

CHAPTER 208

ELECTION CONTESTS

208.01 WHO MAY INSTITUTE CONTEST.

HISTORY. R.S. 1851 c. 6 s. 1; P.S. 1858 c. 6 s. 70; 1861 c. 15 ss. 49, 52; G.S. 1866 c. 1 ss. 46, 49, 52; 1871 c. 45 s. 1; 1872 c. 57 s. 2; G.S. 1878 c. 1 ss. 49, 52, 55; 1887 c. 4 ss. 57, 61, 63; G.S. 1878 Vol. 2 (1888 Supp. c. 1 ss. 57, 61, 63; 1891 c. 4 ss. 91, 95, 97; 1893 c. 4 ss. 181, 185; Ex. 1912 c. 3 s. 33; G.S. 1913 s. 599; G.S. 1923 s. 570; M.S. 1927 s. 570; 1939 c. 345 Pt. 7 c. 1 s. 1; M. Supp. s. 601-7(1).

The authority of the court to entertain an election contest is purely statutory. *Johnson v Du Bois*, 208 M 557, 294 NW 839.

This statute has no application to the election of town officers. *Danculovic v Zimmerman*, 184 M 370, 238 NW 695.

This statute does not apply to the election of school district officers. *Johnson v Du Bois*, 208 M 557, 294 NW 839.

This statute does apply to the election of village officers. *Hanson v Emanuel*, 210 M 271, 297 NW 749; *State ex rel v District Court*, 107 M 437, 120 NW 894. See, also, *State ex rel v McIntash*, 95 M 243, 103 NW 1017.

The policy of the courts is to give effect to the votes of legal voters regardless of irregularities in the election. *Nelson v Bullard*, 155 M 419, 194 NW 308.

There was no error in permitting an amendment of the petition after the time had expired for bringing the contest. *Fritz v Henzel*, 195 M 640, 263 NW 910.

A finding that a defamatory statement was not "deliberate, serious and material" is sustained by the evidence. *Dart v Erickson*, 188 M 313, 248 NW 706.

The statutory authorization for contesting an election for violation of the provisions of the corrupt practices act does not apply to an election upon questions relating to the erecting and establishing a lighting and heating plant by a municipality. *Morgan v Village of Mountain Lake*, 194 M 104, 259 NW 689.

208.02 WATCHERS FOR BALLOT BOXES.

HISTORY. 1893 c. 4 ss. 155, 156; G.S. 1894 ss. 160, 161; 1905 c. 214; R.L. 1905 s. 316; Ex. 1912 c. 2 s. 19; G.S. 1913 s. 506; G.S. 1923 s. 468; M.S. 1927 s. 468; 1939 c. 345 Pt. 7 c. 1 s. 2; M. Supp. s. 601-7(1)a.

208.03 CANDIDATE MAY FILE CONTEST; NOTICE.

HISTORY. R.S. 1851 c. 6 s. 2; P.S. 1858 c. 6 s. 71; 1861 c. 15 ss. 49, 52; G.S. 1866 c. 1 ss. 46, 49; 1871 c. 45 s. 1; 1872 c. 57 s. 2; G.S. 1878 c. 1 ss. 49, 52; 1887 c. 4 ss. 57, 61, 63; G.S. 1878 Vol. 2 (1888 Supp.) c. 1 ss. 57, 61, 63; 1891 c. 4 ss. 91, 95, 97; 1893 c. 4 ss. 181, 185; G.S. 1894 s. 186; R.L. 1905 s. 332; G.S. 1913 s. 525; 1919 c. 162 s. 1; G.S. 1923 s. 484; M.S. 1927 s. 484; 1939 c. 345 Pt. 7 c. 1 s. 3; M. Supp. s. 601-7(1)b; 1945 c. 229 s. 5.

208.04 INSPECTION OF BALLOTS.

HISTORY. 1878 c. 84 s. 13; G.S. 1878 c. 1 s. 89; 1893 c. 4 s. 188; 1919 c. 162 s. 2; G.S. 1923 s. 485; M.S. 1927 s. 485; 1939 c. 345 Pt. 7 c. 1 s. 4; M. Supp. s. 601-7(1)c.

208.05 TRIAL.

HISTORY. R.S. 1851 c. 6 s. 5; P.S. 1858 c. 6 s. 74; 1893 c. 4 s. 186; 1919 c. 162 s. 3; G.S. 1923 s. 486; M.S. 1927 s. 486; 1939 c. 345 Pt. 7 c. 1 s. 5; M. Supp. s. 601-7(1)d; 1945 c. 229 s. 6.

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208.06 CONDUCT OF CONTEST.

HISTORY. G.S. 1866 c. 1 s. 51; G.S. 1878 c. 1 s. 54; 1887 c. 4 s. 60; G.S. 1878 Vol. 2 (1888 Supp.) c. 1 s. 60; 1893 c. 4 s. 184; G.S. 1894 s. 189; R.L. 1905 s. 335; G.S. 1913 s. 528; G.S. 1923 s. 487; M.S. 1927 s. 487; 1939 c. 345 Pt. 7 c. 1 s. 6; M. Supp. s. 601-7(1)e.

A change of venue may be had in an election contest as in civil actions. State ex rel v District Court, 126 M 404, 150 NW 625.

208.07 VOTER MAY CONTEST ELECTION.

HISTORY. R.S. 1851 c. 6 s. 1; P.S. 1858 c. 6 s. 70; 1861 c. 15 ss. 49, 51; G.S. 1866 c. 1 ss. 46, 48, 49, 52; 1872 c. 57 s. 1; G.S. 1878 c. 1 ss. 49, 51, 52, 55; 1887 c. 4 ss. 57, 59, 61, 63; G.S. 1878 Vol. 2 (1888 Supp.) c. 1 ss. 57, 59, 61, 63; 1891 c. 4 ss. 91, 93, 95, 97; 1893 c. 4 ss. 181, 183, 185, 186, 189, 190, 191; G.S. 1894 ss. 190, 191; 1901 c. 365; R.L. 1905 s. 336; 1911 c. 59 s. 1; G.S. 1913 s. 529; G.S. 1923 s. 488; M.S. 1927 s. 488; 1939 c. 345 Pt. 7 c. 1 s. 7; M. Supp. s. 601-7(1)f; 1945 c. 229 s. 7.

In an election contest jurisdiction is conferred on the court by the filing of a proper notice under this section. Hanson v Village of Adrian, 126 M 298, 148 NW 276.

The filing and serving of the petition and notice conferred upon the court power to act in the premises and, after jurisdiction is thus conferred and the court had acted thereon, the jurisdiction cannot be defeated by any number of the petitioners subsequently withdrawing from the petition. Miller v Maier, 136 M 231, 234, 161 NW 513.

This section is limited in scope by section 200.02, which defines an election as any election "except those held in any school district," so as not to authorize a contest of a school district election. Johnson v Du Bois, 208 M 557, 294 NW 839.

In an election contest the burden is upon the contestant to prove that the ballots produced at the trial are in the same condition as when cast and canvassed by the precinct election board. It is for the trial court to determine that fact before accepting the result of a recount of such ballots. Sullivan v Ebner, 195 M 232, 262 NW 574.

See, also, annotations under section 211.01.

208.08 INSPECTION OF BALLOTS.

HISTORY. 1891 c. 4 s. 96; 1893 c. 4 s. 188; G.S. 1894 s. 193; R.L. 1905 s. 337; 1907 c. 475; 1913 c. 368 s. 1; G.S. 1913 s. 530; 1915 c. 167 s. 16; G.S. 1923 s. 489; M.S. 1927 s. 489; 1939 c. 345 Pt. 7 c. 1 s. 8; M. Supp. s. 601-7(1)g.

Before a judge may issue an order under this section it must be made to appear that a contest has been instituted in accordance with the provisions of the statute. State ex rel v Nelson, 141 M 499, 169 NW 788.

208.09 APPEAL BOND.

HISTORY. R.S. 1851 c. 6 s. 5; P.S. 1858 c. 6 s. 74; G.S. 1866 c. 1 s. 49; G.S. 1878 c. 1 s. 52; 1887 c. 4 s. 59; G.S. 1878 Vol. 2 (1888 Supp.) c. 1 s. 59; 1893 c. 4 s. 187; G.S. 1894 s. 192; R.L. 1905 s. 338; G.S. 1913 s. 531; G.S. 1923 s. 490; M.S. 1927 s. 490; 1939 c. 345 Pt. 7 c. 1 s. 9; M. Supp. s. 601-7(1)h.

Election contestee is entitled, on appeal, to urge other facts supporting the decision of the trial court. Pye v Henzel, 200 M 135, 273 NW 611.

The findings of the trial court in an election contest are binding on appeal, if reasonably sustained by the evidence. Pye v Henzel, 200 M 135, 273 NW 611.

208.10 DETERMINATION OF CONTEST.

HISTORY. 1893 c. 4 s. 192; G.S. 1894 s. 197; R.L. 1905 s. 340; G.S. 1913 s. 533; G.S. 1923 s. 492; M.S. 1927 s. 492; 1939 c. 345 Pt. 7 c. 1 s. 10; M. Supp. s. 601-7(1)i.