

130278

1941 Supplement

To

Mason's Minnesota Statutes

1927

1939 to 1941

(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

Edited by
the
Publisher's
Editorial Staff

*Minnesota State Library
St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

CHAPTER 5C

Public Contracts in General

254-101. Mandatory nondiscriminatory provisions—Civil rights of employees protected.—Every contract for, or on behalf of, the state of Minnesota, or any county, city, borough, town, township, school, school district, or any other district or districts, in the state of Minnesota, for materials, supplies, or construction, shall contain provisions by which the contractor agrees:

(a) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract hereunder, no contractor, material supplier, or vendor, shall by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States who are qualified and available to perform the work to which such employment relates.

(b) That no contractor, material supplier, or vendor, shall in any manner, discriminate against, or intimidate, or prevent the employment of any such person or persons, or on being hired, prevent, or conspire to prevent, any such person or persons from the performance of work under and contract on account of race, creed or color.

(c) Any violation of this Act shall be a misdemeanor.

(d) That this contract may be cancelled or terminated by the state, county, city, borough, town, township, school board, or any other person or persons authorized to grant contracts for such employment, and all money due, or to become due hereunder, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract. (Act Apr. 16, 1941, c. 238, §1.)

CHAPTER 6

Elections

(This chapter is re-enacted under Chapter 6A.)

NOMINATION BY DIRECT VOTE

294. Political party defined. [Repealed.]

Section does not prevent a candidate stating his party affiliations except with reference to filing for nomination and upon the ballot. *Moon v. H.*, 288NW579. See *Dun. Dig.* 2929.

Section does not prohibit a candidate for a non-partisan elective office from procuring the indorsement and support of his candidacy from a political party, or prevent him from engaging in political activities. *Id.*

317-1. Primary election in certain villages. [Repealed.]

A primary election should be held in advance of village election in Nashwauk. *Op. Atty. Gen.* (186E), Oct. 27, 1939.

Attorney general will abide by declaratory judgment of district court in St. Louis county that Laws 1939, chapter 271, amending this section, is unconstitutional because of an improper classification. *Op. Atty. Gen.* (472t), Nov. 14, 1939.

Names of candidates on primary election ballots in village of Hibbing should be rotated, notwithstanding Laws 1939, chapter 345, part 11, chapter 2, §4. *Op. Atty. Gen.* (186E), Nov. 20, 1939.

CORRUPT PRACTICES

563. Contributions by corporations prohibited. [Repealed.]

See 601-10(1)o.

Bar association organized as a social and charitable corporation is doing business within state within meaning of corrupt practices act, and can not contribute money, property or services to any political party, organization, committee or individual for political purposes, but expenditures to defray expense of a plebescite and furnishing services of officers in managing the same in connection with election of judicial officers does not constitute contribution of money or services. *La Belle v. H.*, 288NW788. See *Dun. Dig.* 2994.

570. Contest on ground of violation of act. [Repealed.]

See 601-7(1).

Section does not prevent a candidate stating his party affiliations except with reference to filing for nomination and upon the ballot. *Moon v. H.*, 288NW579. See *Dun. Dig.* 2929.

Section does not prohibit a candidate for a non-partisan elective office from procuring the indorsement and support of his candidacy from a political party, or prevent him from engaging in political activities. *Id.*

PENAL PROVISIONS

601. Certain corporations not to contribute—Penalty. [Repealed.]

See 601-9(1)s.

La Belle v. H., 288NW788; note under §563.

CHAPTER 6A

Minnesota Election Law

PART ONE

CHAPTER 1.—DEFINITIONS

601-1(1). Short title of act.

A person may be a candidate in an election only for an office which is to be filled at the election. *Howard v. H.*, 296NW30.

An election may be held only under constitutional or statutory authorization. *Id.* See *Dun. Dig.* 2915.

601-1(1)a. Definitions—"Election".

District court has no jurisdiction of a contest of a school district election. *Johnson v. D.*, 294NW839. See *Dun. Dig.* 2981.

Act is not applicable to school district elections, except where made applicable by reference by some other special act. *Op. Atty. Gen.*, (28C-7), April 15, 1940.

601-1(1)i. Same—"Village".

Candidate for office in borough of Belle Plaine, incorporated under special laws, should be nominated by filing affidavit of candidacy or otherwise as provided by general election law and not as provided in incorporation act. *Op. Atty. Gen.*, (472h), Jan. 9, 1941.

601-1(1)n. Same—"Voter".

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. *Op. Atty. Gen.* (68h), Sept. 13, 1940.

PART TWO REGISTRATION OF VOTERS

CHAPTER 1.—GENERAL PROVISIONS

601-2(1). Election districts in certain municipalities—Necessity of registration.

Registration is not a prerequisite to voting on incorporation of a village. Op. Atty. Gen. (484E-1), Dec. 1, 1939.

Townships may not legally provide for registration of voters. Op. Atty. Gen., (434B-20), April 17, 1940.

An unregistered voter is not entitled to vote for presidential elector. Op. Atty. Gen. (185B-3), Oct. 17, 1940.

CHAPTER 2.—REGISTERING OF VOTERS

601-2(2). Application for registration—Time—Persons who have registered.

Village about to adopt permanent registration system may not commence it by receiving registrations on day of next annual village election. Op. Atty. Gen. (183r), Oct. 3, 1939.

Where a primary city election is held January 23, and a general city election on February 6, voters may be registered during 20 days preceding primary election, for purpose of voting at general city election, provided they are registered in such a manner that they do not appear qualified to vote at primary election. Op. Atty. Gen. (183q), Dec. 15, 1939, overruling Op. Atty. Gen. (183q), Nov. 22, 1939.

601-2(2)1. Report of change of name.

A woman who marries after registration must re-register before she can vote, and she may not re-register during 20 days preceding election. Op. Atty. Gen. (183r), Oct. 30, 1940.

601-2(2)1. Commissioner to perfect election registers.

Provision prohibiting registration during 20 days preceding an election applies to a special primary election to fill vacancy in legislature. Op. Atty. Gen. (183r), Sept. 30, 1940.

A woman who marries after registration must re-register before she can vote, and she may not re-register during 20 days preceding election. Op. Atty. Gen. (183r), Oct. 30, 1940.

CHAPTER 5.—REGISTRATION OF ELECTIONS

601-2(5)b. Determination of residence.

Enlisted man in army retains his right to vote and proceed under absent voter's act. Op. Atty. Gen. (639-E), Aug. 5, 1940.

A person accepting an appointment to state office and moving to St. Paul may retain his residence in district in which he lived at time he entered state service, and ownership or occupancy of a home in such district is not necessary. Op. Atty. Gen. (639J), Aug. 23, 1940.

Unseparated husband and wife may have different residences for purpose of voting. Op. Atty. Gen. (490J-2), Sept. 13, 1940.

(10).

Most persons living in a WPA camp may obtain residence if they are not there merely for purposes of their employment. Op. Atty. Gen. (490J-1), Oct. 31, 1940.

PART THREE PRIMARY ELECTIONS

CHAPTER 1.—GENERAL PROVISIONS

601-3(1). Date of primary elections.

There is no authorization or requirement that a primary election be held for positions on school board, notwithstanding that school district holds its election at same time as city election, using same judges and clerks of election. Op. Atty. Gen., (187a-6), Jan. 17, 1940.

Municipal primary election in Minneapolis should be held on second Monday in May, 1941, as provided by local charter, and not 7 weeks before Minneapolis city election as provided by state law. Op. Atty. Gen., (186E), Jan. 6, 1941.

601-3(1)b. Affidavit of candidacy—Fees; etc.

Filing fee of candidate for representative in congress from a district located wholly in one county is \$50.00. Op. Atty. Gen. (184B), June 19, 1940.

A person may file for office of state representative and clerk of court at the same time, but if elected can only hold one office. Op. Atty. Gen. (184), Aug. 5, 1940.

Where proper affidavit of candidacy for office is filed, county auditor must receive application and place name upon official ballot, notwithstanding that applicant has been convicted of a felony and has not been restored to citizenship, but a court in a proper proceeding might enjoin placing of name upon ballot, since election of one ineligible to hold office would be a felony. Op. Atty. Gen. (184i), Aug. 8, 1940.

This section governs over Laws 1939, c. 2, with respect to last day for filing as a candidate in a city of the second class. Op. Atty. Gen. (911K), Nov. 30, 1940.

If one of two highest candidates nominated in primary withdraws, and there is no proper committee to fill vacancy, third highest candidate automatically moves up and becomes candidate. Op. Atty. Gen., (28B-1), Mar. 22, 1941.

601-3(1)g. Errors in ballots—Wrongful acts of officers.

Where register of deeds was reelected for a term of four years commencing first Monday in January, 1939, and died before that date, and the county board appointed another to the office to fill out unexpired term the first Monday in January, and reappointed him for a four year term expiring first Monday in January, 1943, there was no vacancy to be filled by election at the 1940 primary and the general election. State v. Erickson, 294 NW373. See Dun. Dig. 2273.

CHAPTER 3.—NOMINATION BY PETITION OF VOTERS

601-3(3). Nomination by petition—Number of signatures.

Howard v. H., 296NW30; note under §601-3(3)g.

Where county commissioner was convicted of a felony 31 days before general election, and no appointment to fill vacancy was immediately made, vacancy could be filled at the coming election for the unexpired term and person elected could qualify immediately without waiting until January 1. Op. Atty. Gen. (126G), Oct. 11, 1940.

601-3(3)b. Not to contain more than the name of one candidate.

Petition nominating a candidate for presidential elector cannot be signed until after the primary election. Op. Atty. Gen., (672B-9), March 7, 1940.

601-3(3)c. Contents of certificate.

Person participating in primary election is not ineligible to sign a petition nominating a candidate for presidential elector, since such electors are not now nominated at primary election. Op. Atty. Gen., (672B-9), March 7, 1940.

601-3(3)d. Vacancies—Form of certificates.

Where home rule charter provides for selection of nominees at a primary city election but fails to provide for filling vacancies in such nominations, general law applies and person receiving next highest vote at primary automatically moves up and becomes candidate. Op. Atty. Gen., (186E), May 3, 1940.

If one of two highest candidates nominated in primary withdraws, and there is no proper committee to fill vacancy, third highest candidate automatically moves up and becomes candidate. Op. Atty. Gen., (28B-1), Mar. 22, 1941.

601-3(3)g. Time of filing of petition—Vacancies.

Provisions that candidate may be nominated at primary and at least 30 days before election "for an office in which a vacancy has occurred and for which no person is a candidate" had no application to filling a vacancy in office of United States Senator where vacancy occurred after primary. Howard v. H., 296NW30. See Dun. Dig. 2929.

601-3(3)h. Where certificates of nomination should be filed.

Where county commissioner was convicted of a felony 31 days before general election, and no appointment to fill vacancy was immediately made, vacancy could be filled at the coming election for the unexpired term and person elected could qualify immediately without waiting until January 1. Op. Atty. Gen. (126G), Oct. 11, 1940.

PART FOUR ABSENT AND DISABLED VOTERS CHAPTER 1.—GENERAL PROVISIONS

601-4(1). Absent and disabled voters may vote by mail.

Enlisted man in army retains his right to vote and proceed under absent voter's act. Op. Atty. Gen. (639-E), Aug. 5, 1940.

Laws 1916 Extra Session, ch. 2, providing for voting by members of National Guard absent from state, is still in force and effect, as modified by registration and other acts, and a municipality may take advantage thereof by resolution or ordinance providing its provisions are followed strictly. Op. Atty. Gen., (490K), Jan. 24, 1941.

601-4(1)b. County auditor to be supplied with ballots.

Applications for village election ballots should be filed with village clerk and not with county auditor. Op. Atty. Gen. (639n), Nov. 21, 1939.

601-4(1)d. Fees—Expenses—Surplus.

Ballots may not be furnished unregistered absent National Guardsmen and city council has no authority to waive 30 cent fee for city election. Op. Atty. Gen., (490K), Jan. 24, 1941.

601-4(1)i. Judges to receive and count ballots.

Regularly appointed clerks of election should be present at polls while open, and afterwards until returns have been made. Op. Atty. Gen., (183L), Feb. 27, 1941.

601-4(1)m. Disposition of fees.

Applications for village election ballots should be filed with village clerk and not with county auditor. Op. Atty. Gen. (639n), Nov. 21, 1939.

PART FIVE**PRESIDENTIAL ELECTORS****CHAPTER 1****601-5(1). Election of presidential electors.**

A person, in order to be eligible to vote in presidential electors, must possess same qualifications required to vote for candidate for state offices or for representatives or senators in congress. Op. Atty. Gen. (185B-3), Oct. 17, 1940.

601-5(1)b. Preparation of ballots.

Space provided on ballot for marking by voters should be placed at right in case of nominees for presidential electors, and at the left in case of nominees for other offices. Op. Atty. Gen. (28c-5), Sept. 23, 1940.

PART SIX**ELECTIONS****CHAPTER 1.—HOLDING OF ELECTIONS****601-6(1). Date of election.**

A special town meeting to vote on buying of site for a town hall and on building a town hall may be called for day on which general election is to be held, but place of that meeting may not be in polls where general election is being conducted. Op. Atty. Gen. (185B-2), Oct. 16, 1940.

601-6(1)b. Elections in cities and villages.

Municipal primary election in Minneapolis should be held on second Monday in May, 1941, as provided by local charter, and not 7 weeks before Minneapolis city election as provided by state law. Op. Atty. Gen., (186E), Jan. 6, 1941.

CHAPTER 2.—SPECIAL ELECTIONS TO FILL VACANCIES**601-6(2). Special election to fill vacancy in office of United States Senate.**

Provisions that candidate may be nominated at primary and at least 30 days before election "for an office in which a vacancy has occurred and for which no person is a candidate" had no application to filling a vacancy in office of United States Senator where vacancy occurred after primary. Howard v. H., 296NW30. See Dun. Dig. 2929.

In absence of state legislation providing for and regulating elections for filling vacancies in the United States Senate, the only authority for holding an election to fill a vacancy would be a writ of election by governor. Id.

601-6(2)e. Candidates to be nominated in primaries.

Howard v. H., 296NW30; note under §601-6(2)..

601-6(2)h. Names on ballots—Blank forms—Sample ballots.

This section does not apply to a vacancy in office of county commissioner. Op. Atty. Gen. (126h), Oct. 11, 1940.

CHAPTER 4.—ELECTION DISTRICTS**601-6(4). Election districts designated by council or town board.**

All qualified voters residing within village limits must vote at voting place established by proper village authorities, though they reside in an unplatted portion of a township. Op. Atty. Gen. (183c), June 4, 1940.

CHAPTER 5.—POLLING PLACES AND THEIR EQUIPMENT**601-6(5). Polling places to be designated by council or other governing body.**

"Separate statutory voting facilities for each precinct" should be construed so as it read "separate election boards, booths, registers, books and ballot boxes for each ward". Op. Atty. Gen., (64), Jan. 6, 1940.

A special town meeting to vote on buying of site for a town hall and on building a town hall may be called for day on which general election is to be held, but place of that meeting may not be in polls where general election is being conducted. Op. Atty. Gen. (185B-2), Oct. 16, 1940.

601-6(5)f. Polling places not to be in saloon or bar room.

An election may be held in a restaurant where 3.2 is sold if it is not a place of resort for idlers or disreputable persons. Op. Atty. Gen. (185-a-5), Sept. 3, 1940.

601-6(5)i. Duties of peace officers.

Section applies to town elections. Op. Atty. Gen., (434B-17), Feb. 14, 1941.

CHAPTER 6.—JUDGES AND CLERKS OF ELECTION**601-6(6). Judges in town elections.**

Law makes members of town board judges at general election, and a town board member is entitled to serve, notwithstanding he was a defeated candidate for nomination at primary election, and notwithstanding that someone else served in his place at primary election. Op. Atty. Gen. (183J), Oct. 22, 1940.

601-6(6)a. Judges in municipalities except cities of the first class.

Op. Atty. Gen. (183i), Aug. 16, 1940; note under §601-6(6)f.

In villages having but one district and not included in any town, members of council act as judges, and three trustees should be selected for this purpose, and village clerk serves as one of the election clerks. Op. Atty. Gen. (472k), Nov. 9, 1939.

In villages having more than one election district or included in a town, council must appoint three qualified voters of each election district to serve as judges in their district, such appointments to be made 25 days before the election, and judges in turn select 2 qualified voters from each district to serve as clerks. Id.

Provision that no two judges and clerks shall reside in same building does not apply to Minneapolis, which has not adopted civil service feature. Op. Atty. Gen. (183r), June 4, 1940.

First sentence and last paragraph are controlling where a city has elected not to come under section. Id.

Provision as to relationship of judges or clerks applies only in cities of the first class. Op. Atty. Gen. (183-l), Sept. 5, 1940.

601-6(6)b. Judges to appoint clerks.

Op. Atty. Gen. (183i), Aug. 16, 1940; note under §601-6(6)f.

Clerk of district court, who is a candidate for reelection, is nevertheless eligible to serve ex officio as member of county canvassing board. Op. Atty. Gen., (183c), May 28, 1940.

Provision to effect that no two judges and clerks in any one district shall be husband and wife, parent and child, or brother and sister, applied to Minneapolis. Op. Atty. Gen. (183r), June 4, 1940.

Where it is the practice to appoint a relief clerk, judges in each precinct should appoint one qualified voter for each of three political parties, and they are not confined in selecting clerks to the party lists, and they may appoint any eligible person, subject always to provision that not more than one clerk in any precinct shall be long to the same party. Op. Atty. Gen. (183h), Aug. 8, 1940.

Regularly appointed clerks of election should be present at polls while open, and afterwards until returns have been made. Op. Atty. Gen., (183L), Feb. 27, 1941.

601-6(6)c. Committees of political parties may furnish list.

Under provision applicable to Minneapolis, not more than two judges and one clerk may be selected from same political party. Op. Atty. Gen. (183r), June 4, 1940.

If each of three political parties file a list of its candidates for judges, city council must appoint one judge for each political party in each precinct. Op. Atty. Gen. (183h), Aug. 8, 1940.

601-6(6)e. May appoint relief judges in certain cases.

Op. Atty. Gen. (183h), Aug. 8, 1940; note under §601-6(6)c.

601-6(6)f. Eligibility of judges.

Provision to effect that no two judges and clerks in any one district shall be husband and wife, parent and child, or brother and sister, applied to Minneapolis. Op. Atty. Gen. (183r), June 4, 1940.

No person receiving compensation from the United States, state, county, or city is eligible to serve as judge or clerk of election in Minneapolis. Id.

Members of village council with population of less than 10,000 inhabitants and not candidates for office at primary election may act as judges and clerks. Op. Atty. Gen. (183i), Aug. 16, 1940.

A WPA worker receives "compensation from the United States," and is ineligible to act as judge or clerk. Op. Atty. Gen. (183i), Aug. 27, 1940.

A WPA employee working intermittently is eligible if not employed on election day. Op. Atty. Gen. (183i), Sept. 5, 1940.

Relationship of judges and clerks as between themselves or to officers or candidates is immaterial in towns,

villages and cities other than those of first class. Op. Atty. Gen. (183-I), Sept. 5, 1940.

A defeated candidate for nomination at primary election is eligible to serve as judge or clerk at general election. Op. Atty. Gen. (183J), Oct. 22, 1940.

If WPA worker's employment is intermittent and he is not in fact working or receiving compensation from United States on day of election, he is eligible, but if his employment is regular and he merely ceases working on election day in order to serve as judge at election, he is not eligible. Op. Atty. Gen. (183I), Oct. 31, 1940.

Where there is no question about genuineness of returns or that all returns are before them, powers and duties of canvassers are limited to mechanical function of ascertaining apparent result of election by adding or compiling votes cast for each candidate as shown on face of returns before them, and cannot inquire into regularity of election or determine consequences of a candidate acting as a judge, though they may report fact of candidate acting as a judge, leaving consequences to be determined by a court. Op. Atty. Gen. (183J), Dec. 6, 1940.

Whether or not a supervisor of National Youth Administration is eligible as a judge depends upon whether he receives compensation from the United States as an officer or employee thereof. Op. Atty. Gen., (183I), Jan. 13, 1941.

601-6(6)g. May fill vacancies in judges.

Where council has appointed as judge of election a person whom it subsequently develops is ineligible, then the vacancy which it is assumed will be caused by refusal of such person to serve may be filled on day of election, and there is no express authority for appointment by council of persons to serve in place of ineligible persons who have previously been appointed. Op. Atty. Gen. (183I), Sept. 5, 1940.

601-6(6)k. Duties of ballot judges.

Ballot judges should be in attendance at polls throughout election, but ballot clerks should report at hour of closing and then aid in counting ballots and making returns. Op. Atty. Gen. (183L), Sept. 12, 1940.

CHAPTER 7.—PREPARATION, PRINTING AND DELIVERY OF BALLOTS

601-6(7)b. Secretary of State to prepare pink ballot. The Secretary of State shall also prepare and distribute a ballot printed on pink paper, hereinafter called the "pink ballot," upon which all propositions and questions to be voted upon throughout the state shall be so printed that the voter may conveniently indicate by a mark (x) either a negative or an affirmative answer to each. In preparing said pink ballot the Secretary of State shall apply an appropriate designation or title to each such proposition and question, which designation or title shall be approved by the attorney general, shall consist of not more than one printed line and shall be printed in bold face type not smaller than eight-point nor larger than ten-point, in a line immediately above and preceding the proposition or question to which it shall refer. At the head of the ballot or in some other prominent place on the ballot, there shall be conspicuously printed a notice stating in substance that if a voter fails to vote on a constitutional amendment he votes, in effect, in the negative. Such ballots shall be deposited in a separate box, painted pink. They shall be counted, canvassed and returned as in the case of the white ballots, and the tally books and return blanks shall provide suitable columns and spaces therefor. (As amended Act Mar. 17, 1941, c. 72, §1.)

601-6(7)e. County Auditor to prepare "India tint" ballot.

Election code made no change in heading or offices included on "India tint" or county ballot, formerly the blue ballot. Op. Atty. Gen. (28a-5), Oct. 19, 1940.

601-6(7)i. Same.

Space provided on ballot for marking by voters should be placed at right in case of nominees for presidential electors, and at the left in case of nominees for other offices. Op. Atty. Gen. (28c-5), Sept. 23, 1940.

A candidate defeated for nomination at primary may be elected to the same office by sticker at general election. Op. Atty. Gen. (28a-8), Sept. 26, 1940.

601-6(7)j. Form, style, and size of ballots.—Like squares shall be placed at the left of the blank lines, and on such lines the voter may write the names of persons for whom he desires to vote whose names are not printed, and in the squares opposite the same he

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

When the surnames of two or more candidates for the same or different offices appearing on the same ballot at any election are the same, each such candidate shall have added thereto not to exceed three words, indicating his occupation and residence, and upon such candidate furnishing to the officer preparing the official ballot such words, they shall be printed on the ballot with and as are the names of the candidates and immediately after his name. (As amended Apr. 28, 1941, c. 527, §1.)

Words descriptive of profession of a candidate, such as doctor, colonel, or senator, may not properly be placed before a candidate's name upon ballot. Op. Atty. Gen. (28B-2), Aug. 7, 1940.

A candidate has right to have name he is generally known by, including a nickname, printed on official ballot. Id.

Provision for use of words indicating occupation and residence does not apply unless names are identical and are filed for same office, and mere similarity which might cause confusion is insufficient. Id.

A candidate named "Buckler" opposed by a candidate named "Butler" was not entitled to have descriptive words placed after his name on ballot. Op. Atty. Gen. (28B-2), Sept. 23, 1940.

601-6(7)n. Names on ballots.

Candidate "Christ Erickson, Jr." was properly elected though name on ballot was "William Erickson," or "Bill Erickson," there being no other person known by that name residing in the village. Op. Atty. Gen. (184E), Dec. 10, 1940.

601-6(7)p. Auditor to prepare preliminary election ballots.

County auditor is not required to advertise for bids for printing primary election ballots and other election supplies, but must require printer to give bond. Op. Atty. Gen. (707a-7), June 12, 1940.

Primary election ballots are to be white. Op. Atty. Gen. (28a-2), Aug. 23, 1940.

601-6(7)q. Sample party ballots.

Primary election ballots are to be white. Op. Atty. Gen. (28a-2), Aug. 23, 1940.

601-6(7)r. Errors and omissions—Procedure.

Irregularities in an official ballot do to error or mistake of election officer do not vitiate votes of an innocent elector unless such irregularities have been declared by statute to be fatal to validity of election, or unless they serve as distinguishing marks. Op. Atty. Gen., (28B), April 1, 1940.

Where proper affidavit of candidacy for office is filed, county auditor must receive application and place name upon official ballot, notwithstanding that applicant has been convicted of a felony and has not been restored to citizenship, but a court in a proper proceeding might enjoin placing of name upon ballot, since election of one ineligible to hold office would be a felony. Op. Atty. Gen. (183I), Aug. 8, 1940.

CHAPTER 8.—CONDUCT OF ELECTIONS AND MANNER OF VOTING

601-6(8).—Time for voting.—At all elections hereafter held in the several districts in this state or in any municipal corporation, except annual town meetings, within the state, the polls in each district except in cities, villages or boroughs of less than 1,000 inhabitants, shall open at 7:00 A. M., and in cities, villages and boroughs of less than 1,000 inhabitants the governing body thereof may by resolution adopted 30 days prior to any election fix a time for the opening of the polls, which time shall not be later than 9:00

A. M. and be kept open continuously until 8:00 P. M., at which time they shall close. The governing body of any municipal corporation may, by resolution duly adopted prior to the giving of notice of election, designate the time, in no event less than three hours, during which the polls shall remain open for the next succeeding, and all subsequent municipal elections, to be effective until revoked. Provided, however, that those voters who, at the time of closing the polls, are either in the polling place or in line at the door thereof and have not been able to vote be entitled to vote and the polls shall remain open a sufficient time for them to do so. (As amended Act Apr. 14, 1941, c. 293, §1.)

Act Feb. 27, 1941, c. 28, provides as follows: Section 1. In all villages and townships, however organized, located in any county now or hereafter having a population of more than 400,000 inhabitants, the polls shall be kept open at any special or local election from six o'clock in the forenoon until eight o'clock in the afternoon, unless the governing body of such village or town shall, by resolution duly adopted and posted more than 30 days prior to such election, fix a different time for opening the polls, which time shall be stated in such resolution, but shall not be later than nine o'clock in the forenoon.

Section 2. All acts and parts of acts inconsistent herewith are hereby amended, modified and repealed so far as necessary to give effect to the provisions of this act.

Notes to Decisions

Hours for voting at state elections in villages and at regular and special village elections are from 7 A.M. to 8 P.M., unless council prescribes a shorter time in manner provided. Op. Atty. Gen. (472N), Oct. 19, 1939.

Village council, by acting in accordance with this section, may provide hours of voting 1:00 P.M. to 5:00 P.M. Op. Atty. Gen. (472N), Nov. 28, 1939.

Council may provide by resolution for not less than 3 consecutive hours of voting within period between 7 a. m. and 8 p. m. at municipal elections, but hours of voting in regular state elections must be from 7 a. m. to 8 p. m. Op. Atty. Gen. (185a-6(b)), Sept. 19, 1940.

Hours of voting at state primary and general election in cities of all classes, villages and towns, and in all election districts in the state, is from 7:00 a. m. to 8 p. m., and a village council is without authority to change these hours. Op. Atty. Gen. (185a-6(b)), Sept. 25, 1940.

601-6(8)l. Voting.

Use of Australian ballot system at town elections is now compulsory and candidates must file not less than two weeks before election. Op. Atty. Gen., (266B-20), March 6, 1940.

CHAPTER 9.—ELECTION RETURNS

601-6(9). Tally books.—Two tally books with returns shall be furnished for each district by the official charged with the printing of the ballots, at the time and in the manner the ballots are furnished. Each book furnished for white ballots shall be headed, "Tally book and returns for white ballots— of;

County, Minnesota, General Election, November —, 19—", directly under which and extending across the sheet from side to side shall be two heavy red lines one-half inch apart. At the left side of each sheet of the book, in a column of suitable width, commencing just below the red lines, there shall be printed in plain type the title of each office to be filled and the name of each candidate for the same, and as many blank spaces as appear on the printed ballot, the whole being, as nearly as may be, in the same order as on the official ballot. (As amended Act Apr. 10, 1941, c. 194, §1.)

601-6(9)b. Same.—The form of tally book and returns furnished by county auditors shall be the same as are furnished by the secretary of state, except that the words "India tint" shall be substituted for the word "white" or "pink" in the heading; and those furnished by the officials charged with the printing of the red ballots shall be the same, except the word "red" shall be substituted for the word "white" in the heading, and the names of candidates may be printed or written, or partly printed and partly written. (As amended Act Apr. 10, 1941, c. 194, §2.)

601-6(9)c. County Auditor to furnish tally books and returns for primary elections.—For each state primary election the auditor shall furnish to each dis-

trict, with the ballots, two sets of the tally book and returns for each political party having candidates and for non-partisan candidates to be voted for. Each shall be headed "Tally book and returns for (name of political party) (name of city or village) (county) (ward or town)—election district, for a primary election held —(date)." The names of candidates shall appear on the tally book and returns in the order in which they appear in the official sample ballots and in each case shall have the proper designation at the head thereof. On the back thereof shall be printed the statements required in this chapter, and also a certificate signed by all the judges and clerks certifying that the candidates whose names appear on the tally book and returns received the number of votes set opposite their names. (As amended Act Apr. 10, 1941, c. 194, §3.)

601-6(9)d. Returns of votes cast in tally books.—The officers of election shall, on that part of the tally book and returns provided for the purpose, make full and accurate returns of the votes cast for each candidate in the form prescribed in this chapter. (As amended Act Apr. 10, 1941, c. 194, §4.)

601-6(9)e. Election returns.—In making out the returns, the clerks shall set down the total number of names entered upon the election registers, in columns prepared therefor, the total number of ballots actually cast and counted, the name of each person voted for, the number of votes received by him, and the office, all numbers being written in both words and figures. Such returns shall be in substantially the following form: "At an election held at — in the — election district, composed of — in the county of —, State of Minnesota, on the — day of —, 19—, the following named persons received the number of votes opposite their respective names for the following offices: For —(office)—(A) —received — votes; and the same in case of every person voted for; and a similar return showing the votes cast for and against each proposition." Such returns shall be made in duplicate, each signed by the judges and attested by the clerks. (As amended Act Apr. 10, 1941, c. 194, §5.)

601-6(9)f. Sealing tally books and returns.—Statement of total vote cast.—Before separating, the judges shall include one set of such tally book and returns in each of two envelopes; each envelope shall then be sewed by drawing twice through it and the tally book and returns therein a substantial twine by tying the ends thereof together and then sealing the envelope in three places with wax and stamp furnished by the county auditor, one of which places shall be over the knot in the twine, then endorse the envelope in the following form: Tally book and returns of the election district of — in the county of — and direct one of these envelopes to the auditor and the other to the proper town, village, or city clerk. In towns, villages, and cities of the fourth class, one set of such tally book and returns, together with all unused and spoiled white, pink, and India tint ballots, shall be delivered to the auditor at his office, by a judge chosen by lot or agreement, within 24 hours after the closing of the polls and the other, in like manner, to the clerk of the municipal corporation. The judges shall also make two summary statements of the total votes cast for each person for any office, and for and against each proposition voted upon, and cause one of such statements to be filed with the auditor and cause the other of such statements to be filed with the city, village or town clerk, as the case may be, where they shall remain open to public inspection. (As amended Act Apr. 10, 1941, c. 194, §6.)

CHAPTER 10.—CANVASS OF VOTES BY ELECTION JUDGES

601-6(10)l. To be delivered to County Auditor.

Expense of delivering sealed envelope to county auditor is to be paid by towns, cities and villages. Op. Atty. Gen. (183k), Aug. 6, 1940.

601-6(10)k. Rules for canvassing ballots.

Irregularities in an official ballot do to error or mistake of election officer do not vitiate votes of an innocent elector unless such irregularities have been declared by statute to be fatal to validity of election, or unless they serve as distinguishing marks. Op. Atty. Gen., (28B), April 1, 1940.

Candidate "Christ Erickson, Jr." was properly elected though name on ballot was "William Erickson," or "Bill Erickson," there being no other person known by that name residing in the village. Op. Atty. Gen. (184E), Dec. 10, 1940.

CHAPTER 11.—CANVASSING BOARDS

601-6(11). Members of county canvassing board—

Duties.—The county canvassing board shall consist of the county auditor, the clerk of the district court, two members of the county board, to be selected by the board from among its members who are not candidates for nomination or election to such office, the mayor or president of the most populous municipality in the county; provided, however, in the event that any of said persons shall fail or refuse to serve on said canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint a qualified voter of the county, who shall not hold any public office, to take the place of such person on said canvassing board. Three members shall constitute a quorum and when sworn shall have power to act. Such board shall meet at the auditor's office at 10:00 A. M. on or before the third day after a primary election, take the oath of office, and publicly canvass the returns of such election made to the county auditor, and it shall complete the canvass by the evening of the sixth day following such election. The canvassing board shall forthwith make the following report and file same with the county auditor.

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

2. A separate statement showing the names of candidates of each political party who are nominated;

3. A statement of the whole number of votes registered and the number of ballots cast at such primary election; and

4. A separate statement of the votes received by each of the non-partisan candidates and the names of the non-partisan candidates nominated.

Whenever any candidates receive an equal number of votes for the same nomination the canvassing board shall determine the tie by lot.

Upon completion of such canvass, the county auditor shall forthwith certify to the secretary of state the vote, as shown by such report, for all candidates to be voted for in more than one county, and shall mail or deliver to each nominee who is to be voted for in his county only a notice of his nomination and that his name will be placed upon the official ballot; provided, however, that in any primary election for city officers in any city having a home-rule charter said canvassing board shall file with the clerk of such city a separate statement which will show the persons nominated for each office under the provisions of such charter, with such details as are provided in this section, omitting all political party designation, if such charter so provides.

Such canvassing board, within ten days after the general election, shall meet at the auditor's office and there publicly canvass the returns of such election made to said auditor, and shall complete such canvass without unnecessary delay, and forthwith make the following report and file same with the county auditor;

1. A statement of the whole number of votes cast in such county for the several state officers, including therein presidential electors, members of the legislature and judges of the district court, the names of the persons for which such votes were cast, and the number cast for each; and the total number of registered names in each election district, and the total number of ballots cast therein;

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

3. A statement of the names of all candidates for the offices of representative in congress, and the number of votes received by each;

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

5. A statement of the number of votes cast for and against any proposed amendment to the constitution, or other proposal submitted to popular vote.

Such canvassing board, having completed such canvass shall declare the person receiving the highest number of votes for each county office duly elected thereto; and when such county constitutes, or contains a senatorial or representative district it shall declare the persons receiving the highest number of votes, respectively for senator or representative duly elected. In case of a tie, the canvassing board shall determine the result by lot. (As amended Act Apr. 21, 1941, c. 330, §1.)

Clerk of district court, who is a candidate for reelection, is nevertheless eligible to serve ex officio as member of county canvassing board. Op. Atty. Gen., (183c), May 28, 1940.

CHAPTER 12.—NOMINATION AND SELECTION OF U. S. SENATORS

601-6(12)a. Candidates to file with Secretary of State.—Not more than 90 days nor less than 40 days before the primary election, any person eligible and desirous of having his name placed upon the primary ballot as a candidate for United States senator in congress from this state shall file his affidavit with the secretary of state, stating his residence, that he is a qualified voter in the State of Minnesota, the name of his political party, that he desires to be a candidate for the office of United States senator in congress, that he affiliated with said political party at the last general election and either that he did not vote thereat or voted for a majority of the candidates of said political party at such election and intends to so vote at the ensuing election. (As amended Act Apr. 10, 1941, c. 205, §1.)

CHAPTER 13.—MISCELLANEOUS

601-6(13). Compensation for election services.

All members of county canvassing board, ex officio and otherwise, are entitled to statutory per diem. Op. Atty. Gen., (183c), May 28, 1940.

601-6(13)a. Expenses to be paid by state.

Expense of delivering sealed envelope to county auditor is to be paid by towns, cities and villages. Op. Atty. Gen. (183k), Aug. 6, 1940.

PART SEVEN
ELECTION CONTESTS

CHAPTER 1.—GENERAL PROVISIONS

601-7(1). Who may institute contest.

Mailing by one candidate to his opponent of an anonymous letter containing improper matter could not constitute ground for contest. Effertz v. S., 291NW286. See Dun. Dig. 2994a.

Petition which merely alleges irregularities by election officials does not allege a violation of Corrupt Practices Act, which relates to conduct of candidates. Johnson v. D., 294NW839. See Dun. Dig. 2993c.

It is policy of court to give effect to votes of qualified electors, regardless of irregularities. Op. Atty. Gen., (434B-2), Mar. 5, 1941.

601-7(1)d. Trial.

Where legislative contest has been determined by district court and no appeal has been taken to supreme court, there has been a "final determination", and fact that one of the parties has exercised the privilege given

him of demanding that district court clerk transmit all files, records and evidence to presiding officer of house has no effect on power and duty of officer to issue a certificate of election. Op. Atty. Gen., (280E), Jan. 14, 1941.

601-7(1)f. Voter may contest election.

District court has no jurisdiction of a contest of a school district election. Johnson v. D., 294NW839. See Dun. Dig. 2981.

**PART EIGHT
VOTING MACHINES**

CHAPTER 1

601-8(1). Municipal corporations may provide for voting machines.

Where city authorities in Duluth have provided for use of voting machines at municipal election, school board of that district may make arrangements with city to use those machines. Op. Atty. Gen., (28a-9), Mar. 15, 1941.

601-8(1)a. May use experimental machines.—The governing body of any municipal corporation may provide for the experimental use of voting machines in one or more districts without formal adoption thereof; and the use of said voting machines at such election shall be as valid for all purposes as if the machines had been permanently adopted.

Whenever the governing body of any municipal corporation shall determine to use such machines, it shall, at a regular or special meeting held not less than 30 days before the election, prescribe suitable rules and instructions, not inconsistent with the provisions of this chapter, for using the same, submit the same to the attorney general for his approval, and, when approved by him, a printed copy of such rules and instructions shall be posted in a prominent place in the polling place and shall remain open to inspection by the voters throughout the election days. (As amended Act Apr. 10, 1941, c. 191, §1.)

601-8(1)b. Bond for upkeep of machines.

Obligee in bond should be city which purchases machines, and not secretary of state, but after execution bond should be filed with secretary of state. Op. Atty. Gen., (518), April 4, 1940.

A bond need not be given for each machine sold to city, a single or consolidated bond being sufficient. Op. Atty. Gen., (518), May 20, 1940.

Approval of bond by attorney general is not required, approval by city attorney, as to form and execution being sufficient. Id.

601-8(1)g. Officers to provide ballot labels, diagrams, etc., for voting machines.—The same authorities as are charged with providing paper ballots when such are used shall be required to provide all ballot labels, diagrams, sample ballots, return sheets and all other necessary supplies needed for the voting machines.

In state and county general elections the county auditor of each county using voting machines shall provide all ballot labels and other necessary printed forms and supplies needed for the voting machines, including all such forms needed for placing on such voting machines, all offices, candidates and constitutional amendments and other questions and propositions, the ballots for which are required by the election laws to be provided by the state when paper ballots are used. The total cost of printing and providing all such forms shall be prorated by each county auditor so that the state and county will each pay its proportionate share based on the total number of candidates and questions under the jurisdiction of each. The state shall pay to the county its proportionate share of such cost as herein provided, all provisions of the status of this state notwithstanding.

Except as herein provided all ballots (or ballot labels) shall be printed in black ink on clear white material of such size as will fit the ballot frame of the voting machine, and in as plain clear type as the space will reasonably permit. Candidates' names may be set in as large type as the length of the majority of such names of all candidates on the ballot permits and the remaining candidates' names may be set in such smaller sizes or styles of type as the length of each

such name requires based upon the available space in the frame of the voting machine. Constitutional amendment ballots (or ballot labels) shall be printed on material tinted pink and in a prominent place on such ballots, there shall be conspicuously printed a notice stating in substance that if a voter fails to vote on a constitutional amendment he votes, in effect, in the negative.

The authorities charged with the duty of providing ballots for any polling place where voting machines are used shall provide therefore at least two sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election for voting for all candidates whose names are entitled to be placed on the ballot at such election and shall also show such part of the face of the voting machine as shall be in use for voting for all referendum questions, constitutional amendments, or other propositions. Candidates' names shall not be rotated on such sample ballots but shall be arranged in alphabetical order for all offices where rotation of names on the official ballots on the voting machines is required by law. Such sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine. Not less than two such sample ballots shall be posted in a prominent place in the polling place and shall remain open to inspection by the voters throughout the election day as amended by Laws of 1941, Chapter 72. (As amended Act Mar. 17, 1941, c. 72, §2; Act Apr. 16, 1941, c. 245, §1.)

Where 33 out of 45 names of candidates and propositions appearing on diagram were state items, share of state liability was properly determined by dividing total cost of all labels, diagrams, ballots and return sheets necessary for use of voting machines by 45 and multiplying by 33. Op. Atty. Gen. (518), Dec. 3, 1940.

601-8(1)j. Payment for machines.

When public bidding is required, proposals and specifications must be so framed as to permit full and free competition, and any substantial and material departure from specifications, beneficial to successful bidders, in the contract entered into will render it void, notwithstanding that it appears there was only one bid. Rice v. C., 295NW529.

General election law regulating the purchase of voting machines controls over city charter, and city of St. Paul could purchase voting machines under a contract to pay 10 annual installments. Id.

601-8(1)o. Officials to prepare proper ballot labels—what included. It shall be the duty of the proper authority having direct charge of elections in each municipal corporation where voting machines are to be used to cause the proper ballot labels to be placed on the voting machines and to place said machines in proper order for voting. Said ballot labels shall have printed on the face thereof the words "Official Ballot", the date of the election, a facsimile of the signature of the officer under whose direction the ballot is printed. Said authorities shall examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, and to seal each voting machine with a numbered seal and to make a written record thereof.

Before preparing the voting machines for any election written notices shall be mailed to the chairman of the county committee of each political party, who have theretofore presented the name of said chairman to the county auditor, stating the times when and the place or places where the voting machines will be prepared, at which times and places one representative of each such political party designated by the respective chairman of such county committee of such party shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. In nonpartisan primaries and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election it shall be the duty of the custodians and political party or candidate representatives to make a certificate in writing which shall be filed in the office of the proper authority having charge of the conduct of elections in such municipal corporation, stating the serial number of each machine, whether or not all registered counters have been set at zero (000), the number of registered on the protective counter and the number of the metal seal with which the machine is sealed. (As amended Act Apr. 10, 1941, c. 188, §1.)

601-8(1)q. Instructions to judges.—Not more than 21 days before each election and primary at which a voting machine is to be used, there shall be held under the direction of the proper authority having charge of the conduct of the elections, a meeting or meetings for the purpose of instructing the judges about the operation of the voting machine and the duties of election officials when voting machines are used. Each judge serving in a district where voting machines are used, shall attend one such meeting preceding each election at which such judge is to serve, and shall receive a certificate showing that he has attended such instruction meeting and has been found qualified to serve. Each judge, who shall attend such instruction meeting and shall qualify and serve at an election, shall receive the sum of \$1.00 for the time spent in receiving such instruction, in addition to car or railroad fare in going to or returning from such meeting, which shall be paid at the same time and in the same manner as the payment for serving on election day. Such certificate shall not be issued to any person unless he has attended an instruction meeting and been found qualified and no person shall be eligible to serve as judge unless he has first received a certificate as herein provided. In case of emergency, when an insufficient number of certified judges are available for the proper conduct of the election there shall be appointed a sufficient number of judges to conduct such election, although such judges have not received the required certificate; provided, however, that no person shall be appointed a judge who is not a qualified voter in the district to which he is appointed as such judge.

The authorities in charge of elections shall provide adequate facilities for the instruction of voters prior to an election and they shall cause to be placed in one or more convenient locations a voting machine with sample labels affixed for the purpose of instructing voters in the operation of the machine. If the ballot labels that are used for this purpose are the same that will be used for the succeeding election the counting mechanism of the machine shall be concealed from view until the machine is prepared for the election and if the machine or machines are not used at the election the counting mechanism shall remain concealed from view until after the election.

The judges of each district shall meet at the polling place at least one hour before the time for opening the polls. The keys to the voting machines shall be delivered to one of the judges at least one hour before the time set for opening the polls in a sealed envelope on which shall be recorded the location and number of the voting machine, the number of the seal, and the number registered on the protective counter as reported by the custodian. The envelope containing the keys shall not be opened until the election officers of said district have examined the same to see that it has not been opened and shall have ascertained that the number registered on the protective counter and the numbers on the seals with which the machine is sealed correspond with the number recorded on the envelope containing the keys. If the envelope appears to have been opened, or if the numbers do not agree, or if the numbered metal seal is broken or has been tampered with, or if any other discrepancy is found, the judges shall immediately notify the custodian or other authorized person who

shall present himself at the polling place and re-examine such machine and if found to be properly arranged and in order to so certify. If the numbers on the seals and on the protective counter are found to agree with the numbers on the envelope, the judges shall then open the door concealing the registering counters and carefully examine every counter to see that it registers zero (000) and shall also allow the watchers to examine them. The judges shall then compare the ballot labels on the voting machine with the statements of canvass furnished, and see that the names and numbers, and letters, if any, thereon agree. The judge shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number of the seal or seals, the number registered on the protective counter, that all the registering counters are set at zero (000), and that the ballot labels are properly placed in the machine. (As amended Act Apr. 10, 1941, c. 189, §1.)

601-8(1)s. Judges to lock and seal machines after polls are closed—Sealing statements of canvass—Summary sheet disposed of.—As soon as the polls of the election are closed, the judges shall immediately lock or lock and seal each voting machine against voting. The judges shall then sign a certificate stating that each machine has been locked against voting or locked and sealed; the number of voters as shown on the public counter; the number on the seal; the number registered on the protective counter. The judges shall then open the counter compartment in the presence of the watchers and any other persons who may lawfully be present in the polling place, giving full view of all the counter numbers. One of the judges shall, under the scrutiny of the judge of a different political party, if such there be, if more than three judges be serving in such district, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designated number and letter, if any, on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. As each vote total is announced from the counter of the machine, it shall immediately be entered on the duplicate statements of canvass, in figures only, in ink, by two judges of different political parties, if such there be, in the same order on the space which has the same designating number and letter, if any, after which the figures shall be verified by being called off from the counters in the same manner as heretofore by a judge who recorded the totals on a statement of canvass during the original canvass of the results. If more than three judges are serving in such district, the other judge who recorded the totals on a statement of canvass during the original canvass shall act as watcher at the machine counters during the verification of the results. Each judge shall then sign a certificate which shall be a part of the statement of canvass stating that the results as shown on the statement of canvass are the true and correct results of the election, that the canvass has been completed in accordance with the law as herein provided. After the proclamation of the vote, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the judges. If absent voters' ballots have been voted, such ballots shall be canvassed and counted, the vote thereon for each candidate announced and added to the vote as recorded on the statement of canvass of votes cast by machine. Absent voters' ballots and irregular ballots, inclosed in properly sealed packages respectively, and properly endorsed, shall be filed with the original statement of canvass. The judge filing the returns shall deliver to the said board of officers from whom they were received, the keys to each voting machine,

inclosed in a sealed envelope having endorsed thereon a certificate of the judges stating the number of each machine, the district where it has been used, the number of the seal, if any, and the number of the protective counter.

In each district where voting machines are used, statements of canvass shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The arrangement of the names on the statements of canvass for each district shall conform exactly with the arrangement of the names on the voting machines to be used in such district. Such statements of canvass shall provide for the entry of the number of votes for each candidate and the "yes" or "no" of each question as shown on each voting machine used in the district; also for the absent voters' ballots and total number of votes, by such ballots and by machine, for each candidate and upon each question. Upon completion of the canvass the election judges shall inclose the statements of canvass in sealed envelopes without sewing with twine or sealing with wax. Such official statements of canvass may be opened by the authorities in charge of elections before the official canvass for the purpose of checking additions and compiling the unofficial returns and preparing the official records. Such official statements of canvass shall be used in lieu of the summary sheet which shall be dispensed with when voting machines are used.

The voting machines shall remain locked against use for a period of at least 30 days and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the election, except that any voting machine may be opened and all data and figures therein examined upon the order of any judge of a court having jurisdiction; provided, however, that any voting machine used at a primary election may be opened ten days following such primary election if such opening becomes necessary in order to prepare the voting machine so used at such primary election for an election which is to be held on a day which is within 40 days after the day upon which such primary election is held.

Irregular ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents thereof examined only upon an order of a judge of a court having jurisdiction, and after the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

The municipal corporation adopting the machines shall have the custody thereof when not in use at an election and shall preserve and keep them in repair. All keys for voting machines shall be securely preserved under lock and key by the officer having theme in charge. A public officer who by any provision of law is entitled to the custody of the machine for any period of time, shall be entitled to the keys therefor of such machines in his charge. It shall be unlawful for any unauthorized person to have in his possession any keys of any voting machine; and all election officers or persons entrusted with such keys for election purposes or in preparation of the machine therefor shall not retain them longer than necessary to use them for such legal purposes. (As amended Act Apr. 10, 1941, c. 190, §1.)

PART NINE PENAL PROVISIONS

CHAPTER 1

601-9(1)b. Same.

Candidate may print football schedule on back of his campaign cards. Op. Atty. Gen. (627f-1), Sept. 16, 1940.

601-9(1)i. Certain acts to be gross misdemeanor.

Mailing by one candidate to his opponent of an anonymous letter containing improper matter could not constitute ground for contest. Effertz v. S., 291NW286. See Dun. Dig. 2993f.

601-9(1)s. Certain acts of corporations to be felonies—Penalties.

La Belle v. H., 288NW788; note under §563.

PART TEN CORRUPT PRACTICES

CHAPTER 1

601-10(1). Definitions and construction of terms.

Corrupt Practices Act, insofar as it can reasonably be made to do so, applies to primary and general village elections. Op. Atty. Gen. (472E), Nov. 22, 1939.

Corrupt Practices Act, in so far as it can be made to do so, applies to town elections. Op. Atty. Gen., (121B-9), April 5, 1940.

Political committees are either party committees, personal campaign committees, or what has come to be known as "volunteer", or "voluntary", and the expenditures of "volunteer" committees, if organized and operated in good faith, need not list or report expenditures, or at least they need not be reported by any political party or personal campaign committee. Op. Atty. Gen. (627c-7), Aug. 8, 1940.

Corrupt Practices Act applies to an election for removal of a county seat. Op. Atty. Gen. (106E), Dec. 24, 1940.

601-10(1)aa. Publications of certain matter corrupt practice.

Word "same" refers back to "said matter", and not to "the amount to be paid". Op. Atty. Gen. (627k-10), Aug. 27, 1940.

601-10(1)d. Printed matter must include name of person distributing.

Mailing by one candidate to his opponent of an anonymous letter containing improper matter could not constitute ground for contest. Effertz v. S., 291NW286. See Dun. Dig. 2993f.

A voluntary political committee must comply with this section. Op. Atty. Gen. (627c-7), Aug. 21, 1940.

Removal of a county seat is a "proposition to be voted upon." Op. Atty. Gen. (106E), Dec. 24, 1940.

Literature circulated at a special city election called to vote on adoption or amendment of a home rule charter, intending to influence voting, must bear on face thereof name and address of author. Op. Atty. Gen., (627B-1), Jan. 8, 1941.

601-10(1)gg. Soliciting near polling places prohibited.

Distribution of stickers containing name of a candidate followed by a cross within 100 feet of polls at a town election, if done with knowledge, sanction, consent or connivance of candidate and not from any accidental miscalculation, subjects offending candidate to penalties of act. Op. Atty. Gen., (121B-9), April 5, 1940.

Stickers may be circulated and distributed on election day if nothing appears thereon except name of candidate. Op. Atty. Gen. (627f-2), Nov. 19, 1940.

Corrupt practices act does not apply to township elections; and writing names on ballots and distribution of stickers at polls is lawful. Op. Atty. Gen., (434B-2), Mar. 5, 1941.

601-10(1)j. Must file verified statement of expenditures.—Every candidate, and the secretary of every personal campaign and party committee, shall, on the last Monday in August, on or before the tenth day following the primary, on the third Monday in October, and on or before the tenth day following the general election, file a financial statement verified by the candidate or the secretary of the committee, as the case may be, which shall show in itemized detail all transactions, all disbursements, and all obligations to make disbursements, for political purposes. Each statement, after the first, shall contain a summary of all preceding statements.

The statement of any candidate and the statement of his personal campaign committee shall be filed with the filing officer of such candidate. The statement of every state committee and of every congressional committee shall be filed with the secretary of state. The statement of every party committee for a legislative district shall be filed with the filing officer of the candidate for senator or representative in such legislative district. The statement of every other party committee for a legislative district shall be filed with the filing officer of the candidate for senator or repre-

sentative in such legislative district. The statement of every other party committee shall be filed in the office of the county auditor of the county within which, or for a subdivision within which such disbursements were made. Each statement shall give in full detail:

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

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

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

(d) Every obligation, expressed or implied, to make any disbursement incurred by such candidate or committee for political purposes during such period, together with the names of the person or persons to or with whom each such obligations made in any amounts or manner whatsoever.

Statements shall also be made by any other political committee showing the total amount of receipts and disbursements, and for what purpose such disbursements were made. Such statement shall be filed with the auditor of the county in which the committee has its headquarters within 30 days after any primary or election.

Provided, however, that every candidate for nomination at a primary municipal election, or at a special municipal election, or at a general municipal election in cities of the first class, and the secretary of every personal campaign committee or campaign committee, on the second Saturday occurring after such candidate or personal campaign committee or campaign committee has first made a disbursement or first incurred any obligation, expressed or implied, to make a disbursement for political purposes, and thereafter, on the second Saturday of each calendar month, until all disbursements shall have been accounted for, and also on the Saturday preceding any primary municipal election, special municipal election, or general municipal election in cities of the first class, shall file a financial statement, verified upon the oath of such candidate, such personal campaign committee, or campaign committee, as the case may be, which statement shall cover all transactions not accounted for and reported upon in statements theretofore filed. Each statement after the first shall contain a summary of all preceding statements and summarize all items theretofore reported under the provisions of this act; provided further, that blanks for all statements required by this proviso shall be prepared by the secretary of state, and copies thereof, together with a copy of this section, shall be furnished, through the auditor, or otherwise, as the secretary of state may deem expedient, to the secretary of every committee and to every candidate, upon the filing of nomination papers by such candidate, and to all other persons required by the charter of such municipalities or any election law applicable to such municipality, in which

any municipal primary election, special municipal election, or general municipal election is being held or is to be held under the provisions of any such municipal charter, or applicable law, and to all other persons required by law to file such statements who may apply therefor; and provided further, that the provisions hereof relating to the filing of verified statements of expenditures shall be in addition to requirements contained in the charter of any municipalities requiring the filing of verified statements of expenditures in connection with any municipal primary election, special municipal election, or general municipal election held or to be held in cities of the first class under any such municipal charter or applicable law. The verified statements required by this proviso shall be filed with the proper filing officer of any such municipality. (As amended Act Mar. 7, 1941, c. 51, §1.)

Political committees are either party committees, personal campaign committees, or what has come to be known as "volunteer", or "voluntary", and the expenditures of "volunteer" committees, if organized and operated in good faith, need not list or report expenditures, or at least they need not be reported by any political party or personal campaign committee. Op. Atty. Gen. (627c-7), Aug. 8, 1940.

Verified statements of candidate are public records open to examination by public. Op. Atty. Gen. (851), Sept. 7, 1940.

Provision of Corrupt Practices Act requiring filing of expense accounts does not apply to city elections in first class cities. Op. Atty. Gen., (627B-1), Jan. 6, 1941.

Candidate for municipal office in city of third class which has not adopted primary election system of nominating candidates should file an expense account. Op. Atty. Gen., (627B-1), Feb. 28, 1941.

Candidate for municipal office at primary election in city of the fourth class need not file expense account, in view of Laws 1941, ch. 51. Op. Atty. Gen., (627B-8), Mar. 10, 1941.

In view of Laws 1941, ch. 51, provision requiring every candidate to file a statement of receipts and expenditures does not apply to a candidate for municipal office in a city of second, third, or fourth class, or a village. Op. Atty. Gen., (627B-8), Mar. 11, 1941.

(d). A voluntary political committee is required to file a report with the county auditor in form and at time provided herein. Op. Atty. Gen. (627c-7), Aug. 21, 1940.

601-10(1)o. Corporations not to contribute to political campaign.

Bar association organized as a social and charitable corporation is doing business within state within meaning of corrupt practices act, and can not contribute money, property or services to any political party, organization, committee or individual for political purposes, but expenditures to defray expense of a plebiscite and furnishing services of officers in managing the same in connection with election of judicial officers does not constitute contribution of money or services. *La Belle v. H.*, 288NW788. See Dun. Dig. 2994.

601-10(1)rr. Filing officers shall notify candidate or committee.

Giving of notice by county attorney and failure to comply with it is a prerequisite to prosecution. Op. Atty. Gen., (627B-8), Mar. 11, 1941.

Whether there should be a prosecution is an administrative question for county attorney to decide. Id.

601-10(1)s. County Attorney to inquire into violations.

It is no part of duty of county attorney to begin proceedings to annul a nomination or an election, but his duty is to prosecute for violation of act, in which case he may proceed by information if he so desires, rather than convene a grand jury. Op. Atty. Gen., (121B-9), April 5, 1940.

PART ELEVEN TOWN, VILLAGE AND CERTAIN CITY ELECTIONS

CHAPTER 1.—TOWN MEETINGS

601-11(1). First town meeting.

Voters may take a recess but polls must remain open throughout period. Op. Atty. Gen., (911P), Jan. 28, 1941.

General provision of election law as to presence of peace officers at polls applies to town elections. Op. Atty. Gen., (434B-17), Feb. 14, 1941.

601-11(1)a. Annual town meeting—Date of.

Town board may not hold future elections in a recently constructed town hall without first securing an enabling vote of electors. Op. Atty. Gen. (434B-13[3]), Aug. 9, 1940.

Last day for filing as a candidate for town office after Mar. 11, 1941, town election is Feb. 25, 1941. Op. Atty. Gen., (434B-2), Mar. 5, 1941.

A resolution adopted at annual meeting that no warrants would be drawn upon any fund not specifically set aside for payment in connection with construction of roads or building of new projects was of no effect. Op. Atty. Gen. (442a-1), Mar. 27, 1941.

601-11(1)b. Special town meetings to fill vacancies.

Town has authority at a special meeting to authorize town board to remodel and enlarge town hall and determine amount of money to be raised for such purpose. Op. Atty. Gen. (434c-2), April 23, 1940.

A special town meeting to vote on buying of site for a town hall and on building a town hall may be called for day on which general election is to be held, but place of that meeting may not be in polls where general election is being conducted. Op. Atty. Gen. (185B-2), Oct. 16, 1940.

In case of vacancy in town office it is for town supervisors to say whether there shall be a special election or whether they shall fill vacancy by appointment. Op. Atty. Gen., (437-2-21), Jan. 10, 1941.

It is not required that town officers who are petitioners be freeholders. Id.

601-11(1)h. Judges of election.

There is no provision for appointment of extra judges or clerks of election to serve at an annual town meeting. Op. Atty. Gen., (434B-12), March 8, 1940.

Town clerk who is a candidate to succeed himself may not lawfully serve as judge of election. Op. Atty. Gen., (183J), March 27, 1940.

601-11(1)i. Hours of polling.

This section does not relate to general elections in township, but governs merely voting at annual town meeting. Op. Atty. Gen., (434B-13a), Jan. 19, 1940.

601-11(1)j. Officers to be elected by ballot—Exceptions.

Use of Australian ballot system at town elections is, now compulsory and candidates must file not less than two weeks before election. Op. Atty. Gen., (266B-20), March 6, 1940.

Corrupt practices act does not apply to township elections, and writing names on ballots and distribution of stickers at polls is lawful. Op. Atty. Gen., (434B-2), Mar. 5, 1941.

601-11(1)k. Election registers.

Use of Australian ballot system is compulsory. Op. Atty. Gen., (434B-3), Feb. 13, 1940.

601-11(1)m. Method of canvassing.

Where disqualified person participated in a town election and two candidates receiving highest number of votes were tied and such result was declared by judges of election, judges cannot meet again and recount ballot and result must stand until reversed by a court, contest statute not applying, and a vacancy existing in office to be filled by appointment. Op. Atty. Gen., (434B-11), Mar. 24, 1941.

601-11(1)p. Notice to specify each proposition to be voted on.

Proposal to authorize town board to provide general fire protection is not required to be determined by ballot and therefore need not be specified in notice of annual town meeting, but matter of an appropriation for the purpose must be determined by ballot and proposal must be shown in notice of meeting. Op. Atty. Gen., (618K), Feb. 10, 1941.

It would not be improper to include in notice of annual town meeting a statement that a proposal to acquire additional land for a cemetery will be voted upon, but it is not necessary. Op. Atty. Gen., (870d), Feb. 10, 1941.

601-11(1)r. Organization meetings.

Purpose of section is to take care of situation where there are no town officers, and persons appointed hold only until next annual meeting and not for balance of unexpired term. Op. Atty. Gen., (437a-5), Feb. 5, 1940.

601-11(1)rr. Officers elected at annual meeting.

A candidate for town office in order to have his name appear upon official ballot must file an affidavit and pay \$1 filing fee, and if no one files for town office, an official ballot should nevertheless be printed listing name of offices to be filled and containing blank spaces, and if only one candidate files for an office, then only his name should be printed upon official ballot though voters are not limited to persons printed thereon. Op. Atty. Gen. (911p), Feb. 13, 1940.

Town clerk, town treasurer, and town assessor are to hold offices for two years. Op. Atty. Gen. (439h), March 8, 1940.

Immediately after results of town election have been proclaimed person elected is entitled to qualify, and incumbent does not have right to insist on serving out a full three year term. Op. Atty. Gen., (437a-20), March 27, 1940.

Assessors should be elected in even-numbered years notwithstanding fact that statute expressly requires them to be elected in odd-numbered years, and amendment of statute is suggested. Op. Atty. Gen., (12B-2), Jan. 10, 1941.

Offices of town clerk and justice of the peace are not incompatible. Op. Atty. Gen., (358d-4), Mar. 5, 1941.

601-11(1)tt. Officers to take oath of office.

Where one after election as town clerk fails to qualify within time required by law, a vacancy results to be filled by appointment until next annual town meeting, at which time a successor may be elected for balance of unexpired term. Op. Atty. Gen., (436p), April 30, 1940.

CHAPTER 2.—VILLAGE ELECTIONS

601-11(2). Present laws to govern village elections.

Date of annual village election in Litchfield is now governed by Laws 1939, chapter 345, part 11, chapter 2, §8, but offices to be filled thereat are those specified in special acts under which village is organized and operating. Op. Atty. Gen. (472a), Oct. 6, 1939.

A primary election should be held in advance of village election in Nashwauk. Op. Atty. Gen. (186E), Oct. 27, 1939.

Village election in Brownsville should be held on first Tuesday after first Monday in December, in view of Laws 1929, chapter 413. Op. Atty. Gen., (472f), Oct. 30, 1939.

601-11(2)b. Elections to be by Australian ballot.

Use of Australian ballot system at town meetings is compulsory, and there should be an official ballot prepared at expense of township, and ballot should be marked secretly by voters. Op. Atty. Gen. (434B-3), Jan. 22, 1940.

Use of Australian ballot system is compulsory at township elections. Op. Atty. Gen. (434B-2), Jan. 31, 1940.

601-11(2)c. Candidates shall file affidavit of candidacy—Fee.

Provision that names of candidates shall be arranged alphabetically does not apply to a primary village election ballot, and does not apply to the village of Hibbing. Op. Atty. Gen. (186E), Nov. 20, 1939.

Filing fees should be turned in to the village treasurer. Op. Atty. Gen. (472h), Nov. 28, 1939.

Village clerk serves as clerk of election board, and when two clerks are required the other is appointed by the council. Id.

A voter may cast his ballot for any eligible person regardless of whether or not his name appears on ballot, by writing in name of candidate he favors. Op. Atty. Gen. (472B), Dec. 1, 1939.

Where candidate filed for trustee, paying required fee, and latter requested clerk to change his filing to that of village president without payment of an additional filing fee his election as village president entitled him to exercise duties of office unless prevented by a decree of court. Op. Atty. Gen. (911d-1), Dec. 15, 1939.

Payment of a dollar fee is a condition precedent to filing of affidavit of candidacy. Op. Atty. Gen. (911d), Jan. 30, 1940.

If no one files for village office, an official ballot should nevertheless be printed with names of offices and appropriate blank spaces where voters may write names of persons. Id.

Filing fee should be turned into town treasury and placed in its general fund, and does not belong to town clerk or town treasurer. Op. Atty. Gen. (911d-3), Feb. 16, 1940.

Candidate "Christ Erickson, Jr." was properly elected though name on ballot was "William Erickson," or "Bill Erickson," there being no other person known by that name residing in the village. Op. Atty. Gen. (184E), Dec. 10, 1940.

Candidate for office in borough of Belle Plaine, incorporated under special laws, should be nominated by filing affidavit of candidacy or otherwise as provided by general election law and not as provided in incorporation act. Op. Atty. Gen., (472h), Jan. 9, 1941.

Day of election should be counted and day of filing of candidates should be excluded in computing two weeks' period. Op. Atty. Gen., (911P), Jan. 28, 1941.

601-11(2)d. Provisions of general election law to apply.

Corrupt Practices Act, insofar as it can reasonably be made to do so, applies to primary and general village elections. Op. Atty. Gen. (472E), Nov. 22, 1939.

601-11(2)f. Village officers.

Offices to be filled at village are those specified in special acts under which village is organized and operating. Op. Atty. Gen. (472a), Oct. 6, 1939.

Village assessors are to be elected in even numbered years, notwithstanding contrary provision in this section. Op. Atty. Gen. (12B), Oct. 16, 1939.

Notwithstanding express provision that assessor should be elected in odd numbered years, assessors must be elected in even numbered years. Op. Atty. Gen. (12B-2), Nov. 21, 1939.

Village recorder is to be elected for a two year term, but it is not clear that legislature intended such officer to be elected only in the even numbered years. Op. Atty. Gen. (470k), Nov. 27, 1939.

Term of president of village council has been extended to the two years by Laws 1939, chapter 185, notwithstanding provisions of Laws 1939, chapter 345. Op. Atty. Gen. (471h), Nov. 28, 1939.

Procedure set forth for election on question of incorporation of a village and election of officers. Op. Atty. Gen. (484E-4), Dec. 18, 1939.

Village president reelected to office may file his oath of office by mail. Op. Atty. Gen. (471h), Dec. 20, 1939.

If a vacancy in office of village president has been created by removal from village, no judicial action looking to removal is necessary, but council may adopt a resolution declaring a vacancy and appointing a new president for remainder of term. Id.

Refusal of village president elect to serve creates a vacancy, and council may appoint any person who is eligible to vote, who will hold office until first secular day in January, 1942. Op. Atty. Gen. (471h), Dec. 26, 1939.

Mayor as member of council is entitled to vote on matters coming before body, and may second motion if not contrary to rules adopted by council. Op. Atty. Gen. (847c-1), Jan. 15, 1940.

Where a village president permanently removes outside village he automatically vacates his office and leaves a vacancy to be filled by council by appointment for balance of unexpired term. Op. Atty. Gen. (471h), Jan. 30, 1940.

If council fails to appoint some one to fill vacancy, then remaining trustees continue to function as a council, provided a quorum must always be present, and three members constitute a quorum in a village operating under Laws 1885, c. 145. Op. Atty. Gen. (471N), Feb. 1, 1940.

This section supersedes §1134 of Mason's Statutes of 1927, which was repealed by Laws 1929, c. 413. Op. Atty. Gen. (472f), Oct. 1, 1940.

Newly elected village officers may qualify at any time before first secular day in January and within a reasonable time thereafter, incumbent holding over until successor qualifies. Op. Atty. Gen. (470h), Dec. 20, 1940.

Assessors should be elected in even-numbered years notwithstanding fact that statute expressly requires them to be elected in odd-numbered years, and amendment of statute is suggested. Op. Atty. Gen., (12B-2), Jan. 10, 1941.

An assessor should have been elected in Heron Lake at Dec. 1938 village election to hold office for a 2-year term expiring first secular day in Jan. 1941, and any vacancies in such office should be filled by appointment by council for balance of any unexpired term. Op. Atty. Gen., (12B-5), Jan. 31, 1941.

601-11(2)g. Date of village election.—All village elections for the terms and in the manner herein provided shall be held annually on the first Tuesday after the first Monday of December in each year at which the officers specified in section 7 of this chapter shall be elected for the terms following, to wit: President, for a term of two years; one trustee, for a term of three years; and all other such officers, each for a term of two years. All terms, except as herein otherwise provided, shall commence on the first secular day of January following the election.

Municipal judges shall be elected for four year terms, commencing on the first secular day in January following the election and until their successors are elected and qualified. Provided, however, that the existing succession of terms of municipal judges elected under the provisions of Laws 1925, Chapter 4, or may amendments thereto, shall be continued, and successors to such municipal judges shall be elected for four year terms at the elections in December pre-

ceding expiration of the term of such municipal judges, respectively.

In every village to which this act applies, the office of President of the village council shall be voted upon at the 1941 village election. The president of the council now in office in every such village shall continue to serve until the first secular day of January, 1942, or until his successor qualifies. (As amended Act Feb. 19, 1941, c. 13, §1.)

Dates of annual village election are governed by this act and not by special acts under which villages are organized and operating. Op. Atty. Gen., (472a), Oct. 6, 1939.

Laws 1939, c. 185, amending §1152-12, extended term of office of village president from one to two years notwithstanding conflicting provision in this section. Op. Atty. Gen., (471h), Oct. 30, 1939.

By virtue Laws 1929, c. 185, term of village president is 2 years instead of one. Op. Atty. Gen. (472f), Oct. 1, 1940.

This section supersedes §1134 of Mason's Statutes of 1927, which was repealed by Laws 1929, c. 413. Id.

Notwithstanding new election law, it is probable that the term of a municipal judge begins on first Monday in January rather than on first secular day. Op. Atty. Gen. (307K), Dec. 16, 1940.

Term of office of village president is 2 years by virtue of Laws 1939, c. 185, notwithstanding contrary provisions in this section. Op. Atty. Gen. (471h), Dec. 17, 1940.

601-11(2)h. Canvassing of votes.

Where there is no question about genuineness of returns or that all returns are before them, powers and duties of canvassers are limited to mechanical function of ascertaining apparent result of election by adding or compiling votes cast for each candidate as shown on face of returns before them, and cannot inquire into regularity of election or determine consequences of a candidate acting as a judge, though they may report fact of candidate acting as a judge, leaving consequences to be determined by a court. Op. Atty. Gen. (183J), Dec. 6, 1940.

CHAPTER 4.—ELECTIONS IN CITIES OF THE FOURTH CLASS

601-11(4)l. Terms of elective offices.

Act May 5, 1941, c. 124, §1, makes term of mayor two years and until his successor is elected and qualified, in any city of the fourth class having population of less than 1,000 and not operating under a home rule charter.

601-11(4)n. Conduct of election.

Sections 16 to 20 of this chapter govern a municipal election in Chisholm, unless its charter prescribes otherwise, in which case charter provisions rule. Op. Atty. Gen., (64d), Oct. 11, 1939.

City elections in Renville continue to be governed by home rule charter and not by this chapter. Op. Atty. Gen., (64h), March 5, 1940.

601-11(4)o. Affidavit of candidacy.

Date of regular municipal election in Windom, a fourth class city, being April 8, 1941, affidavits of candidates for municipal office must be filed 15 days before that election, and last day is Mar. 24, 1941, and Secretary of State must receive filings up to usual hour of closing, and may, if he wishes, receive them up to midnight. Op. Atty. Gen., (911a-1), Mar. 10, 1941.

Laws 1870, chap. 31 fix the date of annual election in city of Canby, but conduct thereof is governed by this act, and a candidate for municipal office may withdraw, but is not entitled to a refund of filing fee. Op. Atty. Gen. (911q), Mar. 27, 1941.

601-11(4)p. City clerk to prepare ballots; etc.

Names of candidates on primary ballot of a city should be alphabetically arranged, unless otherwise provided by city charter. Op. Atty. Gen., (28B-2), Mar. 15, 1941.

CHAPTER 7

Counties and County Officers

CHANGING COUNTY SEATS

625. Petition for change.

If petition for removal is signed before but not presented to county auditor until after November general election, it will be necessary that it contain signatures equal to 60 per cent of voters who will vote at that election. Op. Atty. Gen. (106E), Oct. 25, 1940.

Corrupt Practices Act applies to an election for removal of a county seat. Op. Atty. Gen. (106E), Dec. 24, 1940.

627. Duties of county board.

County commissioners must act upon petition within a reasonable time, and mandamus will lie to compel act. Op. Atty. Gen., (106E), Dec. 30, 1940.

631. Conduct of election.

Form of ballot prescribed should be complied with, and there is no provision for any rotation. Op. Atty. Gen., (106E), Dec. 30, 1940.

Ballot for special election held in proper form. Op. Atty. Gen., (106e), Jan. 29, 1941.