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THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
REPORTER SYSTEM

COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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1894

GENERAL STATUTES

OF

MINNESOTA

1894.

CHAPTER I.

ELECTIONS.¹

§ 1. Constitutional amendments, etc.—Canvass of votes.

The result of elections upon constitutional amendments and all questions submitted to the people of the state shall be ascertained, and returns made and canvassed in the same manner, at the same time, and by the same officers as is provided by law for the canvassing of votes cast at elections for state officers.

(1881, Ex. S. c. 64; G. S. 1878, v. 2, c. 1, § 111.)

§ 2. Women—Qualification to vote for county superintendent of schools.

That any woman of the age of twenty-one years and upwards, belonging to either of the classes mentioned in section one of article seven of the constitution of the state of Minnesota, who shall have resided in the United States one year, and in this state for four months next preceding any election at which a county superintendent of schools is elected, shall be entitled to vote for county superintendent of schools at such election, in the election district of which she shall at the time have been for ten days a resident.

(1885, c. 204, § 1; G. S. 1878, v. 2, c. 1, § 107.)

§ 3. Same—Required to register.

Any woman entitled to vote under this act shall be required to register as now provided by law for male voters.

(1885, c. 204, § 2; G. S. 1878, v. 2, c. 1, § 108.)

§ 4. Ballots—How prepared—Depositing—Canvass.

The ballot offered by any woman entitled to vote under this act shall not contain the name of any person to be voted for at such election, except such county superintendent of schools; and all such ballots shall be deposited in a separate ballot-box, but canvassed with the other ballots cast for county superintendent of schools at such election.

(1885, c. 204, § 3; G. S. 1878, v. 2, c. 1, § 109.)

¹G. S. 1878, c. 1, repealed by Laws 1887, c. 4, § 98; Laws 1887, c. 4, and Laws 1889, c. 8, repealed by Laws 1891, c. 4, § 123; Laws 1891, c. 4, repealed by Laws 1893, c. 4, § 203.

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§ 5. Separate boxes to be provided.

The supervisors of the several townships, and the city council of the several cities, shall procure, at the expense of the said townships and cities respectively, a separate ballot-box for each election district destitute of the same, in which the ballots of women entitled to vote under this act shall be deposited.

(1885, c. 204, § 4; G. S. 1878, v. 2, c. 1, § 110.)

§ 6. General election—Presidential electors—When state and county officers, etc., to be elected:

On the first Tuesday after the first Monday in November of each even-numbered year an election shall be held in the several election districts of the state, which shall be known as the general election. On a year when the president and vice president of the United States are to be chosen, a number of electors of president and vice president of the United States, equal to the number of senators and representatives to which this state is entitled in the congress of the United States, shall be elected at said election. The several state and county officers, judges of the supreme and district courts, members of the legislature and representatives in congress of the United States shall be elected at the general election next preceding the expiration of the term of each of the said officers respectively.

(1893, c. 4, § 1.)

See State v. Benedict, 15 Minn. 198, (Gil. 153, 156); State v. Sherwood, 15 Minn. 221, 224, (Gil. 172.)

§ 7. Term of office—When to begin.

The regular term of office of all state and county officers shall commence on the first Monday in January next succeeding their election, unless otherwise provided by law.

(1893, c. 4, § 2.)

Where an officer dies between the day of his election and the first of January following, he cannot be considered as having been in possession of or an *incumbent* of the office, and his death does not cause a *vacancy* therein. State v. Benedict, 15 Minn. 198, (Gil. 153.)

See, also, Territory v. Smith, 3 Minn. 240, (Gil. 164); O'Leary v. Steward, 46 Minn. 126, 48 N. W. Rep. 608.

§ 8. Election districts²—When to be divided.

Every organized township, every incorporated village which is now a separate election district, and every ward of each incorporated city shall form at least one election district, but no election district in any incorporated city or village shall, when first formed, contain more than four hundred male electors as shown by the registers used at the then last preceding election. Whenever any election district is found by the number of votes there cast at any election to contain more than four hundred male voters, it shall be the duty of the supervisors of the town, or of the city council, village or municipal corporation of the city or village, to cause such district, at least six weeks before the next ensuing general, town or city election, to be divided into two or more districts, each containing, as nearly as may be, an equal number of votes.

(1893, c. 4, § 3.)

See State v. Fitzgerald, 37 Minn. 26, 32 N. W. Rep. 788; State v. Spande, 37 Minn. 322, 34 N. W. Rep. 164; Bradish v. Lucken, 38 Minn. 186, 36 N. W. Rep. 454; Stemper v. Higgins, 38 Minn. 222, 37 N. W. Rep. 95.

§ 9. Map or description of districts divided—Inspection—Copies to be furnished.

When a ward in any incorporated city or village shall be divided into two or more districts the city council, village or municipal corporation shall

² See, also, act of March 9, 1885, (Laws 1885, c. 172,) as follows:

§ 1. That the corporate authorities of any village, town, or city, which has been or which may hereafter be organized under the general laws of the state of Minnesota, shall establish as many voting precincts or voting places as may be convenient for the inhabitants of said village, town, or city.

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publish the same by making a map or description of such division, defining it by known boundaries, and keeping such map or description open for public inspection in the office of the clerk of such city or village, and also by posting up copies of such map or description in at least five of the most public places in every district therein; and said city council, village or municipal corporation shall also, prior to the next election, furnish copies of such map or description to the judges of election in each of said districts.

(1893, c. 4, § 4.)

§ 10. Formation of new districts.

Whenever any number of voters, not less than eight, residing in an unorganized or partially organized county, shall, at least eight weeks before any general and six weeks before any special election, petition the governor to establish a new election district, designating the boundaries of the same, which shall not be within five miles of the polling place of any existing district, it shall be the duty of the governor, and he is hereby authorized and directed to cause to be established such district, or districts, at such place or places as the petitioners may require, and he shall select from the names of the petitioners or others three persons who shall be judges of election therein. Provided, that not more than two of the judges so appointed shall belong to the same political party.

(Id. § 5.)

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§ 11. List of new districts, etc., to be published.

The governor shall, within at least six weeks before a general election, and within four weeks before a special election, publish in one newspaper published at the state capital a list of all election districts by him established in unorganized counties, together with the places where the elections are to be held, and the names of the judges of election by him appointed.

(Id. § 6.)

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§ 12. Election day—Civil process—Half-holiday.

During any day on which any general, special, town or charter election is held, no civil process shall be served upon any elector entitled to vote at any election; and the forenoon of each day on which a general election is held shall be a compulsory half-holiday, and all employes of every kind whatever shall be allowed the whole of said forenoon for the purpose of voting.

(Id. § 7.)

§ 13. Notice of officers to be elected—To whom sent.

The secretary of state shall, between the first days of July and September in each year, direct and cause to be delivered to the auditor of each county, a notice specifying all the officers in said county whose term of office will expire on the first Monday of January next succeeding, and specifying, also, the several officers to be voted for in such county at the next general election. The auditor to whom such notice is delivered shall, upon receipt thereof, cause a like notice to be sent to each town, city and village clerks in his county.

(Id. § 8.)

§ 14. Uniform blanks and copies of law to be provided— To whom sent.

The secretary of state shall provide uniform blanks for making lists or registers and affidavits and all other blanks required by law or necessary to be used in the several election districts at any election. He shall also provide copies of this law or so much thereof as pertains to the duties of city officers, the registration of electors, preparations for and conduct of elections, the casting and counting of votes and the making of returns thereof, in cities having a population of twelve thousand or more inhabitants, and transmit the same to the auditor of such county at least thirty days before any election. And in like manner he shall provide and transmit copies containing so much of this law as pertains to like duties and subjects in cities having a population of less than twelve thousand inhabitants, and to townships and villages. And the said auditor shall forthwith

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deliver to the clerk of every city, town and village in his county the necessary copies of each of said blanks, and one copy of the said law, or abridgement thereof, for each judge of election in each of said cities, towns and villages.

(Id. § 9.)

§ 15. Special election—When and how held.

Whenever there is no election of any state or county officers, or of the required number of members of the house of representatives or senate, or of representatives in congress, by reason of any two or more persons having an equal and the highest number of votes for any such office, or whenever any vacancy occurs in any of the said offices, which said vacancy is not otherwise provided for, the governor, within ten days after he is informed of such vacancy or failure to elect, shall issue a proclamation directing that a special election be held in the proper election district or districts, at a time to be specified in the proclamation, not more than twenty days from the date thereof, to fill such office, and said election shall be called in the manner herein provided for calling elections. One copy of such proclamation shall be forwarded by mail to the county auditor of each county wherein such special election is to be held. Provided, that if the vacancy occur in the office of representative in congress or state senator or member of the house of representatives and there be no session of the legislature or congress between the happening of such vacancy and the next general election occurring twenty-eight or more days thereafter, such vacancy shall be filled at the general election. Special elections shall be held and conducted and the returns thereof made and canvassed in the same manner as general elections are held, conducted and the returns thereof so made and canvassed.

(Id. § 10.)

§ 16. Statement of votes at special election—Where sent—Penalty.

In elections to fill any vacancy as hereinbefore provided, the auditor shall, within fifteen days after such election, transmit statements of the votes given to the office of the secretary of state, and take his receipt therefor, under the penalty of five hundred dollars fine, to be recovered from him in a civil action in the name of the county, and the county treasurer, for the time being shall sue for and recover the penalty for the use of the county.

(Id. § 11.)

§ 17. Special election in county divided after election—Where held—Who can vote.

If a vacancy occur in the senate or house of representatives for any cause, and if the county composing the district in which that vacancy occurs has been divided after the election of a member whose seat is vacant, such election shall be ordered in every county, or part of any county, of which such district was originally composed; but no person shall be permitted to vote at such election who does not at that time reside within the limits of the original county or district in which the vacancy occurred.

(Id. § 12.)

§ 18. "Vacancy" defined.

The term "vacancy" or any equivalent phrase, as used herein, shall be deemed to mean such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law, and whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise.

(Id. § 13.)

§ 19. Term of officer elected or appointed to fill a vacancy.

Any state, county or district officer elected or appointed to fill a vacancy shall qualify and enter upon the duties of his office immediately thereafter. When elected he shall hold the office during the unexpired term for which he is elected, and until his successor is appointed and qualified;

but if appointed to, he shall hold his office until the next general election, when his successor for the remainder of the unexpired term shall be chosen, and until his successor is elected and qualified.

(Id. § 14.)

When the term of office of an incumbent expires, the person to whom a certificate of election, as his successor, is issued, having qualified, is entitled to the possession of the office, books, and records, although the election is contested. *Crowell v. Lambert*, 10 Minn. 369, (Gil. 295.)
See *Harkins v. Sencerbox*, 2 Minn. 844, (Gil. 297); *Territory v. Smith*, 3 Minn. 240, (Gil. 164); *State v. Benedict*, cited in note to § 7, supra.

§ 20. Instructions to voters—When in a foreign language—Copies of question to be submitted to electors—How furnished.

Uniform printed instructions to voters, printed in large type upon cards or heavy paper shall be furnished by the secretary of state to the county auditor of each county, containing any information that will enable the voters to quickly make and correctly designate their choice. Whenever the county auditor of any county notifies the secretary of state that the printed instructions are also needed in a foreign language or languages, and such foreign language is stated, then it shall be the duty of the secretary of state to furnish such printed instructions in such foreign language or languages. Copies of any proposed amendment to the constitution³ or other question to be submitted to the electors shall be printed, distributed and posted as now provided by law. Said cards shall be sufficient in number to allow one for each booth at each election district, and four for each district in addition thereto; and the county auditor shall deliver said cards to the city, village and township clerks in the county. Said city, village or township clerks shall furnish such cards to each polling place, one of which cards shall be posted in each booth, two in the polling room and two on the outside of the building in which the voting takes place. (1893, c. 4, § 15.)

§ 21. Spirituous liquors at polling place—Penalty.

Any person or persons introducing in any way upon election day into a place where an election is being held any spirituous liquors, and any judge or clerk of election, constable or challenger drinking any such liquors in such place, or being intoxicated therein, upon election day, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding sixty days, or by both such fine and imprisonment, in the discretion of the court. (Id. § 16.)

§ 22. Election day—Liquors and saloons.

No spirituous, malt or intoxicating liquor shall be sold or given away, nor shall any store, saloon or bar room where such liquor is sold or given away, be open on any general or special election day at any time between the hour of five o'clock in the forenoon and the hour of eight o'clock in the afternoon. Whoever violates any provision of this section shall be fined not less than one hundred dollars nor more than three hundred dollars for each offense, and in default thereof shall be imprisoned in the county jail for a period not exceeding six months. (Id. § 17.)

§ 23. Whose duty to enforce preceding section—Proclamation—Penalty.

It shall be the duty of the mayor, sheriff, constable and other officers and magistrates to see that the provisions of the next preceding section are strictly enforced, and the mayor on the day next preceding any election shall issue a proclamation that the provisions of said section will be strictly enforced; and if he fails to perform the duties herein prescribed, he shall be subject to a fine of one thousand dollars, or imprisonment in the county jail for sixty days, or both, in the discretion of the court; but no failure

³See post, §§ 310-314.

on the part of the mayor to issue said proclamation shall exempt any person violating said last preceding section from the penalty therein prescribed.

(Id. § 18.)

§ 24. Printed ballot only method of voting.

The only method of voting at any election shall be by ballot, and all ballots hereafter voted at any election in the state of Minnesota shall be printed as hereinafter provided.

(Id. § 19.)

See Const. art. 7, § 6.

See Barnum v. Gilman, 27 Minn. 466, 8 N. W. Rep. 375.

§ 25. White ballot—What to contain—How furnished and distributed—Sample ballot.

There shall be one ballot on plain white paper, upon which shall be printed the names of all candidates for office who are to be voted for throughout the entire state, and all amendments to the constitution, and all other questions or propositions that are to be submitted to the electors throughout the state. Said ballots on plain white paper shall be printed under the direction of the secretary of state, and bound in blocks of one hundred ballots to the block, the expense whereof shall be defrayed from the state treasury, and shall by the secretary of state be distributed to the auditors of the different counties in such quantities as shall be necessary to enable the city, village or township clerks to fully comply with the provisions of this act, such ballots to be forwarded to the county auditors by express at least fifteen days before election, and a receipt, stating the number of ballots and the date on which they were received, shall be taken therefor. On the fourth Tuesday preceding the day of election a sample ballot shall be printed and placed on file for examination in the office of the said secretary of state.

(1893, c. 4, § 20.)

§ 26. Red ballot—What to contain—How furnished and distributed—Sample ballot.

There shall be one ballot on pale-tinted red paper, upon which shall be printed the names of all candidates for office which are to be voted for in any city or municipality at a city or municipal election for city or municipal officers; and also all questions or propositions that are to be submitted to the electors of such city or municipality, and which pertain to the same only. Said ballots on tinted red paper shall be printed under the direction of the city clerk or village clerk or recorder and bound in blocks of one hundred ballots to the block, the expense whereof shall be defrayed from the city treasury, and shall, together with white and blue ballots, and printed instructions herein provided for, be distributed by the city clerk to the judges of election for each polling place, and a receipt, stating the number and color of ballots and the date on which they were received, shall be taken therefor. On the Tuesday next preceding the day of election a sample ballot shall be printed and placed on file for examination in the office of said clerk or recorder.

(Id. § 21.)

§ 27. Blue ballot—What to contain—How furnished and distributed—Sample ballot.

There shall be one ballot on light blue paper, upon which shall be printed the names of all candidates for office other than those specified in the two preceding sections; and also all questions or propositions to be submitted to the electors which are not properly to be placed upon the ballots specified in said two preceding sections. Said ballots on blue paper shall be printed under the direction of the county auditor of each county, and bound in blocks of one hundred ballots to the block, the expense whereof shall be defrayed from the county treasury, and shall be distributed by the county auditor, together with the ballots received from the secretary of state, to city, village and township clerks within his county in such quantities as shall be necessary to enable such clerks to fully comply with the provisions

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of this act. It shall be the duty of each of the county auditors to give written notice to each city, village and township clerk within his county as to the time when the official ballots will be ready for distribution; and it shall be the duty of the city, village or township clerks aforesaid to go to the county seat and receive the official ballots from the county auditors; such ballots to be furnished such clerks on the Thursday next preceding the day of election, and receipts, stating the number and color of ballots and the date on which they were received, shall be taken therefor. On the second Thursday preceding the day of election, a sample ballot shall be printed and placed on file for examination in the office of said county auditor.

(Id. § 22.)

§ 28. How many ballots for each polling place.

Each city, village and township clerk shall provide for each polling place or election district in his city, village or township one hundred ballots of each kind to be voted in the district for every seventy-five or fraction of seventy-five electors registered at the last preceding election in the district, and, in the event of known large increase in the number of voters in any district, said clerk shall provide such additional ballots as may be necessary.

(Id. § 23.)

§ 29. How ballots shall be printed—Varying tints.

All ballots shall be printed with black ink on paper of sufficient thickness to prevent the printing thereon from showing through or being discernible from the back, and all ballots of the same color shall be substantially uniform as to style, size, thickness, shade of color and the type used, and the same sized type shall be used for all candidates to be voted for on the same ballot. In the event that ballots of any class shall be printed on paper of the same general tint, but varying in shade, all such ballots used at the same election district shall be of the same shade.

(Id. § 24.)

§ 30. Description of white ballot.

Every ballot printed under the direction of the secretary of state, in accordance with the provisions of this act, shall be not less than four inches nor more than six inches in width, and of such length as the number of candidates to be voted for and questions submitted may render necessary, and shall contain the official designation of all offices proper to be placed there on, such designation being followed by the name of the candidates for each of the respective offices whose nomination shall have been fully made and not withdrawn. The titles of said offices shall be arranged in such order as the secretary of state shall direct, not inconsistent with the provisions of this act. The name of each candidate and of the office to be filled shall be printed at right angles with the length of the ballot in plain Roman type, which type shall not be larger than the size known as "long primer" nor smaller than the size known as "brevier." The name of each candidate shall be printed in capital letters, preceded on the same line, [by] the title of the office for which he is a candidate, the same being printed in capitals and small letters, or what are known as upper and lower case. Each name shall be followed on the same line in upper and lower case letters by the party designation or politics of the candidate. Opposite and at the right of and on a line with said name and party designation, near the margin of said ballot, shall be left a vacant space so enclosed by rule work as to make a square three-eighths of an inch in size, in which the elector may designate his choice by a crossmark (X) as in this act provided. Above and below each name shall be printed across the ballot a narrow line, except that above and below each office a heavier line shall be so printed. After the name of the last named candidate for each office shall be placed as many blank lines as there are like offices to be filled, and in all cases the lines separating the names of candidates shall be three-eighths of an inch apart. In each blank space wherein no name is printed shall be printed the title of the office next above stated therein. At right angles with said lines and at the right of said small squares shall be printed opposite each office the words, "vote for one," or "vote for two," or more, the number to

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correspond with the number to be elected. Small squares shall be left at the right-hand margin of blank lines, on which lines the voter may write the names of any persons for whom he desires to vote, whose names are not upon the ballot, and in which small squares he may make cross marks (X) as in the case of names printed thereon. The first name printed for each office or group of names, if more than one is to be voted for for the same office, shall be that of the candidate of the political party which at the last preceding general state 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 party. In like manner the second and additional lines shall be filled with the names of candidates of other political parties receiving respectively the next highest number of votes. Names of candidates nominated by petitioners shall follow the candidates of conventions in the order in which the same are filed. Each white ballot shall contain above the first name thereon the words, "Put a cross-mark (X) opposite the name of each candidate you wish to vote for in the squares indicated by the arrow," and on a line with said words and over said small squares shall be printed a small arrow or point thereof, pointing downward. Said white ballot shall be headed in heavy-faced plain letters, not smaller than long primer nor larger than great primer in size, with heavy rule above and below the same, said heading to consist of the word "State" or "State Ballot," as the secretary of state may determine. When a president and vice president of the United States are to be elected, the presidential electors of each party shall be grouped together and printed as aforesaid, the names of each group to be arranged in the order in which they are filed. The political or party designation shall be printed as in the case of other candidates, and following said designation and on the same line shall be printed in bold type the surname of the presidential candidate represented. The groups of presidential electors shall be separated from each other by a blank space at least one inch in width, but no blank lines shall be printed therein as in the case of other candidates or groups. When presidential candidates are to be elected the ballots shall be headed "Presidential," or "Presidential Electors," and the state ballot shall be printed below the same with a blank space one inch in width between the same.

(Id. § 25.)

§ 31. Other ballots prepared in same manner—Exception.

Every ballot to be printed under the direction of the county auditor, city clerk or other official other than secretary of state, shall be prepared as near as may be substantially in the same manner as provided for the state ballot, and when the election is to be held at the same time as the general state election, the various tickets shall be arranged in the same order as on the state ballot, regardless of the vote polled in any particular county or municipality. When, however, the election is not held in conjunction with a general state election the party tickets shall have the precedence on the ballot in the order of the vote polled at the last general election within the territory in which the election is to be held.

(Id. § 26.)

§ 32. Indorsement on back of ballot.

On the back of each ballot shall be printed in plain type, not smaller in size than great primer, the words "Official Ballot," the date of the election, and a facsimile of the signature of the officer under whose direction the ballot is printed, together with his official title and a space for the initials of judges of election. Said printing to be so done as to be plainly visible when the ballot is properly folded and ready for deposit.

(Id. § 27.)

§ 33. Ballot when constitutional amendment, etc., are submitted.

Whenever a constitutional amendment or other proposition is submitted to be voted on by the people, the substance of such amendment or proposition shall be clearly indicated at the bottom of the ballot and upon the

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proper ballot, and two spaces shall be left upon the margin, one for votes favoring the amendment or proposition, to be designated by the word "Yes" at the left of said space, and one for the votes opposing the amendment or proposition, to be designated by the word "No" at the left of the second space. Said constitutional amendment or other proposition shall be printed at the lower part of the ballot, separated from other printing by a blank space at least one-half inch in width. The elector shall designate his vote by a cross-mark opposite the word "yes" or "no," as the case may be, in the small square or space provided therefor.

(Id. § 28.)

§ 34. What names shall appear on ballot—What ballots to be furnished to judges.

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Each officer shall place upon the ballot by him to be printed only the names of candidates who are nominated for offices properly to be placed upon such ballot by him to be printed under the provisions of this act. No ballot shall be furnished to any judges of election which contains the name of any candidate who is not properly to be voted for in the election district where such judges are to sit on the day of election.

(Id. § 29.)

§ 35. Penalty for misprint or unauthorized removal of ballots.

If any person employed or authorized to print official ballots, or any person employed in printing the same, shall give or deliver, or knowingly permit to be taken any of said ballots, by any person other than the official under whose direction such ballots are being printed, or shall knowingly print or cause or permit to be printed any ballot in any other form than the one prescribed herein, or with any other names thereon, or with the names spelled or the names or offices thereon arranged in any other way than that authorized and directed by the said official, he shall be guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison for a term of not less than six months, nor more than one year, or by a fine of not less than five hundred dollars nor more than two thousand dollars, or both, at the discretion of the court.

(Id. § 30.)

§ 36. Nomination by an assembly—Certificate.

Any assembly or convention of delegates, held for the purpose of making nominations to public office, or electors to the number hereinafter specified, may nominate candidates for public office, to be filled by election within the state. Said nomination shall be made by delivering to and leaving with the officer charged by this act with directing the printing of the ballots upon which the name is to be placed, within the time prescribed by this act, a certificate of nomination for each candidate.

(Id. § 31.)

§ 37. What certificate of nomination shall contain.

The certificate of nomination, which may consist of one or more writings, shall contain, first, the name of the person nominated; second, the office for which he is nominated; third, the party or political principle he represents (expressed in not more than three words); fourth, his place of residence, with street and number thereof, if any. In case of electors of president and vice president of the United States, the names of the candidates for president and vice president may be added to the party or political appellation.

(Id. § 32.)

§ 38. How certificate shall be authenticated.

The certificate of nomination of a candidate for office selected by any convention of delegates, as herein defined, shall be signed and certified by the presiding officer and secretary of said convention, who shall also take and prescribe an oath before some proper officer that the facts stated in the certificate are true, and the secretary shall immediately deliver such certificates of nomination to the officer charged with directing the printing of

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the ballots, upon which the name is to be placed, and in case he shall neglect to do so he shall be guilty of a misdemeanor.

(Id. § 33.)

§ 39. "Convention of delegates" defined.

An assembly or convention of delegates within the meaning of this act, is an organized assemblage of delegates representing a political party, which at the last general election before the holding of such convention or assembly polled at least one per cent. of the entire vote cast in the state, or county or other division or district for which the nomination is made.

(Id. § 34.)

§ 40. Certificate of candidate nominated otherwise than by a convention.

The certificate of nomination of a candidate selected otherwise than by a convention of delegates, shall be signed by electors resident within the district or political division from which the candidate is presented, to a number equal to one per cent of the entire vote cast at the last preceding election in the state, county or other political division or district from which the nomination is made. Provided, however, that the number of signatures required in the case of any state officer shall not exceed two thousand.

(Id. § 35.)

§ 41. Certificate to contain only one candidate—Elector limited to one nomination for each office—Exception.

No certificate of nomination shall contain the name of more than one candidate. No person shall join by certificate signed by electors in nominating more than one nominee for the same office, unless more than one person is to be elected thereto, in which event he may sign as many certificates as there are officers to be elected.

(Id. § 36.)

§ 42. Form of oath to be appended to certificate.

Following the facts required to be stated in each certificate of nomination to be signed by electors shall be written or printed an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this certificate, and signed the same of my free will." Each signer, at the time of signing, shall be sworn by some proper officer.

(Id. § 37.)

§ 43. Certificate containing more than one candidate.

If any certificate of nomination shall contain the name of more than one candidate for any office to be filled, neither name shall be printed as a candidate for such office.

(Id. § 38.)

§ 44. Elector signing for more than one candidate.

If any elector shall join in nominating by petition more than one nominee for any office to be filled, there being but one such office to be filled, such person shall not be counted as a petitioner for either nomination.

(Id. § 39.)

§ 45. How vacancy after nomination may be filled—New certificate.

In case a vacancy occurs from any cause after nominations have been made, as heretofore specified, such vacancy may be filled at any time before the official ballot is posted by filing with the proper officer a certificate of nomination in form and substance as hereinbefore provided, containing the name of the person substituted to fill the vacancy. Such substitutional certificate shall be executed by the chairman and secretary of the proper committee of the party making the nomination, the vacancy of which is to be filled, under such directions and regulations as the conven-

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tion shall have specified, or in case none have been specified, then under the direction of the proper state, county, district or city committee, as the case may be.

(Id. § 40.)

§ 46. Death, removal or resignation of candidate after printing of ballots—Use of pasters.

In case of the death, removal or resignation of any candidate, after printing of such ballots and before such election, it shall be lawful for the campaign committee of the state, district, county or other political organization of which such candidate was a member to make a nomination to fill such vacancy, and the chairman of said committee may provide the boards of election in each election district in which such candidate is to be voted for with a number of adhesive pasters, containing only the name of such candidate, at least equal to the number of ballots provided each precinct, but no pasters shall be given to or received by anyone except such board of election from such chairman, and it shall be the duty of the said board of election to put such pasters in a careful and proper manner and in the proper place on each ballot before either of said board shall sign his initials thereon. When said vacancy shall occur before the official ballots shall have been delivered by the secretary of state, the county auditor or the city clerk, as provided in this act, said adhesive pasters may be delivered to either of said officers, as the case may be, and shall by them be delivered with said official ballots, and boards of election, on receiving the same, shall put said pasters on said ballots as hereinbefore provided.

(Id. § 41.)

A "paster" is not a "cut or device to distinguish one ballot from another." *Quinn v. Markoe*, 37 Minn. 439, 35 N.-W. Rep. 263.

§ 47. Certificate for members of congress, district judges, etc.—Certified copies.

In case of members of congress, judges of the district court and all other candidates voted for in any district or division smaller than the entire state, but larger than an entire county, whenever such candidate is nominated by any convention of delegates, as specified in this act, it shall be the duty of the president and secretary of such convention to file a certificate, as therein specified, with the county auditor of each county in the congressional, judicial or other district for which the nomination is made. Whenever any such nomination in any such district is made by a certificate of nomination by petitioners, such original certificate containing the original signatures shall be filed with the county auditor in the county where the candidate resides, and the said auditor shall certify to as many correct copies of the same, if presented to him, as there are other counties in the district, and one of said certified copies shall be filed within the proper time with the county auditor of each said county in the district, and shall be authority for such auditors to place the name upon the blue ballots.

(1893, c. 4, § 42.)

§ 48. Error or omission in ballot or in certificate—How corrected.

Whenever it shall appear by affidavit presented to any judge of the supreme or district courts of the state that an error or omission has occurred in the printing of the name or description of any candidate on official ballots, or that any other error has been committed in printing the ballots, or that the president or secretary of any caucus or convention have failed to properly make or file any certificate of nomination, or that the name of any person has been wrongfully placed upon said ballots as a candidate, such judge shall immediately, by order, require the officer or person charged with the error or neglect, to forthwith correct the error, or perform his duty, or to show cause forthwith why such error should not be corrected or such duty performed. Failing to obey the order of such judge shall be contempt.

(Id. § 43.)

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76-NW 1021
76-NW 1022
77-NW 28

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§ 49. Time for filing certificates — Inspection thereof — Tender of fees.

Names must be handed to and filed with the secretary of state, to be placed upon the white ballots, in accordance with the provisions of this act, on or before the fifth Saturday preceding the day of election. Names must be handed to and filed with the county auditor to be placed upon the light blue ballots on or before the third Tuesday preceding the day of election. Names must be handed to and filed with the city clerk or other proper officer to be placed upon the tinted-red ballots on or before the second Saturday preceding the day of election. In all cases provided for in this section the secretary of state, county auditor, city clerk or other proper officer shall immediately give or send the person handing in any name or names to be placed upon the ticket an acknowledgment thereof, upon the same day which it is received, and shall file and preserve such certificates, and they shall be subject to inspection like other records. But no filing of any name shall be deemed complete until the necessary fee shall be tendered the proper officer, when the name is handed or presented to him as aforesaid.

(Id. § 44.)

§ 50. Duty of printing officers—Schedule of fees, etc.

The secretary of state and county auditors and city clerks shall respectively place upon the several ballots printed by them the name of each candidate for office, who shall have been nominated as hereinbefore provided, and whose certificate of nomination has been presented within the time specified, and on payment of the fee prescribed by law, which shall be as follows: For each name tendered to be placed upon the white ballot, fifty dollars to be received by the secretary of state and by him paid into the state treasury; for each name tendered to be placed upon the red ballot five dollars to be received by the city clerk and by him paid into the city treasury; for each name tendered to be placed upon the blue ballot, ten dollars, to be received by the county auditor and by him paid into the county treasury; provided, that when any candidate is nominated for the same office by more than one political party, the name after [of the] party by whom he was first nominated shall be given the first place following his name, and Provided, that where the person whose name is to be placed upon the blue ballot, is to be voted for in more than one county, as in case of members of congress, judges of district courts, etc., then the fee shall be twenty dollars, and shall be divided among the several counties as nearly equal as may be, and the portion due each paid at the time and in the manner as provided for single counties.

(Id. § 45.)

§ 51. Posting of notices—When, where, and by whom.

Every township, city and village clerk at least fifteen days before the holding of any general election and twenty days before the holding of any special election, shall give public notice of the time and place of holding such election and the hours during which the polls will be open by posting in three public places in every election district three notices each containing a list of the officers to be elected at such election, one of which notices shall be posted up at the place of holding the election; provided, that no failure of the clerk to give such notice as aforesaid shall invalidate an election.

(Id. § 46.)

The facts that there were no register poll-lists at an election, that the judges and clerks did not take any oath, and that there was not transmitted with the returns to the county auditor a list of the qualified electors of the election district, held not to invalidate the election. *Taylor v. Taylor*, 10 Minn. 107, 111, (Gil. 81, 85;) *Edson v. Child*, 18 Minn. 64, 351, (Gil. 43, 823.)

As to notices for election districts not regularly established, see *State v. Emery*, (Neb.) 30 N. W. Rep. 57.

Necessity of notice in case of filling a vacancy at a regular election. See *People v. Thompson*, (Cal.) 9 Pac. Rep. 833.

Compelling the correction of a notice of election by *mandamus*, see *State v. Ware*, (Or.) 10 Pac. Rep. 885.

§ 52. Place of holding election.

The election shall be held in each election district at the place where the last preceding election was held, except as hereinafter provided; but, if in any town a vote is taken to hold it elsewhere, the next ensuing election shall be held at the place designated by such vote.

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(1893, c. 4, § 47.)

§ 53. Designation of polling place.

The municipal council of every incorporated city or village shall, by ordinance or resolution, appoint the place of holding the election in each election district in said city or village. When the place shall not be so designated the election shall be held, as near as may be, at the place of holding the then last preceding election, subject, however, to change or removal before the opening of the polls, as elsewhere provided in this act.

(Id. § 48.)

Change of voting place on election day is an irregularity, and will not render the election void, unless it appears that the result was changed thereby. *Farrington v. Turner*, (Mich.) 18 N. W. Rep. 544.

§ 54. Same—When township has been divided into districts—Notice.

When in any township the supervisors shall have divided the same into two or more election districts, as provided in section three of this act, they shall designate the place for holding the election in each of such districts, at least thirty days before the day of election, and shall give notice thereof by posting proper notices in three public places in each election district at least twenty-five days before the day of election, which said notices shall contain the designation of the boundaries of and the place for holding said election in the election district wherein the same are so posted.

(1893, c. 4, § 49.)

§ 55. When township supervisors to be judges—Appointment of other judges—Notice.

The township supervisors shall be judges of election in the election districts in which they reside, unless all of said supervisors shall be members of one political party and reside in the same election district, in which event not more than two shall so serve as judges of election, to be determined by lot if not otherwise agreed upon. But no supervisor shall be required so to serve as judge of election, and if he declines so to serve he shall so notify the town clerk in time for the appointment of judge of election as in this section provided. Whenever it shall become necessary to appoint one or more judges of election by reason of the disqualification or unwillingness of one or more supervisors so to serve or by reason of the division of the township into two or more election districts, said supervisors shall on the first day they meet for registration appoint the same, and shall give notice thereof by posting proper notices in three public places in each election district at least ten days before the day of election.

(Id. § 50.)

§ 56. Appointment of judges and clerks in cities and villages.

The city council of all incorporated cities, and the municipal councils of all incorporated villages, which constitute one or more separate election districts, shall, at least twenty-five days before any election, appoint three qualified electors of each election district of said city or village, as hereinafter provided, who shall be judges of election in their election districts, respectively, and who shall appoint two qualified electors of their election districts as clerks of election; provided, that members of any village council, in villages having but one election district, and not included in any township election district, shall be judges of election, subject however to the qualifications and restrictions provided for township supervisors in like cases.

(Id. § 51.)

§ 57. Appointment of clerks—Restrictions.

Two qualified electors in each election district shall be appointed by the judges of election therein to serve as clerks of election for such district, except that in towns the town clerk, and in villages having but one election district and not included in any township election district, the village clerk shall serve as one of the clerks of election in the election district in which he resides. No more than two judges and one clerk of election shall belong to the same political party, and no person shall be eligible or serve as judge or clerk of election unless he be a qualified voter within the election district in which he sits, nor unless he can read, write and speak the English language understandingly, nor if he be a candidate for any office.

(Id. § 52.)

That some of the judges of election were not qualified, held not to authorize the rejection of the vote of their precinct. *Quinn v. Markoe*, 37 Minn. 439, 35 N. W. Rep. 263.

§ 58. Method of selecting judges—Party lists.

At least thirty days before any election in any city or in any incorporated village having two or more election districts, the local committees of the several parties participating at the last preceding election may furnish to the city council, or other appointing authorities, a list of qualified electors for the various election districts to act as judges of election which lists shall be certified to by the several secretaries of such committees. Said judges of election, in cities and incorporated villages, shall be selected from the lists submitted by said local committees in the following manner: One for each election district from each of said lists so recommended by the said different parties; the first to be selected from the list submitted by the party polling the largest number of votes in said city or village at the last preceding general election; the second from the list submitted by the party polling the second largest number of votes at the last preceding general election; the third from the list submitted by the party polling the third largest number of votes at the last preceding general election. If either of the local committees of the three parties respectively polling the first, second or third largest number of votes at the last preceding general election shall fail to furnish a list as hereinbefore provided and a list shall be so furnished by the committee of the party polling the fourth largest number of votes at said preceding election, then one judge shall be selected from said list. In case there are not three lists submitted to such council, or other appointing authorities, then said council or other appointing authorities shall select one from each list submitted as above provided; and said council or other appointing authorities shall themselves select the remaining judge or judges but in no case shall more than two of such judges belong to the same political party.

(1893, c. 4, § 53.)

§ 59. When electors may select judge—Substitute clerk—Form of oath for judges and clerks—Board of registration, board of election—Registry lists, contents.

If either of the judges of any election district in the state shall fail to attend at the time and place appointed for correcting the lists of registers, or holding an election, or if either of said judges be a candidate at such election, or refuse to act as judge, the qualified electors of such election district present shall elect viva voce some qualified elector of said election district, of the same political party as the judge so absent (if only one judge in attendance belongs thereto, but otherwise if of another party) to act as judge instead of such judge so absent, disqualified or refusing to act. If any clerk of election be absent, disqualified or refuse to act, the judges of election shall appoint some qualified elector of the same political party as the clerk so absent, disqualified or refusing to act, in place of such clerk. Before any judge or clerk of election enters upon the discharge of the duties imposed upon him by this act, he shall take and subscribe to the following oath, to wit:

"I, A. B. (judge or clerk of election as the case may be), do solemnly swear (or affirm) that I will perform the duties of judge (or clerk) of election (as the case may be) according to law and the best of my ability, and will studiously endeavor to prevent fraud, deceit and abuse in conducting this election, so help me God."

Said oath so taken, subscribed and certified, shall be affixed to the said list or register provided for in this act. If there be no person present authorized to administer oaths, then the judges of election may administer to each other, and to clerks, the oath provided. Said judges and clerks shall, prior to the opening of the polls, constitute a board of registration, and subsequent thereto shall be known as the board of election; and all registry lists by them made or used shall be headed or prefixed substantially in the following form, to wit:

"List of qualified electors in the election district composed of the _____ (township, village, ward or precinct, as the case may be) of _____, in the county of _____, state of Minnesota, for an election to be held in the said election district on the _____ day of _____, eighteen hundred and _____."

All registry lists shall contain the names of electors in separate groups, to be inserted in alphabetical order, according to the first letter of the surnames of such electors, each letter of the alphabet to form a group, and not more than one group to be on any one page of such register; and each group shall be separately numbered (commencing each with number one), in the order of registry.

(Id. § 54.)

§ 60. List of electors, how made—Posting—Corrections.

Except in cities having over twelve thousand inhabitants, the board of registration in each election district in the state, at least twenty days before any election, shall make a list or register of the names of all persons who are entitled to vote in their respective districts at such election, which list shall contain the surnames of such persons in their alphabetical order, and their places of residence. Three copies of said list shall, at least ten days before such election, be posted in each election district, together with notice of the time and place when and where the board will be present for the purpose of making corrections in said list. The judges of election on the Tuesday next preceding election, from the hour of nine in the morning until the hour of four in the afternoon of said day (and in cities containing a population of over two thousand and less than twelve thousand inhabitants, on Tuesday two weeks preceding the election and on the Tuesday next preceding such election, from nine o'clock in the forenoon until nine o'clock in the afternoon of said days), shall be present at the place appointed for the holding of such election in their respective election districts, for the purpose of making such corrections in said list or register. In making such corrections said board of registration shall enter upon such lists the additional names of all persons properly shown to be entitled to vote in that election district at such election, and erase from said list or register the names of all persons properly shown not to be entitled to vote in that district at such election. The said board, on first making out said list, shall consult the poll lists used at the last preceding general election in their election district, and shall place in said list or register the names of persons whom they know, or can with reasonable diligence ascertain, to be entitled to vote at such election in their respective election districts.

(Id. § 55.)

A statute requiring the registration of voters is not unconstitutional. *People v. Hoffman*, (Ill.) 5 N. E. Rep. 596; *Daggett v. Hudson*, (Ohio,) 3 N. E. Rep. 538. But see *Dells v. Kennedy*, 49 Wis. 555, 6 N. W. Rep. 246; *White v. County of Multnomah*, (Or.) 10 Pac. Rep. 484. Such a statute, however, must be reasonable and impartial, and calculated to facilitate and secure the right of suffrage, and not to subvert or injuriously, unreasonably, or unnecessarily to restrain, impair, or impede that right. *Daggett v. Hudson*, *supra*.

As to the constitutionality of a statute providing for a registering board, members of which are to be selected from each of two leading political parties, see *Attorney General v. City of Detroit*, (Mich.) 24 N. W. Rep. 887.

Power of registering officer to refuse to allow an applicant to register, see *U. S. v. Eagan*, 30 Fed. Rep. 495.

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Liability of registering officer for wrongfully erasing the name of a voter, see *Larned v. Wheeler*, (Mass.) 5 N. E. Rep. 290.

See, also, *State v. Piper*, (Neb.) 24 N. W. Rep. 204.

The failure to post a list of the electors 10 days prior to the election, as provided by Laws 1837, c. 4, § 6, held not a sufficient ground for rejecting the votes of the precinct. *Soper v. County of Sibley*, 46 Minn. 274, 43 N. W. Rep. 1112. See, also, *Taylor v. Taylor and Edson v. Child*, cited in note to § 51, supra.

§ 61. Form of registration oath in cities of less than 12,000 inhabitants.

In cities having less than twelve thousand inhabitants either of the judges may administer the following oath or affirmation to persons appearing for registration:

"You do solemnly swear (or affirm) that you will fully and truly answer such questions as shall be put to you touching your place of residence, place of birth and your qualifications as an elector, and your right to register and vote under the laws of this state."

(1893, c. 4, § 56.)

§ 62. Comparison of registers, how signed—Form of certificate.

At the end of each day's registration in all election districts (except in cities having over twelve thousand inhabitants) the board shall carefully compare the registers and make them to correspond and agree, and the judges of election shall sign their names at the end of their list on every page of such register, so that no new name can be added without discovery, and shall also sign and attach to such register a certificate in substance as follows:

"We, the undersigned judges of election in the _____ district of the _____ of _____ in the state of Minnesota, do jointly and severally certify that at the general registration of electors in said election district, on the _____ day of _____ 18—, there were registered by us in said election district the names which in this book are inserted, and that the number of registered and qualified voters was and is the number of _____, of whom _____ are males and _____ females." (Number to be written in figures and words.)

(Id. § 57.)

§ 63. Duplicate registers.

The board of registration shall make or cause to be made a duplicate of such lists or registers, so that there shall be two registers or lists at every election.

(Id. § 58.)

§ 64. Population of cities, how determined.

The population of the various grades of cities shall be determined by the last officially promulgated state or national census.

(Id. § 59.)

§ 65. When unregistered elector can vote—When registered elector cannot vote.

At such ensuing election in all districts (except in cities having over twelve thousand inhabitants) any person offering to vote, whose name is not upon the list and register at the opening of the polls, who produces evidence which satisfies a majority of the judges that he has the qualifications of an elector in said district, and is entitled to vote at such election, but whose name has been omitted from said list or register, then the name of such person shall be added to the lists or registers, and he shall be allowed to vote, but not in any other event; and said person shall not, unless the judges require it, be obliged to make the oath or produce the evidence provided by section ninety-eight of this act, but if required by the judges he shall do so. Nor shall the vote of any person be rejected whose name is upon said lists at the time of opening the polls; provided that if evidence satisfying a majority of the judges be produced showing that the name was registered by mistake, and that the person so offering to vote has not the qualifications of an elector in said district, and is not entitled to vote at said election, then the name of such person shall be stricken from said list and he shall not

be allowed to vote. But in all such cases an entry shall be made opposite to each name added to or stricken from said lists or registers after the opening of the polls.

(Id. § 60.)

§ 66. Rules for determining residence of electors.

The board of registration, in all election districts throughout the state, in determining the residence of any person for the purpose of ascertaining who are qualified electors, shall be governed by the following rules so far as they are applicable.

1. The place shall be considered and held to be residence of a person in which his habitation is fixed, without any present intention of removing therefrom, and to which whenever he is absent he has the intention of returning.

2. A person shall not be considered to have lost his residence who leaves his home to go to another state, or county in this state, for temporary purposes merely, and with the intention of returning.

3. A person shall not be considered to have gained a residence in any county into which he comes for temporary purposes merely, without the intention of making such county his home.

4. If a person go into another state, with the intention of making it his residence, he loses his residence in this state.

5. If any person remove to another state with the intention of remaining there for an indefinite time as a place of residence, he loses his residence in this state, notwithstanding he entertains the idea of returning at some future time.

6. The place where a man's family resides shall be held to be his place of residence; but if it be a place of temporary establishment for his family, or for transient purposes, it shall be otherwise.

7. If a man have a family fixed in one place and he do business in another, the former shall be considered his place of residence; but any man having a family, who has taken up his abode with the intention of remaining, and whose family refuses to reside with him, shall be regarded as a citizen and voter where he has taken up his abode.

8. The residence of a single man shall be where he usually sleeps.

9. The mere intention to acquire a new residence without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention.

10. No person employed temporarily in the pineries for the purpose of cutting timber for saw logs or railroad ties, or in the construction or repair of any railroad, canal, municipal or other work of public nature, shall acquire a residence in any election district into which he came for that purpose, so as to entitle him to vote therein, but this provision shall not be held to extend to station agents and section men, who permanently reside in such election district.

In any question that may arise as to the right of any person in the employment of any railroad corporation or employed upon public work, as aforesaid, to be registered or to vote in any election district, it must first satisfactorily appear to all the judges of such election that the said party is an actual bona fide resident of said election district, and not there for temporary purposes merely, and the mere affidavit of such person shall not be received as conclusive as to any fact necessary to entitle him to vote. Any person being a permanent inmate of any soldiers' home in this state shall, for the purposes of this act, have a legal residence thereat.

(Id. § 61.)

As to what constitutes residence, see *Vanderpoel v. O'Hanlon*, (Iowa,) 5 N. W. Rep. 119.

**§ 67. Registration in cities of over 12,000 inhabitants—
First meeting of board—Register of electors.**

In all incorporated cities of over twelve thousand inhabitants, the persons authorized by or appointed pursuant to law, to act as judges and clerks of election in any such city, or in any ward or other election district in such

city in this state, shall constitute a board of registration for their respective cities, wards or election districts, and shall meet on Tuesday three weeks preceding any general, state or city election and fourteen days before any special election. Said board shall meet at nine o'clock in the morning at a place where the last election was held, or such other place as may be lawfully designated for the polling place in the election district in which such board are judges and clerks, and shall continue in session until nine o'clock in the afternoon. They shall proceed to make a registration as hereinafter prescribed, of all persons entitled to vote at the ensuing election in such election districts. Such registration when completed shall constitute and be known as the register of electors of such election district. Two such registers shall be made by said board, unless ballot judges are required or provided for, in which event three registers shall be so made. Such board shall have and exercise the same right to preserve order at their meetings as is given to judges of election to preserve order on election day, and vacancies in said board shall be filled in the same manner as such vacancies are filled at election.

(1893, c. 4, § 62.)

§ 68. Form of register in cities of between 12,000 and 40,000 inhabitants—Entries in register from poll-list, from appearance in person, from affidavit—Form of registry oath of an absent person.

In cities having over twelve thousand and less than forty thousand inhabitants, the registers, the form of which shall be prepared by the secretary of state, shall contain columns under the following headings and subheadings, viz.: "Names," "Voted," "Residence," "Number," "Street or Avenue," "Place of Nativity," "Color," "Length of Residence," "United States—years," "State—years, months," "District—years, months, days," "First or Second Papers," "Date of Papers," "Court or Place," "Able to Read English," "Where Last Registered—ward, district," and "Remarks." The board of registration in each district therein shall enter all names in such registers, alphabetically by surnames. They shall enter therein the names of all persons residing in their election district whose names appear in the poll-list and register in said district at the last preceding election as having voted thereat, except such as are known to the board to have since died, removed from the district or become disqualified; and so far as known to any of said board, the proper entries shall be made opposite each name in the different columns of said registry. In case the boundaries of the district have been changed since the preceding election, at which such poll-list was made, then the board shall place on the registers only the names of the persons appearing by such poll-list to be residents within the new district in which they are sitting. In addition to the names on said poll-list and register, the board shall enter on said registers the names of all proper persons who shall personally appear for registration, as well as the name of any person who shall make and have presented to the board at any time while sitting to correct the registry list an affidavit in form substantially as follows:

"I, _____, being first duly sworn, on oath say that I am a legally qualified voter in the state of Minnesota; and that I now reside at No. _____ street (or avenue), in the _____ election district in the _____ ward in the city of _____ in said state; that I have not been and will not be able to be present at said election district for the purpose of registration for the reason that _____; that I make this affidavit because of such inability so to attend for registration and for the purpose of being registered in said election district; that my full name is _____; I was born at _____; am _____ (state color); have resided in the United States for _____ years and _____ months, and in the state of Minnesota for _____ years and _____ months, and in said election district for _____ years _____ months and _____ days; that I am _____ able to read English, and by occupation a _____; that at the last general election I resided at No. _____ street (or avenue), in said city and was registered and voted at the _____ election district of the _____ ward (or that at the last general election I was not a resident of said city but voted at _____); that

at my present residence as above stated I am — (householder, boarder, lodger, employe or other proper term); (the following to be omitted if native born) that I have taken out my — (first or second) papers for the purpose of naturalization, the same being issued by the — (give court and place) on the — (give date or other particulars) —

(Signature) —

State of —, County of — ss.—On this — day of — 18—, before me, the subscriber, a — in and for said county, personally appeared —, to me personally known, and being by me first duly sworn, subscribed and swore to the foregoing statement. —.”

Such affidavit shall be subscribed and sworn to before some person qualified to administer oaths, who shall attach his official certificate thereto, according to the above form. If it shall appear by such affidavit that the affiant has removed from another election district, or is registered elsewhere in the city, a certificate of removal from such other district shall also be required as provided in the next succeeding section.

(Id. § 63.)

**§ 69. Certificate of removal from another election district
—Form of affidavit—Removal within district—
Certificate for an absent person from district of
former residence.**

When it shall appear by the answer or affidavit of the applicant for registration, or shall be known to the board of registration that the applicant has or is registered in another election district in the same city than the one at which he makes his application, the board shall not enter his name in said register until a certificate of removal is procured from the board of such other district, which may be in the following form:

“This is to certify that the name of — heretofore residing at — in this election district, has been by us, the board of registration of this district, stricken from the registration of this district at his request, upon his affidavit of removal. The following entries appear upon the register of this election district concerning him (add entries in various columns of register).”

Signed by the board of registration of former place of registration.

Except as hereinafter provided, the above certificate shall be granted by such board upon and only upon the applicant for registry making and subscribing the following affidavit, which shall be sworn to before such board, or before the board in the district to which the removal is to be made, and if made before the latter board, upon being presented to the former, such affidavit shall warrant such former board in issuing the above certificate to the bearer.

“I, —, do solemnly swear (or affirm) that I now reside at number — (street or avenue), in ward number —, in the city of —. That I am duly entered as a qualified voter in the registers of the — district, in the — ward, of said city, as residing at number — (street or avenue); that I have removed from the last mentioned residence, and do hereby request the proper entry and record to be made, and that my name be erased from the register of the last mentioned district, and a certificate of removal be furnished me.”

If a person remove from one place in a district to another place in the same district, his vote shall not be received at any election unless the registers are changed as herein provided. Provided, that whenever a “registry oath of an absent person,” specified in section sixty-three of this act, is presented to the board in the district where such affidavit shows such person to have formerly resided, and such affidavit further shows the person subscribing the same to be a resident of and voter in another election district, then if affiant's name appears upon the registers, the board shall erase it therefrom and give the person presenting the affidavit a certificate of removal for the person mentioned in the affidavit, making upon the registers the following entry: “Removed to — district, — ward, by affidavit presented by —.”

(Id. § 64.)

§ 70. Affidavit of absent person and certificate of removal, where deposited.

The board of registration in the district from which the removal, in a case specified in the proviso to the last preceding section, is made shall not retain the affidavit so presented to them, but it, together with the certificate of removal, shall be deposited with the board of registration in the district to which the removal is made.

(Id. § 65.)

§ 71. Form of register in cities of over 40,000 inhabitants—Entries, how made.

In cities having over forty thousand inhabitants, the registers shall be substantially as those provided for in section sixty-three of this act, except that in place of the heading "Where last registered—ward—district," the heading shall be "Householder—boarder—lodger—employee." The board of registration in each district therein shall enter all names in said registers, alphabetically, by surnames, but there shall be no name of any person registered unless he shall appear personally before said board, or register by affidavit of absent person as provided by section sixty-three of this act; and no copy shall be made of any names on the poll lists of any previous election.

(Id. § 66.)

§ 72. Form of registration oath in cities of over 12,000 inhabitants—Questions—Entries in register—Name between lines—Comparison at end of first day—Form of certificate—Where deposited.

In all election districts in cities having over twelve thousand inhabitants one of the judges of election shall administer to all persons appearing personally before him for registration the following oath or affirmation:

"You do solemnly swear (or affirm) that you will fully and truly answer such questions as shall be put to you touching your place of residence, place of birth, and your qualifications as an elector, and your right to register and vote under the laws of this state."

One of the judges shall then ask each of the said persons appearing before them the questions necessary to properly fill out the spaces opposite the names of such persons in the various columns of the register. The clerks or other members of the board shall enter the names of such persons in the registers, and the answers to the questions in appropriate columns therein. In the columns headed residence, there shall be the name and number of the street, or other location of the dwelling, if there be a definite number; if not, such clear and definite description of the place of such dwelling as shall enable it to be readily ascertained. If more than one family be residing in a house, there shall be entered the floor on which the applicant resides, and the room or rooms occupied by him. The register shall be ruled; and one name shall be written on each line, but no name shall be written between the lines, and if the name of any person be so written, such person shall not be entitled or allowed to vote, unless his name shall also appear properly on a line in said register. At the end of the first day's registration the board shall carefully compare the registers and make them to correspond and agree, and one or more of the judges of election shall sign his name at the end of the list on every page of such register, so that no name can be added without discovery, and all the judges shall also sign and attach to such register a certificate in substance as follows:

"We, the undersigned, judges of election in the ——— district of ——— ward, of the city of ———, in the state of Minnesota, do jointly and severally certify that at the general registration of electors in said election district, on the ——— day of ———, 18—, there were registered by us in said election district the names which in this book are inserted; and that the number of registered and qualified voters was and is the number of ———." (Number to be written in figures and words.)

If any females shall have registered, then the certificate shall read, after the blank following words "number of —," "of whom — are males and — are females."

Such registers shall, before ten o'clock in the forenoon of the next day, be deposited by one of said board in the office of the city clerk or recorder, whose duty it shall be to safely keep the same.

(Id. § 67.)

§ 73. Second meeting of board in such cities—Duties—Posting list and notice of next meeting.

In said cities having over twelve thousand inhabitants, on Tuesday, two weeks preceding any general election, and on the thirteenth day preceding any special election, said board of registration shall again meet at the same place as before, and remain in public session from nine o'clock in the forenoon until nine o'clock in the afternoon, for the purpose of registering all qualified voters whose names are not yet registered. They shall obtain from the city clerk or recorder, and use the same registers as on the first day, and the same forms shall be observed in regard to registration as were required upon the first day of registration. At the end of such day's registration the registers shall be compared and made to agree, and shall be signed as at the first day's registration, and similar certificates attached with this addition thereto, "making the total number registered to date hereof, inclusive, —, of whom — are males and — are females." It shall be the duty of the clerks of election composing said board during the session of that day and before the board adjourns to make a copy of all the names upon such registers, together with the addresses as indicated in such registers. Immediately after its completion, said copy shall be conspicuously posted up outside the place of registration, with a notice of the time when such board of registration will meet for a completion and final correction of its register, and shall be accessible to any elector who may desire to examine or copy the same. The registers shall be returned by one of said board to the office of the city clerk or recorder before ten o'clock in the forenoon of the day succeeding the day of registration.

(Id. § 68.)

§ 74. Third meeting—Fourth meeting of board in certain cities—Erasure of certain names—Final posting.

On the last Tuesday preceding any general election and on the day one week preceding any special election, the boards of election in cities having over twelve thousand and less than forty thousand inhabitants shall again meet at the same place for the completion and final correction of said registers. And in like manner, in cities having over forty thousand inhabitants, the boards of registration shall again meet on the second Saturday preceding the day of any general election, and again on the last Wednesday preceding said day of any general election. Prior to each of said meetings said boards of registration shall again obtain the same registers before used from the office of the city clerk or recorder, and on each of said days shall be in session from twelve o'clock noon until nine o'clock in the afternoon. Any qualified elector not already registered, may apply to either of said board to have his name inserted in said register; and the same rules for registration required on previous days shall be observed by the board. It shall be the duty of each of said boards at any meeting thereof, to erase from the registers the name of any person inserted therein who shall be proven, by the oath of two qualified electors of such district, to the satisfaction of the board, to be in any way disqualified to vote in such district at the ensuing election. At the end of each meeting the registers shall be again compared, and be made to agree and correspond, and shall be signed and certified by the board as at their second meeting and deposited in the city clerk's or recorder's office before ten o'clock in the forenoon on the next succeeding day. When said registration shall have been wholly completed, and before the said board shall adjourn or separate, they shall prepare a copy of all the names and their respective addresses, appearing upon such

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registers, and post the same conspicuously forthwith outside the place of registration, or in such a manner as to be plainly discernible and easily read from the outside thereof.

(Id. § 69.)

**§ 75. To vote in certain cities elector must be registered—
Exception.**

The vote of no person whose name does not appear in said register as a qualified voter shall be received by the judges at any election, in any city having over twelve thousand inhabitants, except the vote of a person whose name was registered and erased as provided in section sixty-nine and who takes the oath as required by section ninety-eight of this act.

(Id. § 70.)

**§ 76. Penalty for registering in more than one district, for
falsely personating a registered voter, for inten-
tional false swearing, etc.**

Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered knowing that he is not a qualified elector in the district when such registry is made, or who shall falsely personate any registered voter, and any person causing, aiding or abetting any person to do either of said acts, shall, upon conviction thereof, be punished for each offense by imprisonment in the state prison for a term not exceeding two years or by a fine not exceeding three hundred dollars, or both, in the discretion of the court. All intentional false swearing before a board of registration shall be deemed willful and corrupt perjury, and, on conviction thereof, punished as such.

(Id. § 71.)

§ 77. Penalty for taking posted list, etc.

Any person who shall take or deface any list of names posted by any board of registration as hereinbefore provided for, shall be guilty of a misdemeanor, and on conviction thereof be punished by a fine of fifty dollars or be imprisoned in the county jail for a term not exceeding sixty days, or both, in the discretion of the court.

(Id. § 72.)

**§ 78. Time of opening and closing polls—No adjournment
permitted—Temporary recess, when.**

The polls in the several election districts in towns, villages and cities of less than four thousand inhabitants shall be opened at nine o'clock in the morning and kept open until five o'clock in the afternoon. In cities of four thousand or more, and less than twelve thousand inhabitants, the polls shall be open at seven o'clock in the morning, and shall be kept open until six o'clock in the afternoon. In cities of twelve thousand inhabitants and over, the polls shall be open at six o'clock in the morning and closed at seven o'clock in the afternoon. No adjournment or intermission whatever shall take place until the polls shall be closed and until all the votes cast at such poll have been counted and the result publicly announced; but this shall not be deemed to prevent any temporary recess, while taking meals or other necessary delay, provided that the board shall remain in session and that not more than one member of the board of election shall at any time be absent from the polling place.

(Id. § 73.)

See *Soper v. County of Sibley*, cited in note to § 126, *post*.

§ 79. Restrictions as to polling places.

No election shall be held, nor shall any election be appointed to be held, in any saloon or bar-room, or in any room used or occupied as a place of resort for idlers or disreputable persons, or in any room contiguous with or adjoining either thereof. Nor shall such election be held in any room or place wherein the requirements of this act relative to booths, railings and distances cannot be substantially complied with. Said polling places [in cities] hav-

ing a population of over twelve thousand inhabitants, shall, in all cases be upon the ground floor, in the front room, the entrance to which is from a highway or public street which is at least forty feet wide, and as near the centre of the voting population of the district as is practicable.

(1893, c. 4, § 74.)

§ 80. Duty of judges to change polling places, when.

Should any place be designated or appointed for holding an election in violation of the next above section, or become subject to such objection after having been so designated, the judges of election shall have power, and it shall be their duty, on or before the day of such election, and before the opening of the polls on such day, to procure a suitable place as near thereto as may be and not subject to like objection. Such change shall, when practicable, be ordered on the first of the days herein provided for registration, and the change made immediately thereafter.

(Id. § 75.)

§ 81. How notice of such change to be given.

When a change of the place for registration, or for holding the election, or both, shall have been determined upon, said judges shall meet at the place first designated and, after any vacancies in their number shall have been filled, adjourn to the place chosen by them, and at the time of such adjournment give public notice by proclamation to the electors present of such change. Said judges shall, at said first designated place, post, in a conspicuous manner notice of the place where such election shall be held, and all expense attending such change shall be certified by such judges to the proper authorities, and shall be allowed and paid accordingly. And, in like manner, said judges shall at the place where said place for registration or election, or both, post in a conspicuous manner notice of the change made; and, if either of the judges shall deem the same necessary, three additional notices shall be posted in as many public places in said election district.

(Id. § 76.)

§ 82. Polling places—Ballot boxes, number and requisites—Booths, number and requisites.

At all polling places the following arrangements shall be substantially observed: There shall be provided boxes for voting, as many in number as the kind of ballots voted; one ballot box painted white, one painted red and one painted blue. Said boxes shall be sufficiently large to easily contain all the ballots liable to be placed therein without being forced into the same, and with apertures large enough to receive the ballots when folded as provided in this act. There shall also be a separate box for each polling place where women are entitled to vote, in which shall be placed all ballots cast by women. There shall be provided, in the room in which the inspectors of election sit, or immediately adjoining thereto, not less than two booths or compartments for every hundred electors registered. Said booths shall be at least three feet square and six feet high, and shall contain a shelf at least one foot wide and extending from side to side at a convenient height for writing. Each booth shall be provided with a door or curtain and properly lighted, and shall be so constructed that the voter can therein retire from observation for marking his ballot. In each booth shall be posted cards of instruction, as provided in this act, and it shall contain an indelible pencil and such other articles as this act may provide or circumstances require.

(Id. § 77.)

§ 83. Separate space for judges, when—Entrance to and exit from voting place.

In case the booths shall be in the same room in which the judges of election sit to receive the ballots, the place where they sit and the portion of the room where the compartments are constructed shall be separated from the rest of the room by a railing so constructed as to leave a space of at least six feet in front of the booths and ballot boxes, and said railings shall be so constructed as to provide a separate passage for entrance and for exit. The judges of election may make such arrangements for entrance to and exit

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from the room or place where the ballot boxes and compartments are situated as to them may seem the most advantageous and convenient, providing they disregard none of the foregoing requirements.

(Id. § 78.)

§ 84. Special constables.

The judges of election may appoint one or more special constables to attend each place of election. It shall be the duty of the sheriff, constable or special constable to keep the surroundings of the polls quiet and orderly, and during voting hours to allow no person to approach within six feet of the ballot boxes or to pass behind the railing or within six feet of the booth or ballot compartments herein provided for, except electors engaged in receiving, preparing or depositing their ballots, without permission of the judges of election. If any of the above named officers neglect to perform said duty, then the judges of election shall swear in enough private citizens to enforce order, who shall have power as constables, or conservators of the peace, to make arrests for breach of the peace.

(Id. § 79.)

§ 85. Who may be arrested, when and how—Police officer.

Any police officer, constable or special constable attending the election may call to his aid a sufficient number of citizens to arrest any disorderly person or suppress any riot or disorder during the election. Whoever conducts himself in a riotous or disorderly manner at any election, and persists in such conduct after being warned to desist, may be arrested without warrant; but such person, so taken into custody, shall not be prevented from voting, if disposed so to do in a quiet and orderly manner. Provided, that no police officer shall remain within the voting room unless he shall be ordered to do so by the judges of election, and shall in no manner interfere with or seek to influence any voter, under the penalty hereinafter provided.

(Id. § 80.)

§ 86. Registers, when and how obtained—Delivery of ballots and boxes—Safe-keeping.

Before the hour of three o'clock in the afternoon on the day preceding any election the judges of election shall procure the registers provided for in this act from the office of the official with whom they are required to be deposited, one being procured by a judge representing one of the two leading political parties, and the other by a judge representing another leading political party. The ballot boxes and the ballots shall be delivered by the officer in whose custody they are to the judges of election of the respective districts; also the keys of such boxes and the poll books and all stationery and material necessary to such election. Such judges and clerks shall be held responsible for the safe-keeping of said registers and ballots unaltered, as provided in this act, and shall have all of said ballots, boxes, registers, poll books, printed instructions and materials at the polling places in which they are the judges and clerks at the hour of the opening on the day of election.

(Id. § 81.)

§ 87. Special messenger to be sent with ballots, when—His duties—Expense.

In case neither of the judges of election shall appear at the office of the official charged with the delivery of the ballots, as provided in the last preceding section, said official shall forthwith dispatch a special messenger to the proper election district with a package containing the ballots therefor, securely wrapped, tied and sealed, which messenger shall deliver such package to said judges of election or either of them, or failing therein shall deliver them at the polling place at the hour for opening the polls. Said messenger shall take a receipt for said package, and promptly report to said official, and file such receipt with him, and an affidavit stating when, where and to whom said package was delivered. Said judges of election and each of them shall be chargeable with all expense incident to such delivery and report, together with mileage, which shall be the same as allowed sheriffs for

servicing process, but nothing herein shall relieve any such judge of election from the penalty provided by law for neglect of duty in the premises.

(Id. § 82.)

§ 88. Substitute ballots.

If the ballots to be furnished to judges of election, as herein provided, shall not be delivered, or if after delivery they shall be destroyed or stolen, it shall be the duty of the county auditor or other proper official, as the case may be, to cause other ballots as nearly in the form prescribed as practicable, with the word "substitute" printed in brackets immediately over the words "official ballots" as indorsed on regular ballots, to be immediately prepared (unless additional regular ballots can be had), and when so prepared and indorsed, when practicable, with the fac simile signature of the officer preparing the same, and accompanied by a statement under oath that that same have been so prepared and furnished by him, and that the original ballots have so failed to be received, or have been destroyed or stolen, the judges of election shall cause the ballots so substituted to be used at the election.

(Id. § 83.)

§ 89. Unofficial ballots.

If from any cause none of the official ballots nor substitute ballots prepared by the county auditor or other official, as herein prescribed, shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, or of any ticket forming a part or parts thereof, may be used until substitutes prepared by the clerk, as provided in this last preceding section, can be printed and delivered, and the fact shall be certified and accompany the returns of election.

(Id. § 84.)

§ 90. Opening and locking boxes before the opening of the polls.

The judges of election, or one of them, immediately before the proclamation is made of the opening of the polls, shall open the ballot boxes in the presence of the people there assembled, and turn them upside down, so as to empty them of anything that is in them, and then lock them, and the key thereof shall be delivered to one of the judges, and the said boxes shall not be reopened until for the purpose of counting the ballots therein at the close of the polls; and the judges forthwith shall proclaim that the polls are open, and cause written or printed notices of the hour of closing of the polls to be conspicuously posted outside the polling place.

(Id. § 85.)

§ 91. Challengers.

The judges of election shall allow one eligible voter of each political party casting one per cent of the entire vote at the preceding election in that district to be chosen by each of said parties respectively, and each to have a certificate in writing from the chairman of an authorized committee of the party he represents, to be in the room where the election is held, to act as challengers of voters at the election, and such challengers may remain with the board until the votes are all canvassed and the result declared. In case of temporary absence of any challenger for meals or by reason of sickness or otherwise he may substitute for himself some other person of like political belief, such substitute to be known to one or more of the judges by an affidavit of the person first so selected or so substituted.

(Id. § 86.)

The refusal of the judges to allow an elector to be present in the room as a challenger, as provided by Laws 1887, c. 4, § 12, in the absence of evidence that any injustice resulted, held not ground for rejecting the votes of the precinct. *Soper v. County of Sibley*, 46 Minn. 274, 48 N. W. Rep. 1112.

§ 92. Gatekeepers.

The judges of election may authorize a constable or special constable to act as gatekeeper, in which event he shall direct voters how to pass to and from

the booths. No person shall in any manner interfere with a gatekeeper in the discharge of his duty, and it shall be unlawful for the gatekeeper to aid, assist, suggest, advise or entreat an elector to prepare his ballot in a particular manner.

(1893, c. 4, § 87.)

§ 93. Substitute clerk—Record of change to be kept.

If any clerk of election, after entering upon the discharge of his duties, shall, by reason of the sickness of himself or family or other personal disability, be unable or fail for any reason to complete the performance of his duties, another may be appointed in his place by the judges. In such case the person appointed shall take an oath to faithfully and impartially discharge his duties, and the fact of the appointment and the time when and the circumstances under which it took place shall be noted in the poll books, if the polls shall not have closed; if after the closing of the polls, the fact, time and circumstances shall be certified with the returns, and proper measures taken to show the exact stage of the work done and to be done at the time of such appointment.

(Id. § 88.)

§ 94. Initials of judges on ballots.

Two judges of opposite political parties shall, before the voting begins, or as soon thereafter as possible, place their initials on the backs of all the ballots they have, immediately under or opposite the fac simile of the officer under whose direction the ballots were printed, and shall not otherwise mark the same.

(Id. § 89.)

§ 95. Ballots—Distribution—What to be voted—Penalty for removing.

No official ballot shall be distributed except in the voting room to electors about to vote, and no ballot not officially indorsed or which has not the initials of two judges of election, in said judges' own handwriting, on the back thereof, shall be placed in the box. If any person during the day of election and until the closing of the polls remove from the polling room any of the ballots printed for that election, said person shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding six months, or both.

(Id. § 90.)

§ 96. What persons allowed within the voting space.

No person or persons shall be allowed in the room containing the ballot boxes, or in case the ballot boxes and compartments are in the same room, no person or persons shall be allowed to go or remain inside the railing, except members of the board, officers of the peace, one representative for each of the political parties represented on the ballots, and electors who are about to vote, except an elector who may be called upon, as provided in this act, to assist a voter who cannot read English or is physically disabled, in marking his ballots.

(Id. § 91.)

§ 97. Judges and boxes in public view—Number of electors to be admitted.

The judges of election and ballot boxes shall at all times be in public view. The number of electors about to vote who shall be admitted at one time shall in no case exceed the number of compartments by more than three.

(Id. § 92.)

§ 98. Where elector shall vote—Time for preparing ballot.

No elector shall vote except in the district in which he actually resides. When, however, a person duly registered and so entitled to vote removes from one district to another within ten days of an election, it shall be lawful for him to vote in the district from which he has removed until he has ac-

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quired the right to vote in the district to which he removes. The judges of election may make such regulations as they deem proper, limiting the time in which such elector may remain in the polling-room or place while receiving, preparing and voting his ballot; such limitation, however, shall not be less than three nor more than ten minutes, unless the delay is occasioned by the elector's vote being challenged, or is the fault of one or more members of the board of election.

(Id. § 93.)

§ 99. Access to polling-room—Who allowed about entrance.

All electors shall be allowed to go unmolested to the polling-room for the purpose of voting, and to return therefrom in the same manner, but neither voters nor others shall be allowed to congregate in any numbers within one hundred feet of the polling-room in any election district. In cities having over twelve thousand inhabitants, none save officers of election and electors who have not voted, but are ready so to do, shall be permitted to stand within fifty feet of the entrance to the polling place.

(Id. § 94.)

§ 100. Duties of judges.

One of the judges of election shall have charge of and hand to and receive the ballot or ballots from each elector voting. The other two judges shall use and handle the two registers delivered to the judges, each using one, as specified in this act.

(Id. § 95.)

§ 101. Manner of voting.

When an elector presents himself for the purpose of voting, he shall give his name and residence, with street and number, if any, and it shall be first ascertained that his name is on both the registers and not erased; also that the residence given by the elector corresponds with the residence in such registers, and if challenged, as provided in the next succeeding section, that he is entitled to vote.

(Id. § 96.)

§ 102. Challenge of voters—Challenged party to be questioned—Refusal to answer.

At any time before any registered person presenting himself to vote receives the ballots from the judges of election, as provided in the last preceding section, each judge of election shall, and either of the authorized challengers or any other person in the voting room or coming in for that purpose, may challenge the person about to vote at the election, whom he knows or suspects to be not duly qualified as an elector. The challenging party, at the time when he interposes said challenge, shall state the ground or grounds upon which the same is made, whereupon one of the judges of election shall tender the challenged party the following oath: "You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your qualifications as an elector at this election." The judges, or one of them, shall then proceed to question the challenged party in such a manner as will tend to reveal the particular facts in dispute concerning which the challenge is made, to which end questions may be asked as to his name, his age, his then place of residence, how long he has resided in the town, ward or election district where the vote is offered; where was his last place of residence before he came to the town, or ward; as to his citizenship, whether a native or naturalized citizen, and if the latter, when, where and what court, and before what officer he was naturalized; whether he came into the town or ward for the purpose of voting at that election, and how long he contemplates residing in the town or ward, and such other questions as tend to test his qualifications as a resident in the town or ward, and his right to vote at the polls. If the person so challenged refuse to answer the questions that are put to him, as aforesaid, the judges shall refuse to have his name inserted in the poll lists, and he shall not be allowed to vote unless he at once reconsiders and shall answer said questions. Nor shall he be

allowed to vote if he leaves the polling place and afterwards returns, even though then prepared to answer said questions.

(Id. § 97.)

§ 103. Form of oath to be tendered—Witness to identity—Refusal to take oath—Penalty for false swearing.

If, after the questions provided for in the last preceding section shall have been answered, the challenge is not withdrawn, one of the judges shall tender the challenged party the following oath:

“You do swear (or affirm) that you are a citizen of the United States, or that you have declared your intention to become such citizen conformably to the laws of the United States on the subject of naturalization; that you are twenty-one years of age, and have been a resident of the United States for one year and an inhabitant of this state for four months immediately preceding this election, and an actual resident of this election district for ten days immediately preceding this election; that you have not voted at this election, and are a qualified voter in this election district.”

Upon taking such oath such person shall be allowed to vote; provided, that if it appear that the name of the person offering to vote has been registered and erased as in this act before specified, he shall not be allowed to vote, unless in addition to the above oaths he produces a person known to a majority of the judges, who makes and subscribes an oath before one of them in their presence as to the identity of the person so offering to vote, and as to his place of residence. Having done so he shall be allowed to vote. If any person refuse to take either of the oaths as provided in this and the next above section to be tendered, or if in the case so provided he shall refuse to produce the person to swear to his identity and residence, then his name shall not be inserted in the poll list, and he shall not be allowed to vote. If any person challenged as unqualified to vote be guilty of false or corrupt swearing or affirmation in taking any oath or affirmation prescribed by this act, he shall be deemed to have committed willful and corrupt perjury, and upon conviction thereof shall suffer the punishment attached by the laws of this state to the crime of perjury.

(Id. § 98.)

See ante, §§ 65, 75.

104. Handing ballots to voters—Sample ballots.

It appearing to the satisfaction of the judges that the person applying therefor is a qualified elector, the judge having charge of the ballots shall tear from each of the blocks a ballot of each kind that is to be voted, having the proper initials thereon, and hand the same to the voter, who shall retire alone to one of the booths or compartments above mentioned and there prepare the ballot or ballots. Voters may be allowed to carry with them to the booths sample ballots for use in assisting them in making the official ballots, but the same shall not be printed on red, white or blue paper, and it shall be a misdemeanor to print or distribute sample ballots printed upon such paper. Provided, however, that sample ballots may be printed in newspapers as matter of news.

(Id. § 99.)

§ 105. Rules for marking and folding ballot.

On receipt of his ballots the elector shall forthwith retire alone to the then nearest unoccupied voting booth, and without undue delay mark each of said ballots, in whole or in part, as he shall see fit, with the indelible pencil to be found in such booth. If he soils or defaces either of said ballots he shall at once return the same and get other ballots as hereinafter provided. In marking the ballots, and each of them, he shall observe the following rules:

1. If the elector desires to vote a straight party ticket, or for each and every candidate of one party for each and every office named on his ballot, he shall make a cross-mark (X) in the small square immediately at the right of such candidates as shown by the party designation following such names.
2. If the elector desires to vote a mixed ticket or for candidates of different parties he shall make a cross-mark (X) in each of the small squares

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opposite the names of the candidates for whom he desires to vote, regardless of party designation, being careful not to vote for more candidates for an office than are to be elected, as indicated on the margin of the ballot.

3. If the elector so desires he may write the name or names of one or more persons in the blank spaces following and under the names of candidates printed on any ticket, and such names so written shall be counted as balloted for whether the same be marked in the small square places or not.

4. If the elector mark more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot will not be counted for such office; but the rest of his ballot will be counted if properly marked.

5. No ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice, even though such ballot be somewhat soiled or defaced.

6. When an elector has prepared his ballot, he shall so fold it, concealing the face thereof and all marks thereon, as to expose only the indorsement and the fac simile signature and initials of the judges at the back thereof.

7. Each ballot should be marked and separately folded, after which the elector shall at once withdraw from the voting booth.

(Id. § 100.)

§ 106. Duty of judge receiving ballot — Challenge of elector.

Having prepared his ballots as provided in the last preceding section the elector shall hand the same to the judge of election who is in charge of the ballot boxes, and said judge shall, without opening the same or permitting the same to be opened or examined, deposit the same in the proper boxes, indicated by the color thereof, and shall first announce the name and residence of the elector in an audible voice; and the judges having charge of the registers shall, in a column prepared thereon, in the same line with the voter's name, marked "Voted," or the letter "V." At any time before said ballots, or either of them, shall have been deposited in the ballot boxes, said elector shall be subject to challenge by either of the judges, or by any person who was not present at the time said elector first procured said ballots; but no party challenger or other person, other than a judge of election, present when such ballots were delivered to said elector shall, if at the time knowing of such delivery, afterwards interpose a challenge. In the event of challenge, proceedings shall be had as hereinbefore provided; and, if the party offering to vote shall be found to be disqualified, said ballots, so prepared by him, shall be placed among the spoiled ballots and not opened. If no challenge shall be interposed, the elector shall at once retire from the voting room; and in event of challenge, as provided in this section, he shall so retire as soon as the challenge is determined, and shall not again return thereto, unless by permission of all the judges.

(Id. § 101.)

Section 6, art. 7, of the constitution, excepting from election by ballot "such town officers as may be directed by law to be otherwise chosen," was held not to affect § 84 of c. 1, Gen. St. 1878; but the provision for numbering the ballots was held unconstitutional, as in violation of the secrecy of the ballot guaranteed by the constitution. *Brisbin v. Cleary*, 26 Minn. 107, 1 N. W. Rep. 825.

§ 107. Spoiling ballots.

If any elector shall spoil a ballot so that he cannot conveniently vote the same he may on returning such ballot receive another in place thereof. If he shall spoil such second ballot, he shall, before receiving a third ballot, state under oath whether or not he can read English; if he claims to be able to read English said third ballot, and, if necessary, a fourth ballot shall be delivered to him, but no ballot shall be so delivered until the ballot previously issued shall have been returned, nor shall more than four ballots of any one color be delivered to any one elector. If said elector shall, after spoiling two ballots as aforesaid, claim under oath not to be able to read English, proceedings shall be had as provided in the next succeeding section. When a spoiled ballot is returned the board shall preserve and deliver the same, together with all unused ballots, to the county auditor or city clerk or re-

order, as the color of the ballot may determine; and all ballots so spoiled or not cast shall be preserved by such officer until ten days next following the county official canvass.

(1893, c. 4, § 102.)

§ 108. Inability to read or physical disability—Interpreters—Marker of ballot—Penalty for disclosure.

Whenever any elector shall declare upon oath that he cannot read English, or that because of physical disability he cannot mark his ballot, he shall have the right to call to his aid one or more of the judges of election, who shall mark his ballot as he may desire and in as secret a manner as circumstances may permit. When any voter in addition to said declaration shall also declare that he cannot speak and understand when spoken the English language, the judges may select two persons, one from each political party, who shall act as interpreters and who shall take the oath taken by judges as nearly as may be, and who shall as such interpreters assist such persons who cannot speak the English language in making up their ballots. If said elector shall so prefer he may call to his aid any qualified elector in the same district, who may retire to one of the booths with him and there mark the ballot for him; but no such person shall so mark the ballots of more than three such electors at any one election, and said electors shall, before depositing the same, privately show his ballot, so prepared as aforesaid, to either of the judges or clerks of election to ascertain that it is marked as directed, but a physically disabled voter who is able to determine whether his ballot is marked as directed need not so show his ballot. No judge of election or other person who may assist a voter in the preparation of his ballot, as herein provided, shall in any manner request, persuade, or induce, or seek to persuade or induce any such voter to vote for any particular candidate or candidates, but shall mark the ballot as directed by the elector; and shall not reveal to any other person the name of any candidate for whom the elector has voted, or anything that took place while he was assisting such elector in preparing such ballot for voting. Any judges of election, or person marking the vote of an elector, or any other person who discloses to any other person the name of any candidate for whom such elector has voted, or shall mark the vote of an elector, in any other manner than directed by such elector, shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by a fine of not less than thirty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

(Id. § 103.)

§ 109. Method of voting by elector unable to enter polling place.

If it shall be announced to the judges of election that an elector is at the door who is unable to enter the polling place without assistance, in their discretion they may appoint one of their number to take an official ballot or ballots and present it or them to such physically disabled person and assist him in marking the same if he so desires; and if the elector so requests, also in the presence of another person to be selected by such elector. And when the ballot or ballots shall have been marked and folded the same shall be taken back to the polling place and handed to the judge in charge of the ballot boxes, who shall make the statement, "Ballot (or ballots) offered by (naming the elector) a person unable to enter the room by reason of physical disability; does any one object to the reception of this ballot (or these ballots)?" If no objection be made the ballot or ballots shall be deposited; but if objection is made a challenge shall be deemed to have been interposed and proceedings had, as near as may be, as hereinbefore provided in such cases.

(Id. § 104.)

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§ 110. Voter forbidden to divulge how he votes—Marked ballots not to be shown.

No voter shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted; nor shall he ask for or receive the assistance of any person within the polling place in the preparation of his ballot, except as provided for persons under physical disability or who are unable to read the English language. If any elector, after having marked his ballot, shows it to any one, except as herein provided, the judge of election shall refuse to receive or place in the ballot-box such ballot, but shall place the same among the spoiled ballots; and if such showing was clearly intentional no other ballot shall be delivered to such elector.

(Id. § 105.)

§ 111. Intoxicated electors.

Intoxication shall not be regarded as a physical disability, and no intoxicated person shall be entitled to assistance in marking his ballot. Nor shall any grossly intoxicated person be permitted to vote while so intoxicated.

(Id. § 106.)

§ 112. Elector to state his residence—Refusal.

Every elector, at the time of applying for or offering his ballot, shall truly state the name of the street in which he resides, and if the house, lodging or tenement where he resides is numbered, the number thereof, and, if required, whether he is the householder, or a boarder, lodger or employe therein, and such other matters as may be proper for purposes of identification. In case of refusal to make such statement his ballot, if he has received any, shall be placed among the spoiled ballots, and he shall not be allowed to vote at such election.

(Id. § 107.)

§ 113. Persuasion of voter unlawful—Penalty.

It shall be unlawful for the judges of election or any of them, or any person in the polling room or compartments therewith connected, or within twenty-five feet of the entrance to the polling room, to ask or persuade or to endeavor to persuade any person to vote for any particular candidate or to suggest that he do so. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor for each and every person so approached, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding ninety days.

(Id. § 108.)

§ 114. Elector entitled to leave employment to vote—Application therefor—Penalty for refusal.

Any person entitled to vote at any general election in this state shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed for the whole of the forenoon or from the opening of the polls until twelve o'clock noon, and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages; but such person shall on so absenting himself proceed at once to the polling place wherein he is entitled to vote, and having so voted, return at once to his employment, otherwise he shall not be entitled to such salary or wages. Application for such leave of absence shall be made prior to the day of election; and, if not so made then, such person may make application on the morning of election day, in which event he shall be allowed, between the hour of twelve o'clock noon and an hour one hour before the hour for closing the polls, for the purpose of voting, one full hour, and in addition thereto one-half of an hour for each mile that he may be distant from said polling place, and said employer may specify the hours during which said employe may absent himself as aforesaid. Any person or corporation, or officer or member thereof, who shall refuse to an employe the privilege hereby conferred, or shall subject an employe to a penalty or deduction of wages because of the exercises of such privilege, or who shall, in any manner, attempt to influence or control such voter as to how he shall vote, by offering

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any reward or by threatening his discharge from employment or otherwise intimidating him from a full and free exercise of his right to vote, or shall, directly or indirectly, violate the provisions of this section, shall be deemed guilty of a misdemeanor.

(Id. § 109.)

§ 115. Removal of supplies—Penalty.

No person shall, during the election, remove or destroy any of the supplies or other conveniences placed in the booths or compartments aforesaid for the purpose of enabling the voter to prepare his ballot. No person shall, before or during an election, remove, tear down or deface the cards printed for the instruction of voters. Any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor.

(Id. § 110.)

§ 116. Penalty for attempting to cast more than one ballot.

Whoever, after proclamation is made of the opening of the polls and at any time before the vote is fully canvassed, shall willfully offer or deliver to a judge of election, to be placed in a box or boxes, more than one ballot of the same kind and color, or shall fraudulently put a ballot into any box or boxes, is guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison for a term not less than six months nor more than one year.

(Id. § 111.)

§ 117. Penalty for voting with unlawful intent.

Whoever, not being a qualified voter, votes at any election with unlawful intent is guilty of felony; and, upon conviction thereof, shall be punished by imprisonment in the state prison not less than one month nor more than one year.

(Id. § 112.)

§ 118. Penalty for resident of another state voting here.

Any resident of another state who votes in this state is guilty of felony; and, upon conviction thereof, shall be punished by imprisonment in the state prison for a term not less than one month nor more than one year.

(Id. § 113.)

§ 119. Penalty for voting more than once.

Whoever votes more than once at the same election shall be guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison for a term not less than one year nor more than five years.

(Id. § 114.)

It is no objection to the indictment that it also charges defendant with a misdemeanor in voting in an election district in which he did not reside. *State v. Welch*, 21 Minn. 22. Approved and followed in *State v. Davis*, 22 Minn. 423. Sufficiency of the averment that there was a lawful election in each ward at which defendant voted, and that it was all one election. *Id.*

The only question of fact for the jury is whether defendant, having already voted, voluntarily cast a second vote at the same election. *Id.*

§ 120. Penalty for attempting to influence an elector.

Whoever, by threat or bribery, attempts to influence any elector in giving his vote for any person or measure, or by such means attempts to deter him from voting for any person or measure, is guilty of a misdemeanor; and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, and by imprisonment in the county jail not less than one month nor more than six months.

(1893, c. 4, § 115.)

§ 121. Penalty for aiding an unqualified voter to vote.

Whoever aids, assists, counsels or advises another to vote, knowing that such person is not duly qualified to vote at the place where and at the time when the vote is to be given, is guilty of a misdemeanor, and on conviction thereof shall be subject to a fine of not more than five hundred dollars nor

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less than one hundred dollars, or be imprisoned in the county jail not less than one month nor more than six months.

(Id. § 116.)

Sufficiency of indictment, see U. S. v. Doherty, 25 Fed. Rep. 28.

§ 122. Penalty for bringing unqualified voter into district.

Whoever procures, aids, assists, counsels or advises another to go or come into any county, town or election district for the purpose of giving his vote therein, knowing that the person is not duly qualified to vote therein, is guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison for a term not less than six months nor more than one year.

(1893, c. 4, § 117.)

§ 123. How ballots shall be torn off—Unused ballots.

The judge having charge of the ballots in the voting room shall not tear them from off the block upon which they are bound, except as they are required by the electors for voting, and the judges shall preserve the unused ballots, together with the ballots that have been spoiled, and return the white and blue ballots to the county auditor, and the red ballots to the city clerk or recorder, with a statement of the number of ballots used, and the county auditor and city clerk or recorder shall respectively give the judges of election receipts therefor.

(Id. § 118.)

§ 124. How poll lists shall be kept.

Each clerk of election shall make a poll list which shall contain one column headed "Number," one column headed "Residence," one column headed "Names of Voters," and as many additional columns as there are boxes kept at the election, to be headed to correspond with the color of one of the boxes so kept, viz.: "White," "blue," and "red." There shall also be a column headed "Remarks."

(Id. § 119.)

§ 125. Entries in poll list.

The name of each elector voting shall be entered by each clerk in the column of his poll list headed "Names of Voters," the place of residence of each voter so voting in the column headed "Residence," and where there shall be more than one box kept, opposite such name shall be written the figure one in every remaining column of such poll list corresponding in heading with the name of each box in which a vote of the elector shall be deposited. In the column headed "Number" the clerk shall write consecutively the number of each person voting, the first vote being numbered one. Said clerk shall enter in the column headed "Remarks" and opposite the name of each person not registered the words "not registered," and if any vote is sworn in such fact shall be noted. The clerks of election shall also enter in the same column on the line containing the name of any elector who received assistance in marking his ballot a brief memorandum of the fact, such as "marked by judge," "marked at door," "marked by —," and if marked by any person other than one of the judges the name of such person shall be added.

(Id. § 120.)

§ 126. Closing the polls—Standard time.

At each of the polling places as provided in this act it shall be the duty of the judges of election to make oral proclamation at the door of such polling place, thirty minutes before the hour fixed by law for the closing of said polls, in substantially the following words: "Hear ye, hear ye, hear ye; the polls will be closed in thirty minutes." When the hour for closing the polls shall have arrived the same shall be closed regardless of the fact that electors are on the outside who have not yet voted. Provided, that all electors who shall have received ballots, as well as all electors then present in the polling place as provided by law preparatory to receiving ballots, shall be allowed to prepare and vote such ballots; but no person not then present and inside the polling place shall receive any ballot or ballots after such hour for so

closing the polls shall have arrived. To the end that there shall be no question as to the proper time, the members of the board shall compare time or fix upon the same at or before the opening of the polls, and the standard used for the hour for such opening shall be the standard for the hour for closing the same.

(Id. § 121.)

The fact that the polls were kept open after the hour for closing, in the absence of evidence that votes were cast after that hour, held not ground for rejecting the votes of the precinct. *Soper v. County of Sibley*, 46 Minn. 274, 48 N. W. Rep. 1112.

§ 127. Form of certificate to be attached to poll list.

As soon as the polls are finally closed the judges of election shall prepare at the end of each of the poll lists (which said poll list shall be prefixed by a statement showing the election district and the election in and for which it was used), a statement substantially as follows:

"The number of persons whose names appear above and who were present and voting at the above-named election was —, of whom — were women; the number of white ballots cast was —; the number of blue ballots cast was —; the number of red ballots cast was —; and the number of ballots cast by women (such ballots not being included in the numbers above given) was —."

The blanks in said form shall be filled by the proper number in each case to be written in words and figures, thus: "One hundred and twenty-seven (127)," the figures being in parentheses. Said form shall be signed by each of the judges and attested by each of the clerks, and immediately thereafter they shall prepare, sign and attest a statement at the end of each of the registers substantially as follows:

"The whole number of the above named persons who were present and voting at the above named election was —" (the number to be written in words and figures).

(1893, c. 4, § 122.)

§ 128. Canvass of votes to be public and continuous.

After having prepared and signed the statements in the poll lists and registers, as provided in the last section, the judges shall proceed to canvass the votes taken at such election, and the said canvass shall be public and continued without intermission (except as provided in section seventy-three of this act) until complete and the result declared.

(Id. § 123.)

§ 129. Opening of boxes and canvassing votes.

The ballot boxes shall be opened and the votes canvassed and results declared, one box at a time, and as nearly as may be in the following order: First, the box containing the white ballots. Second, the box containing the ballots tinted blue. Third, the box containing the ballots tinted red. The ballots in the box provided for women shall then be canvassed for such officers as they are entitled to vote for. The returns shall not be prepared until all the votes in all the boxes shall have been counted, so as to allow for the correction of errors if any shall have occurred by reason of the deposit of ballots in wrong boxes.

(Id. § 124.)

§ 130. Method of beginning the canvass—Ballots folded together—Excess of ballots.

The canvass shall commence by taking out of the box the ballots unopened (except so far as to ascertain whether every ballot is single), and counting the same to ascertain whether the number of ballots correspond with the number appearing on the poll list to have been cast in such box. If two or more ballots be found to be so folded together as to present the appearance of a single ballot, they shall be laid aside until the counting of ballots in all the boxes is otherwise completed, and if it shall then appear, on comparison of the said ballots with the number of ballots of the same class appearing by the poll lists to have been cast, that the two ballots so found folded together were cast by one elector, they shall be preserved and laid to one

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side and not counted; nor shall either of said ballots so folded together be counted if both be marked and both clearly cast by one elector. If the ballots in any box are found to exceed in number the number of votes cast in such box, they shall be first examined to ascertain if they are all properly marked with the initials of the judges having charge of the ballots, and, in case any are found not so marked, they shall be preserved and laid to one side and not counted if the total number still be in excess of the proper number as shown by the poll lists. If there is still an excess of ballots they shall be replaced in the box, and one of the judges, without looking, shall draw from the box a number of ballots equal to such excess, and the same shall be laid aside and not counted.

(Id. § 125.)

§ 131. Excess of ballots not to produce excess of votes.

If the number of ballots found in the proper box shall equal or exceed the number shown by the poll lists as proper to be found therein, no ballots proper to have been deposited therein, but found in another box, shall be counted; but if the number shall be less than the number shown by the poll lists and additional ballots proper to have been deposited in such box shall afterwards be found in another box, such ballots shall be counted in the same manner as if found in the proper box. Provided, that the counting of such ballots shall not produce an excess of votes above the number of votes designated on the poll lists, in which event the number of ballots so found shall be reduced by drawing therefrom as in the last preceding section provided in cases of excess.

(Id. § 126.)

§ 132. Ballots in wrong box to be counted, when.

If one or more ballots not proper to be found among the ballots being canvassed shall be so found the same shall be laid aside until the canvass of the class of ballots to which said ballots belong, when if there be a deficiency in the number of ballots as shown by the poll list for such class said ballots so found in the wrong box shall be included and counted with the ballots to which they belong.

(Id. § 127.)

§ 133. Ballots not counted to be attached to certificate and returned separately.

The number of ballots agreeing or being thus made to agree with the number of votes appearing in the columns of the poll lists, corresponding to the respective boxes, the ballots so laid aside and not counted as aforesaid shall be attached to a certificate made by the judges, stating the reason why the ballots were so laid aside, and the certificate and the ballots attached shall be sealed up in a separate envelope and, except the red ballots, returned to the county auditor with the other returns, and the red ballots shall be returned to the city clerk or recorder.

(Id. § 128.)

§ 134. Counting and numbering ballots—Entry in tally-books.

The judges of election shall then proceed to count and ascertain the number of votes cast for each person voted for at such election, counting each ballot separately, and numbering the same consecutively in the order in which they are counted, said numbering to be in some uniform place and so done as not to deface or disfigure the ballot in any manner; and the clerk of election shall carefully enter and keep an account of each of said votes so cast in tally-sheets or tally-books as hereinafter provided, and when all the ballots shall have been counted, and from time to time previously thereto if the judges shall so require, said clerks shall compare their tallies, and, if necessary, correct the same; and the same shall be done in the case of each separate tally-sheet, or each sheet of the tally-book, before work shall be commenced on another sheet.

(Id. § 129.)

See O'Gorman v. Richter, 31 Minn. 25, 16 N. W. Rep. 416.

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§ 135. Tally-books—Two in each district—Description.

Two tally-books or two sets of tally-sheets shall be furnished for each election district by the official charged with the printing of the ballots and at the same time and in the same manner that such ballots are furnished, and shall be substantially as follows: Each tally-sheet or the first sheet of each tally-book to be furnished by the secretary of state shall be headed "Tally sheet for white ballots, — election district — November —, 18—," directly under which and extending across the sheet from side to side shall be printed or ruled in red ink two heavy lines one-half of an inch apart. At the left-hand side of each sheet in a column of suitable width, commencing just below said red lines, there shall be printed in plain type the titles of the several offices to be filled and the name of each and every candidate for the same, with as many blank lines as appear on the printed ballot, as well as proposed constitutional amendments or other questions to be voted upon, the whole being as near as may be in the same order as they appear on the official ballot with the squares for marking the same omitted therefrom. Under each set or group of candidates and blank lines for any one office there shall be a similar line in red ink, extending across the sheet, and another such line across the bottom of said sheet. Heavy red lines shall be printed or ruled from the red line nearest the top to the red line at the bottom of each of said sheets as follows: Three lines so as to form two spaces, each three-eighths of an inch wide, the first of said lines to be close to the column of names hereinbefore provided for; then lines so as to form ten spaces each one-half inch in width followed by one space three-eighths of an inch wide, and as many additional sets of lines as may be convenient, each set to form ten spaces each one-half of an inch in width followed by one space three-eighths of an inch in width. Under the name of each candidate or blank line, except where a red line is herein provided, shall be printed or ruled a light-blue line extending across the entire sheet, and in each of the spaces one-half of an inch in width and extending from the second line from the top to the bottom line as aforesaid shall be printed or ruled four light-blue lines in such a manner as to divide each of said spaces into five smaller spaces, each one-tenth of an inch in width. Immediately below the red line across the sheet and nearest the top thereof, there shall be printed in the first of the spaces three-eighths of an inch in width the words, "brought forward," and in the similar space at the extreme right shall be printed the words "carried forward." In each of the other spaces three-eighths of an inch wide shall be printed the word "number," or its abbreviation "No." And over the column of names shall be printed the words "offices and candidates." On the same line and in the spaces one-half an inch in width shall be printed in figures, in numerical order, commencing at the left, "five," "ten," "fifteen" and so on in multiples of five. In each column headed "number" or "No." shall be printed in figures in numerical order, "one," "two," "three," and so on, the figure "one" to be placed in the line with and opposite the name of the candidate nearest the top, the figure "two" opposite the name of the next candidate thereon, and in like manner down the entire column, each column so headed "number" to be the counterpart of each and every other column so headed; but no number shall be placed opposite any blank line, but only on the line of a printed name, save that numbers may be placed after "yes," and after "no," when constitutional amendments or other questions are being voted upon.

(1893, c. 4, § 130.)

§ 136. County and city tally-books similar.

The tally-sheets or tally-books to be furnished by county auditors shall be substantially the same as provided in the last preceding section, except that the word "blue" shall be substituted for the word "white" in the heading; and the tally-sheets or tally-books to be furnished by the city clerk or other official charged with the printing of the red ballots shall be similar thereto except that the word "red" shall be substituted for the word "white" in said heading, and except that the column containing the names of candidates may be printed or written or partly printed and partly written, as may be most convenient to said city clerk or other official.

(Id. § 131.)

§ 137. Number of tally-sheets to be furnished.

The tally-sheets, prepared as provided in this act, may be printed separately and consecutively numbered or a sufficient number thereof for an election district may be stitched together in book form, and in all cases the number furnished shall be sufficient for the proper tallying of all votes which may be cast in such district, even though all such votes be cast for one candidate or set of candidates.

(Id. § 132.)

§ 138. Substitute tally-sheets.

When, for any cause, proper tally-sheets shall not have been received by any board of election, and the same cannot readily be secured, the judges shall cause the clerks to prepare tally-sheets, as near as may be in conformity with the provisions of this act, in which event they shall certify on said sheets the fact that they were so prepared and used because of the non-receipt of official tally-sheets.

(Id. § 133.)

§ 139. Memoranda to be kept in canvass of votes.

In canvassing the votes cast as herein provided, a memoranda shall be kept of the name of the reading judge and of the numbers of the ballots read by him, of the name of the judge watching such reading, and of the name of the judge who shall string the ballots and watch the clerks; and when they shall change places or clerks are relieved temporarily or otherwise, a memoranda of the same shall be kept. Said memoranda shall be certified in duplicate and one copy thereof shall be attached to each of the tally-books or set of tally-sheets.

(Id. § 134.)

§ 140. Manner of marking the tally-sheets.

In counting the votes as the reading judge announces the name of a candidate and the office voted for, each of the clerks shall make a small straight mark, substantially like the figure one, in the small unoccupied space nearest said name, as provided therefor on the tally-sheet, and on a line with the name of such candidate, and one of the clerks shall at the time of making such mark say "one," "two," "three," "four," or "five," according to whether the blank space is first, second, third, fourth or fifth in any space one-half an inch in width and formed by red lines as aforesaid. If the other clerk shall find the same small space the proper one in which to make such mark he shall so enter the same, but if not he shall at once call attention thereto and the two tally-sheets shall be made to correspond and the record made correct. In like manner as other names are read the proper marks shall be made on each of the tally-sheets, until a line on which is the name of any one candidate shall contain no more unoccupied small spaces, whereupon, the sheets having been compared, a mark in ink shall be made after the last tally opposite each of the names thereon in such a manner that no additional tallies can be made thereon without detection. In the vacant space under the heading "carried forward" shall then be entered in figures the total vote so far received by each of the candidates, opposite their respective names, and the same figures shall be entered under the head of "brought forward" and opposite the proper names on the sheet next to be used; whereupon the clerks shall use said last named sheet in the same manner as before, except that under the heading "carried forward" shall be included the vote entered thereon under the heading "brought forward." And said clerks shall use said sheets in the order in which they are paged or numbered, until all the votes shall have been counted, after which they shall place, immediately after a small mark to prevent other tallies being made, the total vote received by each candidate, the same to be in both words and figures, but the same shall not be done until it is known that there are no more ballots, erroneously placed in other boxes, to be counted in connection with the canvass then being made.

(Id. § 135.)

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§ 141. Counting ballots, rules in determining intent of voter.

In the counting of ballots cast at any election, all ballots shall be counted for the persons for whom they were intended, so far as such intent can be clearly ascertained from the ballot itself, and in determining the intent the following rules shall be observed:

1. When the elector shall place a mark against two or more names for the same office, there being but one to be elected, he shall be deemed to have voted for none of them, and the vote counted for none.

2. When the elector shall have written the name of a person in the proper place for writing the same, he shall be deemed to have voted for that person, whether he makes or fails to make a cross-mark (X) opposite such name.

3. A mark made out of its proper place, but on a name or so near it as to clearly indicate that it was intended for that name, shall be deemed a vote for that name; and if the mark is so near a space for marking as to indicate that it was intended for that space, it shall be deemed intended for the name to which such space applies.

4. When a number of persons are to be elected to one office all cross-marks in the small squares opposite names, not exceeding the total to be elected, including names written thereon, shall be counted. If less than the number to be elected are marked only those so marked shall be counted.

5. The judges shall disregard misspelling or abbreviations of the names of candidates for office if it can be clearly ascertained from such ballot for whom it was intended.

6. Any ballot from which the judges can determine the elector's choice for a part of the offices shall be counted for such part; but the remainder of the ballot from which it is impossible to determine the elector's choice shall be void as to such defective part, and such defective part shall not be counted.

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7. If an elector in marking his ballot shall use a mark other than a cross-mark (X), as V, or I, or —, or O, or other mark clearly indicating an intent to mark against any name it shall be deemed a sufficient vote for the candidate or candidates against whose name or names so marked; but not if the cross-mark (X) be used elsewhere on the same ballot.

8. If a ballot shows that a mark has been made against the name of two candidates, and an attempt made to erase or obliterate one of such marks, the ballot shall be counted for the candidate for whom the elector evidently intended to vote.

9. All ballots prepared as provided in section one hundred in this act shall be counted for the candidates or measures therein shown to be voted for.

(Id. § 136.)

§ 142. Defective ballots.

When any ballot or part of a ballot shall not be counted because of inability of the judges to determine the intent of the elector, said ballot shall be marked "defective" on the back thereof, or "defective as to —," naming the office wherein found defective, and a memoranda of the numbers of such ballots and, if defective in part only, of the defective parts not counted shall be made out and certified by the judges and accompany the returns of such canvass. Said defective ballots shall be strung in regular order, with ballots which are duly counted.

(Id. § 137.)

§ 143. Ballots to be strung upon string, when—Announcement of result.

As soon as the ballots are read and canvassed, and in the order in which the same is done, said ballots shall be strung by one of the judges upon a stout string, and they shall be replaced in the ballot box from which they were taken and in which they belong, the string being first tied and sealed. And when the correct result shall have been ascertained one of the judges so engaged in said canvass shall in a loud voice announce to those present the number of votes cast for each candidate voted for.

(Id. § 138.)

§ 144. Ballot-judge and ballot-clerks.

In election districts in cities having a population of over twelve thousand inhabitants, to facilitate the casting of the ballots of electors and the counting and canvassing of the same, there shall be one additional judge of election, to be known as ballot-judge, and two additional clerks of election to be known as ballot-clerks, to be chosen and appointed and vacancies to be filled as in the case of other judges and clerks, not more than two of the four judges nor more than two of the four clerks to belong to the same political party. Said ballot-judge and ballot-clerks to perform no duties in the matter of registration of voters, or to render any service prior to the election or after the canvass except as expressly provided in this act.

(Id. § 139.)

§ 145. Same—In smaller cities and towns.

In all election districts in cities having a population of less than twelve thousand inhabitants, as well as in all villages and towns, a ballot judge and two ballot clerks shall be chosen and appointed as provided for in the last preceding section, and their powers and duties shall be as provided in this act. Provided, that the city council, village council or town supervisors shall, at least thirty days prior to the election, order that such ballot judge and ballot clerks be chosen, the system to be uniform in all election districts throughout such city, village or town in which the same may be ordered, and the system followed at one election to be thereafter followed unless otherwise ordered by the city council, village council or town supervisors, as the case may be.

(Id. § 140.)

§ 146. Same—Duties.

Whenever a ballot judge and ballot clerks shall be chosen they shall each be in attendance at the opening of the polls and shall serve until all the votes are counted. They shall receive from the judges of election the blocks of ballots and the same shall be issued to electors by them, as hereinbefore provided to be done by the judges of election and in lieu thereof. Said ballot judge and one of the ballot clerks (the two not being members of the same political party) shall place their initials on the back of the ballots, and said ballot clerks shall under direction of the ballot judge show electors how to fold their ballots, and, if requested so to do, in general terms how to mark the same, but shall not mark it or allow it to be marked in their presence. One of said ballot clerks shall have a copy of the register (of which three copies shall be prepared by the board of registration), which shall be conspicuously marked "ballot register," in which shall be checked the name of each elector to whom ballots shall be issued. If a challenge be interposed, the same shall be referred to the board of election proper, and no ballots issued until the same shall have been determined. The ballot judge shall also have charge of the door, and shall see that electors retire promptly to voting booths, and that the gatekeeper does his duty. And any and all things otherwise required to be done by the judges of election prior to receiving the ballots from electors shall, as far as consistent with the provisions hereof, be done by said ballot judge and ballot clerks.

(Id. § 141.)

§ 147. Cards with register number for electors—Ballot cards.

Whenever the board of election proper shall determine that the same is advisable the ballot judge shall deliver to the elector at the time he receives his ballots a small card or paper on which shall be written or printed the first letter of the surname of the said elector and a number corresponding with the number opposite his name in the registers; and said elector shall hand the same with his ballots to the judge in charge of the ballot boxes, who shall, in addition to other announcements, state said number to aid the other judges in quickly finding the name of said elector on the registers used by them. And in like manner, if the same be deemed advisable, said judge in charge of the ballot boxes may, after an elector has voted, hand him a

card or cards to be delivered by him to the ballot judge, before leaving the polling place, as evidence that the ballots delivered to him have been properly disposed of.

(Id. § 142.)

§ 148. Form of statement to be attached to ballot register.

After the polls have been closed said ballot judge shall attach to said ballot register and at the end thereof a statement substantially as follows:

"The whole number of the above named persons who were present and received ballots for the purpose of voting was _____. The number of persons returning spoiled ballots and receiving other ballots was _____, the spoiled ballots being: white ballots, _____; blue ballots, _____; red ballots, _____; total, _____."

The blanks to be filled in by both words and figures, and the statement to be certified by the ballot judge and attested by the ballot clerks, and said ballot register to be delivered to the city, village or town clerk.

(Id. § 143.)

§ 149. Order of canvass of votes—Watchers.

The statements provided by this act to be made, certified and attested in the poll lists and registers, and other necessary arrangements for the canvass having been made, the same shall be commenced. The ballot judge and one of the other judges, not of the same political party, with the aid of the ballot clerks, shall count and canvass the white ballots and make out the returns therefor, and the other judges and clerks shall count and canvass the blue ballots and make out the returns therefor. If there be a third ballot box the red ballots therein shall be counted, canvassed and return made by the board which shall the soonest complete its other work, or the members may relieve one another as they think best. In any event the memoranda provided for in this act shall be kept, and the counting and canvassing done and returns made substantially as required where no ballot judge or ballot clerks are provided for, and all the judges and all the clerks shall sign the returns. Each political party shall be entitled to one watcher for each counting board.

(Id. § 144.)

§ 150. Special judges and special clerks—Powers and duties.

In cities in which the municipal election is held on the same day as the general state election, the city council may, at least thirty days before election, direct that in all election districts in said city, in addition to other officers provided for in this act, there shall be two special judges of election and two special clerks of election, in which event they shall be chosen and appointed as are the regular judges and clerks, and subject to like restrictions. They shall have no authority to act during the election, but shall be present at the hour for closing the polls, and if not so present the vacancies may be filled as in other cases provided. Said special judges and special clerks shall count and canvass the red ballots only, and make return of the same as provided by law.

(Id. § 145.)

§ 151. Qualifications and pay of ballot judges and clerks, special judges and clerks.

Said ballot judges, ballot clerks, special judges and special clerks shall possess the same qualifications and be paid the same compensation, for like services, as other judges and clerks of election, and shall be subject to like penalties for any violation of this act. They shall deliver all returns made by them to the board of election proper, as well as election supplies and furnishings of every description; and the said board of election shall do or cause to be done all things thereafter by this act required to be done by them to the same extent as though no ballot judges or special judges or ballot clerks or special clerks had been provided for or in attendance.

(Id. § 146.)

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§ 152. Ballot judges, etc., only at general elections.

Nothing in this act shall be deemed to authorize the employment or services of ballot judges, ballot clerks, special judges or special clerks at any save at a general state election.

(Id. § 147.)

§ 153. Locking and sealing boxes.

When the canvass shall have been completed, and as soon as practicable thereafter, in the presence of all the judges, each box shall be locked and sealed by pasting firm paper across the lid and body of each box in such a manner that the box cannot be opened without breaking the seal; and each judge shall write his name upon said paper in such place that the box cannot be opened without tearing the name. Said sealings shall not be done, however, until it shall have been ascertained, by a canvass of the ballots in all the boxes, that all the ballots so to be sealed up in said box have been placed therein; but the same shall in all cases be done before the board shall separate or adjourn.

(Id. § 148.)

The provision of § 88, c. 1, Gen. St. 1878, for enveloping and sealing, was held directory only, and noncompliance therewith was held not to render the ballots inadmissible in evidence, where it clearly and satisfactorily appeared that they had been kept intact and inviolate, and in the same condition as when counted by the judges. O'Gorman v. Richter, 31 Minn. 25, 16 N. W. Rep. 416.

§ 154. Delivery of ballot boxes—Additional seals.

Each ballot box, as soon as practicable after the same is sealed as provided in the last preceding section, shall be deposited in the office of the town, city or village clerk, and carefully preserved therein with unbroken seals until the next general election, unless sooner opened by the proper authority for a recount or for examination. If, however, any committee of either of the political parties represented on the ticket voted at such election shall, on or before the day of election, apply to the legal custodian of the ballot box or ballot boxes for permission to affix additional seals and securities to the ballot boxes within the control of such custodian, said custodian shall give such permission, and immediately notify the party so applying of the time when the same shall be done, which time shall not be later than two days after election. Such custodian shall forthwith, after receipt of such application, notify all parties upon such election ticket or their representatives of the fact of such application, and the time when such seals will be affixed, and that at such time so designated at the office of said custodian, in the presence of such custodian and of the representatives of the political parties upon said ticket, the party so applying shall have the right to affix additional seals and securities, and in any manner secure and mark the same, and any of the other parties then present shall have the same right and privileges as the party so applying; but none of said parties shall in any manner injure or impair any of the seals on said box hereinbefore provided.

(1893, c. 4, § 149.)

§ 155. Filing of poll lists and registers—Open to inspection.

After the canvass of the votes shall have been completed one of said poll lists and one of said registers so kept and checked as aforesaid shall be attached together, and on the following day shall be filed in the office of the city, town or village clerk, together with the ballot register, if any, and the other of said poll lists and registers and poll books so kept and checked shall be returned to the office of the county auditor at the time the returns of the election are made. Said poll lists and registers shall at all times be open to public inspection at the office of the authorities in which they shall be deposited, without charge.

(Id. § 150.)

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§ 156. Form of the returns of election—Preliminary statement.

In making out the statement to be known as the returns of election, on blank forms to be furnished as provided in this act and to be prepared by the clerks of election when not so furnished, said clerks of election shall set down the total number of names entered upon the registers of election, male and female separately, in columns prepared therefor, and the total number of ballots actually cast and counted, the name of each and every person voted for, written out at length, the office for which such person received any votes, and the number of votes he received, the number being written out in words and also in figures. The said returns shall be as nearly as possible in the following form, to-wit:

“At an election held at _____ in the (number, if any) _____ election district, composed of _____ (township, ward or town, as the case may be,) in the county of _____, in the state of Minnesota, on the _____ day of _____ eighteen hundred _____, the following named persons received the number of votes opposite their respective names for the following described offices, to-wit:

For (specifying the office) A received (the number to be written in figures and also at length) votes” (and likewise for every person voted for for any office.)

Said returns shall be made in duplicate and each copy thereof shall be signed by the judges of election and attested by the clerks of election. In any city having a population of forty thousand or more inhabitants the city council may require said judges of election to insert on forms to be prepared by the city clerk a preliminary statement of the votes cast as soon as the count of any one class of ballots shall have been completed, and in like manner as soon as any other class of ballots shall have been completed. Said statement or statements shall be signed by one or more of the judges of election, and, as soon as practicable after the result shall be known for state, county or city offices, as the case may be, shall be delivered to a special messenger to be designated by the city clerk, which special messenger shall at once take the same to the office of such city clerk; but said statement shall not be deemed an official return or used for any purpose save for general information in advance of the preparation and filing of the official returns.

(Id. § 151.)

§ 157. Sealing returns—Form of indorsement.

After the canvass is thus completed the judges of election, before they are dispersed, shall inclose the said returns in envelopes, seal the same, and indorse thereon the following words: “Election returns of the election district of (naming the name of the town or ward or city), in the county of _____,” and direct one of the same to the county auditor of that county and the other to the town, city or village clerk; and in the case of a city election, to the city clerk or recorder.

(Id. § 152.)

§ 158. Delivery of returns by one judge.

One copy of the returns provided for in the last preceding section shall (except in cities having over twelve thousand inhabitants) be carried by one of said judges, to be chosen by lot if not otherwise agreed upon, and delivered to the said county auditor at his office, and the other copy shall be delivered to the clerk of the town, city or village wherein said election district is located. And in case of any town, city or village or town election, the returns thereof shall be so certified, attested and delivered to the clerk of such town, city or village.

(Id. § 153.)

§ 159. Returns in unorganized counties.

Returns of election in unorganized counties shall be made to the auditor of the county to which they are attached for election purposes; and the vote shall be canvassed and certificates of election issued to the persons

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elected in the same manner provided in this act for canvassing the votes and issuing certificates of election in unorganized counties.

(Id. § 154.)

§ 160. Limit of time for judge to file returns—Failure a misdemeanor.

Except in cities having over twelve thousand inhabitants, the judges of all election districts, situate within fifty miles of the county seat, shall file their election returns within twenty-four hours after the time of closing the polls; and in all other cases the returns shall be filed within seventy-two hours after the closing of the polls. Provided, however, that sufficient time has intervened between the time of closing said polls and the time for so filing said returns, in which to canvass the votes and make out and deliver said returns. Any judge or judges failing to file returns as provided in this section shall be deemed guilty of a misdemeanor.

(Id. § 155.)

§ 161. Delivery of returns and ballot boxes in larger cities—Record of deliveries—Limit of time—Violation a misdemeanor.

In all cities having over twelve thousand inhabitants, the judges and clerks, immediately after the completion of the canvass of votes and making out of returns, shall, without separating one from the other and without stopping at any place or leaving their ballot boxes or returns at any place or with any person, deliver said returns and ballot boxes, and all things by this act required to be delivered by them, to the city clerk or recorder at the office of said city clerk or recorder. Said city clerk or recorder, or his properly authorized deputy, shall remain in his office to receive such returns or ballot boxes and ballots, until all of the same from all of the election districts within his said city have been so returned to him. Said city clerk or recorder shall keep a book in which he shall enter in the presence of said judges and clerks the names of said judges and the hour at which they returned and delivered to him said returns and ballot boxes and ballots; which book shall be preserved by said officer as a public document for the same length of time as he is required to preserve the ballots cast at such election. Said judges of election shall select one of their number, to be chosen by lot if not otherwise agreed upon, to deliver the returns and ballots, as provided herein, to the county auditor. Said judges, so selected, shall so deliver said returns and ballots and all things required by this act to be so delivered to the county auditor or his deputy, within twenty-four hours after the delivery of the ballot boxes and returns at the office of the said city clerk or recorder as aforesaid. Any one violating any provision of this section shall be deemed guilty of a misdemeanor.

(Id. § 156.)

§ 162. Pay for carrying ballots and returns.

There shall be paid out of the county treasury of each county to the person carrying the election ballots from the office of the county auditor, for the election districts in his town, city or village, and also for the carrying of the returns of election to the county auditor the sum of one dollar, and also the sum of ten cents for every mile necessarily traveled in going to and returning from the office of the county auditor for each of the purposes above named. This provision to extend to unorganized counties, and to be paid out of the treasury of the county to which they are attached. All expenses for printing the blue ballots and for the carrying of the ballots and returns as herein provided shall be audited and allowed by the board of county commissioners of the proper county in the same manner as other claims are allowed, and may be paid upon the warrant of the county auditor.

(Id. § 157.)

§ 163. Pay of boards of election and special constables.

At all elections to be held under this act each member of a board of election shall receive as compensation for his services the sum of thirty cents per hour for each and every hour necessarily engaged therein, but no allowance shall

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be made for time spent by them in arranging for polling places, arranging booths or other services not specifically required by this act to be done by them or either of them. Special constables shall be paid the sum of twenty cents per hour, for such time as the judges shall require their services, not exceeding twenty-four hours, their bills to be certified by the judges. The compensation provided for in this section, as well as the expenses of providing ballot boxes and polling places shall be borne by the several townships, cities and villages where the election is conducted; and the city or village council or town supervisors shall, in the event of disputes, determine whether or not the said judges or clerks were "necessarily engaged" for the length of time for which compensation is claimed.

(Id. § 158.)

**§ 164. Willful failure or misconduct of election officer—
Penalty.**

If any judge or clerk of election, or any other officer or any other person required by this act to keep safely and produce the ballots intrusted to him on the day of election, or to perform any act or thing whatever, shall willfully fail or refuse to perform such act or thing, or shall be guilty of any fraud, corruption, partiality, or misbehavior in canvassing or making any returns of votes, or shall wrongfully refuse to make or deliver any certificate of election, or shall willfully perform any act or thing falsely or corruptly in any manner, he shall be guilty of a felony, and, on conviction thereof, shall be punished by imprisonment in the state prison for a term not less than six months nor more than one year, or by a fine of not less than five hundred dollars nor more than two thousand dollars, or both, in the discretion of the court. The provisions of this section to apply in all cases coming within the provisions of this act where other punishment is not specially provided for.

(Id. § 159.)

Sufficiency of indictment, see U. S. v. Doherty, 25 Fed. Rep. 23.

**§ 165. Willful removal or defacement of poll lists, etc.—
Penalty.**

Whoever shall willfully take or carry away from the place where has been deposited, or shall deface or mutilate, damage or add to any poll book, ballot, list or register, or any name or figure therein, shall, on conviction thereof, be fined in a sum not exceeding one thousand dollars, or be imprisoned in the state prison not longer than one year, or both, in the discretion of the court.

(1893, c. 4, § 160.)

§ 166. Special messenger.

If, from any cause, the judges of election shall fail to make return as provided by this act, it shall be the duty of the county auditor or clerk to whose office such returns ought to have been made to dispatch a special messenger to obtain such returns, and said messenger shall be entitled to the same compensation as a judge of election for such services and be subject to the same penalties.

(Id. § 161.)

See § 6788.

§ 167. Refusal to receive returns.

No election returns shall be refused by any county auditor, or town, city or village clerk or recorder for the reason that the same are returned or delivered to him in any other than the manner directed herein, except that they must be sealed.

(Id. § 162.)

§ 168. Duty of canvassing board in case of informalities.

No canvassing board of any county, town, city or village shall refuse to include any returns in its canvass of votes on account of any informality in holding any election or making returns thereof; but all returns shall be received and the votes canvassed by such canvassing board and included in its statements, provided there is a substantial compliance with the provisions of this act.

(Id. § 163.)

The words, "provided there has been a substantial compliance with the provision of this chapter," held not to render the use of register poll-lists essential to the validity of an election, or to change the rule as laid down in *Taylor v. Taylor*, 10 Minn. 107, (Gil. 81;) *Edson v. Child*, 18 Minn. 351, (Gil. 323.)

It was held that the duties of the auditor and board of canvassers, under the corresponding section of the former act, were purely ministerial; and that their performance could be compelled by *mandamus*. *O'Ferrall v. Colby*, 2 Minn. 180, (Gil. 148;) distinguished in *Clark v. Buchanan*, Id. 346, (Gil. 298.)

As to the power of the court on proceedings for *mandamus* against canvassers of election, see *Dalton v. State*, (Ohio,) 3 N. E. Rep. 635.

As to what duties in canvassing returns are ministerial, and enforceable by *mandamus*, notwithstanding certain irregularities in the returns, see *Long v. State*, (Neb.) 22 N. W. Rep. 120.

See, also, *State v. Peacock*, 15 Neb. 442, 19 N. W. Rep. 685.

§ 169. County canvassing board.

The county auditor, the chairman of the board of county commissioners, and two justices of the peace of the same county, of opposite political parties, if possible, to be selected by the auditor, shall constitute the county canvassing board, and on or before the tenth day after the election, said board shall proceed, after taking the usual oath of office, to openly and publicly canvass the returns made to the auditor's office.

(1893, c. 4, § 164.)

§ 170. Same—Quorum—Separate statements.

Said county canvassing board shall make and prepare separate statements, the same to be signed and certified by said board and deposited in the office of the county auditor.

Any three of said county canvassing board shall constitute a quorum, and are authorized to make the canvass provided in the last preceding section, and to certify to said statements, which shall be as follows:

1. A statement containing the whole number of votes given in such county for the office of governor and lieutenant governor, chief or associate justices of the supreme court, secretary of state, auditor of state, treasurer of state, clerk of the supreme court, judges of the district court, and all other officers of the state, the names of the persons for whom such votes were given, and the number of votes given for each, also upon the same return there shall be entered the total number of registered names, male and female separately, in each election district, and the total number of ballots actually cast therein.

2. A statement for all county officers voted for, and the names of the persons for whom such votes were given.

3. A statement of the votes for presidential electors, and the names of the persons for whom such votes were given.

4. A statement of the votes given for representative in congress in each district, or any or either of them, and the names of the persons for whom such votes were given.

5. A statement of the votes upon any proposed change of county line or county seat.

6. A statement of the votes given for and against proposed amendments of the constitution.

(Id. § 165.)

§ 171. Same—Duplicate copies, how forwarded—Indorsement.

Two copies of each of the separate statements provided for in the last preceding section shall be made, and the same shall be certified under the official seal of the auditor, one of which shall be inclosed and directed to the secretary of state and be forwarded to the seat of government by mail, and the other copy shall be inclosed and forwarded to the secretary of state in like manner as the first copy, but by different mail, and within five days after such first copy shall have been so transmitted. In the event that neither of said copies so transmitted shall be received by the secretary of state within twenty days after the election, the county auditor shall transmit by a messenger to be deputed by him, upon notification from the secre-

tary of state, another copy of such statement. If within twenty days after such election no such copy shall have been received by the secretary of state from each county in the state, it shall be his duty to immediately notify the auditors of each county from which such returns have not been received, of such fact. The county auditor shall indorse on the envelope inclosing each of such statements or copies the names of the auditor and his official residence, and the words "election returns."

(Id. § 166.)

The abstract of the canvass by the county board, made under § 23, c. 1, Gen. St. 1873, held to be the official evidence by which the auditor was to be governed in issuing certificates of election. *State v. Churchill*, 15 Minn. 455, (Gil. 369.)

Where a board of canvassers met, canvassed the votes cast, and then adjourned *sine die*, held, that it thereby became *functus officio*, and could not be legally reconvened for any purpose, and *mandamus* would not lie to revive its powers, or any of them. *Clark v. Buchanan*, 2 Minn. 346, (Gil. 298.)

Under the former act, the duties of the board of canvassers, and of the clerk of the board, in canvassing votes and issuing certificates of election, were merely ministerial, and they had no power, in the performance of such duties, to reject election returns, because, in their opinion, they contained illegal votes. *O'Ferrall v. Colby*, 2 Minn. 180, (Gil. 148;) *Bryant v. Colby*, Id.

The canvassers cannot look beyond the returns. *Hagge v. State*, (Neb.) 4 N. W. Rep. 375; *State v. Hill*, Id. 514. Neither can they throw out the returns of a precinct, and refuse to canvass them, if sufficiently authenticated. *State v. Peacock*, (Neb.) 19 N. W. Rep. 685.

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§ 172. Declaration of county board—Notice of appeal.

At the close of the canvass by the county canvassing board it shall declare the person having the highest number of votes for any county office duly elected, subject to an appeal to the district court of the proper county. And, in case said county contains a senatorial or representative district, then the persons having the highest number for senator or representative shall be declared by said board duly elected. In case of an appeal, notice thereof shall be entered with the clerk of said court within twenty days after the day of election.

(1893, c. 4, § 167.)

One who received less than a plurality of the votes cast at a popular election for lieutenant governor, held not entitled to the office, though the next highest candidate who received such plurality was ineligible to the office, such ineligibility not appearing upon the ballots. *Barnum v. Gilman*, 27 Minn. 466, 8 N. W. Rep. 375.

Under the former act, the appeal was perfected by entry of notice with the clerk. It was not necessary that notice served on contestee should state that appeal had been taken. *Newton v. Newell*, 26 Minn. 539, 6 N. W. Rep. 546.

The district court acquired jurisdiction only by notice of appeal from the decision of the board of canvassers being entered with the clerk of court. *Baberick v. Magner*, 9 Minn. 232, (Gil. 217.)

If the appeal was not taken in the time and manner prescribed, the court acquired no jurisdiction. *Borer v. Kolar*, 23 Minn. 445.

The canvass could not be reviewed on *mandamus*. *State v. Churchill*, 15 Minn. 455, (Gil. 369.)

§ 173. Certificates of election—Certified copy of statement.

The county auditor shall make out for every county officer elected, and also for each of the senators and representatives elected to the legislature, if such county constitutes a senatorial or representative district, a certificate of such election and shall deliver the same to the person entitled thereto, upon demand, without fee. The county auditor shall also make out for any candidate or elector of his county a certified copy of any statement of votes, as made by the county canvassing board, on being paid or tendered one dollar therefor.

(1893, c. 4, § 168.)

A holder of a certificate of election cannot be ousted from the office on *mandamus*. *State v. Sherwood*, 15 Minn. 221, (Gil. 172.) The auditor's certificate, when regular, is conclusive of the right of the party to whom issued to the office, except in a proceeding where the right is directly in issue. It cannot be questioned by *mandamus*. *State v. Churchill*, 15 Minn. 455, (Gil. 369.)

A certificate of election cannot be attacked collaterally; but in case of a direct contest, it is merely *prima facie* evidence of the election of the person named therein. *Parmater v. State*, (Ind.) 3 N. E. Rep. 382.

§ 174. Statement of votes for members of legislature.

The county auditor of each county which does not constitute a senatorial or representative district shall make out from the returns in his office a statement of the votes for members of the senate and house of representatives, which he shall seal and direct to the county auditor of the senior county in each senatorial or representative district respectively. If there be two or more counties in such district of the same age, then the returns shall be directed to the auditor of the county polling the greatest number of votes at the last preceding general election; and said auditor shall forward such statement to the proper auditor within fifteen days after the election.

(1893, c. 4, § 169.)

§ 175. Canvass in senatorial district—Certificates of election.

When two or more counties are comprised in one senatorial district, the auditor of the senior county, or of the county to which the returns are to be made, shall, on the twentieth day after election, with such other county auditors of the district as choose to attend at his office, call to his assistance two justices and the chairman of the board of county commissioners of his county, and then and there open the returns of the votes given in the several counties, or portions of counties, comprising such senatorial districts. Said auditor of the county to which the returns are made shall immediately make out certificates of election for the persons having the highest number of votes in such senatorial district for the members of the legislature, which certificates shall be delivered to the persons entitled thereto.

(Id. § 170.)

§ 176. Correction of statements in senatorial district.

If on proceeding to canvass the votes it shall appear to said senatorial district board of canvassers, or a majority thereof, that in any statement produced certain matters are omitted in such statement that should have been inserted, or that any mistakes that are clerical merely exist, they shall cause the said statement to be sent by one of their number, or by a messenger whom they shall depute for that purpose, to the county or district canvassers of the county, town or district from which such statements were received, to have the same corrected, and the persons so deputed shall immediately proceed and give notice to the said county, town or district canvassers. Said county, town or district canvassers shall forthwith assemble together and make such corrections as the facts of the case may require; but shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated. Said senatorial district board of canvassers are authorized to adjourn from day to day for the purpose of revising such statements, such adjournments not to exceed ten days.

(Id. § 171.)

As to the correction of errors apparent on the face of the returns, see *State v. Hill*, (Neb.) 29 N. W. Rep. 258.

§ 177. Pay of auditors, etc.

Every auditor, chairman of the board of county commissioners and justices of the peace shall receive for services performed under this act the following fees: For each mile necessarily traveled in going to and from the place where the official canvass is made, ten cents; for making the statements, for every one hundred words, eight cents; for every certificate with seal attached to statements, thirty cents. Said fees shall be allowed by the board of county commissioners of the proper county and paid by the county treasurer upon the warrant of the county auditor.

(1893, c. 4, § 172.)

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§ 178. State canvassing board—Date of meeting—Compensation.

The secretary of state shall call to his assistance two or more judges of the supreme court, and two disinterested judges of the district court of the state, who shall constitute the state canvassing board. The secretary of state shall appoint a meeting of the state canvassing board, to be held in his office the third Tuesday of December after each general election, and within thirty days after a special election. If a majority of said board shall be unable, or shall fail to attend on the day appointed, he shall select from the disinterested judges of the supreme court, and notify to attend, as many as may be necessary to constitute the required number. Upon being notified, said judges shall attend without delay, and with the officers attending shall form the board. Members of said board shall receive three dollars for each day's attendance and ten cents for each mile necessarily traveled in going to and from the place where the state official canvass is made, to be paid in like manner as are presidential electors.

(Id. § 173.)

§ 179. Same—Statement of whole number of votes.

The state canvassing board, when formed, shall, upon the certified copies of the statements made by the county canvassing boards, proceed to make a statement of the whole number of votes given at such election for the various state officers, which statement shall contain the names of the persons for whom such votes have been given for any state office, and the whole number of votes given to each, distinguishing the several counties in which they are given. Said board shall certify such statement to be correct, and shall subscribe to the same with their proper names.

(Id. § 174.)

§ 180. Same—Statement of votes for members of congress, etc.—When tie decided by lot, when by special election.

At the same time said canvassing board shall open the returns made to the secretary of state for members of congress, and for electors of president and vice president of the United States, and shall forthwith proceed to make a statement of the number of votes given for the different persons voted for for the said offices, and the person or persons having the highest number of votes for each office shall be considered duly elected. But if it appears that more than the number of persons to be elected as electors of president and vice president have the highest and an equal number of votes, the secretary of state, in the presence of the officers present, shall decide by lot which of the persons shall be elected as such electors, and to each person duly elected the governor shall give a certificate of election signed by him, sealed by the great seal and countersigned by the secretary of state, and shall transmit the said certificate to each person so elected, and shall cause the election of electors to be published in the newspapers printed at the seat of government, immediately after the said canvass is completed. If there shall be a tie in the number of votes received by candidates for representatives in congress who receive the highest number of votes, a special election shall be called, as hereinafter provided, for the election of a representative or representatives in congress, in the district or districts in which said tie vote occurred.

(Id. § 175.)

§ 181. Meeting of presidential electors.

The presidential electors chosen as aforesaid shall, at twelve o'clock on the day directed by the congress of the United States, meet at the seat of government of this state, and then and there perform the duties enjoined on them by the constitution and laws of the United States.

(Id. § 176.)

§ 182. Notification to governor—Vacancies in electoral board.

Every elector of president and vice president of the United States shall, before the hour of twelve on the day next preceding the day fixed by law for congress to elect a president and vice president, give notice to the governor that he is at the seat of government and is ready at the proper time to fulfill the duties of an elector. And the governor shall forthwith deliver to the electors present a certificate of all the names of the electors, and if any electors named therein fail to appear before nine o'clock on the morning of the day for the election of president and vice president of the United States, the electors then present shall immediately proceed to elect by ballot, in the presence of the governor, persons to fill such vacancies.

(Id. § 177.)

§ 183. How filled.

If more than the number of persons required to fill such vacancies as aforesaid have the highest and an equal number of votes, the governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise, those, to the number required, having the greatest number of votes shall be considered elected to fill such vacancies.

(Id. § 178.)

§ 184. Notices to be given.

Immediately after such choice is made, the names of the persons so chosen shall be certified to the governor by the electors making such choice, and the governor shall immediately cause notice to be given in writing to the electors so chosen to fill such vacancy; and the persons so chosen shall be electors and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined on them as electors aforesaid by the constitution and laws of the United States and of this state.

(Id. § 179.)

§ 185. Compensation of presidential electors.

Each presidential elector attending at the seat of government, as provided in this act, shall receive three dollars for every day's attendance, and three dollars for every twenty miles traveled in going to and returning from the seat of government, estimated from his place of residence, by the most usual route. Such sums shall be allowed by the auditor upon the certificate of the governor and paid by the state treasurer out of any money in the treasury not otherwise appropriated.

(Id. § 180.)

§ 186. Election contest—Notice.

Any candidate or elector of the proper county, senatorial, judicial or election district, wishing to contest the validity of the election, or the right of any elector declared duly elected to the senate or house of representatives in this state, or to contest his right to a seat therein, shall give notice thereof in writing to the person whose election or right to a seat he intends to contest, or leave a written notice thereof where such person last resided, within twenty days after the votes have been canvassed by the county canvassing board, specifying the points or which the election will be contested, and naming two justices of the peace of the county in which he resides who will officiate at the taking of the depositions and when and where they will attend to take the same. All notices shall be served at least ten days before the day designated therein for the taking of such depositions, but the time fixed for the taking of the same shall not exceed forty-five days from the day of the election.

(Id. § 181.)

§ 187. Subpoenas—Taking testimony.

Said justices, or either of them, shall issue subpoenas to all persons whose testimony is required by either of the parties; and said two justices shall take, under oath, all testimony relating to such contested election, and cer-

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tify the same under seal to the presiding officer, in that branch of the legislature where the person whose seat is contested is returned to serve at the next session.

(Id. § 182.)

It was held that testimony taken under Gen. St. 1878, c. 1, §§ 49-51, must be passed upon as to its propriety and sufficiency, by the house to which it was sent. The powers of the two justices were not judicial, but resembled those of commissioners, or of a committee of one of the houses. *State v. Peers*, 33 Minn. 82, 21 N. W. Rep. 860.

§ 188. Additional testimony—Notice thereof—Points to be specified.

If a person whose election is contested desires to offer testimony upon points not specified in the notice of the contestant, he shall within ten days after the contestant's notice is served upon him as aforesaid, serve upon said contestant, in the manner provided in section one hundred and eighty-one of this act, a notice specifying such additional points, and specifying a place and day (which shall not be more than ten days later than the time fixed by the contestant in his notice for taking depositions) at which time testimony therein will be taken before two justices of the same county, which notice shall be served at least ten days previous to the time of taking such testimony. No testimony shall be taken by said justices which does not relate to some point specified in said notice, copies of which shall be delivered to the justices taking testimony and by them transmitted to the presiding officer of that branch of the legislature where the contest is decided, with the other documents provided for by section one hundred and eighty-two.

(1893, c. 4, § 183.)

§ 189. Rules in conducting contest in legislature.

In conducting any contested election in the house of representatives, the following rules shall be observed:

1. On the day and at the hour appointed for that purpose, the house, with proper officers, shall assemble at the usual place of meeting. The speaker of the house of representatives shall preside, but when he is a contestee a speaker pro tem. shall be elected.
2. The parties to the contest shall then be called by the clerk, and, if they answer, their appearance shall be recorded.
3. The contestant shall then first introduce his testimony, and, after the testimony is closed on both sides, the contestant, by himself or by his counsel, may open the contest, and the officer-elect may then proceed, by himself or counsel, to make his defense, and the contestant be heard in reply. After the argument of both parties is concluded, any member of the house may offer the reasons for the vote he intends to give.
4. The clerk shall keep a regular journal of the proceedings.
5. In deciding the contest the members shall vote viva voce, and the majority of the votes given shall decide; but no party to the contest shall vote, either upon the final decision or upon any preliminary question that has reference thereto.

If the contest is in the senate it shall proceed as nearly as may be according to the rules above prescribed.

(Id. § 184.)

§ 190. Contest in city or county election—Notice thereof—Taking of testimony.

Any candidate or elector of the proper city or county may contest the election of any person declared elected to any city or county office. He shall give notice thereof in the manner provided in section one hundred and eighty-one for services of such notice. If the person whose election is contested desires to offer testimony upon points not specified in the notice of the contestant, he shall, in the manner provided in section one hundred and eighty-three, serve notice on the contestant specifying such additional points. Upon such notices, which are not to be taken as true until proved, and which may be amended if the court under all the circumstances deem it just, all

testimony shall be taken as in civil actions, and all matters relating to said contest shall be heard and tried by the district-court of the proper county in the manner that civil actions are tried by the court.

(Id. § 185.)

An action to contest the election of a county officer is a special proceeding, and not a civil action, wherein a party is entitled to a jury trial. *Whallon v. Bancroft*, 4 Minn. 109. (Gil. 70;) *Ford v. Wright*, 13 Minn. 518, (Gil. 480.)

Section 76, c. 1, Gen. St. 1878, was held to make § 52 applicable to elections for city officers, including aldermen, unless the council was the sole judge of the election of its officers. *State v. Dowlan*, 33 Minn. 537, 24 N. W. Rep. 188. And see *State v. Gates*, 35 Minn. 385, 28 N. W. Rep. 927.

As to the sufficiency of the specification of points on which a contest will be made, in the notice served on the contestee, see *O'Gorman v. Richter*, 31 Minn. 25, 16 N. W. Rep. 416; *Soper v. County of Sibley*, 46 Minn. 274, 48 N. W. Rep. 1112. And see *State v. Penniston*, (Neb.) 7 N. W. Rep. 753. Want of sufficient notice of grounds of contest must be specifically objected to. A general objection to evidence will not raise the question of notice. *State v. Norton*, (Wis.) 1 N. W. Rep. 22.

District court may try contests without a jury. *Newton v. Newell*, 26 Minn. 539, 6 N. W. Rep. 346.

The party adjudged to be duly elected to the office is, pending an appeal from the judgment, entitled, upon qualifying, to possession. *Allen v. Robinson*, 17 Minn. 113, (Gil. 90.)

It was held that proceedings could only be instituted by an appeal from the county board of canvassers to the district court, within the time and in the manner therein specified. Such provisions in regard to appeal were held jurisdictional. *Borer v. Kolar*, 23 Minn. 445.

There is no right to amend as in civil actions. *Ford v. Wright*, 13 Minn. 518, (Gil. 480.)

A party charging that an election was carried by fraud must state the facts on which he bases his charge. *Hunter v. State*, (Neb.) 16 N. W. Rep. 830.

As to irregularities at one of several polling-places of a township, which were held not to invalidate the election, see *Simons v. People*, (Ill.) 9 N. E. Rep. 220.

See *State v. Webber*, 31 Minn. 212, 17 N. W. Rep. 339; *Whallon v. Bancroft*, 4 Minn. 109, (Gil. 70;) *Baberick v. Magner*, 3 Minn. 232, (Gil. 217;) *Allen v. Robinson*, 17 Minn. 110, 119, (Gil. 90.)

§ 191. How heard and determined—Special term of court, when.

Said contest relative to a city or county office shall be brought on for hearing and the costs therein taxed by said district court in the manner that civil actions are conducted. Said district court at the next general or special term, after the expiration of thirty days after the votes are canvassed, shall hear and determine the contest; and the judge of the said court, in case no general or special term occurs within ninety days after the canvass of the votes, shall appoint a special term of said court, to convene within ten days after notice of such contest shall be given to him.

(1893, c. 4, § 186.)

§ 192. Bond and return on appeal—Hearing.

When the judgment or decision of the district court in any contest shall be removed to the supreme court, the party removing the same shall file in the district court a bond to the opposite party, in such sum not less than five hundred dollars, and with such sureties as shall be approved by the judge, conditioned for the payment of all costs incurred by the respondent in case the appellant fail on his appeal. The return on said appeal shall be made, settled, certified and filed in the supreme court within fifteen days after the date of service of notice of appeal, and upon perfecting said appeal the same may be brought on for hearing and determination before said supreme court at any time when the same shall be in session, and upon ten days' notice from either party; and the same shall be heard and determined in a summary manner. Such notice of hearing may be served during the term or in vacation.

(Id. § 187.)

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§ 193. Inspection of ballots by contestants, upon what conditions.

After any contest has been instituted, either party to the contest shall have the right to have the ballots referred to inspected for the purpose of enabling him to prepare his contest for trial; and, upon application by such party to the district court upon a verified petition, stating that he cannot prepare his case for trial without an examination and inspection of the ballots cast at the preceding election, the judges of said court shall appoint three persons, one to be selected by each of the parties to the contest, and these to select a third, to whom the inspection and examination of said ballots shall be referred. Provided, that said inspection and examination shall be had and conducted in the presence of the proper custodian of the ballots; and provided further that the party making such application shall file with the clerk of the district court a bond in the sum of two hundred and fifty dollars, with two sureties, to be approved by the judge of said court, conditioned that he will pay the cost and expense of such examination and inspection, in the event that he shall fail to maintain his contest. Should either party to the contest neglect or refuse to name the persons to whom said inspection shall be referred, on his part, such person shall be selected and appointed by the judges of the district court to whom the application is made.

(Id. § 188.)

The provision of § 89, c. 1, Gen. St. 1878, giving the parties to a contest the right to have the package of ballots opened, was held to apply only after contest instituted, and to give contestant a right to have the ballots inspected, to enable him to prepare his case for trial, not to aid him in framing his notice to opposite party. O'Gorman v. Richter, 31 Minn. 25, 16 N. W. Rep. 416.

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§ 194. Evidence at the trial—Depositions.

On the trial of any contested election for any of the offices named in the one hundred and seventy-fourth, the one hundred and eighty-first, or the one hundred and eighty-fifth sections of this act the parties to the contest may introduce written or oral testimony, but no depositions shall be read at such trial, unless the other party has reasonable notice of the time and place of taking the same.

(1893, c. 4, § 189.)

The court may receive oral evidence. Ford v. Wright, 13 Minn. 518, (Gil. 480.)

Ballots as evidence, see Searle v. Clark, (Kan.) 7 Pac. Rep. 630; Coglan v. Beard, (Cal.) 2 Pac. Rep. 737; Welsh v. Mechem, (Kan.) Id. 816; Dorey v. Lynn, (Kan.) 3 Pac. Rep. 557.

As to evidence of the intention of a voter, varying that manifested by his ballot, and as to the admissibility of evidence to show an alteration of the ballot after the count, see People v. McNeal, (Mich.) 29 N. W. Rep. 728; Clark v. County of Montgomery, (Kan.) 6 Pac. Rep. 311; Dorey v. Lynn, (Kan.) 3 Pac. Rep. 557.

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§ 195. Contesting vote upon subject submitted to popular vote—Notice thereof.

In any county in which there is a vote for the removal of the county seat, or changing the county line of said county, or upon any other subjects which by law may be submitted to the vote of the people, any elector therein may contest the validity of such election as to the right of the place declared to be selected for the county seat to be such; or as to the result when the proposition to remove a county seat is declared defeated, or as to any county line declared established by said vote; or as to the result of any vote upon any subject submitted as aforesaid. Such elector shall give notice in writing of such contest to the county commissioners or one of them in the county in which said vote was taken, by serving copies of said notice personally upon said commissioners within thirty days after the result of said vote is declared or proclaimed.

(1893, c. 4, § 190.)

The prevailing party is not entitled to judgment for disbursements in the district court. Bayard v. Klinge, 16 Minn. 249, (Gil. 221.)

See Taylor v. Taylor, 10 Minn. 107, (Gil. 81.)

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§ 196. Contents of such notice—Filing—Determination of contest.

The notice provided for in the last preceding section shall specify the points on which said election will be contested, and a copy thereof shall be filed with the clerk of the district court of the proper county within ten days after the service thereof upon a county commissioner; and the district court, at its first general or special term, shall hear and determine on such contest upon the oral and written evidence of the parties; and depositions may be taken by any of the parties to the proceedings in the same manner as in civil actions, but no appeal to said district court shall be necessary in any such case. Such commissioners, or, upon their failure, any elector of the proper county, may appear and defend in such contest, and introduce evidence as in other actions.

(1893, c. 4, § 191.)

§ 197. When election to be declared invalid.

Whenever, in any contested election, the tribunal trying the case shall decide that the ballots used in one or more election districts were, by reason of the omission, addition, misplacing, misspelling or misstatements of one or more titles of offices, or names of candidates or parties or policies represented by them, so defective as to the office in contest as to be calculated to mislead the voters in regard to any of the candidates nominated for the said office, and that the defective condition of the said ballots may have affected the result of the entire election for the said office, the said tribunal shall declare the election to be invalid as regards the said office.

(Id. § 192.)

§ 198. Pending contests excepted from provisions of act.

The provisions of this act relative to contests shall not apply to any case now pending, or growing out of any election heretofore held, but such contests shall be determined in the same manner as though this act had not been passed.

(Id. § 193.)

§ 199. Anonymous defamatory posters etc.—Penalty.

Whoever writes, prints, posts or distributes, or causes to be written, printed, posted or distributed, a circular or poster or other written or printed paper, which is designed or tends to injure or defeat any candidate for nomination or election to any public office, by reflecting upon his personal character or political actions, unless the same shall be published in a newspaper avowedly responsible therefor, or unless there appears upon such circular, poster or paper in a conspicuous place either the names of the chairman and secretary, or at least the names of two officers of the political or other organization issuing the same, or the name of some duly registered elector, with description of his election district, as responsible therefor, shall be punished by fine not exceeding one hundred dollars or by imprisonment in jail not exceeding six months, or both; and if the statements are untrue the person so offending shall also be deemed guilty of libel and may be prosecuted in the civil or criminal courts or both thereof. [therefor.]

(Id. § 194.)

§ 200. Punishment for offenses not specifically provided for.

The punishment for any of the offenses in this act declared to be misdemeanors, not herein specifically provided for, shall be a fine not exceeding two thousand dollars, or imprisonment not exceeding two years, or both such fine and imprisonment.

(Id. § 195.)

§ 201. Duty of county attorney to prosecute violations.

It shall be the duty of the county attorney in each county in this state to prosecute any person violating any of the provisions of this act, and to sue for and enforce all penalties incurred for a violation of this act or

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any part thereof, upon his own motion, or upon the complaint of his county, accompanied by the requisite proof of such offense or offenses.

(Id. § 196.)

§ 202. Fines for use of common schools.

All fines incurred or collected under this act shall be paid into the county treasury of the county wherein the offense was committed for the use of the common schools of such county.

(Id. § 197.)

§ 203. Construction of this act in city elections—Terms of city officials.

In the city elections this act shall be construed in connection with laws authorizing such elections, which shall be held at such time or times as such laws may provide; nor shall the terms of city officials be affected by any of the provisions of this act.

(Id. § 198.)

§ 204. To be known as general election law—Township and village elections excepted.

This act shall apply to all general and special elections in the state of Minnesota, except township and village elections, and shall be known as the general election law of the state.

(Id. § 199.)

See State v. Dowlan, 33 Minn. 536, 24 N. W. Rep. 188; Board of Education Sauk Centre v. Moore, 17 Minn. 412, Gil. 391, 402.)

§ 205. Laws 1891, c 4, repealed.

Chapter four of the General Laws of one thousand eight hundred and ninety-one, being an act entitled "An act to regulate elections," approved April 20, 1891, and all other acts and parts of acts inconsistent with this act, are hereby repealed.

(1893, c. 4, § 200.)

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