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GENERAL STATUTES OF  
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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1918

authorized to appoint an additional assistant in his office at a salary not to exceed nine hundred dollars (\$900.00) per annum. ('15 c. 163 § 1)

[297—]2. **Custodian of public documents—Salary**—The yearly salary of the custodian of public documents in the office of the secretary of state, shall be fifteen hundred (1500) dollars, per annum. ('15 c. 162 § 1)

## CHAPTER 6

### ELECTIONS

#### 298. **General, when held—What officers chosen—Presidential electors—**

1915 c. 168, amending §§ 809, 810, post, providing that clerks of the district court elected in 1912 shall hold over to January, 1919, and that their successors shall be elected in November, 1918, held violative of Const. art. 6 § 13, and art. 7 § 9 (132-426, 157+652). Clerks of Courts, ⇐7.

#### 300. **Term of office, when it begins—**

Cited (132-426, 157+652), holding that 1915 c. 168, amending §§ 809, 810, post, by providing that clerks of the district court elected in 1912 should hold over until January, 1919, and that their successors should be elected in November, 1918, was violative of Const. art. 6 § 13, and art. 7 § 9. Clerks of Courts, ⇐7.

305. **Special elections, when and how called and conducted—**Whenever any vacancy occurs in any office, the filling of which is not otherwise provided for, the governor, within ten days after he is informed of such vacancy, shall issue a proclamation directing a special election to be held, at a time therein specified not more than twenty days from the date thereof, to fill such office. One copy of such proclamation shall be mailed to the auditor of each county wherein such special election is to be held. But if the vacancy occurs in the office of representative in congress, or member of the legislature, and there be no session of the congress or legislature between the happening thereof and the next general election the vacancy shall be filled at such general election. Such special election shall be called, held and conducted, and the returns thereof made and canvassed in the same manner as in the case of general elections; and within fifteen days thereafter the auditor shall transmit a statement of the vote cast thereat to the secretary of state. (Amended '15 c. 167 § 1)

Section 17 repeals §§ 392, 516, 517, 518 G. S. 1913.

Section 18 repeals inconsistent acts, etc.

307. **Same—Candidates, how nominated, etc.—**That whenever a special election shall be ordered in any city of this state, having a population of more than ten thousand inhabitants and less than twenty thousand inhabitants, to fill any vacancy in the offices of such city, and the charter of such city shall require such special election to be ordered and held within ten days after such vacancies shall occur, candidates for election at such special election shall not be required to be nominated at a primary election. Candidates for election at such special election may be nominated by delegate conventions called and held in accordance with the laws of this state, relative to the nomination by conventions held to nominate candidates for election at a special election. Candidates for election at such special election may also be nominated by certificates in the manner provided by law relating to nominations by petition or certificates of voters. Provided, however, that all certificates of nomination of candidates for election at such special elections shall be filed with, and the nomination fee fixed by law paid to the city clerk of such city on or prior to the third day before the day appointed for holding such special election.

Whenever a special election shall be ordered in any city of the first class in this State not operating under a home rule charter, to fill any vacancy in the offices of such city, and the charter of such city shall not require such special election to be ordered and held within ten (10) days after such vacancy shall occur, candidates for election at such special election shall be

nominated at a primary election held on the third day, exclusive of any intervening Sunday, before the day appointed for such special election, at the time and places provided under section 309, General Statutes 1913 for the meeting and attendance of the Judges of election; and at such time and places there shall be held a primary election for the purpose of selecting two candidates to be voted for at the special election held to fill such vacancy.

The returns of such primary election shall be returned to the city clerk of such city, and shall be canvassed on the next day (not a Sunday or legal holiday), following such primary election, by a canvassing board consisting of the city clerk of such city, the chief accounting officer of such city and the city treasurer of such city.

Such canvassing board shall meet and canvass the returns and determine the result of such primary election on such day provided for their meeting; and shall forthwith certify in writing the result of such canvass to the city clerk of such city, who shall file the same and forthwith, in writing, notify the successful candidates of their nomination.

In the event that any of said officers above named to act on such canvassing board is a candidate for the office so to be filled, or is for any reason unable to act on such canvassing board, the chief executive officer of such city shall designate and appoint another officer of such city as a member of such canvassing board, in place of the officer named who is unable to act.

The action of a majority of such canvassing board, in making such canvass shall be legal and sufficient.

The city clerk of such city shall give fifteen (15) days notice of the time and places of holding such special election, and at the same time shall give notice of such primary election, designating the officers to be elected.

Notice of both said primary election and special election may be given in one and the same notice, but no defect in such notice or failure to give such notice shall invalidate any election.

All candidates for nomination at such primary election must file their affidavit for such nomination, and pay their fee therefor, in the same manner as provided in the law governing primary elections, except only that such filing shall be made with, and such fee paid to, the city clerk of such city, instead of the county auditor; and such filing must be made, and the fee therefor paid, not later than the fifth day preceding the primary election.

The two persons receiving the highest number of votes at such primary election shall be declared the nominees, and their names shall be placed on the ballot to be used at the special election, and no other names of candidates shall appear on the ballot to be used at such special election except the names of the two candidates receiving the highest number of votes at such primary election; Provided, however, that in the event that not more than two persons file as candidates for nomination for the office to be filled at such special election, then, and in such event, no primary election shall be held, but the two persons so filing shall be considered and shall be the nominees for such office, and their names, and their names only, shall be placed on the ballot, to be voted on at said special election for the office so to be filled.

At the primary election so to be held to select candidates to be voted on at such special election all persons entitled to vote at such special election shall be entitled to vote at such primary election, and except as herein otherwise provided, such primary election and all things pertaining thereto shall be in accordance with and controlled by the laws of the State of Minnesota in respect to primary elections, except only that wherever any act in connection with any regular primary election is required to be done by the county auditor, all such acts in connection with a special primary election shall be done by the city clerk of such city. (Amended '17 c. 26 § 1)

**318. Pink ballots for constitutional and other questions—**

Statement of proposed amendment to constitution (see 127-521, 149+1069).

**327. Same—Written names—Party precedence—Identical surnames—**

Like squares shall be placed at the right of the blank lines, and on such lines the voter may write the names of persons for whom he desires to vote whose names are not printed, and in the squares opposite the same he may make

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

When the surnames of two or more candidates for the same office are the same, each such candidate shall have added thereto not to exceed three words, indicating his occupation and residence, and upon such candidate furnishing to the officer preparing the official ballot such words, they shall be printed on the ballot with and as are the names of the candidates and immediately after his name. (Amended '15 c. 102 § 1)

The Duluth charter does not abrogate the provision of the general election law conferring upon a voter the right to vote for persons other than the regularly nominated candidates, whose names are printed on the ballot (125-407, 147+815, L. R. A. 1915B, 401). Elections, 159.

**334. Rotation of names, when required**—Whenever two or more persons are to be elected to the same office, the names of all candidates of the several political parties for such office and of all non-partisan candidates, shall be rotated on the ballots used in each election district in the manner provided for primary election ballots by Section 342, General Statutes 1913, and all the provisions of said Section shall be applicable to general election ballots so far as practicable; provided, that nothing in this section shall apply to the office of presidential elector. (Amended '15 c. 167 § 2)

Does not apply to names of two candidates for one office chosen at primary election under § 335 et seq. (121-463, 141+791). Elections, 167.

### NOMINATIONS BY DIRECT VOTE

**335. Primary election—Time for holding—Notice**—On the third Monday in June, preceding any general election and seven weeks preceding any city election in cities of the first and second class, held for the purpose of electing city officers only, an election of nominees, hereinafter designated as the "primary election," shall be held in each election district for the selection of party and other candidates for all elective offices within the state, to be filled at such election except officers of towns, villages and cities of the third and fourth class, and members of school, park and library boards, in cities having less than one hundred thousand (100,000) inhabitants, and except presidential electors and the office of county surveyor. Every town, city and village clerk shall give at least sixteen days' posted notice of the time and place of holding same, of the hours during which the polls will be open, and of the offices for which candidates are to be nominated. The day for such primary election shall be the first day of registration in all election districts, except in cities of the first class. (Amended '15 c. 76 § 1)

**336. Political party defined—Nominations, how made—Non-partisan primary ballot—Certain candidates to run in classes—County surveyor**—A political party, within the meaning of this chapter, is one which shall have maintained in the district or territorial division in question a party organization, and presented candidates for election at the last preceding general election one or more of which candidates shall have been voted for in each county within the state at such election and shall have received in the state not less than five (5) percentum of the total vote cast for all candidates at such election or whose members to a number equal to at least (5) percentum of the total number of votes cast at the preceding general election in the county where the application is made shall present to the county auditor a petition for a place on the primary election ballot. Candidates for office shall be

chosen at such primary election by voters of several political parties and not otherwise; provided, however, that the chief justice and the associate justices of the supreme court and judges of the district, probate and municipal courts and all members of the state legislature, and all elective county officers, and municipal officers in cities of the first and second class, shall be nominated upon separate non-partisan ballots, as hereinafter provided. Provided further that all qualified and duly registered voters may participate in the choosing of candidates for city office as provided for in the city charter of cities having home rule charters; the names of all candidates for nomination for the office of chief justice, associate justice of the supreme court, judges of the district court, probate and municipal courts and all members of the state legislature, and all elective county officers, and all municipal offices in cities of the first and second class, shall be placed upon a separate primary ballot hereinafter designated as "non-partisan primary ballot."

No party or other designation, except as above, shall be placed on such ballot except as herein provided, nor shall any candidate filing for nomination on said non-partisan primary ballot be permitted or required to state his party affiliation. All provisions of law relating to the nomination of party candidates as to the form of ballot, including rotation of names, the endorsement thereon, voting, marking ballots, counting, returning and canvassing results, shall apply to nomination of said officers except that the tally sheets and returns shall be made separately, and except that non-partisan offices shall not be classified on the ballot or otherwise. Each voter shall be entitled to vote a non-partisan primary ballot without reference to his party affiliation.

The two candidates for nomination for every such non-partisan office who shall receive the highest number of votes, ascertained as provided by this act, shall be declared the nominees and their names shall be placed upon the election ballot, without party designation, and when two or more persons are to be elected for the same office, at a general election running at large in a city, county, district or in this state, the non-partisan nominees to be placed upon the general election ballot shall be the number of candidates not exceeding twice the number of such persons to be elected for the same office which shall receive the highest number of votes at such primary election; provided that when only two persons file for the nomination for any non-partisan office, or not more than twice the number of persons to be elected to any non-partisan office file for the nomination thereof, their names shall not be placed upon the non-partisan primary ballot, but said persons shall be considered and shall be the nominees for such office and their names shall be placed upon the general election ballot as such non-partisan nominees. But nothing herein shall prevent the nomination of candidates by groups, individuals or so-called political parties which cannot be recognized as such, by certificate of voters to the number hereafter specified. The names of candidates nominated by certificates for offices hereinabove designated as non-partisan shall have no party or other designation on the certificate or on the election ballot.

The nomination of candidates for the office of county surveyor shall be made as follows:

On or before Tuesday, seven weeks preceding any general election, and not sooner than Tuesday, fourteen weeks preceding any general election, any person eligible and desirous of having his name placed upon the election ballot as a non-partisan candidate for the office of county surveyor shall file his affidavit with the county auditor of his county, stating his residence, that he is a qualified voter in such county, and the said office for which he desires to be a candidate.

The fee required for filing certificates of nomination as provided by law shall be paid at the time of filing such affidavit.

Such nominations may also be made upon petition by affidavit of not less than fifty and not more than one hundred electors of such county, substantially in the form hereinbefore provided, filed in the same manner and consented to in writing by the party so to be nominated. Provided, that such petitioners shall not be eligible to sign more than one petition for the same office. The persons so nominated shall have their names printed upon the official ballot

prepared for the ensuing general election without party designation, upon the payment of the fee as herein provided. (Amended '15 c. 167 § 3)

Cited (134-258, 159+1).

Designation of class in affidavit (119-159, 141+100; 119-161, 141+100).

This section is not unconstitutional as embracing more than one subject (125-238, 146+364). Statutes, ~~107~~(5).

1913 c. 389 is not violative of Const. art. 4 § 27, requiring the subject of every law to be expressed in its title (125-238, 146+364). Statutes, ~~125~~(5).

This section is not unconstitutional as special or class legislation (125-238, 146+364). Statutes, ~~101~~(2).

1913 c. 389 is not unconstitutional because its subject-matter is not germane to the statutes amended (125-238, 146+364). Statutes, ~~131~~.

**Rotation of names**—Rotation on general election ballot of names of two candidates for one office chosen at the primary is not required (121-463, 141+791). Elections, ~~167~~.

### 337. Political party—Change of name—

Cited (134-258, 159+1).

### 338. Election districts for primary elections—

Cited (134-258, 159+1).

### 339. Names of candidates, when placed on primary ballot—Fees—Non-partisan ballot—

Cited (134-258, 159+1).

Designation of class in affidavit (119-159, 141+100; 119-161, 141+100).

**Candidate for municipal judge under city charter**—A candidate for nomination for judge of the municipal court of St. Paul need not file an affidavit of his candidacy with the county auditor; the manner of nominating elective officers provided by the city charter applying to such office (125-521, 145+746). Elections, ~~126~~(1).

A layman who has filed the affidavit prescribed by this section and paid the requisite fee is not entitled to have his name placed on the primary ballot as candidate for district judge, he being disqualified to hold such office under Const. art. 6 § 6 (125-533, 147+425). Judges, ~~4~~.

### 340. Order of filing—Fees, how disposed of—

Cited (134-258, 159+1).

### 341. Voting is to be by ballot—Sample ballot—Form of primary ballot—

All voting at a primary election shall be by ballot. On the nineteenth day before a primary election, the secretary of state shall certify to the auditors of the several counties the names of all nominees to be voted for within such counties whose certificates have been properly filed with him, and on the fourteenth day before such primary each auditor shall group all the non-partisan candidates and the candidates of each political party by themselves, and prepare for public inspection a non-partisan ballot and a separate sample ballot for each political party. The names shall be arranged alphabetically according to the surname, and each county auditor shall post the sample ballot in a conspicuous place in his office and give one week's published notice thereof in the official newspaper of his county. One sample ballot only of non-partisan candidates and of each political party, shall be printed for any county, and thereon shall be placed the names of all candidates to be voted for in such county. Each ballot shall be headed by the party name, the words "Primary Election Ballot," the names of the county and state, the facsimile of the official signature of the auditor preparing it. The non-partisan ballot shall be headed as provided in Section 336, General Statutes 1913. Otherwise, the ballots shall be arranged in the same general manner as the ballot used at general elections, with suitable divisions and explanatory notes. Only one form of sample ballot for each political party need be printed for any city and thereon shall be placed the names of all the candidates to be voted for in the entire city, those to be voted for in any single ward being indicated by the words and figures "First Ward" and so on. At the foot of the ballot shall be placed the heading "Ballot for Women," under which shall be placed the names of candidates to be voted for by women.

In city primary elections in cities having home rule charters sample primary election ballots shall be prepared carrying out the intent of said charters in said cities, placing all names of candidates for city office on one ballot in each city without any party designation whatever, if the charter so provide.

In such cities, except for the omitting of all party designation, the provisions of this section shall be followed as fully as practicable. (Amended '15 c. 167 § 4)

131-399, 155+628.  
Cited (134-258, 159+1).

**342. Preparation of ballots—Rotation of names—Cities having home rule charters—**The auditor of each county in which said primary election is held shall have printed a sufficient number of separate primary election ballots, varied as may be necessary for the several districts and wards. Said primary election ballot shall be in the same general form as to size and kind of type to be used, as is provided for the general election ballot, so far as is practicable. The names of candidates under headings properly designating each official position, shall be rotated upon the ballot in the printing so that the names of all candidates for each office shall be so alternated on the ballots used in each election district that they shall appear thereon substantially an equal number of times at the top, at the bottom, and in each intermediate place, if any, of the list or group in which they belong.

The official charged with the preparation and distribution of such ballots shall prepare instructions to the printer for rotating, laying and tabbing such ballots, which shall first be approved by the legal advisor of said official before delivery to the printer. In computing the method for making the rotation of names the least common multiple of the number of names in each of the several groups of candidates shall be used and the number of changes made in the printer's forms in printing such ballots shall correspond with said multiple; provided, that groups of more than five candidates shall not be considered in making such computation, and such groups may vary sufficiently in rotating to conform to the rotation for groups of five or less. Before any printer is awarded any contract for printing such ballots he shall be required to furnish a good and sufficient bond in such sum as the official awarding such contract shall designate, which shall not be less than one thousand dollars nor more than five thousand dollars, conditioned that he will print such ballots in conformity with the law and such instructions. There shall be no printing on the back of the ballots, except the necessary ruled lines for the initials, or names of the judges with the proper official designation printed under such lines; provided, that all offices for which no candidate is to be voted for at such primary election shall be omitted from the ballot; provided, that in all city primary elections in cities having home rule charters the officers designated in such charters shall prepare primary ballots for such city elections as provided in said charters, and this section shall apply there only in so far as it does not conflict with the provisions of said charters. (Amended '15 c. 167 § 5)

Rotation on general election ballot of names of two candidates for one office chosen at primary is not required (121-463, 141+791). Elections, ~~167~~167.

**345. Polling places—Peace officers—Ballot boxes—**So far as they shall be applicable, all provisions of this chapter relating to the location and arrangement of polling places, peace officers, procuring registers, ballots, boxes, and other supplies, opening polling places, challengers, and gatekeepers, and in reference to returns, including return of ballots, used and unused, shall apply to primary elections; except that one ballot box shall be used for partisan ballots, one for non-partisan ballots and one for women. (Amended '15 c. 167 § 6)

**347. Qualification of voters—Manner of voting—**  
Cited (134-258, 159+1).

**348. Marking primary ballots—**The voter shall designate his choice on the ballot by marking a cross (X) in the small square opposite the name of each candidate for whom he wishes to vote. If he shall mark more names than there are candidates to be nominated for any office, or if for any reason it be impossible to determine his choice for any office, his ballot shall not be counted for such office; but the rest of his ballot, if properly marked, shall be counted. No ballot shall be rejected for any technical error which does

not render it impossible to determine the voter's choice, even though such ballot be somewhat soiled or defaced. ('15 c. 167 § 7, repealing G. S. 1913 § 348, and substituting the above section bearing the same number)

**Preferential system**—The preferential system of voting provided by the Duluth charter, whereby first choice, second choice, and additional choice votes are permitted, and are counted in a manner therein provided, is violative of Const. art. 7 §§ 1, 6 (130-492, 153-953, L. R. A. 1916B, 931). Elections, ~~§~~15.

**351. Canvass of votes**—Canvass of votes on primary ballots shall be made in the same manner and by the same officers as is provided by chapter 6, of the Revised Laws of 1905, except as herein otherwise provided. The ballots shall be counted in the following manner: The election officers shall take the ballots from the boxes, count those cast for each political party and for non-partisan candidates, place them in separate piles and fasten together.

Such officer's tally sheets on which the count has been so entered shall be included in the returns of such election. The officers of election shall on blanks to be provided for that purpose make full and accurate returns of the votes cast for each candidate.

The officers shall seal the returns and return the same to the auditor in the manner and as provided by the primary and general election laws. (Amended '15 c. 167 § 8)

125-249, 146+733.

**354. Reports of county canvassing board**—Auditor to certify to the secretary of state.—The canvassing board shall prepare, sign and file with the county auditor the following report:

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

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

3. A statement of the whole number of votes registered and the number of ballots cast at such primary election, men and women separately.

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

Whenever two or more candidates receive an equal number of votes for the same nomination, the board shall determine the tie by lot. Upon completion of the canvass and on or before ten o'clock A. M. of the fourth day succeeding the canvass, the auditor shall certify to the secretary of state the vote, as shown by such report, for all candidates to be voted for in more than one county, and shall mail or deliver to each nominee to be voted for in his county alone, a notice of his nomination, and that his name will be placed upon the official ballot; provided, that in primary elections for city officers in cities having home rule charters said canvassing board shall file such statement as will show the persons nominated for each office under the provisions of said charter, with as complete details as are provided for in this section, omitting all party designation, if so provided in said charters. (Amended '15 c. 167 § 9)

**355. Canvassing by state canvassing board**—Secretary of state to certify to auditors, etc.—Rules for determining nominees—The state canvassing board, as constituted for canvassing the returns of general elections, shall open and canvass the returns of a primary election made to the secretary of state, at the usual place and hour of meeting, on the seventh day after such primary election. Upon the completion of the canvass, the secretary of state shall certify to the several auditors the names of the persons found to be nominated, and mail to each nominee a notice of his nomination.

1. The state, county and city boards of canvassers shall be guided by the following rules, except as herein otherwise provided:

(a) Any tie shall be decided by lot by the canvassers.

(b) The person receiving the highest vote at such primary election, as the candidate of any political party for an office shall be the nominee of that party for such office. Candidates on non-partisan ballots receiving the highest and next highest votes, shall be the nominees for the office for which they

are candidates; provided, however, that if the number of votes cast for any candidate or candidates of any party for any office at such primary election shall aggregate the number of votes equal to ten per cent or more of the average vote cast for state officers of that party at the last general election in the territory within which such candidates are to be voted for, then all candidates of that party within that territory shall be deemed to be the party nominees of such party; otherwise no candidates of that party within that territory shall be deemed nominated and in such case, such party candidates of such party may be nominated by petition as provided for in Secs. 213 to 216 inclusive, Revised Laws 1905 (371-374), and the candidates of any such party failing to receive such ten per cent of such vote shall be eligible for nomination under the terms of this provision. The term "State officers" as used in this act for the purpose of computing the average vote to determine the ten per cent vote as above provided shall be and is hereby defined to be the following officers: Governor, lieutenant governor, secretary of state, state treasurer and attorney general. (Amended '15 c. 167 § 10)

131-399, 155+628.

Necessity of separate canvassing of voters of different classes under charter of city of Duluth (125-417, 147+275). Elections, ↪241.

### 357. Review by courts—

Cited (133-65, 157+907).

132-426, 157+652.

The part of this section conferring original jurisdiction on the Supreme Court is not unconstitutional, as the remedy is not broader than mandamus, and is one of the remedial cases in which original jurisdiction may be conferred on the Supreme Court (125-249, 146+733). Courts, ↪206.

Where a canvassing board improperly refused to consider a return merely because it was unsealed, a right to contest the election held not an adequate remedy, preventing resort to the remedy given by this section. The fact that the city council, which acted as canvassing board, has adjourned, does not prevent proceedings under this section (125-249, 146+733). Elections, ↪154(4).

A proceeding may be maintained under this section to compel a city canvassing board to correct a palpable mistake of law or fact in excluding proper returns from consideration merely because the same were presented to them unsealed (125-249, 146+733). Elections, ↪126(7), 154(4).

Where a canvassing board improperly refused to consider a return, fair on its face and unimpeached, merely because it was unsealed, the rule forbidding collateral attack on the determination of judicial and quasi judicial bodies has no application to prevent a review under this section (125-249, 146+733). Elections, ↪154(4).

**358. Contests for nomination—**Any candidate at a primary election desiring to contest the nomination of another candidate for the same office shall proceed in the manner prescribed for general election contests, and the same proceedings shall be had, so far as practicable, as for such contests. (Amended '15 c. 167 § 11)

## PRESIDENTIAL PRIMARIES AND NATIONAL CONVENTIONS

### 384-394. [Repealed.]

See 1917 c. 133, repealing 1913 c. 441, as amended by 1915 c. 372.

An affidavit under this section is sufficient where it follows the language of the statute, but omits the words "as expressed by the voters at such nominating election" (132-221, 156+116). Elections, ↪126(5).

The secretary of state properly refused to accept an affidavit of candidacy for presidential elector, where it contained an unnecessary statement of the candidate's choice for president: it being neither necessary nor expedient that more than what the law specifies be stated (132-221, 156+8). Elections, ↪126(5).

In view of this section, as amended by 1915 c. 372 § 1, the secretary of state properly refused to accept an affidavit of candidacy for delegate, where no one had filed a petition to become a candidate for president or vice president and the time for such filing had not expired (132-221, 156+8). Elections, ↪126(5).

See note under § 305.

## GENERAL PROVISIONS

### [395—]1. Limitation on time for nominations—

See post, § [536—]13.

### 398. Errors in printing ballots or certifying nominations—

127-521, 149+1069.

Where, at the expiration of the time for filing nominations for district judge at the primary election in June, there were but two vacancies, but subsequent to that date another vacancy was created by resignation, it was the duty of the county auditor to prepare the primary

election ballot so as to indicate that there were three vacancies to be filled at the November election (126-525, 147+426). Elections, [↔](#)126(5).

**403. Posted notice of election—When and by whom given—**

Cited and applied (123-48, 142+1042).

**404. Place of election—**The council of every municipality shall by ordinance or resolution, and any town may by vote, designate the place of holding the election in each district; otherwise the election shall be held as near as may be at the place where the preceding election was held, subject to change before the opening of the polls as provided by law; Provided, that in villages and in cities of the fourth class, now or hereafter having two or more precincts the council of such municipality may by ordinance or resolution provide for the holding of all elections in such village or city in some building centrally located therein and the voters of said village or city may vote at such place so designated irrespective of whether the voting place is actually located in their precinct or not; at such place so designated there shall be provided separate statutory voting facilities for each precinct, and the voting shall otherwise be conducted in the same manner as though the voting places were located in the respective precincts. (Amended '15 c. 51 § 1)

**416. Residence of voters, how determined—**

Cited (130-269, 153+520).

**432. Who may vote in cities of first, second and third classes—**

Mode of signing affidavit, and effect of want of qualification by corroborating witness to affidavit, to secure right of unregistered voter to vote at municipal election (125-417, 147+275). Elections, [↔](#)118.

**434. Same—Qualified voter not registered may vote—Oath—**

Cited (129-118, 151+911, Ann. Cas. 1916E, 407). Elections, [↔](#)227(1).

[434—]1. **Registration of voters not required in certain cities of fourth class—**That in all cities of the fourth class in the State of Minnesota operating under home rule charters, in which said charters there is no express provision made for holding a registration day or days for voters prior to the annual charter election, there shall not be had any registration day or days for voters prior to such election. ('15 c. 226 § 1)

**435. Hours for opening and closing polling places in cities—In towns—**

See § [435—]1.

[435—]1. **Hours for opening and closing polls in certain towns—**In any township wherein the town board before expiration of the time for giving the notice of election shall by resolution so direct, the polls shall be kept open at any general, primary or special election, from six o'clock in the forenoon until nine o'clock in the afternoon and in any townships in which such resolution shall have been adopted while in force the notice of election shall state the time for opening the polls, as contained in such resolution. ('17 c. 34 § 1)

[448—]1. **Challengers for non-partisan candidates—**The mayor of any city or the president of any village shall appoint challengers of illegal voters at elections in each precinct whenever such challengers, or any challenger, shall be petitioned for by the voters of any group supporting any non-partisan candidate or candidates, and the petition of such group shall be for only one person and signed by not less than one-fifth (1/5) of the legal voters of such precinct who have not signed any other petition for the appointment of a challenger; and said challengers so appointed shall be the first persons so petitioned for and they shall have all the rights and powers which the challengers representing parties have under the general election law at elections at which party candidates are voted for. ('15 c. 329 § 1)

**460. Marking ballots—Rules—**

The Duluth charter does not abrogate the provision of the general election law conferring upon a voter the right to vote for persons other than the regularly nominated candidates, whose names are printed on the ballot (125-407, 147+815, L. R. A. 1915B, 401). Elections, [↔](#)159.

The intention of the voter in making marks on his ballot which may serve as identification marks is immaterial; and the act of the voter in writing his own name or the name of another on his ballot will invalidate it (132-290, 156+125). Elections, Ⓒ194(3, 8).

Where a paster is used, and there is nothing to show that the voter intended to vote for a candidate other than the one named on the paster, the ballot should be counted for that candidate, though the X mark does not follow the name (129-359, 152+758). Elections, Ⓒ182.

Cited in dissenting opinion (131-287, 155+92), to holding of majority of court that illegally marked ballots are to be counted in determining whether a majority of the votes cast have favored the prohibition of the sale of liquor.

#### 463. Proceedings when voter cannot read English, or is physically unable to mark ballot—

That a voter, without making oath that he is unable to mark his ballot, procures another to mark it for him, invalidates his ballot (125-417, 147+275). Elections, Ⓒ220.

#### 491. Rules for counting marks on ballots—

131-303, 155+97.

In determining the voter's intention the court may examine the entire ballot, and if such intention can be clearly ascertained the ballot should be counted (129-359, 152+758). Elections, Ⓒ299(4).

Ballots containing an X mark in the space to the right of a candidate's name, and containing no name in the blank space below, but having an X mark opposite the blank space, should not be counted (129-359, 152+758). Elections, Ⓒ180(4).

Ballot marked X immediately to the left of the word "Yes," not in the square intended for that purpose, was correctly counted "Yes" (131-303, 155+97). Elections, Ⓒ180(4).

Ballot marked with a perpendicular line with an indelible pencil in the square opposite the word "Yes" was properly counted as an affirmative vote (131-303, 155+97). Elections, Ⓒ180(2).

Where there is but one person of a given name running for a certain office, the ballot for the given name only should be counted for that person, and if the name is misspelled, but the name inserted is idem sonans with the correct name, the ballot should be counted (129-359, 152+758). Elections, Ⓒ180(6).

Where a paster is used, and there is nothing to indicate that the voter intended to vote for a candidate other than the one named thereon, the ballot should be counted for that candidate, though the X mark does not follow the name (129-359, 152+758). Elections, Ⓒ180(4).

Where a paster is used, the name thereon is to be counted though it is not followed by the X mark (129-359, 152+758). Elections, Ⓒ180(4).

**500. Disposal of ballots after canvass—**As soon as practicable after the canvass has been completed and before the board separates or adjourns and in the presence of all the judges, the ballots cast shall be removed from the boxes and placed in envelopes of the same color as the ballots and of a size to hold the ballots of each box without folding. Heavy envelopes suitable for this purpose, reinforced with cloth at all folds, shall be furnished by the county auditor to each election precinct. After the ballots are in place, the envelopes shall be carefully sealed and each election judge shall write his name upon the envelope over the sealed part in such a way that the envelope cannot be opened without disturbing the continuity of the lines in the writing. The number of ballots in each envelope, the kind thereof, and the name of the election precinct shall also be plainly written upon the envelope. No unused ballots or returns shall be placed in the envelopes. (Amended '15 c. 167 § 12)

**501. Return of ballots to county auditor—**As soon as the ballots have been placed in their envelopes and properly sealed and one of the judges has been chosen to deliver election returns to the county auditor, the envelopes shall be delivered by such judge and he shall personally deliver, or by registered mail or express, send the same to the county auditor. If sent by registered mail or express the envelopes shall be securely wrapped in such a manner that such envelopes and the seals shall be properly protected. The county auditor shall file all envelopes containing ballots thus transmitted to him in his office and shall keep them in a safe place with seals unbroken, unless previously opened by proper authority for examination or recount, in which event the auditor shall cause the envelopes to be again securely sealed with the names of the persons making such inspection or recount endorsed thereon in the manner provided for endorsement by election judges; provided, that such envelopes may be opened by the county canvassing board if necessary to procure any election returns which may have inadvertently

been sealed up with said returns by the election judges, but such envelopes shall again be sealed in the manner herein provided. (Amended '15 c. 167 § 13)

On a contest, ballots held properly received in evidence, though some evidence was introduced that they had not been kept in a safe place, and had not at all times been in the possession of the lawful custodian, there being counter evidence that the ballots remained in the same condition as when cast. It was also held that, even if there was error in their admission, no prejudice resulted (131-303, 155+97). Elections, *§*255.

**503. Form of returns—**

125-249, 146+733.

**504. Returns to be sealed and delivered—**

125-249, 146+733.

**505. Delivery of returns and unused ballots—**

125-249, 146+733.

**511. Informalities—**

Cited (125-249, 146+733).

**512. County canvassing board—**

Probative effect of certificate of proper canvassing board declaring result of election is not overcome by evidence of part of tabulated statement of votes not inconsistent therewith (162+522). Elections, *§*295(1).

Certificate of proper canvassing board declaring result of election is prima facie evidence of such result, and puts on contestant burden of showing that person declared elected did not receive majority of legal votes (162+522). Elections, *§*292.

**514. County canvassing board to declare persons elected—**The board having completed its canvass, shall declare the person receiving the highest number of votes for each county office duly elected thereto. When such county constitutes or contains a senatorial or representative district, it shall declare the persons receiving the highest number of votes, respectively, for senator or representative, duly elected. In case of tie, the result shall be determined by lot by the canvassing board. (Amended '15 c. 167 § 14)

**516-518. [Repealed.]**

See note under § 305.

**520. Statement of votes—Declared result—**Such board shall open and canvass the certified copies of the statements made by the county canvassing boards, prepare therefrom a statement of the whole number of votes cast at such election for candidates for the several state offices, and for such candidates for state senator or representative as shall be voted upon in more than one county, the names of the persons receiving such votes and the number received by each, specifying the several counties in which they were cast. Such board shall subscribe and certify to the correctness of such statement, and within three days after such canvass declare the result. In case of tie vote for any state or legislative office, or for any other office, the result of which is to be certified by the state canvassing board, the election shall be determined by lot cast by such board. (Amended '15 c. 167 § 15)

**525. Election contests for legislature—Notice—Bond—**Any voter of a senatorial or representative district may contest the validity of the election of any person declared elected to the senate or house of representatives for such district, or his right to a seat therein, by causing to be served upon the contestee, within fifteen days after the completion of the final canvass, a written notice, specifying the points on which the contest will be made and naming two justices of the peace of such legislative district before whom depositions relative thereto will be taken, and the time and place thereof, which time shall not be later than forty days after the election. And shall execute and file with the clerk of the district court of the county wherein said contest is instituted, a bond in the penal sum of five hundred dollars (\$500.00) payable to the contestee conditioned to pay all the costs, disbursements, and attorney's fees that may be paid or incurred by the contestee in such contest, provided the contestee prevails therein, which bond shall be approved by the judge or one of the judges of the district court in which said contest was instituted. Such notice shall be served in the same manner as a summons in a

civil action, at least ten days before the time named therein for taking such depositions. (Amended '15 c. 369 § 1)

### 529. Contesting state and municipal elections—Notices—Trial—

**Jurisdiction cannot be ousted**—The public acquires an interest in the proceedings initiated by a petition and signers thereof cannot oust the jurisdiction of the court after service of the petition and the taking of judicial action thereon by withdrawing their names therefrom (161+513). Elections, [§ 279](#).

Failure to appoint term for hearing does not oust jurisdiction (122-149, 142+15). Elections, [§ 275](#); Intoxicating Liquors, [§ 37](#).

**Notice**—While it is necessary for the notice of contest to show the contestant to be a voter, his qualification may be tacitly admitted, or proof thereof waived by the contestee proceeding without objection on that ground to try the contest on the merits (126-298, 148+276). Elections, [§ 280](#).

In an election contest jurisdiction is conferred by the filing of a proper notice under this section and irregularity, if any, in the court signing the order directing the time and manner of service of the notice upon the contestees prior to the filing thereof is not fatal. Service of the notice by one of the contestants was valid (126-298, 148+276). Elections, [§ 280](#).

**Evidence**—Integrity of ballots (122-138, 142+12). Elections, [§ 293\(1\)](#).

Where contestant bases his contest on fact that votes were cast by nonresidents, he must show by the best evidence available that enough such votes were cast for contestee to change result (162+522). Elections, [§ 291](#).

In election contest where evidence was available to show for whom illegal votes were cast, and contestant made no attempt to produce it, inference is that it would not have changed result (162+522). Evidence, [§ 75](#).

Having proven that the contestees voted without right, it is proper by competent evidence to ascertain how they voted, so as to purge the election of the illegal vote (126-298, 148+276). Elections, [§ 293\(3\)](#).

**Change of venue**—This section controls the matter of change of venue in election contests (126-404, 150+625). Elections, [§ 277](#).

**Proceedings—Pleading**—The petition and notice of contest is governed by the rules of practice applicable to an ordinary complaint, and contestee must attack the same by demurrer or answer if he desires to object to the legal capacity of the contestants, otherwise he will be deemed to have waived the defect (161+513). Elections, [§ 286](#), 287.

**Tie vote**—This section authorizes an election contest, though neither of the two opposing candidates for a county office could be declared elected by the canvassing board, because the returns indicated the same number of votes for each (129-301, 151+1102; 129-301, 152+639). Elections, [§ 273](#).

Jurisdiction of contest, where canvassing board has been unable to declare either candidate elected on account of a tie vote. Equally divided court (129-301, 151+1102).

**Partial recount**—Where votes in part of precincts are not recounted, the official returns therein are to govern (122-138, 142+12). Elections, [§ 299\(4\)](#).

**Deducting illegal votes pro rata**—Purging election of illegal votes by deducting pro rata part of them from votes for each candidate is justifiable only when it is impossible to show for whom they were actually cast (162+522). Elections, [§ 254](#).

530. **Inspection of ballots on contest, whether for office or proposition submitted to vote**—After a contest has been instituted, either party may have the ballots inspected before preparing for trial. The party applying for such inspection shall file with the clerk a verified petition, stating that he cannot properly prepare his case for trial without an inspection of such ballots, and thereupon the judge of said court shall appoint three persons, if for a county or municipal office, or other question submitted to popular vote in any county or municipality, one selected by each of the parties and a third by those two, by whom such inspection shall be made. If the contest relates to a state office, or to the declared result upon a constitutional amendment or other question submitted to popular vote throughout the state, a judge of said court shall issue an order directing that all ballots pertaining to such contest be forthwith transmitted to the secretary of state by the several county auditors of the state. Such ballots, together with the sealed envelopes in which they were returned by the election judges, shall be properly boxed and sealed before shipment. They shall be shipped by express and it shall be the duty of the transportation company having in charge the transportation of such ballots to properly safeguard the same from the time they are received until they are delivered to the secretary of state. The said order may be served upon the several county auditors by registered mail. Such order may be modified as to the most populous counties and provision made for inspecting the ballots of such counties at the county seats thereof. Before such order is issued the applicant therefor shall deposit with the secretary of state a sum of money sufficient to pay all expenses connected with

the transportation of such ballots. No compensation shall be allowed the county auditor for his services in preparing such ballots for shipment. In state contests, the judge of said court shall appoint as many sets of three persons as may be necessary to expeditiously count and inspect the ballots in the office of the secretary of state, or elsewhere. Such inspectors shall be selected in the same manner as for county or municipal contests. Contests for district judge, or other offices not specifically provided for herein, shall be conducted under this section, the procedure therefor to be fixed by the court. Inspection of ballots shall be conducted in the presence of the legal custodian of the ballots and the party applying therefor shall file with the clerk a bond in the sum of two hundred and fifty dollars if the contest be within a single county; otherwise such bonds shall be in a sum to be fixed by the court in its discretion, with two sureties, and conditioned that he will pay the costs and expenses of such in case he fails to maintain his contest. If the contestant prevails in his contest the cost shall be taxed against the contestee. In case either party neglects or refuses to name an inspector, he shall be named by the judge. The compensation of inspectors shall be the same as for referees, unless otherwise stipulated. Any court of proper jurisdiction may order the return of any ballots to the county from which they were sent, after inspection, if necessary to be used in any other contest proceeding. The secretary of state shall preserve any ballots in his possession until the next general election, unless otherwise directed by order of court. (Amended '15 c. 167 § 16)

In a contest for the office of town clerk, and a contest for the office of town supervisor, held, on the evidence and a construction of certain ballots, that in each contest the parties received an equal number of votes. (127-33, 148+593). Elections, Ⓒ180(1, 7).

#### 531. Appeal to supreme court—Method of procedure—

Amendment of notice of appeal (122-138, 142+12). Elections, Ⓒ305(3).

Specification of points in notice of appeal (122-138, 142+12). Elections, Ⓒ305(4).

Review of determination as to integrity of ballots as evidence (122-138, 142+12). Elections, Ⓒ305(4).

Respondent is permitted in the appellate court to urge any fact appearing in the record which will support the judgment below (129-359, 152+758). Elections, Ⓒ305(7).

#### 533. Defective ballots—

Cited (121-463, 141+791).

### [ABSENT VOTERS]

[536—]1. Absent voters—Right to vote at general election—Any person entitled to vote at any general election who is absent on the day such general election is held, from the election district in which he is entitled to vote, may vote therein by having his ballot delivered by mail to the election judges of such district on the day of such general election, by complying with the provisions of this act, provided, however, that no person residing in a city of the first, second or third class shall be permitted to so vote, unless he has duly registered in said district prior to such election day. The words "general election" as used in this act shall be construed to include the election held in the several election districts on the first Tuesday after the first Monday in November in each even numbered year and also any city election, including cities of the first class operating under home rule charters, and any county option election, so-called, held under the provisions of chapter 23, Laws 1915, and any act or acts supplementary thereto or amendatory thereof, held in any county, but shall not include a primary election. ('17 c. 68 § 1, amended '17 c. 120 § 1)

1917 c. 68 § 14, repeals inconsistent acts, etc.

[536—]2. Application for ballot—Oath—At any time not more than thirty (30) or less than seven (7) days before the day of holding any general election, any person may make application in writing subscribed by him to the county auditor of the county in which he is a resident for ballots and envelopes, and at the time of making such application, he shall subscribe and swear to the oath hereinafter directed to be printed on the back of application for ballots. Such oath shall be taken before an officer authorized to administer oaths and the jurat thereof shall be authenticated with the official seal of such officer, if he have a seal.

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If the applicant for ballots be a resident of a city of the first, second or third class, the application for ballots shall be in the following form:

APPLICATION FOR BALLOTS

"The undersigned, a duly qualified and registered voter of the ..... precinct (in case a ward constitutes an election district strike out the word 'precinct') of the ..... ward of the City of ..... in the County of ....., State of Minnesota, residing at ..... (here insert street and number) in said city, hereby makes application for the ballots to be voted upon in said election district at the next general election. Please mail said ballots and accompanying envelopes to me at ..... (here insert postoffice address to which to be sent).

Dated ....., 191.....

..... (Signature of Applicant)"

If the applicant for ballots be not a resident of a city of the first, second or third class, the application for ballots shall be in the following form:

"The undersigned, a duly qualified voter of the ..... (here insert name of town, village or other description of the election district) residing at ..... in the ..... (town, village or city of the fourth class) hereby makes application for the ballots to be voted for in said district at the next general election. Please mail said ballots to me at ..... (here insert postoffice address to which to be mailed).

Dated at ....., this ..... day of ....., 191 ....

..... (Signature of Applicant)"

There shall be printed on the back of each of said forms the following:

"This is to certify that ballots were—mailed—delivered in person as per enclosed application, this ..... day of ....., 19.....

..... County Auditor.

Per ..... Deputy."

OATH

County of ..... } ss.  
State of ..... }

I do swear that I am a citizen of the United States; that I am twenty-one years of age, and have been a resident of the State of Minnesota continuously during the six months last past; that I am an actual resident of the election district named in the within application; that on the ..... day of ....., 19....., I will have resided therein for more than thirty (30) days; that I do not intend to abandon my residence in said district prior to the ..... day of ....., 19.....; that at said time I will be a qualified voter in said district.

..... (Signature of Applicant)

Subscribed and sworn to before me this ..... day of ....., 19.....

..... (Signature of officer)

..... (Description of officer)

('17 c. 68 § 2)

[536—]3. Ballots to be printed and delivered to county auditor—The several officers charged by law with the preparation, printing, and distribution of ballots shall at least fifteen days before a general election, print and deliver to the county auditor a sufficient number of the ballots printed under their supervision respectively, to enable the auditor to comply with the provisions of this act. It shall be the duty of the county auditor to prepare and print the ballots prepared under his direction at least fifteen days before election ('17 c. 68 § 3)

[536—]4. **Auditor to mail or deliver ballots to applicant**—If an application is made either in person or by mail more than fifteen days before election, the auditor shall file the same and forthwith on the delivery to him of the ballots, shall mail to the applicant at the address specified in the application one each of the several ballots the applicant is entitled to vote upon at the next general election; also the envelopes hereinafter specified. If the application is made within fifteen days (but not within seven days) of the election, he shall forthwith upon receipt of such application, mail or deliver to the applicant, if he apply therefor in person, and fill out and sign the application blank specified in section 2 hereof [536—2], one each of the several ballots the applicant is entitled to vote upon at the next general election; also the envelopes hereinafter specified. ('17 c. 68 § 4)

[536—]5. **Fees—Expenses—Assistants**—The applicant for such ballots shall pay to the county auditor at the time he makes such application, a fee of thirty-five cents. The money so received by said county auditor shall be kept in a separate fund and shall be expended by said auditor in paying the expense of such extra clerical assistance as may be required for the performance by him of the duties imposed by this act; the cost of furnishing and printing the application blanks specified in Section 2 hereof [536—2]; the cost of furnishing and printing the envelopes and voters' certificate hereinafter specified; the cost of postage both in forwarding and for the return of the ballots as hereinafter specified and in delivering to the judges of election of the several districts in his county the applications after the same have been endorsed by him as hereinafter specified. Any surplus of the moneys so received shall be paid into the county treasury and credited to the general revenue fund.

The county auditor of each of the several counties is hereby authorized to employ such assistants, additional to those now authorized by law, as may be necessary to the carrying into effect of the provisions of this act, but the expense of such additional clerical assistance shall be paid only from the money derived from the fees aforesaid remaining after the payment of postage and the cost of envelopes and voters' certificates herein provided for. ('17 c. 68 § 5)

[536—]6. **Return envelopes—Certificates—Directions to voter**—The county auditor of each of the several counties shall mail or deliver to the applicant with the ballots two envelopes and a voter's certificate. One envelope shall be known as the "Return Envelope" and shall be sufficiently larger than the "Ballot Envelope" hereinafter described, to conveniently enclose and contain the "Ballot Envelope," hereinafter described. There shall be printed or written across the left hand end of said envelope by the Auditor, before delivery thereof to the applicant, the words:

"Return Envelope."  
 "Postmaster deliver on Election Day."

The auditor shall also cause said "Return Envelope" to be addressed to the "Judges of Election" in the election district in which the applicant has certified in his application he is entitled to vote, such address shall be in substantial conformity to one of the illustrations hereinafter set forth and as the facts may require, to wit:

"To the Judges of Election,  
 7th Precinct, Third Ward,  
 City of Minneapolis,  
 Hennepin County,  
 Minnesota."

"To the Judges of Election, Rosedale Town  
 .....  
 (Here insert name of postoffice nearest voting place)  
 Hennepin County,  
 Minnesota."

"To the Judges of Election, Village of Excelsior,  
 Excelsior,  
 Hennepin County,  
 Minnesota."

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The auditor may vary any such form for addressing "Return Envelope" as the facts may require, but shall adopt such form of address as will best insure the prompt delivery of such envelope and contents to the judges of election on election day.

The county auditor shall also affix to said "Return Envelope" postage stamps sufficient in amount to pay the postage on said "Return Envelope," after the ballot, ballot envelope and voter's certificate herein prescribed have been enclosed therein, from any postoffice within the territorial limits of the United States, other than the over-sea possessions of the United States, to the place to which it is addressed. He shall also place thereon a ten cent special delivery stamp, or if a special delivery stamp be not obtainable, additional postage stamps aggregating in amount to ten cents, in which latter case he shall also write or stamp on the address side of such envelope in a conspicuous place the words "Special Delivery."

There shall be printed on the back of said "Return Envelope" a certificate which shall be substantially in the following form, to-wit:

"This is to certify that ..... after marking and enveloping the enclosed ballots as set forth in the enclosed certificate by me attested, enclosed the said ballot envelope in this return envelope in my presence without opening the said ballot envelope or permitting me or any other person to know or learn how he had voted as to any candidate or proposition and that this return envelope was sealed in my presence and after being sealed was deposited in my presence in the United States Postoffice at ..... without being opened.

Dated this ..... day of ....., 19.....

Attesting Witness."

The return envelope shall be so made as to open on the left hand end and the certificate above set forth shall be printed on the right hand three-fourths of the back of said envelope.

The auditor shall also furnish to the applicant with the ballots, a "Voter's Certificate" which certificate shall be substantially in the following form, where the applicant is a resident of a city of the first, second or third class:

VOTER'S CERTIFICATE

"The undersigned hereby certifies that he is a qualified and duly registered voter in the ..... precinct (strike out the word 'Precinct' if the ward or wards constitute an election district), of the ..... ward of the City of ..... and that the ballots enclosed in the 'Ballot Envelope' herewith enclosed in the 'Return Envelope' was exhibited by me to the attesting witness named below before the same was marked by me and that thereafter I marked the same in the presence of said witness, but in such a way that neither he or any other person could see or learn for what candidates or propositions thereon I voted; that thereupon and in his presence I folded said ballots and without showing the same to any person, enclosed the same in the 'Ballot Envelope' and sealed said 'Ballot Envelope.'

Dated at ..... this ..... day of ....., 19.....

Voter."

CERTIFICATE OF ATTESTING WITNESS

"I certify that I have read the foregoing certificate and know the contents thereof and that the same is true.

Dated at ..... this ..... day of ....., 19.....

Attesting Witness.

(Here write name of office or official character such as postmaster, clerk of court, etc.)"

If the applicant is a resident of a town, village or city of the fourth class, the auditor shall furnish with the ballots a "Voter's Certificate" which shall be substantially in the following form, to-wit:

VOTER'S CERTIFICATE

"The undersigned hereby certifies that he is a qualified voter in the ..... (here describe voting district, if more than one) of the ..... (name of town, village or city of fourth class) County of ....., State of Minnesota; that the ballots enclosed in the 'Ballot Envelope' was exhibited by me to the attesting witness named below before the same was marked by me; that at the time I so exhibited the same to said attesting witness there were no cross marks opposite the names of any candidates, or propositions to be voted on, that thereafter I marked the same in the presence of said attesting witness, but in such a way that neither he or any other person could see or learn for what candidate or propositions thereon I voted; that thereupon in his presence I folded said ballots and without showing the same to any person, enclosed the same in the 'Ballot Envelope' and sealed said 'Ballot Envelope.'

Dated at ....., this ..... day of ....., 191.....  
.....  
Voter."

CERTIFICATE OF ATTESTING WITNESS

"I hereby certify that I have read the foregoing certificate and know the contents thereof and that the same is true.

Dated at ....., this ..... day of ....., 19.....  
.....  
Attesting Witness.

(Here write name of office or official character of attesting witness, such as postmaster, etc.)"

Printed on the back of the voter's certificate shall be the following directions to voters, to-wit:

DIRECTIONS TO VOTER

- (a) You may mark and mail your ballot at any place within the United States other than Alaska and the island possessions of the United States.
- (b) The ballot must be marked and sealed in the "Ballot Envelope" in the presence of an attesting witness, but in such a manner as to prevent such witness or any other person from knowing or learning how you have voted as to any candidate or proposition.
- (c) After marking and enclosing ballot in the "Ballot Envelope" you and attesting witness must each sign your respective names to the "Voters Certificate" and "Certificate of Attesting Witness."
- (d) Do not put "Voters Certificate" in "Ballot Envelope" but enclose same in "Return Envelope."
- (e) Enclose "Ballot Envelope" and "Voters Certificate" in "Return Envelope," seal the latter, have attesting witness sign certificate on back of "Return Envelope" and then deposit same in the United States Post Office in presence of the attesting witness.
- (f) The ballot may be marked and mailed at any time after you receive it from the county auditor; it should, however, be marked and mailed so as to arrive at your voting place on or before election day. If not there by that day it will not be counted.
- (g) The attesting witness who signs the voters certificate must also sign the certificate on the back of the "Return Envelope."
- (h) Any United States postmaster, assistant United States postmaster, or any county, village, or city officer having an official seal may be an attesting witness.

If a postmaster or assistant postmaster acts as attesting witness, his signature on the "Certificate of Attesting Witness" should be authenticated by the

cancellation stamp of their respective postoffices. If one of the other officers named as attesting witness his signature on the "Certificate of Attesting Witness" should be authenticated with his official seal. It is not necessary to thus authenticate the signature to the certificate on the back of the "Return Envelope."

(i) Remember that the officers above named are not bound to act as an attesting witness for you, but if they do, do so only as a favor.

(j) Fold each ballot separately before placing in "Ballot Envelope"; fold so that cross marks cannot be seen without unfolding, but so that fac simile signature of officer (secretary of state, county auditor, or city clerk) under whose direction the ballot is printed and appearing on the back of the ballot, can be seen without unfolding the ballot. Do not put your name, initials or any other identifying mark on the ballot or "Return Envelope." ('17 c. 68 § 6)

[536—]7. **Ballots, how authenticated by auditor—Applications, to be preserved and delivered to officers**—The county auditor on mailing or delivering to an applicant ballots as hereinbefore specified, shall sign or cause to be signed by his deputy, and dated the certificate printed on the back of the application for ballots and shall authenticate such certificate with his official seal. All applications shall be preserved by the auditor and arranged by him according to election districts and the initial letter of the surname of the applicant. At the time he delivers the state and county ballots to the town, village and city clerks within his county, he shall also deliver to the respective town, village and city clerks the applications theretofore received by him and endorsed by him. Such town, village and city clerks shall in turn deliver said applications so endorsed to the respective election judges of the several election precincts. ('17 c. 68 § 7)

[536—]8. **Ballots, where marked, and mailed by voters—Attesting witnesses—Challenges**—Any qualified voter of any election district of this state to whom ballots have been delivered by the county auditor, may mark and mail the ballots so delivered to him at any place within the territorial jurisdiction of the United States, exclusive of Alaska and the so-called island possessions of the United States, the same to be marked and mailed in the manner specified in the directions to voters, set forth in section 6 hereof [536—6], and before an attesting witness belonging to one of the classes specified in said directions to voters. At any time before the ballots are so deposited in the ballot boxes by the election judges, the vote of any absent voter may be challenged for any cause, and the election judges shall have all the power and authority given by law, to hear and determine the legality of such ballot. ('17 c. 68 § 8)

[536—]9. **Ballots, how received, counted, canvassed and returned**—The judges of election in the several election districts at a general election shall receive all ballots delivered to them on election day by officers or employes of the United States Postoffice department in due course of the business of that department and as herein provided, and deposit the same in the appropriate ballot box provided that they are satisfied that the person mailing the same is a duly qualified voter in such election district and entitled to vote therein at such election, provided further that the conditions precedent hereinafter set forth, exist. Ballots so deposited shall be counted, canvassed and returned in the same manner and shall be given the same force and effect as the votes of other duly qualified voters who vote in person.

Upon a "Return Envelope" being delivered to the judges of election they shall open the same in such a manner as not to cut or mutilate the contents or deface or damage the signature of the attesting witness on the outside thereof. They shall then take from the "Return Envelope" the "Voters Certificate" and "Certificate of Attesting Witness"; they shall compare the signature of the "Attesting Witness" on the outside of the "Return Envelope" with the signature on the certificate enclosed therein and shall also compare the signature on the "Voters Certificate" with the signature on the "Application for Ballots" delivered to them as provided for in section 7 hereof [536—7].

If the judges or a majority of them are satisfied that the signatures of the "Attesting Witness" on the outside of the "Return Envelope" is the genuine signature of the person that signed the "Certificate of Attesting Witness" enclosed in the "Return Envelope" and if the signature of such witness on said certificate shall be authenticated as prescribed in the "Direction to Voters" set forth in section 6 hereof [536—6], and if the judges or a majority of them shall be satisfied that the signatures of the voter subscribed to the "Voters Certificate" is the genuine signature of the person who made the "Application for Ballots," the judges, or one or more of them shall write the word "Received" on such "Ballot Envelope" and under such word his or their name or initials, provided that in cities of first, second or third class such ballot shall not be so marked unless the voter mailing in such ballot has been theretofore duly registered in such election district, nor shall said ballot be so marked with the word "Received" if it appears from the registration list that such voter has already voted at such general election, either in person or by mail. If the ballots are not received for the reason that the voter has failed to comply with the requirements hereinbefore set forth or has previously voted at such election, then "Ballot Envelope" shall be marked "Rejected" and placed in the "Return Envelope" with the "Voters Certificate" and placed with and returned to the county auditor with the unused ballots. No person who has voted by mail as herein provided shall be permitted to thereafter vote in person.

If the "Ballot Envelope" is marked with the word "Received" as hereinbefore provided, the judges in charge of the register shall make an appropriate notation on the register of voters indicating that the voter has voted by mail; this shall be done by placing the letters "V. M." in the appropriate column opposite the voter's name.

The "Ballot Envelope" marked "Received" as aforesaid shall be carefully kept by the judges until the closing of the polls on the election day, but before any of the ballot boxes are opened, at which time the said "Ballot Envelope" shall be opened and the ballots therein taken therefrom and deposited by the judges in the proper ballot box. If there be more than one ballot of any one kind enclosed in said "Ballot Envelope," then and in such case neither of such ballots of such kind shall be deposited in the ballot box, but all such kinds shall be placed with the spoiled ballots and returned as is provided for by law with reference to such spoiled ballots. The judges before depositing said ballots in the ballot boxes shall write their initials thereon in the same manner as is provided by law with reference to ballots delivered by them to voters voting in person. ('17 c. 68 § 9)

[536—]10. **City clerks to furnish postmasters lists of polling places**—It shall be the duty of the city clerk of every city having more than two voting precincts therein to furnish to the postmaster of said city, at least two days before the day on which a general election is held, a certified tabulated list of the polling places in each of the several voting districts of said city, describing the same by ward and precinct number and opposite each such description shall be set forth the respective location, by street and number, of such polling place. This for the guidance of postoffice employes in delivering the "Return Envelopes." ('17 c. 68 § 10)

[536—]11. **City clerks to furnish registration board with blank applications—Duty of board and auditor**—It shall be the duty of the city clerk of cities of the first, second and third class to furnish the Board of Registration in the several election districts of their respective cities with a suitable number of blank "Application for Ballots" first described in section 2 hereof [536—2].

The Board of Registration shall furnish a copy of such application blank to any voter applying therefor on any registration day.

The county auditor shall prepare and print a suitable number of blanks for the "Application for Ballots" last described in section 2 hereof [536—2] and deliver a copy thereof to any voter applying therefor. ('17 c. 68 § 11)

[536—]12. **Penalty for violation**—Any person who shall wilfully make or sign any false certificates specified herein; any person who shall wilfully

make any false or untrue statement in any "Application for Ballots"; any person who shall wilfully exhibit to any other person any ballot marked by him; any person who shall in any way wilfully do any act contrary to the terms and provisions of this act with intent to cast an illegal vote in any election district or to aid another in so doing shall be guilty of a felony. ('17 c. 68 § 12)

[536—]13. **Nominations to close within 30 days before general election etc.**—No nominations for any office shall be made, either by petition or otherwise within thirty days of the time of holding a general election, except nominations to fill a vacancy in a nomination previously made, or to nominate a candidate for an office in which a vacancy has occurred and for which no person is a candidate. ('17 c. 68 § 13)

[536—]14. **Application—Members of Minnesota National Guard when in service of United States**—Whenever the Minnesota National Guard, or a majority of any regiment thereof, on the day of a general election in this State, is outside of the State of Minnesota and in the service of the United States, the provisions of this act shall apply to the voting of the members thereof. ('16 c. 2 § 1)

[536—]15. **Same—Duties of county auditor**—The auditors of the several counties of this State are hereby directed and required; first: to ascertain at least twenty (20) days before any election to be held on the Tuesday after the first Monday of November in any even numbered year, and if any law be passed less than twenty (20) days before such election is to be held, then forthwith after notice of the passage of the law, and forthwith after the passage of this act, the name of every member of the Minnesota National Guard in the active service of the United States entitled to vote within any precinct within his county, and the place (including name, street number or other description of the election district) where such person is entitled to vote; and, second; To mail to the Secretary of State, not later than the evening of the second Monday before election, all such information as he then has, and also to mail the evening of the next day to said Secretary of State any other such information as he may gain during the next day, with relation to the residence, if any, of any members of the National Guard residing within his said county. Every county auditor shall exercise all possible diligence to obtain such information and to transmit the same to the Secretary of State. Each county auditor shall with the first aforesaid information send to the said Secretary of State two proper county ballots for each such member of the National Guard found to be a resident and voter of his county, and two proper city ballots for each such voter of any city within such county, which city ballots shall be furnished to said county auditor by the clerk of each said city eight days before such election. ('16 c. 2 § 2)

[536—]16. **Same—Duties of Adjutant General**—The Adjutant General of the State of Minnesota shall transmit to the Secretary of State at least one week before the date of such general election, all such relevant facts as the muster rolls of the Minnesota National Guard show relative to the names of members of such National Guard who are voters in the State of Minnesota and the residence of each, stated with as much detail as the muster rolls show. ('16 c. 2 § 3)

[536—]17. **Same—Duties of Secretary of State**—The Secretary of State shall forthwith, and at least five (5) days before the date of such general election in such state, prepare a list of the legal voters in each regiment of the National Guard, so outside the State and shall also furnish for each person named in said list all such ballots as that person might use in voting were he at the place of his residence; which ballots shall be furnished said Secretary of State by the Legal State, County or Municipal Custodians thereof, respectively; a small envelope, printed on the back with the following words: (No name of any person is to be put on this envelope).

- Precinct .....
- Ward .....
- Village, City or Town .....
- County .....

A blank affidavit, the body of which shall be as follows:

State of..... }  
 County of..... } ss.  
 ..... being duly sworn says that he is a member  
 of Company (or Battery) ..... Regiment of Infantry or Artillery,  
 Minnesota National Guard; that he is ..... years old; that he is en-  
 titled to vote in the ..... precinct, ..... ward, .....  
 of ..... County, Minnesota. (City, Village or Town)  
 Subscribed and sworn to before me this .....  
 day of November, 191...  
 .....  
 ..... Regiment, M. N. G.  
(state official rank)

Also a larger envelope which shall contain the smaller envelope, ballots,  
 and the blank affidavit; and upon this larger envelope shall be printed:  
 Voting papers of ..... Company (or  
 Battery) ..... Regiment, M. N. G. or M. F. A., Residence: State  
 ..... County ..... City ..... Ward  
 ..... Precinct.....

The larger envelope with the contents hereinbefore indicated for each  
 soldier of each regiment of the National Guard shall be delivered to a Voting  
 Commissioner, to be appointed and hold office as hereinafter provided. ('16  
 c. 2 § 4)

[536—]18. **Same—Duties of Governor—Voting commissioners—Duties—**  
 The Governor shall appoint one voting commissioner or more for each regi-  
 ment of the National Guard, a majority of which is likely to be out of the  
 State of Minnesota at the date of any such general election. The commis-  
 sioner so appointed shall qualify and then obtain from the Secretary of State  
 the large envelope and contents hereinabove described for each member of  
 the regiment of the National Guard entitled to vote, for which he is appointed  
 voting commissioner. He shall proceed to the place of location of the mem-  
 bers of the regiment of the National Guard for which he has been appoint-  
 ed voting commissioner so as to reach said place at least by nine (9) o'clock  
 of the day before the date of such general election and shall arrange for and  
 attend to the distribution of the large envelopes and contents hereinbefore  
 described to each of the soldiers of the National Guard to whom such en-  
 velopes respectively belong. On the day of such general election in Minne-  
 sota he shall arrange for and attend to the receiving back of the said en-  
 velopes, sealed, blanks on back properly filled, and shall provide for and at-  
 tend to the transmittal of said envelopes and the contents to the Secretary  
 of State, State of Minnesota, with all due speed, and shall deliver the same to  
 the said Secretary of State. ('16 c. 2 § 5)

[536—]19. **Same—Challengers—Powers and duties—**The voting commis-  
 sioner shall appoint one man to act as challenger selected from each company  
 of his regiment of the Minnesota National Guard belonging to each political  
 party represented in said company. Such challenger shall be selected by  
 the voters of each political party in such company and each such challenger  
 shall have the right to challenge any member of his company attempting  
 to deliver to the voting commissioner the larger envelope and contents here-  
 inbefore described on any ground which would disqualify the person so at-  
 tempting to vote for voting in the precinct in which he is attempting to vote.  
 If a challenge is interposed, the voting commissioner shall have the power  
 given to the judges of election and shall proceed as provided by Sections  
 457 and 458 of the General Statutes of Minnesota 1913. When a challenge  
 is interposed and allowed the voting commissioner shall state that fact on  
 the end of the envelope of the challenged person and transmit all such en-  
 velopes separately to the Secretary of State. ('16 c. 2 § 6)

[536—]20. **Same—Ballots, how marked and returned—**The soldier who  
 shall receive a large envelope containing the ballots, small envelope and the

affidavit blank, as aforesaid shall, prior to delivering the same back to the voting commissioner, examine the same carefully, mark the ballots as he would mark them were he present and voting physically in the polling place in the precinct in which he is entitled to vote, and he shall on the day of the date of such general election, at the place and between the hours fixed by the voting commissioner, deliver to him the large envelope duly sealed and endorsed, containing the affidavit, and the small envelope, sealed, with the ballots, one of each kind, properly marked, contained therein, and a description of the voter's precinct endorsed thereon, which small envelope shall not show the name or any identifying mark of the person who marked the ballots contained therein, but only, and on its back, the precinct where the soldier marking the ballots within is entitled to vote. In the larger envelope shall be (1) The sealed smaller envelope containing the votes; (2) The affidavit above referred to of his right to vote and membership in the National Guard. The said larger envelope, as well as the smaller envelope, shall be sealed by said soldier before delivery to the voting commissioner. ('16 c. 2 § 7)

[536—]21. **Same—Duties of Secretary of State**—As soon as the envelopes containing the affidavits and ballots of the members of the Minnesota National Guard shall have been delivered to the Secretary of State, he shall open the larger envelope, examine and file the affidavit of membership and residence, and transmit, unopened, the smaller envelope to the auditor of the county of affiant's residence as shown by the affidavit. ('16 c. 2 § 8)

[536—]22. **Same—Duties of county auditors—Canvass of ballots, etc.**—The county auditor of the county of the residence of the voting soldier whose ballots he receives, shall open the envelope and canvass the ballots as the ballots would have been canvassed by the regular canvassing board of the precinct of the voting soldier's residence, and shall file his canvass of said vote with the canvass of the vote of such precinct and present the same, with the vote of the precinct, to the county canvassers, or other proper canvassing board, who shall treat the same in all respects as a part of the precinct return. The county or municipal canvassing board, as the case may be, shall not close the canvass of any precinct in which any member of the National Guard resides until more than one week after the date of such general election unless the vote of each member of said National Guard residing in said county voting hereunder, shall have been sooner received and canvassed. ('16 c. 2 § 9)

[536—]23. **Same—Oaths—Who may vote—Substitute voting commissioner, etc.**—Any commissioned officer and the voting commissioners are hereby authorized to administer oaths to each and every member of the regiment of Minnesota National Guard with which such commissioned officers or voting commissioner is connected. The voting commissioner may vote the same as a member of said regiment. Any staff officer (not regimental) and members of Brigade Headquarters may vote with any regiment, and the members of detachments attached to a regiment will vote with that regiment. In case of the inability of an appointed commissioner to act, the commanding officer of the regiment may designate a member of the regiment as a substitute who shall have all the powers of the voting commissioner. Any legal voter qualified to vote under this act may swear in his vote as provided by law without complying with any registration act. The affidavit provided for by section 4, of this act shall be sufficient unless the voter be challenged. ('16 c. 2 § 10)

[536—]24. **Same—Fees—Assistants—Expenses, etc.**—The following fees shall be allowed to the several persons who are required by this act to perform services in connection with such voting of members of the National Guard, to-wit: County auditor: five cents for each name of a soldier so transmitted to the secretary of state and one dollar; also ten cents for each voter whose vote is canvassed. Adjutant General: Twenty-five dollars for entire services. Secretary of State: Twenty-five dollars for services before election and Twenty-five dollars for services after election. Voting Commissioners: Ten dollars per day for all time necessarily employed in the duties herein-

before assigned to them. The adjutant general, the secretary of state, the voting commissioners and the several county auditors and city clerks upon whom duties under this act are imposed are hereby authorized to employ such additional assistants and messengers as may be required for the performance by them of their respective duties under the provisions of this act; and the expenses therefore, as well as all charges for printing, stationery, postage, telegraph and telephone, messages, express and other necessary charges shall be paid,—as to the secretary of state, voting commissioners, and adjutant general, by the State; and as to county auditors and city clerks, by their respective counties and cities. Claims for such expense shall be presented, audited and paid in the same manner as other charges against the State, counties and cities, respectively. ('16 c. 2 § 11)

[536—]25. **Same—Voting for municipal officers**—Any municipality having a municipal election on any other day than the day of the general election in which any company of the Minnesota National Guard has been organized may avail itself of this law to the extent of having the members of such company vote for municipal officers in the manner prescribed in this law, provided such municipality shall adopt an ordinance to that effect and shall provide for the payment by such municipality of the expenses incident to the conducting of such election. When such proceedings are taken in the field as are in this act provided for, any voters of such municipality in other companies of the National Guard than that organized in such municipality but within distance to avail themselves of said voting, may do so. ('16 c. 2 § 12)

[536—]26. **Same—Act to be liberally construed**—This act shall be liberally construed for the purpose of enabling citizen soldiers of the State of Minnesota, entitled to vote therein, to vote with the same effect as they would vote were they bodily within the State of Minnesota, at the time of holding such election therein, to the end that they may not, through serving their country be disfranchised. ('16 c. 2 § 13)

[536—]27. **Same—Penalties**—Any officer herein mentioned who shall fail to perform the duties assigned to him by this act, faithfully, shall be guilty of a gross misdemeanor; and any person who shall reveal, disclose, or tell how any soldier voted, or shall interfere with any person attempting to vote according to this law shall be guilty of a felony. ('16 c. 2 § 14)

### GARBO ELECTION SYSTEM

#### 561. Partisan primary election ballot—Form—Duties of judges—

A candidate for municipal judge, under the choice provisions of the Duluth charter, which provision was held unconstitutional in *Brown v. Smallwood*, 153 N. W. 953, was not elected, though he received a plurality of first choice votes, notwithstanding the provision of the general election law that a plurality of votes shall elect (131-399, 155+628). Elections, [§237](#).

The holding that a preferential election of municipal judge under the Duluth charter was unconstitutional did not affect officers elected under the preferential system, or their terms; no contest having been instituted or equivalent remedy sought (131-399, 155+628). Elections, [§227\(7\)](#).

### CORRUPT PRACTICES

#### 573. Campaign literature must bear names and addresses—

131-1, 154+442.

This section is valid (126-378, 148+293). Elections, [§270](#).

A candidate who, by word of mouth, solicits the vote of an elector, and at the same time dispenses liquor to such elector, violates this section, though the act be regarded as trivial in its nature and the extension of mere hospitality (161+513). Elections, [§231](#).

#### 576. Treating or receiving entertainment prohibited—

This section is valid (126-378, 148+293). Elections, [§270](#).

A candidate who, by word of mouth, solicits the vote of an elector, and at the same time dispenses liquor to such elector, violates this section, though the act be regarded as trivial in its nature and the extension of mere hospitality (161+513). Elections, [§231](#).

#### 579. Certain payments prohibited—Badges, etc.—Conveying to polls—

161+513.

This section is valid (126-378, 148+293). Elections, [§270](#).

**588. Promises of or to aid in appointment prohibited—Support of other candidates—**

This section is valid (126-378, 148+293). Elections, [↔](#)270.

**592. Contributions by corporations prohibited—Penalties—**

Libelous character of charge that candidate for office has backing of certain corporations as affected by this section, see (130-138, 153+258). Libel and Slander, [↔](#)10(1).

**599. Contest on ground of violation of act—**

126-378, 148+293; note under § 604.

**Who may contest**—The contestants under this section must be voters qualified to participate in the selection of candidates of the party of which the contestee was the nominee (134-258, 159+1). Elections, [↔](#)154(9).

Evidence held not to show that the number of contestants under this section were qualified voters, and the contest was properly dismissed by the court (134-258, 159+1). Elections, [↔](#)154(10).

**Materiality of violation**—The provision giving the right of contest on the ground only of "serious and material violations of the act" does not mean that the court may disregard any of the provisions of the statute as not serious or material but that acts of a candidate which are immaterial or trifling shall not be deemed subject to the prohibitions of the statute. There is no constitutional objection to such provision (126-378, 148+293). Elections, [↔](#)270, 271.

Violation of § 573 is ground of contest. In this case, held, that the false statements published were "deliberate, serious, and material" (129-160, 151+550). Elections, [↔](#)231, 271.

**Procedure**—The petition and notice of contest are governed by the rules of practice applicable to an ordinary complaint, and if contestee desires to attack the same on the ground of legal incapacity of the contestants, he must proceed by demurrer or answer, or he will be deemed to have waived the objection (161+513). Elections, [↔](#)286, 287.

**Withdrawal of names from petition**—After the service of a petition, and the taking of judicial action thereon, the jurisdiction of the court cannot be ousted by the withdrawal, by signers of the petition, of their names therefrom (161+513). Elections, [↔](#)279.

**600. Trial—Court to determine merits—**

126-378, 148+293; note under § 604.

**601. Contest, when and where commenced—**

126-378, 148+293; note under § 604.

**602. Disqualification of candidate, etc.—**

131-1, 154+442.

**603. One provision of act not to invalidate remainder—**

In a provision of this kind the rule is that, if part of the statute is unconstitutional, the remaining portion must be sustained if enough is left to constitute an enforceable law (126-378, 148+293). Statutes, [↔](#)64(2).

**604. Criminal procedure—Conviction of violation of act—Judgment of forfeiture—Candidate for legislative office—**

Sections 599, 600, and 601 make it clear that the legislative intent was to give the right of contest on the ground of violation of the corrupt practices act, though there may not have been any criminal prosecution or conviction (126-378, 148+293). Elections, [↔](#)272.

## PENAL PROVISIONS

**612. Bribery before or at elections—**

This section is valid (126-378, 148+293). Elections, [↔](#)270.

**631. Certain corporations not to contribute—Penalty—**

Libelous character of imputation that candidate for office has the backing of certain corporations as affected by this section (see 130-138, 153+258). Libel and Slander, [↔](#)10(1).