

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by  
the  
Publisher's  
Editorial Staff

**MINNESOTA STATE LAW LIBRARY**

MASON PUBLISHING CO.  
SAINT PAUL 1, MINNESOTA

1944

~~PROPERTY OF  
MAHONIN LAW LIBRARY  
ASSOCIATION~~

(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.)  
[181.59]

CHAPTER 6  
Elections

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

NOMINATION BY DIRECT VOTE

**204. 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 [Repealed.]**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., 206M331, 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 [Repealed.]**

Adoption of primary election system for nomination of candidates for village offices did not make applicable provisions of corrupt practices act requiring candidates to file verified itemized statements of their expenditures. Aura v. Brandt, 211M281, 1NW(2d)381. See Dun. Dig. 2994.

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.

Sections 317-1 to 317-6 were repealed by Laws 1939, c. 345. Op. Atty. Gen. (472t), Oct. 21, 1943.

CORRUPT PRACTICES

**556. Statements of disbursements. [Repealed.]**

Provisions of this section were not continued in new act so far as requiring candidates for village offices to

file verified statements of expenditure. Aura v. Brandt, 211M281, 1NW(2d)381. See Dun. Dig. 2994.

**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., 206M290, 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., 206M331, 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., 206M290, 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. Holm, 208M589, 296NW30. See Dun. Dig. 2915a, 2927b, 2928, 2929.

Statutory regulation of the election franchise must be so construed as to insure, rather than defeat, full exercise thereof when and wherever possible. Flakne v. Erickson, 213M146, 6NW(2d)40. See Dun. Dig. 2915.

Statutes relating to primaries and elections do not confer right on qualified persons to become candidates for office but merely regulate the exercise of such right in an orderly way. Id.

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., 208M557, 294NW839. See Dun. Dig. 2981.

Where failure of election officials to comply with requirements of election laws designed to give notice of election results in but a few out of a large number of voters exercising right to vote at time and place

designed by law, there is no election, and there was no election of a village assessor where there was no indication on ballot that an assessor was to be elected, due to misconstruction of law by village election officers. State v. Turnbull, 212M382, 3NW(2d)674. See Dun. Dig. 2960, 2960a.

As a general rule an election shall be decided by required majority of votes cast, irrespective of number of persons entitled to vote, and qualified voters who fail to vote are bound by expressed will of those who do. Id. See Dun. Dig. 2968.

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)ee. Same—"Political party".**

Where regular nomination for Congress by a particular party fails for lack of required votes by that party at primary in a district, certificates of nomination of candidate for that office may carry the political appellation of the party which failed to nominate candidate at the primary, but not names of other party successful in nominating candidate. Op. Atty. Gen. (28B-3), Sept. 28, 1942.

**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.

A voter who registered in 1940, but who did not vote in 1940 and 1941, is entitled to vote at general election in November 1942, without reregistering. Op. Atty. Gen. (183r), Sept. 14, 1942.

A person who is not a duly registered voter is not entitled to vote in district in which he is otherwise a qualified voter upon taking oath. Op. Atty. Gen. (183r), Sept. 14, 1942.

**601-2(1)b. Commissioner of Registration.**

Registration law for certain villages is not repealed. Op. Atty. Gen. (472t), Oct. 21, 1943.

**601-2(1)c. Compensation of commissioner.**

Section confers discretion on city council as to what, if any, compensation shall be paid. Op. Atty. Gen. (183r), Apr. 19, 1941.

**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)i. 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)l. 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.

**601-2(2)m. Commissioner to check registration list.**

A voter who registered in 1940, but who did not vote in 1940 and 1941, is entitled to vote at general election in November 1942, without reregistering. Op. Atty. Gen. (183r), Sept. 14, 1942.

**CHAPTER 5.—REGISTRATION OF ELECTIONS**

**601-2(5)a. Oath to electors.**

A person who is not a duly registered voter is not entitled to vote in district in which he is otherwise a qualified voter upon taking oath provided by this section. Op. Atty. Gen. (183r), Sept. 14, 1942.

**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.**

Act authorizing change in time of holding primary municipal elections in cities of the first class. Laws 1943, c. 408.

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)a. Candidates to be chosen at primary election; etc.**

Title of office should precede name of each candidate on ticket. Op. Atty. Gen. (186j), Aug. 26, 1942.

Where a candidate nominated at primary withdraws, man who ran third at primary will automatically be moved up to next place on ballot. Op. Atty. Gen. (184n), Sept. 17, 1942.

Names of candidates are not to be placed on primary election ballot when there is no contest in that not more persons filed than twice number of places to be filled. Op. Atty. Gen. (186e), March 17, 1943.

Blank spaces should not be left under names of candidates on primary election ballot so that a voter may write in name of a person whose name does not appear on the ballot. Op. Atty. Gen. (186e), March 17, 1943.

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

Narrow construction of statute fixing time for filing primary nomination papers should be avoided. Flakne v. Erickson, 213M146, 6NW(2d)40. See Dun. Dig. 2927a.

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.

First day on which a person may file as candidate for state, county, and congressional offices is June 10, 1942, and last day is July 30, 1942, and last day on which a candidate may file an affidavit of withdrawal is August 7, 1942. Op. Atty. Gen. (911o), Jan. 7, 1942.

Affidavit was not filed until it reached office of county auditor, and date of mailing or postmark is unimportant. Op. Atty. Gen. (911i), July 20, 1942.

County auditor may accept filings on last day after his office has closed for the day and up until midnight of that day, if he so desires. Op. Atty. Gen. (911i), July 28, 1942.

Affidavit must be signed and sworn to by candidate personally. Op. Atty. Gen. (911a-2), Aug. 6, 1942.

A candidate at primary election for nomination of a county officer, who duly filed his affidavit, may not withdraw his candidacy more than eight days after last day for filing for such office. Op. Atty. Gen. (184n), Aug. 21, 1942.

Section applies only to primary elections. Op. Atty. Gen. (911q), Sept. 16, 1942.

**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, 208M 402, 294NW373. See Dun. Dig. 2273.

CHAPTER 2.—NOMINATION BY CONVENTIONS

**601-3(2). Political party conventions—Selection of committees.**—Each political party shall provide \* \* \*

(a) The nominees for state offices, senators and representatives in congress of each political party, shall meet on the second Monday after the primary election at the state capitol at twelve o'clock noon, at which time they shall elect a state central committee, herein provided for, of such size as they shall at said time determine, and shall also elect a congressional committee for each congressional district, of such size as they shall at said time determine, the members of each congressional committee to be chosen from among the electors of the several congressional districts respectively. (As amended Act Feb. 18, 1943, c. 47, §1.)

(b) \* \* \* \* \*

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 district judge whose term of office would not have expired for a number of years dies after primary election and 33 days before general election, any number of nominating petition could be filed on or before the third Tuesday preceding the general election, those filing less than 30 days as well as those filing more than 30 days before election. Flakne v. Erickson, 213M 146, 6NW(2d)40. See Dun. Dig. 2927a.

No limitation upon number of candidates who may file by nominating petition. Id. See Dun. Dig. 2928.

A candidate designated in the nominating petition as "Real Democrat" has no power to change the designation selected by his petitioners and to omit from the designation the word "Real" so as to be eligible for nomination of the democratic party which failed to cast required number of votes at the primary election or to be considered as nominated without party designation. O'Brien v. O'Brien, 213M140, 6NW(2d)47. See Dun. Dig. 2928.

The ban of §202.19 is lifted by §202.24 only so far as to permit the persons who had been such candidates to be nominated by petition by the party which failed to cast the requisite number of votes at the primary. Id.

Where a vacancy in a nomination for office of associate justice of supreme court occurs after primary, person receiving the next highest number at primary shall be the candidate, and it is duty of secretary of state to place the name of such person on ballot as nominee and not to accept a nomination by petition for that office of an unsuccessful candidate at primary election. Enger v. Holm, 213M154, 6NW(2d)101. See Dun. Dig. 2929, 4954.

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.

This section was not intended to apply to a city election in a fourth class city, such as St. Peter. Op. Atty. Gen. (184A), Mar. 10, 1942.

Nomination to nonpartisan office by petition is not permitted where there is no vacancy, and there is no vacancy when there is nominated and available at time of making up the general election ballot one person for each office to be filed. Op. Atty. Gen. (184f), Aug. 7, 1942.

Where district judge died after primary and before general election and there was no candidate in primary election for position held by such judge nominating petition signed by any elector could be filed not later than third Tuesday prior to election day if signed by five per cent of entire vote cast in district at preceding general election or not to exceed 500, and term of candidate elected would begin first Monday in following year and term should be 6 years, and not for the unexpired portion of term of deceased judge. Op. Atty. Gen. (184d), Sept. 21, 1942, Oct. 1, 1942.

Any qualified voter can sign petition where no nominees were voted for at primary for office in question, and same certificate need not be signed by all voters, but all must be attached together and filed as one document. Op. Atty. Gen., Oct. 5, 1942.

A candidate who failed nomination at primary election for lack of required votes by his party in that district is eligible for nomination by petition, along with any number of other candidates by petition. Op. Atty. Gen. (28b-3), Oct. 8, 1942.

**601-3(3)a. Form of certificates—Presidential electors.**

Where regular nomination for Congress by a particular party fails for lack of required votes by that party at primary in a district, certificates of nomination of

candidate for that office may carry the political appellation of the party which failed to nominate candidate at the primary, but not names of other party successful in nominating candidate. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

**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.

Voters at primary may not sign petition where regular nomination for a particular party failed for lack of required votes if other candidates for same office were nominated at such primary by any party, but may sign if no nominations were made at primary or they did not vote at such primary. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

**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 a vacancy in a nomination for office of associate justice of supreme court occurs after primary, person receiving the next highest number at primary shall be the candidate, and it is duty of secretary of state to place the name of such person on ballot as nominee and not to accept a nomination by petition for that office of an unsuccessful candidate at primary election. Enger v. Holm, 213M154, 6NW(2d)101. See Dun. Dig. 2928, 4954.

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)e. Nominees of political parties, etc.**

A candidate designated in the nominating petition as "Real Democrat" has no power to change the designation selected by his petitioners and to omit from the designation the word "Real" so as to be eligible for nomination of the democratic party which failed to cast required number of votes at the primary election or to be considered as nominated without party designation. O'Brien v. O'Brien, 213M140, 6NW(2d)47. See Dun. Dig. 2928.

Where a political party does not cast the required number of votes at a primary election, this section does not limit filings by petition to the candidate of that party receiving the highest number of votes at the previous primary. Id. See Dun. Dig. 2929.

The ban of §202.19 is lifted by §202.24 only so far as to permit the persons who had been such candidates to be nominated by petition by the party which failed to cast the requisite number of votes at the primary. Id. See Dun. Dig. 2929.

No certificate of nomination may be issued legally to candidate of a party which has not received number of votes in primary election required by this section. Op. Atty. Gen. (672b-8), Sept. 21, 1942.

Voters at primary may not sign petition where regular nomination for a particular party failed for lack of required votes if other candidates for same office were nominated at such primary by any party, but may sign if no nominations were made at primary or they did not vote at such primary. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

Where regular nomination failed for lack of required votes by party in district, nominating petition for office of representative in Congress should be filed with county auditor of county wherein candidate resides, and if there is more than one county in district, enough copies of petition for other counties should be prepared and presented to the auditor with whom the original is filed, to be certified and forwarded to other counties but it is up to the petitioners or candidates to see that necessary copies are filed in the other counties of the district. Id.

Where regular nomination for Congress by a particular party fails for lack of required votes by that party at primary in a district, certificates of nomination of candidate for that office may carry the political appellation of the party which failed to nominate candidate at the primary, but not names of other party successful in nominating candidate. Id.

Nominating petitions where regular nomination failed from lack of required votes by a party must be filed with the proper county auditors more than 30 days before the general election, including both originals and copies where district includes more than one county. Id.

Where party did not nominate candidate for Congress at primary because of lack of required votes by that party in the district, and nominating petition was filed in proper county more than 30 days before general election, but certified copies were not filed in other counties in the district until less than 30 days preceding general election, there was no nomination in any county. Op. Atty. Gen. (28b-3), Oct. 8, 1942.

A candidate who failed nomination at primary election for lack of required votes by his party in that district eligible for nomination by petition, along with any number of other candidates by petition. Id.

#### **601-3(3)f. Original to be filed with the county auditor; etc.**

Time of filing of certified copies of a certificate of nomination as required by Minn. Stat. 1941, §202.25, Mason's Stat. §601-3(3)f is governed by §202.27, §601-3(3)h, and not by §202.26, §601-3(3)g. State v. Erickson, 213M 151, 6NW(2d)43. See Dun. Dig. 2927a.

Where regular nomination failed for lack of required votes by party in district, nominating petition for office of representative in Congress should be filed with county auditor of county wherein candidate resides, and if there is more than one county in district, enough copies of petition for other counties should be prepared and presented to the auditor with whom the original is filed, to be certified and forwarded to other counties but it is up to the petitioners or candidates to see that necessary copies are filed in the other counties of the district. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

#### **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., 208M589, 296NW30. See Dun. Dig. 2929.

Where district judge whose term of office would not have expired for a number of years died after primary election and 33 days before general election, any number of nominating petitions could be filed on or before the third Tuesday preceding the general election, those filing less than 30 days as well as those filing more than 30 days before election. Flakne v. Erickson, 213M 146, 6NW(2d)40. See Dun. Dig. 2927a.

Time of filing of certified copies of a certificate of nomination as required by Minn. Stat. 1941, §202.25, Mason's Stat., §601-3(3)f is governed by §202.27, §601-3(3)h, and not by §202.26, §601-3(3)g. State v. Erickson, 213M151, 6NW(2d)43. See Dun. Dig. 2927a.

A candidate nominated by petition may withdraw his name as a candidate by filing a prepared affidavit with his filing officer at any time before officer charged by law with preparation of ballot makes up form of ballot to be used at general election. Op. Atty. Gen. (911c), Jan. 7, 1942.

Last day on which to file a nominating petition is October 3, 1942. Id.

If appointment of senator to fill vacancy expires on date of November election, filings for office for term beginning November 3, 1942, and ending January 3, 1943, are properly received by office of Secretary of State not more than ninety days nor less than forty days before time of holding primary election, and by nominating petition within thirty days before time of holding general election. Op. Atty. Gen. (86A-51), Jan. 8, 1942.

Where district judge died after primary and before general election and there was no candidate in primary election for position held by such judge nominating petition signed by any elector could be filed not later than third Tuesday prior to election day if signed by five per cent of entire vote cast in district at preceding general election or not to exceed 500, and term of candidate elected would begin first Monday in following year and term should be 6 years, and not for the unexpired portion of term of deceased judge. Op. Atty. Gen. (184d), Sept. 21, 1942, Oct. 1, 1942.

Nominating petitions where regular nomination failed from lack of required votes by a party must be filed with the proper county auditors more than 30 days before the general election, including both originals and copies where district includes more than one county. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

Where party did not nominate candidate for Congress at primary because of lack of required votes by that party in the district, and nominating petition was filed in proper county more than 30 days before general election, but certified copies were not filed in other counties in the district until less than 30 days preceding general election, there was no nomination in any county. Op. Atty. Gen. (28b-3), Oct. 8, 1942.

**601-3(3)h. Where certificates of nomination should be filed.**—Certificates of nomination shall be filed as follows: With the secretary of state, of the names to be placed on the white ballots, on or before the fifth Saturday preceding the day of election; with the county auditor, to be placed upon the india tint ballots, on or before the third Tuesday preceding the

day of election; with the city clerk or other proper officer, to be placed on the red ballots, on or before the third Saturday preceding the day of election. In each case the officer with whom such certificate is filed shall give or send to the person filing the same an acknowledgment thereof upon the same day it is received, and shall file and preserve such certificates, subject to public inspection. No filing of any certificate shall be effectual unless at the time thereof the prescribed fee shall be paid or tendered to such officer. (As amended Act Apr. 12, 1943, c. 410, §1.)

Where district judge whose term of office would not have expired for a number of years dies after primary election and 33 days before general election, any number of nominating petitions could be filed on or before the third Tuesday preceding the general election, those filing less than 30 days as well as those filing more than 30 days before election. Flakne v. Erickson, 213M 146, 6NW(2d)40. See Dun. Dig. 2927a.

Time of filing of certified copies of a certificate of nomination as required by Minn. Stat. 1941, §202.25, Mason's Stat., §601-3(3)f is governed by §202.27, §601-3(3)h, and not by §202.26, §601-3(3)g. State v. Erickson, 213M 151, 6NW(2d)43. See Dun. Dig. 2927a.

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.

Where district judge died after primary and before general election and there was no candidate in primary election for position held by such judge nominating petition signed by any elector could be filed not later than third Tuesday prior to election day if signed by five per cent of entire vote cast in district at preceding general election or not to exceed 500, and term of candidate elected would begin first Monday in following year and term should be 6 years, and not for the unexpired portion of term of deceased judge. Op. Atty. Gen. (184d), Sept. 21, 1942, Oct. 1, 1942.

Where regular nomination failed for lack of required votes by party in district, nominating petition for office of representative in Congress should be filed with county auditor of county wherein candidate resides, and if there is more than one county in district, enough copies of petition for other counties should be prepared and presented to the auditor with whom the original is filed, to be certified and forwarded to other counties but it is up to the petitioners or candidates to see that necessary copies are filed in the other counties of the district. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

Nominating petitions where regular nomination failed from lack of required votes by a party must be filed with the proper county auditors more than 30 days before the general election, including both originals and copies where district includes more than one county. Id.

Where party did not nominate candidate for Congress at primary because of lack of required votes by that party in the district, and nominating petition was filed in proper county more than 30 days before general election, but certified copies were not filed in other counties in the district until less than 30 days preceding general election, there was no nomination in any county. Op. Atty. Gen. (28b-3), Oct. 8, 1942.

#### **601-3(3)j. Designation of candidates nominated by petitions.**

Names of nominees by petition should be followed by words "nominated by petition," including candidates nominated by petition under party designation. Op. Atty. Gen. (28b-3), Oct. 14, 1942.

### 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.

Persons in military or naval Service. Laws 1943, c. 554.

Absent Voters Act applies to special and annual township elections. Op. Atty. Gen. (639o), June 20, 1941.

Ordinary ballots may be sent to persons in armed service, but no ballots may be sent outside continental United States, exclusive of Alaska. Op. Atty. Gen. (639e), Oct. 9, 1942.

Transmittal, counting and canvassing of official war ballots under federal act. Op. Atty. Gen. (28c-1), Oct. 28, 1942.

**601-4(1)a. Application for ballots.**

Oath attached to application of man in armed service other than Alaska and Island Possessions of the United States may be sworn to before a commissioned officer in active service, and such an officer may also be the attesting witness on ballot envelope. Op. Atty. Gen. (639e), Nov. 26, 1943.

**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.**—The applicant for such ballots shall pay to the county auditor at the time he makes such application a fee of 30 cents except that no member of the armed forces of the United States of America shall be required to pay the fee. The money so received by said county auditor shall be kept in a separate fund and shall be expended by him in paying the expense of such extra clerical assistance as may be required for the performance by him of the duties imposed by this chapter; the cost of furnishing and printing the application blanks specified in Mason's Supplement 1940, Section 601-4(1)a; the cost of furnishing and printing the envelopes and voters' certificate herein specified; the cost of postage both in forwarding and for the return of the ballots as herein specified and in delivering to the judges of the several districts in his county the applications after the same have been endorsed by him as herein specified. Any surplus of the moneys so received shall be paid into the county treasury and credited to the general revenue fund. (As amended Apr. 2, 1943, c. 288, §1.)

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)dd. Rights of members of armed forces.**—In the event that the applicant was registered but is not entitled to vote because he has failed to vote at an election at least once in any two successive calendar years wherein elections are held, if the applicant, or some one in his behalf, shall file an affidavit with the Commissioner of Registration, stating that on the date of any one election during such two year period the applicant was a member of the Armed Forces of the United States, such affidavit shall operate as a re-registration, and entitle the applicant to vote. (As amended Apr. 2, 1943, c. 288, §2.)

**601-4(1)f. Auditor to deliver ballots.**

Oath attached to application of man in armed service other than Alaska and Island Possessions of the United States may be sworn to before a commissioned officer in active service, and such an officer may also be the attesting witness on ballot envelope. Op. Atty. Gen. (639e), Nov. 26, 1943.

**601-4(1)h. Voter may mail ballot.**

As the law now stands there is no provision for voting by persons located outside of the United States. Op. Atty. Gen. (639e), July 10, 1942.

Ordinary ballots may be sent to persons in armed service, but no ballots may be sent outside continental United States, exclusive of Alaska. Op. Atty. Gen. (639e), Oct. 9, 1942.

**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.

Provision requiring a post-master's signature as attesting witness to be authenticated by his cancellation stamp is mandatory. Op. Atty. Gen. (639A), Jan. 29, 1942.

**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.

**601-4(1)n. Secretary of State to administer national absent voters act.**—The secretary of state, the several county auditors, all election officers and all other officers and agencies of the state and its governmental subdivision shall do and perform all acts, duties and services required of them by or which may be necessary or proper in order to give effect to any existing

or future act of congress providing for voting by persons absent from their places of residence while serving in the military or naval forces of the United States. The secretary of state shall administer this act, and may require any appropriate officer or agency to perform any duty or service necessary to give effect hereto. The secretary of state may make such regulations not inconsistent with any provision of law as he deems necessary or proper to carry out the provisions hereof. (Act Apr. 21, 1943, c. 554, §1.) [203.15].

**601-4(1)o. Ballots to include state officers and proposed constitutional amendments.**—The official ballots provided by the secretary of state under such acts of congress for voting upon federal offices shall also provide for voting for candidates for state offices to be voted upon throughout the state, and upon any proposed amendment to the state constitution or any other proposition or question upon which an election is had. The form of such ballots shall be determined by the secretary of state. All such ballots shall be prepared by the secretary of state, who shall cause the same to be printed in the requisite quantities at the expense of the state. (Act Apr. 21, 1943, c. 554, §2.) [203.15].

**601-4(1)p. Voting to be governed by laws of United States.**—Such ballots shall be applied for, distributed, marked, voted and returned as provided by the laws of the United States, and shall be counted as provided by law or by such regulations as may be made by the secretary of state pursuant to Section 1 hereof. This act shall not apply to primary elections. (Act Apr. 21, 1943, c. 554, §3.) [203.15].

## 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 Senator.**—Upon failure to choose a senator in congress or upon a vacancy in said office the vacancy shall be filled for the unexpired term at the following biennial state election, provided said vacancy occurs not less than 60 days prior to the date of the primaries for nominating candidates to be voted for at such election, otherwise at the biennial state election next following. Pending such election the governor shall make a temporary appointment to fill

the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy. Provided, however, that there shall be no election to fill the unexpired term at any biennial election occurring in a year immediately preceding the expiration of such term and in that event the person appointed by the Governor to fill the vacancy shall serve until the expiration of such term. (As amended Mar. 20, 1943, c. 158, §1.)

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.*, 208M589, 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.*

Appointment to fill vacancy in office of U. S. Senator extends only to date of next election, and not for unexpired term of deceased or resigning senator, even though it results in intervening term of only two months, and same person may file as a candidate for both short term and full term at same election. *Op. Atty. Gen.* (86A-51), Jan. 8, 1942.

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

*Howard v. H.*, 208M589, 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 3.—NOTICES OF ELECTION

#### **601-6(3). Secretary of State to give notice of state elections.**

Where statute designates the time when an election shall be held, no notice or call is necessary to authorize holding of election, and after election has been held statutory provisions as to notice will be construed as directory, but there must be an election in fact. *State v. Turnbull*, 212M382, 3NW(2d)674. See *Dun. Dig.* 2960a.

### 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.

Section does not prohibit creation of an election district out of parts of several different city wards, provided each ward is left with at least one election district. *Op. Atty. Gen.* (64S), Jan. 3, 1942.

A city is governed by provisions of its charter, rather than by state law, in establishing election districts. *Id.*

City charter speaking on subject of election district controls, but if charter is silent or adopts by reference provisions of statutes dealing with that subject, they control. *Op. Atty. Gen.* (64S), Jan. 27, 1942.

City charter being silent on the subject, it is mandatory on city council to redistrict city into new voting districts or precincts if wards are present election districts with different numbers of voters and all have more than 700 voters, but courts cannot compel council to redistrict in any particular manner. *Op. Atty. Gen.* (64s), July 10, 1942.

### 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.

Two precincts may vote in the same place. *Op. Atty. Gen.* (472n), Sept. 27, 1943.

#### **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.

A duly elected or appointed constable acting at request of election board is entitled to fees in such reasonable amount as will fairly compensate him, to be determined by town board. *Op. Atty. Gen.* (847a-4), Jan. 20, 1943.

#### **601-6(5)s. Unofficial ballots may be used in certain cases.**

Absent voter ballot containing name of one ineligible candidate should be counted unless marked for ineligible candidate. *Op. Atty. Gen.* (28a-3), Dec. 5, 1942.

### 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.

A town supervisor who has a brother who is a candidate for the legislature to be voted for in his town cannot act as judge of election. *Op. Atty. Gen.* (183g), Sept. 24, 1942.

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

The council of each municipality, except cities of the first class, at least 25 days before any election, shall appoint three qualified voters of each district therein to be judges of election. In villages having but one district, and not included in any town, the members of the council shall be judges, subject to the qualifications and restrictions provided for members of town boards in like cases. In cities of the first class judges and clerks shall be appointed by the city clerk at least 25 days before an election from a list of qualified voters in each district certified by the civil service commission of the municipality. At least 60 days before an election said civil service commissioner shall receive applications on verified forms prepared by it from persons qualified to act as such judges and clerks, in which application said applicant shall state his party affiliation, and said commission shall conduct such inquiry, investigation and examination as it deems necessary to establish the qualifications of the applicants. Said commission shall set up such rules and regulations as it deems necessary for carrying out the provisions of this act. At least 30 days before the first election in any calendar year wherein elections are held such civil service commission shall certify to the city clerk a list of such persons in each district who have satisfied said commission of their qualifications to act as judges and clerks. Said commission shall certify the names of two persons having the highest rating from each political party for each district. From said certified list said city clerk shall appoint three judges and one clerk shall belong to the same political party; provided further, however, that if there be not two qualified persons in each political party for each said district, then in that event said commission shall certify those having the next highest rating without regard to party affiliation in order that six persons may be certified for each said district. Should the list certified by said civil service commission not contain the names of sufficient qualified persons in each election district, the city clerk shall appoint a sufficient number of qualified voters of the district to act as such judges and clerks. Vacancies in the office of judges and clerks shall be filled by the city clerk from the list certified by said civil service commission. Said commission shall certify additional names to the city clerk when the eligible list for any election district is exhausted. No two election judges and/or clerks shall reside in the same building. No two judges or clerks in any district shall bear the relationship to each other of husband and wife, parent or child or brother or sister, nor shall they bear that relationship to any candidate for election, or any officer or employee of such city. No city official or employee shall act as judge or clerk. Any person appointed as a judge or clerk under this act shall not acquire any right or status as a regular city employee.

This section shall not apply to any city of the first class while there is in effect a resolution adopted with-

in 60 days after the passage of this act by a majority vote of the governing body of said city electing not to accept or come under this section, in which event the council of such city of the first class shall appoint three qualified judges of each district therein to be judges of election. Said council shall appoint the judges from that number of citizens who have made application therefor and the council may require that they designate their party affiliations thereon. (As amended Act Apr. 12, 1943, c. 396, §1.)

Op. Atty. Gen. (1831), 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.

Words "not included in any town" means "not included in any town for election purposes" or "not included in any town election district." Op. Atty. Gen. (183h), Aug. 19, 1942.

Member of city council is eligible to office of judge of election in a fourth class city. Op. Atty. Gen. (183f), Oct. 16, 1942.

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

Op. Atty. Gen. (1831), 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 belong 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.

Where man and wife served on same election board, one as judge, and other as clerk, they were de facto officers and entitled to compensation attached to office, in the absence of an adverse contestant or de jure officer. Op. Atty. Gen. (183k), Sept. 22, 1942.

#### 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. (1831), Aug. 16, 1940.

A WPA worker receives "compensation from the United States," and is ineligible to act as judge or clerk. Op. Atty. Gen. (1831), Aug. 27, 1940.

A WPA employee working intermittently is eligible if not employed on election day. Op. Atty. Gen. (1831), 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-l), 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. (183J), 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.

Statute does not prohibit a justice of the peace of a city of the fourth class from serving as judge of election. Op. Atty. Gen. (183i), July 22, 1942.

Justice of the peace of a fourth class city may not serve on county canvassing board. Id.

A town supervisor who has a brother who is a candidate for the legislature to be voted for in his town cannot act as judge of election. Op. Atty. Gen. (183g), Sept. 24, 1942.

Father-in-law of a candidate for an office may be an election judge. Op. Atty. Gen. (183f), Oct. 16, 1942.

#### 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.)

Proposed titles to constitutional amendments on ballots approved. Op. Atty. Gen. (86A-4), Jan. 7, 1942.

#### 601-6(7)c. City Clerk to prepare red ballots.

Question of abolishing police civil service commission in Sleepy Eye may be submitted to electors on regular municipal ballot along with names of candidates for city office and a separate red ballot need not be used. Op. Atty. Gen. (785E-1), Mar. 14, 1942.

**601-6(7)d. Lavender ballots for city charter or amendments.**

Where it was impossible to get lavender colored paper, use of ballot of a similar color would not render election invalid, especially where there were no other ballots of any color used in the election. Op. Atty. Gen. (28a-2), Dec. 29, 1942.

**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.

Ballot on question of a free county library should be placed on "India tint" ballot. Op. Atty. Gen. (285b), June 16, 1942.

**601-6(7) (h). Form and size of ballots.**—The white and pink ballots shall be not less than four nor more than six inches wide, and as long as the list of candidates to be voted for or the questions submitted may require, and shall contain, in such order or precedence as the secretary of state shall direct, conformable to this chapter, the official title of all offices proper to be placed thereon, each such title printed in ten-point capitals at right angles with the length of the ballot, followed by the names of the candidates for each. Such ballots shall be headed by the words "State Ballot" in heavy-faced plain letters not smaller than long primer nor larger than great primer, with a heavy rule above and below the same. (As amended Act Feb. 25, 1943, c. 66, §1.)

**601-6(7) (i). Form and size of ballots.**—The name of each candidate shall be printed at right angles with the length of the ballot, in plain Roman type, not larger than long primer nor smaller than brevier; the name of each candidate in capital letters. Except in case of presidential electors each name shall be followed on the same line in upper and lower case letters, by the political party designation of the candidate. At the left of and on a line with such names and designations, near the margin, there shall be a space so inclosed by rule work as to make a square three-eighths of an inch in size, in which the voter may designate his choice by a mark (X). Above and below each name shall be printed across the ballot a light line, except that above and below each office title, a heavier line shall be so printed. Below the name of the last named candidate for each office shall be placed as many blank lines as there are offices of the kind to be filled. The spaces for the names of candidates shall be three-eighths of an inch wide. At right angles with such lines and at the left of the small square shall be printed opposite each office the words "Vote for one", or "Vote for two", or more, according to the number to be elected. (As amended Act Feb. 1943, c. 66, §2.)

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)l. Candidates for political parties.**

A candidate designated in the nominating petition as "Real Democrat" has no power to change the designation selected by his petitioners and to omit from the designation the word "Real" so as to be eligible for nomination of the democratic party which failed to cast required number of votes at the primary election or to be considered as nominated without party designation. O'Brien v. O'Brien, 213M140, 6NW(2d)47. See Dun. Dig. 2933.

A certificate of nomination designating a candidate as a "Real Democrat" is a violation of that party's right to its name under this section. Id.

Where regular nomination for Congress by a particular party fails for lack of required votes by that party at primary in a district, certificates of nomination of candidate for that office may carry the political appellation of the party which failed to nominate candidate at the primary, but not names of other party successful in nominating candidate. Op. Atty. Gen. (28b-3), Sept. 28, 1942.

**601-6(7)m. Back of ballots.**

Fact that at town election official ballots were voted which did not bear facsimile of signature of town clerk, or initials of two judges, was not fatal in absence of showing that it affected the result. Op. Atty. Gen. (434b-11), Mar. 25, 1941.

**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. (134E), Dec. 10, 1940.

**601-6(7)o. Rotation of names.**

Names of congressional candidates are not rotated, but name of candidate of political party which at last general election held the largest number of votes should be first on the ballot, then name of candidate of party receiving next highest number of votes, and so on, and names of candidates filing by petition should follow in order of filing of such petitions. Op. Atty. Gen. (28b-7), Oct. 14, 1942.

**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. (1831), Aug. 8, 1940.

Act of township clerk in placing name of candidate for office on official ballot, where he had not filed with-in time specified, did not render election of that candidate invalid. Op. Atty. Gen. (434b-2), Mar. 25, 1941.

**601-6(7)s. Nominees without party designation—Representatives in Congress.**—After the name of each candidate on the general election ballot nominated without any political party designation, pursuant to Part Three, Chapter 1, Section 2, (601-3(1)a), at the primary election, shall be placed the words "nominated without party designation", and the separate ballot now provided for persons so nominated shall be headed "County and District Ballot". The names of nominees for the office of representatives in congress shall be placed on said County and District Ballot. (As amended Act Apr. 13, 1943, c. 419, §1.)

#### 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.

This section has no application to annual town meetings. Op. Atty. Gen. (434B-18), Feb. 16, 1942.

Section as amended does not apply in township elections. Op. Atty. Gen. (185a-6-b), July 20, 1942.

Hours for opening and closing polls at any village election is controlled by this section. Op. Atty. Gen. (472n), Dec. 11, 1942.

#### **601-6(8)h. Who may remain in polling places.**

At an election to annex contiguous territory to a city polls shall be opened between 9:00 A. M. and 10:00 A. M. and remain open until 5:00 P. M., there must be

closed voting booths, and peace officers may remain in voting place. Op. Atty. Gen. (59A-1), Aug. 19, 1941.

#### **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., (266E-20), March 6, 1940.

#### **601-6(8)n. Marking ballots.**

A distinguishing mark on a ballot is one made by a voter which is not an honest effort to indicate his choice either of candidates or propositions and which is effective to distinguish his ballot, but a mark placed on a ballot in an honest effort of voter to indicate his choice and not to identify his ballot is not a distinguishing mark though it might identify ballot. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2956.

A cross upon instructions to voters is a distinguishing mark which invalidates ballot. *Id.*

A cross mark placed on back of ballot by a voter is a distinguishing mark which invalidates ballot. *Id.*

#### **601-6(8)o. Shall mark each ballot.**

Where a ballot appears to have been mutilated, it will be presumed to have been done after it was counted by election officers, upon theory that such officers know and perform their duty and will not receive or count such a ballot. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2990.

Where an office is to be filled at an election voter may indicate his choice on ballot although ballot contains no appropriate blank for that purpose. *Id.* See Dun. Dig. 2939.

A sticker bearing a name must be counted if intention of voter is clear, though it does not contain name of office and may not be in proper place. Op. Atty. Gen. (28a-8), Oct. 8, 1942.

#### 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 district, 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)i. 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.**

Spelling of a name phonetically but incorrectly did not require rejection of ballot. *Hanson v. Emanuel*, 210M 271, 297NW749. See Dun. Dig. 2951.

Where a voter informally indicates his choice by check mark instead of crosses his vote should be counted. Id. See Dun. Dig. 2953.

Fact that a cross mark which is visible is faint is no ground for rejecting ballot. Id.

Placing sticker in its proper place upside down was a mere irregularity which did not invalidate ballot. Id. See Dun. Dig. 2955.

A distinguishing mark which requires rejection of entire ballot is one that is placed there deliberately by voter with intention to identify ballot after vote is cast and not as result of an honest effort on part of voter to indicate his choice of candidate. Id. See Dun. Dig. 2956.

Ballot with a cross mark opposite contestant's name and in square opposite contestee's name a diagonal mark with a faint curl on top and two very small curls at bottom may not be counted. Id.

Ballot with cross marks in squares before and in vacant spaces after names of all candidates voted for should not be counted. Id.

An irregular cross indicating that ballot was resting on an uneven surface and that mark was retraced was not a distinguishing mark. Id.

Short perpendicular lines appearing to be printers' ink or short marks accidentally made are not identification marks. Id.

Cross outside square opposite candidate's name was not a distinguishing mark. Id.

Ballot with cross marks on back should be rejected. Id.

Misplacement of stickers was an irregularity and not an identification mark and did not require rejection of the ballot. Id.

Ballot with cross mark after name of candidate for one office and in front of candidate for another office should be counted. Id.

Ballot with small part of corner torn off will be counted in absence of a showing as to when or by whom tear was made. Id.

An illegal vote cannot be counted at all. *Hanson v. Emanuel*, 210M271, 297NW749. See Dun. Dig. 2972a.

A distinguishing mark on a ballot is one made by a voter which is not an honest effort to indicate his choice either of candidates or propositions and which is effective to distinguish his ballot, but a mark placed on a ballot in an honest effort of voter to indicate his choice and not to identify his ballot is not a distinguishing mark though it might identify ballot. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2956.

Persons writing on ballot words "for mayor, I. R. G." was not a distinguishing mark though no mayor was to be elected, there being an honest dispute as to legality of act increasing term of mayor from one to two years. Id. See Dun. Dig. 2948.

A cross mark placed on back of ballot by a voter is a distinguishing mark which invalidates ballot. Id. See Dun. Dig. 2956.

Two parallel lines to right opposite name of a candidate constituted a distinguishing mark. Id. See Dun. Dig. 2956.

A diagonal line which shows that voter commenced to make a cross, but changed his mind and made cross in proper place on ballot is not a distinguishing mark. Id. See Dun. Dig. 2956.

A voter may use uniformly a mark other than a cross in marking his ballot. Id. See Dun. Dig. 2953.

A cross upon instructions to voters is a distinguishing mark which invalidates ballot. Id. See Dun. Dig. 2956.

A voting mark placed opposite a blank is not a vote for any candidate and is without apparent purpose except to identify ballot. Id. See Dun. Dig. 2939.

Ballots on which crosses were placed, not in squares for that purpose at left opposite name of candidate voted for, but in blank space to right of his name, were properly counted. Id. See Dun. Dig. 2953.

Check mark after cross was a distinguishing mark invalidating ballot. Id. See Dun. Dig. 2956.

Ballot having impertinent lines which voters evidently made in retracing imperfect crosses caused by uneven surface on which ballots rested should be counted. Id. See Dun. Dig. 2953.

Ballot with a heavily penciled circle on each end of lines of cross mark was not valid. Id. See Dun. Dig. 2956.

Ballot on which voter obliterated by pencil marks cross opposite contestee's name and then placed cross opposite contestant's name was properly counted. Id. See Dun. Dig. 2954.

Ballot was properly counted where voter first made a check mark and then attempted to obliterate it by making a cross mark over it in such a way as to incorporate check in cross mark. Id. See Dun. Dig. 2953.

A ballot marked for both candidates for one office may be counted for either offices. Id. See Dun. Dig. 2950.

An irregular cross of regular size, evidently resulting from retracing mark because ballot apparently rested on an uneven surface, is not a distinguishing mark. Id. See Dun. Dig. 2956.

Ballots were properly rejected where marks were made both before and after a name of a candidate. Id. See Dun. Dig. 2953.

Placing of a numerical figure on a ballot in addition to authorized voting marks constitutes a distinguishing mark. Id. See Dun. Dig. 2956.

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.

Writing in surname on ballot without initials or Christian name does not constitute a vote. Op. Atty. Gen. (28c-7), June 2, 1941.

Where a married woman candidate for a school district office did not have her name printed on ballot, and voters wrote in her maiden name by which she had been known for many years, judges could count such ballots for her. Op. Atty. Gen. (184-E), July 2, 1941.

Ballot with cross-mark opposite blank may not be counted. Op. Atty. Gen. (161a-25), May 21, 1942.

#### 601-6(10)l. Defective ballots.

Absent voter ballot containing name of one ineligible candidate should be counted unless marked for ineligible candidate. Op. Atty. Gen. (28a-3), Dec. 5, 1942.

### 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 regis-

tered 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.

Justice of the peace of a fourth class city may not serve on county canvassing board. Op. Atty. Gen. (183i), July 22, 1942.

Mayor of most populous municipality in county is eligible to membership on county canvassing board though he is a candidate for office. Op. Atty. Gen. (183c), Sept. 11, 1942.

### 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.)

First day on which a person may file as candidate for state, county, and congressional offices is June 10, 1942, and last day is July 30, 1942, and last day on which a candidate may file an affidavit of withdrawal is August 7, 1942. Op. Atty. Gen. (911a), Jan. 7, 1942.

#### 601-6(12)c. Place on ballot.

Appointment to fill vacancy in office of U. S. Senator extends only to date of next election, and not for unexpired term of deceased or resigning senator, even though it results in intervening term of only two months, and same person may file as a candidate for both short term and full term at same election. Op. Atty. Gen. (86A-51), Jan. 8, 1942.

### CHAPTER 13.—MISCELLANEOUS

**601-6(13). Compensation for election services.**—The compensation for services performed under this act shall be as follows:

1. To presidential electors, ten dollars for each day's attendance at the capitol, and five cents for each mile necessarily traveled in going to and returning from St. Paul.

2. The persons carrying ballots from, and returns to, county auditor's offices, one dollar for each trip necessarily made, and five cents for each mile of necessary travel.

3. To members of county canvassing boards, three dollars for each eight hours of service as members of such canvassing board, and five cents for each mile of necessary travel.

4. To regular, special and ballot judges and clerks of election, 40 cents for each hour necessarily spent in receiving votes, and 50 cents for each hour so spent in counting and canvassing ballots. Provided, that such compensation to regular, special and ballot judges and clerks of election in cities of the first class operating under a home rule charter shall be fixed and determined by the council of such cities respectively.

Provided, further, that such compensation to regular, special and ballot judges and clerks of election in cities now or hereafter having 20,000 and not more than 50,000 inhabitants, shall be fixed and determined by the councils of such cities respectively, in amounts not exceeding 40 cents for each hour necessarily spent in receiving votes, and 50 cents for each hour so spent in counting and canvassing ballots.

5. To special peace officers, 35 cents for each hour of service rendered by direction of the judges. (As amended Act Apr. 17, 1943, c. 491, §1; Apr. 21, 1943, c. 555; §1.)

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

Township supervisor should not serve as special peace officer at an election in the town, since this would place him in a position of having to audit and vote upon allowance of his own claim. Op. Atty. Gen., (185a-5), Sept. 24, 1942.

(6). Special police officers appointed by judges of election are to receive \$.20 per hour of service rendered by direction of judges, and regular peace officer who attends to keep quiet and order at a polling place during a general election should be paid such compensation as may be fixed by village council, and this applies to village constables' as special services, including 1885 villages, and compensation of township constables attending at an election should be fixed by town board, and there is no requirement that compensation allowed peace officers at elections shall be uniform throughout county. Op. Atty. Gen., (185a-5), Dec. 14, 1942.

#### 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.

Expenses of holding a special election to vote on issue of bonds for construction of a court house should be paid in same manner as expenses of conducting a general election. Op. Atty. Gen., (37a-1), Apr. 2, 1941.

### 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. Efferetz v. S., 207M324, 291NW 286. 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., 208M557, 294NW839. See Dun. Dig. 2993c.

An election contest is a special proceeding and not a civil action. Hanson v. Emanuel, 210M51, 297NW176. See Dun. Dig. 2979.

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

Election board cannot reconvene and recount ballots or pass upon validity of ballots used after it has canvassed votes and proclaimed results, but there must be an action in court. Op. Atty. Gen., (28c-2), Nov. 14, 1941.

##### 601-7(1)d. Trial.

Aura v. Brandt, 211M614, 299NW910; note under §601-7(1)f.

In election contest involving legislative offices time to appeal is five days after filing of decision, while in cases involving other offices time is that allowed by law for appealing from an order denying a motion for a new trial or judgment as case might be. Hanson v. Emanuel, 210M51, 297NW176.

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., 208M557, 294NW 839. See Dun. Dig. 2981.

In election contest involving legislative offices time to appeal is five days after filing of decision, while in cases involving other offices time is that allowed by law for appealing from an order denying a motion for a new trial or judgment as case might be. Hanson v. Emanuel, 210M51, 297NW176.

Notwithstanding that election contest is a special proceeding, an appeal may not be taken from an order denying a motion for amended findings of fact and conclusions of law, but an appeal may be taken from judgment or an order denying a new trial. Aura v. Brandt, 211M614, 299NW910. See Dun. Dig. 302.

##### 601-7(1)h. Appeal—Bond.

Aura v. Brandt, 211M614, 299NW910; note under §601-7(1)f.

In election contest involving legislative offices time to appeal is five days after filing of decision, while in cases involving other offices time is that allowed by law for appealing from an order denying a motion for a new trial or judgment as case might be. Hanson v. Emanuel, 210M 51, 297NW176.

##### 601-7(1)i. Determination of contest.

Where contestant called one not qualified to vote and she testified that she voted for contestant, her vote must be rejected and not counted at all or be apportioned between parties. Hanson v. Emanuel, 210M271, 297NW749. See Dun. Dig. 2972a.

Defective ballots do not invalidate election unless they changed result. Op. Atty. Gen., (28c-2), Nov. 14, 1941.

### 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.

Oblige 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., 208M509, 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 be-

fore 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 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 thereof 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 intrusted 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.

Patriotic poster with candidate's solicitation of votes thereon must bear names and addresses, and it is a question of fact whether it is a thing of value. Op. Atty. Gen. (627f-1), Aug. 18, 1942.

**601-9(1)d. Certain acts by officers or others to constitute gross misdemeanor.**

Distribution of stickers at polls in town elections should not be permitted. Op. Atty. Gen. (627j-8), Apr. 2, 1941.

Section applies to town elections. Id.

**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., 207M324, 291NW 286. See Dun. Dig. 2993f.

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

La Belle v. H., 206M290, 288NW788; note under §563.

**PART TEN  
CORRUPT PRACTICES**

**CHAPTER 1**

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

Corrupt practices act so far as it relates to corrupt practices applies to village elections, but failure to file itemized verified statement of campaign expenditures is not corrupt practice. *Aura v. Brandt*, 211M281, 1NW(2d) 381. See Dun. Dig. 2993c, 2994.

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.

Act applies to activities of a committee formed for purpose of bringing about or preventing adoption of airport ordinance at an election to be held. Op. Atty. Gen. (627b-1), Oct. 14, 1942.

**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.

An individual does not violate the law by writing letter to newspaper and asking that it be published, unless letters are used intentionally and systematically as a subterfuge to avoid compliance with law requiring newspaper advertising to be labeled as such. Op. Atty. Gen. (627b-1), Oct. 14, 1942.

**601-10(1)c. Limit of expenditures.**

Corrupt practices act so far as it relates to corrupt practices applies to village elections, but failure to file itemized verified statement of campaign expenditures is not corrupt practice. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 2993c, 2994.

**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., 207M324, 291NW 286. 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.

Distribution of calendar by one contemplating becoming a candidate merely with compliments was not a violation because such person later became a candidate. Op. Atty. Gen. (627f-1), Dec. 5, 1941.

Patriotic poster with candidate's solicitation of votes thereon must bear names and addresses, and it is a question of fact whether it is a thing of value. Op. Atty. Gen. (627f-1), Aug. 18, 1942.

It is not necessary that names of persons composing a committee formed for purpose of bringing about or preventing adoption of an airport ordinance should be filed with any officer, but it would be well for members to meet and adopt a written statement of some character to perpetuate evidence of formation of committee and to preclude any charge that excessive expenditures had been made by any individual. Op. Atty. Gen. (627b-1), Oct. 14, 1942.

Literature of a committee formed for purpose of bringing about or preventing adoption of an airport ordinance should be signed in the name of the committee by secretary. Id.

An individual does not violate a law by writing a letter to a newspaper stating his views on airport ordinance question, which letter he asks newspaper to publish followed by word "taxpayer" or "subscriber." Id.

**601-10(1)g. Not to pay for time lost at polls.**

League of Women Voters supporting no candidate do not violate section by distributing to persons who have voted tags with words "I have voted, have you?" Op. Atty. Gen. (627h), Oct. 21, 1942.

League of Women Voters, supporting no particular candidate, cannot furnish transportation to voters. Id.

**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.

Distribution of stickers at polls in town elections should not be permitted. Op. Atty. Gen. (627j-8), Apr. 2, 1941.

Section does not apply to town election. Id.

Stickers may not be left in election polling places on election day. Op. Atty. Gen. (28a-8), Aug. 7, 1942.

Whether candidates visiting polls and shaking hands on election day violated act is a question of fact. Op. Atty. Gen. (627n), Sept. 21, 1942.

**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 representative 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 dis-

bursements 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 re-

quired 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.)

Corrupt practices act so far as it relates to corrupt practices applies to village elections, but failure to file itemized verified statement of campaign expenditures is not corrupt practice. *Aura v. Brandt*, 211M281, 1NW(2d) 381. See Dun. Dig. 2993c, 2994.

Section does not apply to elections in Village of Hibbing. *Id.* See Dun. Dig. 2994.

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.

Failure to file a statement of disbursements on date specified is not fatal, but it must be filed before ballot is prepared in order to have name placed thereon. *Op. Atty. Gen.* (627c-12), Sept. 30, 1942.

A committee formed for purpose of bringing about or preventing adoption of an airport ordinance should file a statement of expenses, but no limitation is placed on amount which may be expended for legal purposes. *Op. Atty. Gen.* (627b-1), Oct. 14, 1942.

Secretary of a volunteer committee assisting a candidate running for office at a municipal election in a city of the first class must file statements of receipts and disbursements, on the second Saturday after the first disbursement is incurred and on the second Saturday of each and every month thereafter until all disbursements have been accounted for, also on the Saturday preceding any primary municipal election, special municipal election or general municipal election, and they must be filed with the "proper filing officer of such municipality", which in the case of Minneapolis is the city clerk. *Op. Atty. Gen.* (627c-7), May 29, 1943.

(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)k. Names of candidates shall not be printed on ballot unless statement is filed.**

Failure to file a statement of disbursements on date specified is not fatal, but it must be filed before ballot is prepared in order to have name placed thereon. *Op. Atty. Gen.* (627c-12), Sept. 30, 1942.

**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 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.*, 206M290, 288NW788. See Dun. Dig. 2994.

A corporation may not contribute to a committee formed for purpose of bringing about or preventing the adoption of an airport ordinance at an election. *Op. Atty. Gen.* (627b-1), Oct. 14, 1942.

**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.

Failure to elect moderator does not affect results. Op. Atty. Gen. (434b-11), Mar. 24, 1941.

Where there is vacancy in offices of two of three town supervisors, they may be filled by appointment by one remaining supervisor and town clerk or by a special town meeting. Op. Atty. Gen. (437A-21), Aug. 19, 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. First town meeting.**—The polls shall be opened anytime between 9:00 A. M. and 1:00 P. M., and shall close at 5:00 P. M. Provided the town board may by resolution at least 30 days before the election fix a later hour for closing the polls, which shall not be later than 8:00 P. M. (As amended Act Apr. 22, 1943, c. 562, §1.)

Hennepin county local and special elections. Laws 1941, c. 28.

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.

Hours of voting at a special town meeting are the same as hours at an annual town meeting. Op. Atty. Gen. (434b-18), June 9, 1941.

At an election to annex contiguous territory to a city polls shall be opened between 9:00 A. M. and 10:00 A. M. and remain open until 5:00 P. M., there must be closed voting booths, and peace officers may remain in voting place. Op. Atty. Gen. (59A-1), Aug. 19, 1941.

Polls at a town meeting shall be opened between 9:00 A. M. and 10:00 A. M. and shall close at 5:00 P. M. Formerly no particular hour was fixed for closing, it merely being provided that proclamation should be made of closing of polls. Op. Atty. Gen. (434B-18), Feb. 16, 1942.

**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.

Provision permitting filling of vacancies in town offices at a special election when there has been a failure to elect does not apply to villages. Op. Atty. Gen. (471h), Apr. 8, 1941.

**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.

Provision requiring biennial election of town assessors, and provision to effect that vacancies in that office shall be filled by town board by appointment until next annual town meeting, are re-enactments of Mason's St. 1927, §1075. Op. Atty. Gen. (12C-4), Feb. 9, 1942.

Town assessor permanently moving from township creates a vacancy, which should be filled by appointment by town board until next annual town meeting at which time a successor should be elected for balance of unexpired term. Op. Atty. Gen. (12C-4), Feb. 26, 1942.

A vacancy in office of town assessor should be filled by appointment by town board, appointee to hold office until next annual town meeting, whether falling in an even or odd numbered year, and at that meeting a successor should be chosen for balance of unexpired term, and at first town meeting held in an odd numbered year thereafter an assessor should be elected for a full two-year term. Op. Atty. Gen. (12C-4), Mar. 2, 1942.

Express provision is made for staggering terms of supervisors, with result that one supervisor is elected annually for a three-year term, but no similar provision is made as to constables, and two must be elected for a two-year term. Op. Atty. Gen. (847A-9), Mar. 3, 1942.

**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.

Failure of a town officer elect to file his oath and bond within ten days after notice of election is deemed a refusal to serve and a vacancy exists which may be filled by appointment until next annual town meeting. Op. Atty. Gen. (12c-4), Apr. 19, 1941.

#### 601-11(1)u. Shall file oath and bond.

Failure of a town officer elect to file his oath and bond within ten days after notice of election is deemed a refusal to serve and a vacancy exists which may be filled by appointment until next annual town meeting. Op. Atty. Gen. (12c-4), Apr. 19, 1941.

### CHAPTER 2.—VILLAGE ELECTIONS

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

—Until reorganized as provided in Mason's Minnesota Statutes of 1927, Section 1110, the boroughs existing at the time of the taking effect of the Revised Laws of 1905 under special legislative charter shall continue thereunder and in all things continue to be governed by such special laws. The villages existing at the time of the taking effect of the Revised Laws of 1905 under special legislative charter or under any general law and not reincorporated in the manner provided by Mason's Minnesota Statutes of 1927, Section 1110, shall be governed by the provisions of the statutes applicable to villages incorporated under the Revised Laws of 1905, Chapter 9, as amended. (As amended Mar. 15, 1943, c. 117, §1.)

See also Laws 1943, c. 117, §3.

Laws 1943, c. 117 §3 amended. Laws 1943, c. 222, §2.

Laws 1943, c. 117, §4, provides that any proceedings or actions pending in any village affected by this section shall be completed under the laws as begun.

Op. Atty. Gen. (396g-16), Apr. 1, 1942; note under §1201.

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.

Village of Madella first incorporated under Sp. Laws 1873, c. 3, and reincorporated under Laws 1883, c. 73, which was held unconstitutional, and validated by Laws 1885, c. 231, and therefor then being governed by Laws 1885, c. 145, is now governed by provisions applicable to villages incorporated under Revised Laws of 1905, in view of Laws 1943, c. 117. Op. Atty. Gen. (471b), June 1, 1943.

Villages may not hold primary elections. Op. Atty. Gen. (472t), Oct. 21, 1943.

#### 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.

Distribution of stickers at polls in town elections should not be permitted. Op. Atty. Gen. (627j-8), Apr. 2, 1941.

Absent Voters Act applies to special and annual township elections. Op. Atty. Gen. (639o), June 20, 1941.

At an election to annex contiguous territory to a city polls shall be opened between 9:00 A. M. and 10:00 A. M. and remain open until 5:00 P. M., there must be closed voting booths, and peace officers may remain in voting place. Op. Atty. Gen. (59A-1), Aug. 19, 1941.

No village may now hold primary elections. Op. Atty. Gen. (472t), Sept. 8, 1943.

#### 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. (472E), 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.

Section applies to a special town meeting at which town officers are to be elected, and an official ballot should be printed in same manner as at annual town meeting, any person desiring to be a candidate may file an affidavit of candidacy, and if no candidates file, an official ballot should nevertheless be printed wherein voters may write names of persons. Op. Atty. Gen. (434b-18), June 9, 1941.

Date of village election was December 8, 1942, and last date to file as candidate for election was November 24, 1942, two weeks before election day. Op. Atty. Gen. (911a-1), Nov. 16, 1942.

Filing should have been accepted by village recorder in the evening at his home on the last day, where recorder maintained no regular office in the village and was employed during the day time in an adjoining city. Op. Atty. Gen. (911L), Nov. 27, 1942.

Person must file as candidate at town election two weeks before the election, and in ascertaining last day to file, day on which act is performed is excluded and the day on which event is to take place is included. Op. Atty. Gen. (911p), March 1, 1943.

From 6 to 9 p. m., on the last day of filing is unreasonable limitation for filing affidavits. Op. Atty. Gen. (911i), Oct. 26, 1943.

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

Hours of polling for local and special elections in Hennepin county. Laws 1941, c. 28.

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.**—In all of the villages of this state the resident electors shall choose the following named officers under the provisions of this act, namely: a treasurer, two constables, and a council composed of a president, a clerk, and three trustees; and, if said village is a separate election district, an assessor, who shall be elected in each even numbered year; and, if there be no municipal court established in such village, two justices of the peace, provided that the term of all village assessors now in office shall extend to and expire on the first secular day of January, 1945, and no village assessors shall be elected in 1943. All officers chosen and qualified as such shall hold office until their successors qualify. Vacancies in office may be filled, for the remainder of the term for which said respective officers were elected, by the council; if the council because of equal division of the vote is unable to fill the vacancy then the president of the council shall fill the vacancy by appointment for the unexpired term. (As amended Mar. 29, 1943, c. 222, §1.)

Where failure of election officials to comply with requirements of election laws designed to give notice of election results in but a few out of a large number of voters exercising right to vote at time and place designed by law, there is no election, and there was no election of a village assessor where there was no indication on ballot that an assessor was to be elected, due to misconstruction of law by village election officers. State v. Turnbull, 212M382, 3NW(2d)674. See Dun. Dig. 2960, 2960a.

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. (471l), 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.

There is no authority for filling of vacancies in village council by a special election. Op. Atty. Gen. (471h), Apr. 8, 1941.

A trustee who plans to resign cannot vote for his successor. Id.

This section superseded Mason's St. §1134. Id.

Clark in village of Sauk Rapids is to be elected and not appointed. Op. Atty. Gen. (470E), Sept. 10, 1941.

Any village assessor may be reimbursed for expenses incurred in attending school for assessors at the University. Op. Atty. Gen. (12b-1), Nov. 13, 1941.

Village constable appointed to fill vacancy created by failure of person elected holds office for full term and not merely for remainder of year. Op. Atty. Gen. (847a-3), Nov. 25, 1941.

Death of a village councilman elect before assuming office creates a vacancy to be filled for full term beginning the first secular day in January. Op. Atty. Gen. (471m), Dec. 27, 1941.

Where office of village treasurer which expired December 31, 1941, was not placed on ballot and no one was elected to that office, there was a vacancy in that office on first secular day in January, 1942, which should be filled by appointment by new council for term of two years, incumbent holding until successor is so appointed and qualified, and no longer, unless reappointed. Op. Atty. Gen. (456G), Jan. 13, 1942.

Where at annual election in village mayor was defeated and a councilman resigned, old council, including mayor, had power to meet and fill vacancy in office of councilman, but mayor was ineligible for appointment, even though appointment was not to become effective until after expiration of his term of office or after resignation as mayor. Op. Atty. Gen. (471H), Jan. 20, 1942.

Where president of village council was defeated at December election and opposing candidate thereafter qualified and resigned after January 2, 1942, former president was eligible for appointment to fill vacancy. Op. Atty. Gen. (471H), Feb. 5, 1942.

Where village justice resigns, vacancy is filled by appointment by council for remainder of unexpired term. Op. Atty. Gen. (266a-12), Sept. 4, 1942.

A vacancy in office of trustee of village occurring early in November 1942 should be filled for remainder of unexpired term by appointment by council, but if term of trustee expires in 1942, a new trustee should be elected at regular election on December 8 for a regular term. Op. Atty. Gen. (471m), Nov. 16, 1942.

Where village clerk was re-elected for a two-year period beginning January 1 and died December 25, there is a vacancy to be filled by village council for two years

after the first of January and candidate who was defeated in election has no more legal right than anyone else to fill the vacancy, and there is no provision for a special election. Op. Atty. Gen., (470l), Dec. 30, 1942.

If office of president of a village council becomes vacant because of his absence abroad, council may not appoint one of its members as president. Op. Atty. Gen. (471h), Feb. 9, 1943. This has been changed by Laws 1943, c. 99. Op. Atty. Gen. (471h), Mar. 5, 1943.

**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 preceding 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.

Term of village president is now two years, and he is a member of council entitled to vote in council meetings. Op. Atty. Gen. (471h), Apr. 8, 1941.

Term of office of village president is two years. Op. Atty. Gen. (471h), Dec. 9, 1941.

Council may fix recorder's salary at beginning of his term, but this does not mean before his term begins, and his salary for his full two-year term is to be fixed at first meeting at beginning of term. Op. Atty. Gen. (470E), Feb. 24, 1942.

Date of village election was December 8, 1942, and last date to file as candidate for election was November 24, 1942, two weeks before election day. Op. Atty. Gen. (911a-1), Nov. 16, 1942.

Date of village elections in village of St. Vincent. Op. Atty. Gen. (472f), Sept. 4, 1943.

**601-11(2)gg. Terms of certain village officers extended.**—In each village heretofore holding its municipal election at a time other than the first Tuesday after the first Monday in December each year, the officers thereof shall continue in office until the first secular day of January, 1944, and be governed in the discharge of their official duties, so far as practicable, by the provisions of the statutes applicable to villages incorporated under the Revised Laws 1905, Chapter 9, as amended. No regular municipal election shall be held in any such village before December 7, 1943. A municipal election shall be held therein on December 7, 1943, under the laws relating to village elections generally, except that in each such village there shall be elected a president for a term of two years, a clerk

for a term of one year, a treasurer for a term of one year, one justice of the peace for a term of two years, three trustees and two constables. In each such village the candidate for trustee receiving the highest number of votes at such election shall serve for a term of three years, the candidate receiving the second highest number of votes shall serve for a term of two years, and the candidate receiving the third highest number of votes shall serve for a term of one year; the candidate for constable receiving the highest number of votes shall serve for a term of two years and the candidate receiving the second highest number of votes shall serve for a term of one year. At the election held on December 5, 1944, there shall be elected in each such village one trustee for a term of three years and a clerk, treasurer, constable, and justice of the peace, and, if the village is a separate assessment district, an assessor, each for a term of two years. The officers elected under this section shall take office on the first secular day of January in the year following their election and shall serve until their successors qualify. (Act Mar. 15, 1943, c. 117, §3; Mar. 29, 1943, c. 222, §2.) [212.285(1)]

Laws 1943, c. 117, §4, provides that any proceeding or action in any village affected by this chapter 117 shall be completed under the laws under which they were begun, and all special assessments be enforced.

Village of Madelia first incorporated under Sp. Laws 1873, c. 3, and reincorporated under Laws 1883, c. 73, which was held unconstitutional, and validated by Laws 1885, c. 231, and therefore then being governed by Laws 1885, c. 145, is now governed by provisions applicable to villages incorporated under Revised Laws of 1905, in view of Laws 1943, c. 117. Op. Atty. Gen. (471), June 1, 1943.

**601-11(2)ggg. Not to affect pending actions.**—Any proceedings of actions now pending in any village affected by this act shall be completed under the laws under which they were begun. All special assessments heretofore made by any such village shall be collected and the lien thereof enforced as if this act had not been passed. (Act Mar. 15, 1943, c. 117, §4.) [212.285(2)]

**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.

Section does not apply to township elections. Op. Atty. Gen. (639o), June 20, 1941.

**601-11(2)i. Special election.**

It is mandatory to submit a question in form in which it appears in voters' petition for its submission, but council may refuse to call an election upon a question that is unintelligible, and it may on its own motion submit other questions on separate ballots or on same ballot. Op. Atty. Gen. (472o), June 11, 1941.

**601-11(2)j. Conduct of village elections.**

Corrupt practices act so far as it relates to corrupt practices applies to village elections, but failure to file itemized verified statement of campaign expenditures is not corrupt practice. *Aura v. Brandt*, 211M281, 1NW(2d) 381. See Dun. Dig. 2993c, 2994.

**CHAPTER 4.—ELECTIONS IN CITIES OF THE FOURTH CLASS**

**601-11(4). Application of act.**

Sections 601-11(4) to 601-11(4)m apply only to cities of fourth class organized under Laws 1921, c. 462 as amended, and do not apply to city of Waterville, organized under Laws 1870, c. 31. Op. Atty. Gen. (64g), June 16, 1941.

**601-11(4)d. Removal from office.**

Removal of officers of the City of Waterville are governed by Laws 1870, c. 31, under which it was organized. Op. Atty. Gen. (64g), June 16, 1941.

**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. Elections in cities of third and fourth class.**—In all cities of the third and fourth class the election of all officers required to be chosen by the voters of the city shall be held and conducted as hereinafter prescribed, unless otherwise provided by the law under which the city is organized and operating, or by the charter of the city, if organized under the Constitution, Article 4, Section 36. (As amended Feb. 2, 1943, c. 59, §1.)

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.

Sections 601-11(4)n to 601-11(4)s apply to the city of Waterville, organized under Laws 1870, c. 31. Op. Atty. Gen. (64g), June 16, 1941.

**601-11(4)o. Affidavit of candidacy.**—In any city of the third class which has not adopted a primary election system under authority of statute and in any city of the fourth class, not less than 15 days preceding the city election, any eligible person desirous of having his name placed upon the official election ballot as a candidate for an office to be voted for at such election by the voters of such city, shall file an affidavit with the city clerk, stating his residence, that he is a qualified voter in such city and the name of the office for which he desires to be a candidate; and, upon payment of a fee of one dollar to the city clerk, that officer shall accept such affidavit and place the name of such candidate upon the official election ballot without any political party designation. There shall be no primary election, but the filing of such affidavit shall be prerequisite to having the name of the candidate placed on the official ballot for the city election. (As amended Feb. 20, 1943, c. 59, §2.)

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.

Sections 601-11(4)n to 601-11(4)s apply to the city of Waterville, organized under Laws 1870, c. 31. Op. Atty. Gen. (64g), June 16, 1941.

This section governs elections in city of St. Peter. Op. Atty. Gen. (184A), Mar. 10, 1942.

A filing officer must receive all proper affidavits of candidacy up to close of usual business hours on last day on which law permits filing and may, if he so chooses, receive them up to midnight on that day, and this applied to city election in Marshall. Op. Atty. Gen. (911A-1), Mar. 25, 1942.

**601-11(4)p. Ballots—preparation—printing.**—In any city of the third or fourth class the city clerk shall prepare and cause to be printed at the expense of the city necessary election registers, tally books and ballots for such election. The ballots shall be printed on red paper but need not bear the facsimile of the signature of any officer. Each ballot shall be headed "City Election Ballot," and shall state the name of the city, the date of the election and, except as herein otherwise provided, shall conform to the state ballot used at general elections. Names of candidates shall be arranged thereon alphabetically according to surnames without any party designation. (As amended Feb. 20, 1943, c. 59, §3.)

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.

Sleepy Eye operates under a home rule charter which does not contain any detailed provisions as to conduct of municipal elections, and such elections are governed by §§601-11(4)n to 601-11(4)s, and a red ballot should be used in submitting question whether police civil service commission be abolished. Op. Atty. Gen. (785E-1), Mar. 14, 1942.

**601-11(4)q. Polls—judges—notices of election.**—In every city of the third or fourth class, not less than ten days before the day of the city election; the coun-

cil shall select and designate one polling place for each district in the city; and, not less than five days before such election, the city clerk shall post in three conspicuous places in said city, and publish once in a qualified newspaper in such city, if there be one, otherwise in a qualified newspaper in the county, a notice of the election, stating the time and place thereof, the location of each polling place, the names of the candidates, the offices to which they desire to be chosen, and also any question or proposal which may be voted on at such election; and the city clerk shall also post and publish in the same manner samples of the official ballot. (As amended Feb. 20, 1943, c. 59, §4.)

**601-11(4)r. To use Australian ballot system.**—In every city of the third or fourth class, the city election shall be held and conducted under the Australian ballot system as provided by law for general elections. Except in every city in which a system for the permanent registration of voters is in effect, the name and residence of each person voting at such election shall be entered by the judges on an election register. The ballots shall be counted and preserved as at general election, except that the clerk shall be the final custodian thereof. After the ballots have been counted, the election board shall publicly announce the results and certify the same, together with the ballots, to the council. The results of the election shall be canvassed

by the council and the candidate for each office who receives the highest number of votes therefor shall be declared elected thereto and shall be given a certificate of election by the city clerk. (As amended Feb. 20, 1943, c. 59, §5.)

**601-11(4)s. General election laws to apply.**—So far as practicable, all the provisions of this act relating to general elections, including the provisions relating to the arrangement of polling places, peace officers, challengers, procuring ballots, boxes and supplies, and all laws defining offenses and fixing penalties at general elections are hereby made applicable to city elections held in any city of the third or fourth class. (As amended Act Feb. 20, 1943, c. 59, §6.)

## PART TWELVE REPEALS

### 601-12a. Application of act.

Mason's St. 1927, §556, is not continued in new act so as to require candidates for village offices to file verified statements of expenditures. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun, Dig. 2994.

If appointment of senator to fill vacancy expires on date of November election, filings for office for term beginning November 3, 1942, and ending January 3, 1943, are properly received by office of Secretary of State not more than ninety days nor less than forty days before time of holding primary election, and by nominating petition within thirty days before time of holding general election. *Op. Atty. Gen.* (86A-51), Jan. 8, 1942.

## CHAPTER 7

### Counties and County Officers

#### CHANGE OF BOUNDARIES

##### 621. County indebtedness—County buildings.

County responsible for support of feeble-minded at state institution. *Op. Atty. Gen.* (679d), Dec. 16, 1942.

#### 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.

##### 632. Canvass—Certificate.

It is mandatory that offices for all county officers must be established at newly designated county seat at end of 90-day period after day of election changing county seat. *Op. Atty. Gen.*, (106e), Jan. 29, 1941.

#### POWERS AND DUTIES

##### 638. Powers.

Civil service for county officers and employees in certain counties having a population in excess of 150,000 and an area of more than 5,000 square miles. *Laws* 1941, c. 423.

While counties, like other bodies politic, often have a defense which relieves them from responsibility where a private corporation would be liable, the immunity of the state from suit does not extend to a county but it is required to assert its defense. *Pettibone v. Cook County*, (CCA8), 120F(2d)850, aff'g (DC-Minn), 31FSupp881. See Dun, Dig. 2300, 3744, 5602, 5609, 9520a, 9530, 9678, 9678a.

County board of county operating under township system of poor relief has power to enter into contract with state to permit use of poor house or poor farm by inmates of state institutions. *Op. Atty. Gen.* (339K), Feb. 28, 1942.

A county is not liable for negligent acts of its officers which do not amount to a positive trespass. *Op. Atty. Gen.* (844c-5), July 1, 1942.

There is no authority for county board to employ an agent to represent it in sale of real estate, but county board may give an option contract to a real estate agent or to anyone else to buy the property. *Op. Atty. Gen.* (125a-42), Feb. 11, 1943.

County purchasing from Rural Credits Division and conveying part of land must "reserve to the county any and all iron ore and other valuable minerals in and upon the same", and it would seem that gravel is not a "valuable mineral." *Op. Atty. Gen.* (700d-29), Feb. 24, 1943.

County road machinery with county employees to operate it may be leased for use on private driveways under conditions specified in this section, but the contract should be in writing so that it becomes a matter of record. *Op. Atty. Gen.* (377b-7), July 15, 1943.

##### (2).

County may not purchase a quarter section of farm land for purpose of securing gravel from part of it and renting out the remainder, being limited to 20 acres. *Op. Atty. Gen.* (125a-41), Aug. 22, 1940.

County may accept a conveyance of real estate from an indigent person though title must be perfected by court action. *Op. Atty. Gen.* (339h), Nov. 27, 1941.

##### (3).

County board selling land may accept high bid and waive requirement of deposit with it. *Op. Atty. Gen.* (707a-3), Sept. 4, 1943.

**638-1. County may pay road and bridge bonds from moneys obtained from state for highway purposes.**—

In any county which has a total outstanding indebtedness in excess of ten per cent of the assessed valuation of the property in such county where the bonds of the county have been issued to obtain money for the construction of highways and are outstanding, the county may expend moneys received from the state road and bridge fund in discharge of such bonds. (Act Mar. 17, 1943, c. 145, §1.)  
[373.011]

##### 641. Powers, how exercised.

County board of county operating under township system of poor relief has power to enter into contract with state to permit use of poor house or poor farm by inmates of state institutions. *Op. Atty. Gen.* (339K), Feb. 28, 1942.

##### 643. County buildings.

Act Apr. 14, 1941, c. 226, §1, authorizes tax levy, in certain counties having a population of between 25,000