

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 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.



Edited by  
**William H. Mason**  
*Assisted by*  
**The Publisher's Editorial Staff**

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1940

as of the effective date of this act, and shall thereafter be subject to and protected by the provisions of this act and shall not be subject to the probationary period provided for by section 21 hereof. (Act Apr. 22, 1939, c. 441, §38.)

Incumbent district boiler inspectors are entitled to benefit of this section. Op. Atty. Gen. (644), May 23, 1939.

Veterans coming within this section can only be dismissed for just cause and by following procedure laid down in §24. Op. Atty. Gen. (644), May 25, 1939.

Rights of war veterans to secure and hold positions in classified service of state are now in no way affected by confidential nature of the work. Op. Atty. Gen. (644), August 14, 1939.

**254-87. Laws to be continued in force.**—Notwithstanding the provisions of the state civil service act and the amendments to existing statutes made by this act, all existing salaries and compensation schedules, and all laws and regulations governing said salaries and compensation schedules, in force on the day previous to the effective date of this act, shall continue in force until the salary and wage schedules are approved by the commission of administration and finance as provided in the state civil service act. (Act Apr. 22, 1939, c. 441, §45.)

Salary rates, schedules, and classifications may be increased, reduced, or revised by authority prior to enactment of civil service law, until such time as salary rates and classifications are established in accordance with such act, but it must be noted that powers existing in commission of administration and finance in respect to salaries and personnel are now vested in commissioner of administration. Op. Atty. Gen. (644), July 18, 1939.

**DECISIONS  
RELATING TO OFFICERS AND EMPLOYEES  
IN GENERAL**

**1. In General.**

*Officials of WPA are required to determine fitness of applicants for assigned tasks.* Block v. S., (DC-Minn), 26FSupp105.

Fact that plaintiff was a needy person properly certified for assignment to WPA work did not alone entitle her to employment, but she must have been fitted to perform the assigned tasks. Id.

Liability of a public officer for nonfeasance attaches only when duty is ministerial and not mandatory. Cook v. T., 200M221, 274NW165. See Dun. Dig. 8001, 8002a.

Where officer performs duties imposed by law, he is entitled to compensation therefor fixed by law and no other, and fact that salary or compensation may be recognized as inadequate remuneration for services exacted and actually performed does not change the rule, and principle is same although his duties are greatly increased. Jerome v. B., 202M485, 279NW237. See Dun. Dig. 8008.

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.

**5. Vacations.**

There is no statutory provision authorizing vacation pay for state employes, and no authorization for making such payment to a deceased person's estate or to his widow. Op. Atty. Gen. (359a-1), July 26, 1939.

**CHAPTER 6  
Elections**

This chapter in the 1927 Statutes and the 1936 Supplement is repealed effective Aug. 1, 1939, by Act Apr. 21, 1939, c. 345, Pt. 12, §1, post §601-12. In as much as the repealing Act mentions only chapter 6 of the 1927 Statutes and the 1936 Supplement, there may be a question from a technical point of view as to whether new acts and amendments of existing acts appearing in the 1938 Supplement are also repealed.

The chapter is reenacted and appears in chapter 6A as shown in the table below.

| Repealed Section | Reenacted as  |
|------------------|---|
| 255.....         | 601-5(1), 601-6(1), 601-6(1)a.                          |
| 255-1.....       | 601-6(1)c.  |
| 255-2.....       | 601-6(1)c.  |
| 256.....         | 601-1(1)d, f, i, ii, j, jj, k, l, m, n, o, q, r, rr, s. |
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| 270-3.....       | 601-6(2)c.  |
| 270-4.....       | 601-6(2)d.  |
| 270-5.....       | 601-6(2)e.  |
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| 270-7.....       | 601-6(2)g.  |
| 270-8.....       | 601-6(2)h.  |
| 270-9.....       | 601-6(2)i.  |
| 270-10.....      | 601-6(2)j.  |
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| 272.....         | 601-6(5)n.  |
| 274.....         | 601-6(6)j.  |
| 275.....         | 601-6(7).   |
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| 280.....         | 601-6(7)e.  |
| 281.....         | 601-6(5)o.  |
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| Repealed Section | Reenacted as           |
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| 292.....         | 601-6(7)o.             |
| 293.....         | 601-3(1), 601-6(3)a.   |
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| 326              | 601-3(2)h.              |
| 327              | 601-1(1)pp.             |
| 328              | 601-5(1)a.              |
| 329              | 601-3(3).               |
| 330              | 601-3(3)a.              |
| 331              | 601-3(3)b.              |
| 332              | 601-3(3)c.              |
| 333              | 601-6(12).              |
| 334              | 601-6(12)a.             |
| 335              | 601-6(12)b.             |
| 336              | 601-6(12)c.             |
| 337              | 601-6(12)d.             |
| 338              | 601-6(12)e.             |
| 339              | 601-6(12)f.             |
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| 348              | 601-3(3)h.              |
| 349              | 601-3(3)l.              |
| 350              | 601-6(7)t.              |
| 351              | 601-3(3)j.              |
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| 354              | 601-6(5).               |
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| 356              | 601-6(5)c.              |
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| 365              | 601-6(6)g.              |
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| 381              | 601-1(1)a.              |
| 382              | 601-2(1).               |
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| 384              | 601-2(2)a.              |
| 384-1            | 601-2(2)a.              |
| 385              | 601-2(2)d to 601-2(2)h. |
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| 479              | 601-6(11)b.            |
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| 484              | 601-7(1)b.             |
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| 552              | 601-10(1)h.            |

| Repealed Section | Reenacted as |
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| 575.....         | 601-10(1)v.  |

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| 600.....         | 601-9(1)r.   |
| 601.....         | 601-9(1)s.   |

ANNOTATIONS UNDER REPEALED SECTIONS

(See note under chapter heading)

**255-1. Cities may change date of municipal elections.** Consisted of Act Mar. 9, 1933, c. 71, §1.

**255-2. Resolution to be filed with County Auditor and Secretary of State.** Consisted of Act Mar. 9, 1933, c. 71, §2. Sec. 3 of Act Mar. 9, 1933, provided that the act should take effect from its passage. This act is unconstitutional as not operating uniformly. *Hiller 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 1896, 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.** Consisted of Act Apr. 8, 1933, c. 181, §1.

**255-4. Officers to hold over in certain cases.** Consisted of Act Apr. 8, 1933, c. 181, §2.

**256. Definition of terms.** Gen. Stat. 1923 (1 Mason, 1927) §§483-492, 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. Benschel*, 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. One appointed to fill a vacancy in office of probate judge holds office until first Monday in January following general election. Op. Atty. Gen., (347k), Nov. 25, 1938.

**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 1926, 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. City charter of International Falls rather than §§258 and 259 govern with respect to establishing additional election precincts, and additional precincts in that city may be established only by creating additional wards. Op. Atty. Gen. (64s), Dec. 6, 1938.

**259-1. Election districts created.** Consisted of Act Mar. 20, 1935, c. 55, §1.

**262. Special elections in certain cases.** Amended 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. Relator having received only 334 votes out of more than 100,000 cast at the election, there being no notice of any kind given, statutory or otherwise, that office of district judge who had retired was to be filled at election, no election resulted. *State v. Holm*, 202M500, 279NW218. See Dun. Dig. 2860, 4954. Where there is in fact an election at time and place fixed by law, result thereof is valid, although statutory notice may be wanting or inadequate, but where there was total failure to comply with legal requirements so that only a negligible number of electors out of a large number exercised right to vote, there was in fact no valid election. Id. See Dun. Dig. 2960. Governor has no authority to fill vacancy in federal house of representatives by appointment. Op. Atty. Gen., Feb. 18, 1933.

**263 to 270.** 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.** Consisted of 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. Person elected to fill vacancy in office of probate judge is elected for full four year term, commencing first Monday in January following election, and not for completion of unexpired term of judge who dies. Op. Atty. Gen., (347j), Aug. 16, 1938.

**270-2. Same—governor to direct election—special election.** Consisted of 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.** Consisted of 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. Vacancy in office of state senator was created by death of senator elect before qualifying, which could be filled

by calling special election by governor. Op. Atty. Gen. (280-2), Dec. 22, 1938.

**270-4. Same—special election.**

Consisted of 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.**

Consisted of Act Apr. 23, 1929, c. 297, §5.

**270-6. Same—auditor to post notice.**

Consisted of 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.

Where vacancy in office of probate judge is to be filled at general election, it is not necessary for county auditor to personally post notices, but they may be mailed to town clerks the same as other election notices. Op. Atty. Gen., (347j), Aug. 16, 1938.

**270-7. Same—filing of candidates.**

Consisted of Act Apr. 23, 1929, c. 297, §7.

**270-8. Same—names on ballots.**

Consisted of Act Apr. 23, 1929, c. 297, §8.

**270-9. Same—election districts—officials.**

Consisted of Act Apr. 23, 1929, c. 297, §9.

Legislature intended to obviate preparation of a new register at a special primary election. Op. Atty. Gen. (183a), Jan. 14, 1939.

**270-10. Same—returns—canvassing board.**

Consisted of 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, 198M516, 270NW586. See Dun. Dig. 9956a.

**270-11. Same—county auditor to issue certificate of election.**

Consisted of Act Apr. 23, 1929, c. 297, §11.

**270-12. Same—general laws to govern.**

Consisted of Act Apr. 23, 1929, c. 297, §12.

**270-13. Same—laws repealed.**

Consisted of 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.

City ballot of Stillwater, which holds its election at same time as biennial state election, should be printed on red paper. Op. Atty. Gen. (28b-3), Oct. 10, 1938.

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

Color of ballots is immaterial at special election called by village to vote on question of issuance of bonds. Op. Atty. Gen., (28a-2), June 22, 1938.

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

**280. India tint ballots—contents.**

Amended Apr. 17, 1937, c. 270, §1. See explanation at beginning of this chapter.

Ballots on question of the change of poor relief system under §3164 should be printed on india tint paper. Op. Atty. Gen., (339p), July 5, 1938.

Question of changing system of poor relief should be submitted on india tint ballot. Op. Atty. Gen. (28a-2), Oct. 11, 1938.

**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.

Candidate may use a name by which he has been commonly known for a number of years, although it is not his true name. Op. Atty. Gen. (184e), Mar. 21, 1938.

**285. Same—names of candidates.**

Statute does not apply where the surnames are different, as for example, where they are Lodin and Ledin. Ledin v. H., 203M434, 281NW762. See Dun. Dig. 2938.

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 re-

spective 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. (911a), Sept. 23, 1936.

One running for district judge could describe himself as "present judge, Windom". Op. Atty. Gen. (184e), May 23, 1938.

Where Charles A. Flinn, John F. Flynn, and John Roberts are running for office of district judge, the first two are entitled to three words describing occupation and address, as against contention of third person that he is discriminated against in not being permitted a description informing electors that he is learned in the law. Id. Word "St. Paul" is construed as one word. Op. Atty. Gen., (184e), July 8, 1938.

**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. (911a), Sept. 23, 1936.

**289. Form of ballots.**

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. (184a), 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 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.

Names on city ballot of Stillwater, which holds its election at same time as biennial state election, should be rotated and not arranged alphabetically. Op. Atty. Gen. (28b-3), Oct. 10, 1938.

Names of candidates without party designation go upon general election ballot arranged alphabetically, except in preparing forms for sample ballots. Op. Atty. Gen. (28b-3), Oct. 17, 1938.

**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.

The 1938 state primary election is to be held on June 20, 1938. Op. Atty. Gen. (186h), Jan. 20, 1938.

**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. (184c-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. (911a), 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 designate 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.**

Amended 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 30 days before primary election. State v. Schimelpfenig, 192M55, 255NW258. 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.

In cities of second class not having home rule charters affidavit of candidacy may be filed up to 20th day before primary. Laws 1939, c. 2, app. Jan. 17, 1939.

Last day on which candidates for nomination at state primary election may file affidavits of candidacy is May 11, 1933, and time limit for filing affidavits for candidacy for county officers is now same as for state officers. Op. Atty. Gen. (186h), Jan. 20, 1938.

Candidate filing as "R. S. Titus," may withdraw his affidavit and file a new affidavit R. S. "Bob" Titus. Op. Atty. Gen. (297), Apr. 21, 1938.

Candidate using his initials on affidavit of candidacy may have full name appear on ballot by withdrawing affidavit and filing a second affidavit. Op. Atty. Gen. (297), Apr. 30, 1938.

County auditor is not required to receive for filing an affidavit of candidacy presented on last day for filing after auditor's office has been closed for the day, but where auditor returns to office after business hours for purpose of permitting tender of affidavits of candidacy, he cannot refuse to receive them. Op. Atty. Gen. (911b), May 19, 1938.

County auditor is not required to accept candidate's withdrawal after sample ballots have been prepared and published. Op. Atty. Gen., (28b-1), June 6, 1938.

Payment of filing fee and deposit of affidavit in mails on last day for filing does not constitute "filing". Op. Atty. Gen. (911b), June 23, 1938.

Candidate holding himself out generally to the public as "Jr." has a right to have it on official primary ballot. Op. Atty. Gen. (28b-2), April 20, 1939.

**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 elections to be by ballot—Etc.** Amended 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.

Failure to publish sample ballot will not invalidate election. Op. Atty. Gen., (28a-7), June 20, 1938.

**301. Ballots for primary election.**

Amended 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.

Names of candidates without party designation go upon general election ballot arranged alphabetically, except in preparing forms for sample ballots. Op. Atty. Gen. (28b-3), Oct. 17, 1938.

**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.**

Amended 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.**

Amended Apr. 15, 1933, c. 244, §4.

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

**307. Marking primary ballots.**

Amended 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.**

Amended Apr. 15, 1933, c. 244, §6.

**310. Canvass of votes.**

Amended 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.

Vacancies in primary election canvassing board should be filled by judge of district court. Op. Atty. Gen. (183c), Feb. 23, 1938.

A person who has filed as a candidate for county auditor or clerk of court may not be a member of canvassing board at primary election, even if there is no contest and his name does not appear on primary ballot. Id.

A person who has filed as a candidate for county auditor or clerk of court is not eligible to serve as a member of county canvassing board at primary election even though his name does not appear on primary election ballots. Op. Atty. Gen., (183c), June 17, 1938.

This section applies to primary election. Op. Atty. Gen., (183c), Nov. 2, 1938.

**314. Canvassing by State Canvassing Board.**

Amended Apr. 20, 1929, c. 280, §1.

**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.

Supreme court is not authorized to determine eligibility of a candidate for state senate who holds a certificate of nomination for that office issued by canvassing board of a primary election duly held and canvassed, and may not order county auditor to desist or refrain from placing his name upon official general election ballots. State v. Erickson, 203M390, 281NW366. See Dun. Dig. 2981.

**317-1. Primary election in certain villages.**

Consisted of Act Apr. 20, 1933, c. 327, §1, as amended by Act Apr. 17, 1935, c. 201, §§1, 2, and Act Apr. 15, 1939, c. 271.

**Editorial note.**—The Act of Apr. 20, 1933, c. 327, as amended by Act Apr. 17, 1935, c. 201, constituting §§317-1 to 317-6 of Chapter 6 of Mason's 1936 Supplement, were repealed by Act Apr. 21, 1939, c. 345, pt. 12, §1, §601-12,

post. Such repeal would seem to supersede Act Apr. 15, 1933, c. 271, amending §317-1 of Mason's 1933 Supplement. In any event the amendment seeks to confine the act to a single county (Itasca), and is probably unconstitutional as local and special. Act Apr. 15, 1933, c. 271, reads as follows: "317-1. Any village or city of the fourth class with a population of not less than 1,500 and located in a county having not less than 90 nor more than 100 full and fractional congressional townships 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 adopted by a 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 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."

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.

Consisted of Act Apr. 20, 1933, c. 327, §2.

#### 317-3. Filing—fee.

Consisted of Act Apr. 20, 1933, c. 327.

#### 317-4. Judges and clerks—compensation.

Consisted of Act Apr. 20, 1933, c. 327, §4.

#### 317-5. General laws to apply.

Consisted of 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.

Consisted of Act Apr. 20, 1933, c. 327, §6.

### NOMINATIONS BY CONVENTIONS

#### 318. Political parties to select committees.

Chairman of state central committee of political party elected by candidates continues to act as chairman until a new committee is elected at subsequent primary election, and exercises powers and duties customarily exercised in the past. Op. Atty. Gen., (672b-6), June 28, 1938.

### 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.

When last day of filing falls on Sunday or legal holiday, last day for filing is preceding secular day. Op. Atty. Gen. (186h), Jan. 20, 1938.

#### 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.

Words "pensions for everybody," constituted a declaration of political principle. Op. Atty. Gen., (911j), Oct. 14, 1938.

#### 332. Oath of signers.

Certificate of nomination is not void because candidate himself acts as notary and takes acknowledgments. Op. Atty. Gen., (911j), Oct. 14, 1938.

### 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.

Upon withdrawal of one duly nominated at primary election for a nonpartisan office, person receiving next highest vote automatically becomes nominee. Op. Atty. Gen. (141d-2), Aug. 10, 1938.

#### 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.

Where two candidates are nominated for a nonpartisan office and one of the two persons withdraws or dies, person receiving third highest number of votes at primary election automatically becomes a nominee for the office, and while a candidate may not withdraw after ballots are printed, auditor must take notice of death of nominee and prepare proper stickers to indicate nominee. Op. Atty. Gen., (184n), Sept. 19, 1938.

#### 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, 244NW321. See Dun. Dig. 1573.

Supreme court is not authorized to determine eligibility of a candidate for state senate who holds a certificate of nomination for that office issued by canvassing board of a primary election duly held and canvassed, and may not order county auditor to desist or refrain from placing his name upon official general election ballots. State v. Erickson, 203M390, 281NW366. See Dun. Dig. 2981.

#### 348. Filing certificates.

Amended Apr. 17, 1937, c. 270, §3. See explanation at beginning of chapter.

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.

Where incumbent was the only candidate for office of register of deeds at primary, on his death following primary there was a vacancy and candidates could file by petition and have their names placed upon general election ballot, one receiving highest number of votes being elected to office. Op. Atty. Gen. (373a), Aug. 30, 1938.

Certificate of nomination for Congress is now governed by §348, rather than by §508. Op. Atty. Gen., (911j), Oct. 14, 1938.

**349. Fees for placing names on ballots.**

Amended Apr. 17, 1937, c. 270, §4. See explanation at beginning of chapter.

**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.

Town board has no power to designate or change polling place in a town unless authorized by electors. Op. Atty. Gen. (434b-18), June 22, 1938.

**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.**

Op. Atty. Gen., Jan. 10, 1934; note under §357. This section is complied 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.

Sections 356 and 357 do not authorize town board to change a polling place which has once been legally established in a city or village, or to change polling place in town outside of city or village. Op. Atty. Gen. (434b-18), June 22, 1938.

Where there has been no separation of township from village for election and assessment purposes as provided by §1099, there is no way in which village can prevent holding of annual town meeting within village limits under §356. Op. Atty. Gen. (434b-13(c)), March 1, 1939.

It is immaterial that room in which town meeting is held is in same building with village poll if entrances thereto are sufficiently separated as to avoid confusion, and are 75 feet apart. Op. Atty. Gen. (185a-5), March 14, 1939.

**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.**

Consisted of 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.**

Consisted of Act Apr. 20, 1931, c. 256, §2.

**359-3. Same—qualifications—compensation.**

Consisted of 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.**

Consisted of Act Apr. 20, 1931, c. 256, §4.

**359-5. Same—relief judges to canvass ballots.**

Consisted of Act Apr. 20, 1931, c. 256, §5.

**359-6. Same—any qualified voter may be appointed.**

Consisted of 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 election may not act as election judges. Op. Atty. Gen. (434b-12), Apr. 18, 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.

Where village lies in two towns and one town separates from village, a separate election board and assessor is required for that part of village in separating town. Op. Atty. Gen. (440d), Apr. 13, 1938.

Election was not invalid though candidate for county commissioner acted as election judge in particular precinct. Op. Atty. Gen. (183j), Dec. 19, 1938.

**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.

Removal of a councilman from one ward to another ward in city does not automatically vacate his office, unless such removal constitutes a change of residence, and a resident of a particular ward is not entitled to vote in ward in which he intends to move or to be elected to office in such ward. Op. Atty. Gen. (63a-1), Mar. 29, 1938.

It is not temporary character of employment of persons on public works, but the temporary character of their residence in district which determines right to vote. Op. Atty. Gen. (106e), Apr. 11, 1938.

A resident of a village who built a home outside the city limits but still continued his business in village could not claim village as his place of residence unless he intended to again move to village. Op. Atty. Gen. (490j), Apr. 14, 1938.

One moving from farm and renting city house to obtain medical treatment for wife, intending to return as soon as possible, was entitled to retain his voting privileges at the farm. Op. Atty. Gen. (232d), May 31, 1938.

Men temporarily employed in CCC camp are entitled to vote in precinct where camp is located if they are otherwise qualified as electors and their residence is not merely temporary. Op. Atty. Gen., (490j-1), Aug. 27, 1938.

Whether person residing in county infirmary and paying for his board and room from old age assistance is entitled to vote in township is question of fact. Op. Atty. Gen., (639j), Oct. 26, 1938.

(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. *Pye 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.*

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. 29, 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.

Temporary character of residence rather than temporary character of employment determines eligibility for voting purpose. Op. Atty. Gen. (490j-2), Mar. 29, 1938.

Person residing in village cannot vote or hold office in township merely because of fact that he operates farm in township. Op. Atty. Gen. (490j-1), June 28, 1938.

Temporary character of residence rather than temporary character of employment determines eligibility for voting purposes. Op. Atty. Gen., (490j-1), Sept. 2, 1938.

Restatement of conflict of laws as to domicile and Minnesota decisions compared. 15MinnLawRev668.

369. Registration in towns, villages, and cities of the fourth class.

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.

Posting of poll list for approaching special election is not now required. Op. Atty. Gen. (64t), March 20, 1939.

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. Registration—cities of the fourth class.

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.

Places of registration may be established by commissioner in each precinct in any part or the whole of a city in the usual polling places. Op. Atty. Gen., (183r), Oct. 12, 1938.

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.

389. Applicants may be challenged.

This section is not violative of Const. Art. 1, §2, and prohibition will not lie to prevent commissioner of registration from taking steps to remove name from election register, there being a remedy by appeal to the district court. *State v. Ferguson*, 203M603, 281NW765. See Dun. Dig. 2922a.

Order of commissioner is suspended pending appeal. Op. Atty. Gen., (183r), Oct. 6, 1938.

Commissioner of registration can only determine voter's right of registration and not the qualifications of such person to hold a public office for which he is a candidate, especially where he is a candidate for the legislature. *Id.*

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.

Amended Apr. 13, 1931, c. 144, §1(b).

Word "shall" means "may", and city council is not required to fix or pay additional salary. *Jerome v. B.*, 279NW237. See Dun. Dig. 8979, (89).

Evidence supports court's finding that city clerk was not entitled to additional compensation for services rendered as commissioner of registration of city of Eveleth. *Id.* See Dun. Dig. 8008.

393-2. Same—"Elections" defined.

Amended Apr. 18, 1929, c. 235, §1.

393-3. Same—Registration necessary.

Amended 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.

Amended Apr. 17, 1937, c. 264, §1. See explanation at beginning of chapter.

**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.**

Consisted of 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.**

Consisted of Act Apr. 10, 1933, c. 209, §1.

**393-17. Same—powers of commissioner—office and records—laws applying.**

Consisted of 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.**

Consisted of Act Apr. 10, 1933, c. 209, §1.

**393-19. Same—existing districts to continue—expense of combined system.**

Consisted of 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.**

Consisted of 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.

Cities of the fourth class under home rule charter, silent as to the matter, are governed by §401-1 as to time polls shall remain open, and by §1806 as to time within which affidavits of candidacy must be filed. Op. Atty. Gen. (641), Oct. 8, 1937.

**401-2. Certain villages may fix hours for primary or general elections.**

Consisted of Act Apr. 17, 1935, c. 206, §1.

**401-3. Repeal.**

Consisted of 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.**

Amended Apr. 17, 1937, c. 270, §5. See explanation at beginning of chapter.

**415. Initiating 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.

In conducting an election on question of incorporating as a village, there is no authority for appointment of voters representing different political parties or groups as challengers, but all qualified voters have a right to be present throughout election and interpose challenges. Op. Atty. Gen. (182), May 23, 1939.

**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.**

Amended Apr. 17, 1937, c. 270, §6. See explanation at beginning of chapter.

Judge may inform voters in using consolidated primary ballot that he must confine his vote to a single column. Op. Atty. Gen., (183), June 17, 1938.

**424. Marking ballots.**

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

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, 3679.

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 impression 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.

One vote for one candidate where two officers are to be chosen must be counted. *Op. Atty. Gen.* (187a), June 2, 1939.

#### 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.

Amended 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.

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, 252NW839. See *Dun. Dig.* 2946.

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.

#### 429. Voter not to disclose how he has voted.

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

435. Absence of employee to vote. Employees may take time off to vote without deduction of wages. *Op. Atty. Gen.* (185a-3), Oct. 20, 1938.

439. Poll lists—statements attached to. Amended Apr. 17, 1937, c. 270, §7. See explanation at beginning of chapter.

#### 441. Opening of ballot boxes, counting of votes and declaration of results.

Amended Apr. 17, 1937, c. 270, §8. See explanation at beginning of chapter.

#### 450. Tally sheets for India tint and red ballots.

Amended Apr. 17, 1937, c. 270, §9. See explanation at beginning of chapter.

#### 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.

If candidate's name is written in on blank space provided on ballot for purpose, it must be counted though not followed by any cross mark. *Op. Atty. Gen.* (28a-8), June 12, 1939.

Stickers on ballots should be counted though cross-mark after candidate's name is printed. *Id.*

#### 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.*, 200M135, 273 NW611. 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.

Amended Apr. 17, 1937, c. 270, §10. See explanation at beginning of chapter.

#### 460. Ballots by whom canvassed and counted.

Amended Apr. 17, 1937, c. 270, §11. See explanation at beginning of chapter.

#### 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.

Amended Apr. 17, 1937, c. 270, §12. See explanation at beginning of chapter.

#### 467. Delivery of returns and unused ballots.

Amended Apr. 17, 1937, c. 270, §13. See explanation at beginning of chapter.

#### 467-1. Ballots and election returns to be destroyed in certain cases.

Consisted of Act Feb. 17, 1937, c. 29, §1. See explanation at beginning of chapter.

Section does not apply to towns. *Op. Atty. Gen.* (442B-1), March 8, 1939.

#### 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. 16MinnLawRev832.

#### 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.

A person who has filed as a candidate for county auditor or clerk of court is not eligible to serve as a member of county canvassing board at primary election even though his name does not appear on primary election ballots. *Op. Atty. Gen.*, (183c), June 17, 1938.

Member of canvassing board is not disqualified by reason of fact that he is candidate for reelection. *Op. Atty. Gen.*, (183c), Oct. 31, 1938.

This section applies to general election and not primary election. *Op. Atty. Gen.*, (183c), Nov. 2, 1938.

Justices of the peace are to be appointed by county auditor even though he is candidate for reelection. *Id.*

#### 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 return.

Amended 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, 236NW626. See *Dun. Dig.* 2978(54).

Certificate of election is prima facie evidence of election against a direct attack and conclusive evidence thereof against a collateral attack. *Doyle v. R.*, 285NW480. See *Dun. Dig.* 2978.

While an injunction may issue to protect possession of office incumbent against a claimant whose title is in dispute, issue of possession pendente lite becomes moot if claimant, under a certificate of election, goes into possession of office. *Id.* See *Dun. Dig.* 2977a.

#### 478. State canvassing board.

Amended 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. 28, 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 identified 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 or 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. 2981.

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.

Filing of notice of appeal is mandatory, and, unless notice is filed within 10-day limitation after canvass is completed, no jurisdiction to hear contest is acquired by court. Strom v. L., 201M226, 275NW833. See Dun. Dig. 2983.

Where contestant filed notice of contest in office of deputy clerk at Hibbing within 10-day limitation, but failed to state in his notice of contest, "to be tried at the Village of Hibbing," court did not acquire jurisdiction. Id. See Dun. Dig. 2983, 7805, 8947, 8954.

Court cannot appropriate to itself a jurisdiction which law does not give it by correcting or permitting correction of a notice of appeal after time for taking appeal has expired. Id.

One who has no certificate of election to a state office from state canvassing board is not entitled to quo warranto to test title of incumbent appointee thereto. State v. A., 202M50, 277NW357. See Dun. Dig. 8070.

Since legislature has provided an exclusive remedy for contesting validity of "elections" called and conducted in an illegal manner, a prayer for equitable relief premised solely upon alleged invalidity of school bond "election" was properly denied. Repsold v. I., 285NW827. See Dun. Dig. 2981.

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.

#### 400. Appeal to Supreme Court.

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

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

Where in election contest proceedings, court found that there was a tie vote and that a vacancy existed and ordered village council to fill it by appointment, and no appeal was taken, one of contestants will not be permitted on petition for leave to file an information in nature of quo warranto to collaterally attack the finding and order that vacancy existed which council had authority to fill by appointment. State v. Johnson, 201M 319, 275NW684. See Dun. Dig. 2991b.

#### 403. 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.

#### (4).

Members of county canvassing board are not required to serve more than eight hours per day, and when their

services are required for more than one day they are entitled to per diem allowed and mileage in going to and from meetings to their homes each day. Op. Atty. Gen., (183c), Aug. 2, 1938.

#### 404. Compensation and other expenses, how paid.

Amended Apr. 17, 1937, c. 270, §14. See explanation at beginning of chapter.

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.

#### 405. 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

#### 406. Applicability—"General election" defined.

Amended Feb. 20, 1929, c. 29; Apr. 24, 1937, c. 413, §1. See explanation at beginning of chapter.

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.

#### 407. 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. Wichelmans v. C., 200M62, 273NW638.

#### 500. Fees for absent voter ballots.

Amended Apr. 10, 1933, c. 196.

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

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.

Where incumbent was only candidate for office of register of deeds at primary, on his death following primary there was a vacancy and candidates could file by petition and have their names placed upon general election ballot, one receiving highest number of votes being elected to office. Op. Atty. Gen. (373a), Aug. 30, 1938.

Certificate of nomination for Congress is now governed by §348, rather than by §508. Op. Atty. Gen., (911j), Oct. 14, 1938.

#### 508-1. Applications filed with city clerks; fees; expenses.

Amended Apr. 11, 1929, c. 168; Apr. 24, 1937, c. 413, §2. See explanation at beginning of chapter.

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.

## VOTING MACHINES

**516. Rules for use to be approved by attorney general.**

Rules and instructions referred to should be posted at each polling place where automatic voting machine is used. Op. Atty. Gen. (518), Mar. 10, 1938.

City of Duluth should determine by ordinance question of whether or not voting machines shall be used at elections, and number of such machines, but ordinance may be so drawn that council may by resolution from time to time direct use of machines at such polling places as may be designated in resolution. Id.

## SEAL PRESSES

**530-1 to 530-8. Seal presses—Counting device marking of ballots—violations.**

Consisted of Act Apr. 25, 1929, c. 372, §§1-8.

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.

## 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 handling out campaign cards issued by nonpartisan candidate containing words indicating group of people particularly interested in his candidacy. Op. Atty. Gen. (627f-2), Apr. 18, 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.

Whether a form of literature with blotter on back and ruler on front violates section is a question of fact. Op. Atty. Gen., (627j-1), Aug. 5, 1938.

Ordinary small blotters, when used by candidate for office, would not violate act. Op. Atty. Gen., (627j-1), Aug. 26, 1938.

**539. "Paid advertisement" in newspaper.**

Amended Mar. 6, 1931, c. 37.

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, 248NW706. See Dun. Dig. 2993f.

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.

Name of person or persons on "Personal campaign committee" who authorized insertion of advertisement must be stated. Op. Atty. Gen., (627c-5), Oct. 1, 1938.

**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., 183M467, 237NW11.

Amount which political committee may receive and disburse is not definitely limited by act. *Marlette 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.*, 193M514, 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 Practice 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. 29, 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.

Campaign literature in form of a blotter on the back and a ruler on the front is not "literature" within meaning of this section. Op. Atty. Gen., (627j-1), Aug. 5, 1938.

Ordinary small blotters, when used by candidate for office, would not violate act. Op. Atty. Gen., (627j-1), Aug. 26, 1938.

**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.

Use of words "name of candidate, alderman, 11th ward" on a sticker circulated for use on city election ballot would constitute campaign literature which could not be distributed on day of election. *Op. Atty. Gen.* (28a-8), June 12, 1939.

**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, 242NW331. 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.

**555. Statements of disbursements.**

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.*, 197M21, 265NW806. See *Dun. Dig.* 2994.

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.*

**556. 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.

**563. 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.*, 185M603, 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.*, 196M192, 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

**580. False registration—Personation.**

Penal provisions of §§580 to 601 are applicable to misconduct of election officials in township elections. *Op. Atty. Gen.*, (627h), May 20, 1938.

**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.

Whether packets of matches with political advertisements thereon are things of value is a question of fact. *Op. Atty. Gen.* (627f-1), Mar. 4, 1938.

Cigars, sticks of gum, lead pencils, and similar articles are "things of value", and books of matches might be held by court to be such. *Op. Atty. Gen.*, (627f-1), Aug. 9, 1938.

**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. Willful 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 6A

Minnesota Election Law

(For annotations under former acts see chapter 6.)

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