)

198. County canvassing board—The county canvassing board shall consist of the clerk of the district court, auditor, and chairman of the county board, together with two justices of the peace of the county selected by a judge of the district court from political parties opposed to that of the majority of those above mentioned, when possible. But no candidates for a nomination shall serve on said board, and the places of any so disqualified shall be filled by such judge by the appointment of qualified voters not holders of any public office. Such board shall meet at the courthouse at 10 o'clock a. m. on the second day after the primary election, take the oath of office, and publicly canvass the returns made to the auditor. Three members shall constitute a quorum, and it shall complete the canvass by the evening of the third day following the primary election. ('99 c. 349 s. 23; '01 c. 216 s. 7)

199. Same—Report—The canvassing board shall prepare, sign, and file with the county auditor the following report:

1. A separate statement for each political party of the names of all candidates thereof voted for at the primary election, with the number of votes received by each, and for what office.

2. A separate statement of the names of the candidates of each political party who are nominated; that is, the candidates in each party who received the highest number of votes for the respective nominations.

3. A statement of the whole number of voters registered, and the number of ballots cast at such primary election, men and women separately.

Whenever two or more candidates of the same party receive an equal number of votes for the same nomination, the board shall determine the tie by lot. Upon the completion of the canvass, and on or before 10 o'clock a. m. on the fourth day succeeding the canvass, the auditor shall certify to the secretary of state the vote, as shown by such report, for all candidates to be voted for in more than one county, and shall mail or deliver, to each nominee to be voted for in his county alone, a notice of his nomination, and that his name will be placed upon the official ballot upon payment of the legal fee within

the time therein named, the amount of which fee shall be stated. ('99 c. 349 s. 24; '01 c. 216 s. 8)

200. State canvassing board—The state canvassing board, as constituted for canvassing the returns of general elections, shall open and canvass the returns of a primary election made to the secretary of state, at the usual place and hour of meeting, on the seventh day after such primary election. It shall determine ties between candidates as in the case of general elections. Upon the completion of the canvass, the secretary of state shall certify to the several auditors the names of the persons found to be nominated, and mail to each nominee a notice of his nomination, and that his name will be placed upon the official ballot upon the payment of the required fee, the amount of which shall be stated. ('99 c. 349 s. 24; '01 c. 216 s. 8)

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201. Nominees of political parties—The persons certified by such canvassing boards to be nominated shall constitute the nominees of the several political parties, and their names shall be printed upon the official ballots prepared for the ensuing election in like manner as if such persons had been duly nominated by party conventions of delegates, with the certificate thereof filed as required by law. But no name shall be placed upon such ballot unless the required fee is paid. ('99 c. 349 s. 25; '01 c. 216 s. 9)

Campaign committee cannot nominate (87-313, 91+1101). Provision excluding names of candidates not nominated at primary election constitutional (87-308, 92+4).

202
99-M - 313
109-NW 404
99-M - 397
109-NW 820

202. Review by courts—Whenever it shall be made to appear by affidavit to any judge of the supreme court, or of the district court of the proper county, that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot, that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county auditor, canvassing board, member thereof, or other person charged with any duty concerning the primary election, or that any neglect of duty has occurred or is about to occur, such judge shall order the officer or person charged with such error, wrong, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty, or forthwith show cause why he should not do so. Failure to obey the order of such judge shall be contempt of court. ('99 c. 349 s. 27)

202
99-M - 314
99-M - 397
105-M - 513
117-NW 1044

203
99-M - 261
109-NW 698
99-M - 313
109-NW 404
99-M - 397
109-NW 596, 820
99-M - 518
109-NW 1133

203. Contests for nomination—Any candidate at a primary election desiring to contest the nomination of another candidate for the same office may proceed by affidavit within five days after the completion of the canvass, as specified in § 202; and the contestee shall be required by the order of such judge to appear and abide the further order of the court made therein. ('99 c. 349 s. 27)

203
99-M - 262
99-M - 313
99-M - 397
99-M - 518
105-M - 515

NOMINATIONS BY CONVENTION

204. Delegates, how and when selected—Notice—Candidates whose nominations are not required to be made by a primary election may be nominated by a delegate convention called for the purpose. The authorized county or city committee of any political party, at least twenty days before the time fixed for the election of delegates, shall give two weeks' published, and at least six days' posted, notice of primaries for the purpose of electing the number of delegates to which each district is entitled, and of the offices for which nominations are to be made. Except as otherwise especially provided, such primaries shall be conducted in accordance with the provisions of this chapter relating to primary elections, in so far as the same can be applied. All such primaries shall be held at the regular polling places, and those of each county on the same day, at an hour thereof between 2 and 9 o'clock p. m. appointed by the committee calling the convention, and shall be kept open for at least one hour. ('95 c. 276 ss. 2, 4)

Powers of political conventions (73-528, 76+285).

205. Conventions to elect delegates—When the delegates so chosen are to form a convention for the election of delegates to a state convention or

to that of a district of the state larger than a county, the party conventions of the several counties shall all be held on the same day. Such state or district conventions shall be called by the authorized party committee of such state or district, substantially as prescribed in § 204, and the day for holding the county conventions shall be named in the call. ('95 c. 276 s. 8)

206. Conduct of election—At the hour appointed for holding such primaries the chairman or secretary of the party committee of the district, or, if neither be present, some member of the party who is a voter in the district, shall call the meeting to order. Those present and qualified to vote at such election shall choose from their number, viva voce, a chairman, clerk, and two judges of the election. The delegates shall be chosen by ballot, and each may contain as many names as there are delegates to be elected from the district. If more be placed thereon, the ballot shall be void. Those receiving the highest number of votes shall be declared elected, and, if there be a tie, the judges and clerk shall determine it by lot. ('95 c. 276 s. 4; '97 c. 125)

207. Same—Who may vote—Change of party—The chairman shall preside, and may administer the oath to the judges and clerk and to those whose right to vote is challenged. Only those shall vote at the primary who affiliated with the party at the preceding general election; but if any voter of the district shall satisfy the judges by his oath that he did not vote at the last general election or voted and affiliated with the political party holding such primaries at the last general election and intends to so vote and affiliate at the ensuing election, his vote shall be received. No person shall vote for the delegates of more than one party in any calendar year. ('95 c. 276, ss. 4, 5)

208. Same—Announcing result—Certificates and lists—The clerk shall keep a record of the proceedings of such primary, and may administer the oath to the chairman. The judges shall receive and count the ballots of all having the right to vote at the primary, and none others. They shall record the names and addresses of all persons voting. Both judges and clerk shall subscribe the oath required of judges and clerk of elections. At the closing of the polls they shall count the ballots and report the same to the chairman, who shall publicly announce the result forthwith. The chairman and clerk shall then furnish each delegate elected with a certificate of his election, and transmit to the chairman of the committee calling the primary a list of the names and addresses of the persons who voted thereat. ('95 c. 276 s. 6)

209. Provisions not applicable in certain cases—The provisions of this chapter relating to conventions shall not apply to primaries in villages, towns, or school districts. The provisions relating to notice of delegate primaries shall not apply to the choice of delegates to a convention held to nominate candidates to be voted for at a special election, but such conventions, and the elections to choose delegates thereto, may be called and held in such manner, and at such times and places, as the proper party committees may determine. ('95 c. 276 s. 2; '97 c. 137)

210. Vacancies—If an elected delegate for any reason fails to serve, his place shall be filled, from the voters of his party in his district, by the remainder of the delegation. If no such voter be present at the convention, the delegates present may cast the full vote. And, if an entire delegation shall fail to attend, the convention may select qualified voters of the party residing in the district, if such be present, to act in lieu thereof. ('95 c. 276 s. 9)

211. Nominations—How certified—The certificate of nomination of a candidate selected by convention shall be signed and certified by the presiding officer and secretary thereof, who shall also take and subscribe an oath that the facts stated in the certificate are true; and the secretary shall immediately deliver such certificate of nomination to the officer charged with directing the printing of the ballots upon which the name is to be placed; and, in case he shall neglect to do so, he shall be guilty of a misdemeanor. (38)

Certificates of nomination by committee (74-118, 76+1021).

212. Convention defined—A convention, within the meaning of this chapter, is an organized body of delegates, representing a political party, assembled

for the purpose of nominating candidates for office, which party at the last general election before the holding of such convention polled at least one per cent. of the entire vote cast in the state, county, or other district for which the nomination is made. (39)

87-211, 91+1124, 92+93.

NOMINATION BY VOTERS

213. Certificate—Number of signatures—The certificate of the nomination of a candidate otherwise than by convention or primary shall be signed by voters resident within the district or political division from which the candidate is presented, to the numbers following respectively: If for a state office, one per cent., not exceeding two thousand; if for a congressional or judicial district office, five per cent., not exceeding five hundred; if for any other office, ten per cent.; such percentages in each case being of the entire vote cast at the last preceding election. Such certificate shall be filed in the same manner as that of a convention. A defeated candidate at the primary election shall be ineligible for nomination for the same office under the provisions of this section. (40; '95 c. 135)

See 1905 c. 134

87-211, 91+1124, 92+93; 86-19, 89+1126.

214. Form of certificate—Such certificate of nomination, which may consist of one or more writings, shall contain the name of the person nominated, the office for which he is nominated, the party or political principle he represents, expressed in not more than three words, and his place of residence, with street and number thereof, if any. In case of presidential electors, the names of the candidates for President and Vice-President may be added to the party or political appellation. (37)

87-211, 91+1124, 92+93.

215. But one name in certificate—Petitioners, how limited—All nominating certificates containing the names of more than one candidate shall be void. No person shall sign a certificate of nomination by voters until after the date of the primary election. No person who has voted at a primary shall be eligible as a petitioner for any nomination to an office for which nominees were voted upon at such primary. Nor shall any person join as a petitioner in nominating more than one candidate for the same office, unless more than one person is to be elected thereto; in which case, if eligible, he may petition for as many candidates therefor as there are persons to be chosen. (41, 43; '03 c. 90)

216. Oath of signers—Following the facts required to be stated in each certificate signed by voters, shall be written or printed an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this certificate, and signed the same of my own free will." Each signer, at the time of signing, shall be sworn as aforesaid. (42)

GENERAL PROVISIONS

217. Vacancy after nomination—If a vacancy occurs after nominations have been made, it may be filled at any time, before the official ballot is posted, by filing with the proper officer a nomination certificate, in form and substance as hereinbefore provided, executed by the chairman and secretary of the proper committee of the party making the original nomination, under such regulations, if any, as the convention shall have adopted; otherwise under the direction of such committee. (45)

74-118, 76+1021.

218. Vacancy after printing ballots—If the ballots have been printed, the proper committee may fill such vacancy by nomination, and the chairman thereof may supply the judges in each district in which such candidate is to be voted for with a number of adhesive pasters, containing only the name of such candidate, at least equal to the number of ballots furnished; but no pasters shall be delivered to, or received by, any person whatever except such judges, who shall personally affix one in the proper place on each ballot before

placing their initials thereon. If such vacancy occur before the official ballots have been distributed by the secretary of state, county auditor, or city clerk, such pasters may be delivered to such officers, who shall transmit them with the ballots; and the judges, on receiving the same, shall affix them as herein-before provided. (46)

219. Candidates in more than one county nominated by voters—Whenever the nomination of a candidate to be voted for in any district larger than a single county is made by voter's certificate, the original thereof shall be filed with the auditor of the county where the candidate resides, and such auditor shall certify as many copies thereof, if presented to him, as there are other counties in the district, one of which certified copies shall be filed within the proper time with the auditor of each such county, and shall be authority for such auditor to place the name upon the blue ballots. (47)

220. Errors in printing ballots or certifying nominations—Whenever it shall appear by affidavit presented to any judge of the supreme or district court that an error or omission has occurred in the printing of the name or description of any candidate on official ballots, or that any other error has been committed in preparing or printing the ballots, or that the president or secretary of any convention has failed to properly make or file any certificate of nomination, or that the canvassing board of any primary election has failed to make and certify any nomination, or that the name of any person has been wrongfully placed upon the ballots as a candidate, such judge shall immediately order the officer or person charged with the error or neglect to forthwith correct the same, or perform his duty, or show cause why such error should not be corrected or such duty performed. (48)

73-528, 76+285; 74-11, 76+788; 74-55, 76+1018; 74-118, 76+1021; 74-177, 77+28; 81-420, 84+1115; 87-211, 91+1124, 92+93.

221. Filing certificates—Certificates of nomination shall be filed as follows: With the secretary of state, of the names to be placed on the white ballots, on or before the fifth Saturday preceding the day of election; with the county auditor, to be placed upon the blue ballots, on or before the third Tuesday preceding the day of election; with the city clerk or other proper officer, to be placed on the red ballots, on or before the second Saturday preceding the day of election. In each case the officer with whom such certificate is filed shall give or send to the person filing the same an acknowledgment thereof upon the same day it is received, and shall file and preserve such certificates, subject to public inspection. But no filing of any certificate shall be effectual unless at the time thereof the prescribed fee shall be paid or tendered to such officer. (49)

222. Fees for placing names on ballot—The secretary of state, county auditors, and city clerks shall place upon the ballots prepared by them, respectively, the names of all candidates duly nominated whose certificates of nomination have been duly filed, accompanied by fees as follows:

1. If to appear upon the white ballot, fifty dollars.
2. If upon the red ballot for a city of more than three thousand inhabitants, five dollars; if less, two dollars.
3. If upon the blue ballot, ten dollars in case the candidate is to be voted for in one county only; otherwise twenty dollars.

But if no compensation be provided by law for the office, or if the office be that of presidential elector, no nomination fee shall be required. (50; '03 c. 174)

223. Posted notice of election—When and by whom given—At least fifteen days' posted notice shall be given in each district by the several town, village, and city clerks of the time and place of holding any general election, and twenty days' such notice of any special election therein, the hours during which the polls will be kept open, and the officers to be elected, if any; but no failure to give such notice shall invalidate a general election. (51)

224. Place of election—The council of every municipality shall by ordinance or resolution, and any town may by vote, designate the place of holding

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the election in each district; otherwise the election shall be held as near as may be at the place where the preceding election was held, subject to change before the opening of the polls as provided by law. (52, 53)

225. Division of towns—Notice—When any town board has divided the town into two or more districts, such board shall designate the place for holding elections in each at least thirty days before the day thereof, and cause at least twenty-five days' posted notice to be given in each district of the boundaries of the district and the place of holding the election. (54)

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226. Towns may vote in villages—When so ordered by the voters at a town-meeting, elections in such town may be held within any village formed from its territory. If no place in said village be designated by the voters, the town board shall select a place therein where the election shall be held. And, whenever a majority of such voters shall petition the board to change the voting place to any such village, it shall procure a suitable place therein, and give at least four weeks' published and posted notice, before the election, of such change and place, without which no change shall be made. Such voting place shall be at least seventy-five feet from the village polls. Upon petition of a majority of the legal voters of any township to change the voting place to a village or city of less than ten thousand inhabitants, located in whole or in part in such town, the town board may procure a suitable place within such village or city for such election. (54; '97 c. 239; '01 c. 202; '03 c. 26)

227. Members of town board to be judges—Vacancy—The members of the town board shall be judges in the districts in which they respectively reside, unless all belong to one political party and reside in the same district, in which case not more than two, determined by lot unless otherwise agreed upon, shall act as judges. But no member of such board shall be compelled to serve as judge, and if any decline they shall notify the town board in time to fill the place by appointment. Whenever for any reason it becomes necessary to appoint one or more judges in order to provide three judges for each district, such board, on the first day of registration, shall appoint the number required, and cause posted notice thereof to be given in each district at least ten days before the election. (55)

228. Judges in cities and villages—The council of every municipality, at least twenty-five days before any election, shall appoint three qualified voters of each district therein to be judges. But in villages having but one district, and not included in any town district, the members of the council shall be judges, subject to the qualifications and restrictions provided for town boards in like cases. (56)

229. Clerks, how appointed—Qualifications of judges and clerks—The judges of each district shall appoint two qualified voters therein as clerks, except that in towns the town clerk, and in villages having but one district, and not included in any town district, the village clerk, shall serve as one of the clerks in the district where he resides. No more than two judges and one clerk shall belong to the same political party, and no person shall be eligible as judge or clerk unless he can read, write, and speak the English language understandingly, nor if he be a candidate for any office. (57)

Disqualification of judge does not invalidate vote (37-439, 35+263).

230. Selection of judges from certified party lists—At least thirty days before an election in any municipality having two or more districts, the local committees of the several parties participating in the preceding election may furnish to the appointing authorities a list of qualified voters, certified by the clerks of the committees, to act as judges in the several districts. Such judges shall be selected for each district from the lists so submitted, as follows: The first from the list of the party polling the largest number of votes in the municipality at the preceding general election, the second from that of the party polling the second largest number of votes, and the third from that of the party polling the third largest number. If the local committee of either of such parties fails to furnish such list, then one judge shall be selected from the party polling the fourth largest number of votes at such preceding election,

if a list has been furnished by such party. In case three lists are not submitted, they shall select one from each list submitted and make their own selection of the remainder, except that in no case shall more than two judges be selected from the same political party. (58)

231. National flag over polling places—Duties of judges—Expense—The governing body of every city, village, and town shall cause the national flag to be displayed on a suitable staff over each voting place therein during all the hours of registration and voting. The cost thereof shall be included in the general election expenses. The judges shall see that the flag is so placed and displayed, and wilful failure on their part so to do shall cause a forfeiture of their compensation for the time of such failure. They shall make a statement as to the number of days the flag was so placed and maintained, and return the same with the election returns. ('97 c. 183)

232. Vacancy in office of judge or clerk—When any one of the judges fails to attend at the time and place appointed for registration or for correcting the registration lists or holding an election, or if either be a candidate at such election or refuses to act, the qualified voters present shall elect viva voce one of their number, of the same political party as the judge originally appointed if only one judge in attendance belongs thereto, but if both belong to the same party then of another party, to act in his place. When any clerk is absent, disqualified, or refuses to act, the judges shall appoint some qualified voter of the same political party to act in his place. (59)

233. Oath of officers—Board of registration and election—Before any judge or clerk enters upon the discharge of his duties, he shall subscribe the following oath: "I, A. B., judge of election (or clerk, as the case may be), do solemnly swear that I will perform the duties of judge (or clerk) of election according to law and the best of my ability, and will studiously endeavor to prevent fraud, deceit, and abuse in conducting this election, so help me God." Such oath shall be affixed to the list or register provided for by law. If there be no person present authorized to administer oaths, the judges may administer it to each other and to the clerks. Such judges, prior to the opening of the polls, shall constitute a board of registration, and subsequent thereto a board of election. (59)

Failure to take oath held not fatal (10-107, 81).

234. Form of registry lists—All registry lists shall be headed substantially as follows: "List of qualified voters in the election district composed of the (town, village, ward, or precinct, as the case may be) of, in the county of, state of Minnesota, for an election to be held in such district on the day of, nineteen hundred and" and shall contain the names of voters in separate groups, in alphabetical order according to the first letter of the surnames, each letter of the alphabet to form a group, and not more than one group to be on any one page; and each group shall be separately numbered, commencing with 1. (59)

235. Residence of voters, how determined—The board of registration, in determining the residence of any voter, shall be governed by the following rules, so far as they are applicable:

1. The residence of any person shall be held to be in that place in which his habitation is fixed, without any present intention of removing therefrom, and to which, whenever he is absent, he intends to return.

2. A person shall not be considered to have lost his residence who leaves his home to go into another state, or county in this state, for temporary purposes merely.

3. A person shall not be considered to have gained a residence in any county into which he has come for temporary purposes merely, without the intention of making such county his home.

4. If a person go into another state with the intention of making it his residence, he shall be considered to have lost his residence in this state.

5. If a person remove to another state with the intention of remaining there for an indefinite time as a place of residence, he shall be considered to have

lost his residence in this state, notwithstanding he intends to return at some future time.

6. The place where a man's family resides shall be considered his residence; but if it be a temporary establishment for his family, or for transient purposes, it shall not be so considered.

7. If a man has his family living in one place and he does business in another, the former shall be considered his residence; but when a man has taken up his abode at any place with the intention of remaining there, and his family refuses to reside with him, then such place shall be considered his residence.

8. The residence of a single man shall be considered to be where he usually sleeps.

9. The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention.

10. No person employed temporarily for the purpose of cutting timber, or in the construction or repair of any railroad, canal, municipal, or other work of public nature, shall acquire a residence in any district into which he came for such purpose; but this provision shall not be held to extend to station agents or sectionmen who permanently reside in such district. In determining the right of any person employed by a railroad company or upon any public work to register or vote, all of the judges shall be satisfied that he is a bona fide resident of the district, and not there for temporary purposes merely; and his unsupported affidavit shall not be held conclusive as to any fact necessary to entitle him to vote.

11. Any permanent inmate of a soldiers' home shall be considered a resident of the district in which the same is located. (66)

236. Registration in towns, villages, and cities of the fourth class—On Tuesday, seven weeks preceding any general, and at least fourteen days before any special, election, the board of registration of each district in towns, villages, and cities of the fourth class shall make duplicate lists of the names of all persons entitled to vote therein at such election, containing the names of such persons in alphabetical order, and their places of residence. The board shall examine the poll lists used at the preceding general election, and place on the new list the names of all persons whom the board knows, or can with reasonable diligence ascertain, to be entitled to vote in the district at such election, and at least thirty days before a general, and ten days before a special, election, shall cause copies of such list to be posted in three public places in the district. (60, 63; '99 c. 189)

Under former statute absence of poll lists held not fatal (10-107, 81; 18-64, 43; 18-351, 323). Failure to post not fatal (46-274, 48+1112). Cited (67-119, 69+699).

237. Same—Cities of the fourth class—In cities of the fourth class the board shall meet on the Tuesday preceding such election at the place where the same is to be held, and remain in session from 9 o'clock a. m. until 9 o'clock p. m., for the purpose of making corrections in such lists, the time and place of meeting to be noted on the list previously posted. In making such correction the board shall add to such lists the names of all other persons shown to be entitled to vote in that district at such election, and erase therefrom the names of all shown not to be entitled so to vote. (60; '99 c. 189)

238. Oath before registration—Any of the judges may administer the following oath to persons appearing for registration: "You do solemnly swear that you will fully and truly answer such questions as shall be put to you touching your qualifications as a voter under the laws of this state?" (61)

239. Board to compare register, sign each page, and make certificate—At the end of each day's registration in all districts in towns, villages, and cities of the fourth class, the board shall carefully compare the registers and correct all errors. The judges shall then sign their names at the end of the list on every page, so that no new name can be added without discovery, and also sign and attach to such register a certificate in substance as follows:

We, the undersigned, judges of election in the district of

..... of, in the state of Minnesota, do jointly and severally certify that at the general registration of voters in such election district on the day of, 19.., there were registered by us in such district the names which in this book are inserted, and that the number of registered and qualified voters was and is the number of, of whom are males and females. (Number to be written in figures and words.) (62)

240. Same—Names entered or stricken from lists on election day—Any person offering to vote in any such district, whose name is not on the list at the opening of the polls, but who shall satisfy the election board by proper evidence that he is entitled to register and vote, shall be allowed to vote at such election without taking an oath, unless required to do so by such board. The vote of any person whose name is on the list at the opening of the polls shall not be rejected except upon satisfactory evidence that such name was registered by mistake and that such person is not entitled to vote, in which case such name shall be stricken from the list and the vote rejected. An entry of such fact shall be made on the list opposite each name so added or stricken off. (65)

241. Same—Cities of the first, second, and third classes—Powers—Vacancies—In cities of the first, second, and third classes the judges shall constitute boards of registration in their respective districts. They shall meet on Tuesday, seven weeks preceding any general state or city election, and fourteen days before any special election, at 6 o'clock a. m., at the place where the last election was held, or in such other place as may be lawfully designated as the polling place for the district, and there remain in session until 9 o'clock p. m., and register all persons entitled to vote in such districts at the ensuing election. Such registration shall be known as the register of voters, and be made in duplicate. The board shall have the same right to preserve order at its meetings as judges on election days, and vacancies shall be filled in the same manner as upon election day. (67; '95 c. 137 s. 1)

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242. Registers, how prepared—Headings—Names—Questions—In all districts in such cities, one of the judges shall administer to all persons appearing for registration the following oath: "You do solemnly swear that you will fully and truly answer all questions put to you touching your qualifications as a voter under the laws of this state." The blank forms of registers in cities of the second and third classes shall be prepared by the secretary of state, and shall contain columns under the following headings and subheadings, viz.: "Names," "Voted," "Residence," "Number," "Street or Avenue," "Place of Nativity," "Color," "Length of Residence," "United States—Years," "State—Years, Months," "District—Years, Months, Days," "Date of Naturalization," "Court or Place," "Able to Read English," "Where Last Registered—Ward, District," "Voted at Primary," and "Remarks." The board shall enter in such registers the names of all persons residing in its district whose names appear in the poll list and register at the preceding election as having voted in the district, except such as are known to have since died, removed from the district, or become disqualified; and, so far as known to any of such board, the proper entries shall be made opposite each name in the different columns. In case the boundaries of the district have been changed since the election for which such poll list was made, the board shall place on the registers only the names of the persons appearing by such poll list to be residents of the new district. One of the judges shall then ask each of such persons the questions necessary to properly fill out the spaces opposite his name in the various columns. The clerks, if any, or members of the board shall enter the names of such persons in the registers, and the answers to the questions in appropriate columns therein. In the column headed "Residence," there shall be the name and number of the street, or other location of the dwelling, if there be a definite number; if not, such description of the place of such dwelling as shall enable it to be readily ascertained. If more than one family reside in a house, there shall be entered the floor on which the applicant resides, and the room or rooms occupied by him. The register shall be ruled, and one name shall

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be written on each line; but no name shall be written between the lines, and, if the name of any person be so written, such person shall not be entitled or allowed to vote unless his name shall also appear properly on a line in such register. (68, 72)

243. Same—Cities of the first class—In cities of the first class the registers shall be substantially as provided in § 242, except that in place of the heading, "Where Last Registered—Ward, District," the heading shall be "Householder—Boarder—Lodger—Employee." No names shall be registered unless the person appears personally before such board or registers by affidavit. (71)

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244. Registration in person, and by affidavit of absent voter—In addition to the names already on said poll list, the board shall enter thereon the names of all legal voters who shall personally appear, and also the name of any absent voter whose affidavit shall be presented during any session of such board, in substance as follows:

I,, being first duly sworn, on oath say that I am a legal voter in the state of Minnesota; that I reside at No. street (or avenue), in the election district in the ward in the city of; that I have not been and will not be able to be present in such district to register personally, for the reason that; that I desire to be registered in such district; that my full name is; I was born at; am (state color); have resided in the United States for years and months, and in Minnesota for years and months, and in such election district for years, months, and days; that I am able to read English, and by occupation am a; that at the last general election I resided at No. street (or avenue), in such city, and was registered and voted at the election district of the ward (or that at the last general election I was not a resident of such city, but voted at); that at my present residence as above stated I am (householder, boarder, lodger, employee, or other proper term); (the following to be omitted if native-born) that I am a naturalized citizen of the United States; that my final papers were issued by the (give court and place) on the (give date or other particulars),

(Signature)
(68)

245. When voter removes from one district to another—When it appears from the statement or affidavit of an applicant for registration, or is otherwise known to the board, that such applicant has been registered in another district, a certificate signed by the registration board of such other district, showing that his name has been stricken from the voting list of such district, shall also be presented. Then if he has or will have been a resident of such new district for thirty days next preceding an election, his name shall be entered on the voting list; otherwise not. When the voter removes from one place to another in the same district, the register shall show the change before his vote is received. (69)

246. Registers compared, signed, certified, and returned—At the end of the first day's registration in such cities, the board shall carefully compare the registers and correct any errors therein, and one or more of the judges shall sign his name at the end of the list on every page, so that no name can be added without discovery, and all the judges shall also sign and attach to such register a certificate in substance, as follows: "We, the undersigned, judges of election in the district of ward, in the city of, in the state of Minnesota, do jointly and severally certify that, at the general registration of voters in such district, on the day of 19... there were registered by us in such district the names which are inserted in this book, and that the number of registered and qualified voters was and is". (Number to be written in figures and words.) If any women shall have registered, the certificate shall have added thereto, "of whom are men and are women." Before 10 o'clock

a. m. on the next day, such registers shall be deposited by one of such board in the office of the city clerk, who shall safely keep the same. (73)

247. Same—Second registration—Days, hours, etc.—In such cities, on Tuesday two weeks preceding any general election, and on the thirteenth day preceding any special election, such board shall meet at the same place as before, and remain in public session from 6 o'clock a. m. until 9 o'clock p. m., for the purpose of registering qualified voters. It shall obtain from the city clerk and use the same registers as on the first day, and observe the same forms. (73)

248. Comparing, signing, certifying, posting, etc.—At the end of the second day's session the registers shall be compared, corrected, signed, and certified as on the first day, with this addition thereto: "Making the total number registered to date hereof inclusive, of whom are men and are women." Before the board adjourns on this day, it shall make a copy of all the names upon such registers, with the addresses as therein indicated, and post the same conspicuously outside the place of registration, with a notice of the time when such board will meet to complete and finally correct such registers, and that the same will be accessible to any voter. The registers shall be returned by one of such board to the office of such clerk before 10 o'clock a. m. on the next day. (73)

249. Last registration day in cities of the first, second, and third classes—In cities of the first class on the second Saturday preceding a general election day, and in cities of the second and third classes on the Tuesday preceding any general, and on the day one week preceding any special, election, the board shall again meet at the same place for the completion and final correction of said registers. Said board shall obtain the same registers from the clerk and register the names of qualified voters as upon the other days, and for this purpose shall be in session from 6 o'clock a. m. until 9 o'clock p. m. on each day of registration. (74)

250. Correction of registers—Posting list—Such board shall erase from the register the name of any person satisfactorily proven, by the oath of two qualified voters of such district, to be disqualified to vote at the ensuing election. At the close of the last registration day the registers shall again be compared, corrected, signed, certified, and returned as provided for the other days. When the registration has been fully completed, and before the board adjourns or separates, it shall prepare a copy of the names and addresses appearing upon such registers, and post the same outside the place of registration, or in such manner as to be plainly discernible and easily read from the outside. (74)

251. No person allowed to vote unless registered—Exception—Only the votes of qualified and registered voters shall be received by the judges at any election in a city of the first, second, or third class, except the vote of a person whose name was erased as provided for in § 250, and who takes the oath and proves his identity by the oath of another, as hereinafter prescribed. (75)

252. Hours for opening and closing polling places—In towns and villages the polls shall be kept open from 9 o'clock a. m. until 5 o'clock p. m., in cities of the fourth class from 7 o'clock a. m. until 6 o'clock p. m., and in all other cities from 6 o'clock a. m. until 7 o'clock p. m. No adjournment or intermission whatever shall be had until the polls are closed, all the votes counted, and the result publicly announced; but this shall not be construed to prevent any temporary recess for taking meals or other necessary purposes, provided the board remains in session and not more than one member thereof is absent at the same time. (78)

Effect of keeping open after closing hour (46-274, 48+1112).

253. Location of polling places—No election shall be held or appointed to be held in any saloon or bar-room, or in any room used or occupied as a place of resort for idlers or disreputable persons, or in any room adjoining either. Nor shall such election be held in any room wherein the requirements of this chapter relative to booths, railings, and distances cannot be substantially complied with. Such polling places in all cities shall be upon the ground floor, in

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a front room, the entrance to which is from a highway or public street at least forty feet wide, and as near the center of the voting population of the district as is practicable. (79)

254. Judges may change polling place—When any place designated for holding an election is found not to comply with the provisions of this chapter, the judges, on the first day of registration when practicable, and in any event on or before the opening of the polls on election day, shall procure a suitable place, as near the designated place as may be, which is not subject to such objection. (80)

255. Notice of change of polling place—When a change of the place of registration or election has been determined upon, the judges shall meet at the place first designated, and, after filling any vacancies in the number, adjourn to the new place selected, first publicly announcing the change to the electors present, and posting in a conspicuous place at said first designated place a notice of the change made by them. They shall also post a similar notice at the new registration or voting place, and, if deemed necessary by any of such judges, they shall post additional notices of said change in three public places in the district. They shall certify to the proper authorities the expenses attending such change, which shall be allowed and paid as part of the election expenses. (81)

256. Arrangement of polling places—Each polling place shall be provided with one white, one pink, one blue, and one red ballot box, and, where women are entitled to vote, a separate box for ballots cast by them. As many of these boxes shall be used at any election as there are kinds of ballots to be voted. Each box shall be of sufficient size, and with a sufficient aperture, to receive and contain all the ballots likely to be placed therein. Each polling place shall consist of a single room, containing at least two booths for every one hundred voters registered. Each booth shall be six feet high, three feet deep, and at least two feet wide, with a shelf, at least one foot wide, extending from side to side at a convenient height for writing, and be provided with a door or curtain so that the voter may be free from observation while marking his ballot. It shall at all times when in use be provided with cards of instruction, an indelible pencil, and other supplies needful in marking the ballots. A guard rail shall be so placed that only persons who are inside thereof can approach within six feet of the ballot boxes or the booths, but the boxes, booths, judges, and clerks shall be in open public view. Such guard rail shall be so constructed as to provide a separate entrance and exit for voters. (82, 83)

257. Order at polls—Special officers—The peace officer shall keep order and quiet at the polling places. During the voting hours no persons other than those receiving, marking, and depositing ballots shall be permitted to approach within six feet of the booths, unless by consent of the judges, given by authority of law. Special peace officers may be appointed by the judges when necessary. Any person guilty of riotous or disorderly conduct shall be arrested, upon refusal to desist when warned. No peace officer shall remain in the voting room unless so ordered by the judges, nor interfere in any manner with the voters. (84, 85)

258. Procuring registers, ballots, boxes, etc.—Before 3 o'clock p. m. on the day preceding any election, the judges shall procure the registers provided for in this chapter from their legal custodian, one being procured by a judge representing one of the two leading political parties, and the other by one representing another leading party. The custodian of the ballot boxes and ballots shall deliver the same to the judges of the respective districts, together with their keys, the poll-books, stationery, and material required at such election. The judges shall be responsible for the safe-keeping of said registers and ballots unaltered, and shall have all such ballots, boxes, registers, poll-books, printed instructions, and materials at the polling places in their respective districts at the opening of the polls on the day of election. Except in cities of the fourth class and over and election districts within fifteen miles of the county seat, the county auditor shall at least one week before the election send such ballots by registered mail or express to the proper board of such election districts. (86)

259. Proceeding on failure of judges to obtain register and ballots—In case neither of the judges appears at the office of the custodian of the ballots, as provided in § 258, he shall forthwith send to the proper district the ballots therefor, securely wrapped, tied, and sealed, by special messenger, who shall forthwith deliver the same to such judges, or one of them; or, if unable to do so, he shall deliver them at the polling place at the hour for opening the polls. He shall take a receipt for such ballots, and promptly file the same with such custodian, together with his affidavit stating when, where, and to whom he made such delivery. Such judges, and each of them, shall be chargeable with all expense incident to such delivery and report, together with mileage, the same as allowed to sheriffs for serving process; but nothing herein shall relieve any such judge from the penalty provided by law for neglect of duty. (87)

260. Ballots not delivered—Additional or substitute ballots, when—If the ballots are not delivered, or are stolen or destroyed, and sufficient regular ballots cannot seasonably be had, the county auditor or other proper official shall cause other ballots to be immediately prepared as nearly in the form prescribed as practicable, with the word "Substitute" printed in brackets immediately over the words "Official Ballot," as indorsed on regular ballots, and, when practicable, with the facsimile signature of the officer preparing the same, accompanied by his affidavit that the same have been so prepared and furnished by him, and that the original ballots have not been received, or have been destroyed or stolen, as the case may be. The judges shall cause such substituted ballots to be used at the election. (88)

261. Proceeding when there are no official or substitute ballots—When no official or substitute ballots are ready for distribution at any polling place, or if the supply be exhausted before the polls are closed, unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, or of any ticket or tickets forming a part or parts thereof, may be used until substitutes prepared by the proper official can be printed and delivered; and the fact shall be certified and accompany the returns of election. (89)

262. Proceedings preliminary to opening polling places—Immediately before opening the polls, one of the judges shall open the ballot boxes in the presence of the people there assembled, turn them upside down so as to empty them of everything that is in them, then lock them and deliver the key to another of the judges. The judges shall thereupon proclaim that the polls are open, and cause written or printed notices of the hour of closing them to be conspicuously posted outside the polling place. Such boxes shall not be reopened until opened for the purpose of counting the ballots therein at the close of the polls. (90)

263. Challengers allowed in the room—Substitutes—The judges shall allow one voter of each political party casting one per cent. of the entire vote at the preceding election in that district, selected by said parties respectively, and having a certificate in writing from the chairman of an authorized committee of the party he represents, to be in the room where the election is held, to act as challenger of voters; and such challengers may remain with the board until the votes are canvassed and the result declared. In case of the temporary absence of any challenger for meals or by reason of sickness, he may substitute some other person of like political belief, who shall be identified by an affidavit of such challenger or substitute. (91)

Refusal of judges to allow challengers to be present held not fatal (46-274, 43-1112).

264. Gatekeeper—The judges may authorize a peace officer to act as gatekeeper, who shall direct voters how to pass to and from the booths, and no person shall interfere with him in any manner while in the discharge of his duty. Such gatekeeper shall not aid, assist, suggest, advise, or entreat any elector to prepare his ballot in a particular manner. (92)

265. Proceedings on disability of clerk while on duty—When any clerk, after entering upon the discharge of his duties, becomes unable, or for any reason fails, to complete the performance of his duties, the judges may appoint an

other in his place, who shall take the required oath. The fact of his appointment, the time when and circumstances under which it was made, shall be noted in the poll books, if the polls have not been closed, and, if closed, all of the same shall be certified with the returns; and such statement shall show the work done and to be done at the time of such appointment. (93)

266. Initials on ballots—Before the voting begins, or as soon thereafter as possible, two judges of opposite political parties shall place their initials on the backs of all the ballots they have, immediately under or opposite the facsimile of the signature of the officer under whose direction the ballots were printed, and shall not otherwise mark the same. (94)

Directory (59-6, 60+676; 87-139, 91+434. See 81-73, 83+500; 60-146, 62+116).

267. Ballots, distribution and indorsement—Ballot boxes in view—No official ballot shall be distributed except in the voting room to voters about to vote, and no ballot which is not officially indorsed in the handwriting of such judges shall be placed in the box. The ballot boxes shall at all times be kept in public view. (95)

Directory (87-139, 91+434).

268. Who allowed in voting rooms—No person shall be allowed to go or remain inside the railing at the voting place except members of the board, clerks, peace officers, and one member of each of the political parties represented on the ballot, and voters who are about to vote, unless it be a voter who is called upon to assist another voter who cannot read English or is physically disabled, in marking his ballot, as herein provided. (96)

269. Number of voters admitted—Time for preparing ballot—The number of voters within the rail shall in no case exceed the number of booths by more than three. The judges may make such regulations as they deem proper as to the time which a voter may remain in the polling room while receiving, preparing, and voting his ballot, which time shall not be less than three nor more than ten minutes, unless the delay is occasioned by his vote being challenged, or is the fault of the board, or some of them. (98, 99)

270. Crowds not permitted in vicinity of voting places—All voters shall be allowed to go to the polling room for the purpose of voting, and to return therefrom, without molestation, but neither voters nor others shall be allowed to congregate in any number within one hundred feet of any polling room. In cities of the first, second, and third classes, only election officers and voters who are ready, but have not voted, shall be permitted to stand within fifty feet of the entrance to a polling place. (99)

271. One judge to have charge of ballots, and two of registers—One of the judges shall have charge of and hand to and receive from each voter the ballots. The other two shall have charge of the two registers, each using one as herein provided. (100)

272. Challenge—Oath—Questions and other proceedings—Before any person offering to vote receives the ballots from the judges, each judge shall, and any authorized challenger or other voter may, challenge such person whom he knows or suspects not to be a qualified voter. The challenger shall state the ground thereof, whereupon a judge shall administer to the challenged person the following oath: "You do solemnly swear that you will fully and truly answer all such questions as shall be put to you touching your qualifications as a voter at this election?" The judges shall then question the challenged party in such manner as will tend to disclose the particular facts in reference to which the challenge is made. He may be inquired of as to his name, age, then place of residence, length of time he has resided in the town, city, ward, or district; where his last place of residence was: as to his citizenship, whether he is a native or naturalized citizen, and, if the latter, when, where, in what court, and before whom, he was naturalized; whether he came into the town, city, or ward for the purpose of voting at that election; how long he intends to remain a resident of such town, city, or ward; and such other questions as tend to test his residence and his right to vote. If he refuses to answer the questions put to him, his name shall not be put upon the poll lists, nor shall he be

allowed to vote, unless he at once reconsiders and answers the questions. He shall not be allowed to vote if he leaves the polling place and afterward returns, although then ready to answer the questions. (102, 103)

273. Further examination of challenged person—After the questions specified in § 272 have been answered, if the challenge is not withdrawn, the judges shall administer the following oath: "You do swear that you are a citizen of the United States; that you are twenty-one years of age, and have been a resident of this state for six months immediately preceding this election, and an actual resident of this election district for thirty days immediately preceding this election; that you are a qualified voter in this district; and that you have not voted at this election?" Upon taking this oath he shall be allowed to vote, except when it appears that his name has been registered and erased; then he shall not be allowed to vote unless he also produces a person known to a majority of the judges, who makes and subscribes an oath in their presence as to the identity of the person so offering to vote, after which he shall be allowed to vote. If such person refuses to take the oath specified in this section or § 272, or, when so required, refuses to produce the person to swear to his identity and residence, as herein provided, then his name shall not be put upon the poll list, nor shall he be allowed to vote. (103)

274. Voter receiving ballot to retire to booth alone—When the judges are satisfied that the person applying therefor is a voter, the judge having charge of the ballots shall tear from the blocks one ballot of each kind that is to be voted, having the proper initials thereon, and hand the same to the voter, who shall retire alone to one of the booths and there prepare such ballot or ballots. Voters may be allowed to carry with them to the booths sample ballots to assist them in marking the official ballots, but the same shall not be printed on white, pink, blue, or red paper; and it shall be a misdemeanor to print or distribute sample ballots printed upon such paper. Sample ballots may be printed in newspapers as matter of news. (104)

87-139, 91+434.

275. Marking ballots—Rules—The voter shall mark each of such ballots with the indelible pencil furnished. If he soils or defaces either of them, he shall at once return the same and get other ballots as hereinafter provided. In marking ballots, the following rules shall be observed:

1. When presidential electors are to be voted for, the voter shall place a mark (X) in the square opposite the group of candidates of the party of his choice.

2. In all other cases he shall place a like mark (X) in the square opposite the printed name of each candidate for whom he desires to vote, and only those so marked shall be counted.

3. When he so desires, he may write other names in the blank spaces under the printed names of candidates, and the names so written shall be counted as balloted for, whether marked in the small square or not.

4. When he has prepared his ballot, he shall so fold it, concealing its face and all marks thereon, as to expose only the indorsement and the facsimile signature and initials of the judges on the back thereof.

5. He shall mark and fold separately each ballot, and at once withdraw from the voting booth. (105)

60-146, 62+116; 81-73, 83+500; 84-85, 86+782; 87-139, 91+434.

276. Further proceedings in balloting—Challenge—The voter, having prepared his ballots, shall hand the same to the judge in charge of the ballot boxes, who, without opening or permitting them to be opened or examined, shall deposit the same in the proper boxes, first announcing the name and residence of the voter in an audible voice; and the judges in charge of the registers shall mark "Voted," or the letter "V," in a column therein prepared, in the same line with the voter's name. At any time before such ballots or either of them have been deposited in the boxes, he shall be subject to challenge by either of the judges, or by any person who was not present at the time he procured such ballots; but no party challenger or other person, except a judge, who was present when the ballot was delivered and had knowledge thereof

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shall afterwards interpose a challenge. When so challenged, the same proceedings shall be had as hereinbefore provided; and, if the person offering to vote is found disqualified, said ballots so prepared by him shall be placed among the spoiled ballots, and not opened. When no challenge is interposed, the voter shall, after voting, at once retire from the voting rooms; and, when challenged, he shall retire as soon as the challenge is determined, and shall not again return unless by permission of all the judges. (106)

87-139, 91+434.

277. Proceedings when elector spoils ballots—When a voter spoils a ballot, he may return it and receive another. When he spoils a second ballot, before receiving another he shall state under oath whether or not he can read English. When he claims to be able to read English, a third, and, if necessary, a fourth, ballot shall be delivered to him; but no ballot shall be so delivered until the ballot previously delivered has been returned, nor shall more than four ballots of any one color be delivered to any one voter. When such voter, after spoiling two ballots, shall state under oath that he cannot read English, proceedings shall be had as provided in § 278. All spoiled and unused ballots shall be preserved by the board and returned to the officer from whom they were received, who shall preserve them until ten days after the county official canvass. (107)

278. Proceedings when voter cannot read English, or is physically unable to mark ballot—When any voter states under oath that he cannot read English, or that he is physically unable to mark his ballot, he may call to his aid one or more of the judges, who shall mark his ballot as he may desire, and in as secret a manner as circumstances permit. When he also states that he cannot speak the English language or understand it when spoken, the judges may select two persons from different political parties to act as interpreters, who shall take an oath similar to that taken by the judges, and assist such person in marking his ballots. When he shall prefer, he may call to his aid any voter of the same district, who, unaccompanied by a judge, may retire with him to one of the booths and mark the ballot for him; but no person shall mark the ballots of more than three such voters at one election. Before depositing his ballot, such voter shall show it privately to either a judge or a clerk to ascertain that it is marked as directed; but a physically disabled voter, who is able to determine for himself, need not show his ballot. No judge or other person so assisting a voter shall in any manner request, persuade, or induce, or attempt to persuade such voter to vote for any particular party or candidate, but shall mark the ballot as requested, and shall not reveal to any other person the name of any candidate for whom the voter has voted, or anything that took place while so assisting him. (108)

59-6, 60+676.

279. Proceedings when voter is physically disabled—When the judges are informed that a voter is at the door who is unable to enter the polling place without assistance, they may appoint one of their number to take an official ballot or ballots to him and assist in marking the same, when requested, in the presence of some one selected by such voter. When the ballot or ballots have been marked and folded, the same shall be handed to the judge in charge of the ballot boxes, who shall announce: "Ballot (or ballots) offered by (name), a person unable to enter the voting place by reason of physical disability; does any one object to the reception of this ballot?" If no one objects, the ballot or ballots shall be deposited; but, if objection be made, it shall be treated as the interposition of a challenge, and proceedings shall be had as in case of challenges. (109)

280. Voter not to disclose how he has voted—No voter shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted, nor shall he ask for or receive assistance from any one within the polling place in the preparation of his ballot, except as hereinbefore provided. When any voter, after having marked his ballot, shows it to any one except as hereinbefore provided, the judges shall refuse to receive such ballot,

but shall place it among the spoiled ballots, and, when such showing has clearly been intentional, no other ballot shall be delivered to such voter. (110)

Ballots marked with name of voter not counted (60-146, 62+116).

281. Intoxication—Intoxication shall not be regarded as a physical disability, and no intoxicated person shall be entitled to assistance in marking his ballot. No voter shall be permitted to vote while grossly intoxicated. (111)

282. Voter to give residence, etc.—Every voter, at the time of applying for or offering his ballot, shall truly state the name of the street in which he resides, and, if the house where he resides is numbered, the number thereof, and, if required, whether he is the householder or a lodger or employee therein, and such other matters as are necessary for identification. On refusal to make such statement, his ballots, if he has received any, shall be placed among the spoiled ballots, and he shall not be allowed to vote. (112)

283. Absence of employee to vote—Every employee entitled to vote at a general or city election shall be permitted to absent himself from his work for that purpose during the forenoon of each election day, without a penalty or deduction from salary or wages on account of such absence. (114)

284. Removal of ballots from blocks—Unused ballots—No judge shall remove any of the ballots from the block except separately, as required by voters for voting. The judges shall preserve unused and spoiled ballots and return them to the officers from whom they were received, with a statement of the number used, and take receipts therefor. (123)

285. Clerks to keep poll lists—Form—Every clerk shall make a poll list containing one column headed "Number," one headed "Residence," one headed "Names of Voters," and as many additional columns as there are boxes used, headed to correspond with the color, and one headed "Remarks." He shall enter therein the name of each voter in the column headed "Names of Voters," his residence in column headed "Residence," and, where more than one box is used, he shall write opposite such name the figure "1" in each remaining column corresponding in heading with the name of each box in which his vote is deposited. In the column headed "Number" he shall write consecutively the numbers of the persons voting, the first vote being numbered 1. He shall enter in the column headed "Remarks" and opposite the name of each person not registered, the words "Not registered," and, if any vote is sworn in, he shall there note that fact. He shall also enter in the same column, on a line with the name of any person receiving assistance, a brief statement of that fact, such as "Marked by judge," "Marked at door," "Marked by," giving the name of any person, other than a judge, so assisting. (124, 125)

286. Notice of closing polls—Persons present not excluded—Time—The judges shall make oral proclamation at the door of each polling place thirty minutes before the hour fixed by law for closing the polls, in substantially the following words: "Hear ye! hear ye! hear ye! the polls will be closed in thirty minutes." When the hour for closing has arrived, the polls shall be closed, regardless of the fact that voters are outside who have not voted. But all voters who have received ballots, or are then inside the polling place preparatory to receiving them, and none others, shall be allowed to vote. On or before the opening of the polls the judges shall agree upon some standard of time to be used in opening and closing the polls. (126)

46-274, 48+1112.

287. Statements attached to poll lists and to register—Every poll list shall be headed by the designation of the district, and the election at which it is used, and, as soon as the polls are finally closed, the judges shall attach thereto a statement substantially as follows: "The number of persons whose names appear above and who were present and voted at the above named election was, of whom were women; the number of white ballots cast was; the number of pink ballots cast was; the number of blue ballots cast was; the number of red ballots cast was; and the number of ballots cast by women (such ballots not being included in the numbers above given) was

.....” The blanks in such form shall be filled by the proper numbers, written in words and figures, the figures in parentheses. Such statement shall be signed by each judge and attested by each clerk; and immediately thereafter they shall prepare, sign, and attest a statement at the end of each of the registers, substantially as follows: “The whole number of the above named persons who were present and voted at the above named election was” (in words and figures). (127)

288. Canvass—Ballots handled by judges only—The judges shall then proceed to canvass the votes cast at such election. Such canvass shall be public and continued without intermission (except as provided in § 252) until completed and the result declared. During such canvass no person other than the judges shall handle or interfere with the ballots. (128)

289. Boxes opened, in what order—Preliminary returns—The ballot boxes shall be opened, the votes counted, and the results declared, one box at a time, as follows: First, the white box; second, the pink; third, the blue; and fourth, the red. Then the box provided for women shall be opened and the votes canvassed. The returns shall not be prepared until the votes in all the boxes have been counted, so as to allow corrections in case any errors have occurred by reason of the deposit of ballots in wrong boxes. But in any city of the first class the council may require the judges to insert, on forms prepared by the city clerk, a preliminary statement of any class of ballots cast, as soon as the count of that class has been completed. Such statement shall be signed by one or more of the judges, and delivered forthwith to a special messenger designated by such city clerk, who shall take the same to him at once; but such statement shall not be deemed an official return. (129, 156)

290. Canvass of votes, first proceedings—The judges shall begin the canvass by taking from the box the ballots, unopened except so far as necessary to ascertain whether every ballot is single, and counting them to determine whether their number corresponds with the number appearing on the poll list to have been cast in such box. Whenever two or more ballots are found so folded together as to appear like a single ballot, they shall lay them aside until the ballots in all the boxes have been counted. If, on comparing such ballots with the number of the same class appearing by the poll lists to have been cast, it is evident that the ballots so folded together are cast by one voter, they shall preserve but not count them. Whenever there is an excess of ballots in any box, they shall examine them and ascertain whether all are properly marked with the initials of the judges, and, if any are not so marked, they shall preserve but not count them. When there is still an excess, they shall replace them in the box, and one judge, without looking, shall draw from the box a number of ballots equal to such excess, which shall be preserved, but not counted. (130, 131)

291. Ballots not in proper box, when counted—Whenever the number of ballots in any box equals or exceeds the number shown by the poll lists to have been cast in such box, no ballots proper to have been deposited therein, but found in another box, shall be counted; but whenever the number is less than that shown by the poll lists, and ballots properly belonging in such box are found in another box, they shall be counted the same as those in the proper box; but if counting such ballots produces an excess of votes above the number shown by the poll lists, then the number shall be reduced by drawing therefrom as provided in § 290. (132)

292. Excess of ballots, how disposed of—Certificate—Whenever any ballots not belonging among those being canvassed from any box shall be found, the same shall be laid aside until the canvass of the class of ballots to which they belong. If there be a deficiency in the number of ballots of such class in the proper box, the ballots so found in the wrong box, to the extent of such deficiency (selected by lot when necessary), shall be included and counted with the class of ballots to which they belong. When the number of ballots as finally counted agrees with the poll lists, those not counted shall be attached to a certificate made by the judges, stating why such ballots were not counted, which certificate and uncounted ballots shall be sealed up in a separate en-

velope and returned with the other returns to the officer from whom they were received. (132, 133)

293. Method of counting ballots—The judges shall then count the ballots separately, numbering them consecutively in a uniform place without defacement, and ascertain the number cast for each person. The clerks shall carefully enter an account of each ballot counted, on tally sheets or books as hereinafter provided, and when all the ballots have been counted, and from time to time previously thereto when so required by the judges, they shall compare such tallies and correct the same when they differ. Such comparison shall be made on each tally sheet, or sheet of the tally book, before beginning on another sheet. (134)

Failure to read off ballots separately in counting held ground for recount (31-25, 16+416).

294. Tally sheets for white ballots—Two tally books, or two sets of tally sheets, shall be furnished for each election district by the official charged with the printing of the ballots, at the time and in the manner the ballots are furnished. Each tally sheet, or the first sheet of each tally book furnished for white ballots, shall be headed; "Tally sheet for white ballots, election district, November, 19..," directly under which, and extending across the sheet from side to side, shall be two heavy red lines one-half inch apart. At the left side of each sheet, in a column of suitable width, commencing just below said red lines, there shall be printed in plain type the titles of the several offices to be filled and the name of each candidate for the same, and as many blank lines as appear on the printed ballot, the whole being as nearly as may be in the same order as on the official ballot, omitting the squares for marking. (135)

295. Same—Ruling of tally sheet—General description—Under each set or group of candidates for any one office, and the requisite number of blank lines, there shall be a heavy red line extending across the sheet, and another such line across the bottom. Heavy red lines shall also be ruled from the red line nearest to the top to the red line at the bottom of each sheet, as follows: Three lines so as to form two spaces, each three-eighths of an inch wide, the first close to the column of names hereinbefore specified; then lines so as to form ten spaces, each five-eighths of an inch wide, followed by one space three-eighths of an inch wide, and as many additional sets of lines as may be convenient; each set to form ten spaces, each five-eighths of an inch wide, followed by one space three-eighths of an inch wide. (135)

296. Same—Further description—Under the name of each candidate or blank line, except where a red line is herein provided, a light blue line shall be ruled across the sheet, and in each space five-eighths of an inch wide, extending from the second line from the top to the bottom line, four light blue lines shall be ruled, in such manner as to divide each such space into five smaller spaces, each one-eighth of an inch wide. Immediately below the upper red line across the sheet, in the first space three-eighths of an inch wide, the words "brought forward" shall be printed, and in the similar space on the extreme right the words "carried forward." In each other space three-eighths of an inch wide the word "Number" or "No." shall be printed. And over the column of names the words "Offices and Candidates" shall be printed. (135)

297. Same—Numbering tallies, etc.—White and pink ballots—On the same line, in the spaces five-eighths of an inch wide, shall be printed in figures, commencing on the left, "5," "10," "15," and so on in multiples of five. In each column headed "Number" or "No." shall be printed in figures, in numerical order, "1," "2," "3," and so on, the figure "1" being placed in line with and opposite the name of the candidate nearest the top, and the figure "2" opposite the name of the next candidate, and in like manner down the column, each column headed "number" to be the counterpart of every other column so headed. A similar tally sheet shall be provided for the pink ballots. (135)

298. Tally sheets for blue and red ballots—The form of tally sheets furnished by county auditors shall be the same as those furnished by the secre-

tary of state, except that the word "blue" shall be substituted for the word "white" or "pink" in the heading; and those furnished by the officials charged with the printing of the red ballots shall be the same, except the word "red" shall be substituted for the word "white" in said heading, and the names of candidates may be printed or written, or partly printed and partly written. (136)

299. Same—Number supplied—Deficiency—Such tally sheets may be printed separately and numbered consecutively, or stitched together, but in either case a sufficient number shall be furnished for the proper tallying of all votes cast. When proper tally sheets have not been received by any board and cannot be readily obtained, the clerks shall prepare them in conformity with those hereinbefore described, in which case they shall certify that they were so prepared and used because the official tally sheets were not received. (137, 138)

300. Canvassing and counting votes—When canvassing the votes, a memorandum shall be kept containing the name of the reading judge, the number of ballots read by him, the name of the judge watching such reading, and the name of the judge stringing the ballots and watching the clerks; and when the judges change places, or clerks are relieved, temporarily or otherwise, that shall be noted. Such memorandum shall be certified in duplicate, and a copy thereof attached to each set of tally sheets. When the reading judge announces the name of a candidate and the office voted for, each clerk shall make a small mark, like the figure "1," in the small unoccupied space nearest such name, and on a line therewith, and one clerk at the time of making such mark shall say, "one," "two," "three," "four," or "five," as the blank space is first, second, third, fourth, or fifth in any space five-eighths of an inch wide and formed by red lines. When such space is the proper one, the other clerk shall enter the same; when not, he shall so state, and the marks shall be corrected so as to agree. As the other names are read, the proper marks shall be made on each of the tally sheets until a line on which is the name of any one candidate shall contain no more unoccupied small spaces. Then, the sheets having been compared, a mark in red ink shall be made thereon in such manner that no additional tallies can be made therein without detection. (139, 140)

301. Same—In the vacant space under the heading "carried forward," the total vote, so far as counted for each candidate, shall be entered in figures opposite their respective names, and the same figures shall be entered under the heading "brought forward," on the next sheet, opposite the names. The clerks shall proceed in the same manner with the second sheet, including under the heading "carried forward" the number entered under "brought forward." They shall use the sheets in the order in which they are numbered until all votes have been counted. Then, having made a mark to prevent other tallies, they shall place after the same, in both words and figures, the total vote received by each candidate; but this entry shall not be made until it has been determined that there are no ballots in other boxes to be counted here. No person except the clerks shall make any entry upon the tally sheets, and every person so doing, and every judge or clerk permitting it to be done, shall be guilty of a misdemeanor. (140; '97 c. 242 s. 2)

302. Rules for counting marks on ballots—All ballots shall be counted for the persons for whom they were intended, so far as such intent can be clearly ascertained from the ballots themselves, and, in determining such intent, the following rules shall be observed:

1. When a voter has placed a mark (X) against two or more names for the same office, where only one is to be elected, his vote shall not be counted for either candidate.

2. When a voter has written the name of a person in the proper place, his vote shall be counted for such person, whether he makes a mark (X) opposite thereto or not.

3. When a mark (X) is made out of its proper place, but on or so near a

name or space as to indicate clearly that the voter intended to mark such name, the vote shall be counted as so intended.

4. When a number of persons are to be elected to the same office, all cross marks in squares opposite names, not exceeding the whole number to be elected, including names written thereon, shall be counted. When less than the number to be elected are marked, only those so marked shall be counted.

5. The judge shall disregard misspelling or abbreviations of the names of candidates, if it can be clearly ascertained from the ballot for whom it was intended.

6. When the judges can determine from a ballot the voter's choice for a part only of the officers, the ballot shall be counted for such part only.

7. When a voter uses uniformly a mark other than (X) in marking his ballot, clearly indicating his intent to mark against a name, and does not use (X) anywhere else on the ballot, his vote shall be counted for each candidate so marked.

8. When a ballot shows that marks have been made against the names of two candidates, and an attempt made to erase one of such marks, it shall be counted for the candidate for whom it was evidently intended.

9. All ballots marked as hereinbefore provided shall be counted for the candidates or measures therein shown to be voted for. (141)

26-529, 6+346; 60-146, 62+116; 81-73, 83+500; 84-85, 86+782; 87-139, 91+434.

303. Defective ballots—Announcement of vote—A ballot so defective in whole or in part that it cannot be counted by reason of inability of the judges to determine the intent of the voter shall be marked on the back "Defective," or "Defective as to," naming the office as to which it is defective. Such ballots shall be strung in regular order with those not defective. A memorandum of the number of such ballots, and, if defective in part only, of the defective parts not counted, shall be made, certified, and returned by the judges with their other returns. Thereupon the ballots shall be strung in the order they are read and canvassed, the string tied and sealed, and the ballots replaced in the proper boxes. When the correct result has been ascertained, one of the canvassing judges shall publicly announce to those present the number of votes cast for each candidate. (142, 143)

304. Ballot judges and clerks—Appointment—For general elections, in cities of the first, second, and third classes one additional judge and two additional clerks, to be known as ballot judge and clerks, shall be appointed in each district, and vacancies in their number filled in the same manner as in case of other judges and clerks. Not more than two of the four judges, nor more than two of the four clerks, shall belong to the same political party. Such ballot judge and clerks shall render no service prior to the election or after the canvass, except as expressly provided by law. In cities of the fourth class, and in villages and towns, such ballot judge and clerks shall be appointed whenever the governing body thereof, at least thirty days prior to the election, shall so order. Such system, when adopted, shall be uniform in all the districts, and shall be continued until otherwise ordered by the governing body. (144, 145)

305. Same—Duties—Such ballot judge shall be in attendance at the opening of the polls, and serve until the votes are counted. He shall receive the ballots from the regular judges, and, in their issue to voters, act in place and perform the duties of the regular judge in charge of the ballots. Such judge and one of the regular judges, not a member of the same political party, shall place their initials on the back of the ballots, instead of two regular judges: When a challenge is interposed, it shall be referred to the regular election board, and no ballots shall be issued until the same has been determined. The ballot judge shall also have charge of the door, and see that voters retire promptly to the booths, and that the gatekeeper performs his duty. The ballot clerks shall not act during the election, but be present at the hour of closing the polls, and assist in counting the ballots and making the returns, as provided by law. (146)

306. Same—Number slips and receipts for ballots—When so directed by the regular election board, the ballot judge shall deliver to the elector with his ballots a card or paper containing the first letter of such voter's surname, and his number on the register, which he shall hand with his ballots to the judge in charge of the ballot boxes, who, in addition to his other announcements, shall state such number, as an aid to the other judges in finding his name on their registers; and the judge in charge of the ballot boxes, after an elector has voted, may give him a statement to be delivered to the ballot judge, showing that his ballots have been properly used. (147)

307. Statement of vote cast—After the polls have been closed, the ballot judge shall attach to the register, at the end thereof, a statement in substance as follows: "The whole number of the above-named persons who were present and received ballots for the purpose of voting was The number of persons returning spoiled ballots and receiving others was, the spoiled ballots being: White ballots,; pink ballots,; blue ballots,; red ballots,; total," The blanks shall be filled by both words and figures. Such statement shall be certified by the ballot judge and attested by the ballot clerks. (148)

308. Ballots, by whom canvassed and counted—The ballot judge and one of the regular judges, not of the same political party, and the ballot clerks, shall canvass and count the white and pink ballots and make out the returns therefor, and the other judges and clerks the blue ballots. When there is a red box, unless special judges and clerks have been appointed for that purpose, the ballots therein shall be canvassed and counted, and the returns made out by the canvassers first completing their other work; or the canvassers may relieve one another, as they see fit. But in every case the memoranda provided for in this chapter shall be kept, the canvassing and counting done, and the returns made, the same as where no ballot judge or clerks are appointed; and all the judges and clerks shall sign the returns. Each political party shall be entitled to one watcher for each set of canvassers. (149)

309. Special judges and clerks—Appointment—Duties—In every city in which the charter election shall be held on the same day as the general election, at least thirty days prior thereto, in addition to the other officers provided for in this chapter, there shall be two special judges and two special clerks who shall be appointed in the same manner as regular judges and clerks are appointed, and subject to the same provisions as to filling vacancies. Such judges and clerks shall not act during the election, but be present at the hour for closing the polls, and canvass and count the red ballots only. (150)

310. Special and ballot judges and clerks—Qualification—Pay—Ballot judges and clerks and special judges and clerks shall have the same qualifications and receive the same compensation for like services as regular judges and clerks, and be subject to like penalties. They shall deliver all returns made by them, and all election supplies, to the regular election board, and such board shall thenceforth proceed in all things as though no additional judges or clerks had been appointed. No such additional judges or clerks shall be employed at any except a general election. (151, 152)

311. Sealing boxes—As soon as practicable after the canvass has been completed, and in the presence of all the judges, each box shall be locked, and sealed by pasting firm paper across the lid and body thereof in such manner that it cannot be opened without breaking the seal; and each judge shall write his name upon said paper in such place as to prevent the box being opened without tearing the name. Such sealing shall be done before the board separates or adjourns, but not until, by a canvass of the ballots in all the boxes, it has been ascertained that all the ballots to be sealed in a box have been placed therein. (153)

31-25, 16+416; 75-391, 77+952. See § 318.

312. Seals to remain unbroken—Additional seals—As soon as practicable after each ballot box has been sealed, it shall be deposited with the clerk of the municipality or town, and there remain with unbroken seals until the next

general election, unless previously opened by proper authority for examination or recount. When a committee of any political party represented on the ballot to be voted at any general election shall apply, on or before the day of election, to the legal custodian of the ballot boxes for permission to affix additional seals and securities thereto, he shall fix a time, not later than two days after election, when it may be done, and shall forthwith notify the applicant and all candidates on such ballot, or their representatives, of such application, and of the time when, at his office and in his presence, such additional seals and securities are to be affixed. Representatives of any other political party, then present, on request shall be allowed a like privilege, but the seals affixed by the board shall not be defaced or injured thereby. (154)

75-391, 77+952.

313. Poll lists and registers, how disposed of—When the canvass has been completed, one poll list and one register, kept and checked as in this chapter provided, shall be attached together by the judges and forthwith filed with the clerk of the municipality, together with the ballot register, if any; and the other poll lists, registers, and poll books so kept and checked shall be by said judges forthwith returned to the county auditor with the election returns. Such poll lists and registers shall be open at all times to public inspection without charge. (155)

314. Form of returns—In making out the returns, the clerks shall set down the total number of names entered upon the registers, male and female separately, in columns prepared therefor, the total number of ballots actually cast and counted, the name of each person voted for, the number of votes received by him, and the office, all numbers being written in both words and figures. Such returns shall be in substantially the following form, viz.: "At an election held at in the election district, composed of in the county of, state of Minnesota, on the day of, 19...., the following named persons received the number of votes opposite their respective names for the following office, to wit: For (office), A. received votes;" and the same in case of every person voted for. Such returns shall be made in duplicate, each signed by the judges and attested by the clerks of election. (156)

315. Returns to be sealed and delivered—Before separating, the judges shall include one set of such returns in each of two envelopes, one of which envelopes shall then be sewed by drawing twice through it and the return therein a substantial twine, tying the ends thereof together and then sealing said envelope in three places with wax and stamp furnished by the county auditor, one of which places shall be over the knot in said twine, then indorse each envelope in the following form: "Election returns of the election district of in the county of" and direct one of such envelopes to the auditor and the other to the proper town, village, or city clerk. In towns, villages, and cities of the fourth class, one set of such returns, together with all unused and spoiled white, pink, and blue ballots, shall be delivered to the auditor at his office, by a judge chosen by lot or agreement, and the other, in like manner, to the clerk of the municipality. The judges also shall make a summary statement of the total votes cast for each person for any office, and for and against each proposition voted upon, and cause the same to be filed with the auditor with such returns, where it shall remain open to public inspection. (157-159)

316. Delivery of returns and unused ballots—In towns, villages, and cities of the fourth class, the judges in all districts within fifty miles of the county seat shall file their election returns within twenty-four hours after the polls close, and, when the distance is more than fifty miles, within seventy-two hours. In cities of the first, second, and third classes, immediately after the canvass has been completed and the returns prepared, the judges and clerks, before separating and without stopping at any place or leaving any of their ballot boxes, returns, or ballots at any place or with any person, shall deliver to the city clerk, at his office, one set of such returns, the ballot boxes, all un-

used and spoiled red ballots, and all other things in this chapter required to be delivered by them to such clerk; and the clerk shall remain in his office to receive the same until all have been delivered. The clerk shall keep a book in which, in their presence, he shall enter the names of the judges and clerks, and the hour at which such delivery was made, which book shall be preserved in his office for the same period as the ballots. The judges in each such district shall forthwith choose one of their number, by lot or agreement, to deliver the other copy of such returns, and the unused and spoiled white, pink, and blue ballots, to the auditor. The judge so chosen shall deliver such returns, ballots, and all other things in this chapter required to be so delivered, to such auditor, at his office, within twenty-four hours after delivery of the ballot boxes and returns to the city clerk. (160, 161)

See 1905 c. 214

317. Failure to deliver return—Special messenger—Whenever the judges of election fail to make return as provided in this chapter, the auditor or clerk to whom such returns should have been made shall dispatch a special messenger to obtain them, who shall be entitled to the same compensation as a *judge of election for like services, and be subject to the same penalties.* (166)

318. Informalities—No officer to whom election returns are required to be made shall refuse to receive them because they are returned or delivered to him in any other manner than that prescribed in this chapter, except that they must be sealed. No canvassing board shall refuse to include any returns in its canvass of votes on account of any informality in holding the election or making returns thereof, but all returns shall be received, and the votes canvassed by such board and included in its statements where there is a substantial compliance with the provisions of this chapter. (168, 169)

10-107, 81; 18-351, 323.

319. County canvassing board—The auditor, the chairman of the county board, and two justices of the peace selected by the auditor, from opposing political parties when possible, shall constitute the county canvassing board, any three of whom being present and sworn shall have power to act. Said board, within ten days after the election, shall meet at the auditor's office and there publicly canvass the returns made to said auditor. Said canvass shall be completed without unnecessary delay, and thereupon said board shall make, certify, and file with the auditor statements as follows:

1. Of the whole number of votes cast in such county for the several state officers, including presidential electors, members of the legislature, and judges of the district court, the names of the persons for whom such votes were cast, and the number cast for each. Also, upon the same return, the total number of registered names, male and female separately, in each election district, and the total number of ballots cast therein.

2. Of the names of all persons receiving votes for any county office, and the number of votes received by each.

3. Of the names of all candidates for the office of representative in Congress, and the number of votes received by each.

4. Of the number of votes cast for and against any proposed change of county lines or county seat.

5. Of the number of votes cast for and against any proposed amendment to the constitution, or other proposal submitted to popular vote. (169, 170)

10-107, 81; 2-346, 298; 2-180, 148.

320. Returns to secretary of state—Two copies of each of such statements shall be made and certified under the official seal of the auditor, each inclosed in an envelope directed to the secretary of state, with the auditor's name and official address and the words "Election Returns" indorsed thereon, and forwarded by different mails within five days of each other. If neither copy be received by the secretary within twenty days after the election, he shall immediately notify the auditor of that fact, who shall transmit another copy thereof to said secretary by special messenger deputed by him. (171)

321. County canvassing board to declare persons elected—The board, having completed its canvass, shall declare the person receiving the highest number of votes for each county office duly elected thereto. When such county constitutes or contains a senatorial or representative district, it shall declare the persons receiving the highest number of votes, respectively, for senator or representative, duly elected. (172)

322. Certificates of election and copies of returns—The auditor of each county shall make, for every officer and member of the legislature elected therein, a certificate of such election, and deliver the same to the person entitled thereto, without fee, upon demand. He shall also make, for any candidate or voter of his county, a certified copy of any statement of votes made by the county canvassing board, on payment or tender of one dollar therefor. (173)

Force of certificate (10-107, 81; 15-221, 172; 15-455, 369; 25-340). In making certificate auditor governed by return of canvassing board (15-455, 369). Deputy auditor may issue certificate (10-369, 295).

323. Legislative vote—More than one county—In legislative districts whose senators or representatives are voted for in more than one county, the auditor of each county shall make, under his official hand and seal, and from the returns in his office as determined by the county canvassing board, a statement of the votes cast for the several candidates for senator or representative, as the case may require. Such certificates shall be filed within fifteen days after the election with the auditor of the county senior in age, or, if none be senior, of that casting the largest vote at the preceding general election. (174)

324. Same—Canvass of votes, etc.—The auditor with whom said certificates are filed, two justices of the peace selected by him, the chairman of the county board of his county, and such auditors of the other counties forming parts of such district as may choose to attend, shall constitute the legislative canvassing board. Such board shall meet on the twentieth day after the election at the office where said certificates are filed, and there open and canvass the auditors' returns and declare the results of the vote. Said auditor shall thereupon make and deliver certificates of election to the persons having the highest number of votes for senator and representative respectively. (175)

325. Same—Correction of errors—Whenever it shall appear to such board that any of the returns so canvassed by them are erroneous in any respect, one of its number shall be deputed to take the same to the officer or board responsible for such error, and secure its correction. If necessary therefor, any county canvassing board shall reassemble forthwith and such correction be made: Provided, that it shall not change any decision previously made, but shall only cause its canvass to be correctly stated. The legislative board may adjourn in such cases from day to day, not exceeding ten days in all. (176)

326. State canvassing board—The secretary of state shall call to his assistance two or more judges of the supreme court and two disinterested judges of the district court, and they shall constitute the state canvassing board. He shall appoint a meeting of such board to be held in his office on the third Tuesday of December after each general election, and within thirty days after a special election. When a vacancy in the membership of said board occurs by reason of inability or failure of any such judge to attend on the day appointed, he shall fill the vacancy by selecting another disinterested judge from either court: Provided, that not more than two judges of the supreme court shall be obliged to serve upon such board at one time. (178)

327. Statement of votes—Declaring result—Such board shall open and canvass the certified copies of the statements made by the county canvassing boards, prepare therefrom a statement of the whole number of votes cast at such election for candidates for the several state offices, the names of the persons receiving such votes and the number received by each, specifying the several counties in which they were cast. Such board shall subscribe and certify to the correctness of such statement, and within three days after such canvass declare the result. (179)

328. Canvass of votes for members of Congress and presidential electors—At the same time such board shall open and canvass the returns made to the secretary of state for members of Congress and presidential electors, and prepare a statement of the number of votes cast for the several persons receiving votes for said offices, and declare the person or persons receiving the highest number of votes for each office duly elected. But when it appears that more than the number of persons to be elected as presidential electors have the highest and an equal number of votes, the secretary of state, in the presence of said board, shall decide by lot which of such persons shall be declared elected. The governor shall transmit to each person so declared elected a certificate of election, signed by him, sealed with the state seal, and countersigned by the secretary of state; and immediately after said canvass is completed he shall cause a statement of their election to be published in one or more of the newspapers printed at the state capital. Whenever two or more persons in any congressional district receive the same and the highest number of votes for representative in Congress, a special election shall be called, as hereinafter provided, for the election of a representative in Congress in such district. (180)

329. Notice of presence of electors—Vacancies—Ties—Every presidential elector, before 12 o'clock m. on the day next preceding that fixed by Congress for such electors to vote for President and Vice-President of the United States, shall notify the governor that he is at the state capitol, and ready at the proper time to fulfil his duties as such elector. The governor shall thereupon deliver to the electors present a certificate of the names of all the electors, and if any elector named therein fails to appear before 9 o'clock a. m. on the day, and at the place, fixed for voting for President and Vice-President of the United States, the electors then present shall, in the presence of the governor, immediately elect by ballot a person to fill such vacancy. If more than the number of persons so required have the highest and an equal number of votes, the governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected. (182, 183)

330. Same—Notice, etc.—Immediately after such vacancies have been filled, the electors present originally chosen shall certify to the governor the names of the persons so elected to complete their number, and the governor shall at once cause written notice to be given to each person so elected to fill a vacancy; and the persons so chosen shall be presidential electors, and meet and act with the other electors. (184)

331. Meeting and action of electors—Such original and substituted presidential electors, at 12 o'clock m., shall meet in the executive chamber, at the state capitol, and then and there perform all and singular the duties imposed upon them as such electors by the constitution and laws of the United States and this state. (181)

332. Election contests for legislature—Notice—Any voter of a senatorial or representative district may contest the validity of the election of any person declared elected to the senate or house of representatives for such district, or his right to a seat therein, by causing to be served upon the contestee, within fifteen days after the completion of the final canvass, a written notice, specifying the points on which the contest will be made, and naming two justices of the peace of such legislative district before whom depositions relative thereto will be taken, and the time and place thereof, which time shall not be later than forty days after the election. Such notice shall be served in the same manner as a summons in a civil action, at least ten days before the time named therein for taking such depositions. (186)

333. Additional points—Notice by contestee—Within ten days after the service of such notice, the contestee, if he desires to offer testimony upon points not specified therein, may serve a like notice upon the contestant, specifying such additional points; naming two justices of the peace of the district to take the testimony, and fixing a time and place therefor. Such time shall be not less than ten days after the service, nor more than ten days after the date fixed in the contestant's notice. (188)

334. Testimony—How taken and certified—Said justices, or either of them, shall issue subpoenas to all witnesses whose attendance is required by either party. They shall administer the oath to all witnesses produced, and reduce their testimony to writing, but shall receive no testimony which does not relate to some point specified in the notice in which they are named. Such notice, with proof of the service thereof, shall be attached to the evidence taken, which shall be duly certified and transmitted to the presiding officer of the house by which the contest is to be tried. (187, 188)

33-81, 21+860.

335. Conduct of contest in legislature—Rules—In hearing the contest, the house shall proceed as follows:

1. At the time appointed, the parties shall be called, and, if they appear, their appearance shall be recorded.

2. If the presiding officer be a party, a speaker pro tem shall be elected to preside.

3. The contestant's evidence shall be submitted first, followed by that of the contestee, and the contestant shall open the argument, and close the same after the contestee has been heard.

4. The vote upon the contest shall be viva voce, any member may offer reasons for the vote he intends to give, and a majority of the votes given shall decide; but no party to the contest shall vote upon any question relative thereto.

5. The clerk or secretary shall enter the proceedings in the journal. (189)

336. Contesting state and municipal elections—Notices—Trial—Any voter may contest the election of any person for or against whom he had the right to vote, who is declared elected to a state, county, or municipal office, or the declared result upon a constitutional amendment or other question submitted to popular vote, by proceeding as follows: He shall file with the clerk of the district court of the county of his residence, within ten days after the canvass is completed, a notice of appeal to such court, specifying the points upon which the contest will be made, and cause a copy thereof to be served upon the contestee when the contest relates to the election of an officer, upon the secretary of state when it is a matter submitted to popular vote which affects the entire state, or any subdivision thereof larger than a county, upon the auditor when it affects a single county, and in all other cases upon the municipality affected. In case of a contest as to a state office, the notice may be filed in any district court of the state, but the place of trial may be changed as in civil actions. When the contestee desires to offer testimony on points not specified in contestant's notice, he shall file and serve on the contestant notice thereof, within ten days after notice of the appeal, specifying such additional points. Such notices shall be treated as the pleadings in the case, and may be amended in the discretion of the court. They shall be served in the same manner as a summons in a civil action, and the testimony shall be taken, and the matter tried and determined, in the same manner as such actions are tried by the court, at a general or special term, if any, occurring within thirty days after such canvass. When no term is already fixed, the judge shall seasonably appoint a special term to be held within such time. (190, 191; '01 c. 365)

Applicable to municipal elections (76-55, 78+865). Any voter may contest election (74-177, 77+28). Notice must specify grounds of contest (31-25, 16+416; 46-274, 48+1112; 102+1134). Filing notice as prescribed jurisdictional (9-232, 217; 23-445; 53-290, 55+132; 76-55, 78+865). Contest bond not equivalent to notice (76-55, 78+865). No right to jury trial (26-529, 6+346; 13-518, 480; 4-109, 70). Grounds of invalidity must be clearly proved (57-45, 58+867). Burden of proof (10-107, 81; 67-119, 69+699). Evidence admissible (13-518, 480; 26-529, 6+346; 31-25, 16+416; 38-222, 37+95).

337. Inspection of ballots—How obtained—After a contest has been instituted, either party may have the ballots inspected before preparing for trial. The party applying for such inspection shall file with the clerk a verified petition, stating that he cannot properly prepare his case for trial without an inspection of such ballots, and thereupon a judge of said court shall appoint three persons, one selected by each of the parties and a third by those two, by whom such inspection shall be made. It shall be conducted in the presence

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of the legal custodian of the ballots, and the party applying therefor shall file with the clerk a bond in the sum of two hundred and fifty dollars, with two sureties approved by a judge of such court, conditioned that he will pay the costs and expenses of such inspection in case he fails to maintain his contest. In case either party neglects or refuses to name an inspector, he shall be selected by the judge. (193)

No right to inspection before service of notice of contest (31-25, 16+416). Bond (66-419, 69+216; 70-233, 72+1061; 76-55, 78+865). Applicable to contests for legislative officers and constitutional (59-489, 61+553).

338. Appeal to supreme court—Method of procedure—When an appeal is taken to the supreme court from the determination of the district court in any contest, the party appealing shall file in the district court a bond in such sum, not less than five hundred dollars, and with such sureties, as shall be approved by the judge, conditioned for the payment of all costs incurred by the respondent in case appellant fails on his appeal. The return on such appeal shall be made, certified, and filed in the supreme court within fifteen days after service of notice of appeal. The appeal may be brought on for hearing in said court at any time when it is in session, upon ten days' notice from either party, which may be served during term time or in vacation; and it may be heard and determined summarily by said court. (192)

339. Contesting vote on county seat removal, etc.—When a vote is taken in any county on the removal of the county seat, changing county lines, or on any other question submitted to popular vote, any voter therein may contest the declared result thereof. Within thirty days after such result is declared or proclaimed, he shall cause to be served on the county board of the county in which said vote was taken, or on a member thereof, a notice specifying the points on which said election will be contested; and within ten days after such service he shall file with the clerk of the district court of said county a copy of such notice. No appeal to said court shall be required. Such district court, at its first general or special term thereafter, shall hear and determine such contest as in the case of civil actions triable by the court. Such county board, or upon its failure any voter of the county, may appear and defend in such contest. (195, 196)

16-249, 221; 60-132, 61+911; 81-220, 83+984; 87-209, 91+756.

340. Defective ballots—Whenever in any contested election the tribunal hearing the contest shall determine that the ballots used in any district, by reason of the omission, addition, misplacing, misspelling, or misstatement of one or more titles of offices, names of candidates, or parties or policies represented by them, were so defective as to the office in contest as to be calculated to mislead the voters in regard to any of the candidates for said office, and that the defective condition of said ballots may have affected the result of the entire election for such office, the election shall be declared invalid as to said office. (197)

341. Compensation for election services—The compensation for services performed under this chapter shall be as follows:

1. To presidential electors, ten dollars for each day's attendance at the capitol, and five cents for each mile necessarily traveled in going to and returning from St. Paul.
2. To members of the state canvassing board, three dollars for each day's attendance, and ten cents for each mile of necessary travel.
3. To persons carrying ballots from, and returns to, county auditors' offices, one dollar for each trip necessarily made, and ten cents for each mile of necessary travel.
4. To auditors, chairmen of county boards, justices of the peace, and others acting in their places, three dollars for each eight hours of service as members of any canvassing board, and ten cents for each mile of necessary travel.
5. To regular, special, and ballot judges and clerks of election, twenty-five cents for each hour necessarily spent in registering voters and receiving votes, and thirty cents for each hour so spent in counting and canvassing ballots.

6. To special peace officers, twenty cents for each hour of service rendered by direction of the judges. (162, 163, 177, 178, 185)

342. Compensation and other expenses, how paid—The compensation prescribed in § 341 subds. 1, 2, the cost of printing the white and pink ballots, and all necessary expenses incurred by the secretary of state in connection with elections, shall be paid by the state out of any moneys not otherwise appropriated. That prescribed in § 341 subds. 3, 4, the cost of printing the blue ballots, and all necessary expenses incurred by the auditors in connection with elections, shall be paid by the respective counties. That prescribed in the remaining subdivisions thereof, the cost of printing the red ballots, of providing ballot boxes and polling places, and equipping the same, and all necessary expenses of the clerks of municipal corporations on account of elections, shall be paid by the respective towns, villages, or cities where the elections are held. All disbursements hereunder shall be presented, audited, and paid as in the case of other public expenses. (162, 163, 177, 178, 185)

343. Application to towns and villages—Exceptions as to cities—The foregoing provisions of this chapter shall not apply to elections of town officers, nor, except those relating to the arrangements for voting at the polls and the preservation of order thereat, to village elections. And nothing herein shall affect the terms of city officers, or the times of holding city elections, as prescribed by the charters of the several cities. (203, 204; '95 c. 139)

60-132, 61+911; 76-55, 78+865.

VOTING MACHINES

344. Municipal corporations may provide—The governing body of any municipal corporation, at any regular meeting thereof, or at any special meeting called for that purpose, may provide for the use of automatic voting machines in any one or more districts thereof, at all elections to be held therein; but, in an election of school officers only, the use of such machines shall not be made compulsory. No such machine shall be adopted or used unless it be so constructed and operated as to insure the secrecy of each vote, and to automatically register and count all the votes given, and to conceal the number of votes for each candidate and upon each proposition from the opening of the polls to the closing thereof. ('99 c. 315 s. 1)

See 1905 c. 267

345. Rules for use—Whenever the governing body of any municipal corporation shall determine to use such machines, it shall, at a regular or special meeting held not less than thirty days before the election, prescribe suitable rules and instructions, not inconsistent with the provisions of this chapter, for using the same, submit the same to the attorney general for his approval, and, when approved by him, cause notice thereof to be given as in the case of election notices. ('99 c. 315 s. 2)

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346. Bond to keep in repair—No payment shall be made upon the purchase price of any such machine until the vendor thereof shall have filed with the secretary of state a bond, with sufficient sureties, specifying such machine by its number, and conditioned to keep the same in good working order, at his own expense, for five years. The penalty of such bond shall be at least two hundred dollars, and upon a breach thereof the amount of such penalty shall be the measure of damages recoverable by the purchaser.

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347. Election officers where voting machines are used—No clerks and no more than three judges shall be employed to officiate in any district wherein voting machines are used. The judges shall enforce the rules prescribed for the use of such machines, and carry out all the provisions of this chapter relating to the election, except such as are rendered inapplicable by the use of such machines. ('99 c. 315 ss. 3, 4)

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CORRUPT PRACTICES

348. Candidates' expenditures—Legal expenses defined—No candidate for nomination to any elective office shall directly or indirectly pay, expend, or

contribute any money or other valuable thing, or promise so to do, except legal expenses, as the same are hereinafter defined and limited:

1. For the candidate's personal traveling expenses.
2. For rent and necessary furnishing of halls or rooms during such candidacy for the delivery of speeches relative to principles or candidates.
3. Payment of speakers and musicians at public meetings, and their necessary traveling expenses.
4. Printing and distribution of lists of candidates, sample ballots, pamphlets, newspapers, circulars, cards, handbills, posters, and announcements relative to candidates or political issues or principles.
5. For his share of the reasonable compensation of challengers at the polls.
6. For copying and classifying poll lists.
7. For making canvasses of voters.
8. For postage or telegraph, telephone, or other public messenger service.
9. For clerk hire at committee headquarters.
10. For conveying infirm or disabled voters to and from the polls. ('95 c. 277 s. 1)

349. Limit to candidates' expenses—No candidate for any elective office shall, directly or indirectly, pay or expend, in the aggregate, or promise, agree, or offer to pay, contribute, or expend, any money or other valuable thing, in order to secure, or aid in securing, his nomination, or the nomination and election of any other person, or in aid of any party or measure, in excess of a sum determined as follows: When the total vote within the same constituency at the last election did not exceed five thousand, two hundred and fifty dollars; for each one hundred voters over that number and under twenty-five thousand, two dollars; for each one hundred voters over twenty-five thousand and under fifty thousand, one dollar; and for each one hundred voters over fifty thousand, fifty cents. ('95 c. 277 s. 6)

350. Candidates to file affidavits of expenditures—Every person who shall be a candidate for nomination or election to any elective office, including that of United States senator, shall make in duplicate, within thirty days after the election, a verified statement setting forth each and every sum of money contributed, disbursed, expended, or promised by him, and, to the best of his knowledge and belief, by any and every other person, committee, or organization in his behalf, wholly or partly in endeavoring to secure his nomination or election, or that of any other person, at any caucus, convention, primary, or election; that the affiant has used all reasonable diligence in preparing to make such statement; and that the same is as full and explicit as he is able to make it. And within the time aforesaid he shall file one copy thereof with the officer authorized to issue the certificate of nomination or election, and the other with the auditor of the county wherein he resides. No officer shall issue any commission or certificate of election to any person until such statements shall have been so filed; nor shall such person enter upon the duties of such office, or receive any salary or emolument therefrom, until he shall have filed the statements herein prescribed. ('95 c. 277 ss. 7, 9)

351. Action for usurpation—Incriminating evidence—No person shall be permitted to hold any elective office procured, with his knowledge, connivance, or consent, in violation of any provision of §§ 348–350; and any voter of his constituency, by petition specifying such violation, may require the attorney general to proceed against such person as for usurpation of office. But in such cases the petition shall be accompanied by a bond to the state, conditioned for the payment of all costs and disbursements incurred or expended in such proceeding. Upon the trial of such actions, no person shall be excused from answering any question on the ground that the answer would tend to incriminate him. ('95 c. 277 ss. 10–12, 15)

352. Contest no bar—Failure of attorney general—The fact that any question raised by a party has been adjudicated in any contest of the election of such incumbent shall not bar such proceeding, nor prevent the admission of any relevant testimony. In case the attorney general shall fail to begin such proceeding within ten days, the petitioner may begin and conduct the same

in the name of the state, but in such case no recovery of costs or disbursements shall be had against the state. ('95 c. 277 s. 12)

353. Determination of the court—If it shall be determined that one or more of the charges set forth in the petition have been sustained, judgment of ouster shall be rendered against the incumbent, subject to the provisions of § 354, and for costs; otherwise judgment shall be rendered against such petitioner and his sureties for costs. ('95 c. 277 s. 13)

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354. Candidate receiving next highest vote made a party—Judgment—The candidate receiving the next highest number of votes for the same office may intervene or be impleaded, and in such case, if judgment of ouster is rendered as provided in § 353, such judgment shall award the office to the person who received the next highest number of votes therefor, unless it shall have been determined, upon appropriate pleadings and proof, that he has also violated the provisions of this chapter, in which case the office shall be declared vacant. ('95 c. 277 s. 10)

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355. Political committee defined—Every two or more persons elected or appointed by any political party or association for the purpose, wholly or partly, of raising, collecting, or disbursing money, or directing the raising, collecting, or disbursing thereof, for nomination or election purposes, and every two or more persons who shall co-operate in the raising, collecting, or disbursing of money used or to be used for or against the election to public office of any person or any class or number of persons, or for or against the adoption of any law, ordinance, or constitutional amendment, shall be deemed a political committee, within the meaning of this chapter. ('95 c. 277 s. 16)

356. Committee to have treasurer to receive and disburse all moneys—Every political committee shall appoint and constantly maintain a treasurer to receive, keep, and disburse all money which may come into his hands, or into the hands of any member thereof, for any of the purposes mentioned in § 355; and, unless a treasurer be appointed and maintained, neither the committee, nor any member thereof, shall collect, receive, or disburse moneys for any such purpose. All moneys collected, received, or disbursed for any of the purposes aforesaid shall be paid to such treasurer and disbursed by him; and no such committee, or member thereof, shall disburse or expend money for any of the objects or purposes aforesaid until the same shall have passed through the hands of its treasurer. ('95 c. 277 s. 17)

357. Duties of treasurer of committee—Every such treasurer shall keep in a book or books provided and preserved by him a full, true, and detailed account of each and every sum of money received or disbursed by him, the date when and the person from whom received or to whom paid, as the case may be, and the purpose for which such sum was received or disbursed. ('95 c. 277 s. 18)

358. Treasurer's account, when and where filed—Every such treasurer, within thirty days after each primary or election concerning or in connection with which he shall have received or disbursed money for election or campaign purposes, shall prepare and file with the auditor of the county in which he resides a true and detailed statement, subscribed and verified by him, setting forth each and every sum of money by him received or disbursed for such purposes, the date of each receipt and disbursement, the name of the person from whom received or to whom paid, and the purpose of each. Such statement shall also contain a detailed list of the unpaid debts, if any, of such committee, with the nature and amount of each, and to whom owing; and, if there are no such debts, the statement shall so allege. Such statement shall remain on file for four years, subject to public inspection. ('95 c. 277 ss. 19, 20)

PENAL PROVISIONS

359. False registration—Personation—Every person who causes or attempts to cause his name to be registered in more than one district, or in any district, knowing that he is not a qualified voter thereof, or who falsely represents himself to be a person other than he is, when attempting to register

for the purpose of voting at any primary, or when applying for a ballot or offering his ballot to be deposited in a ballot box, or when offering to vote by means of a voting machine or otherwise, whether the person he represents himself to be is living or dead, or a fictitious person, and every person who aids, abets, counsels, or procures any other person to do any of the acts herein mentioned, shall be guilty of a felony. ('76; '95 c. 277 s. 5)

360. Offering duplicate ballots, unlawful voting, etc.—Every person who wrongfully delivers to a judge, to be placed in a box, more than one ballot of the same kind and color, or who fraudulently puts a ballot into any box, or who, not being a qualified voter, votes at any election with unlawful intent, or who votes more than once at the same election, or who procures, aids, assists, or advises another to go into any county, town, or district for the purpose of voting, knowing that such person is not qualified to vote therein, shall be guilty of a felony. (116-119, 122)

21-22; 22-423.

361. Bribery before or at elections—Every person who wilfully, directly or indirectly, pays, gives, or lends any money or other thing of value, or who offers, promises, or endeavors to procure any money, place, employment, or other valuable consideration, to or for any voter, or to or for any other person, in order to induce any voter to refrain from voting, or to vote in any particular way, at any election or primary, shall be guilty of a felony. ('95 c. 277 s. 1)

362. Advancing money, etc., unlawfully—Every person who directly or indirectly advances, pays, contributes, furnishes, or pledges any valuable thing or consideration, or causes the same to be done, to or for the use of any other person, with the intent that such advancement, payment, contribution, pledge, or any part thereof, shall be expended or used in bribery at any primary or election, or in fulfilment of any promised bribe, shall be guilty of a felony. ('95 c. 277 s. 1)

363. Corruptly demanding or receiving payment, etc.—Every person who, after any election, directly or indirectly demands or receives any money or valuable consideration because of any person's having voted or refrained from voting, or because of having induced any other person to vote or refrain from voting, at any election or primary, shall be guilty of a felony. ('95 c. 277 s. 1)

364. Coercing, threatening, or improperly influencing voters—Every judge, clerk, officer, or other person, who, within or without any polling place, directly or indirectly uses or threatens to use any force, violence, or restraint, or causes or threatens to cause any damage, harm, or loss to any person, with intent to induce, or in any other way attempts to induce or compel, such person, or any other person, to vote or refrain from voting at any election, or to vote in any particular way, or who, within any polling room, or in any booth or room connected therewith, or within twenty-five feet from the entrance to any such polling place, asks, persuades, or endeavors to persuade any person to vote for or against any particular candidate, party, or proposition, or who, by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free exercise of the franchise at any election, or who by any such means, compels, induces, or prevails upon any voter either to give or refrain from giving his vote at any election, or who aids, assists, counsels, or advises another to vote in any district, knowing that he is not then and there a qualified voter, shall be guilty of a gross misdemeanor. (113, 120, 121; '95 c. 277 s. 4)

365. Defacing posted lists, or removing ballots from polling room—Every person who tears down, mutilates, defaces, or otherwise injures any list of names or card of instruction to voters posted or otherwise placed outside or inside of any polling place or booth by any board of registration or other official, or who, before the closing of the polls, removes from the polling place any ballot printed for use at such election, or any supplies or conveniences placed in or about any booth for the use of voters in preparing their ballots, shall be guilty of a gross misdemeanor. (115)

366. Wilful removal of or damage to poll books, etc.—Every person who shall wilfully take or carry away from any polling place, or deface, mutilate, damage, or add to, any poll book, ballot, list, or register, or any name or figure therein, shall be guilty of a felony. (165)

367. Wilful injury to voting machines—Every person who wilfully injures or renders ineffectual any voting machine, or attempts so to do, shall be guilty of a felony. ('99 c. 315 s. 6)

368. Failure to deliver certificate of nomination—Every secretary of a delegate convention who fails or neglects to immediately deliver, to the officer charged with the printing of the ballots upon which the name of a candidate of such convention is to be placed, the certificate of nomination of such candidate, shall be guilty of a misdemeanor. (38)

369. Negligence in printing and care of ballots—Every person authorized to print, or employed in printing, official ballots, who knowingly gives or delivers any of such ballots to, or knowingly permits any of the same to be taken by, any person other than the official under whose direction they are being printed, or knowingly prints or causes or permits to be printed any ballot in a form other than that prescribed by law, or with any other names thereon, or with the names spelled or the names of offices arranged thereon in any way other than that authorized and directed by said official, shall be guilty of a felony. (35)

370. Defamatory circulars, etc.—Every person who writes, prints, posts, or distributes, or causes to be written, printed, posted, or distributed, any circular, poster, or other written or printed matter, which is designed or tends to injure or defeat any candidate for nomination or election to a public office by reflecting on his personal or political character or acts, unless by publishing such matter in a newspaper in such manner that the publisher becomes responsible therefor, or unless there appear upon such written or printed matter, in a conspicuous place, the names of at least two officers or members of a committee of the political or other organization purporting to issue the same, or the name of some registered voter as responsible therefor, with his postoffice address, shall be guilty of a gross misdemeanor. (199; '01 c. 88 s. 4)

371. Refusing employee election privilege—Every person who, as principal or as an official or agent of any other person, shall directly or indirectly refuse, abridge, or in any manner interfere with any of the privileges or immunities of any employee of himself or his principal granted by this chapter, shall be guilty of a misdemeanor. (114)

372. No persons except judges to handle ballots—Every person, except a judge, who during any canvass of votes shall handle, touch, or interfere with any of the ballots being canvassed, and every judge permitting the same to be done, shall be guilty of a misdemeanor. (128; '97 c. 242)

373. Mismarking ballots—Disclosing how marked—Every election official, or other person who marks the ballot of any voter, except in the cases and in the manner provided by law, or who informs any person other than such voter how any such ballot was marked, shall be guilty of a gross misdemeanor. (108)

374. Wilful neglect, failure, or fraud of election officers—Every election officer or other person required by law to safely keep and produce on election day the ballots intrusted to him, or to perform any other act, who wilfully fails or refuses to do the thing so required, or who is required by law to abstain from any act, and wilfully does such act, or who in either of such cases is guilty of any fraud, corruption, partiality, or misbehavior in conducting or aiding in the conduct of any election, or in canvassing or making returns of votes, or who wrongfully refuses to make or deliver any certificate of election, or who falsely or corruptly performs any required act, the punishment whereof has not been otherwise expressly provided for by law, shall be guilty of a felony. (164)

375. Destruction or delay of election returns—Every messenger appointed by authority of law to receive and carry a report, certificate, or certified copy

of any statement relating to the result of any election, who shall wilfully mutilate, tear, deface, obliterate, or destroy the same, or do any other act which shall prevent the delivery of it as required by law, and every person who shall take away from such messenger any such report, certificate, or copy, with intent to prevent its delivery, or who shall wilfully do any injury or act herein specified, shall be guilty of a felony. (6788)

376. Unlawful expenditures before nomination or election—Every candidate for nomination or election to a public office, who within ten days before any primary held to nominate, or to elect delegates to a convention called to nominate, a candidate for such office, or who within sixty days before the election at which an incumbent is to be chosen for such office, directly or indirectly, gives or provides, or pays, wholly or partly, or promises to pay, wholly or partly, the expense of giving or providing any food, drink, or entertainment to or for any person with intent to corruptly influence such person, or any other person, to give or refrain from giving his vote at such election, or to vote or refrain from voting in a particular way, shall be guilty of a misdemeanor. ('95 c. 277 s. 3)

377. Failure to file statement—Every treasurer or other person who receives any money to be applied to any of the election purposes for which expenditures are permitted by law, who fails to file the statement and account respecting the same required by this chapter within the time prescribed, shall be guilty of a misdemeanor. ('95 c. 277 s. 21)

378. Failure of treasurer to keep correct accounts—Every such treasurer or other person who receives any money to be applied to the purposes aforesaid, who fails to keep a correct book of account containing all the statements and details required by law, with intent to conceal the receipt or disbursement of any sum of money received or disbursed by him or by any other person, or the purpose for which the same was received or disbursed, or to conceal the existence of any unpaid debt or obligation, or the amount thereof, or to whom the same is due, in detail, or who shall mutilate, deface, or destroy such book with like intent, shall be guilty of a misdemeanor. ('95 c. 277 s. 22)

379. Failure of candidate to file—No commission, etc., to issue—Every candidate for nomination or election to any elective office, or to the office of United States senator, who fails to make and file the verified statement of moneys contributed, disbursed, expended, or promised by him, or by any other person, committee, or organization for him, so far as he can learn, in the manner, within the time, and with the details required by law, or who enters upon the duties of any such office, or receives any salary or emolument therefrom, before he has so filed such statement, and every officer who issues a commission or certificate of election to any person before such statement shall have been so filed, shall be guilty of a gross misdemeanor. ('95 c. 277 s. 8)

CHAPTER 7

COUNTIES AND COUNTY OFFICERS

CHANGE OF BOUNDARIES

380. Change—New counties—The boundaries of counties may be changed by taking territory from a county and attaching the same to an adjoining county, and new counties may be established out of territory of one or more existing counties, as hereinafter provided; but no such new county shall contain less than four hundred square miles, nor less than two thousand inhabitants, and no existing county shall be reduced in area below four hundred square miles, nor so as to contain less than two thousand inhabitants. (621)

Control of legislature over subject absolute (43-500, 46+73; 66-536, 68+769). Title of 1893 c. 143 sufficient (67-352, 69+1083). Territory taken and left must be contiguous (69-202, 71+933). Cited (77-63, 79+655; 83-331, 86+352; 89-123, 94+226; 89-269, 94+879).