

CHAPTER 205

GENERAL PROVISIONS

205.01 DATE OF ELECTION.

Election laws are to be construed so as to secure to every voter reasonable opportunity to vote and to have his vote counted as cast, when his intention can be ascertained from the ballot without violating statutory provisions. Markings which neither create uncertainty as to voter's choice nor serve as signs violative of secrecy, are not cause for rejecting ballots. *Bloedel v Cromwell*, 104 M 487, 116 NW 947.

205.02 OFFICERS TO BE CHOSEN.

An election, no matter how fairly and honestly conducted, if held without lawful authority, is a void election. *Howard v Holm*, 208 M 589, 296 NW 30.

Where failure of election officials to comply with the requirements of election laws designed to give notice of the election results in a sparse vote, there is no election. *State ex rel v Turnbull*, 212 M 382, 3 NW(2d) 674.

205.05 SPECIAL ELECTION TO FILL VACANCY IN OFFICE OF UNITED STATES SENATOR.

State law providing for filling of vacancies in the United States Senate under the seventeenth amendment. 25 MLR 948.

205.06 GOVERNOR TO ISSUE WRIT.

Governor need not issue a writ for election of state senator or representative where there is presumably no occasion to exercise the office prior to the next general election. OAG June 21, 1935 (213-C); OAG June 9, 1937 (213-C); OAG June 9, 1931 (185-B-5); OAG April 30, 1934 (213-C).

205.07 VACANCIES IN CERTAIN CASES.

Where there is in fact an election at the time and place fixed by law, the result is valid although statutory notice may be wanting or inadequate. But in the instant case, where there was a total failure to comply with legal requirements so that only a negligible number of electors exercised the right to vote, there was no valid election. *State ex rel v Holm*, 202 M 500, 279 NW 218.

205.11 WRIT TO BE FILED WITH SECRETARY OF STATE.

Where candidate at school election sent in his petition, which reached the clerk two days late, and the clerk placed the name on the ballot, candidate's election was valid. OAG June 7, 1943 (187-A).

205.16 GENERAL ELECTION LAWS STILL GOVERN.

Federal house of representatives has exclusive jurisdiction to determine whether candidate declared elected to the house was in fact recipient of plurality of votes cast at election. *Williams v Maas*, 198 M 516, 270 NW 586.

205.20 VILLAGE COUNCIL TO POST NOTICE OF VILLAGE ELECTIONS.

A village election is not void because of failure to designate a place for holding it. *State v Bernier*, 98 M 1, 38 NW 368.

MINNESOTA STATUTES 1947 ANNOTATIONS

205.22 GENERAL PROVISIONS

502

205.22 ELECTION DISTRICTS DESIGNATED BY COUNCIL OR TOWN BOARD.

The vote of the district need not be thrown out because of failure of council to redistrict when the district contained in excess of 700 voters. OAG Feb. 15, 1944 (64-S).

205.37 BALLOT BOXES.

Section 205.37 applies to town elections. OAG Feb. 14, 1941 (434-B-17).

205.40 AUDITOR TO SEND OUT ELECTION SUPPLIES.

Amended by L. 1947 c. 110 s. 1.

205.46 JUDGES IN MUNICIPALITIES EXCEPT CITIES OF THE FIRST CLASS.

Amended by L. 1947 c. 270 s. 1.

It is no ground for rejection of the vote of a precinct that some of the election judges did not have the qualifications required by law. *Quinn v Markoe*, 37 M 439, 35 NW 263.

Persons heretofore certified as democrats should remain as eligible appointees of the Democratic-Farmer Labor Party; persons heretofore certified as members of the Farmer Labor party may remain on the list without preference, while persons heretofore certified as Republicans remain as eligible appointees of the Republican party. OAG Oct. 22, 1945 (183-H).

Declaration of party affiliation and number of names to be certified as eligible for judges and clerks of election in the city of St. Paul. OAG Oct. 22, 1945 (183-H).

205.47 JUDGES TO APPOINT CLERKS.

Judges and clerks may be all of one political party if no one outside of the party is willing to serve. OAG Oct. 16, 1944 (183-H).

205.49 COUNTY BOARDS TO APPOINT JUDGES IN UNORGANIZED TERRITORY.

Although a candidate to succeed himself, a clerk of the district court may serve ex-officio as a member of the canvassing board. OAG May 28, 1940 (144-B-2).

205.51 ELIGIBILITY OF JUDGES.

The father-in-law of a candidate may serve as election judge. 1942 OAG 74, Oct. 16, 1942 (183-f).

205.55 ADDITIONAL JUDGES AND CLERKS.

At least six names must be certified, and more may be certified to districts having more than the usual number of clerks and judges. OAG Oct. 22, 1945 (183-H).

205.62 SECRETARY OF STATE TO PREPARE PINK BALLOTS.

Unless the administrative officer charged with arranging and printing the ballot acts unfairly or in an improper manner, the courts will not disturb his acts. *Higgins v Berg*, 74 M 11, 76 NW 788.

As to duties imposed upon the secretary of state, sections 205.61 and 205.62 apply to general elections only. The statutes do not impose these duties upon the secretary of state as to primary election ballots. OAG Aug. 2, 1946 (518).

205.64 LAVENDER BALLOTS FOR CITY CHARTER OR AMENDMENTS.

All questions relating to charter amendment should be printed on one lavender colored ballot. OAG Dec. 9, 1946 (58-C).

MINNESOTA STATUTES 1947 ANNOTATIONS

503

GENERAL PROVISIONS 205.78

205.65 COUNTY AUDITOR TO PREPARE "INDIA TINT" BALLOTS.

When unable to obtain India tint paper, the ballots may be printed on paper of a similar color. OAG Aug. 21, 1946 (28-a-2).

205.69 FORM AND SIZE OF BALLOTS.

Amended by L. 1947 c. 76 s. 1.

205.70 FORM, STYLE, AND SIZE OF BALLOTS.

One of two candidates having identical surnames need not avail himself of the privilege granted in this section. OAG Aug. 7, 1946 (28-B-2).

The three words if used must indicate residence and occupation. OAG Aug. 7, 1946 (28-B-2).

205.72 CANDIDATES FOR POLITICAL PARTIES.

The contention that section 205.72 prevented the Democratic party from incorporating "Farmer-Labor" into its name until after the Farmer-Labor party had effected the change of its name to "Fellowship Party" by filing its certificate with the secretary of state, was not available to petitioner. The Farmer-Labor party is not complaining, and it is the only one who can. *Holmes v Holm*, 217 M 267, 14 NW(2d) 312.

205.73 BACK OF BALLOTS.

Where printed ballot did not bear a signature required by statute, the election was not thereby invalidated in the absence of a showing of probable different results. OAG March 25, 1941 (28-C-9).

205.74 NAMES ON BALLOTS.

A married woman candidate may use the name by which she was known prior to her marriage. OAG Sept. 29, 1934 (28-B-2).

205.78 ERRORS AND OMISSIONS; PROCEDURE.

Respondent was a candidate at the primary election and holds a proper certificate. The supreme court will not inquire concerning the eligibility of one who has obtained a proper certificate of nomination at a primary election for state senator. The courts must yield the determination to the senate. The order to show cause is dismissed. *State ex rel v Erickson*, 203 M 390, 281 NW 366.