

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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of their official duties. Op. Atty. Gen., May 18, 1931.

Law applies to a sheriff driving his own automobile in criminal cases, and to a deputy sheriff, where the deputy received no salary. Op. Atty. Gen., May 18, 1931.

Law does not affect rights of a sheriff under the old law where he employs a taxi or automobile livery of a third person. Op. Atty. Gen., May 18, 1931.

This act does not affect section 657. Op. Atty. Gen., May 23, 1931.

This act affects mileage allowance of sheriffs of some counties under section 6993. Op. Atty. Gen., May 23, 1931.

The limitation of seven cents per mile for use of automobile applies to section 5353-2 if the county nurse furnishes her own automobile and bills the county for use thereof, but not if the county furnishes the automobile and gasoline and repairs. Op. Atty. Gen., May 23, 1931.

This act modifies section 962 so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

This act is not applicable to the city of Minneapolis where employes are paid a specific sum per month as automobile allowance. Op. Atty. Gen., June 2, 1931.

In the absence of a special statute applicable to a particular county, this act is applicable and limits allowance for use of sheriff's own automobile. Op. Atty. Gen., June 4, 1931.

If a county attorney is entitled to receive reimbursement for the use of his own car on county business, it is limited to seven cents per mile by this act. Op. Atty. Gen., June 4, 1931.

Expense allowances of county commissioner governed by section 657 are affected by this act, but if the county is governed by section 656,

allowance for reimbursement for use of car is limited by this act. Op. Atty. Gen., June 4, 1931.

Allowance for traveling expenses of members of county child welfare board is limited specifically by Laws 1931, c. 242. Op. Atty. Gen., June 4, 1931.

This act does not prevent sheriff collecting taxes pursuant to section 2090 from charging mileage at the rate of ten cents and adding it to the tax. Op. Atty. Gen., June 8, 1931.

A sheriff transporting a feeble-minded person to a state institution is entitled to reimbursement for his actual expenses in transporting the person mentioned, and where he uses his own car the expense may exceed seven cents per mile while the feeble-minded person is in the car. Op. Atty. Gen., June 15, 1931.

This act only limits the amounts which may be paid by the state or any governmental subdivision thereof, and does not limit the mileage which a public officer may charge to an individual in connection with official services rendered. Op. Atty. Gen., July 2, 1931.

Where the statute allows a certain sum per mile as mileage without any statement that it is as reimbursement for automobile or other expenses of traveling, the allowance is not affected by this law. Op. Atty. Gen., July 7, 1931.

§254-48. Construction.—This act shall be construed as amending all existing laws authorizing such allowances or reimbursement by imposing the maximum limit above set forth and shall not be construed as permitting the payment of such allowance or the making of such reimbursement to any officer or employe where it is not now permitted or hereafter authorized by law. (Act Apr. 24, 1931, c. 331, §2.)

CHAPTER 6 Elections

§258. Election districts.

Laws 1929, c. 95, repealed and reenacted by Laws 1929, c. 344, provides for setting apart unincorporated platted territory within a township as a separate election district. The act is so restricted as to territorial operation as to require its exclusion from this compilation as a local or special act.

§§262 to 270. [Repealed].

Repealed by Laws 1929, c. 297, §13, post, §270-13.

See §401-1, as to hours of opening and closing of polls.

§270-1. Election to fill vacancies in congress or legislature.—Every vacancy in the office of representative in Congress or member of the State Legislature or in any other elective public office the filling of which is not otherwise provided for shall be filled for the unexpired term by election upon the writ of the governor as provided by this act; provided, that if there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the expiration of the term in which the vacancy exists or will occur, it shall not be necessary to fill the vacancy. (Act Apr. 23, 1929, c. 297, §1.)

§270-2. Same—governor to direct election—special election.—In any case where a vacancy in such an office has occurred and the governor is informed thereof a sufficient time before the next general election to permit the giving of notice and the nomination of

candidates therefor as hereinafter provided, and where there will be no session of the congress or the legislature or other occasion for the exercise of the functions of the office, as the case may be, before the time fixed by law for the final canvass of the general election returns for offices of the same kind as that to be filled hereunder, the governor shall issue his writ directing that the vacancy be filled at such general election and that nominations be made therefor as hereinafter provided. In all other cases the governor, upon being informed of the existence of such a vacancy or of any contingency which will create a future vacancy in such an office, shall issue his writ directing that a special election be held to fill the vacancy and that nominations be made therefor as hereinafter provided. Two or more vacancies may be filled at the same election, and candidates therefore may be nominated at the same primary. Any special election or special primary under this act may be held on the same day as any other election or primary, using the same polling places and election officials, but with separate ballots and ballot boxes for the election or primary held hereunder except as otherwise hereinafter provided. (Act Apr. 23, 1929, c. 297, §2.)

§270-3. Same—governor to call special election within ten days in certain cases.—In any case where the congress or the legislature will be in session or there will be other occasion for the exercise of the func-

tions of the office, as the case may be, so that a person elected as provided by this section could take office and exercise the functions thereof immediately after his election, the governor, forthwith after being informed of the existence of the vacancy or contingency causing a future vacancy, and in any event not more than ten days after receipt of such information, shall issue his writ calling the special election for the earliest possible time thereafter which will permit the giving of notice of such special election and the primary therefor as hereinafter provided, and in any event not more than twenty-five days after the issuance of the writ. (Act Apr. 23, 1929, c. 297, §3.)

§270-4. Same—special election.—In all cases other than those hereinbefore provided for, the governor shall issue his writ seasonably calling such special election for such time that the person elected may take office at the opening of the next session of the congress or the legislature or upon such other occasion as may next arise for the exercise of the functions of the office, as the case may be, and so that candidates may be nominated for such special election as hereinafter provided. (Act Apr. 23, 1929, c. 297, §4.)

§270-5. Same—primary election—special primary election.—Candidates for election to fill any such vacancy may be nominated at primaries and otherwise as hereinafter provided. In any case where the vacancy is to be filled at the next general election or at a special election to be held not less than seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, and where the governor's writ can be issued a sufficient time before the regular primary election to permit the giving of notice and the filing of affidavits of candidates as hereinafter provided, the writ shall be so issued and shall direct that candidates may be nominated at the regular primary election, and thereupon candidates shall be so nominated. In all other cases the writ shall direct that a special primary for the nomination of candidates be held on a date therein specified not later than the seventh day before the election at which the vacancy is to be filled, and thereupon such a special primary shall be held as so directed. In the case of non-partisan offices, the two candidates receiving the highest number of votes at the primary election for each office to be filled shall be deemed to be nominated; provided, that where there are two or more offices of the same kind and having the same term to be filled at the same election, the candidates twice as many in number as such offices to be filled receiving the highest number of votes shall be deemed to be nominated. In the case of party offices, one candidate for each office to be filled may be nominated at the primary for each political party having the qualifications prescribed by the laws relating to primary elections, and the candidate of each party receiving the highest number of votes at the primary for such party nomination shall be deemed to be nominated; provided, that where there are two or more party offices of the same kind and having the same term to be filled at the same election, the candidates of each

party equal in number to the offices to be filled receiving the highest number of votes for such party nominations shall be deemed to be nominated. Provided, further, that in any case where the number of persons who have filed as candidates for any nomination does not exceed the number to be nominated, the persons who have filed therefor shall be deemed to be nominated, and no primary shall be held to make such nominations. Candidates may also be nominated by petition or certificate of voters under the conditions and in the manner provided by the laws relating to such petitions or certificates, so far as applicable; provided, that in any case where the vacancy is to be filled at the general election and where candidates therefor are to be nominated at the regular primary election or at a special primary held not less than five days before the expiration of the time prescribed by law for filing nominating petitions or certificates for candidates for like offices at the general election, nominating petitions or certificates for candidates for such vacancy shall be filed within the time so prescribed, and in all other cases nominating petitions or certificates for candidates under this act shall be filed not later than the fifth day preceding the election at which the vacancy is to be filled. (Act Apr. 23, 1929, c. 297, §5.)

§270-6. Same—auditor to post notice.—Every writ issued by the governor under this act shall be forthwith filed with the secretary of state, who shall immediately transmit a certified copy thereof by registered mail to the county auditor of each county in which candidates for the vacancy are to be voted upon. At least five days before the expiration of the time for filing affidavits of candidates specified in the writ, as hereinafter provided, the county auditor of each county concerned shall post a copy of the writ at his office and shall cause a copy thereof to be published once in a qualified legal newspaper published at the county seat. He shall also cause posted notice of the primary and of the election to be given in each election district in the county in the manner provided by law at least five days before the primary and at least twelve days before the election. In any case where the primary is to be held on the seventh day before the election, both may be included in the same notice, and in any case where either the primary or the election is to be held on the same day as any other election, notice of the primary or election to be held under this act may, if practicable, be included in the notice of such other election. But no omission of or defect in any publication or posting of any such writ or notice shall invalidate any primary or election held under this act. (Act Apr. 23, 1929, c. 297, §6.)

Modifies Mason's St. 1927, §§293, 353, and it is county auditors' duty to post notices of election. Op. Atty. Gen., May 25, 1929.

§270-7. Same—filing of candidates.—Candidates for nomination to fill a vacancy in any office at any primary under this act shall file their affidavits within the time hereinafter prescribed with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for

like offices at regular primary elections. In any case where such nominations are to be made on the regular primary election day and where the governor's writ can be issued in accordance with the provisions of this act a sufficient time before the close of the regular time for filing for like offices so as to permit the publication of the writ as hereinbefore provided, the writ shall be so issued, and shall state that such affidavits may be filed within the time prescribed by law for the regular primary election, and thereupon all such affidavits shall be so filed. In all other cases the writ shall state that such affidavits may be filed not later than the seventh day before the primary and thereupon all such affidavits shall be so filed. In any case where affidavits of candidates have been filed with the secretary of state, he shall certify the names of such candidates to the county auditors of all counties in which they are to be voted upon within twenty-four hours after the close of the time for filing, and thereupon the filing fees received by the secretary of state shall be disposed of as provided by the laws governing regular primary elections. (Act Apr. 23, 1929, c. 297, §7.)

§270-8. Same—names on ballots.—Only the names of candidates who have duly filed as hereinbefore provided shall be placed upon the ballots for any primary held under this act, and only the names of candidates who have been duly nominated as hereinbefore provided shall be placed upon the ballots for any election held under this act. Blank spaces for writing in names shall be provided upon such election ballots as upon general election ballots, but not upon such primary ballots. Except as otherwise hereinafter provided, the county auditor of each county concerned shall prepare special ballots for every election and primary to be held under this act. Such ballots shall be headed, "Special Election Ballots" or, "Special Primary Ballots," as the case may be, followed by the date of the election or primary. Immediately below the title of each office to be filled there shall be printed the words, "To fill vacancy in term expiring———" with the date of expiration of the term and such other information as may be necessary to distinguish such office from any other office to be voted upon at the same election or primary. Otherwise such ballots shall conform, as far as practicable, with the laws relating to ballots for general elections and regular primary elections, respectively. The county auditor shall post a sample of each such ballot in his office as soon as prepared and not later than four days before the election or primary, as the case may be, but need not publish any such sample ballot. But in any case where candidates are to be voted for under in this act on the general election day or are to be nominated on the regular primary election day, as the case may be, and where the canvass of the returns is to be made by the regular county canvassing board, as hereinafter provided, and where the ballots for such general election or primary, as the case may be, have not been printed when the names of the candidates under this act have been finally determined as herein provided, the county auditor shall place the names of such candidates upon the regular ballots used for

like offices at the general election or primary, as the case may be, designating the office to be filled in the same manner as hereinbefore provided for special ballots. (Act Apr. 23, 1929, c. 297, §8.)

§270-9. Same—election districts—officials.—The election districts and officials for any special election or primary held under this act shall be the same as at the last preceding general election unless changed according to law, and the existing registers of voters shall be used without making any new registrations. In any place where the permanent registration system is in force under Laws 1923, Chapter 305 [§§380-393, 1394-1407], and acts amendatory thereof or supplementary thereto, or under any other law establishing a similar system, nor person shall be allowed to vote at any such special election or primary unless registered under such system; provided, that notwithstanding any provisions in any law now or hereafter governing such system to the contrary, voters shall be permitted to register under such system for any special election held under this act and for the primary therefor up to and including the sixth day preceding the primary, not counting any Sunday or legal holiday, after which day no further registrations shall be received for such special election or primary unless and except as permitted by the laws governing such system; provided further, that in case any election or primary under this act is held on the same day as any other election, no registrations shall be received for the election or primary held hereunder except as permitted by the laws governing such system for such other election. (Act Apr. 23, 1929, c. 297, §9.)

§270-10. Same—returns—canvassing board—The returns of any primary held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such primary is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such primary by a canvassing board consisting of the county auditor, county treasurer, and clerk of the district court of such county, any two of whom, being present, shall have power to act; provided, that in any case where the primary under this act is held on the regular primary election day and where the election under this act will not be held within seven days after the time fixed by law for the meeting of the county canvassing board for the regular primary election, the returns of the primary held under this act shall be canvassed by such county canvassing board at their regular meeting. The canvassing board shall determine and declare the results of the primary held under this act and shall forthwith certify in writing a statement thereof, showing the total number of votes received by each candidate and shall file the same with the county auditor. In case the primary is held in a single county, the county auditor shall forthwith in writing notify the successful candidates of their nomination. In case the primary is held in a district comprising more than one county, the county auditor of each other county in the district shall forthwith transmit a certified copy of the statement of the canvassing

board to the county auditor of the county in such district which cast the highest number of votes for governor at the last preceding general election, who shall file the same, and, when all of such certified copies have been received, shall forthwith canvass the same together, and shall thereupon determine and declare the results of such primary, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall transmit a certified copy thereof to each other county auditor in the district, and shall forthwith in writing notify the successful candidates of their nomination. Provided, that in any case where the primary under this act has been held on the regular primary election day and the election under this act is to be held on the next general election day, the returns of the primary under this act shall be made and canvassed and the results thereof declared and certified together with and in the same manner as the returns of the regular primary election for offices of the same kind as that to be filled under this act. (Act Apr. 23, 1929, c. 297, §10.)

§270-11. Same—county auditor to issue certificate of election.—The returns of any special election held under this act shall be transmitted forthwith when completed to the county auditor of the county wherein such election is held and shall be canvassed on the next day other than a Sunday or a legal holiday following such election by a canvassing board constituted as hereinbefore for a special primary, which board shall determine and declare the results of such election and certify and file a statement thereof in like manner as hereinbefore provided for such special primary. In case the election is held in a single county, the county auditor shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled at the election, as shown by the statement of the canvassing board. In case the election is held in a district comprising more than one county, the county auditor of each county in such district shall forthwith transmit a certified copy of the statement of the canvassing board to the secretary of state, who shall file the same, and, when all of such certified copies have been received, shall forthwith canvass the same together and shall thereupon determine and declare the results of the election, and shall forthwith certify in writing and file in his office a statement thereof, showing the total number of votes received by each candidate in each county and in the entire district, and shall forthwith issue a certificate of election to the person receiving the highest number of votes for each office to be filled at the election as shown by such statement. Provided, that in any case where the election under this act is held on the general election day and where the governor's writ has not required that such election be held as a separate special election on such day, as hereinbefore provided, the returns of such election shall be canvassed and the results thereof declared and certified together with and in the same manner as the returns of the general election for offices of the same kind

as that to be filled under this act. (Act Apr. 23, 1929, c. 297, §11.)

§270-12. Same—general laws to govern.—Except as otherwise provided by this act, all elections and primaries held hereunder and all matters pertaining thereto shall be governed by the laws relating to general elections and regular primary elections and matters pertaining thereto, respectively, so far as such laws are applicable and so far as may be necessary to carry out the provisions of this act. (Act Apr. 23, 1929, c. 297, §12.)

§270-13. Same—laws repealed.—General Statutes 1923, Section 262, as amended by Laws 1925, Chapter 420, General Statutes 1923, Sections 263 to 270, inclusive, and Laws 1925, Chapter 389 [§264], are hereby repealed, and all other acts and parts of acts inconsistent herewith are hereby repealed to the extent of such inconsistency. (Act Apr. 23, 1929, c. 297, §13.)

§284a. Same—Names, etc., how printed.

Blank lines should be provided below the names of candidates in elections under §§1805 to 1811. Op. Atty. Gen., Dec. 2, 1930.

NOMINATIONS BY DIRECT VOTE.

§293. Primary election—Purpose—Time of holding—Notice.

Modified by Laws 1929, c. 297, §6, ante, §270-6. Op. Atty. Gen., May 25, 1929.

§296. Districts for all elections—Maps or descriptions.

Where the polling place in unorganized territory was unavailable, the county board was authorized to designate a new polling place and to appoint election officers therefor upon giving reasonable notice to voters and in absence of such designation the voters themselves might elect officers who could select a voting place. Op. Atty. Gen., May 22, 1930.

§297. Names placed on primary ballot—etc.

Candidate who has paid a fee on filing for one office cannot, on changing to another office, have the fee credited on the second filing, but he must pay an additional fee. Op. Atty. Gen., April 23, 1930.

§299. Order of filing—Fees, how disposed of.

Candidate who has paid the fee on filing for one office is not entitled to have the fee credited to a different office, in view of the provision requiring the payment of the fee to the city or county treasurer. Op. Atty. Gen., April 23, 1930.

§301. Preparation of ballots—etc.

How ballots should be printed and distributed. Op. Atty. Gen., June 2, 1930.

§305. Hours for voting—Towns and villages.

See Laws 1929, c. 198, post, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

§312. County canvassing board.

Applies only to primaries, and the county canvassing board provided for should serve only at the primaries. Op. Atty. Gen., Oct. 29, 1930.

§314. Canvassing by State Canvassing Board.—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 tenth 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. (As amended Apr. 20, 1929, c. 280, §1.)

1. The state, etc. * * *

Laws 1929, c. 280, §1, amends "the first paragraph" of this section "preceding subdivision (1)" to read as above.

§315. Nominees of political parties.

A candidate for office may withdraw, even after the last day for filing, at any time prior to the time the ballots are printed. Op. Atty. Gen., Mar. 21, 1931.

§316. Review by courts.

180M246, 230NW637.

GENERAL PROVISIONS.

§348. Filing certificate.

City clerk should keep office open Saturday afternoon for acceptance of filings for city officers. Op. Atty. Gen., Nov. 19, 1930.

§353. Posted notice of election—When and by whom given.

Modified by Laws 1929, c. 297, §6, ante, §270-6. Op. Atty. Gen., May 25, 1929.

Election could be noticed for town hall though no action was taken at last annual meeting specifying a place of election. Op. Atty. Gen., Oct. 1, 1930.

Fact that notice of election was posted for one day only did not invalidate the election. Op. Atty. Gen., Dec. 19, 1930.

Posted notice of election called under Laws 1929, c. 47, should refer to resolution adopted by county board. Op. Atty. Gen., Sept. 22, 1930.

§354. Place of election.

Mode of designating place in unorganized territory for holding election where place originally designated becomes unavailable, stated. Op. Atty. Gen., May 22, 1930.

§356. Towns may vote in villages.

This section is complied with if the entrances to the respective holding places are at least seventy-five feet apart irrespective of the distance by a straight line between the interior of the two places. Op. Atty. Gen., March 6, 1930.

§358. Members of town board to be judges.

If one of the town supervisors cannot read or write the English language he should decline to serve as Judge of election and a substitute should be appointed in his place. Op. Atty. Gen., May 16, 1930.

§359-1. Relief election judges.—The governing body of any city of the third and fourth class or any village, or the town board of any town, at its discretion by resolution adopted not less than fifteen days prior to any election or primary, may appoint relief judges of election in each election district. (Act Apr. 20, 1931, c. 256, §1.)

§359-2. Same—number of relief judges.—Such relief judges shall, when appointed, be equal in number to the regular judges and shall appoint relief clerks equal in number to the regular clerks. (Act Apr. 20, 1931, c. 256, §2.)

§359-3. Same—qualifications—compensation.—Relief judges and clerks shall have

the same qualifications and receive the same compensation as regular judges and clerks during the hours they act, and be subject to the same penalties. (Act Apr. 20, 1931, c. 256, §3.)

§359-4. Same—duties.—The regular judges and clerks shall perform their respective duties as prescribed by law during all the time the voters are casting their ballots. When the polls are closed, the relief judges and clerks shall appear and in their presence the regular judges and clerks shall open the ballot boxes and count the number of ballots cast, and in all things comply with Mason's Minnesota Statutes of 1927, sections 442, 443, and 444, and prepare and sign the poll lists as required by section 439. The regular judges shall then account for and deliver to the relief judges all unused election supplies and spoiled ballots, prepare and sign the statement provided for by Mason's Minnesota Statutes 1927, Section 459. (Act Apr. 20, 1931, c. 256, §4.)

§359-5. Same—relief judges to canvas ballots.—The compensation of the regular judges and clerks shall then cease and they shall not remain inside the railing at the voting places, and the work of canvassing the election and counting the ballots shall be performed and completed by the relief judges and clerks, who shall make due return thereof, and shall perform all other duties specified by law for judges and clerks of elections after the closing of the polls, except that the statement required by Mason's Minnesota Statutes of 1927, section 364, shall be made by the regular judges. (Act Apr. 20, 1931, c. 256, §5.)

§359-6. Same—any qualified voter may be appointed.—When any relief judge fails to attend at the time and place appointed, or is disqualified or refuses to act, the regular judge present shall appoint a qualified voter of the district to act in his place. When any relief clerk is absent, disqualified or refuses to act, the relief judge shall appoint some qualified voter to act in his place. (Act Apr. 20, 1931, c. 256, §6.)

§360. Judges and clerks of election.

The fact that one of the judges of election cannot read, write or speak the English language understandingly will not invalidate the precinct vote. Op. Atty. Gen., May 16, 1930.

Election was not invalid because clerk, who was a candidate for re-election, acted as one of the clerks of election. Op. Atty. Gen., Dec. 19, 1930.

Only a qualified voter may be a clerk in an election. Op. Atty. Gen., Oct. 24, 1930.

§365. Vacancy in office of judge or clerk.

Where the county board fails to designate a polling place and to elect officers therefor where the place originally designated has become unavailable, the qualified voters present at the opening of the polls on election day, would have a right to elect judges from among their number, who might select a voting place. Op. Atty. Gen., May 22, 1930.

§380. Commissioner of Registration in cities, etc.

Brainerd is a city of the third class, and general laws relating to city elections in cities of the third class are now applicable to that city, except as its charter may contain provi-

sions inconsistent therewith. Op. Atty. Gen., Feb. 28, 1931.

§382. Voters must be registered.

As to special elections called to fill vacancies, see Laws 1929, c. 297, ante, §§270-1 to 270-13.

Applies to all cities within its scope, including those under home rule charter. Op. Atty. Gen., Mar. 23, 1929.

§391-1. Registration of voters in certain villages and cities.—(a) That the office of commissioner of registration be and the same hereby is created in all villages now or hereafter having a population of more than 8,000 and an assessed valuation of more than \$10,000,000, and when deemed expedient by the City Council by a four-fifths vote in all cities now or hereafter having a population of more than 7,000 and an assessed valuation of more than \$14,000,000. The village recorder in any such village and the city clerk in any such city shall be ex-officio commissioners of registration, and shall receive such additional salary as commissioners as the Council shall fix, not however exceeding \$600, per year, payable in equal monthly installments. When such registration is once established, this act shall govern regardless of change of population and/or valuation. Any election held in any village under the registration system provided by said Laws 1927, Chapter 390, where the population at time of said election had become less than 9,000, is hereby validated and legalized and the election of officers for the terms for which elected at said election are fully validated and legalized. (As amended Apr. 13, 1931, c. 144, §1.)

(b) Places of registration shall be established throughout such villages now or hereafter having a population of more than 8,000 inhabitants and an assessed valuation of more than \$10,000,000, and when deemed expedient by the City Council by a four-fifths vote, in all cities now or hereafter having a population of more than 7,000 and an assessed valuation of more than \$14,000,000.00, one to each precinct in each village and/or city, in the usual polling places. (As amended Apr. 13, 1931, c. 144, §1(b).)

* * * *

Laws 1931, c. 144, amends subdivisions (a) and (b) of this section to read as above.

§393-2. Same—"Elections" defined.—For the purposes of this act the word "elections" whenever used shall be held to mean all general, special, school or primary elections, both state and municipal. That for the purpose of this act the word "petition" whenever used shall be held to mean any general or special petition that may be presented to any public official, council, or board of the state, county, or any municipality, that is required to be signed by legally qualified voters. (As amended Apr. 18, 1929, c. 235, §1.)

§393-3. Same—Registration necessary.—From and after the first day of June, 1927, no qualified voter shall be permitted to vote at any election unless such voter shall have registered as provided in this act, and in villages of more than 9,000 inhabitants and \$14,000,000.00 valuation no qualified voter shall be permitted to sign any such petition defined in this act unless such voter shall

have registered as provided in this act at least 30 days prior to the date of election or the presentation of such petition. (As amended Apr. 18, 1929, c. 235, §2.)

§401. Hours.

See Laws 1929, c. 198, post, §401-1, fixing time of opening and closing polls and repealing inconsistent acts.

This section applies only to general elections and not to elections held under the provisions of a city charter. Op. Atty. Gen., March 31, 1930.

§401-1. Opening and closing of polling places.—At all special, primary and general elections hereafter held in this state the polls shall open at the hours now provided by law except where the polls now open at 6:00 A. M. the time hereafter shall be 6:30 A. M. and in all cases shall remain open until 8:00 P. M. (Act Apr. 16, 1929, c. 198, §1.)

Sec. 2 of the act repeals inconsistent laws.

Only applies to regular primary and general elections and special elections held in lieu thereof. Op. Atty. Gen.

Applies only to state-wide elections and not to local elections. Op. Atty. Gen., Nov. 21, 1929.

This act applies only to state-wide elections and primaries, and not to local elections. Op. Atty. Gen., Feb. 19, 1930.

This act is applicable to a city, in the charter of which there is no provision as to hours of opening and closing the polls, and which provides that the general laws of the state on the subject of elections shall apply where not otherwise provided in the charter. Op. Atty. Gen., March 20, 1930.

This act does not apply to a local election in a city operating under a special charter. Op. Atty. Gen., March 31, 1930.

§402. Location of polling places.

Designation of new polling place in unorganized territory where place originally designated has become unavailable. Op. Atty. Gen., May 22, 1930.

§403. Change of polling places.

Op. Atty. Gen., May 22, 1930; note under §774.

§422. Examination of challenged person.

One born in United States and subsequently taken to Canada, where his father was naturalized, is not an American citizen. 177M289, 225NW158.

§424. Marking Ballots.

Mark on back of ballot, held intentionally made for purpose of identification. 178M578, 228NW155.

Where voter writes in name, it is unnecessary to put cross after it. Op. Atty. Gen., Aug. 1, 1930.

§425. Challenge.

Identification mark on ballot. 178M578, 228NW155.

§427. When voter cannot read English.

Ballot of voter assisted by another in marking ballot, held invalid where statutory oath was not taken. 178M578, 228NW155.

Manner of voting by persons unable to understand English. Op. Atty. Gen., Oct. 2, 1930.

Wrongful act of judges in refusing to allow one voter to mark a ballot for another did not invalidate the election. Op. Atty. Gen., Dec. 19, 1930.

§454. Rules for counting marks on ballots.

Subd. 3.

Cross-mark in square opposite a blank space, held properly counted for contestee. 178M578, 228NW155.

§469. Returns, how delivered to county auditor.

Where a judge of election, instead of transmitting returns by registered mail, takes it upon himself to personally deliver the returns to the county auditor, and in so doing travels more than ten miles, he is entitled to no compensation. Op. Atty. Gen., June 23, 1930.

Where the polling places are less than ten miles from the office of the county auditor the compensation and mileage for mailing or taking election returns to the auditor is to be paid by the town, village or city in which the election is held. Where the distance is more than ten miles the returns are to be sent by registered mail and the compensation is to be paid by the county treasury. Op. Atty. Gen., Feb. 19, 1930.

§471. Districts excepted.

Op. Atty. Gen., Feb. 19, 1930; note under §469.

§474. County canvassing board.

178M578, 228NW155.

This section applies only to general election, and county canvassing board which acts following the primaries is not the same board which acts at the primary election. Op. Atty. Gen., Oct. 29, 1930.

§476. County canvassing board to declare persons elected.

Failure of canvassing board to expressly declare a candidate elected, held not to prevent an appeal and contest of the election. 178M578, 228NW155.

§477. Certificates of election and copies of returns.

One who has been elected, holds a regular certificate of election and has qualified, is entitled to possession of the office until and unless his election has been set aside in a direct attack by election contest or quo warranto. State ex rel. v. Magie, 235NW526. See Dun. Dig. 2978 (54).

§478. State canvassing board.—The secretary of state shall call to his assistance two or more judges of the supreme court and two disinterested judges of the district court, and they shall constitute the state canvassing board. He shall appoint a meeting of such board to be held in his office on the second Tuesday after each general election, and within thirty days after a special election. When a vacancy in the membership of said board occurs by reason of inability or failure of any such judge to attend on the day appointed, he shall fill the vacancy by selecting another disinterested judge from either court; provided, that not more than two judges of the supreme court shall be obliged to serve upon such board at one time. (As amended Apr. 20, 1929, c. 280, §2.)

§488. Contesting state and municipal elections.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

Whether ballot offered in evidence had been properly identified is a question of fact. 178M578, 228NW155

Irregularity in one notice of election upon issuance of school bonds to the state stating that the rate of interest was 4½% when instead it was 4¼%, held not to invalidate the election or bond issue. 273NW412. See Dun. Dig. 867a.

Methods of contesting annexation of territory to a village under §31845 to 1849. Op. Atty. Gen., Aug. 14, 1930.

§494. Compensation and other expenses, how paid.

Village of Dennison is required to pay election expenses in connection with holding of special election in part of the village situated in Rice County on question of issuance of bonds to build a courthouse. Op. Atty. Gen., June 20, 1931.

§495. Application to towns and villages.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to township officers in townships containing less than 5,000 population. 174M333, 219NW284.

ABSENT VOTERS LAW.

§496. Applicability—“General election” defined.—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, or who on such day is not absent from such election district but by reason of illness or physical disability is unable to go to the polling place of such district, may register by mailing his registration card to the local registration bureau and 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, and shall also include all primary elections, special primary elections and special elections. (As amended Feb. 20, 1929, c. 29.)

Person confined in jail for a misdemeanor may cast his ballot under the absent voters' law. Op. Atty. Gen., May 31, 1930.

§501. Ballots, voter's certificates and envelopes.

* * * *

DIRECTIONS TO VOTERS.

* * * *

(h) Any United States postmaster, assistant United States postmaster, United States postal supervisor, or any county, village, or city officer having an official seal may be an attesting witness.

If a postmaster, or assistant postmaster, or postal supervisor 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 names 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.” (As amended Apr. 16, 1931, c. 170.)

* * * *

Laws 1931, c. 170, amends subd. “h” under

"Directions to Voter" of this section to read as above.

§508-1. Applications filed with city clerks; fees; expenses, how paid.—In the case of city elections in all cities, voters' applications for ballots shall be filed with the city clerk, the fees required to be paid therewith shall be paid to the city clerk, and the duties prescribed herein for the county auditor shall be performed by the city clerk. The cost of carrying out the provisions of this Act for any such city election shall be paid by the city in which the same is held, and all fees received by the city clerk as herein provided shall be paid into the city treasury and credited to the funds appropriated or available for the payment of the expenses of such election. (As amended Apr. 11, 1929, c. 168.)

Laws 1929, c. 168, amends §13a of Laws 1917, c. 68, as amended by Laws 1925, c. 388, to read as above.

SEAL PRESSES.

§530-1. Ballots may be marked with seal.—Any city of the first class using the Australian ballot system in city elections may, at the option of the governing body having control and supervision of elections in such city install and use in one or more voting precincts in such city one or more time controlled seal press or presses for authenticating paper ballots with a special official seal upon the head of said ballot before it is given to the voter which seal will identify it as a legally voted ballot; and a time controlled seal press for each voting booth in one or more voting precincts which shall be used by the voters for impressing the ballots with a special seal of the particular voting precinct opposite the name of each candidate voted for. All ballots cast at any general, special or primary election in each precinct where such time controlled seal press is installed shall be so stamped with said seal presses and no ballot shall be counted or be regarded as a vote legally cast unless so stamped. (Act Apr. 25, 1929, c. 372, §1.)

The title of the act purports to extend the act to "counties, cities and villages," but the body of the act restricts its operation to cities of the first class.

§530-2. Counting device.—(a) There shall be a die which shall be used to emboss upon the head of each ballot an impression circular in shape and said impression shall contain the name of the state, the name of the county, city or village and the name or number of the ward or township and the number of the voting precinct or election district. There shall be a counting device connected with said seal press and adapted to count and register each ballot impressed with the official seal upon the counting device. This counting device shall be in plain view of the voters and others at all times. The said counting device shall be enclosed within a casing and there shall be a sure acting positive connecting means between the said counting device and the said sealing die. The sealing die shall be provided with mechanism in cooperation therewith whereby but a single ballot may be embossed at any one actuation of the seal press. The seal press shall be provided with mechanism so that the seal

press cannot be operated at any time until and unless a ballot is inserted in a position to receive the seal. The seal press shall also be provided with means in connection with said counting device whereby each actuation of the press must be completed before the sealing die can return for another operation or the ballot being operated upon released or before said operation shall have effected registration on the counting device.

(b) The seal presses in the booths shall be adapted to operate upon any ballot of reasonable dimensions and shall punch a small hole through the ballot and around this hole they shall emboss the same words, letters or figures as the case may be as is embossed upon the head of the ballot in the same voting precinct. (Apr. 25, 1929, c. 372, §2.)

§530-3. Shall have time measuring device.—There shall be an approved make of time measuring device encased within said seal presses, and the said time measuring device in cooperation with other mechanism shall be adapted to control the use of the said seal presses so that they will be operable during the legal voting time on election day only, and so that they will be inoperable for a period of ten days from the closing of the polling places on election day, and, also so that the casing must be unlocked by a master key, to be held at all times by the election board or other governing body which has the supervision of election of the city installing such device, before it will be possible to again put the said seal presses into operation or to turn the counting device to zero. (Act Apr. 25, 1929, c. 372, §3.)

§530-4. Shall be operated by hand.—All seal presses referred to in this act shall be adapted to be operated by hand. (Act Apr. 25, 1929, c. 372, §4.)

§530-5. May provide extra presses.—Each city that provided seal presses under this act may also provide a sufficient number of extra seal presses to take care of the various voting precincts in case of the regular seal presses being out of order or missing. These extra seal presses shall have dies lettered with the name of the state and city and in addition thereto shall have marked "Special No. 1" and "Special No. 2," etc., and shall be assigned to any voting precinct in case of any such emergency and shall thereby become the official seal press for such precinct for that election. (Act Apr. 25, 1929, c. 372, §5.)

§530-6. Election board to operate presses.—It shall be the duty of the election board in each polling place to operate the seal press and place its impression upon each ballot to be cast before it is given to the voter, but, in no event, shall he or any other person whatsoever, place such impression upon any other paper or substance, and shall not place such impression upon a ballot until a duly qualified voter is present and ready to receive it and then only in plain view of such prospective voter, and the precinct election board shall keep and return with other supplies, such seal presses and each and every ballot impressed with its impression. (Act Apr. 25, 1929, c. 372, §6.)

§530-7. To use presses to mark ballots.—The voters shall operate the seal presses in the voting booths and shall place the seal press impression opposite the name of any particular candidate, party, question or otherwise they wish to vote for, and, in the event that a voter spoils his ballot he shall be required to sign his name, together with the word "spoiled" upon the head of such spoiled ballot and return the same to the precinct election board before he shall be entitled to receive another ballot bearing the seal press impression, and may, if he so desires, sever the head of the spoiled ballot and turn in the head only. (Act Apr. 25, 1929, c. 372, §7.)

§530-8. Violations a gross misdemeanor.—Any person wilfully or neglectfully failing to carry out any of the provisions of this act, or any person violating any of the provisions of this act, or any person having in his possession, without authority, any seal press, part of a seal press, or any die, part of a die, or image, exactly or nearly duplicating the impression of any seal press provided under the provisions of this act, shall be guilty of a gross misdemeanor. (Act Apr. 25, 1929, c. 372, §8.)

CORRUPT PRACTICES.

§538. Legal expenses designated.

In proceeding to remove, held that defendant officer was deprived of his constitutional rights against self incrimination. 173M512, 217NW935.

Refusal to testify upon ground that testimony might incriminate did not justify inference of guilt. 173M512, 217NW935.

Corrupt Practices Act [§§538 to 579] does not apply to election of township officers in townships containing less than 5,000 population. 174 M333, 219NW284.

§539. "Paid advertisement" in newspaper.

No publisher of a newspaper, periodical or magazine shall insert either in the advertising columns of such newspaper, magazine or periodical, or elsewhere therein any matter paid or to be paid for which is intended or tends to influence directly or indirectly any voting at any primary or general election unless at the head of said matter is printed in pica capital letters the words "Paid Advertisement," and unless there is also a statement at the head of said matter of the amount paid or to be paid therefor, the name and address of the candidate in whose behalf the matter is inserted and of any other person, if any, authorizing the publication and the name of the author thereof. (As amended Mar. 6, 1931, c. 37.)

§542. Maximum expenditure of candidates.

The word "salary" is construed, in an election contest, as being used in its broad sense of compensation embracing both "salary" and "fees." *Spokely v. H.*, 237NW11.

Under subd. 6, where there is a candidate during the first year plus one-third of the fees the computation of one-third is to be based on the salary which he would receive if elected during the first year plus one-third of the fees which his predecessor received during the first year of his incumbency, and this rule applies to a candidate for re-election. Op. Atty. Gen., March 29, 1930.

§544. Campaign literature must bear names and addresses.

Small packets or books of matches bearing picture of candidate and brief statement of his qualifications, held to constitute campaign literature within this section. Op. Atty. Gen., March 7, 1930.

Election stickers are not invalid as campaign literature because name printed thereon contains a cross after the name. Op. Atty. Gen., Aug. 1, 1930.

§556. Statements of disbursements.

* * * *

(2) The statement of any candidate and the statement of his personal campaign committee shall be filed with the filing officer of such candidate. The statement of every state committee, and of every congressional committee shall be filed with the secretary of state. The statement of every party committee for a state senatorial district, or for state representative district, shall be filed with the filing officer of the candidate for state senator or state representative in such district. The statement of every other party committee shall be filed in the office of the county auditor of the county within which, or for a subdivision within which such disbursements were made.

(3) Each statement shall give in full detail:

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

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

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

(d) Every obligation, expressed or implied, to make any disbursement incurred by such candidate or committee for political purposes during such period, together with the names of the person or persons to or with whom each such obligation has been incurred, the specific purpose for which each was made, and the date when each was incurred, together with the total amount of such obligations made in any amounts or manner whatsoever.

(e) Statements shall also be made by any

other political committee showing the total amount of receipts and disbursements, and for what purpose such disbursements were made. Such statement shall be filed with the auditor of the county in which such committee has its headquarters within thirty days after any primary or election. (12, c. 3, §19; Am. 27, c. 75.) [585].

Explanatory note.—The above subdivisions were omitted from Mason's Minn. Statutes, 1927, through error.

§563. Contributions by corporations prohibited.

Plaintiffs in a stockholders' action, themselves former directors of the corporation, held barred by acquiescence therein from complaining of unlawful expenditures by the management which were made pursuant to fixed policies of the company established and long maintained as such while plaintiffs were directors, no objection having been made before the institution of the action. *Barrett v. S.*, 237NW15.

§571. Trial—Court to determine merits.

Court properly refused to find that charges made were trivial, unimportant, and limited in character. 173M512, 217NW935.

§572. Contest, when and where commenced.

Corrupt Practices Act [538 to 579] does not apply to elections in townships of less than 5,000 population. 174M333, 219NW284.

§573. Disqualification of candidate, etc.

Where mayor of Winona was removed from office for violation of the corrupt practices act the vacancy should be filled by the council under Winona City Charter, chapter 2, section 11, and it is not necessary to call a special election under section 12 of that chapter. Op. Atty. Gen., June 9, 1931.

§579. Sections repealed.

Corrupt Practices Act of 1912 [§§538 to 579] does not apply to election of township officers in counties of less than 5,000 population. 174M333, 219NW284.

PENAL PROVISIONS.

§582. Bribery before or at elections.

Evidence held to sustain finding that defendant promised public employment in order to aid and promote his election. 173M512, 217NW 935.

Whether an article upon which campaign literature is printed is a thing of value is not determined by the cost of producing the article but its value to the recipient for the purpose intended. Op. Atty. Gen., March 7, 1930.

CHAPTER 7

Counties and County Officers

CHANGING COUNTY SEATS.

§625. Petition for change.

175M486, 221NW870, note under §626.

§626. Form of notice.

Giving of notice of intention to circulate a petition is jurisdictional, but proof of the notice may be filed with the county auditor later and before he gives notice of calling of a special meeting to consider the petition. 221NW870. 174M397, 219NW458, note under §627.

§627. Duties of county board.

Voters who first give notice of intention to circulate a petition have the exclusive right of way over any other petition. 174M397, 219NW 458.

§631. Conduct of election.

Laws 1929, c. 198, post, §401-1, did not change time of opening and closing polls under this section. Op. Atty. Gen.

POWERS AND DUTIES.

§638. Powers.

County is without power to appropriate money to pay expense of an association in prosecuting an action to determine validity of Laws 1929, c. 265, post, §§3036-10 to 3036-16, relating to public schools. Op. Atty. Gen., Jan. 4, 1930.

Where conveyance of mortgaged land was made to trustees for county in settlement of claim of county against insolvent depository bank, the county had power to pay off the mortgage. Op. Atty. Gen., Feb. 10, 1930.

County board had authority, on failure of a bank in which county funds were deposited to accept certificates of deposit to permit the bank to reopen, and to assume a mortgage to the bank in consideration of conveyance of mortgaged land to county. 180M423, 230NW891.

§643-1. Cities of first class and county may build court house.—Any county in this state

now or hereafter having within its limits a city of the first class may together with such city jointly acquire land for, erect, equip, furnish, maintain and operate a joint court house and city hall building to be used jointly by such county and city. (Act Apr. 26, 1929, c. 397, §1.)

§643-2. City and county to divide expense.—The cost and expense of acquiring land for, erecting, equipping and furnishing such building shall be borne equally by such county and such city. Such building shall not be erected or contracted to be erected and no land acquired therefor and no bonds shall be issued or sold by the county as hereinafter provided until the city has been authorized to issue bonds to defray its proportion of the cost of such land and building and the ordinances providing for the issuance of such bonds have been ratified by the vote of the electors of such city in the manner provided in the Charter of such city or by the laws of the State of Minnesota. (Act Apr. 26, 1929, c. 397, §2.)

§643-3. County board to issue bonds.—At any time after such city shall have been so authorized to issue bonds to defray its part of the cost of acquiring a site and of erecting said city hall and court house building, the Board of County Commissioners of any such county may issue and sell certificates of indebtedness or bonds of such county to defray the county's portion of the cost of acquiring land for, erecting, equipping and furnishing such building in an amount equal to the amount of bonds authorized to be issued by such city, without submission to the vote of the electors of such county, and the full