

CHAPTER 211

CORRUPT PRACTICES

211.01 DEFINITIONS

HISTORY. 1895 c 277; RL 1905 s 348-358; Ex1912 c 3 s 40; GS 1813 s 606; GS 1923 s 577; MS 1927 s 577; 1939 c 345 Pt 10 c 1 s 1; M Supp s 601-10 (1).

Contributions to a political campaign and engaging in radio and newspaper campaign by an incorporated bar association to aid in the nomination and election of candidates for judicial offices as constituting or not constituting corrupt practices. 31 MLR 291.

The definition of election, as it is to be applied to corrupt practices concerning elections, expressly excludes school district elections. OAG Jan. 25, 1948 (627-B-7); OAG May 24, 1949 (187-A-9).

A committee formed to support a constitutional amendment must file a statement of receipts and disbursements under the Corrupt Practices Act. OAG Aug. 26, 1952 (627-B-2).

The provisions of chapter 211 apply to county bond elections. OAG May 14, 1953 (627-B-3).

The Corrupt Practices Act applies to county-wide elections on liquor questions. OAG June 6, 1947 (627-B-3).

211.06 EXPENDITURES, LIMIT

HISTORY. Ex1912 c 3 s 5; MS 1927 c 542; 1939 c 345 pt 10 c 1 s 6; MS Supp s 601-10(1) c; 1953 c 373 s 1.

211.08 CAMPAIGN LITERATURE MATTER MUST INCLUDE NAMES

Contributions to a political campaign and engaging in a radio and newspaper campaign by an incorporated bar association to aid in the nomination and election of candidates for judicial offices as constituting or not constituting corrupt practices. 31 MLR 291.

Proceedings to avoid an election for violation of corrupt practices is a statutory special proceeding but is tried as a civil action, and the usual rules governing a civil action prevail. *Bank v Egan*, M, 60 NW(2d) 257.

The corrupt practices statute, being directed against false statements of fact, does not forbid criticism of candidate, even though unfair and unjust, if based upon facts which are not false. The facts must be material and not trifling. The burden rests upon the petitioner to prove his allegations by a fair preponderance of evidence. *Bank v Egan*, M, 60 NW(2d) 257.

Where it is evident that statements made, or reasonable inferences which can be drawn from cartoons or pictures, are true in material matters, slight deviations or the fact that a few might draw unwarranted inferences from the pictures is not enough to avoid an election. *Bank v Egan*, M, 60 NW(2d) 257.

The giving away of articles of value by a candidate for office is forbidden and whether the article given away in the candidate's canvass for votes is of value is a question of fact, and any article circulated for the purpose of influencing voters must bear the name and address of the author. OAG Sept. 24, 1948 (627-F-1).

Whether an open letter signed by the author and giving his address must contain a statement that it is prepared and circulated in behalf of the particular candidate, is a question of fact. If the open letter is circulated in the interest of better

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government and not for a particular candidate, section 211.08 should not be construed to require the name and address of any candidate. OAG Oct. 6, 1948 (627-J-3).

A candidate for public office may pass out cards or blotters before filing for the office but it is most advisable that in doing so he comply with the requirements of section 211.08. OAG March 20, 1950 (627-N).

211.14 NOT TO PAY FOR TIME LOST AT POLLS

Whether section 211.14 has been violated by the conveyance of a voter part way to the polling place is a question of fact. OAG June 26, 1947 (627-L).

211.15 SOLICITING NEAR POLLING PLACES PROHIBITED

The law prohibiting solicitation of votes within 100 feet of the polls applies to town elections. OAG May 8, 1951 (627-B-8).

A newspaper ad for campaign purposes comes within the provisions of section 211.15 and the circulation and distribution on election day is prohibited unless the circulation and distribution among the voters is so trivial that the theory de minimus non curat lex applies. OAG Oct. 22, 1949 (627-K-5).

211.20 MUST FILE VERIFIED STATEMENT OF EXPENDITURES

HISTORY. Ex1912 c 3 s 19; GS 1913 s 585; GS 1923 s 556; 1927 c 75; MS 1927 s 556; 1939 c 345 Pt 10 c 1 s 20; M Supp s 601-10 (1) j; 1941 c 51 s 1.

A committee formed to support a constitutional amendment must file a statement of receipts and disbursements under the Corrupt Practices Act. OAG Aug. 26, 1952 (627-B-2).

211.21 STATEMENT OF EXPENSE, BLANKS; DIGEST OF LAWS

HISTORY. Ex1912 c 3 s 20; MS 1927 s 557; 1939 c 345 pt 10 c 1 s 21; MS Supp s 601-10(1)jj 1953 c 494 s 1.

211.22 NAMES OF CANDIDATES SHALL NOT BE PRINTED ON BALLOT UNLESS STATEMENT IS FILED

The county auditor should not omit the name of the nominee from the general election ballot merely because the affidavit of disbursements discloses disbursements in excess of the amount allowed by law. OAG Sept. 29, 1948 (28-B-2).

211.23 MAY NOT PROMISE APPOINTMENTS

While section 211.23 forbids a candidate for office to promise a person that, if elected, the candidate will appoint that person to public office, the candidate may publicly promise the electorate that if he is elected he will make a certain appointment. OAG June 8, 1949 (627-M).

A promise made to the public that if elected the candidate will appoint a certain individual as superintendent of police does not violate the corrupt practices act. OAG June 8, 1949 (627-N).

211.27 CORPORATIONS NOT TO CONTRIBUTE TO POLITICAL CAMPAIGN

Contributions to a political campaign and engaging in radio and newspaper campaign by an incorporated bar association to aid in the nomination and election of candidates for judicial offices as constituting or not constituting corrupt practices. 31 MLR 291.

The Taft-Hartley Act and union political contributions and expenditures. 33 MLR 291.

Whether corporations are organized for pecuniary profit or not, it is unlawful for such corporations to make political campaign contributions. An American Legion

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post may not contribute funds for the promotion of the passage of a state bonus bill. OAG Oct. 15, 1948 (627-E).

211.33 COUNTY ATTORNEY TO INQUIRE INTO VIOLATIONS

An attorney hired by a citizen to assist the county attorney may carry on a private, independent investigation of his own in order to present to the county attorney relevant facts and names of witnesses capable of giving competent testimony. OAG Sept. 26, 1952 (121-A-1).

The fact that the ballots were thrown into the ballot boxes in a loose condition and thereafter the town clerk unlocked the ballot box and rearranged the ballots is not necessarily a violation of law, and until and unless reasonable evidence is presented to the county attorney which indicates a law violation, it is not the duty of the county attorney to proceed merely because a claim is made without evidence to support it that the law has been violated. OAG April 10, 1951 (627-M).

211.34 VIOLATIONS BY UNAUTHORIZED PERSON NOT TO FORFEIT NOMINATION

Where it is evident that statements made, or reasonable inferences which can be drawn from cartoons or pictures, are true in material matters, slight deviations or the fact that a few might draw unwarranted inferences from the pictures is not enough to avoid an election. *Bank v Egan*, M, 60 NW(2d) 257.

211.35 CONTEST; WHEN COMMENCED

Section 208.01 does not authorize an election contest for mere errors in counting the ballots. Section 208.07 requires that notice of contest be filed in the county of the contestant's residence. State courts have jurisdiction over the nomination of candidates for representative to congress; but no jurisdiction over the election of representatives to congress, the congress being the judge of its own elections, returns, and qualifications of its members. *Youngdale v Eastvold*, 232 M 134, 44 NW(2d) 459.

The county auditor does not have authority to omit the name of a nominee from general election ballot because the affidavit of disbursements discloses disbursements in excess of the amount allowed by law. Proceedings to annul a nomination for violation of Corrupt Practices Act must be instituted under section 211.35 and under section 205.78. OAG Sept. 29, 1948 (28-B-2).

CHAPTER 212

ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES

212.01 FIRST TOWN MEETING

The town meeting is the governing body of the town, not the town board. OAG April 10, 1951 (43-B-4).

212.02 ANNUAL TOWN MEETING; DATE OF

A special town meeting may be called for the purpose of authorizing the purchase or construction of a building and voting money therefor. OAG March 21, 1950 (434-A-6).

Where a town is separated from a city for election and assessment purposes the town board may meet and have their office in the city until other arrangements can be made, but a special election must be called to fix the place of the next annual town meeting. OAG Sept. 22, 1947 (440).