

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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DECISIONS RELATING TO OFFICERS IN GENERAL

1. In General.

Liability of a public officer for nonfeasance attaches only when duty is ministerial and not mandatory. *Cook v. T.*, 274NW165. See Dun. Dig. 8001, 8002a.

Two attorneys associated together in same office but not partners may respectively hold offices of county attorney and city attorney. *Op. Atty. Gen.*, May 6, 1933.

Judge of probate may also act as secretary of production credit association, organized to refinance chattel mortgage loans. *Op. Atty. Gen.*, Feb. 23, 1934.

2. De facto officers.

There can be no de facto officer unless there is a de jure office for him to fill, but where there is a legislative act or municipal ordinance in form creating an office and an officer is elected or appointed to such office, then, though legislative act or ordinance is unconstitutional or invalid, officer is an officer de facto until act

or ordinance is declared unconstitutional or invalid. *State v. City of Eveleth*, 189M229, 249NW184. See Dun. Dig. 8014.

3. Officials not to be interested in contracts.

A county is not authorized to pay rent to a surveyor for his use of instruments belonging to him personally. *Op. Atty. Gen.*, Jan. 9, 1932.

A license is not a contract and an alderman of a city may receive a license to sell intoxicating liquors, except that he cannot vote on his own application. *Op. Atty. Gen.* (218g), Feb. 15, 1935.

4. Term of office.

The term of office of a city employe, appointed by city council without term, does not expire at expiration of term for which members of council appointing him were elected, unless employe was appointed for a fixed term. *State v. City of Eveleth*, 189M229, 249NW184. See Dun. Dig. 7988.

Payments to retirement fund by regular state employes shall be based upon their regular salary schedule without considering emergency reduction in salaries. *Op. Atty. Gen.*, May 11, 1933.

CHAPTER 6

Elections

R 39-345

255-1. Cities may change date of municipal elections.—That the governing body of any city of the first class operating under a home rule charter be and is hereby authorized to change, by resolution adopted by the majority vote of said governing body, the date of the biennial municipal election from the first Tuesday in May to the last Tuesday in April of even-numbered years, in the event that the charter under which such city is operating provides for such biennial election on the first Tuesday in May of even-numbered years. (Act Mar. 9, 1933, c. 71, §1.)

255-2. Resolution to be filed with County Auditor and Secretary of State.—A copy of any resolution so passed and approved by the majority of the members of such governing body shall before it becomes effective, be filed with the county auditor and the Secretary of State of the State of Minnesota not later than sixty days preceding such election. (Act Mar. 9, 1933, c. 71, §2.)

Sec. 3 of Act Mar. 9, 1933, cited, provides that the act shall take effect from its passage.

This act is unconstitutional as not operating uniformly. *Hiler v. C.*, 189M618, 250NW579. See Dun. Dig. 1683.

This act is unconstitutional. *Op. Atty. Gen.*, Dec. 12, 1933.

This act being unconstitutional election of officers of cities operating under Laws 1895, c. 8, are to be elected in odd numbered years. *Op. Atty. Gen.* (86a-20), Sept. 29, 1934.

255-3. City election in certain cities.—The regular city election in all cities in this state, operating under Laws 1895, Chapter 8 [Mason's Minn. Stat. 1927, pp. 439 to 466], and having a population of less than 3500 inhabitants, shall be held on the first Tuesday after the first Monday in November of each even-numbered year. (Act Apr. 8, 1933, c. 181, §1.)

Held unconstitutional. See note in Mason's Minnesota Annotations, Feb. 1934, Vol. 6, No. 1.

255-4. Officers to hold over in certain cases.—There shall not be any city election in such cities in the year 1933, and elective and appointive officers, now holding office in said cities, shall continue to hold their respective offices until the first Tuesday after the first Monday in the year 1935, or until their successors are elected or appointed and have qualified, unless such officers are removed in the manner provided by law. (Act Apr. 8, 1933, c. 181, §2.)

256. Definition of terms.

Gen. Stat. 1923 (1 Mason, 1927) §§488-492, providing for contest of elections, does not apply to towns. *Danculovic v. Z.*, 184M370, 238NW695. See Dun. Dig. 2915, 9660a.

Child over 21 years of age upon entering United States does not become citizen of United States on naturalization of parent. *Op. Atty. Gen.*, Mar. 3, 1933.

Unincorporated village cannot issue licenses or operate municipal liquor store. *Op. Atty. Gen.*, Feb. 26, 1934.

Indians who have been residents of state for at least six months and residents of established election district for at least 30 days are entitled to vote at school elections. *Op. Atty. Gen.* (490g), Sept. 21, 1934.

257. Term of office, when it begins.

Op. Atty. Gen., Mar. 20, 1934; note under Const., art. 6, §10.

Judges of municipal court are state officers and not officers of the municipality electing them, and where a municipal judge was elected to a term commencing on the first secular day of February, 1928, his term of office did not expire until four years thereafter, and his term of office could not be changed by adoption of home rule charter changing dates of election, and where the only proper general election of a city next preceding first secular day of February, 1932, was in November, 1930, at which the same judge was elected, his four-year term of office under the second election began the first secular day of February, 1932. *State v. Bensel*, 194M55, 259NW389. See Dun. Dig. 6899a.

Person appointed to fill vacancy in office of probate judge holds office until first Monday in January following general election in November, and there can be no short term between November and January. *Op. Atty. Gen.* (347k), May 29, 1936.

258. Election districts.

Laws 1929, c. 95, repealed and reenacted by Laws 1929, c. 344, provides for setting apart unincorporated platted territory within a township as a separate election district. The act is so restricted as to territorial operation as to require its exclusion from this compilation as a local or special act.

Villages separated from the town with population between 3,000 and 3,700 and valuation between \$750,000 and \$1,500,000 and an area of at least one square mile, may subdivide into election districts. Laws 1935, c. 55.

Op. Atty. Gen. (442a-11), Apr. 19, 1934; note under § 1096.

After an election district has once been established it cannot be changed or a new one created with authorization of electors at either annual election or at special election called for that purpose. *Op. Atty. Gen.*, Jan. 10, 1934.

259-1. Election districts created.—The village council of each village that is separated from the town for election purposes, which according to the last state or federal census has a population between 3,000 and 3,700 inhabitants and which has an assessed value between \$750,000 and \$1,500,000 and which contains an area of at least one square mile, shall divide, consolidate and rearrange said village into parts for voting purposes, from time to time, so that the number of voters in each part shall be substantially equal and not to exceed six hundred. Such changes shall be made by resolution of the village council adopted at least 90 days before the next ensuing election and sixty days' posted notice shall be given before the same shall take effect. (Act Mar. 20, 1935, c. 55, §1.)

262. Special elections in certain cases.

Whenever any vacancy occurs in any office, the filling of which is not otherwise provided for, the governor, within ten days after he is informed of such 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 of such proclamation, 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

occurs in the office of representative in congress, or members of the legislature, and there be no session of the congress or legislature between the happening thereof and the next general election, or in case of vacancy in the state legislature such vacancy occurs during a session of the legislature at such a time that a special election cannot be held until more than one-half of the legislative days of such session have elapsed, such special election may be held as hereinbefore provided, and if not so held, shall be held on the next general election day. 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 election; and within fifteen days thereafter the auditor shall transmit a statement of the vote cast thereat to the secretary of state. The primaries therefor shall be held in the same manner and the same time as provided for in Section 263. (R. L. '05, §160; G. S. '13, §305; '25, c. 420, §1; Mar. 2, 1933, c. 48.)

This section and Sections 263 to 270 were repealed by Laws 1929, c. 297, §13, post, §270-13. The above amendment was made without reference to and in disregard of such repeal.

Governor has no authority to fill vacancy in federal house of representatives by appointment. Op. Atty. Gen., Feb. 18, 1933.

263 to 270. [Repealed.]

Repealed by Laws 1929, c. 297, §13, post, §270-13. See §401-1, as to hours of opening and closing of polls.

270-1. Election to fill vacancies in congress or legislature.—Every vacancy in the office of representative in Congress or member of the State Legislature or in any other elective public office the filling of which is not otherwise provided for shall be filled for the unexpired term by election upon the writ of the governor as provided by this act; provided, that if there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the expiration of the term in which the vacancy exists or will occur, it shall not be necessary to fill the vacancy. (Act Apr. 23, 1929, c. 297, §1.)

Resignation of a state senator may be accepted by the governor, but he need not issue a writ of election if there is to be no session of the legislature before expiration of term for which senator was elected. Op. Atty. Gen. (2801-2), Apr. 30, 1934.

It is mandatory that the governor call a special election following regular term of legislature to fill vacancies caused by death if a special session of the legislature is to be called. Op. Atty. Gen. (2801-2), June 21, 1935.

270-2. Same—governor to direct election—special election.—In any case where a vacancy in such an office has occurred and the governor is informed thereof a sufficient time before the next general election to permit the giving of notice and the nomination of candidates therefor as hereinafter provided, and where there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the time fixed by law for the final canvass of the general election returns for offices of the same kind as that to be filled hereunder, the governor shall issue his writ directing that the vacancy be filled at such general election and that nominations be made therefor as hereinafter provided. In all other cases the governor, upon being informed of the existence of such a vacancy or of any contingency which will create a future vacancy in such an office, shall issue his writ directing that a special election be held to fill the vacancy and that nominations be made therefor as hereinafter provided. Two or more vacancies may be filled at the same election, and candidates therefor may be nominated at the same primary. Any special election or special primary under this act may be held on the same day as any other election or primary, using the same polling places and election officials, but with separate ballots and ballot boxes for the election or primary held hereunder except as

otherwise hereinafter provided. (Act Apr. 23, 1929, c. 297, §2.)

Vacancy in office of state senator caused by death can be filled only upon writ of governor, and such writ must be published and posted at least twelve days before primary. Op. Atty. Gen., June 3, 1932.

270-3. Same—governor to call special election within ten days in certain cases.—In any case where the congress or the legislature will be in session or there will be other occasion for the exercise of the functions of the office, as the case may be, so that a person elected as provided by this section could take office and exercise the functions thereof immediately after his election, the governor, forthwith after being informed of the existence of the vacancy or contingency causing a future vacancy, and in any event not more than ten days after receipt of such information, shall issue his writ calling the special election for the earliest possible time thereafter which will permit the giving of notice of such special election and the primary therefor as hereinafter provided, and in any event not more than twenty-five days after the issuance of the writ. (Act Apr. 23, 1929, c. 297, §3.)

Where state representative dies while special session of legislature is in session, governor should issue writ of election under §270-3 rather than §270 1-4. Op. Atty. Gen. (2801-2), June 9, 1937.

270-4. Same—special election.—In all cases other than those hereinbefore provided for, the governor shall issue his writ seasonably calling such special election for such time that the person elected may take office at the opening of the next session of the congress or the legislature or upon such other occasion as may next arise for the exercise of the functions of the office, as the case may be, and so that candidates may be nominated for such special election as hereinafter provided. (Act Apr. 23, 1929, c. 297, §4.)

Where state representative dies while special session of legislature is in session, governor should issue writ of election under §270-3 rather than §270 1-4. Op. Atty. Gen. (280-2), June 9, 1937.

270-5. Same—primary election—special primary election.—Candidates for election to fill any such vacancy may be nominated at primaries and otherwise as hereinafter provided. In any case where the vacancy is to be filled at the next general election or at a special election to be held not less than seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, and where the governor's writ can be issued a sufficient time before the regular primary election to permit the giving of notice and the filing of affidavits of candidates as hereinafter provided, the writ shall be so issued and shall direct that candidates may be nominated at the regular primary election, and thereupon candidates shall be so nominated. In all other cases the writ shall direct that a special primary for the nomination of candidates be held on a date therein specified not later than the seventh day before the election at which the vacancy is to be filled, and thereupon such a special primary shall be held as so directed. In the case of non-partisan offices, the two candidates receiving the highest number of votes at the primary election for each office to be filled shall be deemed to be nominated; provided, that where there are two or more offices of the same kind and having the same term to be filled at the same election, the candidates twice as many in number as such offices to be filled receiving the highest number of votes shall be deemed to be nominated. In the case of party offices, one candidate for each office to be filled may be nominated at the primary for each political party having the qualifications prescribed by the laws relating to primary elections, and the candidate of each party receiving the highest number of votes at the primary for such party nomination shall be deemed to be nominated; provided, that where there are two or more party offices of the same kind and having the same term

to be filled at the same election, the candidates of each party equal in number to the offices to be filled receiving the highest number of votes for such party nominations shall be deemed to be nominated. Provided, further, that in any case where the number of persons who have filed as candidates for any nomination does not exceed the number to be nominated, the persons who have filed therefor shall be deemed to be nominated, and no primary shall be held to make such nominations. Candidates may also be nominated by petition or certificate of voters under the conditions and in the manner provided by the laws relating to such petitions or certificates, so far as applicable; provided, that in any case where the vacancy is to be filled at the general election and where candidates therefor are to be nominated at the regular primary election or at a special primary held not less than five days before the expiration of the time prescribed by law for filing nominating petitions or certificates for candidates for like offices at the general election, nominating petitions or certificates for candidates for such vacancy shall be filed within the time so prescribed, and in all other cases nominating petitions or certificates for candidates under this act shall be filed not later than the fifth day preceding the election at which the vacancy is to be filled. (Act. Apr. 23, 1929, c. 297, §5.)

270-6. Same—auditor to post notice.—Every writ issued by the governor under this act shall be forthwith filed with the secretary of state, who shall immediately transmit a certified copy thereof by registered mail to the county auditor of each county in which candidates for the vacancy are to be voted upon. At least five days before the expiration of the time for filing affidavits of candidates specified in the writ, as hereinafter provided, the county auditor of each county concerned shall post a copy of the writ at his office and shall cause a copy thereof to be published once in a qualified legal newspaper published at the county seat. He shall also cause posted notice of the primary and of the election to be given in each election district in the county in the manner provided by law at least five days before the primary and at least twelve days before the election. In any case where the primary is to be held on the seventh day before the election, both may be included in the same notice, and in any case where either the primary or the election is to be held on the same day as any other election, notice of the primary or election to be held under this act may, if practicable, be included in the notice of such other election. But no omission or defect in any publication or posting of any such writ or notice shall invalidate any primary or election held under this act. (Act. Apr. 23, 1929, c. 297, §6.)

Modifies Mason's Stat. 1927, §§293, 353, and it is county auditors' duty to post notices of election. Op. Atty. Gen., May 25, 1929.

Executive writ must be published and posted at least 12 days before primary. Op. Atty. Gen., (213c), Oct. 7, 1936.

270-7. Same—filing of candidates.—Candidates for nomination to fill a vacancy in any office at any primary under this act shall file their affidavits within the time hereinafter prescribed with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at regular primary elections. In any case where such nominations are to be made on the regular primary election day and where the governor's writ can be issued in accordance with the provisions of this act a sufficient time before the close of the regular time for filing for like offices so as to permit the publication of the writ as hereinbefore provided, the writ shall be so issued, and shall state that such affidavits may be filed within the time prescribed by law for the regular primary election, and thereupon all such affidavits shall be so filed. In all other cases the writ shall state that such affidavits may be filed not later than the seventh day before the primary and there-

upon all such affidavits shall be so filed. In any case where affidavits of candidates have been filed with the secretary of state, he shall certify the names of such candidates to the county auditors of all counties in which they are to be voted upon within twenty-four hours after the close of the time for filing, and thereupon the filing fees received by the secretary of state shall be disposed of as provided by the laws governing regular primary elections. (Act. Apr. 23, 1929, c. 297, §7.)

270-8. Same—names on ballots.—Only the names of candidates who have duly filed as hereinbefore provided shall be placed upon the ballots for any primary held under this act, and only the names of candidates who have been duly nominated as hereinbefore provided shall be placed upon the ballots for any election held under this act. Blank spaces for writing in names shall be provided upon such election ballots as upon general election ballots, but not upon such primary ballots. Except as otherwise herein-after provided, the county auditor of each county concerned shall prepare special ballots for every election and primary to be held under this act. Such ballots shall be headed, "Special Election Ballots" or, "Special Primary Ballots," as the case may be, followed by the date of the election or primary. Immediately below the title of each office to be filled there shall be printed the words, "To fill vacancy in term expiring _____," with the date of expiration of the term and such other information as may be necessary to distinguish such office from any other office to be voted upon at the same election or primary. Otherwise such ballots shall conform, as far as practicable, with the laws relating to ballots for general elections and regular primary elections, respectively. The county auditor shall post a sample of each such ballot in his office as soon as prepared and not later than four days before the election or primary, as the case may be, but need not publish any such sample ballot. But in any case where candidates are to be voted for under in this act on the general election day or are to be nominated on the regular primary election day, as the case may be, and where the canvass of the returns is to be made by the regular county canvassing board, as hereinafter provided, and where the ballots for such general election or primary, as the case may be, have not been printed when the names of the candidates under this act have been finally determined as herein provided, the county auditor shall place the names of such candidates upon the regular ballots used for like offices at the general election or primary, as the case may be, designating the office to be filled in the same manner as hereinbefore provided for special ballots. (Act. Apr. 23, 1929, c. 297, §8.)

270-9. Same—election districts—officials.—The election districts and officials for any special election or primary held under this act shall be the same as at the last preceding general election unless changed according to law, and the existing registers of voters shall be used without making any new registrations. In any place where the permanent registration system is in force under Laws 1923, Chapter 305 [§§380-393, 1394-1407], and acts amendatory thereof or supplementary thereto, or under any other law establishing a similar system, no person shall be allowed to vote at any such special election or primary unless registered under such system; provided, that notwithstanding any provisions in any law now or hereafter governing such system to the contrary, voters shall be permitted to register under such system for any special election held under this act and for the primary therefor up to and including the sixth day preceding the primary, not counting any Sunday or legal holiday, after which day no further registrations shall be received for such special election or primary unless and except as permitted by the laws governing such system; provided further, that in case

any election or primary under this act is held on the same day as any other election, no registrations shall be received for the election or primary held hereunder except as permitted by the laws governing such system for such other election. (Act Apr. 23, 1929, c. 297, §9.)

270-10. Same—returns—canvassing board.—The returns of any primary held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such primary is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such primary by a canvassing board consisting of the county auditor, county treasurer, and clerk of the district court of such county any two of whom being present, shall have power to act; provided, that in any case where the primary under this act is held on the regular primary election day and where the election under this act will not be held within seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, the returns of the primary held under this act shall be canvassed by such county canvassing board at their regular meeting. The canvassing board shall determine and declare the results of the primary held under this act and shall forthwith certify in writing a statement thereof, showing the total number of votes received by each candidate and shall file the same with the county auditor. In case the primary is held in a single county, the county auditor shall forthwith in writing notify the successful candidates of their nomination. In case the primary is held in a district comprising more than one county, the county auditor of each other county in the district shall forthwith transmit a certified copy of the statement of the canvassing board to the county auditor of the county in such district which cast the highest number of votes for governor at the last preceding general election, who shall file the same, and, when all of such certified copies have been received, shall forthwith canvass the same together, and shall thereupon determine and declare the results of such primary, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall transmit a certified copy thereof to each other county auditor in the district, and shall forthwith in writing notify the successful candidates of their nomination. Provided, that in any case where the primary under this act has been held on the regular primary election day and the election under this act is to be held on the next general election day, the returns of the primary under this act shall be made and canvassed and the results thereof declared and certified together with and in the same manner as the returns of the regular primary election for offices of the same kind as that to be filled under this act. (Act Apr. 23, 1929, c. 297, §10.)

Federal house of representatives has exclusive jurisdiction to determine whether member declared elected was in fact recipient of a plurality of votes cast at election. Williams' Contest, 193M516, 270NW586. See Dun. Dig. 9956a.

270-11. Same—county auditor to issue certificate of election.—The returns of any special election held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such election is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such election by a canvassing board constituted as hereinbefore for a special primary, which board shall determine and declare the results of such election and certify and file a statement thereof in like manner as hereinbefore provided for such special primary. In case the election is held in a single county, the county auditor shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled

at the election, as shown by the statement of the canvassing board. In case the election is held in a district comprising more than one county, the county auditor of each county in such district shall forthwith transmit a certified copy of the statement of the canvassing board to the secretary of state, who shall file the same, and, when all of such certified copies have been received, shall forthwith canvass the same together and shall thereupon determine and declare the results of the election, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled at the election as shown by such statement. Provided, that in any case where the election under this act is held on the general election day and where the governor's writ has not required that such election be held as a separate special election on such day, as hereinbefore provided, the returns of such election shall be canvassed and the results thereof declared and certified together with and in the same manner as the returns of the general election for offices of the same kind as that to be filled under this act. (Act Apr. 23, 1929, c. 297, §11.)

270-12. Same—general laws to govern.—Except as otherwise provided by this act, all elections and primaries held hereunder and all matters pertaining thereto shall be governed by the laws relating to general elections and regular primary elections and matters pertaining thereto, respectively, so far as such laws are applicable and so far as may be necessary to carry out the provisions of this act. (Act Apr. 23, 1929, c. 297, §12.)

270-13. Same—laws repealed.—General Statutes 1923, Section 262, as amended by Laws 1925, Chapter 420, General Statutes 1923, Sections 263 to 270, inclusive, and Laws 1925, Chapter 389 [§264], are hereby repealed, and all other acts and parts of acts inconsistent herewith are hereby repealed to the extent of such inconsistency. (Act Apr. 23, 1929, c. 297, §13.)

274. Intoxicating liquors at polling places forbidden.

Statutes prohibiting sale of liquor on election day refer to intoxicating liquors and not to beer. Op. Atty. Gen., Aug. 30, 1933.

275. Sample ballots—notice.
Contract for printing and publication between newspaper and county board is not binding upon county auditor with respect to publication of sample ballots. Op. Atty. Gen. (707b-3), Oct. 5, 1934.

278. Red ballot for city elections—Publication of sample.

Though a single sample ballot covering whole city and four wards would not invalidate election, better practice would be to prepare separate ballots for each ward to prevent confusion. Op. Atty. Gen. (28a-7), Apr. 9, 1936.

279. Lavender ballot for questions relating to charters or bond issues—Etc.

An outline of municipal bond procedure in Minnesota. 20MinnLawRev583.

280. India tint ballots—Contents.—There shall be one ballot on india tint paper, called in this chapter the "india tint 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. (As amended Apr. 17, 1937, c. 270, §1.)

284a. Same—Names, etc., how printed.

Op. Atty. Gen., May 11, 1932; notes under §344. Blank lines should be provided below the names of candidates in elections under §§1805 to 1811. Op. Atty. Gen., Dec. 2, 1930.

285. Same—Names of candidates.

Candidate for office cannot add after his name on ballot "ex-representative," since it does not indicate his present occupation. Op. Atty. Gen., May 25, 1932.

Candidate may add after his name "farmer-lawyer." Op. Atty. Gen., May 25, 1932.

One defeated in primary for non-partisan office may distribute stickers and be elected to office if he obtains majority of votes. Op. Atty. Gen. (184f), June 25, 1934.

County auditor in determining position of names of candidates for Congress on blue ballots should do so by determination of votes polled throughout state by respective political parties. Op. Atty. Gen. (28b-2), Oct. 15, 1934.

Voters have right to write in name of any person they desire to vote for for state representative and to indicate their vote by mark in square following such name. Op. Atty. Gen. (28a-8), Nov. 20, 1934.

Rotation of names at general election applies only to nominees for nonpartisan offices and to cases where two or more persons are to be elected to same office. Op. Atty. Gen. (911s), Sept. 23, 1936.

286. Same—Nominees by petition—Etc.

Where there were candidates for both regular and short term in office of United States senator, secretary of state could exercise his discretion in arranging groups as to priority on ballot. Op. Atty. Gen. (911s), Sept. 23, 1936.

289. Form of other ballots.—The india tint 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. (As amended Apr. 17, 1937, c. 270, §2.)

291. Ballot to contain only candidates properly nominated.

A candidate defeated in primaries can run on stickers. Op. Atty. Gen. (184o), Sept. 17, 1934.

One whose name appeared on primary ballot as L. O. Merritt is not entitled to have his name placed on ballot at general election as "L. O. (Lon) Merritt." Op. Atty. Gen. (184e), Aug. 1, 1936.

292. Rotation of names—when required.

Under Raton's Stat., §§292, 301, names of candidates upon ballot in general city election must be rotated regardless of provision in home rule charter providing that they be printed in alphabetical arrangement. Op. Atty. Gen. (28b-2), Oct. 17, 1934.

NOMINATION BY DIRECT VOTE

293. Primary election—Purpose—Time of holding—Notice.

Modified by Laws 1929, c. 297, §6, ante, §270-6. Op. Atty. Gen., May 25, 1929.

A person may change his name without any legal proceedings whatever and may give himself a nickname and have it printed on official ballot. Op. Atty. Gen. (28b-2), May 22, 1934.

294. Political party defined.

Op. Atty. Gen., July 16, 1932; note under §200. Where county commissioner resigns after primary a petition under §330 need not state the party or political principle of the candidate, the office being nonpartisan. Op. Atty. Gen. (28c-1), Sept. 17, 1934.

Secretary of State may accept filing by petition for United States senator for both long and short term by payment of filing fee of \$60 and 2,000 signatures on each petition. Op. Atty. Gen. (911s), July 28, 1936.

This section is applicable to primary elections held in villages operating under Laws 1933, ch. 327 (§317-1 et seq.). Op. Atty. Gen. (186c), Oct. 6, 1936.

296. Districts for all elections—Maps or descriptions.

Where the polling place in unorganized territory was unavailable, the county board was authorized to des-

ignate a new polling place and to appoint election officers therefor upon giving reasonable notice to voters and in absence of such designation the voters themselves might elect officers who could select a voting place. Op. Atty. Gen., May 22, 1930.

Op. Atty. Gen. (185a-5), May 1, 1934; note under § 354.

Section 355 which relates expressly to towns is controlling, as far as towns are concerned, over §296, but other provisions of §296 should be observed in towns as well as elsewhere. Op. Atty. Gen., Jan. 10, 1934.

297. Names placed on primary ballot—fees—non-partisan ballot.—At least forty days before the primary election any party eligible and desirous of having his name placed upon the primary ballot as a candidate for chief justice or associate justice of the supreme court, judge of the district court, state or congressional office or member of the state legislature or county 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, if for a party office, and the office for which he desires to be a candidate; and if for a party office 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; provided, that all candidates for offices not enumerated above in this section shall file their affidavit as herein provided, not less than forty days before said primary election. Upon payment by such candidate to the secretary of state of \$20.00, if for any office to be voted for in more than one county, or if for any office to be voted for in only one county, upon payment of ten dollars to the county auditor thereof, the county auditor shall place the name of such candidate upon the primary election ballot in the ticket of the party designated except where only one person has filed as a candidate for any one office in any one party the name of such candidate shall not be placed upon the primary ballot but shall be considered and shall be the nominee for such office for the party under which such candidate filed and his name shall be placed upon the general election ballot as the nominee of such party for such office; provided, however, that candidates for the legislature shall pay ten dollars only to the secretary of state when the affidavit or petition is filed with him and ten dollars to the county auditor when filed with him, provided that the name of any eligible person may also be placed upon the non-partisan primary election ballot as a candidate for chief justice or associate justice of the supreme court or judge of the district court upon petition in writing of electors filed within the same time and at the same place and upon payment of the same fee as is provided in case of filing of affidavits by candidates as follows:

For chief justice or associate justice of the supreme court, upon petition of 500 electors residing within the state; for judge of the district court upon the petition of 250 electors residing within the district. Such petition shall be in writing and signed by each of the electors joining therein and shall be by each of them acknowledged before an officer authorized by law to administer an oath. Upon the compliance with such requirement, such names shall be placed upon the non-partisan primary election ballot. No petition shall contain more than double the number of signatures herein required and no officer shall receive for filing or file any petition containing more than double the number of signatures so required. Any person whose name is so presented and filed may withdraw the same by filing an affidavit of withdrawal thereof in the same office in which such petition is filed. Provided, each candidate for state offices, congressmen-at-large, and judges of the supreme court shall pay to the secretary of state the sum of \$50.00 each at the time of filing his affidavit

with said officer. (R. L. '05, §184; '07, c. 226; '09, c. 95; '12, c. 2; G. S. '13, §339; '13, c. 389, §3; Apr. 8, 1933, c. 172, §1; Apr. 15, 1933, c. 244, §1; Mar. 24, 1937, c. 93, §1.)

Laws 1933, c. 172, and Laws 1933, c. 244, are repugnant and both cannot stand, and filings for county office may be made 20 days before primary election. *State v. Schimelpfengig*, 192M55, 25NW258. See *Dun. Dig.* 8927. Candidate who has paid a fee on filing for one office cannot, on changing to another office, have the fee credited on the second filing, but he must pay an additional fee. *Op. Atty. Gen.*, Apr. 23, 1930.

Secretary of state could not refund fees paid by one filing for representative in Congress, though he filed for particular district and court's decision held Redistricting Act invalid. *Op. Atty. Gen.*, Apr. 14, 1932.

Candidate for nomination for representative-at-large in Congress must pay full fee of \$50.00 without any credit for fees previously paid on filing for a particular district under act declared invalid. *Op. Atty. Gen.*, Apr. 14, 1932.

Secretary of State cannot refuse to place name of candidate upon ballot where he files usual affidavit, though he has been advised that candidate served term in federal prison and has not been restored to civil rights. *Op. Atty. Gen.*, May 5, 1932.

Laws 1933, c. 244, did not repeal Laws 1933, c. 172, §1, and time of filing for county offices is same as state and legislative offices. *Op. Atty. Gen.*, Aug. 28, 1933.

Candidates for county offices must file at least 40 days before primary election. *Op. Atty. Gen.*, Nov. 1, 1933.

Laws 1933, c. 244, purporting to amend this section, did not repeal that part of Laws 1933, c. 172, also amending this section. *Id.*

County auditor may not question candidate's affidavit which is in proper form. *Op. Atty. Gen.*, Mar. 1, 1934.

Laws 1933, c. 172, superseded Laws 1933, c. 244, insofar as inconsistent. *Op. Atty. Gen.* (911r), Apr. 24, 1934.

Last day for filing for county offices is 40 days before primary. *Op. Atty. Gen.* (911r), Apr. 24, 1934.

Purpose of amendment by Laws 1933, c. 172, was to make time for filing by candidates for county offices at least 40 days prior to primary. *Op. Atty. Gen.* (911r), May 16, 1934.

Candidates for offices of clerk of district court and probate judges should file their affidavits of candidacy not less than 20 days before primary election. *Op. Atty. Gen.* (911r), Apr. 14, 1936.

Filing fee must accompany affidavit of candidacy and must be paid prior to expiration of time for filing. *Op. Atty. Gen.* (911d), June 1, 1936.

One whose name appeared on primary ballot as L. O. Merritt is not entitled to have his name placed on ballot at general election as "L. O. (Lon) Merritt." *Op. Atty. Gen.* (184e), Aug. 1, 1936.

Candidate's name should be placed upon ballots unless he gives formal written notice of withdrawal. *Op. Atty. Gen.* (184n), Sept. 22, 1936.

298. Married woman may use husband's name.

A widow who is a candidate for office may be named on ballot by her deceased husband's last name and initials with prefix "Mrs." provided she is commonly so known. *Op. Atty. Gen.*, Mar. 14, 1932.

299. Order of filing—Fees, how disposed of.

Candidate who has paid the fee on filing for one office is not entitled to have the fee credited to a different office, in view of the provision requiring the payment of the fee to the city or county treasurer. *Op. Atty. Gen.*, Apr. 23, 1930.

Candidate filing for office and paying his filing fees is not entitled to refund thereof on withdrawal before time for filing comes and before ballots are printed. *Op. Atty. Gen.* (911q), June 26, 1934.

300. Voting at primary election to be by ballot—form of ballots.—All voting at a primary election shall be by ballot. There shall be one ballot for all party candidates, grouped by parties, and a separate ballot for all candidates to be nominated without party designation. 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 the non-partisan candidates and the candidates of each political party by themselves, and prepare for public inspection a sample party ballot and a separate non-partisan ballot. The names shall be arranged alphabetically according to the surname and each county auditor shall post the sample ballots in a conspicuous place in his office and give one week's published notice thereof in the official newspaper of his county. One sample party ballot only and one sample non-partisan ballot only shall be

printed for any county, and thereon shall be placed the names of all candidates to be voted for in such county. The party ballot shall be headed by the words "Consolidated Primary Election Ballot," the same to be printed in 60 point, Caps if practicable. Under the said heading shall appear the facsimile of the official signature of the auditor preparing it. Each political party shall have a separate ticket on the said Consolidated Ballot, under which the names of all the candidates of the said party shall be grouped. The said party ballot shall be printed in the manner and form now regulating the form of election ballots. The said party tickets shall be arranged in columns and each column shall be substantially the same in width, type and appearance. In the first column on the left shall be placed the names of the political party which polled the highest average vote at the last General Election in said county, and in the second column the names of the candidates of the political party which polled the next highest average vote at such election, and so on. Each party ticket shall be headed by the words, "..... party ticket," to be in 30 point type, giving the party name. At the head of each individual party ballot shall be printed in 18 point, bold face type "You cannot split your ballot. If you vote for candidates of more than one party, your ballot will be rejected." Such individual party ballots shall be separated by a 12 point solid rule line. The non-partisan ballot shall be headed "Primary Election Ballot Candidates to be Nominated Without Party Designation," and otherwise the same as the party ballot. Otherwise, the ballots shall be arranged in the same general manner as the ballot used at general elections, with suitable divisions and explanatory notes. Only one form of sample party ballot and one form of sample non-partisan ballot 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 "First Ward" and so on.

In city primary elections in cities having home rule charters, primary election ballots on white paper shall be prepared carrying out the intent of said charters in said cities, placing all names of candidates for city office on one ballot in each city without any party designation whatever, if the charter so provide. In such cities, except for the omitting of all party designation, the provisions of this section shall be followed as fully as practicable. The city clerk, at least one week before the city primary election, shall publish a sample of the city primary ballot for city elections in the official newspaper of the city, and post a sample printed copy in his office for public inspection. (R. L. '05, §186; '12, c. 2, §4; '15, c. 167, §4; '25, c. 420, §1; Apr. 8, 1933, c. 172, §2; Apr. 15, 1933, c. 244, §2.)

Legislature in enacting Laws 1933, c. 244, amending this section, did not intend to make any change with reference to rotation of names as provided for in §301. *Op. Atty. Gen.*, Aug. 28, 1933.

Op. Atty. Gen. (28c-11), May 1, 1934; note under § 462.

County Auditor may resort to any rule, or means to ascertain approximately the highest average vote polled at the last election by each political party which he deems to be fair and practicable, but legislature evidently intended that county auditor should add the total vote cast in the county for each of the candidates on separate tickets and then divide by the number of candidates voted for. *Op. Atty. Gen.* (28c-11), May 18, 1934.

If county board has designated two "official newspapers" instead of one, county auditor would be justified in printing sample ballot in either one of newspapers so designated. *Op. Atty. Gen.* (314b-7), May 26, 1934.

301. Ballots for primary election.—The auditor of each county in which said primary election is held shall have printed a sufficient number of separate primary election ballots, varied as may be necessary for the several districts and wards. Said primary election ballot shall be in the same general form as to size and kind of type to be used, as is provided

for the general election ballot, so far as practicable. The names of candidates under headings properly designating each official position shall be rotated upon the ballot in the printing so that the names of all candidates for each 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.

The official charged with the preparation and distribution of such ballots shall prepare instructions to the printer for rotating, laying and tabbing such ballots, which shall first be approved by the legal advisor of said official before delivery to the printer. In computing the method for making the rotation of names the least common multiple of the number of names in each of the several groups of candidates shall be used and the number of changes made in the printer's forms in printing such ballots shall correspond with said multiple; provided, that groups of more than five candidates shall not be considered in making such computation and such groups may vary sufficiently in rotating to conform to the rotation for groups of five or less. Before any printer is awarded any contract for printing such ballots he shall be required to furnish a good and sufficient bond in such sum as the official awarding such contract shall designate, which shall not be less than \$1,000.00 nor more than \$5,000.00, conditioned that he will print such ballots in conformity with the law and such instructions. There shall be no printing on the back of the ballots, except the necessary ruled lines for the initials or names of the judges with the proper official designation printed under such lines; provided, that all offices for which no candidate is to be voted for at such primary election shall be omitted from the ballot; provided, that in all city primary elections in cities having home rule charters the officers designated in such charters shall prepare primary ballots for such city elections in accordance with the provisions of this section. (R. L. '05, §187; '12, c. 2, §5; G. S. '13, §342; '13, c. 389, §4; '15, c. 167, §5; Apr. 8, 1933, c. 182.)

How ballots should be printed and distributed. Op. Atty. Gen., June 2, 1930.

Where judicial district has two district judges and one of them is about to resign, and office of other is about to expire, ballots should be prepared at primary so as to provide for nominating candidates for both positions, and all candidates will be deemed to run for both positions. Op. Atty. Gen., May 11, 1932.

Rotation of names is not affected by Laws 1933, c. 244, amending part of this act. Op. Atty. Gen., Aug. 28, 1933.

Where candidate for county offices dies after ballots are printed, it is not necessary for county auditor to have the ballot reprinted or to publish any official notice of the death. Op. Atty. Gen. (28b-1), June 12, 1934.

Under Mason's Stat., §§292, 301, names of candidates upon ballot in general city election must be rotated regardless of provision in home rule charter providing that they be printed in alphabetical arrangement. Op. Atty. Gen. (28b-2), Oct. 17, 1934.

302. Judges and clerks of election as registration officers.

Op. Atty. Gen. (183h), June 27, 1934; note under §359.

304. 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, challengers, and gatekeepers, and in reference to returns, including return of ballots, used and unused, shall apply to primary elections; except that one ballot box shall be used for party ballots, and one for non-partisan ballots. (R. L. '05, §190; G. S. '13, §345; '15, c. 167, §6; Apr. 15, 1933, c. 244, §3.)

305. Hours for voting—Towns and villages.
See Laws 1929, c. 198, post, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

306. Persons entitled to register and vote—manner of voting.—Every person qualified as a voter may

register therein and vote at such primary election. No voter shall be required to declare his party affiliation. Having registered, and, in case of challenge, the same having been determined in his favor, he shall be entitled to a party ballot and a non-partisan ballot. Such ballots shall be so endorsed 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 ballots, and shall then retire to an unoccupied booth, and without undue delay mark the same as provided by laws. If he shall spoil or deface such a ballot he shall at once return the same and receive another. Provided, that in cities of the first class operating under a home rule charter, no voter shall be allowed to vote unless such voter has registered in accordance with the provisions of the registration act relating to cities of the first class. (R. L. '05, §192; G. S. '13, §347; '25, c. 420, §1; Apr. 15, 1933, c. 244, §4.)

Op. Atty. Gen., June 14, 1932; note under §307.

307. 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; provided that if he shall vote upon his party ballot for candidates of more than one party his entire party ballot shall be void. 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. (R. L. '05, §193; G. S. '13, §348; '15, c. 167, §7; Apr. 15, 1933, c. 244, §5.)

At primary for members of Congress, voters could not vote for more than nine, who must all belong to same party, and if more than nine were voted for, votes were void as to office of Congressman, but were valid as to other offices. Op. Atty. Gen., June 14, 1932.

308. Folding and depositing ballots.—When a voter has marked his ballots, he shall fold each one separately 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. Each 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" but no entry or notation shall be made in the register or otherwise showing to which party any voter belonged or which party ballot he voted nor shall the judges knowingly permit any other person within the polling place to make such an entry or notation. The voter shall fold and deposit his ballots in the box provided therefor, without disclosing to anyone which party ballot he voted. No voter, judge or clerk of election or other person shall at any time place any mark as a means of identification upon any ballot handed to or cast by any voter or upon any spoiled or discarded ballot except the initials of the judges on the backs of the ballots and the marks indicating the voter's choice of candidates made in the manner provided by law, and any violation of this provision shall be a gross misdemeanor. So far as applicable, all provisions of this chapter relating to false registration, defacing posted lists, time allowed employes 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. (R. L. '05, §194; G. S. '13, §349; Apr. 15, 1933, c. 244, §6.)

310. Canvass of votes.—Canvass of votes on primary ballots shall be made in the same manner and by the same officers as is provided by Chapter 6, of the Revised Laws of 1905, except as herein otherwise

provided. The ballots shall be counted in the following manner: The election officers shall take the ballots from the boxes, count those cast for the candidates of each political party and for non-partisan candidates, place the party ballots and non-partisan ballots in separate piles and fasten them together.

Such officer's tally sheets on which the county has been so entered shall be included in the returns of such election. The officers of election shall on blanks to be provided for that purpose make full and accurate returns of the votes cast for each candidate.

The officers shall seal the returns and return the same to the auditor in the manner and as provided by the primary and general election laws. (R. L. '05, §196; '12, c. 2, §8; G. S. '13, §351; '15, c. 167, §8; Apr. 15, 1933, c. 244, §7.)

312. County canvassing board.

Applies only to primaries, and the county canvassing board provided for should serve only at the primaries. Op. Atty. Gen., Oct. 29, 1930.

314. Canvassing by 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 tenth day after such primary election. 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. (As amended Apr. 20, 1929, c. 280, §1.)

1. The state, etc. * * *

Laws 1929, c. 280, §1, amends "the first paragraph" of this section "preceding subdivision (1)" to read as above.

315. Nominees of political parties.

A candidate for office may withdraw, even after the last day for filing, at any time prior to the time the ballots are printed. Op. Atty. Gen., Mar. 21, 1931.

Where one nominated for nonpartisan office in primary withdraws, next highest candidate at primary succeeds, and his name should be placed on ballot without any action on his part. Op. Atty. Gen. (184n), Aug. 29, 1934.

316. Review by courts.

180M246, 230NW637.

Op. Atty. Gen., May, 5, 1932; note under §297.

317-1. Primary election in certain villages.—Any village or city of the fourth class with a population of not less than 1,500 and an assessed valuation of not less than \$5,000,000 may hold an election of nominees, hereinafter designated as the "primary election" for the purpose of nominating candidates for village or city offices by adopting one of the following methods:

1. By resolution of four-fifths vote of the governing body of the village or city; or
2. By a petition signed by at least ten per cent of the voters of said village or city, addressed to the governing body of said village or city, requesting that said governing body submit to the voters thereof the determination of the question as to whether said village or city shall have a primary election system for the purpose of nominating candidates for village or city offices of such village or city at a special election to be held for that purpose. Within 15 days after receiving such a petition, the governing body shall provide for such special election and shall give not less than ten nor more than 15 days' posted notice thereof. The form of question to be voted on shall be as follows: "Shall the Village—City of adopt the primary election system for the nomination of candidates for Village—City offices." If a majority of the voters at such special election shall vote in the affirmative, such primary election system shall be deemed to be in force and effect. (Act Apr. 20, 1933, c. 327, §1; Apr. 17, 1935, c. 201, §§1, 2.)

Adoption of primary election system pursuant to this act may not be rescinded by village council. Op. Atty. Gen. (472t), Sept. 28, 1934.

There can be no writing in of names or use of stickers at village primary election under this act. Op. Atty. Gen. (186c), Oct. 8, 1936.

317-2. Date of primary.—The primary election shall be held not less than 10 days nor more than 14 days preceding the village or city election to be determined by the governing body. The clerk or recorder of such village or city shall give at least 10 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. All voting at the primary election shall be by ballot. The clerk or recorder of the village or city shall, at least one week before the primary election, cause to be published a sample of the village or city primary ballot in the official newspaper of such village or city, or if there is no newspaper therein, in the official newspaper of the county in which said village or city is situated, and shall also post a sample printed copy in his office for public inspection. The judges and clerks of election shall certify the results of said primary election to the governing body of the municipality, which shall forthwith canvass the vote and shall issue certificates of nomination to the two candidates for each office receiving the highest number of votes. Thereafter, the names of the two candidates receiving the highest number of votes shall be placed upon the ballot for the general election. (Act Apr. 20, 1933, c. 327, §2.)

317-3. Filing.—fee.—At least 20 days before the primary election any party eligible and desirous of having his name placed on the primary ballot as a candidate for any village or city office, shall file his affidavit with the clerk or recorder, stating his residence, that he is a qualified voter of such village or city, and the office for which he desires to be candidate. Upon payment by such candidate of \$2.00 to the clerk or recorder of such village or city, the clerk or recorder shall place the name of such candidate upon the primary election ballot of such village or city. (Act Apr. 20, 1933, c. 327, §3.)

317-4. Judges and clerks—compensation.—The judges and clerks of said election shall receive the same compensation as is provided for the judges and clerks at the regular village or city election. (Act Apr. 20, 1933, c. 327, §4.)

317-5. General laws to apply.—All laws now in force as applies to primary elections generally, are to apply to this Act as far as applicable. (Act Apr. 20, 1933, c. 327, §5.)

Laws applicable to primary election generally apply to elections held under this act, and when not more than two persons file as candidates for nomination for a village office their names are not to be placed upon primary ballots. Op. Atty. Gen. (186c), Oct. 8, 1936.

317-6. Application.—This Act shall not apply to any city of the fourth class which was operating under a home rule charter prior to the passage of this Act. (Act Apr. 20, 1933, c. 327, §6.)

NOMINATION BY VOTERS

329. Certificate—Number of signatures.

Op. Atty. Gen., May 11, 1932; notes under §344.

Op. Atty. Gen., July 16, 1932; note under §200.

Voters, at general election, may cast their ballots in favor of one who was defeated candidate at preceding primary. Op. Atty. Gen., June 28, 1932.

One cannot file as an independent for Congress prior to primary. Op. Atty. Gen., Feb. 28, 1934.

Nomination for non-partisan office is permitted by petition only in case of vacancy. Op. Atty. Gen. (184f), June 25, 1934.

A name may be placed on the general election ballot for a county office, or other nonpartisan office, by petition after the primary only in case of a vacancy, but a vacancy does not result for a nonpartisan office except where there is no duly nominated candidate's name on the general election ballot. Op. Atty. Gen. (911j), July 5, 1934.

A candidate defeated in primaries can run on stickers. Op. Atty. Gen. (184o), Sept. 17, 1934.

Secretary of State may accept filing by petition for United States senator for both long and short term by payment of filing fee of \$60 and 2,000 signatures on each petition. Op. Atty. Gen. (911s), July 28, 1936.

330. Form of certificate.

Op. Atty. Gen., July 16, 1932; note under §200.
It is not necessary that party or political principle of candidate for a nonpartisan office, such as county commissioner, be stated in petition. Op. Atty. Gen. (184c-1), Sept. 17, 1934.

NOMINATION AND SELECTION OF UNITED STATES SENATORS**333. Secretary of State to place names on primary ballot.**

Secretary of State may accept filing by petition for United States senator for both long and short term by payment of filing fee of \$60 and 2,000 signatures on each petition. Op. Atty. Gen. (911s), July 28, 1936.

338. Duty of secretary—Official state ballots.

Where there were candidates for both regular and short term in office of United States senator, secretary of state could exercise his discretion in arranging groups as to priority on ballot. Op. Atty. Gen. (911s), Sept. 23, 1936.

340. Vacancy in office—how filled.

Where U. S. senator died and vacancy was filled by appointment by governor, candidate may file at next biennial election for unexpired term beginning at date of election and ending two months later. Op. Atty. Gen. (86a-51), May 12, 1936.

341. When two senators to be elected.

Term for which candidates have filed should be designated on primary ballot, but it was taken as matter of common knowledge that certain candidates for United States senator intended to file for six-year term and not short two-months' term. Op. Atty. Gen. (86a-51), May 12, 1936.

GENERAL PROVISIONS**344. Vacancy after nomination, how filled.**

Where judicial district has two judges, and only one is nominated at primary, but other judge resigns before November general election, candidates nominated at primary may run only for single district judgeship, and other position should be voted upon separately. Op. Atty. Gen., May 11, 1932.

Where judge of district court resigns after primary, but more than thirty days before November general election, his position should be filled by voters at general election. Op. Atty. Gen., May 11, 1932.

Where one nominated for nonpartisan office in primary withdraws, next highest candidate at primary succeeds, and his name should be placed on ballot without any action on his part. Op. Atty. Gen. (184n), Aug. 29, 1934.

Where two persons were nominated for county treasurer and one of them was convicted of a felony, name of man who ran first should be placed on ticket. Op. Atty. Gen. (28b-5), Oct. 5, 1934.

345. Vacancy after printing ballots.

Use of sticker containing two names may be properly used at an election held by an independent school district where there are two officers to be elected. Op. Atty. Gen., July 24, 1933.

346. Candidates in more than one county nominated by voters.

Section 508 modifies §348 so as to prohibit nominations by petition within thirty-day period preceding general election, and copy of petition must be filed with county auditor of all counties within congressional district more than 30 days prior to general election. Op. Atty. Gen. (911j), Oct. 11, 1934.

Section 508 modified §348 so as to prohibit nominations by petition within a thirty-day period preceding general election, and nomination petitions of candidates for congressional office must be filed not only with county auditor of county where candidates reside not later than 30 days preceding day of election, but certified copies of such petition must also be filed with county auditor of each of other counties within congressional district not later than 30 days preceding day of election. Op. Atty. Gen. (184f), Oct. 15, 1934.

347. Errors in printing ballots or certifying nominations.

Supreme court is authorized to direct secretary of state to refrain from preparing, printing and distributing ballots containing a proposed amendment to constitution forbidden by last provision in Const., art. 14, §1. *Winget v. H.*, 187M78, 244NW331. See *Dun. Dig.* 1573.

348. 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 india tint 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. (As amended Apr. 17, 1937, c. 270, §3.)

City clerk should keep office open Saturday afternoon for acceptance of filings for city offices. Op. Atty. Gen., Nov. 19, 1930.

Section 508 modifies §348 so as to prohibit nominations by petition within thirty-day period preceding general election, and copy of petition must be filed with county auditor of all counties within congressional district more than 30 days prior to general election. Op. Atty. Gen. (911j), Oct. 11, 1934.

Section 508 modified §348 so as to prohibit nominations by petition within a thirty-day period preceding general election, and nomination petitions of candidates for congressional office must be filed not only with county auditor of county where candidates reside not later than 30 days preceding day of election, but certified copies of such petition must also be filed with county auditor of each of other counties within congressional district not later than 30 days preceding day of election. Op. Atty. Gen. (184f), Oct. 15, 1934.

349. Fees for placing names on ballots.—In cities of the first class operating under a home rule charter, the city clerk, shall upon the payment of ten dollars (\$10.00), place on the city primary ballot, prepared by him, the names of all candidates for city offices, who have been duly presented for city office in the form and manner prescribed by the city charter; in cities other than the first class operating under a home rule charter, the secretary of state, county auditor and city clerks shall place upon the ballots prepared by them, respectively, the names of all candidates duly nominated, whose certificates of nominations have been duly filed, accompanied by fees, as follows:

1. If to appear upon the white ballots, 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 india tint ballot, ten dollars, in case the candidate is to be voted for in one county only; otherwise, twenty dollars provided, however, that candidates for the legislature shall in all cases pay ten dollars and candidates for county commissioner, whose compensation is less than three hundred dollars, five 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. (As amended Apr. 17, 1937, c. 270, §4.)

353. Posted notice of election—When and by whom given.

Modified by Laws 1929, c. 297, §6, ante, §270-6. Op. Atty. Gen., May 25, 1929.

Election could be noticed for town hall though no action was taken at last annual meeting specifying a place of election. Op. Atty. Gen., Oct. 1, 1930.

Fact that notice of election was posted for one day only did not invalidate the election. Op. Atty. Gen., Dec. 19, 1930.

Posted notice of election called under Laws 1929, c. 47, should refer to resolution adopted by county board. Op. Atty. Gen., Sept. 22, 1930.

354. Place of election.

Mode of designating place in unorganized territory for holding election where place originally designated becomes unavailable, stated. Op. Atty. Gen., May 22, 1930.

After an election district has once been established it cannot be changed or a new one created with authorization of electors at either annual election or at special election called for that purpose. Op. Atty. Gen., Jan. 10, 1934.

Where county commissioners have dissolved certain townships and in a particular township there are not enough residents to even set up a voting precinct, county board, and not county auditor, may designate voting precinct in adjoining township. Op. Atty. Gen. (185a-5), May 1, 1934.

355. Division of towns—Notice.

Section 355 which relates expressly to towns is controlling, as far as towns are concerned, over §296, but

other provisions of §296 should be observed in towns as well as elsewhere. Op. Atty. Gen., Jan. 10, 1934.

356. Towns may vote in villages.

This section is compiled with if the entrances to the respective holding places are at least seventy-five feet apart irrespective of the distance by a straight line between the interior of the two places. Op. Atty. Gen., Mar. 6, 1930.

Op. Atty. Gen., Jan. 10, 1934; note under §357.

357. Change of voting place.

Town board has no power under this section to designate or change a polling place or places of its own motion. Op. Atty. Gen., Jan. 10, 1934.

358. Members of town board to be judges.

Op. Atty. Gen., May 28, 1932; note under §360.

If one of the town supervisors cannot read or write the English language he should decline to serve as judge of election and a substitute should be appointed in his place. Op. Atty. Gen., May 16, 1930.

Judges of election should be appointed preceding the general election and not preceding the primary election, except in case of vacancy. Op. Atty. Gen. (183h), June 27, 1934.

Member of town board may be paid for his services as member of election board though such payments will increase yearly compensation to more than maximum amount provided for compensation of a town supervisor. Op. Atty. Gen. (183k), Feb. 24, 1937.

359. Judges of election.

This section governs the matter of appointment of judges and clerks of election in the city of Jackson, as Laws 1923, c. 317, §4, only applies to general city election of officer. Op. Atty. Gen., Oct. 28, 1931.

359-1. Relief election judges.—The governing body of any city of the third and fourth class or any village, or the town board of any town, at its discretion by resolution adopted not less than fifteen days prior to any election or primary, may appoint relief judges of election in each election district. (Act Apr. 20, 1931, c. 256, §1.)

City has no authority to provide additional help for counting and tabulating ballots at primary election, but may only provide, fifteen days before election, for substitute crew. Op. Atty. Gen., June 1, 1932.

Provision that judges of election shall be appointed "not less than fifteen days prior to election, is mandatory, and appointment of relief judges less than fifteen days before election would be illegal. Op. Atty. Gen., June 18, 1932.

359-2. Same—number of relief judges.—Such relief judges shall, when appointed, be equal in number to the regular judges and shall appoint relief clerks equal in number to the regular clerks. (Act Apr. 20, 1931, c. 256, §2.)

359-3. Same—qualifications—compensation.—Relief judges and clerks shall have the same qualifications and receive the same compensation as regular judges and clerks during the hours they act, and be subject to the same penalties. (Act Apr. 20, 1931, c. 256, §3.)

Relief judges and clerks cannot be considered as an addition to counting force, but regular judges and clerks cease to act when relief force takes charge. Op. Atty. Gen. (183g), Oct. 27, 1934.

359-4. Same—duties.—The regular judges and clerks shall perform their respective duties as prescribed by law during all the time the voters are casting their ballots. When the polls are closed, the relief judges and clerks shall appear and in their presence the regular judges and clerks shall open the ballot boxes and count the number of ballots cast, and in all things comply with Mason's Minnesota Statutes of 1927, sections 442, 443, and 444, and prepare and sign the poll lists as required by section 439. The regular judges shall then account for and deliver to the relief judges all unused election supplies and spoiled ballots, prepare and sign the statement provided for by Mason's Minnesota Statutes 1927, Section 459. (Act Apr. 20, 1931, c. 256, §4.)

359-5. Same—relief judges to canvass ballots.—The compensation of the regular judges and clerks shall then cease and they shall not remain inside the railing at the voting places, and the work of canvassing the election and counting the ballots shall be performed and completed by the relief judges and clerks,

who shall make due return thereof, and shall perform all other duties specified by law for judges and clerks of elections after the closing of the polls, except that the statement required by Mason's Minnesota Statutes of 1927, section 364, shall be made by the regular judges. (Act Apr. 20, 1931, c. 256, §5.)

359-6. Same—any qualified voter may be appointed.—When any relief judge fails to attend at the time and place appointed, or is disqualified or refuses to act, the regular judge present shall appoint a qualified voter of the district to act in his place. When any relief clerk is absent, disqualified or refuses to act, the relief judge shall appoint some qualified voter to act in his place. (Act Apr. 20, 1931, c. 256, §6.)

360. Judges and clerks of election.

The fact that one of the judges of election cannot read, write or speak the English language understandingly will not invalidate the precinct vote. Op. Atty. Gen., May 16, 1930.

Election was not invalid because clerk, who was a candidate for re-election, acted as one of the clerks of election. Op. Atty. Gen., Dec. 19, 1930.

Only a qualified voter may be a clerk in an election. Op. Atty. Gen., Oct. 24, 1930.

This section governs the matter of appointment of judges and clerks of election in the city of Jackson, as Laws 1923, c. 317, §4, only applies to general city election of officer. Op. Atty. Gen., Oct. 28, 1931.

Town clerk filing for county commissioner cannot act as judge at election, even if there is no contest. Op. Atty. Gen., May 28, 1932.

Judges of election in a heavily populated or congested district may not appoint more than two clerks. Op. Atty. Gen., Oct. 20, 1932.

A member of family of candidate for public office may serve as an election judge or clerk. Op. Atty. Gen., Nov. 15, 1933.

Supervisors of townships who are candidates for re-election may not act as election judges. Op. Atty. Gen. (434b-12), Apr. 13, 1934.

A town clerk who is a candidate for county commissioner is not eligible to act as an election clerk either at the primary or general election. Op. Atty. Gen. (358e-6), May 2, 1934.

Village officers may not act as judges of elections, but mere fact that candidate does act does not invalidate election. Op. Atty. Gen. (183j), May 23, 1934.

Candidates for office may not act as judges and clerks of election. Op. Atty. Gen. (183j), May 27, 1936.

361. Public employes not to act as judge or clerk of election boards.

Retired state deputy weighmaster receiving benefits from state employes' retirement association may lawfully act as election officer. Op. Atty. Gen., June 13, 1932.

Wife of candidate's stepbrother is qualified to act as election judge of school election. Op. Atty. Gen. (187a-2), July 12, 1934.

365. Vacancy in office of judge or clerk.

Where the county board fails to designate a polling place and to elect officers therefor where the place originally designated has become unavailable, the qualified voters present at the opening of the polls on election day, would have a right to elect judges from among their number, who might select a voting place. Op. Atty. Gen., May 22, 1930.

368. Residence of voters, how determined.

One moving from one township and residing in another 8 or 10 days may not vote in either. Op. Atty. Gen., Mar. 10, 1933.

Whether teachers and students are residents of particular place is question of fact depending on intention. Op. Atty. Gen., Oct. 17, 1933.

Question of residence for voting purposes is not a legal one but one of fact. Op. Atty. Gen., Jan. 19, 1934.

Residence was in village where house builder thought he was constructing his dwelling, and where he intended to vote, though boundary line between two villages passed through his dwelling. Op. Atty. Gen. (490j-1), Feb. 14, 1936.

Residence for voting purposes of person employed by federal government in Washington is not lost because tenant moved into building where such person formally lived. Op. Atty. Gen. (490j-2), Sept. 23, 1936.

Persons receiving poor relief are not disqualified to vote. Op. Atty. Gen. (339r), Oct. 17, 1936.

Settlement for purpose of relief has nothing to do with residence for purpose of voting. Op. Atty. Gen. (490j), Oct. 19, 1936.

Men actually establishing their residence in city have a right to vote though they are engaged in work of a temporary nature. Op. Atty. Gen. (172c-5), Nov. 6, 1936.

(9.)

One who commenced to move from precinct in which vote was cast into another precinct was entitled to vote

where he had not completed moving, but had moved some of his furniture, including his bed, and had slept several nights at new location. *Eye v. H.*, 273NW611. See *Dun. Dig.* 2919.

(10).

Men in CCC camps are not entitled to vote in election districts where such camps are located, unless they intend to remain permanently within such districts. Op. Atty. Gen. (639j), Apr. 6, 1934.

Members of transient camps are not entitled to vote in election districts where such camps are temporarily located. Op. Atty. Gen. (911r), Apr. 24, 1934.

If school teacher regards place where she is teaching as her home and intends to remain there indefinitely, she may properly be regarded as a resident thereof and entitled to vote. Op. Atty. Gen. (490L), Oct. 16, 1934.

Where circumstances are such that a person may claim his legal residence at either one of two places, place he regards as his home will be his residence for purpose of voting. Op. Atty. Gen. (490L), Nov. 2, 1934.

If school teacher regards place where she is teaching as her home and intends to remain there indefinitely, she may properly be regarded as a resident thereof entitled to vote. *Id.*

Restatement of conflict of laws as to domicile and Minnesota decisions compared. 15 *Minn. Law Rev.* 668.

Men in CCC camp having no intention of remaining in that place permanently, but having another home to which they intend to return after their employment in such camp, are not ordinarily considered residents and are not entitled to vote. Op. Atty. Gen. (490j-2), Oct. 24, 1934.

Persons living on tax exempt property can vote if they have constitutional qualifications. Op. Atty. Gen. (187a-9), Apr. 28, 1935.

Judges of election may question men applying to vote and may deny them a ballot if it appears that they are employed temporarily by a public utility company in construction or repair work of lines in the vicinity of the city and have not moved into the city with intention to remain there permanently. Op. Atty. Gen. (490j-1), June 11, 1935.

369. [Repealed.]

Repealed Apr. 15, 1933, c. 255.

Op. Atty. Gen., Mar. 21, 1933; note under §370.

A registration day should be provided pursuant to this section before a special city election in the city of Jackson. Op. Atty. Gen., Oct. 28, 1931.

370. Registration of voters not required in cities of 4th class.

This section has no application to anything but "charter elections," and §§369 and 371 govern city of New Ulm. Op. Atty. Gen., Mar. 21, 1933.

371. [Repealed.]

Repealed Apr. 19, 1937, c. 298.

Op. Atty. Gen., Mar. 21, 1933; note under §370.

Board must meet on Tuesday preceding city election notwithstanding repeal of §369. Op. Atty. Gen., Mar. 16, 1934.

This section was not repealed by Laws 1933, c. 255, and board should meet in cities of the fourth class on Tuesday preceding election to correct list of voters, and this applies to city of Fergus Falls. Op. Atty. Gen. (639i), Oct. 11, 1934.

380. Commissioner of Registration in cities, etc.

Brainerd is a city of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provisions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.

It was compulsory that city of Albert Lea, which became city of third class on last official census, comply with registration act for primary and general elections of 1932. Op. Atty. Gen., May 6, 1932.

382. Voters must be registered.

As to special elections called to fill vacancies, see Laws 1929, c. 297, ante, §§270-1 to 270-13.

Applies to all cities within its scope, including those under home rule charter. Op. Atty. Gen., Mar. 23, 1929.

City of Albert Lea, becoming city of third class under last official census, it was necessary that each voter register under permanent registration system. Op. Atty. Gen., May 6, 1932.

383. Commissioner to have charge of registration—Deputies, clerks and supplies.

Evening hours for registration, required on specified Saturdays, are in addition to regular daily hours at commissioner's office. Op. Atty. Gen., May 6, 1932.

383-1. Registration places and hours kept open in cities, etc.

On city of fourth class becoming city of third class under official census, it was not necessary to establish special registration plates in all election precincts, or to have them remain open on certain days before election. Op. Atty. Gen., May 6, 1932.

386. Registration of voters fifteen days before election—Form and contents of application.

Op. Atty. Gen., May 6, 1932; note under §383-1.

First and last day should be excluded in computing 15 days. Op. Atty. Gen., Feb. 23, 1933.

Commissioner of registration may mail application for registration to absent voters who may execute same before an officer authorized to administer oaths. Op. Atty. Gen. (639i), Oct. 10, 1936.

387. Commissioner to make election registers.

First and last day should be excluded in computing 15 days. Op. Atty. Gen., Feb. 23, 1933.

388. Election registers to be checked up and compared.

A special municipal election is an election within the meaning of this section. Op. Atty. Gen., Dec. 23, 1931.

393. Inconsistent acts repealed.

Amended. Laws 1933, c. 209, by adding §§393-15 to 393-19.

393-1. Registration of voters in certain villages and cities.

(a) That the office of commissioner of registration be and the same hereby is created in all villages now or hereafter having a population of more than 8,000 and an assessed valuation of more than \$10,000,000, and when deemed expedient by the City Council by a four-fifths vote in all cities now or hereafter having a population of more than 7,000 and an assessed valuation of more than \$14,000,000. The village recorder in any such village and the city clerk in any such city shall be ex-officio commissioners of registration, and shall receive such additional salary as commissioners as the Council shall fix, not however exceeding \$600, per year, payable in equal monthly installments. When such registration is once established, this act shall govern regardless of change of population and/or valuation. Any election held in any village under the registration system provided by said Laws 1927, Chapter 390, where the population at time of said election had become less than 9,000, is hereby validated and legalized and the election of officers for the terms for which elected at said election are fully validated and legalized. (As amended Apr. 13, 1931, c. 144, §1.)

(b) Places of registration shall be established throughout such villages now or hereafter having a population of more than 8,000 inhabitants and an assessed valuation of more than \$10,000,000, and when deemed expedient by the City Council by a four-fifths vote, in all cities now or hereafter having a population of more than 7,000 and an assessed valuation of more than \$14,000,000.00, one to each precinct in each village and/or city, in the usual polling places. ('27, c. 390, §1; Apr. 13, 1931, c. 144, §1(b).)

* * * *

Laws 1931, c. 144, amends subdivisions (a) and (b) of this section to read as above.

393-2. Same—"Elections" defined.—For the purposes of this act the word "elections" whenever used shall be held to mean all general, special, school or primary elections, both state and municipal. That for the purpose of this act the word "petition" whenever used shall be held to mean any general or special petition that may be presented to any public official, council, or board of the state, county, or any municipality, that is required to be signed by legally qualified voters. ('27, c. 390, §2; Apr. 18, 1929, c. 235, §1.)

393-3. Same—Registration necessary.—From and after the first day of June, 1927, no qualified voter shall be permitted to vote at any election unless such voter shall have registered as provided in this act, and in villages of more than 9,000 inhabitants and \$14,000,000.00 valuation no qualified voter shall be permitted to sign any such petition defined in this act unless such voter shall have registered as provided in this act at least 30 days prior to the date of election or the presentation of such petition. ('27, c. 390, §3; Apr. 18, 1929, c. 235, §2.)

Electors may sign petition for referendum not registered pursuant to the registration act. Op. Atty. Gen., Sept. 17, 1932.

This section does not apply to first election of officers of a newly incorporated city of fourth class, part of whose citizens would not be able to vote if this act were applied. Op. Atty Gen. (183i), Sept. 12, 1934.

393-6. Same—Form and contents of registration records—Etc.—(a) * * * *

(e) For the purpose of preventing fraudulent voting and for eliminating excess names, following the close of registration, the Commissioner of Registration shall send by mail to any voter whose name appears on the Original Registration lists, a notice bearing a statement substantially as follows:

You are hereby notified that your name and address appears on the Original Registration List as shown on the opposite side of this card. If there is any mistake in the above name or address, present this card at the office of the Commissioner of Registration, No. Village and/or City Hall, for correction on or before. 19. . . . The return of this card by the post office to the Commissioner of Registration will be accepted as evidence on which to challenge your vote on election day.

Commissioner of Registration.

Upon the return by the post office of any such notice the Commissioner of Registration shall direct an authorized clerk to check up, in person, the name and address of any voter, and if said voter is found to have removed from the address as recorded, on the Original Registration List, the Commissioner of Registration shall cause to be entered on the Election Register of the proper district, in the proper space opposite the said voter's name, the word "challenged". No one so challenged shall be permitted to vote except by complying with all provisions of law applicable to the proving of challenges. (As amended Apr. 17, 1937, c. 264, §1.)

(f) * * * *

393-8. Same—Completion and inspection of election registers, etc.

Where registered elector moves into new election district, he is entitled to vote if he files his removal notice with commissioner of registration not later than 10 days prior to election, providing he has resided in new district 30 days before election. Op. Atty. Gen., Oct. 25, 1933.

Where an elector has moved from one residence to another within same precinct and lives in new residence for less than 10 days prior to election, he is entitled to vote. Id.

Section 393-8, relating to registration of voters, does not modify or amend §1962, as respects election for issuance of bonds to be sold to state. Op. Atty. Gen. (159a-3), Oct. 7, 1936.

393-15. Combined registration.—Any city or village to which this act shall apply or in which a registration system has been established pursuant thereto, may join with any independent school district in which it is located and/or with any town in which it is located and from which it is not separated for purposes of election and assessment, in the creation of a combined system of permanent registration for the voters in all elections held in each of such municipalities. (Added by Act Apr. 10, 1933, c. 209, §1.)

Act Apr. 10, 1933, cited (§§393-15 to 393-19 herein), seems to be void for uncertainty and violative of the constitutional requirement that the subject of an act shall be expressed in its title. The title of the act reads: "An act amending Mason's Minn. Stat. 1927, §393, relating to the registration of voters in certain cities and villages and permitting the creation of a combined system of registration where such city or village is located in an independent school district and is located in a town from which it is not separated for purposes of election and assessment." The section amended is a mere general repealing clause attached to Laws 1923, c. 305, while the sections enacted are apparently added to Laws 1927, c. 390. It is therefore uncertain as to what cities and villages are affected by the act.

Independent school district operating under a combined system of registration with village of Hibbing had authority to rent polling places in the respective voting districts. Op. Atty. Gen. (185b-4), Apr. 21, 1934.

Town of Stuntz if desiring to construct new town garage must call a special election for purpose of authorizing construction of building and amount of money to be raised for that purpose, and there must be judges and clerks of election and votes by ballots. Op. Atty. Gen. (434b-13(d)), Feb. 25, 1937.

393-16. Same—application to/district court—appointment of commissioner—compensation.—The governing Boards of such city or village and of the school district and/or town may, by resolution, join in a petition to the District Court of the county in which such municipalities are located, requesting the establishment of such combined registration system. Thereupon, the court shall appoint a competent person as Commissioner of Registration and shall designate the place where the office of registration shall be maintained and the files and records thereof shall be kept. The Commissioner shall act under the supervision of the court and shall not be permitted to hold any other public office or employment. The court shall set his compensation and shall authorize the employment of necessary clerical assistance. The commissioner may be removed or replaced at any time by the court in the public interest. (Added by Act Apr. 10, 1933, c. 209, §1.)

393-17. Same—powers of commissioner—office and records—laws applying.—The commissioner of registration for such combined system shall have all the powers and duties and shall be subject to all the penalties and restrictions heretofore provided in this act for the Commissioner of Registration in such city or village. He shall have regular office hours when his office shall be open for registration, and when his records and files shall be open to public inspection as heretofore provided for such city or village. All the provisions, requirements and restrictions hereinbefore in this act applying to the registration of voters for such city or village shall apply insofar as practicable to such combined registration system, and after such combined system is established, no person shall be permitted to vote in any regular or special election for whatsoever purpose in such city, village, school district or town, unless such voter is registered as herein provided. (Added by Act Apr. 10, 1933, c. 209, §1.)

Registrar has no right to designate polling places for annual school election. Op. Atty. Gen. (185a-5), Apr. 12, 1934.

393-18. Same—election districts—records delivered to commissioner—outside territory—separate records.—Upon the establishment of such combined system of registration, that portion of the town or school district which is in the city or village shall be divided into election districts which are identical and coterminous with the existing election districts of the city or village, and voters already registered in such district shall not be required to re-register. The city or village authorities shall deliver all of its existing records to the Commissioner for the combined system. That portion of the town which is not in the village, and that portion of the school district which is not in the town or village shall each be divided into separate election districts in a manner to provide the greatest convenience for the voters thereof, and such voters shall be required to register as heretofore provided for the voters of the city or village. The records of this additional registration shall be kept separately and used only for elections conducted by the school district or town. (Added by Act Apr. 10, 1933, c. 209, §1.)

393-19. Same—existing districts to continue—expense of combined system, how paid.—The governing bodies of the city, village, school district or town where such combined system of registration is in force shall, except as in this act provided, continue to have the same authority as before the passage of this act in the conducting of elections in their respective municipalities and the expense of establishing and maintaining such combined registration system shall be shared equally by such municipalities. (Added by Act Apr. 10, 1933, c. 209, §1.)

Sec. 2 of Act Apr. 10, 1933, cited, provides that the act shall take effect from its passage.

Without a call for bids, school district cannot pay its share of purchase of registration equipment if amount exceeds \$500, unless articles are copyrighted or patented

and can only be purchased from one person or concern. Op. Atty. Gen. (185a-5), Apr. 12, 1934.

401. Hours.

See Laws 1929, c. 198, post, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

This section applies only to general elections and not to elections held under the provisions of a city charter. Op. Atty. Gen., Mar. 31, 1930.

Polls at state-wide primary and general elections are to be kept open in all towns and villages from nine A. M. until eight P. M.; provision as to opening at 6:30 A. M. applies to cities in which polls formerly opened at 6:00 A. M. Op. Atty. Gen., June 7, 1932.

Polling places for town elections may be same as polling places for general election, but separate ballot boxes must be used for special election. Op. Atty. Gen. (434b-17), Oct. 12, 1936.

401-1. Opening and closing of polling places.—At all special, primary and general elections hereafter held in this state the polls shall open at the hours now provided by law except where the polls now open at 6:00 A. M. the time hereafter shall be 6:30 A. M. and in all cases shall remain open until 8:00 P. M. (Act Apr. 16, 1929, c. 198, §1.)

Sec. 2 of the act repeals inconsistent laws.

Only applies to regular primary and general elections and special elections held in lieu thereof. Op. Atty. Gen. Applies only to state-wide elections and not to local elections. Op. Atty. Gen., Nov. 21, 1929.

This act applies only to state-wide elections and primaries, and not to local elections. Op. Atty. Gen., Feb. 19, 1930.

This act is applicable to a city, in the charter of which there is no provision as to hours of opening and closing the polls, and which provides that the general laws of the state on the subject of elections shall apply where not otherwise provided in the charter. Op. Atty. Gen., Mar. 20, 1930.

This act does not apply to a local election in a city operating under a special charter. Op. Atty. Gen., Mar. 31, 1930.

This act is not applicable to the city of Jackson as regards the opening and closing of polls therein at a special city election. Op. Atty. Gen., Oct. 28, 1931.

Hours during which polls shall be kept open in city of Bemidji, city of fourth class governed by home rule charter which contains no special provision in relation to elections are governed by §401-1 and not by §1809. Op. Atty. Gen., Jan. 25, 1932.

Hours, during which polling places in city of Owatonna shall be kept open at special election, are covered by Laws 1923, c. 17 but at state general elections, polls should be kept open as provided by Laws 1929, c. 198. Op. Atty. Gen., Apr. 26, 1932.

Special election in city of fourth class would probably be valid if polls did not open at 6:30 A. M. so as to conform with opening on same day of primary. Op. Atty. Gen., May 20, 1932.

Section applies to opening and closing of polls in city of St. James. Op. Atty. Gen., June 17, 1933.

401-2. Certain villages may fix hours for primary or general elections.—In all villages and townships, however organized, located in any county now or hereafter having a population of more than 400,000 inhabitants, the polls shall be kept open at any general, primary, special or local election from six o'clock in the forenoon until eight o'clock in the afternoon, unless the governing body of such village or town shall, by resolution duly adopted and posted more than 30 days prior to such election, fix a different time for opening the polls, which time shall be stated in such resolution, but shall not be later than nine o'clock in the forenoon. (Act Apr. 17, 1935 c. 206, §1.)

401-3. Repeal.—All acts and parts of acts inconsistent herewith are hereby amended, modified and repealed so far as necessary to give effect to the provisions of this act. (Act Apr. 17, 1935, c. 206, §2.)

402. Location of polling places.

Designation of new polling place in unorganized territory where place originally designated has become unavailable. Op. Atty. Gen., May 22, 1930.

Op. Atty. Gen. (185a-5), May 1, 1934; note under §354.

403. Change of polling places.

Op. Atty. Gen., May 22, 1930; note under §774.

405. Arrangement.—Each polling place shall be provided with one white, one pink, one india tint 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 providing 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 for 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. (As amended Apr. 17, 1937, c. 270, §5.)

415. Initialing ballots by judges.

In village election, ballots should be initialed and the judge, rather than the voter, should deposit ballots in ballot box. Op. Atty. Gen. (28a-6), Dec. 11, 1935.

417. Persons allowed in voting places, etc.

Op. Atty. Gen., Apr. 3, 1933; note under §425-1.

419. Crowds not permitted.

It is not permissible to give out Red Cross flour at the polls. Op. Atty. Gen., May 27, 1933.

421. Certificates of registered voters—challenges.

That portion of this section requiring a voter to sign a certificate applies only to cities of the first class and not the city of Virginia. Op. Atty. Gen., Jan. 16, 1932.

Where a voter in a city other than one of the first class declines to sign a certificate in the form prescribed by this section, a judge of election may challenge him and require him to make an affidavit showing his qualifications. Op. Atty. Gen., Jan. 16, 1932.

Judges of election may question men applying to vote and may deny them a ballot if it appears that they are employed temporarily by a public utility company in construction or repair work of lines in the vicinity of the city and have not moved into the city with intention to remain there permanently. Op. Atty. Gen. (490j-1), June 11, 1935.

422. Examination of challenged person.

One born in United States and subsequently taken to Canada, where his father was naturalized, is not an American citizen. 177M289, 225NW158.

423. Voter 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, india tint 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. (As amended Apr. 17, 1937, c. 270, §6.)

424. Marking Ballots.

Where ballot at school district election contained two names and only two were to be elected, and another name was written or pasted on, and there was no cross mark, the ballot could only be counted in favor of the person whose name was written or pasted on. Adams v. M., 184M602, 239NW594. See Dun. Dig. 2952, 8679.

Mark on back of ballot, held intentionally made for purpose of identification. 178M578, 228NW155.

Where it appears that a figure on the back of a ballot was placed there by an election official, ballot is not identified and should be counted. Pye v. H., 273NW611. See Dun. Dig. 2948.

Ballots with slightly burned corners and small pieces torn from corners and with ink and smudge marks on back should have been counted. Id.

Irregular and imperfect cross-marks do not render a ballot objectionable if it appears that mark was intended only to express voter's choice. Id. See Dun. Dig. 2953.

Vote marks placed opposite blanks on ballots cannot be considered as votes for any particular candidate. Id. Ballot must be marked, and where it appears that a mark is made on another piece of paper, leaving an im-

pression on ballot, ballot is not properly marked and must be rejected. *Id.*

Where ballot shows that voter attempted to cross out misplaced cross-marks and then voted correctly, attempted crossing out is an erasure and ballot should be counted. *Id.* See Dun. Dig. 2954.

The figure 5 written on face of a ballot renders ballot capable of identification and ballot should be rejected. *Id.* See Dun. Dig. 2956.

Ballots containing cross-marks or names of voters on back, or marks on face of ballot in addition to marks in squares for voting, are ballots which can be identified and are properly rejected. *Id.*

Where voter writes in name, it is unnecessary to put cross after it. *Op. Atty. Gen., Aug. 1, 1930.*

Op. Atty. Gen. (184F), June 25, 1934; note under § 285.

A candidate defeated in primaries can run on stickers. *Op. Atty. Gen. (184o), Sept. 17, 1934.*

Voters have right to write in name of any person they desire to vote for for state representative and to indicate their vote by mark in square following such name. *Op. Atty. Gen. (28a-8), Nov. 20, 1934.*

Voter may use stickers or write in name of person he intends to vote for, and mark in cross is unnecessary. *Op. Atty. Gen. (434b-21), Mar. 16, 1936.*

425. Challenge.

Identification mark on ballot. 178M578, 228NW155.

In village election, ballots should be initialed and the judge, rather than the voter, should deposit ballots in ballot box. *Op. Atty. Gen. (28a-6), Dec. 11, 1935.*

425-1. Challengers at polls for non-partisan candidates.—Challenger, or challengers, of illegal voters at elections in each precinct, for non-partisan candidate or candidates shall be appointed by the candidate or candidates, and they shall have all the rights and powers which the challengers representing parties have under the general election law at elections at which party candidates are voted for. ('15, c. 329; Mar. 3, 1933, c. 53.)

Challengers may also be appointed under § 417. *Op. Atty. Gen., Apr. 3, 1933.*

427. When voter cannot read English.

Ballot of voter assisted by another in marking ballot, held invalid where statutory oath was not taken. 178M578, 228NW155.

Manner of voting by persons unable to understand English. *Op. Atty. Gen., Oct. 2, 1930.*

Wrongful act of judges in refusing to allow one voter to mark a ballot for another did not invalidate the election. *Op. Atty. Gen., Dec. 19, 1930.*

None of ballots cast by women could be counted where husbands entered booths with them and assisted them with some ballots, no oath being made showing inability to vote without assistance. *Sweno v. G., 191M24, 252NW 839. See Dun. Dig. 2946.*

429. Voter not to disclose how he has voted.

Sweno v. G., 191M24, 252NW839; note under § 427.

439. Poll lists—Statements attached to.—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; the number of white ballots cast was; the number of pink ballots cast was; the number of india tint ballots cast was; the number of red ballots cast was; the number of lavender ballots cast 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). The statement provided for herein to be attached to poll list shall, in cities of the first class operating under a home rule charter, be attached to the back of the tally sheet. (As amended Apr. 17, 1937, c. 270, § 7.)

441. Opening of ballot boxes, counting of votes and declaration of results.—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 india tint; and fourth,

the red. 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 the 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. (As amended Apr. 17, 1937, c. 270, § 8.)

450. Tally sheets for india tint and red ballots.—

The form of tally sheets furnished by the county auditors shall be the same as those furnished by the secretary of state, except that the word "india tint" 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. (As amended Apr. 17, 1937, c. 270, § 9.)

454. Rules for counting marks on ballots.

Op. Atty. Gen., June 14, 1932; note under § 307. Several disputed ballots involved in an election contest examined and held that various markings, figures, and phrases thereon were not such as to invalidate ballots. *Frajola v. Z., 193M48, 257NW660. See Dun. Dig. 2948.*

Subd. 3.

Cross-mark in square opposite a blank space, held properly counted for contestee. 178M578, 228NW155.

Ballots with slightly burned corners and small pieces torn from corners and with ink and smudge marks on back should have been counted. *Pye v. H., 273NW611. See Dun. Dig. 2948.*

Where it appears that a figure on the back of a ballot was placed there by an election official, ballot is not identified and should be counted. *Id.*

Irregular and imperfect cross-marks do not render a ballot objectionable if it appears that mark was intended only to express voter's choice. *Id.* See Dun. Dig. 2953.

Ballot must be marked, and where it appears that a mark is made on another piece of paper, leaving an impression on ballot, ballot is not properly marked and must be rejected. *Id.*

Vote marks placed opposite blanks on ballots cannot be considered as votes for any particular candidate. *Id.*

Where ballot shows that voter attempted to cross out misplaced cross-marks and then voted correctly, attempted crossing out is an erasure and ballot should be counted. *Id.* See Dun. Dig. 2954.

The figure 5 written on face of a ballot renders ballot capable of identification and ballot should be rejected. *Id.* See Dun. Dig. 2956.

Ballots containing cross-marks or names of voters on back, or marks on face of ballot in addition to marks in squares for voting, are ballots which can be identified and are properly rejected. *Id.*

455. Defective ballots—Announcement of vote.

Op. Atty. Gen., June 14, 1932; note under § 307.

456. Ballot judges and clerks for general elections—Appointment.

City has no authority to provide additional help for counting and tabulating ballots at primary election, but may only provide, fifteen days before election, for substitute crew. *Op. Atty. Gen., June 1, 1932.*

Ballot judges and clerks may not be appointed for congested district without making this section applicable to all districts in city. *Op. Atty. Gen., Oct. 20, 1932.*

459. Statement of votes cast.—After the polls have been closed, a 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,; india tint ballots,; red ballots,; lavender ballots,; total, The blanks shall be filled by both words and figures. Such statement shall be certified by the judges and attested by the clerks. Provided, however, that in

cities of the first class operating under a home rule charter such statement shall be attached to the back of the tally sheet. (As amended Apr. 17, 1937, c. 270, §10.)

460. 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 india tint 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. (As amended Apr. 17, 1937, c. 270, §11.)

462. Disposal of ballots after canvass.

Consolidated primary election ballot may be folded once in placing same in envelopes. (Op. Atty. Gen. (28c-11), May 1, 1934.)

466. Returns to be sealed and delivered to auditors—Unused and spoiled ballots—Statements of totals of votes cast.—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 said envelope in the following form: "Election returns of the election district 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 india tint 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 in county, state and general elections, and with the city clerk in city elections, with such returns where it shall remain open to public inspection. (As amended Apr. 17, 1937, c. 270, §12.)

467. 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 unused 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 india tint 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. (As amended Apr. 17, 1937, c. 270, §13.)

467-1. Ballots and election returns to be destroyed in certain cases.—That the clerk or recorder of any city, village or borough in this state is hereby authorized, with the consent and approval of the governing body of such municipality, to destroy all ballots and election returns, except the abstract of the canvassing board, at any time after two years from the date of the election wherein such ballots and election returns were used. (Feb. 17, 1937, c. 29, §1.)

469. Returns, how delivered to county auditor.

Where a judge of election, instead of transmitting returns by registered mail, takes it upon himself to personally deliver the returns to the county auditor, and in so doing travels more than ten miles, he is entitled to no compensation. Op. Atty. Gen., June 23, 1930.

Where the polling places are less than ten miles from the office of the county auditor the compensation and mileage for mailing or taking election returns to the auditor is to be paid by the town, village or city in which the election is held. Where the distance is more than ten miles the returns are to be sent by registered mail and the compensation is to be paid by the county treasury. Op. Atty. Gen., Feb. 19, 1930.

471. Districts excepted.

Op. Atty. Gen., Feb. 19, 1930; note under §469.

473. Informalities.

Effect of rejecting qualified voters upon the validity of elections. 15MinnLawRev832.

474. County canvassing board.

178M578, 228NW155.

Federal house of representatives has exclusive jurisdiction to determine whether member declared elected was in fact recipient of a plurality of votes cast at election. Williams' Contest, 198M516, 270NW586. See Dun. Dig. 9956a.

This section applies only to general election, and county canvassing board which acts following the primaries is not the same board which acts at the primary election. Op. Atty. Gen., Oct. 29, 1930.

Legislature by Laws 1933, c. 214, §8, intended that laws governing general elections of state officers should apply with reference to appointment of canvassing board in connection with state-wide special election. Op. Atty. Gen., Sept. 12, 1933.

476. County canvassing board to declare persons elected.

Failure of canvassing board to expressly declare a candidate elected, held not to prevent an appeal and contest of the election. 178M578, 228NW155.

477. Certificates of election and copies of returns.

—The auditor of each county, or the secretary of state, where the district comprises more than one 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; Provided, however, that no certificate of election shall be issued by the auditor of any county, or by the secretary of state, to any person declared elected by the canvassing board of such county, or by the state canvassing board, at any general election until 12 days after such canvassing board has canvassed the returns and declared the result of such election. The auditor of any county 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. (R. L. '05, §322; G. S. '13, §515; Apr. 17, 1935, c. 199, §1.)

Sec. 2 of Act Apr. 17, 1935, cited, repeals all inconsistent acts.

One who has been elected, holds a regular certificate of election and has qualified, is entitled to possession of the office until and unless his election has been set aside in a direct attack by election contest or quo warranto. State ex rel. v. Magie, 183M60, 235NW526. See Dun. Dig. 2973(54).

478. 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 second Tuesday 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. (R. L. '05, §326; '09, c. 76, §1; G. S. '13, §519; Apr. 20, 1929, c. 280, §2.)

480. Canvass of votes for members of congress and presidential electors.

Op. Atty. Gen., Apr. 1, 1932; note under §481.

481. Notice of presence of electors—vacancies—Ties.

With exception of Secretary of State and Governor, same person may appear upon ticket as presidential elector and at the same time as candidate for any other State office. Op. Atty. Gen., Apr. 1, 1932.

484. Contest for seat of senator or representative—Proceedings and filings.

Limit of indebtedness which may be contracted by county in anticipation of uncollected taxes pursuant to §1938-21, includes county charges under this section. Op. Atty. Gen., Apr. 23, 1932.

488. Contesting state and municipal elections.

Danculovic v. Z., 184M370, 238NW695; note under §495. Corrupt Practices Act of 1912 [§§538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

Whether ballot offered in evidence had been properly filed is a question of fact. 178M578, 228NW155.

Irregularity in one notice of election upon issuance of school bonds to the state stating that the rate of interest was 4½% when instead it was 4¼%, held not to invalidate the election of bond issue. 183M542, 237NW412. See Dun. Dig. 867a.

Question of whether one declared elected to a public office is a citizen of the United States and eligible to hold such office may be raised by an election contest. Miller v. B., 190M352, 251NW682. See Dun. Dig. 2980.

Statutory authorization for contesting an election for violation of provisions of the Corrupt Practices Act does not apply to an election upon questions relating to erecting and establishing a lighting and heating plant by a municipality. Morgan v. V., 194M104, 259NW689. See Dun. Dig. 2980.

Statute affords an easy and adequate remedy for contesting validity of a municipal election and issues raised on such contest when determined bind all within municipality whether voters or taxpayers. Ahlquist v. C., 194M112, 261NW452. See Dun. Dig. 2481.

In election contest, burden is upon contestant to prove that ballots produced at trial are in same condition as when canvassed by precinct election board, and it is for trial court to determine that fact, before accepting result of a recount of such ballots. Sullivan v. E., 195M232, 262NW574. See Dun. Dig. 2990.

Methods of contesting annexation of territory to a village under §§1845 to 1849. Op. Atty. Gen., Aug. 14, 1930.

Election of town officers at annual town meeting is not known or designated as a general election, and neither the Corrupt Practices Act nor the General Election Contest Statute apply. Op. Atty. Gen. (434b-13(e)), Apr. 13, 1935.

490. Appeal to Supreme Court.

Election contestee held entitled on appeal to urge other facts supporting decision of trial court. Fye v. H., 273NW611. See Dun. Dig. 2993a.

Findings of trial court in election contest are binding on appeal if reasonably sustained by evidence. Id.

493. Compensation for election services.

City may not furnish meals at city expense for election judges and clerks. Op. Atty. Gen., May 14, 1932.

(5).

Clerks and judges of election are entitled to receive 40c for each hour necessarily spent in registering voters and receiving votes, and 50c for each hour spent in counting and canvassing ballots. Op. Atty. Gen., Apr. 11, 1933.

Compensation of judges and clerks of election and peace officers cannot be diminished or increased by any other except legislature. Id.

494. Compensation and other expenses, how paid.

—The compensation prescribed in Section 493, sub-

divisions 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 moneys not otherwise appropriated. That prescribed in Section 493, subdivision 4, the cost of printing the india tint ballots, and all necessary expenses incurred by 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. (As amended Apr. 17, 1937, c. 270, §14.)

Op. Atty. Gen., May 14, 1932; note under §493.

Village of Dennison is required to pay election expenses in connection with holding of special election in part of the village situated in Rice County on question of issuance of bonds to build a courthouse. Op. Atty. Gen., June 20, 1931.

Township must pay the expenses of primary and general election, and if there is no money available, it may issue town warrants. Op. Atty. Gen. (434b-1), May 23, 1934.

495. Application to towns and villages.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to township officers in townships containing less than 5,000 population. 174M333, 219NW284.

Gen. Stat. 1923 (1 Mason, 1927) §§488-492, providing for contest of elections, does not apply to towns. Danculovic v. Z., 184M370, 238NW695. See Dun. Dig. 9660a.

ABSENT VOTERS LAW

496. Applicability—"General election" defined.

Any person entitled to vote at any general election who is absent on the day such general election is held, from the election district in which he is entitled to vote, or who on such day is not absent from such election district but by reason of illness or physical disability is unable to go to the polling place of such district, may register by mailing his registration card to the local registration bureau and vote therein by having his ballot delivered by mail to the election judges of such district on the day of such general election, by complying with the provisions of this act, provided, however, that no person residing in a city of the first, second or third class shall be permitted to so vote, unless he has duly registered in said district prior to such election day. The words "general election" as used in this act shall be construed to include the election held in the several election districts on the first Tuesday after the first Monday in November in each even numbered year and also any city election, including cities of the first class operating under home rule charters, any village election in villages operating under the "Australian Ballot System," and any county option election, so-called, held under the provisions of Chapter 23, Laws 1915 [repealed by §3200-53], and any act or acts supplementary thereto or amendatory thereof, held in any county, and shall also include all primary elections, special primary elections and special elections. ('17, c. 68, §1; '17, c. 120; '23, c. 108; '25, c. 289, §1; Feb. 20, 1929, c. 29; Apr. 24, 1937, c. 413, §1.)

Sec. 3 of Act Apr. 24, 1937, repeals inconsistent laws.

Person confined in jail for misdemeanor may cast his ballot under the absent voters' law. Op. Atty. Gen., May 31, 1930.

Absent voters' law does not apply to village elections. Op. Atty. Gen., Jan. 6, 1933.

This section does not apply to special village elections. Op. Atty. Gen., June 24, 1933.

A citizen may not vote by radio. Op. Atty. Gen. (639), Oct. 24, 1934.

Law is applicable to municipal bond elections. Op. Atty. Gen. (64a), Mar. 19, 1935.

497. Application to county auditors for ballots—Form of.

Provisions requiring filing of verified application for a ballot with city clerk prior to an election are mandatory and noncompliance is ground for rejecting ballot. Wichelmann v. C., 273NW638.

500. Fees for absent voter ballots.—The applicant for such ballots shall pay to the county auditor at the time he makes such application, a fee of twenty cents. The money so received by said county auditor shall be kept in a separate fund and shall be expended by said auditor in paying the expense of such extra clerical assistance as may be required for the performance by him of the duties imposed by this Act; the cost of furnishing and printing the application blanks specified in Section 2 hereof; the cost of furnishing and printing the envelopes and voters' certificate hereinafter specified; the cost of postage both in forwarding and for the return of the ballots as hereinafter specified and in delivering to the judges of election of the several districts in his county the applications after the same have been endorsed by him as hereinafter specified. Any surplus of the moneys so received shall be paid into the county treasury and credited to the general revenue fund.

The county auditor of each of the several counties is hereby authorized to employ such assistants, additional to those now authorized by law, as may be necessary to the carrying into effect of the provisions of this Act, but the expense of such additional clerical assistance shall be paid only from the money derived from the fees aforesaid remaining after the payment of postage and the cost of envelopes and voters' certificates herein provided for. ('17, c. 68, §5; Apr. 10, 1933, c. 196.)

501. Ballots, Voters' Certificates and Envelopes—Forms.

* * * * *
DIRECTIONS TO VOTERS

(h) Who may be attesting witnesses. Any United States postmaster, assistant United States postmaster, United States postal supervisor, Clerk in charge of a contract postal station, or any county, village, or city officer having an official seal may be an attesting witness.

If a postmaster, or assistant postmaster, or postal supervisor, or clerk in charge of a contract postal station acts as an attesting witness, his signature on the "Certificate of Attesting Witness" should be authenticated by the cancellation stamp of their respective postoffices. If one of the other officers named as attesting witness his signature on the "Certificate of Attesting Witness" should be authenticated with his official seal. It is not necessary to thus authenticate the signature to the certificate on the back of the "Return Envelope." (As amended Apr. 16, 1931, c. 170; Apr. 13, 1933, c. 242.)

* * * * *
508. Nominations to close within 30 days before holding the general election.

Op. Atty. Gen., May 11, 1932; note under §344.
Op. Atty. Gen., July 16, 1932; note under §200.
One cannot file as an independent for Congress prior to primary. Op. Atty. Gen., Feb. 28, 1934.
Section 508 modifies §348 so as to prohibit nominations by petition within thirty-day period preceding general election, and copy of petition must be filed with county auditor of all counties within congressional district more than 30 days prior to general election. Op. Atty. Gen. (911j), Oct. 11, 1934.

Section 508 modified §348 so as to prohibit nominations by petition within a thirty-day period preceding general election, and nomination petitions of candidates for congressional office must be filed not only with county auditor of county where candidates reside not later than 30 days preceding day of election, but certified copies of such petition must also be filed with county auditor of each of other counties within congressional district not later than 30 days preceding day of election. Op. Atty. Gen. (184f), Oct. 15, 1934.

508-1. Applications filed with city clerks; fees; expenses, how paid.—In the case of city elections in all cities, or village elections in all villages operating under the "Australian Ballot System," voters' applications for ballots shall be filed with the city or village clerk, the fees required to be paid therewith shall be paid to the city or village clerk, and the duties prescribed herein for the county auditor shall be performed by the city or village clerk. The cost of

carrying out the provisions of this Act for any such city or village election shall be paid by the city or village in which the same is held, and all fees received by the city or village clerk as herein provided shall be paid into the city or village treasury and credited to the funds appropriated or available for the payment of the expenses of such election. ('17, c. 68, §13a; '25, c. 388; Apr. 11, 1929, c. 168; Apr. 24, 1937, c. 413, §2.)

Laws 1929, c. 168, amends §13a of Laws 1917, c. 68, as amended by Laws 1925, c. 388, to read as above.

Questions arising out of disputes on filing of nomination petitions must be presented to court promptly so they may be considered properly. Johnson v. H., 198M 192, 269NW405. See Dun. Dig. 2928.

Petition for nomination to elective office presented after usual closing time of office of secretary of state on last day on which it could be filed was not entitled to filing. Id.

Where last day of filing falls on Sunday or legal holiday, last day for filing is preceding secular day. Op. Atty. Gen. (911r), Jan. 20, 1936.

When last day of filing falls on Sunday or legal holiday, last day for filing is preceding secular day. Op. Atty. Gen. (184f), Oct. 6, 1936.

SEAL PRESSES

530-1. Ballots may be marked with seal.—Any city of the first class using the Australian ballot system in city elections may, at the option of the governing body having control and supervision of elections in such city install and use in one or more voting precincts in such city one or more time controlled seal press or presses for authenticating paper ballots with a special official seal upon the head of said ballot before it is given to the voter which seal will identify it as a legally voted ballot; and a time controlled seal press for each voting booth in one or more voting precincts which shall be used by the voters for impressing the ballots with a special seal of the particular voting precinct opposite the name of each candidate voted for. All ballots cast at any general, special or primary election in each precinct where such time controlled seal press is installed shall be so stamped with said seal presses and no ballot shall be counted or be regarded as a vote legally cast unless so stamped. (Act Apr. 25, 1929, c. 372, §1.)

The title of the act purports to extend the act to "counties, cities and villages," but the body of the act restricts its operation to cities of the first class.

530-2. Counting device.—(a) There shall be a die which shall be used to emboss upon the head of each ballot an impression circular in shape and said impression shall contain the name of the state, the name of the county, city or village and the name or number of the ward or township and the number of the voting precinct or election district. There shall be a counting device connected with said seal press and adapted to count and register each ballot impressed with the official seal upon the counting device. This counting device shall be in plain view of the voters and others at all times. The said counting device shall be enclosed within a casing and there shall be a sure acting positive connecting means between the said counting device and the said sealing die. The sealing die shall be provided with mechanism in co-operation therewith whereby but a single ballot may be embossed at any one actuation of the seal press. The seal press shall be provided with mechanism so that the seal press cannot be operated at any time until and unless a ballot is inserted in a position to receive the seal. The seal press shall also be provided with means in connection with said counting device whereby each actuation of the press must be completed before the sealing die can return for another operation or the ballot being operated upon released or before said operation shall have affected registration on the counting device.

(b) The seal presses in the booths shall be adapted to operate upon any ballot of reasonable dimensions and shall punch a small hole through the ballot and around this hole they shall emboss the same words, letters or figures as the case may be as is

embossed upon the head of the ballot in the same voting precinct. (Apr. 25, 1929, c. 372, §2.)

530-3. Shall have time measuring device.—There shall be an approved make of time measuring device encased within said seal presses, and the said time measuring device in cooperation with other mechanism shall be adapted to control the use of the said seal presses so that they will be operable during the legal voting time on election day only, and so that they will be inoperable for a period of ten days from the closing of the polling places on election day, and, also so that the casing must be unlocked by a master key, to be held at all times by the election board or other governing body which has the supervision of election of the city installing such device, before it will be possible to again put the said seal presses into operation or to turn the counting device to zero. (Act Apr. 25, 1929, c. 372, §3.)

530-4. Shall be operated by hand.—All seal presses referred to in this act shall be adapted to be operated by hand. (Act Apr. 25, 1929, c. 372, §4.)

530-5. May provide extra presses.—Each city that provided seal presses under this act may also provide a sufficient number of extra seal presses to take care of the various voting precincts in case of the regular seal presses being out of order or missing. These extra seal presses shall have dies lettered with the name of the state and city and in addition thereto shall have marked "Special No. 1" and "Special No. 2," etc., and shall be assigned to any voting precinct in case of any such emergency and shall thereby become the official seal press for such precinct for that election. (Act Apr. 25, 1929, c. 372, §5.)

530-6. Election board to operate presses.—It shall be the duty of the election board in each polling place to operate the seal press and place its impression upon each ballot to be cast before it is given to the voter, but, in no event, shall he or any other person whatsoever, place such impression upon any other paper or substance, and shall not place such impression upon a ballot until a duly qualified voter is present and ready to receive it and then only in plain view of such prospective voter, and the precinct election board shall keep and return with other supplies, such seal presses and each and every ballot impressed with its impression. (Act Apr. 25, 1929, c. 372, §6.)

530-7. To use presses to mark ballots.—The voters shall operate the seal presses in the voting booths and shall place the seal press impression opposite the name of any particular candidate, party, question or otherwise they wish to vote for, and, in the event that a voter spoils his ballot he shall be required to sign his name, together with the word "spoiled" upon the head of such spoiled ballot and return the same to the precinct election board before he shall be entitled to receive another ballot bearing the seal press impression, and may, if he so desires, sever the head of the spoiled ballot and turn in the head only. (Act Apr. 25, 1929, c. 372, §7.)

530-8. Violations a gross misdemeanor.—Any person wilfully or neglectfully failing to carry out any of the provisions of this act, or any person violating any of the provisions of this act, or any person having in his possession, without authority, any seal press, part of a seal press, or any die, part of a die, or image, exactly or nearly duplicating the impression of any seal press provided under the provisions of this act, shall be guilty of a gross misdemeanor. (Act Apr. 25, 1929, c. 372, §8.)

CORRUPT PRACTICES

538. Legal expenses designated.

In proceeding to remove, held that defendant officer was deprived of his constitutional rights against self incrimination. 173M512, 217NW935.

Refusal to testify upon ground that testimony might incriminate did not justify inference of guilt. 173M512, 217NW935.

Corrupt Practices Act [§§538 to 579] does not apply to election of township officers in townships containing less than 5,000 population. 174M333, 219NW284.

Evidence held sufficient to support finding that candidate's attendance and presentation of gifts at showers in honor of young people about to be married, was not done for purpose of influencing voters. Engelbert v. T., 185M608, 242NW425.

Evidence supports finding that candidate did not patronize church bazaar and return prize there won to influence voters. Engelbert v. T., 185M608, 242NW425. See Dun. Dig. 2993c.

Corrupt Practices Act does not apply to town elections. Op. Atty. Gen., Apr. 23, 1932.

Corrupt Practices Act does not apply to election in connection with annexation of territory to village. Op. Atty. Gen., Apr. 23, 1932.

A candidate for office may properly spend money in preparing and distributing tire covers containing his name and name of office. Op. Atty. Gen., Oct. 22, 1932.

A tire cover containing name of candidate is a poster. Op. Atty. Gen., Mar. 8, 1933.

There is no provision of law against handing out campaign cards issued by nonpartisan candidate containing words indicating group of people particularly interested in his candidacy. Op. Atty. Gen. (627f-2), Apr. 13, 1934.

Whether passing out to voters campaign cards, with a blotter on the back would violate the Corrupt Practice Act is a question of fact. Op. Atty. Gen. (627f-1), Apr. 26, 1934.

Giving away articles of value such as packages of paper matches is prohibited. Op. Atty. Gen. (627f-1), Apr. 26, 1934.

Election of town officers, at annual town meeting is not known or designated as a general election, and neither the Corrupt Practices Act nor the General Election Contest Statute apply. Op. Atty. Gen. (434b-13(e)), Apr. 13, 1935.

539. "Paid advertisement" in newspaper.—No publisher of a newspaper, periodical or magazine shall insert either in the advertising columns of such newspaper, magazine or periodical, or elsewhere therein any matter paid or to be paid for which is intended or tends to influence directly or indirectly any voting at any primary or general election unless at the head of said matter is printed in pica capital letters the words "Paid Advertisement," and unless there is also a statement at the head of said matter of the amount paid or to be paid therefor, the name and address of the candidate in whose behalf the matter is inserted and of any other person, if any, authorizing the publication and the name of the author thereof. (12, c. 3, §2; G. S. '13, §568; Mar. 6, 1931, c. 37.)

Provisions of the Corrupt Practices Act are applicable to a special election in the City of St. Paul upon the question of granting a franchise. Op. Atty. Gen., Dec. 21, 1931.

Failure to insert in advertisement amount paid therefor in violation of Corrupt Practices Act but not ground for forfeiture of office, being trivial and limited in character. Engelbert v. T., 185M608, 242NW425. See Dun. Dig. 2993f.

Subjoining a statement that document was "prepared and paid for by volunteer committee" was not compliance with requirement that words "paid advertisement" should appear "at the head." Dart v. E., 188M313, 248 NW706. See Dun. Dig. 2993f.

540. Financial interest in newspaper.

Statute does not require a mere dues-paying member of a political party, which publishes a newspaper for political propaganda and not for profit, to file an affidavit of financial interest in such newspaper upon becoming candidate for office. Trones v. O., 197M21, 265NW806. See Dun. Dig. 2993f.

542. Maximum expenditure of candidates.

The word "salary" is construed, in an election contest, as being used in its broad sense of compensation embracing both "salary" and "fees." Spokely v. H., 183M 467, 237NW11.

Amount which political committee may receive and disburse is not definitely limited by act. Mariette v. M., 185M620, 242NW331. See Dun. Dig. 2994.

Under subd. 6, where there is a candidate during the first year plus one-third of the fees the computation of one-third is to be based on the salary which he would receive if elected during the first year plus one-third of the fees which his predecessor received during the first year of his incumbency, and this rule applies to a candidate for re-election. Op. Atty. Gen., March 29, 1930.

544. Campaign literature must bear names and addresses.

Evidence supports finding that candidate did not make false statements concerning his opponent. Engelbert v. T., 185M608, 242NW425. See Dun. Dig. 2993c.

Document must be labeled with names of those responsible for its circulation and not merely with words "volunteer committee." Dart v. E., 188M313, 248NW706. See Dun. Dig. 2993f.

In election contest case, evidence of alleged violation of Corrupt Practices Act examined and found to justify finding that violations of that act were trivial and unimportant and so did not void election. Miske v. F., 193 M514, 259NW18. See Dun. Dig. 2993f.

Small packets or books of matches bearing picture of candidate and brief statement of his qualifications, held to constitute campaign literature within this section. Op. Atty. Gen., March 7, 1930.

Election stickers are not invalid as campaign literature because name printed thereon contains a cross after the name. Op. Atty. Gen., Aug. 1, 1930.

Tire covers containing name and office of candidate need not bear on their face name and address of author or address of candidate. Op. Atty. Gen., Oct. 22, 1932.

Op. Atty. Gen. (627f-1), Apr. 26, 1934; note under §538.

Whether passing out to voters campaign cards with a blotter on the back would violate the Corrupt Practices Act is a question of fact. Op. Atty. Gen. (627f-1), Apr. 26, 1934.

A sticker containing nothing but name of person without any reference to office for which name thereon is candidate does not come within provisions of Corrupt Practices Act. Op. Atty. Gen. (1840), Oct. 17, 1934.

Where an election has already been held and there may be a contest, attorney general will not determine whether person elected violated Corrupt Practices Act. Op. Atty. Gen. (627f-2), Nov. 28, 1934.

Candidate for office may include word "lawyer" on campaign card, but such a card must contain address of author or candidate, while a card containing a mere statement that a person is a candidate for office, without anything in way of an appeal or argument, does not need to state its authorship. Op. Atty. Gen. (627j-1), Mar. 16, 1936.

545. Certain soliciting and disbursing prohibited.

The word "contribute" should be interpreted in light of the words "disburse" and "expend." Op. Atty. Gen. (627e), May 16, 1934.

547. Treating or receiving entertainment prohibited.

Giving of drink of liquor to four voters by candidate for office as act of hospitality, and not to influence or with intention of influencing voters, is not violation of the Corrupt Practices Act. Engelbert v. T., 185M608, 242NW425. See Dun. Dig. 2993e.

548. Undue influence, etc., prohibited.

Judgment that contestee's attempted coercion of voters on public relief, by threats that he, as chairman of emergency relief board, would have them removed from relief if they did not support him in his campaign for county commissioner, was limited in character and that his election was free from offensive and illegal acts is reversed and judgment directed that contestee's election be annulled and set aside. Fritz v. H., 195M640, 263NW10. See Dun. Dig. 2993g.

550. Certain payments prohibited.

Men may not be compelled to attend voting place. Op. Atty. Gen., Mar. 3, 1933.

551. Soliciting within one hundred feet of polling places—Penalties.

Communication, printed on blue card, accompanying bunch of campaign cards, held of such character as to constitute letter, and not to violate requirements of Corrupt Practices Act applicable to campaign cards. Engelbert v. T., 185M608, 242NW425. See Dun. Dig. 2993f.

There is no statutory provision prohibiting distribution of campaign cards on Sunday. Op. Atty. Gen. (627f-2), May 11, 1934.

Stickers may not be furnished to judges of election or should judges of election permit sticker candidate to leave printed stickers on the judges' table on election day. Op. Atty. Gen. (1840), Oct. 12, 1934.

Stickers may not be distributed within 100 feet of polls. Op. Atty. Gen. (1840), Oct. 17, 1934.

(2).

It is unlawful to deposit campaign literature in mail at such time that it will not be delivered until election day. Op. Atty. Gen., Apr. 1, 1932.

A sticker with nothing more on it than name of persons for whom both are desired is not a campaign card, but a sticker with the word added "for representative in state legislature" would constitute a campaign card which could not be distributed on election day. Op. Atty. Gen. (184a), Oct. 20, 1936.

553. Single personal campaign committee.

Finding that political committee was in fact personal campaign committee of appellant held not sufficiently sustained by evidence. Mariette v. M., 185M620, 242NW 331. See Dun. Dig. 2993d.

554. Disbursements by committee.

Political committee can collect and disburse money in campaign for lawful purposes only. Mariette v. M., 185M620, 242NW331. See Dun. Dig. 2994.

556. Statements of disbursements.

* * * *

(2) The statement of any candidate and the statement of his personal campaign committee shall be filed with the filing officer of such candidate. The statement of every state committee, and of every congressional committee shall be filed with the secretary of state. The statement of every party committee for a state senatorial district, or for state representative district, shall be filed with the filing officer of the candidate for state senator or state representative in such district. The statement of every other party committee shall be filed in the office of the county auditor of the county within which, or for a subdivision within which such disbursements were made.

(3) Each statement shall give in full detail:

(a) Every sum of money and all property, and every other thing of value, received by such candidate or committee during such period from any source whatsoever which he or it uses or has used, or is at liberty to use for political purposes, together with the name of every person or source from which each was received and the date when each was received, together with the total amount received from all sources in any amount or manner whatsoever.

(b) Every promise or pledge of money, property or other thing of value, received by such candidate or committee during such period, the proceeds of which he uses or has used, or is at liberty to use for political purposes, together with the names of the persons by whom each was promised or pledged, the special purposes for which each was promised or pledged, together with the total amount promised or pledged from the sources in any amounts or manner whatsoever.

(c) Every disbursement by such candidate or committee for political purposes during such period, together with the name of every person to whom the disbursement is made, the specific purpose for which each was made, and the date when each was made, together with the total amount of disbursements made in any amounts or manner whatsoever.

(d) Every obligation, expressed or implied, to make any disbursement incurred by such candidate or committee for political purposes during such period, together with the names of the person or persons to or with whom each such obligation has been incurred, the specific purpose for which each was made, and the date when each was incurred, together with the total amount of such obligations made in any amounts or manner whatsoever.

(e) Statements shall also be made by any other political committee showing the total amount of receipts and disbursements, and for what purpose such disbursements were made. Such statement shall be filed with the auditor of the county in which such committee has its headquarters within thirty days after any primary or election. '12, c. 3, §19; G. S. '13, §585; '27, c. 75.)

Explanatory note.—The above subdivisions were omitted from Mason's Minn. Statutes, 1927, through error.

Evidence failed to show that respondent violated section in omitting from his verified election statements value of space in Leader, newspaper published by Farmer-Labor Association, a political party, devoted to respondent's election as Governor—there being no evidence that respondent, directly or indirectly, controlled what was published in Leader during candidacy. Trones v. O., 197 M21, 265NW806. See Dun. Dig. 2994f.

Respondent did not violate section in failing to report in verified election statements value of time consumed in broadcasting over radio station during his campaign, evidence showing that a volunteer committee, with whom respondent had no connections, had purchased time for broadcasting, and had notified respondent that it had allocated a certain amount thereof for respondent's use. Id.

559. Promises of or to aid in appointment prohibited.

Finding that one running for office promised to reward certain voters by giving them employment in return for their work and influence, held sustained by evidence. *Mariette v. M.*, 185M620, 242NW331. See Dun. Dig., 2993c.

568. Contributions by corporations prohibited.

See note under §7459.

Plaintiffs in a stockholders' action, themselves former directors of the corporation, held barred by acquiescence therein from complaining of unlawful expenditures by the management which were made pursuant to fixed policies of the company established and long maintained as such while plaintiffs were directors, no objection having been made before the institution of the action. *Barrett v. S.*, 183M431, 237NW15.

570. Contest on ground of violation of act.

Finding that defamatory statement was not "deliberate, serious and material," held sustained by evidence. *Dart v. E.*, 188M313, 248NW706. See Dun. Dig. 2993f.

Statutory authorization for contesting an election for violation of provisions of the Corrupt Practices Act does not apply to an election upon questions relating to erecting and establishing a lighting and heating plant by a municipality. *Morgan v. V.*, 194M104, 259NW689. See Dun. Dig. 2993c.

There was no error in permitting amendment of petition after time had expired for bringing contest. *Fritz v. H.*, 195M640, 263NW910. See Dun. Dig. 2984.

571. Trial—Court to determine merits.

Engelbert v. T., 185M608, 242NW425.
Court properly refused to find that charges made were trivial, unimportant, and limited in character. 173M512, 217NW935.

"Unjust" is synonymous with "unlawful." *Dart v. E.*, 188M313, 248NW706. See Dun. Dig. 2991b.

Act of candidate meeting two or three neighbors on road on election day, carrying them to polls in his automobile was trivial and unimportant. *Sweno v. G.*, 191M24, 252NW839. See Dun. Dig. 2993c.

In election contest case, evidence of alleged violation of Corrupt Practices Act examined and found to justify finding that violations of that act were trivial and unimportant and so did not void election. *Miske v. F.*, 193M514, 259NW18. See Dun. Dig. 2993f.

572. Contest, when and where commenced.

Corrupt Practices Act [538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

Questions arising out of disputes on filing of nomination petitions must be presented to court promptly so they may be considered properly. *Johnson v. H.*, 198M192, 269NW405. See Dun. Dig. 2928.

573. Disqualification of candidate, etc.

Where mayor of Winona was removed from office for violation of the corrupt practices act the vacancy should be filled by the council under Winona City Charter, chapter 2, section 11, and it is not necessary to call a special election under section 12 of that chapter. *Op. Atty. Gen.*, June 9, 1931.

579. Sections repealed.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to election of township officers in counties of less than 5,000 population. 174M333, 219NW284.

PENAL PROVISIONS

581. Offering duplicate ballots, unlawful voting, etc.

Evidence that one teaching school in Litchfield voted at a special bond election in another county one day and at a special election in Litchfield the following day, and that she had not resided in Litchfield for 30 days would justify a presentation of case to grand jury. *Op. Atty. Gen.*, Nov. 2, 1933.

One casting ballot at township election after only several days' residence could be prosecuted under this section if facts show an unlawful intent. *Op. Atty. Gen.* (490j-2), Mar. 18, 1935.

582. Bribery before or at elections.

Evidence held to sustain finding that defendant promised public employment in order to aid and promote his election. 173M512, 217NW935.

Whether an article upon which campaign literature is printed is a thing of value is not determined by the cost of producing the article but its value to the recipient for the purpose intended. *Op. Atty. Gen.*, Mar. 7, 1930.

An offer to serve for less than the legal salary made by a candidate for office in the course of his campaign for election is a violation of this statute, but one already an officer may accept a reduction in salary. *Op. Atty. Gen.*, Jan. 29, 1932.

Voluntary acceptance of reduced salaries by public officials applies to township officers. *Op. Atty. Gen.*, Mar. 4, 1932.

Whether or not a tire cover is a "thing of value" is a question of fact depending upon material of which constructed and use to which it can be put. *Op. Atty. Gen.*, Mar. 8, 1933.

Agreement by elective official to accept voluntary reduction in salary is not illegal unless made with intent to influence voters at future election. *Op. Atty. Gen.*, Mar. 20, 1933.

While candidates for county elective offices may not accept reduction in pay to influence election, county elective officers may, after election, voluntarily accept a pay reduction, if such reduction is not accepted with intent to influence voters at a subsequent election. *Op. Atty. Gen.*, Mar. 22, 1933.

Acceptance of cut in salary pursuant to resolution of county board would not be violation of corrupt practice act or this section. *Op. Atty. Gen.*, July 27, 1933.

591. Defamatory circulars, etc.

Although defamatory of supporters of a candidate, a campaign document held not defamatory of candidate himself and so no violation of Corrupt Practices Act. *Dart v. E.*, 188M313, 248NW706. See Dun. Dig. 2993f.

595. Wilful neglect, failure, or fraud of election officers.

Election officials who willfully refuse to allow qualified Indians to vote at school elections are subject to prosecution under this section. *Op. Atty. Gen.* (490g), Sept. 21, 1934.

CHAPTER 7

Counties and County Officers

CHANGE OF BOUNDARIES

602. Change—New counties.

That portion of Lake of the Woods known as Muskeg Bay is not a part of Roseau County, but a part of Lake of the Woods County. *Op. Atty. Gen.* (106b), Mar. 21, 1936.

615-1. Center line of highway to be boundary in certain cases.—Where a city of the fourth class is situated in one county and such city adjoins a city of the first class in another county and where a highway runs along the boundary line between said cities and the boundary line between said counties and where the center line of the said highway deviates from the boundary line between said cities and counties, but the boundary line between said cities and counties is within or on the lateral limits of said highway, then the center line of the highway between such cities and such counties shall be established as the boundary line between said city of the fourth class and said city of the first class and as the boundary line between the counties in which such cities are situated. (Act Apr. 13, 1933, c. 230.)

615-2. Change in boundary line in certain counties.

—That all the land situated in Sections 16 and 21, Township 121, Range 46, Lac qui Parle County, be and the same hereby is detached from the County of Lac qui Parle and annexed to the County of Big Stone in this State. (Apr. 24, 1937, c. 423, §1.)

615-3. Same—Laws applicable.—That Chapter 7 of Mason's Minnesota Statutes of 1927 [§§602 to 997-11], and laws amendatory thereof, shall be applicable, where not inconsistent therewith, to this act. (Apr. 24, 1937, c. 423, §2.)

615-4. Same—Effective January 1, 1938.—This act shall be in full force and effect from and after January 1, 1938. (Apr. 24, 1937, c. 423, §3.)

CHANGING COUNTY SEATS

625. Petition for change.

175M486, 221NW870; note under §626.
Number of signatures on petition is to be determined by last preceding general election. *Op. Atty. Gen.* (106E), Nov. 27, 1934.