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GENERAL ELECTION LAWS

OF THE

STATE OF NEBRASKA

REVISION OF 1917

AND EXTRAORDINARY SESSION, 1918

COMPILED BY

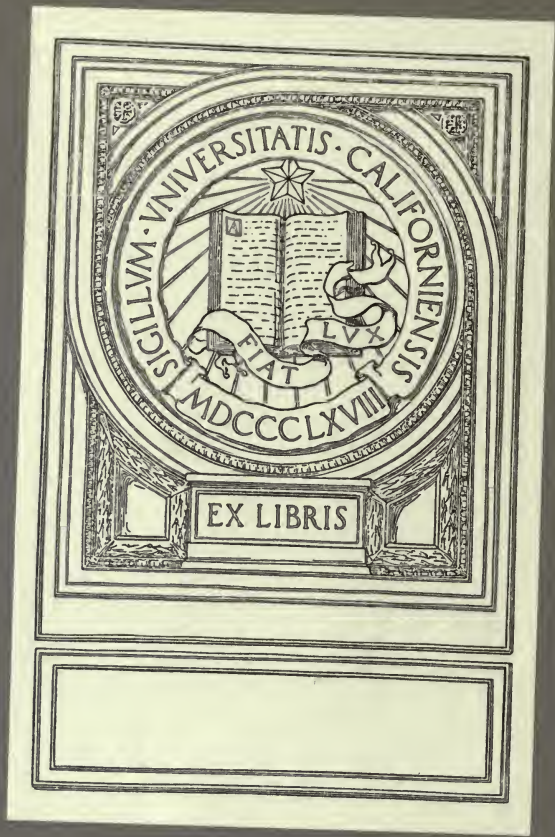
CHARLES W. POOL

SECRETARY OF STATE

1917

Published by
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Beatrice, Nebraska

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CHAPTER 20

ELECTIONS.

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ARTICLE I.

TIME FOR HOLDING GENERAL ELECTION, QUALIFICATIONS OF ELECTORS, AND GENERAL PROVISIONS.

SECTION	SECTION
1939. General election—when held.	1944. Publication and distribution of election laws.
1940. Qualifications of voters.	1945. County board divide precincts into voting districts.
1941. Disqualifications—insane persons—felons.	1946. School district election exempt from election laws.
1942. Same—soldiers and sailors.	
1943. Privileges of electors.	

1939 Section 1. **General election—when held.**—The general election of this state shall be held on Tuesday succeeding the first Monday in November

in the year 1914 and every two years thereafter. (1879 p. 240; 1913 p. 376; Ann. 5650; Comp. 3212.)

Provisions not essential to fair election will be construed as directory, if possible. *Estate v. Van Camp*, 36 Neb. 91 (54 N. W. 113).

1940 Sec. 2. Elections—qualification of electors—woman suffrage.—Every person of the age of twenty-one years or upwards shall be an elector, and shall have the right to vote for all officers to be elected to public office, and upon all questions and propositions submitted to the voters, at any and all elections, authorized or provided for by the constitution or laws of Nebraska: Provided, however, that no female person shall be permitted to vote for United States Senator, United States Representative, or for any officers specified and designated in the constitution of Nebraska, or upon any question or proposition submitted to the voters, the manner of the submission of which is specified and designated in the constitution of Nebraska.

No person shall be qualified to vote at any election unless such person shall have resided in the state six months, in the county forty days and in the precinct, township, or ward ten days, and shall be a citizen of the United States, or shall be a person of foreign birth who shall have declared his or her intention to become a citizen, conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to such election. (Laws 1917, p. 95.)

Sec. 2. Separate ballot boxes for women votes.—That separate ballots and ballot boxes shall be provided for female electors. Such ballots shall contain the names of the candidates, and the questions and propositions submitted, as female electors may vote for and upon. The ballots cast by female electors shall be counted and canvassed with and in the same manner as the ballots of male electors. (Laws 1917, p. 96.)

1941 Sec. 3. Disqualifications—insane persons—felons.—No person shall be qualified to vote who is non compos mentis, or who has been convicted of treason or felony under the law of the state or of the United States, unless restored to civil rights. (1879 p. 240; Ann. 5653; Comp. 3215.)

Conviction unless of felony, no disqualification; punishment inflicted determines grade of offense. *Gandy v State*, 10 Neb. 243 (4 N. W. 1019).

1942 Sec. 4. Same—Soldiers and Sailors.—No soldier, seaman, or marine in the army and navy of the United States shall be deemed a resident of the state in consequence of being stationed therein. (1879 p. 240; Ann. 5654; Comp. 3216.)

Government employees at military post, not a reservation, may vote if otherwise qualified. *State v. Griffey*, 5 Neb. 161.

1943 Sec. 5. Privileges of electors.—Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the attendance at elections, and going to and returning from the same, and no elector shall be obliged to do military duty on the days of election, except in time of war and public danger. (1879 p. 240; Ann. 5655; Comp. 3217.)

1944 Sec. 6. Publication and distribution of election laws.—It shall be the duty of the secretary of state to cause to be published in pamphlet form and distributed through the county clerks of the respective counties, a sufficient number of copies of this chapter as will place a copy thereof in the hands of each election board. (1897 p. 228; Ann. 5835; Comp. 3391.)

1945 Sec. 7. County board divide precincts into voting districts.—Whenever the mayor and city council of any city of the first class in this state shall by ordinance divide any ward of such city into two or more voting or polling districts, the county board of the county in which such city is located shall, for general election purposes also, at their next regular session after the taking effect of the ordinance, order the establishment of said voting or polling districts in conformity with the provisions of said ordinance. (1883 p. 183; Ann. 8719; Comp. 2438.)

1946 Sec. 8. School district election exempt from election laws.—Elections for school district officers, except for members of the boards of education in cities, are excepted from the provisions of this chapter. (1897 p. 219; Ann. 5818; Comp. 3374.)

ARTICLE II.

OFFICERS TO BE ELECTED.

SECTION

1947. Officers elected at general election.
 1948. Supreme judges—when elected.
 1949. Railway commissioners—when elected.
 1950. Regents of state university—when elected.
 1951. District judges—when elected.
 1952. District clerks.
 1953. State officers—elected when.
 1954. County officers—when elected.
 1955. County commissioners—counties not under township organization.
 1956. County assessor—when elected—abolishment of office.

SECTION

1957. Same—deputies.
 1958. Precinct officers.
 1959. Road overseer.
 1960. Counties under township organization.
 1961. Township officers.
 1962. Justices, constables and police judge in certain cities.
 1963. Other county officers.
 1964. Presidential electors—when chosen.
 1965. Preference for United States senator.
 1966. County treasurer ineligible for third consecutive term.
 1967. Holding office until successor elected.

1947 Sec. 9. Officers elected at general election.—All state, district county, precinct, and township officers, by the constitution and laws made elective by the people, except school district officers and municipal officers in cities and villages, shall be elected at a general election to be held at the time provided by section one of this chapter. (1879 p. 240; Ann. 5651; Comp. 3213.)

1948 Sec. 10. Supreme judges—when elected.—At the general election to be held in the year 1914, and each six years thereafter there shall be elected a chief justice of the supreme court; at the general election to be held in the year 1916 and every six years thereafter there shall be elected three judges of the supreme court; and at the general election to be held in the year 1918 and each six years thereafter there shall be elected three judges of the supreme court, all of whom shall hold their office for a term of six years. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 211; 1913 p. 376; Ann. 5656; Comp. 3218.)

1949 Sec. 11. Railway Commissioners—when elected.—In the year nineteen hundred and fourteen and every two years thereafter there shall be elected one railway commissioner, who shall hold his office for a term of six years. (1913 p. 377.)

1950 Sec. 12. Regents of state university—when elected.—In the year nineteen hundred and fourteen and every two years thereafter there shall be elected two regents of the university. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 211; 1913 p. 377; Ann. 5656; Comp. 3218.)

1951 Sec. 13. District judges—when elected.—Judges of the district court shall be elected in the year nineteen hundred and sixteen and every four years thereafter. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 211; 1913 p. 377; Ann. 5656; Comp. 3218.)

1952 Sec. 14. District clerks.—In each county having a population of eight thousand inhabitants or more there shall be elected one clerk of the district court in the year nineteen hundred and sixteen and every four years thereafter, and in each county having a population of less than eight thousand inhabitants, the county clerk shall be ex-officio clerk of the district court and perform the duties by law devolving upon that officer. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 213; 1913 p. 377; Ann. 5656; Comp. 3218.)

No district court clerk unless population is 8000 at time of regular four year election. *State v. Steuffer*, 10 Neb. 506 (6 N. W. 604). *State v. Whittemore*, 11 Neb. 175 (9 N. W. 93). Population when election is called, controls. *State v. Long*, 17 Neb. 502 (23 N. W. 337). U. S. census not conclusive evidence; vote as evidence. *State v. Davis*, 66 Neb. 333 (92 N. W. 740). Vacancies may be filled at elections within the four year periods. *State v. Dodson*, 21 Neb. 218 (31 N. W. 733). County clerk must report fees earned as district clerk; no separate bond. *State v. Whittemore*, 12 Neb. 252 (11 N. W. 310).

1953 Sec. 15. State officers—elected when.—The governor, lieutenant-governor, congressmen, state treasurer, auditor of public accounts, secretary of state, attorney general, commissioner of public lands and buildings, superintendent of public instruction, and members of the legislature shall be elected in the year nineteen hundred and fourteen and every two years thereafter. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 211; 1913 p. 377; Ann. 5656; Comp. 3218.)

1954 Sec. 115. County officers when elected.—In each county there shall be elected in the year nineteen hundred eighteen and every second year thereafter one county judge, for the term of two years, and in every county there shall be elected in the year nineteen hundred eighteen and every fourth year thereafter, one sheriff, one county treasurer, one county clerk, one county surveyor, one county attorney, and one county superintendent of public instruction, for the term of four years. And at the general election in the year nineteen hundred and eighteen and every four years thereafter a register of deeds shall be elected in and for each county having a population of sixteen thousand inhabitants or more, to be ascertained by the census of 1910, and each state and national census thereafter, who shall give bond, with sufficient sureties thereon, to be approved by the county board, in the penal sum of ten thousand dollars, conditioned for the faithful performance of his duties; and such register of deeds shall have all the powers and perform all the duties relative to all papers, writings and instruments pertaining to real estate heretofore enjoined by law upon county clerks and shall receive the compensation allowed by law therefor. (Laws 1917, p. 97.)

1955 Sec. 17. County commissioners—counties not under township organization.—In counties not under township organization having five commissioners, three commissioners shall be elected in the year nineteen hundred and fourteen, and every fourth year thereafter, and two commissioners shall be elected in the year nineteen hundred and sixteen and every fourth year thereafter. In counties having three commissioners, two commissioners shall be elected in the year nineteen hundred and fourteen and every fourth year thereafter, and one commissioner shall be elected in the year nineteen hundred

and sixteen and every fourth year thereafter. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 212; Ann. 5656; Comp. 3218; 1885 p. 215; 1901 p. 55; 1903 p. 57; 1913 p. 379; Ann. 9547; Comp. 691.)

1956 Sec. 18. County Assessor—when elected—abolishment of office.—

At the general election in nineteen hundred and sixteen, and each four years thereafter, there shall be elected a county assessor in each county of the state, whose term of office shall be four years, and shall commence on the first Thursday after the first Tuesday in January following his election. No county assessors shall be eligible for two consecutive terms: Provided, in any county upon presentation of a petition to the county board, not less than sixty days before any general election, signed by at least ten per cent of the electors of the county secured in not less than two-fifths of the townships or precincts of said county, and praying that the question of electing a county assessor in said county be submitted to the electors therein, the county board at the next general election shall order the submission of the same to the qualified voters of said county. The form of submission upon the ballot shall be as follows:

Against election of county assessor.
For election of county assessor.

And if a majority of the votes cast shall be against the election of county assessors in said county, the office shall cease therein with the expiration of the term of the incumbent, and the duties of county assessor shall thereafter in said county devolve upon the county clerk, who shall receive from the county board such allowance for the additional duties as shall seem reasonable, until otherwise ordered by the voters at a new election held under the same requirements as herein provided. (1903 p. 391; 1905 p. 508; 1911 p. 370; 1913 p. 379; Ann. 10918; Comp. 4940.)

1957 Sec. 19. Same—deputies.—At the general election in nineteen hundred and fourteen and every two years thereafter, there shall be elected in each precinct, ward or township, one precinct assessor whose term of office shall be for two years, and who shall not be eligible to hold more than two terms in succession: Provided, at the general election in nineteen hundred and fourteen in counties with a population of one hundred and fifty thousand there shall be no election of a precinct assessor; but the county assessor of such counties shall, by and with the consent of the county board, appoint all precinct ward or township assessors in such county. Any vacancy occurring in the office of precinct assessor, from any cause, shall be filled by appointment by the county assessor. In counties containing cities having over four thousand inhabitants, except as hereinbefore provided in the case of counties with a population of one hundred and fifty thousand or more, the county assessor shall decide on the number of assessors required to assess the property of the city and the number so determined for such city shall be appointed en masse, and the county assessor shall assign such local assessors to the district to be assessed by him. (1903 p. 392; 1909 p. 434; 1911 p. 371; 1913 p. 510; Ann. 10919; Comp. 4941.)

1958 Sec. 20. Precinct officers.—In each precinct in counties not under township organization there shall be elected one justice of the peace in the year nineteen hundred and fourteen and every two years thereafter. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903

p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 212; 1913 p. 380; 1915 p. 91; Ann. 5656; Comp. 3218.)

1959 Sec. 21 Road Overseer.—In the year nineteen hundred and fourteen and every two years thereafter there shall be elected one overseer of high-ways for each road district in counties not under township organization. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 212; 1913 p. 380; Ann. 5656; Comp. 3218.)

1960 Sec. 22. Counties under township organization.—At the first general election after the adoption of township organization by a county, there shall be elected one supervisor in each supervisor district; and thereafter they shall be elected as hereinafter provided in this section. In counties under township organization there shall be elected at the general election in nineteen hundred and fourteen, and every four years thereafter one supervisor in each odd numbered supervisor district; and at the general election in nineteen hundred and sixteen, and every four years thereafter, there shall be elected one supervisor in each even numbered supervisor district; and in each city and village within such county having one thousand inhabitants or over, there shall be elected in the year nineteen hundred and fourteen, and every two years thereafter, two justices of the peace. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 211; 1913 p. 381; 1915 p. 91; Ann. 5656; Comp. 3218.)

Applies to future elections; does not affect Sec. 990. *Albert v. Twohig*, 35 Neb. 563 (53 N. W. 582).

1961 Sec. 23. Township officers.—At the first general election after the be elected one town clerk, one town treasurer and one justice of the peace. (Laws 1915, p. 92.)

1962 Sec. 24. Justices, constables and police judges in certain cities.—In all cities of the metropolitan class and in all cities of the first class having more than twenty-five and less than forty thousand inhabitants at the general election in 1916 and every two years thereafter there shall be elected one justice of the peace, and no more, and also one police judge of each of said cities. And in all cities of the first class having less than one hundred thousand and more than forty thousand inhabitants there shall be elected for a period of two years, two justices of the peace and no more. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 213; 1915 p. 92; Ann. 5656; Comp. 3218.)

Limitation is constitutional. *State v. Berka*, 20 Neb. 375 (30 N. W. 267).

1963. Sec. 25. Other county officers.—All county, precinct and township officers created by statute, or that may be hereafter created, shall be elected at such general election as may be provided in the law creating the officer or officers. (1879 p. 241; 1885 p. 249; 1889 p. 357; 1891 p. 235; 1897 p. 211; 1899 p. 115-118; 1903 p. 288; 1907 p. 199; 1909 p. 238; 1911 p. 214; Ann. 5656; Comp. 3218.)

1964 Sec. 26. Elections—presidential electors—how chosen—In the year nineteen hundred and twenty and every four years thereafter, the Governor shall appoint as electors of President and Vice-president, those persons selected in the preceding delegates state convention by the political party whose candidates for President and Vice-president received the highest number of

votes at the general election held in the within year and years, on such day as congress may appoint. (Laws 1917, p. 103.)

1965 Sec. 27. Preference for United States senator.—At the general election immediately preceding the expiration of the term of a United States senator from this state, the electors shall by ballot express their preference for some person for the office of United States senator, the votes to be canvassed and returned in the manner hereinafter provided. (1879 p. 242; Ann. 5658; Comp. 3220.)

1966 Sec. 28. Treasurer ineligible for third term.—A county treasurer shall be ineligible to office for more than two consecutive terms. (Laws 1917, p. 97.)

1967 Sec. 29. Holding office until successor elected.—Every officer elected or appointed for a fixed term shall hold office until his successor is elected or appointed, and qualified, unless the statute under which he is elected or appointed expressly declares the contrary. This section shall not be construed in any way to prevent the removal or suspension of such officer during or after his term, in cases provided by law. (1879 p. 270; Ann. 5756; Comp. 3314.)

Village trustee holds until successor qualifies. *Hotchkiss v. Keck*, 86 Neb. 323 (125 N. W. 509); *Moor v. Keck*, 86 Neb. 694 (126 N. W. 388).

Holdovers must qualify anew, under sec. 5723. *Roche v. Cosgrove*, 34 Neb. 386 (51 N. W. 974).

ARTICLE III.

PROCLAMATION AND NOTICE OF ELECTIONS.

SECTION

1968. Proclamation by governor.
1969. Notices of elections.

SECTION

1970. Same—when to be posted.

1968 Sec. 30. Same—proclamation by governor.—Thirty days previous to any election at which any United States officer, (including especially candidates for president and vice-president, which candidates shall have been previously certified to him by the officers of the different national conventions of the different political parties within and for the United States) and state officer is to be elected, the governor shall issue his proclamation designating all the offices to be filled by vote of all the electors of the state, or by those of any congressional, legislative or judicial district, and transmit a copy thereof by mail to the county clerk of each county. (Laws 1917, p. 105.)

1969 Sec. 31. Notices of elections.—At least twenty days previous to any election, the county clerk, in counties not under township organization, shall make out and deliver to the sheriff of his county, or in counties under township organization, to the several town clerks, and to city clerks in cities of the first and second class, three notices thereof for each precinct, township, or ward in which the election in such county is to be held. The notices shall be substantially as follows:

Notice is hereby given, that on Tuesday, the _____ day of November, _____, next, at the house of _____, in _____, an election will be held for governor, etc. (naming all the state and other officers to be balloted for), which election will be open at 8 o'clock in the morning, and will continue open until 6 o'clock in the afternoon of the same day. Dated this _____ day of _____, A. D. 19____.

A. B. County Clerk.

(1879 p. 243; Ann. 5661; Comp. 3222.)

In emergency, polling place may be changed on due notice; election not void if result is unaffected. *Whitcomb v. Chase*, 83 Neb. 361 (119 N. W. 673).

1970 Sec. 32. Same—when to be posted.—The said sheriff or town or city clerk to whom the notices are delivered shall post up in three of the most public places in each precinct, township, or ward the three notices therefor, at least ten days before the time of holding any election. (1879 p. 243; Ann. 5662; Comp. 3223.)

Mileage is only compensation; no per diem. Posting two elections at once, same pay as one. Logan Co. v. Doan, 34 Neb. 104 (51 N. W. 593.)

ARTICLE IV.

OFFICERS OF ELECTION.

SECTION

1971. Appointment of election officers.
 1972. Same—from list of names furnished by central committee.
 1973. Same—how chosen when list not furnished.
 1974. Disqualification of candidate for elective office.
 1975. Same—removal from board.
 1976. Failure to appear at polls—how vacancy filled.
 1977. Same—selection by voters.
 1978. Revising list of officers—vacancies.
 1979. Notice of appointment

SECTION

1980. Penalty for failure of officer to serve on board.
 1981. Excusing appointee from serving.
 1982. Vacancy—how filled.
 1983. Penalty for neglect of clerk to appoint.
 1984. Number of officers when registration required.
 1985. Duties of officers.
 1986. Number of board when voting machine used.
 1987. Compensation of clerk for selecting election officers.

1971 Sec. 33. Elections—election boards—number—term.—The clerk of the district court, except in counties having an election commissioner, of each county shall, at least fifteen days prior to the primary election of each general election, appoint three judges and two clerks of election in each election precinct in the county. In precincts where more than one hundred votes were polled at the last general election, the said clerk of the district court shall, in the same manner, appoint three additional judges and two clerks to be known as the election counting board. Each of such appointees shall be of good character, approved integrity, well informed, able to read, write and speak the English language, and shall have resided in the election precinct in which he is to serve for one year next preceding his appointment, be entitled to vote therein, and shall hold office for a term of two years. (Laws 1917, p. 98.)

1972 Sec. 34. Same—how selected.—The judges and clerks provided for in the next preceding section shall be selected from a list of names to be furnished by the chairman of the county central committees of the various political parties within the county, which lists shall be submitted to the clerk of the district court at least twenty days prior to the primary election of each general election and shall contain the names of ten persons for each voting precinct in the county who are duly qualified to serve as judges and clerks of election. The clerk of the district court shall select from the above mentioned lists, for each voting precinct, two judges and two clerks from the political party polling the highest number of votes at the last general election in the precinct as shown by the votes cast for the first set of candidates on the state ticket; two judges and two clerks from the party polling the next highest number of votes; two judges from the party polling third highest number of votes; provided, such third party polled one-tenth of the total vote polled in the county at the preceding election, otherwise the party polling the highest number of votes at the last general election shall be entitled to four judges and two clerks. Except that in precincts where less than one hundred votes were cast at the last general election, the clerk of the district court shall select from the above mentioned lists one judge and one clerk from the political party polling the highest number of votes at the last general

election in the precinct, as shown by the vote cast for the first set of candidates on the state ticket; one judge and one clerk from the party polling the next highest number of votes; one judge from the party polling the third highest number of votes; provided, such third party polled one-tenth of the total vote polled in the county at the preceding election, otherwise the party polling the highest number of votes at the last general election shall be entitled to two judges and one clerk. Two or more parties voting for the same set of candidates in general shall be considered as one party. The said clerk of the district court shall designate which of said judges and clerks shall constitute the counting board of five and also receiving board of five, in proportion on each board as to party affiliations as said Judges and Clerks are appointed as above. (Laws 1917, p. 98.)

1973 Sec. 35. Same—how chosen when list not furnished.—In case no names are submitted by any central committee, as provided in the next preceding section, the clerk of the district court shall select known and recognized members of that party in accordance with the provisions of this article. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 242; Ann. 5666; Comp. 3227.)

1974 Sec. 36. Disqualification of candidate for elective office.—No person shall be eligible as a member of a board of election who is a candidate to be voted for at such election to be holden in the precinct and during the term for which he is selected, or who has anything bet or wagered on the result of such election. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 242; Ann. 5666; Comp. 3227.)

1975 Sec. 37. Same—removal from board.—If at any time before an election it shall be made to appear to any clerk of the district court by the affidavit of two or more qualified electors of any precinct, that any member of the election board is disqualified under the provisions of this article, he shall at once remove such member and fill the place from the list submitted by the chairman of the same party as the member removed. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 242; Ann. 5666; Comp. 3227.)

1976 Sec. 38. Failure to appear at polls—how vacancy filled.—If any member of an election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select as a member of such board to serve in his stead an elector from the same political party, if possible, as the absent member was chosen from. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 242; Ann. 5666; Comp. 3227.)

1977 Sec. 39. Same—selection by voters.—If none of the appointed members of an election board shall appear at the hour appointed for the opening of the polls, the qualified electors present shall elect viva voice as nearly as possible, in conformity with the provisions of the six next preceding sections. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 242; Ann. 5666; Comp. 3227.)

1978 Sec. 40. Revising list of officers—vacancies.—Fifteen days prior to any special election the clerk of the district court shall revise the list of judges and clerks of election within the district wherein the election is to occur, and all vacancies shall be filled as nearly as possible in the manner in which the original appointments were made. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1979 Sec. 41. Notice of appointment.—The clerk of the district court

shall, within three days after the appointment of aforementioned judges and clerks of election, notify such judges and clerks of their appointment, through the United States registered mail, and order them to appear at their respective polling places at least one-half hour prior to the hour fixed for the opening of the polls on the day fixed for the election, stating in the order, the day of the week and month and the polling place, as well as the hour for the opening of the polls. Each judge and clerk of election shall appear at his respective polling place on the day and at the hour specified in such order and shall act in the capacity appointed. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1980 Sec. 42. Penalty for failure of officer to serve on board.—If any person ordered to serve as judge or clerk of election fails, refuses, or neglects to serve, such person shall be subject to a fine in any sum not less than five dollars nor more than fifty dollars and costs, in the county court. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1981 Sec. 43. Excusing appointee from serving.—Any person selected as a judge or clerk of election may, at any time before election day, be excused by the clerk of the district court from serving in such capacity by reason of sickness of self, or serious illness of any member of his family, or unavoidable absence from the voting precinct on election day. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1982 Sec. 44. Vacancy—how filled.—In case of any vacancy by reason of excuse to the clerk of the district court, he shall fill the place from the list submitted by the chairman of the same party as the member excused, and the person selected to fill such vacancy shall be notified of such appointment as provided for in this article. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1983 Sec. 45. Penalty for neglect of clerk to appoint.—If the clerk of the district court in any county fails or neglects to perform his duties provided for in this chapter he shall be subject to a fine of not less than ten nor more than one hundred dollars and costs, in the district court. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 243; Ann. 5666; Comp. 3227.)

1984 Sec. 46. Number of officers when registration required.—At the same time and in the same manner as judges of election are now appointed or elected, two additional judges of election for each election district or precinct in cities where a registration of voters is required, shall be appointed or elected; the said additional judges of election shall be paid in the same manner, and at the same rate as judges of election are now paid. (1897 p. 223; Ann. 5824; Comp. 3380.)

1985 Sec. 47. Duties of officers.—Such judges and clerks shall, during their term of office, act at all general, primary and special elections, except city and village elections, held in the county or precinct of which the voting precinct in which they reside forms a part. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 241; Ann. 5666; Comp. 3227.)

1986 Sec. 48. Number of board when voting machine used.—Where voting machines are used the election board shall consist of two judges and one clerk and shall be chosen in the manner now provided by law: Provided, however, when a general registration of voters is held in connection with an

election where voting machines are used, then and in that event the election board shall consist of three judges and two clerks. (1905 p. 363; Ann. 5935; Comp. 3360o.)

1987 Sec. 49. Compensation of clerk for selecting election officers.—The clerk of the district court shall receive for his services in appointing the boards of elections, the sum of twenty-five cents for each person appointed under the provisions of this article, the same to be paid out of the general fund of the county. (1879 p. 244; 1897 p. 209; 1901 p. 337; 1903 p. 290; 1909 p. 241; Ann. 5666; Comp. 3227.)

ARTICLE V.

BALLOTS AND POLLING BOOTHS

SECTION	SECTION
1988. Cost of printing ballots—by whom paid.	2002. Sample ballots.
1989. Ballots to be provided by county or city clerk.	2003. Same—distribution.
1990. Form of official ballot.	2004. Submission of special questions to state vote.
1991. Same—schedule "A."	2005. Same—to limited districts.
1992. Candidates—how named on ballot.	2006. Delivery of ballots to election boards.
1993. Arrangement of names on ballot.	2007. Error—correction of.
1994. Political parties named.	2008. Polling places and supplies to be provided by county board.
1995. Blank space to be left to vote for persons not named.	2009. Number of voting booths to be provided in each precinct.
1996. Manner of printing ballots.	2010. Persons permitted to be within guard rail.
1997. Official ballots—who to prepare.	2011. Expense of providing voting place—how paid.
1998. Same—when printed.	2012. Size of voting districts.
1999. Ballots to designate office.	
2000. Number of ballots for each precinct.	
2001. Cards of instruction.	

1988 Sec. 50. Cost of printing ballots—by whom paid.—All ballots cast in election for public officers within this state shall be printed and distributed at public expense, as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county, and the delivery of the same to the election officers, as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses. The expense of printing and delivering the ballots and cards of instruction to be used in municipal elections, shall be a charge upon the city or village in which said municipal elections shall be held. (1897 p. 213; Ann. 5807; Comp. 3361.)

1989 Sec. 51. Ballots to be provided by county or city clerk.—Except as otherwise provided by law, it shall be the duty of the county clerk of each county to provide printed ballots for every election for public officers in which electors, or any of the electors within the county participate, and to cause to be printed in the ballot the name of every candidate whose name has been certified to, or filed with, the county clerk in the manner provided for in this article. But in municipal elections the city or village clerk shall provide printed ballots. Ballots other than the official white ballot printed by the respective county or municipal clerks, according to the provisions of this article, shall not be cast or counted in any election. (1897 p. 219; Ann. 5818; Comp. 3374.)

1990 Sec. 52. Form of official ballot.—All official ballote prepared under the provisions of this chapter shall be white in color, not less than five

inches nor more than fifteen and one-half inches wide of good quality of newspaper paper, and all matter thereon shall be printed in black ink. The ballot shall be made up in columns, not more than three in number, in which the names of all candidates and measures or proposals shall be printed on lines twenty-four ems wide. Around the entire outside edge of the ballot shall be left a blank margin not less than three-fourths of an inch wide. The columns shall be separated by space not less than three-fourths of an inch wide and in the center of such space shall be two heavy perpendicular continuous lines running the length of the columns not less than four nor more than five picas apart and between which shall be printed a perpendicular column of horizontal lines or rules occupying one-third of the space thereof, set close together, as nearly as possible to correspond to the form as set out in schedule "A" hereafter. At the top of the ballot and over all else shall be printed in blackface type one-half inch high the words "Official Ballot, General Election 19—."

The names of all candidates and all measures to be voted upon shall be arranged upon the ballot in parts separated from each other by black lines, as follows:

First. All proposals submitted by initiative or referendum, each separated by heavy horizontal lines across the column.

Second. Provision for voting a straight party ticket as follows: On the left side of the column shall be printed a circle one-half inch in diameter with leaders running from each circle to the name of each party having candidates on the ballot which names shall be in black face capital type one-eighth inch high. Over the top circle shall appear the following instructions:

To Vote a Straight Ticket, Make Your Cross Within
Your Party Circle.

Third. Proposals for constitutional amendments, each proposal of which shall be separated by black lines across the column.

Fourth. If the election be in a year in which a president of the United States is to be elected. In spaces separated from the foregoing by heavy black line and entitled Presidential Ticket, in black type one-quarter of an inch high, shall be the names and spaces for voting for candidates for president and vice-president. The names of candidates for president and vice-president for each political party shall be grouped together, each group enclosed with brackets with one circle to the left in which the voter indicates his choice, and the party name to the right—according as near as possible to the following form or schedule:

○	{	WOODROW WILSON, President	}	Democrat
		THOMAS R. MARSHALL, Vice-President		

with a heavy line across the column, separating the group of the different political parties.

Fifth. Following and immediately after a heavy black line separating from the four preceding named parts shall appear the names of candidates for United States Senator, if any are to be elected.

Sixth. In spaces separated from the foregoing by a heavy black line and entitled "STATE TICKET," in black type one quarter of an inch high, shall be the names and spaces for voting for candidates for the various state

officers, each set of which shall be separated by lines across the column and above each set of candidates shall be designated the office for which they are candidates and arranged in the order as shown in schedule "A."

Seventh. In like manner shall be printed the names of candidates for congress, candidates for the legislature and candidates for county offices; the county ticket shall also include measures submitted to the county vote only, and precinct tickets shall include the names of candidates and measures submitted to precinct only; city tickets shall include the names of candidates and measures submitted to city only. (Laws 1917, p. 106.)

1991 Sec. 53. Same—schedule "A"—The form of the official ballot shall as near as possible conform to schedule "A" hereof. Each division containing the names of the office and a list of the candidates nominated for such office shall be separated from other groups by a distinct and heavy line.

(See folded insert herewith for copy of proposed ballot.)

(1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 300; Ann. 5819; Comp. 3375; 1897 p. 231; 1899 p. 130; 1901 p. 351; 1903 p. 303; 1915 p. 95; Ann. 5838; Comp. 3395.)

1992 Sec. 54. Candidates—how named on ballot.—Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this chapter, and no other names, and the name of no candidate shall appear on the ballot more than once. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 300; Ann. 5819; Comp. 3375.)

1993 Sec. 55. Elections—arrangement of names on ballots.—The names of candidates for each office shall be arranged as follows: The party polling the highest number of votes at the last general election for the first set of candidates on the state ticket, shall have the name of its nominee immediately beneath the name of the office for which such candidate was nominated, the party polling the second highest number of votes shall have the second place, the party having the third highest number of votes shall have third place, and so on, leaving those candidates whose names appear upon said ballot by petition, to appear beneath all other candidates placed there by nomination. The party named at the top of the ballot shall have the same order of priority as is herein provided for names of party candidates. In counties having a population of 20,000 or more, names of nominees of each party where there are more than one nominee for the same office shall be rotated according to the following plan: The form shall be set in the order in which they are placed upon the sample ballot prepared by the county clerk. In printing the tickets for the various election districts the positions of the names shall be changed in each office division for each election district. In making the changes of position the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the column so that the name that was second before the change shall be the first after the change. Sample ballots shall be printed in the same way. (Laws 1917, p. 109.)

1994 Sec. 56. Political parties named.—Any candidate who shall be the regular nominee of one or more parties, shall have the party title of each party so nominating him printed after his name. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 300; Ann. 5819; Comp. 3375.)

1995 Sec. 57. Blank space to be left to vote for persons not named.—

In each division, and beneath all candidates placed there by nomination or petition, a blank space shall be provided, into which electors may write the name of any person for whom they wish to vote and whose name is not printed upon the ballot. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 300; Ann. 5819; Comp. 3375.)

1996 Sec. 58. Manner of printing ballots.—The names of the candidates shall be printed in capital letters, in type not smaller than ten point nor larger than twelve point. At the beginning of the line shall be printed a square each side of which shall be one fourth inch, immediately followed, on the same line by the name of the candidate, and the names of the party represented by the candidate shall be printed in lower case type of the same size at the right side of the line with leaders connecting the name of each candidate to the party title and square. The space intervening between the names of candidates for the same office shall be three-sixteenths of an inch, and the space between candidates for different parties shall be three-fourths of an inch. Proposals submitted by initiative or referendum or for constitutional amendments shall be printed in lower case ten point type, but the title heading and number thereof shall be in black face. The square for voting thereon shall be printed at the left side of the column. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 300; 1915 p. 96; Ann. 5819; Comp. 3375.)

1997 Sec. 59. Official ballots—who to prepare.—No person other than the county or municipal clerk shall print or cause to be printed any ballot or ballots marked **official ballot**, nor shall any person except said clerk print or cause to be printed any ballot or ballots upon white paper. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 302; Ann. 5819; Comp. 3375.)

1998 Sec. 60. Same—when printed.—The official ballot shall be printed and in possession of the municipal or county clerk at least five days before election, and subject to inspection by the candidates and their agents. At the top of the official ballot shall be printed the words **official ballot**, and at the top of the sample ballot shall be printed the words **sample ballot**. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 302; Ann. 5819; Comp. 3375.)

1999 Sec. 61. Ballots to designate office.—The ballots shall designate the office for which the persons therein named are voted for. (1879 p. 246; Ann. 5670; Comp. 3231.)

If office is not designated ballot is void. State v. Griffey, 5 Neb. 161. Where intention of voter is ascertainable from ballot and extrinsic public facts, vote is valid. State v. Dinsmore, 5 Neb. 145.

2000 Sec. 62. Number of ballots for each precinct.—The county or municipal clerk, charged with the duty of printing and providing ballots, shall provide for each election precinct or district in the county or municipality, seventy-five ballots for every fifty or fraction of fifty voters registered at the last preceding election in the district. If there is no registry in the precinct, district, or municipality, such ballots shall be provided to the number of seventy-five for every fifty or fraction of fifty voters who voted at the last general election in the district. When a precinct or district shall be divided or the boundaries changed, the clerk must ascertain, as nearly as possible, the number of voters in the new district or districts, and provide therefor a sufficient number of ballots in the above proportion. (1897 p. 222; 1901 p. 346; 1915 p. 96; Ann. 5820; Comp. 3376.)

2001 Sec. 63. Cards of instruction.—The county clerk of each county

shall cause to be printed in large type on cards in English, instructions for the guidance of electors in preparing their ballot. He shall furnish six such cards to the judges of the election in each election precinct, and one additional card for each fifty registered electors or fractional part thereof in the precinct, at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each voting booth provided for the preparation of ballots, and not less than three of such cards elsewhere in and about the polling places on the day of election. Such cards shall be printed in large, clear type and shall contain full instructions to the voters, according to schedule "B" hereof.

SCHEDULE "B"
INSTRUCTIONS TO VOTERS.

1. Persons desiring to vote must procure their ballots from a judge of the election board.

2. They must then, without leaving their polling place, proceed to a compartment and prepare their ballots.

3. The ballots are prepared as follows: If you wish to vote a straight ticket, make a mark in the circle at the top of the ballot to the left of the name of your party, and your ballot will then be counted for every candidate and as approval of party action on any constitutional amendment of that party on the ballot. If you wish to vote otherwise than a straight ticket make a cross in the square to the left of the name of each person for whom you wish to vote or for or against any constitutional amendment; if you wish to vote a straight ticket with the exception of certain offices or constitutional amendment, place a cross in the circle at the head of the ticket for which you wish to vote in the main, and then place a cross in the square to the left of the candidates of the other parties for whom you wish to vote, or in the square to the left of the words "For" or "Against" in any constitutional amendment. When two or more candidates of the same party are to be voted for for the same office (as two or more representatives) and the voter wishes to vote for one or more of his own party and one or more of another party, he must make a cross after each candidate for whom he wishes to vote for that office. Do not make any mark on the ballot save as above directed. If you spoil a ballot return it to a judge of the election board and obtain from him a new ballot; you cannot get more than four in all. Having marked your ballot, fold it so as to conceal the names and marks on the face and to expose the names on the back; then take it to a judge of the election and see it deposited in the ballot box, after which immediately leave the railed enclosure.

4. If you wish to vote for any person whose name is not printed on the ballot, write his name in full in the blank space on the ballot under the proper office you wish him to hold, and make a cross in the square opposite the written name.

5. Do not take any ballot from the polling place; you thereby forfeit the right to vote.

(1897 p. 226; Ann. 5829; Comp. 3385; 1897 p. 229; 1899 p. 129; 1901 p. 350; 1915 p. 97; Ann. 5837; Comp. 3394.)

MARKING BALLOT.—Cross to left of name, or out of party circle, **held** legal; mark must be a cross. *Mauck v. Brown*, 59 Neb. 382 (81 N. W. 313). Name written in must be marked with cross opposite. *Martin v. Miles*, 46 Neb. 772 (65 N. W. 889).

IDENTIFICATION MARKS.—Ballot indorsed by elector is void. *Spurgin v. Thompson*, 37 Neb. 39 (55 N. W. 297). Identifying marks and all marks except as provided render ballot invalid. *Mauck v. Brown*, 59 Neb. 232 (81 N. W. 313). But marks upon face of ballot due to awkwardness, etc., and not intended for identification, will not invalidate. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323). Marking, unless to distinguish ballot, does not void same. *Gauvreau v. Van Patten*, 83 Neb. 64 (119 N. W. 11). Presumption is that ballots were not marked for identification; if not, are valid. *White v. Slama*, 89 Neb. 65 (130 N. W. 978).

2002 Sec. 64. Sample ballots.—A copy of the official ballot as arranged by order and direction of the county clerk or city clerk shall be printed in two or more newspapers of general circulation in the county or city, to be designated by the county board or city council, provided if there be no newspaper published in the county of general circulation then the county board shall designate two other papers of general circulation in the county in which such publication shall be made. Such publication shall be not more than ten nor less than three days before the day of the election and the same shall appear in only one regular issue of each paper. The form of the ballot so published in newspapers shall conform in all respects to the form prescribed for official ballots, as nearly as possible to schedule "A" as set forth in section 1991 of the general election laws. The rate charged by the said papers and

paid by the county board for the publication of such sample ballot shall not exceed the rate regularly charged for display advertising in such paper in which the publication is made. In case the copy of the ballot cannot be printed on a double page of the paper in the exact form prescribed for sample ballots then smaller type may be used but the make up of general form shall conform to that prescribed for the official ballot.

Provided, there shall be printed on three ply white cardboard from the type form used in printing the official ballots, five sample ballots for each polling place in each election precinct. And such ballots shall be posted on the morning of election day, by the judges and clerks of election, at or near the polling place for inspection of the voters. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 302; 1915 p. 98; Ann. 5819; Comp. 3375.)

2003 Sec. 65. Same—distribution.—Where no newspaper is published in the county or city or where in the judgment of the county board or municipal board or council the sample ballot published in such newspaper will not be seen by the voters generally they may provide for the publication in a paper published outside of and of general circulation within the county or city or they may provide for the printing and distribution a number of sample ballots on red or green paper not to exceed the total number of votes cast in such county or municipality at the last preceding general election. Such separate sample ballot shall be of the exact size and form as the official ballot will be, and shall be distributed not less than three or more than ten days before the election. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 302; 1915 p. 98; Ann. 5819; Comp. 3375.)

2004 Sec. 66. Submission of special questions to state vote.—Whenever the secretary of state has duly certified to the county clerk questions to be submitted to the vote of the people, the county clerk shall have printed above the names of all candidates, and below the space for a straight party vote, upon the regular ballots the question in such form as will enable the elector to vote upon the question so presented. On constitutional questions submitted to the voters, where a **For** or **Against** vote is required, and where any political party has in state convention taken action as a party either for or against such question, the county clerk shall have the name of such political party printed directly after the words **For** or **Against**, as the case may be, so as to plainly indicate to the voter the stand taken by such party on such question, as shown in schedule "A." (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 301; Ann. 5819; Comp. 3375.)

2005 Sec. 67. Same—to limited districts.—The county clerk shall also prepare the necessary ballots whenever any question is required by law to be submitted to a vote of the electors of any locality, and not to the state generally: **Provided, however**, when questions are submitted to the voters of any municipal corporation alone, it shall be the duty of the municipal clerk to provide the necessary ballots. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 302; Ann. 5819; Comp. 3375.)

2006 Sec. 68. Delivery of ballots to election boards.—Before the opening of the polls the county clerk of the county or the municipal clerk, in the case of a municipal election, shall cause to be delivered to the judges of election of each election precinct which is within the county (or within the municipality in the case of municipal election) and in which the election is to be held, at the polling place of the precinct the proper number of ballots as

provided for in section 62 of this chapter. The ballots for each precinct or district shall be enclosed in a sealed packet marked with the proper designation of the precinct or district and at the opening of the polls the package of ballots shall be publicly broken by one of the judges of election. If for any cause the official ballots prepared by the county or municipal clerk as herein prescribed shall not be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written as nearly as possible in the form of official ballots, may be used. (1897 p. 222; Ann. 5822; Comp. 3378.)

2007 Sec. 69. Error—correction of.—Whenever it shall appear by affidavit that an error or omission has occurred in the names or description of the candidates nominated for office, or in the printing of the sample or official ballots, the county judge or a judge of the district court sitting at chambers may, upon application of any voter, by order require the clerk charged with the duty in respect to which such error or omission has occurred, to correct such error, or to show cause why such error should not be corrected. The clerk shall also upon his own motion, correct without delay any patent error in the ballots which he may discover or which shall be brought to his attention, and which can be corrected without interfering with the timely distribution of the ballots as herein provided. (1897 p. 222; Ann. 5821; Comp. 3377.)

2008 Sec. 70. Polling places—supplies.—All officers upon whom is imposed by law the duty of designating the polling places shall provide each polling place designated by them with a sufficient number of places, booths, or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his ballot for voting, and in which electors may secretly mark their ballots, and shall place a guard rail so constructed that only persons within such rail can approach within twelve feet of the ballot boxes of voting booths or compartments herein provided for. In precincts required by law to have the counting election board; the county shall provide an enclosed compartment for the use of the said counting board. In county precincts where a sufficiently large room cannot be obtained, the guard rail may be placed six feet or more from the ballot boxes or booths. (Laws 1917, p. 99.)

2009 Sec. 71. Number of voting booths to be provided in each precinct.—One voting booth or compartment shall be provided in each voting precinct for every fifty voters or fraction thereof registered in the district or precinct, and in districts or precinct where there has been no registration of voters, not less than one voting booth or compartment shall be provided for every fifty electors voting in the said precinct at the last general election. (1897 p. 223; Ann. 5823; Comp. 3379.)

2010 Sec. 72 Persons permitted within guard rail.—No persons other than electors engaged in receiving, preparing or depositing ballots, the judges and clerks of election, and one qualified elector of the voting precinct as a representative of each of the political parties, for the purpose of challenging illegal voters, shall be permitted to be within said rail, or counting compartment. (Laws 1917, p. 100.)

2011 Sec. 73. Expense of providing voting place—how paid.—Expense of providing polling places, voting booths and compartments and other supplies required by this chapter shall be a public charge and shall be provided

for in the same manner as other election expenses. (1897 p. 223; Ann. 5823; Comp. 3379.)

2012 Sec. 74. Size of voting districts.—The officers now charged by law with the division or alteration of election districts or precincts shall, so far as necessary, alter and divide the existing election districts or precincts, and all election districts or precincts which shall be hereafter created, in such manner that each election district or precinct shall not contain more than three hundred voters. (1897 p. 223; Ann. 5823; Comp. 3379.)

ARTICLE VI.

OPENING AND CLOSING POLLS.

SECTION

2013. Opening and closing polls.
2014. Announcing opening and closing polls.

SECTION

2015. Closing polls where voting machine used.

2013 Sec. 75. Opening and closing polls.—At all elections the polls shall be opened at 8 o'clock in the morning, and close at 8 o'clock in the afternoon of the same day; but if the judges and clerks shall not attend at the hour of 8 o'clock in the morning, or if it shall be necessary for the electors present to appoint judges and clerks, or any of them, as hereinafter prescribed, the polls may, in that case, be opened at any time before the time for closing the same shall arrive, as the case may require. (1879 p. 243; 1915 p. 100; Ann. 5663; Comp. 3224.)

2014 Sec. 76. Announcing opening and closing polls.—Upon opening the polls, one of the judges of election shall make proclamation of the same, and at least thirty minutes before the closing of the polls proclamation shall be made in like manner that the polls will be closed in half an hour. (1879 p. 244; Ann. 5667; Comp. 3228.)

2015 Sec. 77. Closing polls where voting machine used.—Closing the polls, in cases where voting machines are used, shall not be deemed to exclude a voter entitled to vote who shall have passed within the polling place and whose name has been checked by the clerk before the time fixed by law for closing the polls, but said voter shall be allowed to complete the act of voting. (1905 p. 355; Ann. 5929; Comp. 3360i.)

ARTICLE VII.

VOTING AND CONDUCT OF ELECTION.

SECTION

2016. Oath of officers of election.
2017. Same—by whom administered.
2018. Selecting judges to deliver ballots to voters.
2019. Judges to deliver ballots to voter.
2020. Marking ballots.
2021. Time allowed elector to vote.
2022. Depositing ballots in box.
2023. Checking names of voters with register in cities.
2024. Swearing in unregistered voter in cities.
2025. Same—affidavit of unregistered voter—contents.
2026. Same—affidavits filed with election officers—returned to city clerk.
2027. Same—city clerk to acknowledge affidavits—fees.
2028. Receiving ballots from voter—checking registers.
2029. Names of electors voting to be checked with registers and poll books.
2030. Voting for person not named in ballot.
2031. Spoiled ballots.
2032. Spoiled and unused ballots—return of.

SECTION.

2033. Memorandum may be taken into booth.
2034. Disabled voter assisted by judges.
2035. Voting for road overseer.
2036. Voter required to deliver ballot to judge before leaving room.
2037. Judges to sign all ballots.
2038. Ballot boxes.
2039. Inspection and care of ballot boxes.
2040. Absence of judges from voting room.
2041. Challenging voter.
2042. Same—oath.
2043. Same—examination by judges.
2044. Same—examination as to residence.
2045. Same—non-resident.
2046. Same—non-age.
2047. Same—general queries.
2048. Same—residence defined.
2049. Same—final oath on challenge.
2050. Oath—necessity of.
2051. Police protection.
2052. Same—judges of election may appoint.
2053. Penalty for disturbing elections.

2016 Sec. 78. Oath of officers of election.—Previous to any vote being taken the judges and clerks of election shall severally take an oath or affirmation according to the form prescribed in the chapter on official bonds. (1879 p. 244; Ann. 5664; Comp. 3225.)

2017 Sec. 79. Same—by whom administered.—In case there shall be no judge or justice of the peace present at the opening of the polls, it shall be lawful for the judges of election to administer the oath or affirmation to each other and the clerks of election; and the person administering such oath or affirmation shall cause an entry thereof to be made and subscribed by him, and prefixed to each poll book. (1879 p. 244; Ann. 5665; Comp. 3226.)

2018 Sec. 80. Selecting judges to deliver ballots to voters.—At all elections the judges of election shall designate two of said judges, whose duty it shall be to deliver ballots to the qualified electors. (1897 p. 223; Ann. 5824; Comp. 3380.)

2019 Sec. 81. Judges to deliver ballots to voter.—When any duly qualified elector shall present himself at the polling place of his election district or precinct, for the purpose of voting at any election then in progress, he shall receive from the judge of the election board a ballot, on the back of which two judges of the election board shall first write their names in ink. (1897 p. 224; 1899 p. 127; 1901 p. 347; Ann. 5825; Comp. 3381.)

Mandatory and constitutional; ballots not indorsed by two judges are void. *Orr v. Bailey*, 59 Neb. 128 (80 N. W. 495); *Mauck v. Brown*, 59 Neb. 382 (81 N. W. 313). Voter acting in good faith, vote valid though one endorser was clerk. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323).

2020 Sec. 82. Elections—marking ballots.—The elector then forthwith proceeds alone into a compartment, if there be one then unoccupied, and prepares his ballot by marking it with a blue pencil in the following manner: If he wishes to vote a straight party ticket he shall make a cross in the circle at the left of the name of his party, at the head of the ballot, and his vote shall be considered as a vote for every candidate and endorsed constitutional amendment of that party on the ballot. If the voter does not wish to vote a straight ticket he shall make a cross in the square to the left of every candidate for whom he desires to vote, and in case of question to be submitted to the vote of the people, by making a cross in the square to the left of the answer he wishes to give. When a voter shall have made a cross in one of the circles for a straight party ticket and shall have also made crosses in any of the squares to the left of the name of any candidates, or in either square to the left of any constitutional amendment, his vote shall be so counted as a vote for said candidates and for or against said amendments, as the case may be, but for all other offices or constitutional amendments, his vote shall be counted for the candidates and party action concerning amendments of that party in whose party circle he has made a cross. When two or more candidates of the same party are grouped on the ballot for the same office (as two or more representatives) a cross in the circle to the left of the group will be a vote for all the candidates in the group; if the voter wishes to vote for one or more of the candidates for that office or another party or parties, he must make a cross in the square to the left of each candidate of his own party for whom he wishes to vote for that office, and also make a cross in the square to the left of the name of each candidate of his own party for whom he wishes to vote for that office, and also make a cross in the square to the left of the name of each candidate of any other party or parties for whom he wishes to vote for the same office. (Laws 1917, p. 104.)

2021 Sec. 83. Time allowed elector to vote.—No elector shall be allowed to occupy a voting compartment occupied by another, nor to remain within the railed enclosure in which the compartments are situated more than ten minutes, nor to occupy a voting compartment for more than five minutes. (1897 p. 224; 1899 p. 127; 1901 p. 347; Ann. 5825; Comp. 3381.)

2022 Sec. 84. Depositing ballots in box.—The voter shall fold his ballot so as to conceal the names and marks thereon and to expose the names of the judges of the election board upon the back thereof, and shall without delay, and without exposing the names or marks upon the front thereof, and without leaving the enclosure in which the compartments are placed, deliver the ballot so folded to the judge of election, who shall, without exposing the names or marks on the front or face thereof, approve the signatures upon the back thereof, and deposit the ballot in the ballot box in the presence of the elector, and the elector shall forthwith leave the railed enclosure. (1897 p. 224; 1899 p. 127; 1901 p. 347; Ann. 5825; Comp. 3381.)

2023 Sec. 85. Checking names of voters with register in cities.—In cities where registration of voters is required, as provided for by articles XIII and XIV of this chapter, the judges of election in each precinct shall, on each election day, have with them, two of the registers of voters for that precinct, if in cities of over twenty-five thousand inhabitants as provided for by article XIII, and if in cities governed by article XIV, a list of the registered voters, which they shall use for their guidance in the elections, and no votes shall be received from any person unless his name be first found by the judges on the said list of registered voters, if in cities of from seven thousand to twenty-five thousand inhabitants, as provided in article XIV, or if in cities of over twenty-five thousand inhabitants, as provided in article XIII, unless his name be found on at least two of the registers, except where the vote be sworn in by certificate as hereinafter provided. (1889 p. 454; Ann. 5781; Comp. 4871 1903 p. 381; Ann. 8689; Comp. 4907.)

2024 Sec. 86. Swearing in unregistered voter in cities.—In cities governed by articles XIII and XIV of this chapter, an unregistered elector may vote, upon presenting to the election judges his affidavit, which shall be subscribed and sworn to before a supervisor of registration, if in cities governed by article XIV, and if it be in a city governed by article XIII of this chapter, the affidavit shall be subscribed and sworn to before the city clerk or some one designated by the mayor to take such acknowledgements. (1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907.)

2025 Sec. 87. Same—affidavit of unregistered voter—contents.—The affidavit provided for in the next preceding section shall state the elector's reasons for not having appeared before the board of registration on any of the days fixed for registration or revision of registration, as provided for in article XIII or XIV, as the case may be, which affidavit shall set forth the elector's place of residence and the facts necessary to show that he is a qualified voter in the precinct. And such affidavit shall also be accompanied by and attached to affidavits or oaths of two freeholders, who are, and have been, residents of the precinct in which the elector offers to vote for at least one year immediately preceding the said election, which affidavit or oath shall state that said freeholders know the elector to be a resident and qualified voter of said precinct, and upon filing such affidavit with the judges of elec-

tion and making the proof herein required, such person shall be entitled to vote. (1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907.)

2026 Sec. 88. Same—affidavits filed with election officers—returned to city clerk.—The affidavits and oaths provided for in the next preceding section shall be filed with the judges of election when the elector shall be entitled to vote; and one of the judges of election shall write the name of such elector so voting in the registration list or registers, as the case may be, and preserve the affidavits which shall be returned to the city clerk, with the list or registers. (1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907.)

2027 Sec. 89. Same—city clerk to acknowledge affidavits—fees.—The city clerk, in cities of over twenty-five thousand inhabitants, as provided in article XIII, shall be in his office from 8 o'clock A. M. until 7 P. M. on all election days, for the purpose of taking the affidavits provided for by the next five preceding sections. The said clerk, if in cities of twenty-five thousand or more inhabitants as provided by article XIII of this chapter, or the board of registration if in cities of less than twenty-five thousand inhabitants as provided by article XIV, shall take all such affidavits upon request and without fee or reward whatever. If for any reason the city clerk is required to be absent from his office on any election day, the mayor of the city shall designate some person, authorized to administer oaths, to take and certify such affidavits at the office of the city clerk. And the person so designated shall receive as compensation for each day's service the sum of five dollars, which shall be allowed by the city council on certificate of the mayor. (1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907.)

2028 Sec. 90. Receiving ballots from voter—checking registers.—One of the judges of election in each election precinct shall receive each ballot from the person offering to vote, at the same time announcing the name of such voter in a loud, clear and distinct voice; and, if in cities of over twenty-five thousand inhabitants, as provided for in article XIII, two of the judges shall examine at least two of the registers of such city and if the name of such voter be found upon at least two of such registers; or, if in cities of less than twenty-five thousand inhabitants, one of the judges shall examine the list of registered voters and if the name of such person offering to vote is found on such list, and such voter's right to vote be not challenged, his ballot shall be received and deposited in the proper ballot box; and if in cities of over twenty-five thousand inhabitants, two of the judges shall write in an appropriate column in two of the registers of voters for that precinct; and if in cities of less than twenty-five thousand inhabitants, one of the judges shall write upon the list of registered voters, opposite the name of the person voting and in the column headed "voted" the word "yes"; and no ballot shall be received and deposited in any of the ballot boxes at any election unless the name of the person offering to vote shall be found on the register as provided by law or unless such person shall file with the judges the affidavits and oath required of unregistered voters as in this article provided; and the judges of election shall upon giving the ballot to the voter call the attention of such voter to any constitutional amendment to be voted upon, and the clerks shall enter the name of the voter and the number in each poll book

when his ballot is received. (1879 p. 246; 1911 p. 214; Ann. 5671; Comp. 3232; 1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907; 1897 p. 224; 1899 p. 127; 1901 p. 347; Ann. 5825; Comp. 3381.)

2029 Sec. 91. Names of electors voting to be checked with registers and poll books.—It shall be the duty of one of the judges of election to enter on the register list, if in cities of less than twenty-five thousand inhabitants, and if in cities of over twenty-five thousand inhabitants, on two of the registers, in a suitable and separate part thereof, the name and residence of each person voting, whose name does not appear on the registers or lists, as the case may be, and who votes by affidavit and oath as above provided. It shall be the duty of said judges of election, immediately upon the polls being closed and before proceeding to canvass the vote, to write opposite the name of each person on said list who has failed to vote at said election, and in the column designated at the head thereof, "voted," the word "no." And the number of persons voting at said election, as shown by said list, shall be compared with the number of ballots cast and with the poll books of said election and the same shall be made to agree before said ballots shall be unfolded and canvassed. Within twenty-four hours after the closing of the polls of any election, the lists or registers of voters shall be returned to the office of the city clerk by one of said judges of election and the same shall be preserved in his office. After receiving said lists or registers of qualified voters from the city clerk, the judges of election shall not allow the same to be taken out of their possession until the same is returned to the city clerk as herein provided. (1879 p. 246; 1911 p. 214; Ann. 5671; Comp. 3232; 1889 p. 454; Ann. 5781; Comp. 4871; 1903 p. 381; Ann. 8689; Comp. 4907; 1897 p. 224; 1899 p. 127; 1901 p. 347; Ann. 5825; Comp. 3381.)

2030 Sec. 92. Voting for persons not named in ballot.—Nothing in this article contained shall prevent any voter from writing on his ballot the name of any person for whom he desires to vote for any office, and such vote shall be counted as if printed on the ballot, and marked by the voter. (1897 p. 219; Ann. 5818; Comp. 3374.)

2031 Sec. 93. Spoiled ballots.—Any voter who shall by accident or mistake spoil his ballot, may, on returning said spoiled ballot, receive another in place thereof: Provided, he shall not receive to exceed four in all. (1897 p. 225; Ann. 5826; Comp. 3382.)

2032 Sec. 94. Spoiled and unused ballots—return of.—The judges of election shall cause the unused and spoiled ballots to be made up in a sealed packet, and shall endorse the same with the words "unused and spoiled ballots," with the proper designation of the election district, and shall sign such endorsement, and shall return such packet to the clerk of their respective county or municipality, with a statement made up by the members of the election board of the district, showing the number of ballots received for such district, and accounting for them as follows: First, the number counted in ballot box; second, number unused and retained. (1897 p. 225; Ann. 5826; Comp. 3382.)

2033 Sec. 95. Memorandum may be taken into booth.—Any voter may take with him into the polling place any printed or written memorandum or paper to assist him in making or preparing his ballot, except as hereinafter otherwise provided. (1897 p. 219; Ann. 5818; Comp. 3374.)

2034 Sec. 96. Disabled voter assisted by judges.—Any voter who declares to the judge of election that he cannot read, or that by blindness, or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of one judge and one clerk, each of different political parties of the election officers, one of whom shall be of the voter's own political party in the marking thereof, and said officers shall certify on the outside thereof that it was so marked with their assistance, and shall thereafter give no information regarding the same; the judges shall require such declaration of disability by the voter, under oath before them, and they are hereby qualified to administer the same. No elector other than the one who may, because of his inability to read, or physical disability, be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, or to ask or receive the assistance within the polling place in the preparation of his ballot. (1897 p. 225; Ann. 5827; Comp. 3383.)

2035 Sec. 97. Voting for road overseer.—In precincts where there is more than one road district, each elector shall only vote for the candidate for overseer of the district in which said elector resides, and such vote shall be cast in the following manner: Before handing a ballot to the elector who is about to cast his vote, the judge shall ask of such elector the number of the road district in which such elector resides. The judge shall then draw a line with a blue pencil through the names of all candidates for such office, except the candidates of the district in which such elector resides. (1897 p. 219; 1899 p. 125; 1901 p. 343; 1903 p. 301; Ann. 5819; Comp. 3375.)

2036 Sec. 98. Voter required to deliver ballot to judge before leaving room.—Every elector receiving a ballot shall vote before leaving the polling room, or if he does not wish to then vote, he shall, before leaving the polling room, return the ballot so received to a member of the election board. No person receiving a ballot shall, under any pretext whatever, take the same from the polling room, and any person taking a ballot from the polling room shall forfeit and lose his right to vote at the election, and shall be deemed guilty of a misdemeanor and fined not less than ten dollars nor more than one hundred dollars. (1897 p. 224; 1899 p. 127; 1901 p. 348; Ann. 5825; Comp. 3381.)

2037 Sec. 99. Judges to sign all ballots.—No judge of election shall deposit in any ballot box any ballot, unless the same is identified by the signature of two of the judges of election as hereinbefore provided. Every person violating the provisions of this section shall, upon conviction thereof, be fined not less than ten dollars, nor more than one hundred dollars. (1897 p. 226; Ann. 5828; Comp. 3384.)

Mandatory and constitutional; ballots not indorsed by two judges are void. *Orr v. Bailey*, 59 Neb. 128 (80 N. W. 495); *Mauck v. Brown*, 59 Neb. 382 (81 N. W. 313). Voter acting in good faith; vote valid though one endorser was clerk. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323).

2038 Sec. 100. Ballot boxes.—The county board shall provide a sufficient number of ballot boxes, with secure locks and keys, at the expense of the county, for the several precincts or districts; and each ballot-box at the close of each election shall be deposited with one of the judges of election, who shall take charge of the same, and be responsible for its safe keeping; and he shall convey said ballot box, or cause it to be conveyed, to the place of hold-

ing elections in his precinct, township, or ward, at the next general or special election, and deliver, or cause the same to be delivered, to one of the judges of said election. (1879 p. 246; Ann. 5672; Comp. 3233.)

2039 Sec. 101. Inspection and care of ballot boxes.—Before any ballot shall be deposited in the ballot box, the ballot box shall be publicly opened and exhibited, and the judges and clerks shall see that no ballot is in such box; after which the box shall be locked and the key delivered to one of the judges, and shall not be again opened until the close of the polls; and the ballot box shall not be removed from the view of the electors present until the polls are closed and all the votes shall have been counted and canvassed, except in precincts required by law to have the counting election board. Except that in counties having an election commissioner, at state primary and general state elections, the ballot-box may be opened by the election board between the hours of 2 and 5 o'clock P. M. for the purpose of counting ballots. In such case a second ballot box shall be provided and used for the ballots cast from 5 to 8 o'clock P. M. (Laws 1917, p. 100.)

2040 Sec. 102. Absence of judges from voting room.—No two of the judges shall be absent from the room in which the election is held, at the same time, during such voting and canvass thereof. (1879 p. 245; Ann. 5668; Comp. 3229.)

2041 Sec. 103. Challenging voter.—Any person offering to vote, whether his name be on the register or not, may be challenged as unqualified by any judge or elector; and it is the duty of each of the judges to challenge any person offering to vote whom he knows or suspects not to be duly qualified. (1879 p. 247; Ann. 5676; Comp. 3237.)

2042 Sec. 104. Same—oath.—If any person offering to vote is challenged by one of the judges of the election, or by an elector, one of the judges shall tender to him the following oath or affirmation:

You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you, touching your place of residence, and qualifications as an elector at this election.

(1879 p. 247; Ann. 5677; Comp. 3238.)

2043 Sec. 105. Same—examination by judges.—If the voter be challenged on the ground that he has not made his declaration of intention to become a citizen of the United States, in case the person so challenged does not produce his intention papers, the judges, or one of them, shall put the following question:

"Have you made your declaration of intention to become a citizen of the United States?"

(1879 p. 248; Ann. 5678; Comp. 3239.)

2044 Sec. 106. Same—examination as to residence.—If a voter be challenged on the ground that he has not resided in this state for six months immediately preceding the election, the judges, or any one of them, shall put the following questions:

First—"Have you resided in this state for six months immediately preceding this election?"

Second—"Have you been absent from this state within six months immediately preceding this election?" If he answers "Yes," then,

Third—"When you left, did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?"

Fourth—"Did you, while absent, look upon and regard this state as your home?"

Fifth—"Did you, while absent, vote in any other state or territory?"

(1879 p. 248; Ann. 5678; Comp. 3239.)

2045 Sec. 107. **Same—non-resident.**—If the voter be challenged on the ground that he is not a resident of the county, precinct, township, or ward where he offers to vote, the judges, or one of them, shall put the following questions:

First—"Have you resided in this county for forty days last past?"

Second—"Have you resided in this precinct (or ward) for the last ten days?"

Third—"When did you last come into this county?"

Fourth—"When you came into this county was it for temporary purposes merely, or for the purpose of making it your home?"

Fifth—"Did you come into this county for the purpose of voting therein?"

Sixth—"Are you now an actual resident of this precinct or ward?"

1879 p. 248; Ann. 5678; Comp. 3239.)

2046 Sec. 108. **Same—Non-age.**—If a voter be challenged on the ground that he is not twenty-one years of age, the following question shall be put:

Are you twenty-one years of age, to the best of your knowledge and belief?

(1879 p. 248; Ann. 5678; Comp. 3239.)

2047 Sec. 109. **Same—general queries.**—The judges of the election, or one of them, shall put all such other questions to the person challenged, under the respective provisions of section two of this chapter, as may be necessary to test his qualifications as an elector at that election. (1879 p. 248; Ann. 5678; Comp. 3239.)

2048 Sec. 110. **Same—residence defined.**—The judges of election, and in cities of the first and second class the registrars of voters, in determining the desidence of a person offering to vote, shall be governed by the following rules, so far as the same may be applicable:

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

Second—A person shall not be considered or held to have lost his residence who shall leave his home and go into another territory or state, or county of this state, for temporary purposes merely, with the intention of returning. Provided, six month's consecutive residence in this state shall be necessary to establish a residence within the meaning of this chapter.

Third—A person shall not be considered and held to have acquired a residence in any county of this state into which he shall have come for temporary purposes merely without the intention of making it his residence.

Fourth—If a person remove to another territory or state, intending to make it his permanent residence, he shall be considered and held to have lost his residence in this state.

Fifth—If a person remove to another state or territory, intending to remain there for an indefinite time, and as a place of present residence, he shall be considered and held to have lost his residence in this state, notwithstanding he may intend to return at some future period.

Sixth—The place where a married man's family resides shall generally be considered and held to be his residence; but if it is a place of temporary establishment only, or for transient purposes, it shall be otherwise.

Seventh—If a married man have his family fixed in one place, and he does business in another, the former shall be considered and held to be the place of his residence.

Eighth—The mere intention to acquire a new residence, without the fact of removal, shall avail nothing, nor shall the fact of removal, without intention.

Ninth—If a person shall go into another territory or state, and while there shall exercise the right of citizenship by voting, he shall be considered and held to have lost his residence in this state.

(1879 p. 250; Ann. 5681; Comp. 3242.)

Voting place of students discussed. *Berry v. Wilcox*, 44 Neb. 82 (62 N. W. 249).
Residence for temporary purpose *White v. Slama*, 89 Neb. 65 (130 N. W. 978).

2049 Sec. 111. Same—final oath on challenge.—If a person's right to vote be challenged, and such challenge be not withdrawn after he shall have answered the foregoing questions, or such of them as may be necessary, one of the judges shall tender to him the following oath:

"You do solemnly swear (or affirm) that you are a citizen of the United States (or have declared your intention to become such); that you have been an inhabitant of the State of Nebraska for the last six months, and of the county of _____ for the last forty days, and of this precinct for the last ten days; that you have attained the age of twenty-one years, to the best of your knowledge or belief."

And it shall be the duty of the clerks of election to write on the poll books at the end of such person's name, "sworn." (1879 p. 249; Ann. 5680; Comp. 3241.)

2050 Sec. 112. Oath—necessity of.—If any person challenged shall refuse to take the oath or affirmation provided for in this article, his vote shall be rejected. (1879 p. 249; Ann. 5679; Comp. 3240.)

2051 Sec. 113. Police protection.—The proper authorities of every city shall detail a police officer to each polling place of such city; the proper authorities of every village shall detail the village marshal or constable of said precinct, to the voting places of said village or precinct, upon the day fixed for holding any election therein, and the special duties of such police officer, village marshal, or constable, in addition to the preservation of peace, shall be as follows:

First—He shall, as far as possible, remain at or near the entrance of the enclosure in which the compartments are placed; he shall not permit any person to enter said enclosure unless duly provided with an official ballot signed with the names of two judges of the election board.

Second—He shall not permit any person to enter the enclosure while the several compartments therein are occupied.

Third—He shall not permit any person to leave the enclosure without first voting or surrendering his ballot to a judge of the election board.

Fourth—He shall not permit any person to leave the polling room after receiving a ballot, without first voting or surrendering his ballot. (1897 p. 228; Ann. 5836; Comp. 3392).

2052 Sec. 114. Same—judges of election may appoint.—Any constable of the precinct, township, or ward, who may be designated by the judges of election, is directed to attend at the place of election, and he is authorized and required to preserve order and peace at and about the same; and if no constable be in attendance, the judges of election may appoint one or more specially, by writing, who shall have all the powers of a regular constable. (1879 p. 246; Ann. 5673; Comp. 3234.)

2053 Sec. 115. Penalty for disturbing elections.—If any person conducts himself in a noisy, riotous, or tumultuous manner at or about the polls, so as to disturb the election, or insults or abuses the judges or clerks of elec-

tion, and persists in such conduct after being warned to desist, the constable shall forthwith arrest him without warrant, and bring him before the nearest justice of the peace, to be dealt with according to law; but such person shall be permitted to vote. (1879 p. 247; Ann. 5674; Comp. 3235.)

ARTICLE VIII.

VOTING BY MAIL.

SECTION

2054. Voting by mail by absent elector.
2055. Same—certificate of residence—ballot.
2056. Ballots—mailed to clerk of county of voter's residence.
2057. Canvass and return of votes.

SECTION

2058. Ballots preserved
2059. False affidavit by voter—neglect by election officer—penalty.
2060. Affidavit blanks furnished by election officers.

2054 Sec. 116. Voting by mail by absent elector.—It shall be lawful for any qualified elector of the State of Nebraska, who may on the occurrence of any general election or primary, for and against United States senator and for and against constitutional amendments, be unavoidably absent from his county because his duties or occupation require him to be elsewhere within the state to vote for county, district or state officers, members of the legislature, members of congress, and electors of president and vice-president of the United State, in any voting precinct in the state where he may present himself for that purpose on the day of such election under the regulations hereinafter prescribed: (1913 p. 613.)

2055 Sec. 117. Same—certificate of residence—ballot.—The voter so entitled to vote shall present himself at the polls in any precinct in the state where he may be on such election day, and during voting hours, and make and subscribe before one of the judges of election an affidavit in substance as follows:

State of Nebraska, _____ County, ss.

I, _____, do solemnly swear that I have resided in the State of Nebraska more than six months, and in the county of _____ in said state more than forty days, and in the precinct of _____ (or in the _____ ward of the City of _____ within said county more than ten days next preceding this date), and am in all respects a duly qualified elector of said _____. That I am a qualified elector, and that because of my duties (or occupation or business) I am required to be absent from my county on this day, and I have had and will have no opportunity to vote there, and that I have not voted elsewhere at this election.

Any judge of election in any voting precinct in the state is hereby authorized to administer the oath and take and certify such affidavit. Thereupon the affiant shall be given a special official ballot upon which shall be printed the names of all national and state candidates and constitutional amendments, but blank as to district and county candidates and he shall write in the names of such candidates not printed thereon and shall mark the same as any resident voter may, and shall fold the same and hand it to the judges as in the case of a resident voter, but such ballot shall not be deposited in the ballot box, nor be entered upon the poll books. It shall, together with said affidavit be securely sealed in an envelope, upon the back of which one of the judges shall write: The ballot of _____, an absent voter of _____ precinct (or ward, or precinct of the _____ ward of the city of _____), in the county of _____, which shall be signed by one of the judges: provided, any elector referred to herein whose residence is in a city where registration of voters is required, shall hand to the judges with his ballot, a certificate of his registration from the proper registration authority in the city of his residence, and the same shall be enclosed

by the judges together with his ballot and affidavit in the envelope herein specified. (1913 p. 613.)

2056 Sec. 118. Ballots—mailed to clerk of county of voter's residence.—All such envelopes shall, by the judges of election, be filed with the county clerks of the counties where such votes were cast, not later than the succeeding day, and said county clerk shall immediately mail them by special delivery, postage prepaid, to the county clerks of the respective counties where such voters belong. (1913 p. 614.)

2057 Sec. 119. Canvass and return of votes.—The county clerk of the county in which said absent voter resides shall receive said ballot and shall safely keep and preserve the same unopened in his office until the board of county canvassers canvass the vote according to law, at which time the said board of canvassers, in the presence of the said county clerk, and no other person, shall open said envelope and record the said ballot upon the poll book of the proper precinct or ward in their possession in the same manner as clerks of election record votes; and in so canvassing said vote, the board of county canvassers shall count the votes of all absent voters taken as herein provided and add the same to the total of the poll sheet, in arriving at the total result of the election in the precinct or ward where said voter lives. (1913 p. 614.)

2058 Sec. 120. Ballots preserved.—Said ballot when so opened by the county board of canvassers shall be sealed in an envelope with the endorsement thereon: "Vote of absent voter of.....ward.....city (or precinct);" and the same shall be kept in the county clerk's office as other ballots are kept until destroyed according to law, and in case of a contested election the same may be counted as in other cases. The board of county canvassers and the county clerk of each county wherein any vote of any absent voter is received as herein provided, shall keep the fact of such vote, and the person for whom same is recorded, and the contents thereof, secret, and shall not reveal or divulge the same. (1913 p. 615.)

2059 Sec. 121. False affidavit by voter—neglect by election officer—penalty.—If any person shall wilfully swear falsely to the affidavit herein provided for, he shall upon conviction thereof be deemed guilty of perjury, and be punished as in such cases provided by law. If the officers of the election permit any person to vote as herein provided without his taking said affidavit, or shall neglect or refuse to perform any of the duties prescribed by this article, they shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars. If any county clerk or any member of the board of county canvassers shall neglect or refuse to perform any of the duties prescribed by this article, or shall reveal or divulge any of the details of any ballot herein provided, he shall upon conviction thereof be adjudged guilty of a misdemeanor, and be punished by a fine not exceeding one hundred dollars. (1913 p. 615.)

2060 Sec. 122. Affidavit blanks furnished by election officers.—Every county clerk, along with the official ballots for each and every precinct, shall supply the judges of election with a sufficient number of printed blank affidavits of the character prescribed by this articles. (1913 p. 615.)

ARTICLE IX.

CANVASS AND RETURN OF VOTE AND CERTIFICATES OF ELECTION.

SECTION	SECTION
2061. Poll books—form.	2078. Same—when county clerk candidate at election.
2062. Poll books and city registers checked.	2079. Same—disposition of ballots and poll books.
2063. Canvass by election board.	2080. Canvass in legislative districts.
2064. Same—how made.	2081. Returns by county board of vote cast for state officers.
2065. Same—comparing ballots with poll books—excessive ballots.	2082. Returns from county board to secretary of state.
2066. Same—counting votes.	2083. Returns for state board
2067. Same—tally lists.	2084. Canvass by state board.
2068. Same—double ballots.	2085. Same—delayed abstracts.
2069. Same—ballots not designating office rejected.	2086. Same—preservation of abstracts.
2070. Same—rejecting ballot for excess of names	2087. Same—place and time for meeting of state board.
2071. Same—unsigned and unintelligible ballots.	2088. Same—abstracts of votes—declaring result—tie vote.
2072. Surname of candidate.	2089. Same—record of abstract.
2073. Fraudulent ballots not counted.	2090. Canvass by state legislature.
2074. List of names of— and vote for—candidates.	2091. Certificate of election of county officers.
2075. Returns by election boards.	2092. Certificate of election of state officers.
2076. Poll books—care of.	2093. Tie vote how determined.
2077. Canvass by county board—by whom and how made	

2061 Sec. 123. Poll books—form.—The county clerk, previous to the opening of the polls, shall prepare duplicate poll books, in the manner and form following:

Poll books of an election, held in _____ precinct, _____ township, or _____ ward, in _____ county, on the _____ day of _____, A. D., at which time, A. B., C. D. and E. F. were judges and G. H. and I. K. were clerks of said election—the following named persons voted

NUMBER AND NAMES OF ELECTORS.

No. 1. A. B.	No. 3. E. F.
No. 2. C. D.	No. 4. G. H.

We do hereby certify that the above is a true list of the persons voting at the above named election. G. H., I. K., Clerks.

Attest: A. B., C. D., E. F., Judges of election.

TALLY LIST OF PERSONS VOTED FOR, AND FOR WHAT OFFICE, CONTAINING THE NUMBER OF VOTES FOR EACH CANDIDATE.

GOVERNOR.	MEMBER OF CONGRESS.	COUNTY CLERK.
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We hereby certify that A. B. had _____ votes for governor, and C. D. had _____ votes for governor; that E. F. had _____ votes for members of congress, etc.

Attest:
 A. B.,
 C. D.,
 E. F.,
 Judges of election.
 G. H.,
 I. K.,
 Clerks.

(1879 p. 245; Ann. 5669; Comp. 3230.)

Duty of judges to return true certified list of persons voting and total vote for each candidate; certification of politics of candidates of no effect. State v. Stein, 35 Neb. 345 (53 N. W. 999).

2062 Sec. 124. Poll books and city registers checked.—In each election precinct in cities of over twenty-five thousand inhabitants it shall be the duty of the judges of election in each election precinct immediately after the close of the polls on the day of any election, before proceeding with the canvass of the ballots in any box, and while the clerks of election are canvassing their books, to write in ink opposite to and against the name of each person entered in said registers, who is not shown by said registers to have voted, and in the column headed "vote," the word "no," so that the said column may be wholly filled up, and the said judges shall then compare said registers, and make them agree and ascertain the number of persons who by

them are shown to have voted at that polling place that day; and when they have made comparisons and ascertained such fact, the chairman of the board of judges, or in his absence, one of the other judges, shall announce the same in a loud voice. (1889 p. 460; Ann. 5790; Comp. 4880.)

2063 Sec. 125. Canvass of vote—county board.—When the poll is closed the judges shall immediately proceed to canvass and ascertain the result of the election, except in such precincts as are required by law to have a counting election board. In such precincts the canvass of votes shall be carried on as follows:

Four hours after the opening of the polls the election board shall deliver to the counting election board the ballot box and they shall proceed with the canvass. Having canvassed the votes in a ballot box, they shall return the empty ballot box to the judges and exchange for the box containing ballots cast since taking possession of the first ballot box, provided as many as twenty-five ballots have been cast therein. They shall continue to exchange ballot boxes in the same manner during the day until the polls are closed and all ballots have been counted. (Laws 1917, p. 100.)

2064 Sec. 126. Canvass—how made.—The canvass shall be public, except in such precincts as are required to have a counting election board and counties having an election commissioner and shall commence by a comparison of the poll lists from the beginning, and a correction of any errors that may be found therein until they agree. The ballot box shall then be opened and the ballots, without being unfolded, shall be counted by the judges. If the whole number of votes cast shall exceed the number of persons voting, as shown by the poll books, the said ballots shall then be replaced in the ballot box, the box locked, and the ballots therein thoroughly shaken. The box shall then be opened, and one of the judges shall draw from the box as many ballots as there shall have been cast exceeding the number as shown by the poll books, and the number so withdrawn shall without unfolding, be placed in a separate envelope, sealed, marked "excessive ballots," and sent with other returns of elections to the county clerk in the manner hereinafter provided, except in precincts required to have a double election board where the procedure shall be as follows:

When every such exchange of ballot boxes is made, as described in Section 2063 as amended by this Act, and the receiving board shall furnish to the counting board a statement, signed by the receiving judges, showing the number of ballots that are to be found in each ballot box and indicated by the poll list. The counting board shall then proceed in the manner now prescribed by law to determine the number of ballots in the ballot boxes as received by them, compare the same with the number shown on the list furnished by the receiving board and dispose of any excess ballots in the manner now provided by law. The counting board shall then proceed to count and record the votes as provided by law.

Except that in Counties having Election Commissioner, at State Primary and General State elections, that part of the canvass which takes place between the hours of 2 and 5 o'clock P. M. shall not be public but shall be open to a duly accredited representative from each political party in each voting precinct. Such representatives of political parties and all election officials shall subscribe to an oath that they will not divulge to anyone the result of such canvass. In violation of said oath they shall be subject to a fine of not more than \$500.00. (Laws 1917, p. 100.)

2065 Sec. 127. Announcing result—returns.—The poll books shall then be signed by the judge and attested by the clerks, and the names therein contained shall be counted, and the number set down at the foot of the poll

books. The receiving board shall upon the closing of the polls certify to all matters pertaining to casting of ballots, and shall thereupon turn over all ballots, ballot boxes, poll books and all other material to the counting board. The counting board shall thereupon complete the canvass and certify to all matters pertaining to the canvass and counting of votes. Except that in Counties having an Election Commissioner, at State Primary and General State elections, that part of the canvass which takes place between the hours of 2 and 5 o'clock P. M. shall not be public but shall be open to a duly accredited representative from each political party in each voting precinct. Such representatives of political parties, and all election officials, shall subscribe to an oath that they will not divulge to anyone the result of such canvass. In violation of said oath they shall be subject to a fine of not more than \$500.00. (Laws 1917, p. 101.)

2066 Sec. 128. Same—counting votes.—After the poll books have been examined, compared and signed, and the excessive ballots, if any, shall have been withdrawn, sealed up, and endorsed, the ballots remaining in the box shall be taken out by one of the judges, and the canvass shall be continued by the judges announcing to the clerk the number of votes each candidate balloted for shall have received, after which the ballots shall be strung upon a strong thread. (1879 p. 252; Ann. 5685; Comp. 3246.)

2067 Sec. 129. Same—tally lists.—The clerks shall enter upon the tally list of the poll books, to the right of the names of the persons voted for, all the votes as declared read by the judges. The clerks shall express in figures at the end of the tally list of each candidate, within a circle close up to the last tally, the total number of votes for said candidate, as follows:

John E. Arnold 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 ④
 Michael M. Huck 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 𠄎 ⑤

(1879 p. 252; 1901 p. 341; Ann. 5686; Comp. 3247.)

2068 Sec. 130. Same—double ballots.—If two or more ballots are found so folded together as to convince the judges that they were cast as one, they shall not be counted, but they shall have the words “rejected as double” written upon them, be folded together again, and kept as herein directed. (1879 p. 252; Ann. 5687; Comp. 3248.)

2069 Sec. 131. Same—ballots not designating office rejected.—If, at any stage of the canvass, a ballot not stating for what office the person there named is voted for is found in the box, when officers of different kinds are to be elected, it is to be rejected and disposed of as hereinafter directed. (1879 p. 252; Ann. 5688; Comp. 3249.)

2070 Sec. 132. Same—rejecting ballot for excess of names.—Whenever a ballot shall contain a greater number of names for any one office than the number of persons required to fill that office, it shall be deemed fraudulent as to the whole of the names for that office, but no further; and shall be endorsed “Rejected as to office of _____” and disposed of as hereinafter directed; and no ballot shall be deemed fraudulent because it contains a less number of names than are authorized to be inserted. (1879 p. 252; Ann. 5689; Comp. 3250.)

Ballot must be rejected for excess of names. State v. Griffey, 5 Neb. 161; and as to such office is void: extrinsic evidence inadmissible to explain. State v. Foxworthy, 29 Neb. 341 (45 N. W. 632).

2071 Sec. 133. Same—unsigned and unintelligible ballots.—In the can-

vass of the votes any ballot which is not endorsed upon the back thereof as provided by law by the signature of two judges, shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted.: Provided, when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, it shall be the duty of the judges of election to count such part. (1897 p. 226; Ann. 5830; Comp. 3386.)

Mandatory and constitutional; ballots not indorsed by two judges are void. *Orr v. Bailey*, 59 Neb. 128 (80 N. W. 495); *Mauck v. Brown*, 59 Neb. 382 (81 N. W. 313). But if voters acted in good faith, vote is valid though one indorser was clerk. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323). Voter's intention to be given effect if possible. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323). If lawful intent of voter can be ascertained unintentional irregular markings will not invalidate. *Griffith v. Bonawitz*, 73 Neb. 622 (103 N. W. 327). Mandamus will not lie to compel canvass of ballots not indorsed by judges at primary election. *Crosby v. Haverly*, 82 Neb. 565 (118 N. W. 123). Markings clearly not intended as distinguishing marks will not invalidate. *Gauvreau v. Van Patten*, 83 Neb. 64 (119 N. W. 11); *State v. Russell*, 34 Neb. 116 (51 N. W. 465.) Presumption is that irregular markings were not intended as distinguishing marks. *White v. Slama*, 89 Neb. 65 (130 N. W. 978).

2072 Sec. 134. Surname of candidate.—If at any stage of the canvass a ballot shall be found having correctly written or printed thereon the surname of any person for any office, who shall be a candidate for such office at such election, and there shall be no other candidate for the same office having the same surname, such ballot shall be counted for such candidate, although the initial letter or letters or first name or names written or printed before his surname may not be those properly belonging thereto; but if there shall be two or more candidates at said election for the same office having the same surname, and such initial letter or letters or first name or names, written or printed on said ballot, shall properly belong to neither of the candidates, such ballot shall be rejected and disposed of as hereinafter directed. A candidate within the meaning of this section is any person intentionally voted for at any election. (1879 p. 252; Ann. 5690; Comp. 3251.)

2073 Sec. 135. Fraudulent ballots not counted.—When at any general or special election a ballot with a designated heading contains printed thereon, in place of another, a name not found on the regular ballot having such heading, such name shall be regarded by the judges as having been placed therein for the purpose of fraud, and the ballot shall not be counted for the name so found. (1883 p. 227; Ann. 5839; Comp. 3324.)

2074 Sec. 136. List of names of—and vote for—candidates.—When all the votes shall have been examined and counted, the clerks shall set down in the form in their poll books the name of every person voted for, written at full length, the office for which such person received such vote or votes, and the number of votes he received, which number shall be expressed in words at full length. (1879 p. 253; Ann. 5691; Comp. 3252.)

2075 Sec. 137. Returns—canvass—watches.—a. Upon the completion of the canvass, the judges of election shall seal up in a package all the ballots counted, together with ballots marked as rejected, and mark the same "ballots cast." They shall also enclose one of the poll books in an envelope or cover, and seal the same. The poll book thus sealed, the packages marked "ballots cast" and "excessive ballots," if any there be, shall be securely bound together and directed to the county clerk. The packages thus bound together shall be conveyed to the county clerk by one of the judges or clerks of election, immediately after the completion of said canvass of the votes. It shall in addition, certify upon an official blank provided by the county clerk, the total

number of votes cast for each candidate or proposition voted on in such precinct. The clerk shall give a receipt stating that the poll books and ballots have been received and deposited with him.

b. Watchers may be appointed to be present and watch the counting of ballots as now provided by law. Such counting judges and their clerks and watchers must in addition to the oath now prescribed for judges, clerks and watchers take an oath administered by one of the said counting judges, who are hereby empowered to administer oaths, that they will not in any manner make known to any one the result of the votes as they are being counted until the polls have closed, provided, that all other persons shall be excluded from the place where such counting and canvassing is being carried on until the close of the polls. Any such judge, clerk or watcher violating any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof shall be liable to a fine of not more than five hundred dollars or be imprisoned in the county jail not more than six months, or to both said fine and imprisonment, and any person so convicted shall be disfranchised for five years thereafter. (Laws 1917, p. 102.)

Chapter 176. **Election—summary of votes—election board prepare.**—That upon the completion of the canvass of the vote cast in their respective precincts, the judges and clerks of election shall, from the completed tally lists, prepare a separate summary of the vote in their precinct showing the name of each candidate and the office he was voted for together with the total vote cast for and against each measure submitted at the election, stating the total vote cast in the precinct for each candidate and measure. The statement shall be certified to by all of the judges and clerks as showing the correct total votes received by each candidate and measure at the election, and shall be sealed in a separate envelope and returned to the county clerk along with the poll books and ballots as required by Section 2075 of the Revised Statutes for 1913. The county clerk shall open such envelope upon its receipt by him and such returns shall be filed and preserved as part of the records of his office and kept for public inspection. (Laws 1917, p. 394.)

2076 Sec. 138. Poll books—care of.—In counties not under township organization, the other poll book shall be deposited with one of the judges to be appointed by the said judges to receive the same, and it shall be subject to the inspection of any elector who may wish to examine the same during the period of six months after such election shall have been held. In counties under township organization, in townships constituting a single precinct, the judges of election shall certify the result as to township officers immediately after footing up the result of the canvass on the poll books, and file such certificate, together with the other poll books, in the office of the town clerk; but where there are two or more election precincts in a township, the township board shall meet on the day after the election, and canvass the votes given for township officers as shown by the returns from the precincts, and the township board shall issue certificates of election accordingly. (1879 p. 253; Ann. 5693; Comp. 3254.)

2077. Sec. 139. Canvass by County Board—how made—Upon the reception of the returns of each election precinct, township or ward by the county clerk, directed to him as hereinbefore provided, and within six days after the closing of the polls, he, together with two disinterested electors of the county, to be chosen by himself, shall open the poll books and from the returns therein make abstracts of the votes cast, in the following manner: Of votes for governor, lieutenant governor, members of congress, secretary of state, auditor of public accounts, state treasurer, attorney general, com-

missioner of public lands and buildings, and member of railway commission, on one sheet; of votes for president and vice-president on one sheet; of votes for United States senator on one sheet; of votes for judges of the supreme and district courts, regents of the university, and the state superintendent of public instruction on one sheet; of votes for members of the legislature from the county alone on one sheet; of votes for members of the legislature by districts comprising more than one county on one sheet; and of votes for county, precinct and township officers on one sheet.

The foregoing abstracts shall be preserved by the county clerk in his office.

When the canvassing board has completed the canvass heretofore referred to in this Section it shall take a recess until after the county clerk shall receive the certified copy of the abstract of votes cast by absent voters who are in the military or naval service of the United States. After the county clerk receives said certified copy of the abstract he shall reconvene the canvassing board and canvass and make return of all votes cast at said general election by absent voters of the county who are in the military or naval service of the United States or of this State. (Laws 1917, p. 108; am. Special Session, 1918, p. 30.)

2078 Sec. 140. Same—when county clerk candidate at election.—Whenever the county clerk of any county of this state shall be a candidate for any office created by the laws of this state, or for member of the legislature of the state, it shall be the duty of the county judge of the proper county to select two qualified electors of the county, who, together with himself, shall constitute a board of canvassers to canvass the vote polled for the office for which the then county clerk was a candidate: Provided, in the event of the county judge being a candidate for any office at said election, the county clerk shall canvass the votes as now provided by law. (1867 (Ter.) p. 19; Ann. 5696; Comp. 3322.)

2079 Sec. 141. Same—disposition of ballots and poll books.—Upon the completion of the canvass the poll books shall be again sealed up, and together with the sealed packages of ballots still unopened, securely bound in one package, shall be deposited in the office of the county clerk, where they shall be safely kept for twelve months, and the county clerk shall not allow the same to be inspected, unless in case of contested elections, or the same become necessary to be used in evidence in the courts, and then only by the person and in the manner provided by law. (1879 p. 255; Ann. 5698; Comp. 3257.)

Clerk removed from office for permitting ballots to be taken from office. *Stewart v. Bole*, 61 Neb 193 (85 N. W. 33).

2080 Sec. 142. Canvass in legislative districts.—When two or more counties are embraced in one senatorial or representative district, the clerks of the several counties in said district shall, within seven days after the election, transmit by mail or otherwise to the clerk of the county first named in the law designating the district, a copy of the abstract of all votes cast in the several counties composing such district, for senator or representative, and the clerk of the county first named in the law designating the district, on the reception of such abstracts, shall select two disinterested electors, and the three shall compare the votes given in the several counties as shown by the abstracts returned, and shall make out and deliver to the person having the highest number of votes for the senate or house of representatives a certificate of election, which shall be delivered to the proper person, or his agent, when called for. (1879 p. 255; Ann. 5701; Comp. 3260.)

2081 Sec. 143. Returns of votes for state officers and president.—Immediately upon the completion of the canvass by the county board the county clerk shall prepare a copy of the abstract of the votes cast for president, vice-president, United States senator, congressman, all state officers, regents, judges of the supreme and district courts and all questions under the constitution voted upon by the whole people, which he shall seal up and endorse—"Abstract of votes of _____ county;" and direct to the Speaker of the House of Representatives. (Laws 1917, p. 108.)

2082 Sec. 144. Returns from county board to secretary of state.—The county clerk shall at the same time envelope and seal up a duplicate copy of the same abstracts directed to the secretary of state, and all of the abstracts shall be placed in one envelope and addressed to the secretary of state, who shall preserve the ones addressed to the speaker of the house of representatives unopened, until the meeting of the legislature, and from the duplicate copies prepare a tabular sheet of the votes cast for such officers and preserve the same for the use of the legislature in making the official canvass as required by the constitution. (1879 p. 256; Ann. 5703; Comp. 3262.)

2083 Sec. 145. Returns for state board.—The clerk of each county shall make a copy of the abstract of votes in his county for presidential electors, judges of the supreme and district courts, and regents of the university, which copy shall be sealed up and endorsed, "Election returns for the offices of _____," and directed to the secretary of state. (1879 p. 257; Ann. 5704; Comp. 3263.)

2084. Sec. 146 Canvass by State Board—The vote cast for president and vice-president, shall be canvassed by a board of State canvassers, consisting of the governor, secretary of state, auditor of public accounts, treasurer and attorney general. Such canvass shall be sufficient notice to the Governor to appoint the electors of president and vice-president, as required by Section 1 of Chapter 33 of the Laws of Nebraska for 1917.

Said board shall include in this canvass the votes of absent electors who are absent from this State, serving either in the military or naval service of the United States or of this State. (Laws 1918, Special Session, p. 31.)

2085 Sec. 147. Same—delayed abstracts.—If the abstracts from any county are not received at the office of the secretary of state by the second Monday after the day of election, the secretary is authorized to send a messenger to the clerk of such county, at the expense of such county, who shall furnish such messenger with the abstracts, or, if they have been sent, with a copy of them, and he shall return them to the secretary without delay. If the abstracts were delayed by reason of the fault or neglect of the clerk, he shall be responsible to the county for the costs of the messenger. (1879 p. 257; Ann. 5705; Comp. 3264.)

2086 Sec. 148. Same—preservation of abstracts.—The abstracts of votes to be canvassed by the board of state canvassers shall be kept in the office of the secretary of state, and shall only be opened in the presence of such board at the time provided in the next following section. (1879 p. 257; Ann. 5706; Comp. 3265.)

2087 Sec. 149. Same—Place and Time for Meeting of State Board—The board of State canvassers shall meet at the office of the secretary of state on the sixth Monday after the election; and in case all of said returns shall not have been received at the office of the secretary of state, the board may

adjourn from day to day until the same shall have been received. Said board shall immediately after completing the canvass as returned by the various county clerks canvass and make return of the votes cast by persons who are absent from this State in either the military or naval service of the United States or of this State. (Laws 1918, Special Session, p. 31.)

2088 Sec. 150. Same—abstracts of votes—declaring result—tie vote.—They shall make an abstract stating the number of ballots cast for each office, the names of all the persons voted for, for what office they respectively received the votes, and the number of votes each received, in words at length, and stating whom they declare to be elected to the office, which abstract shall be signed by the canvassers in their official capacity and as state canvassers, and have the seal of the state affixed, but should any two or more persons be returned with an equal and the highest vote, the board shall decide by lot which of said persons is elected. (1879 p. 258; Ann. 5708; Comp. 3267.)

Mandamus lies to compel canvass though governor is a member. *State v. Thayer*, 31 Neb. 82 (47 N. W. 704).

2089 Sec. 151. Same—record of abstract.—The secretary shall record the abstract in a book to be kept by him for recording the result of the state elections and to be called the election book, and also file the abstract in his office. (1879 p. 258; Ann. 5709; Comp. 3268.)

2090 Sec. 152. Canvass by Legislature.—The votes cast for United States Senator, Congressmen, Regents, Judges of the Supreme and District courts, all state officers and all questions under the constitution voted upon by the whole people, shall be canvassed by the legislature at its next regular session. The legislature shall include in its canvass the votes cast by absent voters who are in the military or naval service of the United States or of this State. (Laws 1918, Special Session, p. 31.)

2091 Sec. 153. Certificate of Election of County officers.—The county clerk shall make out a certificate of election to each of the persons having the highest number of votes for the several county, precinct and township officers, and members of the legislature from the county alone. No county clerk shall make out, issue or deliver a certificate of election until the vote cast by absent electors who are in the military or naval service of the United States or of this State has been canvassed and allowed as provided by law. (Laws 1918, Special Session, p. 32.)

2092 Sec. 154 Certificate of Election of State Officers.—A certificate shall be prepared for each person elected in substance as follows:

State of Nebraska. At an election holden on the _____ day of _____
A. B. was elected to the office of _____ for the term of _____ years from
the _____ (or, if to fill a vacancy, say, for the residue of the terms
ending on the _____ day of _____ A. D. _____). Given at Lincoln this
_____ day of _____ A. D. _____

Such certificate shall be signed by the Governor, under the seal of the State and countersigned by the Secretary of State. No certificate of election shall be issued until the vote cast by absent voters who are in the military or naval service of the United States or of this State shall have been canvassed and returned as provided by law. (Laws 1918, Special Session, p. 32.)

2093 Sec. 155. Tie vote—how determined.—When there is a tie between two persons for an office to be filled by the county alone, or by any precinct or township therein, the county clerk shall notify them to appear at his office at a given time to determine the same by lot before the canvassing board, and the certificate of election is to be given accordingly. If either party fail to appear, or take part in the lot, the county clerk shall draw
for him (1879 p. 255; Ann. 5700; Comp. 3259.)

ARTICLE X.

CONTEST OF ELECTION.

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2094 Sec. 156. "Incumbent" defined.—The term "incumbent" in this chapter means the person whom the canvassers declare elected. (1879 p. 260; Ann. 5716; Comp. 3275.)

2095 Sec. 157. Grounds for contest.—The election of any person to any public office, the location or relocation of a county seat, or any proposition submitted to a vote of the people may be contested:

First—For malconduct, fraud, or corruption on the part of the judges of election in any precinct, township, or ward, or of any board of canvassers, or any member of either board sufficient to change the result.

Second—When the incumbent was not eligible to the office at the time of the election.

Third—When the incumbent has been convicted of felony, unless at the time of the election he shall have been restored to civil rights.

Fourth—When the incumbent has given or offered to any elector, or any judge, clerk, or canvasser of the election, any bribe or reward in money, property, or thing of value for the purpose of procuring his election.

Fifth—When illegal votes have been received or legal votes rejected at the polls sufficient to change the result.

Sixth—For any error in any board of canvassers in counting the votes, or in declaring the result of the election if the error would change the result.

Seventh—When the incumbent is in default as a collector and custodian of public money or property.

Eighth—For any other cause which shows that another person was legally elected. (1879 p. 259; Ann. 5715; Comp. 3274.)

Summary proceeding of political character; elector cannot institute contest unless expressly provided; cannot contest county seat election. *Thomas v. Franklin*, 42 Neb. 310 (60 N. W. 568) *Sebering v. Bastedo*, 43 Neb. 353 (67 N. W. 148.) Citizen, taxpayer and elector of city, not authorized to contest city election. *Barnes v. City of Lincoln*, 85 Neb. 494 (124 N. W. 99).

Grounds for contest will not support injunction to prevent removal of county seat. *Scott v. McGuire*, 15 Neb. 303 (13 N. W. 93). Candidate must have had six months' continuous residence at date of election. *State v. McMillen*, 23 Neb. 385 (36 N. W. 587.) County seat election; rejected ballots should not be considered in total, cast. *State v. Roper*, 47 Neb. 417 (66 N. W. 539) City elections not annulled because council delegated duty of canvassing returns. *Linn v. City of Omaha*, 76 Neb. 552 (107 N. W. 983). Failure to keep polls open entire time is harmless error where result is not affected. *Baltes v. Irrigation Dist.*,

60 Neb. 310 (83 N. W. 83). County seat election contest; may plead want of jurisdiction to call election. *Laws v. Vincent*, 16 Neb. 208 (20 N. W. 213).

OTHER REMEDIES.—If remedy by contest is adequate mandamus will not lie. *Crosby v. Haverly*, 82 Neb. 565 (118 N. W. 123). But remedy by contest is not exclusive; mandamus lies to compel correct canvass of all returns. *State v. Stearns*, 11 Neb. 104 (7 N. W. 743). Not exclusive; injunction by taxpayer to prevent unauthorized county seat election. *Solomon v. Fleming*, 34 Neb. 40 (51 N. W. 304). Injunction does not lie to try right to office; but lies to restrain interference with incumbent. *Hotchkiss v. Keck*, 86 Neb. 322 (125 N. W. 509). Remedy is cumulative; quo warranto lies in supreme court to try county office contest. *State v. Frazier*, 28 Neb. 438 (44 N. W. 471). Not exclusive; quo warranto in district court. *State v. Frantz*, 55 Neb. 167 (75 N. W. 546). Contest proceedings and quo warranto are concurrent; city ordinance providing for contests is cumulative. *State v. Cosgrave*, 85 Neb. 187 (122 N. W. 885). Mandamus lies to compel respondent to surrender office where relator is qualified. *State v. Quible*, 86 Neb. 417 (125 N. W. 619). On mandamus to order removal of county seat, fraud or illegality in election cannot be tried. *State v. Roper*, 46 Neb. 730 (65 N. W. 802).

2096 Sec. 158. Same—misconduct of election judges.—When the misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election unless the vote of the precinct, township, or ward would change the result as to that office. (1879 p. 260; Ann. 5717; Comp. 3276.)

Misconduct of judges without fraud or corruption will not defeat election. *Bingham v. Broadwell*, 73 Neb. 605 (103 N. W. 323).

2097 Sec. 159. Contest for state executive office—where heard.—The legislature in joint meeting shall hear and determine cases of contested election for all officers of the executive department of the state. The meeting of the two houses, to decide upon such elections, shall be held in the hall of the house of representatives, and the speaker of the house shall preside. (1879 p. 260; Ann. 5718; Comp. 3277.)

2098 Sec. 160. Members of legislature—where heard.—The senate and house of representatives shall severally hear and determine contests of the election of their respective members. (1879 p. 260; Ann. 5720; Comp. 3278.)

2099 Sec. 161. Same—compensation of attorneys.—Attorneys representing members of the legislature against whom contests of election have been instituted, shall in no case receive more than one hundred dollars for such services for each member represented: Provided, the attorney or attorneys for contestants who are not successful in unseating the incumbent possessing an election certificate, shall not be allowed any fees. (1901 p. 362; Ann. 5719; Comp. 3513.)

2100 Sec. 162. Judicial officers—regents—where heard.—The supreme court shall hear and determine contests of the election of judges of the supreme court, judges of the district courts, and regents of the university, and in case they shall disagree, the governor shall act with them in determining the contest, but no judge of the supreme court shall sit upon the hearing of any case in which he is a party. (1879 p. 260; Ann. 5721; Comp. 3279.)

2101 Sec. 163. County judges and questions submitted to vote of county.—The district courts of the respective counties shall hear and determine contests of election of county judge and in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county, and the proceedings therein shall be conducted as near as may be as hereinafter provided for contesting the election of county officers. (1879 p. 260; Ann. 5722; Comp. 3280.)

No provision as to who may bring contest of county seat election; elector cannot. *Thomas v. Franklin*, 42 Neb. 310 (60 N. W. 568). *Seoering v. Bastedo*, 48 Neb. (67 N. W. 148).

2102 Sec. 164. County, city, precinct, etc., where heard.—The county court shall hear and determine contest of all other county, township, and precinct officers, and officers of cities and incorporated villages within the county. (1879 p. 261; Ann. 5723; Comp. 3281.)

Term case; not acting as justice of peace; judgment may be announced any time during term. *Orr v. Bailey*, 59 Neb. 128 (80 N. W. 495). Quo warranto is concurrent remedy; city ordinance regulating contests is cumulative. *State v. Cosgrave*, 85 Neb. 187 (122 N. W. 885). Taxpayer and elector cannot contest city elections, except of officers. *Barnes v. City of Lincoln*, 85 Neb. 494 (124 N. W. 99). Cannot hear contest over city bond election. *Foxworthy v. L. & F. Ry.*, 13 Neb. 398 (14 N. W. 394). Does not include school district officers. *Laird v. Leap*, 42 Neb. 334 (60 N. W. 1043). County attorney county office; county court and not supreme court has original jurisdiction. *Bell v. Templin*, 26 Neb. 249 (41 N. W. 1093).

2103 Sec. 165. Contesting elections of other officers—who may instigate.—The election of any person declared elected to any office, other than executive state officers and members of the legislature, may be contested by any elector of the state, judicial district, county, township, precinct, city, or incorporated village in and for which the person is declared elected. (1879 p. 263; Ann. 5732; Comp. 3290.)

In judicial proceeding to hear contest, hearsay evidence as to illegal votes, inadmissible. *Dean v. State*, 56 Neb. 301 (76 N. W. 555). Contestant must allege and prove he is resident elector of county. *Dodson v. Bowlby*, 78 Neb. 190 (110 N. W. 698).

2104 Sec. 166. Notice of contest.—Whenever any elector of this state chooses to contest the validity of the election of any of the officers of the executive department of the state, or whenever any elector of the proper county or district chooses to contest the election of any member of the legislature from such county or district, such person shall give notice thereof in writing, read such notice to and leave a copy thereof with the person whose election he intends to contest, within twenty days after the election; if the person cannot be found in his district, then a copy shall be left at his last place of residence in the district, naming the points on which the election shall be contested, and the name of some person authorized by law to administer oaths, selected by him to take the depositions, and the time and place for the taking of the same; and a copy of such notice shall also be delivered to the person or persons so selected to take the depositions; the adverse party may also select one such person on his part to attend at the time and place of taking such depositions. (1879 p. 261; Ann. 5724; Comp. 3282.)

Notice stating; contestant was elector of district, grounds of contest, office contested, date at which its duties commenced, person to take depositions, and time and place of taking same, held sufficient. *State v. Peniston*, 11 Neb. 100 (7 N. W. 753).

2105 Sec. 167. Same—time for serving notice—testimony.—The notice provided for in the next preceding section shall be served at least ten days before the day fixed for the taking of depositions. The said two persons selected as aforesaid to take the depositions shall proceed jointly or in default of either one of such persons to attend at the time and place fixed upon, the one attending shall proceed to hear and reduce to writing the testimony of all witnesses who may be produced by either of said parties, and may adjourn from day to day until all said testimony shall have been taken and reduced to writing: Provided, such testimony shall be finally closed on or before the 29th of December following. (1879 p. 261; Ann. 5725; Comp. 3283.)

After entering on duties mandamus will lie to compel persons to take testimony. *State v. Peniston*, 11 Neb. 100 (7 N. W. 753).

2106 Sec. 168. Testimony.—No testimony shall be received at the taking of the depositions on the part of the contestant which does not relate to the point specified in the notice of the contest. (1879 p. 262; Ann. 5726; Comp. 3284.)

Seems to give power to decide what testimony is applicable. *State v. Peniston*, 11 Neb. 100 (7 N. W. 753)

2107 Sec. 169. Same—transmission of.—The testimony, together with a copy of the notice, when taken, shall be certified by the person or persons before whom the same is taken, enveloped, sealed up, endorsed "Depositions taken in the matter of the contest of the election of A. B. to the office of _____," and directed to the secretary of state, who shall preserve the same, unopened, till the meeting of the legislature. (1879 p. 262; Ann. 5726; Comp. 3284.)

2108 Sec. 170. Ballots, etc., transmitted.—If, at the time of taking depositions to be used before the legislature, or either branch thereof, in the case of a contested election, the notice shall allege that it is necessary for the determination of such contest that the ballots or the poll books of any election district or districts should be inspected, the officer or officers before whom such depositions shall be taken, shall, on request of either party to the contest issue an order requiring the county clerks, or other person in whose custody or possession the ballots or poll books may be, naming the district or districts mentioned in the notice, to deliver them to the person or persons therein named, who shall deliver them to the person or persons issuing such order. Such officer or officers shall transmit such ballots or poll books, unopened, in the same envelope with the depositions as provided in the preceding section. (1879 p. 262; Ann. 5727; Comp. 3285.)

2109 Sec. 171. Filings delivered to legislature.—On the second day after the organization of the legislature, the secretary of state shall deliver to the speaker of the house all papers relating to contested elections of executive officers, and to the presiding officers of each house all papers relating to contested elections of the members of their respective houses. (1879 p. 262; Ann. 5728; Comp. 3286.)

2110 Sec. 172. Same—joint meeting of house and senate.—Upon the reception by such presiding officers of papers relating to contested elections, they shall immediately give notice to their respective houses that such papers are in their possession. Where the papers relate to the contest of any executive state officer, the house of representatives shall notify the senate and a day shall be fixed by both houses by concurrent resolution for the uniting of the two houses to decide upon the same, in which decision the yeas and nays shall be taken and entered upon the journal. (1879 p. 263; Ann. 5729; Comp. 3287.)

Must submit resolution to governor for signature though his right is being contested. *In re Contest Proceedings*, 31 Neb. 262 (47 N. W. 923)

2111 Sec. 173. Same—opening papers, files, etc.—The papers relating to any such contest shall be opened only in the presence of the body by the presiding officer to whom the same shall be delivered. If ballots or poll books are contained therein, they shall, after being opened, remain in the custody of such presiding officer, subject to the inspection of the members,

unless they shall by vote be temporarily committed to the chairman of a committee, in which case such chairman shall return them to the proper presiding officer; and they shall, upon the decision of the contest, be again sealed up in an envelope and returned by mail or otherwise to the office of the county clerk in which they were first required to be filed. (1879 p. 263; Ann. 5730; Comp. 3288.)

2112 Sec. 174. Same—evidence preserved.—All the evidence in any contest provided for in the last preceding section, except ballots or poll books, shall, after a decision thereof, be preserved in the office of the secretary of state. (1879 p. 263; Ann. 5731; Comp. 3289.)

2113 Sec. 175. Proceedings for contest—complaint—bond.—The contestants shall file in the proper court, within twenty days after the votes are canvassed, a complaint, setting forth the name of the contestant, and that he is an elector competent to contest such election, the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant that the causes set forth are true as he verily believes. The contestant must also file a bond, with security to be approved by the clerk of the court or county judge, as the case may be, conditioned to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail. (1879 p. 263; Ann. 5733; Comp. 3291.)

Adversary proceeding; those actually interested adversely to contestant should be defendants. *Burke v. Perry*, 26 Neb. 414 (42 N. W. 401). Twenty days for filing begin to run seventh day from election, in absence of proof of time of canvass. *Sawyer v. Sweet*, 33 Neb. 630 (50 N. W. 954). Complaint is sufficient in substance if it follows statute. *Burke v. Perry*, 26 Neb. 414 (42 N. W. 401).

2114 Sec. 176. Same—contents of complaint.—When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted or whose votes were rejected, if known, with the precinct, township, or ward where they voted or offered to vote, shall be set forth in the complaint. (1879 p. 264; Ann. 5734; Comp. 3292.)

Must set forth names of illegal voters; proof must correspond with allegations. *Todd v. Cass County*, 30 Neb. 823 (47 N. W. 196).

2115 Sec. 177. Same—summons.—Upon the filing of such complaint, summons shall issue against the person whose office is contested, in the same manner as in civil actions, and a copy of the complaint shall in all cases accompany the summons. (1879 p. 264; Ann. 5735; Comp. 3293.)

2116 Sec. 178. Same—trial—time of.—The cause shall stand for trial at the expiration of thirty days from the time of service of the summons and complaint, if the court shall then be in session; otherwise, on the first day of the next term thereafter. (1879 p. 264; Ann. 5736; Comp. 3294.)

2117 Sec. 179. Same—adjournment of trial.—The trial shall proceed at the time appointed unless postponed for good cause shown by affidavit, the terms of which postponement are in the discretion of the court. (1879 p. 264; Ann. 5737; Comp. 3295.)

2118 Sec. 180. Same—proceedings.—The proceedings shall be assimilated to those in an action, so far as practicable, but shall be under the control and direction of the court, which shall have all the powers necessary to the right hearing and determination of the matter, to compel the attendance

of witnesses, swear them and direct their examination; to punish for contempt in its presence, or by disobedience to its lawful mandate, to adjourn from day to day, to make any order concerning immediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case. (1879 p. 264; Ann. 5738; Comp. 3296.)

Contestant may dismiss before issue joined; not set aside without notice; party may intervene before dismissal. *Moore v. Waddington*, 69 Neb. 615 (96 N. W. 279). Election record as made up at polls, admissible in evidence. Appeal to district court, new pleadings unnecessary; in supreme court, entire record considered de novo. *Griffith v. Bonawitz*, 73 Neb. 622 (103 N. W. 327).

2119 Sec. 181. Same—testimony—how taken.—The testimony may be oral, or by depositions taken as in other actions in the court where the cause is tried. (1879 p. 265; Ann. 5739; Comp. 3297.)

2120 Sec. 182. Same—subpoenas for witnesses.—Subpoenas for witnesses may be issued as in other cases, at any time after the filing of the complaint. (1879 p. 265; Ann. 5739; Comp. 3297.)

2121 Sec. 183. Same—amendment of complaint.—The proceedings shall not be dismissed for want of form, if the particular causes of the contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest. If any part of the causes are held insufficient, they may be amended, but the incumbent will be entitled to an adjournment if he state on oath that he has matter of answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon such terms as the court deem reasonable; but if all the causes are held insufficient, and an amendment is asked, the adjournment shall be at the cost of the contestant; if no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed. (1879 p. 265; Ann. 5740; Comp. 3298.)

2122 Sec. 184. Same—process, fees, etc.—The style, form and manner of service of process and papers, and the fees of officers and witnesses shall be the same as in other cases in the court where the cause is tried. (1879 p. 265; Ann. 5741; Comp. 3299.)

2123 Sec. 185. Same—compelling witness to testify.—The court may require any person called as a witness who voted at such election to answer touching his qualifications as a voter; and if he was not a qualified voter in the county where he voted, then to answer for whom he voted; and if the witness answer such questions, no part of his testimony on that trial shall be used against him in any criminal action. (1879 p. 265; Ann. 5742; Comp. 3300.)

2124 Sec. 186. Same—inspection of ballots.—If an inspection of the ballots or poll books of any election district in this state shall become necessary for the determination of any election contest before any court, the presiding judge thereof may by order, naming the district or districts, require the proper officer to procure the same from the county clerk, or other person in whose possession or custody the same may be, and such clerk or person shall deliver the same to said officer, who shall deliver them unopened to such presiding judge. (1879 p. 266; Ann. 5743; Comp. 3301.)

Ballots not preserved substantially as required, not considered. *Martin v. Miles*, 40 Neb. 135 (58 N. W. 732.)

2125 Sec. 187. **Same—opening ballots.**—The presiding judge shall open and inspect the same in open court, in the presence of the parties or their attorneys, and immediately after such inspection shall again seal them in an envelope and return them by mail or otherwise to the office of the county clerk in which they were at first required to be filed. (1879 p. 266; Ann. 5744; Comp. 3302.)

2126 Sec. 188. **Costs—who liable.**—The contestant and the incumbent are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed, or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestants for costs; and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs. (1879 p. 266; Ann. 5745; Comp. 3303.)

2127 Sec. 189. **Judgment.**—The judgment of the court in cases of contested election shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected. (1879 p. 266; Ann. 5746; Comp. 3304.)

County seat election called without authority, declared annulled. *Laws v. Vincent*, 16 Neb. 208 (20 N. W. 213).

2128 Sec. 190. **Tie vote—how decided.**—If it appears that two or more persons have—or would have had if the legal ballots cast or intended to be cast for them had been counted—the highest and an equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall by written order direct, which of them shall be declared duly elected; and the judgment shall be entered accordingly. (1879 p. 266; Ann. 5747; Comp. 3305.)

2129 Sec. 191. **Ouster of defeated incumbent.**—When either the contestant or incumbent shall be in possession of the office, by holding over or otherwise, the court shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs. (1879 p. 267; Ann. 5748; Comp. 3306.)

Mandamus is proper remedy to enforce judgment of ouster; bond does not stay judgment. *State v. Mecker*, 19 Neb. 444 (27 N. W. 427). Cannot enjoin successful contestant from taking possession. *State v. Mayor*, 28 Neb. 103 (44 N. W. 90).

2130 Sec. 192. **Void election.**—When the person whose election is contested if found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void. (1879 p. 267; Ann. 5749; Comp. 3307.)

Section applied; agreement of voters to elect ineligible candidate, votes valid. *Gardner v. Burke*, 61 Neb. 534 (85 N. W. 541). Applied; incumbent holds over where no successor is elected. *State v. Boyd*, 31 Neb. 682 (48 N. W. 739; 51 N. W. 602).

2131 Sec. 193. **Appeal—bond—supersedas.**—The party against whom judgment is rendered in cases tried in the county and district court may appeal to the district or supreme court, and if the appellant be in possession

of the office, such appeal shall not supersede the execution of the judgment of the court as provided in the preceding section unless he give a bond with security, to be approved by the court, in a sum to be fixed by the court and which shall be at least double the probable compensation of such officer for six months, which bond shall be conditioned that he will prosecute his appeal without delay, and that if the judgment appealed from be affirmed, he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was rendered; and said bond shall contain the express consent that judgment may be rendered against the sureties on the appeal as provided in the following section. (1879 p. 267; Ann. 5750; Comp. 3308.)

Proceeding is by appeal; motion for new trial is unnecessary. *Barnd v. Hunt*, 32 Neb. 116 (49 N. W. 222). Appeal to district court, new pleadings unnecessary; entire record considered de novo in supreme court. *Griffith v. Bonawitz*, 73 Neb. 622 (103 N. W. 327.) Applicant need not sign bond. *Clark v. Strong*, 14 Neb. 229 (15 N. W. 236). Bond does not stay judgment of ouster. *State v. Mayor*, 28 Neb. 103 (44 N. W. 90).

2132 Sec. 194. Judgment against sureties.—If upon the appeal the judgment be affirmed, the appellate court shall render judgment against the appellant and the sureties on his bond, or either of them, for the amount which the appellee is entitled to recover from the appellant on account of such contest, together with costs; but in such case the sureties, or either of them, shall be entitled to produce and examine witnesses concerning the amount of such recovery. (1879 p. 268; Ann. 5751; Comp. 3309.)

2133 Sec. 195. Appeal bond.—If upon appeal the appellant shall not be in possession of the office, he shall give bond, with security to be approved by the court where the judgment is rendered, conditioned to pay all costs that may be adjudged against him upon such appeal. (1879 p. 268; Ann. 5752; Comp. 3310.)

Appellant need not sign bond. *Clark v. Strong*, 14 Neb. 229 (15 N. W. 236).

CHAPTER XI.

PRIMARY ELECTIONS AND NOMINATION OF CANDIDATES.

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2134 Sec. 196. Construction of primary law.—This article shall be liberally construed so that the real will of the electors may not be defeated by an informality or failure to comply with all provisions of law in respect to either the giving of any notice or the conducting of the primary or certifying the results thereof. (1907 p. 202; Ann. 5862; Comp. 3326a.)

2135 Sec. 197. Definition and construction of terms.—The words and phrases in this article shall, unless the same be inconsistent with the context, be construed as follows:

First—The word "primary," the primary election provided for by this article;

Second—the word "election," a general or city election, as distinguished from a primary election.

Third—the words "November election," the general election held in November;

Fourth—the word "precinct," a district established by law within which all qualified electors vote at one polling place;

Fifth—the word “district,” a subdivision of the state or a county or city or village in which all the electors are entitled to participate in the election of any one or more candidates for office, to be elected by votes of electors in such subdivision exclusively. (1907 p. 202; Ann. 5862; Comp. 3326a.)

2136 Sec. 198. “Political party” defined.—A “political party” within the meaning of this article shall be an assemblage or organization of electors as is by the law designated as such. (1907 p. 205; 1909 p. 246; 1911 p. 220 Ann. 5866; Comp. 3326f.)

Statute recognizes existence and rights of political parties. *State v. Wait*, 92 Neb. 313 (138 N. W. 159).

2137 Sec. 199. General election laws to apply to primaries.—The provisions of the statutes now in force in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns thereof, and all other kindred subjects, except contests, shall apply to all primaries in so far as they are consistent with this article; the intent of this article being to place the primary elections under the regulation and protection of the laws now in force as to elections. (1907 p. 220; Ann. 5898; Comp. 3327 l.)

2138 Sec. 200. Exceptions from operation of primary elections.—This article shall not apply to special elections to fill vacancies, nor to municipal elections in cities having less than twenty-five thousand population, village, precinct, township and school district officers, members of the board of supervisors in counties under township organization, having supervisors from each ward and township, nor to members of school boards, nor members of boards of education: Provided, that members of Boards of Education in Metropolitan Cities shall be nominated as provided in Section 202 of this article, being Section 2140 of said Statutes providing for nomination by petition. (1907 p. 203; 1909 p. 244; 1915 p. 101; Ann. 5863; Comp. 3326b.)

2139 Sec. 201. Candidates—how nominated.—All candidates for elective offices, except those expressly exempted from the provisions of this article, shall be nominated:

First—By a primary held in accordance with this article, or

Second—by nomination papers signed and filed as provided by statute. (1907 p. 203; 1909 p. 244; Ann. 5863; Comp. 3326b.)

2140 Sec. 202. Same—nomination by petition.—Candidates for public offices may be nominated otherwise than by convention, committee or primary meeting in the following manner.

A certificate of nomination containing the name of the candidate for the office to be filled stating the name, residence, business and post office address of the candidate shall be signed by electors residing in the district or political division in which the officers are to be elected and filed with the clerk of the village, city or county, or with the secretary of state, as the case may be. The number of signatures shall not be less than one thousand when the nomination is for an office to be filled by the electors of the entire state; and not less than two hundred when the nomination is for an office to be filled by the electors of the city, county or other division less than the state, and not less than fifty when the nomination is for an office to be filled by the electors of a township, precinct or ward: Provided, the number of signatures need not in any instance exceed one-fourth of the total number of voters when the nomination

is for an office to be filled by the electors of a county, city, township, precinct, village or ward, and the signatures need not all be appended to one paper: Provided, no person who has been a candidate for any office at a primary shall be a candidate by petition or certificate of nomination for the office for which he was defeated, at the next general election: Provided, further, candidates nominated under the provisions of this section shall be termed "candidates by petition" and upon the ballot upon which their names are printed shall be printed after such names the words "By petition. Each elector signing a certificate shall add to his signature his place of business, his residence and address. Certificates of nomination for all county, district or precinct offices, including members of both branches of legislature, shall be filed with the county clerk of the respective counties wherein the officers are to be elected, and in case the legislative districts from which such candidate is to be elected embraces more than one county, then in that case the certificate shall be filed with the county clerk of each county included in such district. Certificates for the nomination of the judge of the district court shall be filed with the county clerk of each county embraced in such judicial district. Certificates of nomination for municipal offices shall be filed with the municipal clerk of such municipal corporation wherein the officers are to be elected. (1907 p. 203; 1915 p. 102; Ann. 5810; Comp. 3326c.)

2141 Sec. 203. Time and place for primary.—There shall be a primary election held at the regular polling place in each precinct on the third Tuesday in August, 1914, and every two years thereafter, except as otherwise provided in the two next following sections, for the nomination of all the candidates, except those exempted from the provisions of this article, to be voted for at the November election; also for preference vote for United States senator whenever such senator is to be elected by the next legislature at the next session thereof. (1907 p. 204; 1909 p. 245; 1911 p. 216; 1913 p. 383; Ann. 5864; Comp. 3326d.)

2142 Sec. 204. Same—presidential year.—In the year 1912 and every four years thereafter the primary shall be held on the third Tuesday in April, at which a preference vote for president and vice-president of the United States as provided for in this article shall be had. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2143 Sec. 205. Same—special primaries.—Any primary other than those provided for in this article shall be held on Tuesday, four weeks before the election, except in cities of the metropolitan class and in cities of the first class having over twenty-five thousand inhabitants, wherein it shall be held on Tuesday, five weeks before the day of election. (1907 p. 204; 1909 p. 245; 1911 p. 217; Ann. 5864; Comp. 3326d.)

2144 Sec. 206. Place for holding primary elections.—The primary election shall be held in each election district at the place where the last election was held, or such other place as may be lawfully designated for the polling place for the election district, and shall be held at the place where registration of voters occurs for the election next ensuing in cities where registration is required. (1907 p. 207; Ann. 5871; Comp. 3326k.)

2145 Sec. 207. Presidential preference vote.—When candidates for offices of president and vice-president of the United States are to be nominated,

every qualified elector of a political party subject to this article shall have opportunity to vote his preference, on his party nominating ballot, for his choice for one person to be the candidate of his political party for president, and one person to be the candidate of his political party for vice-president of the United States, either by writing the names of such persons in blank spaces to be left in said ballot for that purpose, or by marking with a cross opposite the printed names of the persons of his choice, as in the case of other nominations. (1907 p. 204; 1909 p. 245; 1911 p. 217; Ann. 5864; Comp. 3326d.)

Does not control presidential electors; only morally binding on delegates. State v. Wait, 92 Neb. 313 (138 N. W. 159).

2146 Sec. 208. Nominating presidential candidates—how.—The names of any persons to be voted for as preference for president or vice-president of the United States shall be printed on the primary ballots solely on the petition of their political supporters in Nebraska, without such persons themselves signing the petition or acceptance. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2147 Sec. 209. Presidential candidate named on ballot.—The names of persons in such political party who shall be presented by petition of their supporters to be party candidates for president and vice-president of the United States, shall be printed on the nominating ballot, and the ballots shall be marked, and the votes shall be counted, canvassed and returned in like manner and under the same conditions as to names and petitions and other matters as far as the same are applicable, as the names and petitions of aspirants for the party nominations for the office of governor are now or may be by law required to be marked, filed, counted, canvassed and returned. (1907 p. 204; 1909 p. 245; 1911 p. 218; Ann. 5864; Comp. 3326d.)

2148 Sec. 210. Registration day in presidential years.—In the years in which a preference vote for president and vice-president of the United States is had, the primary election day shall be the first day of registration of voters in all cities where registration is required. The primary election held in presidential years shall be governed by the laws governing primary elections in other years. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2149, 2150 (Repealed 1917, p. 103.)

2151 Sec. 213. Delegates to national convention and national committeemen.—In the years that a president and vice-president are to be elected there shall be elected, at the primary election, delegates and alternates to the national conventions and members of the national committees of the several parties, as follows: Four delegates shall be elected by the voters of the state at large; the remainder of the delegates shall be equally divided between the various congressional districts in the state, and the district delegates shall be elected by the voters of the various congressional districts in the state. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2152 Sec. 214. Nominating petitions for delegates to the national conventions.—Nominating petitions for delegates and alternates at large to the national conventions and for members of the national committees shall contain the names of not less than five hundred electors of each congressional district of the party which such delegates and committeemen are to represent; and the

nominating petitions for delegates and alternates to the national conventions from the congressional districts shall be signed by five hundred electors of the political party and of the district which such delegates are to represent. Such petitions shall be signed by electors residing in at least two-thirds of the counties of said district. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2153 Sec. 215. Same—not more than five per cent of voters need sign.—In no case shall more than five per cent of the total vote of any political party in the state, or in any congressional district, be required to sign the petitions referred to in this article. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2154 Sec. 216. Certificate of election to national committeemen and delegates to national convention.—The secretary of state shall grant certificates of election to persons elected as members of the national committee and as delegates and alternates to national conventions of the several parties subject to the provisions of this article, which certificates shall show the number of votes received in the state by each candidate for president and vice-president of the political party represented by such delegate. (1907 p. 204; 1909 p. 245; 1911 p. 216; Ann. 5864; Comp. 3326d.)

2155 Sec. 217. Nomination papers—where filed.—All nomination papers shall be filed as follows:

First—For officers elective in more than one county, in the office of the secretary of state;

Second—for officers to be voted for wholly within one county, except city officers, in the office of the county clerk of such county;

Third—for city officers, in the office of the city clerk. (1907 p. 206; Ann. 5867; Comp. 3326g.)

2156 Sec. 218. Same—filing fee.—Prior to the filing of such petition, and for the purpose of helping to defray the expense of such primary there shall be paid to the county treasurer for the use of the general fund, of the county of the candidate's residence, by or on behalf of each candidate, a filing fee as follows:

For the office of United States senator.....	\$50.00
For state officers, members of congress and judges of the district court.....	10.00
For county, legislative and city offices.....	5.00

No nominating paper shall be filed until the proper county treasurer's receipt showing the payment of such filing fee shall be presented to the officer with whom such nominating paper is to be filed.

No filing fee shall be required from candidates for regents of the state university or presidential electors. (1907 p. 207; Ann. 5873; Comp. 3326m.)

2157 Sec. 219. Nomination papers—time limit for filing—form.—The name of no candidate shall be printed upon an official primary ballot unless at least thirty days prior to such primary, either he, or twenty-five qualified electors of the party with which said candidate affiliates shall have filed a written application with the proper authority and in substantially the following form:

I (or we), the undersigned, qualified elector (or qualified electors) of _____ precinct (or ward) of _____ county (or city), in the State of Nebraska, affiliating with the _____

party and residing at _____ hereby request that my (or the name of _____) be placed upon the official primary ballot of the said party for the primary election to be held on the _____ day of _____ in _____ as a candidate for the office _____ and I pledge myself to abide by the result of said primary election and qualify if elected.

In case a nomination shall be made by electors other than the candidate said nominee shall, within five days after the date the said certificate shall be filed with the proper officer, file a statement in writing duly verified under oath, stating that he affiliates with the party named in said certificate, that he will abide by the results of said primary, and if elected will qualify and serve as such officer. In case said statement shall not be filed within five days the name of the candidate in the petition shall not be placed upon the primary ballot. (1907 p. 205; 1909 p. 246; 1911 p. 219; Ann. 5866; Comp. 3326f.)

2158 Sec. 220. Candidate for but one party.—The name of any candidate may appear on one or more of the party tickets if the proper filings have been made. But where a candidate seeks nomination on two or more tickets, if he loses the nomination of the majority part, he shall not be permitted to accept the nomination of the minority party, unless the vote received by him from such minority party was in excess of the vote received by him from the majority party. No candidate defeated at the primary election shall be permitted to file by petition in the general election next following. (Laws 1917, p. 111.)

2159 Sec. 221. Notice of primaries.—At least sixty days before the holding of any primary, the governor shall issue his proclamation designating all the offices to be filled by the vote of all the electors of the state, or by those of any congressional, legislative or judicial district and transmit a copy thereof by mail to the county clerk of each county. Upon the receipt of such proclamation such county clerk shall, within ten days thereafter, make and publish a notice of such primary in manner and form substantially as now provided by law for notices of the November election, and all persons to whom said notices may be by said county clerk delivered shall post and publish the same in the same manner as the notices for general elections. In case of city election, the city clerk shall post such notice at the regular polling place in each precinct. Such posting shall be not more than twenty and not less than ten days before such primary election. (1907 p. 204; 1909 p. 246; 1911 p. 219; Ann. 5865; Comp. 3326e.)

2160 Sec. 222. List of candidates prepared by secretary of state and posted by county clerk.—At least twenty-five days before any primary preceding a general election, the secretary of state shall transmit to each county clerk a certified list containing the name and post office address of each person for whom nomination papers have been filed in his office, and entitled to be voted for at such primary, together with a designation of the office for which he is candidate, and the party or principle he represents. Such clerk shall forthwith upon receipt thereof make public, under the proper party designation, the title of each office, the names and addresses of all persons for whom nomination papers have been filed, the date of the primary, the hours during which the polls will be opened, and that the primary will be held at the regular polling place in each precinct. Such clerk shall cause copies of the same to be posted in at least one public place in each precinct in his county, designating therein the location of the polling booth in each election precinct. (1907 p. 206; Ann. 5868; Comp. 3326h.)

2161 Sec. 223. Declination of nomination.—Whenever any person nominated for public office, as in this article provided, shall, at least fifteen days before election, notify the officers with whom the original certificate of nomination was filed, or if nominated at a primary election, as in this article provided, and the office for which he was nominated was an office to be voted for in more than one county, the secretary of state, and if to be voted for in one county alone, the county clerk of the county where such office is to be voted, or if a municipal office the clerk of the city or village, by a statement in writing by him and duly acknowledged, that he decline such nomination, the same shall be void, and his name shall not be printed upon the ballots; but no such declination shall be received after the time above specified. The officer to whom such notification is given shall forthwith inform by mail or otherwise, one or more persons whose names are attached to the original certificate of nomination (provided he was nominated by a convention or committee), or if nominated at a primary election, as provided for in this article, the chairman or secretary of the campaign or party committee of his political party, if there be one, and if not, at least three of the prominent members of his political party in the state, that he has declined such nomination, by mailing or delivering to them personally notice of such fact, and three days shall be given such party, committee or convention to nominate a person to fill such vacancy. (1907 p. 221; Ann. 5901; Comp. 3327o.)

2162 Sec. 224. Objections to certificates of nomination.—All certificates of nomination or nomination statements, which are in apparent conformity with the provisions of this article, shall be deemed to be valid, unless objections thereto shall be duly made in writing within three days after the filing of the same. In case such objection is made, notice thereof shall forthwith be mailed to all candidates who may be affected thereby, addressed to them at their respective places of residence as given in the certificate of nomination or in the nomination affidavits of such persons, on file in that office. Objections to the use of party name may also be made and passed upon in the same manner as objections to certificates and nomination statements. The officer with whom the original certificate was filed, or who made an affidavit to the original nominating statement, shall, in the first instance, pass upon the validity of such objection, and his decision shall be final, unless an order shall be made in the matter by the county court, or by a judge of the district court, or by a justice of the supreme court at chambers, on or before the second Wednesday preceding the election. Such order may be made summarily upon application of any party interested, and upon such notice as the court or judge may require. The decision of the secretary of state, or the order of the judge or supreme court justice, shall be binding on all other county, municipal or other officers with whom certificates of nomination are filed. (1907 p. 222; Ann. 5902; Comp. 3327p.)

Constitutional; confers upon judges judicial and not administrative power to summarily review. *State v. Hallowell*, 77 Neb. 610 (110 N. W. 717). Mandamus to compel certification cannot be brought until three days elapse from filing certificate. *State v. Junkin*, 87 Neb. 801 (128 N. W. 630).

2163 Sec. 225. Division of party—use of party name.—In case of a division of any party, the secretary of state shall give the preference of party name to the convention held at the time and place designated in the call of the regularly constituted party authorities, and if the other faction

or factions shall present no other party name, the secretary of state shall select a name or title and place the same on the ballot before the list of candidates of said faction. The action of the preceding national convention of such party, regularly called, shall determine the action of the secretary of state or the court in its decision. The secretary of state may be compelled by peremptory order of mandamus proceedings, to perform his duty in this regard. (1907 p. 223; Ann. 5903; Comp. 3327q.)

National committee, when national convention is not in session, decides which is regular convention. *State v. Wait*, 92 Neb. 313 (138 N. W. 159)

2164 Sec. 226. Party affiliation of candidate.—No person shall be entitled to or allowed to file a nomination certificate as provided for in this article, or to have his name placed upon a primary election ballot for any primary election to be held, unless the political party which he states in said affidavit he affiliates with, polled at the last election before the primary election to be held, at least one per cent of the entire vote in the state, county, or subdivision or district in which he seeks the nomination for office. (1907 p. 223; Ann. 5904; Comp. 3327r.)

2165 Sec. 227. Vacancies—how filled.—Should any person nominated die before election, or decline the nomination, or should a vacancy or vacancies arise from any cause before said time, such vacancy or vacancies shall be filled by the majority vote of the proper committee of the same political party. The chairman and secretary of such campaign committee shall thereupon make, and file with the proper officer a certificate setting forth the cause and manner as herein required to be filed by the chairman and secretary of convention shall make and file with the proper officers a certificate in form such party shall fill such vacancy, and the chairman and secretary of such was nominated, the name of the person for which the new nominee is to be substituted, the place of residence of such person so nominated, and, if in a city, the street or number of the residence or place of business, together with campaign or political committee of such name, then a mass convention of of the vacancy, the name of the person so nominated, the office for which he to by them before some officer authorized to administer oaths. If there be no the name of the political party with which the party so nominated affiliates such officers with the names and places of their residence, and severally sworn and which said committee represents. Such certificate shall be signed by certificate of nomination or the nomination statement provided for in this the campaign or party committee; said certificate so made, executed and days before the election, have the same force and effect as the original sworn to in the manner prescribed herein shall, upon being filed at least eight chapter. (1905 p. 338.)

Presidential electors, accepting nomination from opposing party, create vacancy, state central committee may fill. *State v. Wait*, 92 Neb. 313 (138 N. W. 159).

2166 Sec. 228. Nomination of candidate by convention.—All nominations for candidates of any political party for office to be filled at a special election or any other office to be filled by the electors, excepted from the provisions of this article, shall be nominated by a convention or committee of their political party, which nomination shall be in writing, shall contain the name of the office for which each person was nominated, the name and residence of each person and, if in a city, the street, number of residence, and

place of business, if any, and shall designate in not more than five words, the party which said convention or committee represents. It shall be signed by a presiding officer and the secretary of such convention or committee, who shall add to their signatures their respective places of business and take an oath before a qualified officer to administer the same, that the affiants were such officers at such convention or committee, and that said certificate, and the statements therein contained, are true to the best of their knowledge and belief. Such certificate of nomination of candidates for office to be filled by the voters of the entire state, or any division or district greater than a county, including candidates for congress, or any party action taken relative to any proposed constitutional amendment, shall be filed with the secretary of state, except as in this article otherwise provided. Such certificate of nomination for all county, district, township, or precinct officers, including members of both branches of the legislature, shall be filed with the county clerk of the respective counties wherein the officers are to be elected, and in case the legislative districts from which the candidate is to be elected embraces more than one county, then and in that case the certificate shall be filed with the county clerk of each county included in such district; certificates for nomination of the judge of the district court shall be filed with the secretary of state; certificates for nomination of municipal officers shall be filed with the clerk of such municipal corporation wherein the officers are to be elected. It is the intention that the manner provided in this section for the nomination of officers named herein, by a convention or committee, shall apply only where such officers are to be chosen at a special election, township or precinct officers to be elected at a general election or village officers, or members of school boards not members of boards of education. (1907 p. 220; Ann. 5899; Comp. 3327m.)

2167 Sec. 229. Same—when certificate filed.—When nominations are made by a convention or committee, as provided for in the next preceding section, the certificates of nomination to be filed with the secretary of state shall be filed not less than twenty-five days before the day fixed by law for the election of the persons in nomination, and the certificate of nomination herein directed to be filed with the county clerk shall be filed not less than twenty days before election, and the certificates of nomination herein directed to be filed with the municipal clerk shall be filed not less than fifteen days before election. Certificates of nomination for a new party may be filed with the secretary of state or the county or municipal clerk twenty-five or twenty- or fifteen days before the election, as the case may require. (1907 p. 221; Ann. 5900; Comp. 3327n.)

May organize after primaries and place candidates on general election ballot. *Morrissey v. Wait*, 92 Neb. 271 (138 N. W. 186)

2168 Sec. 230. New political party—how formed.—In order to form a new party there shall be present at a mass convention electors to the number of at least five hundred in a state convention, one hundred in a congressional district or county convention, or twenty-five in any precinct, city, village or ward convention, except in cities or counties having a population of fifty thousand or more, when at least two hundred shall be required to participate (1907 p. 223; Ann. 5905; Comp. 3327s.)

The five hundred who sign need not be identical five hundred present at convention. *Morrissey v. Wait*, 92 Neb. 271 (138 N. W. 186).

2169 Sec. 231. Same—name of new party.—Such convention shall adopt a party name, but the name of any old political party or any word forming any part of such name shall not be adopted, and electors at least to the number respectively above mentioned, and electors to at least the number specified in the next preceding section shall sign an agreement to form such new party and support its nominees at the next election, and upon filing such written agreement with the secretary of state, county, city, or village clerk, as the case may be, together with an affidavit of some qualified elector that he saw all of the persons whose names are signed to such an agreement subscribe the same and he verily believes them all to be qualified electors. (1907 p. 223; Ann. 5905; Comp. 3327s.)

May organize after primaries and place candidates on ballot at general election. *Marrissey v. Wait*, 92 Neb. 271 (138 N. W. 186).

2170 Sec. 232. Same—primary ballot of new party.—Such new party shall be entitled to have a separate party ballot at the next primary election held thereafter: Provided, its candidates for nomination shall be required to file nomination papers signed by at least fifty per cent of those who subscribed the agreement to form such new party. When the name of a candidate appears on a petition presented by a political party or members thereof with the required number of signers, and it is expressly stated in said petition that the candidate is a candidate of two or more parties, each of which shall be entitled to nominate a candidate, then it shall be the duty of the officer making up the ballot to place the name of such candidate or candidates upon the ballot in the same manner as now provided for in the general election law for ballots at the general election. (1907 p. 224; Ann. 5905; Comp. 3327s.)

2171, 2172, 2173 (Repealed 1915, p. 53.)

2174 Sec. 236. Constitutional convention or amendment—how submitted at primary.—At the general primary election next preceding any general election at which any constitutional amendment, or the question of the calling of a constitutional convention, shall by law be required to be submitted to the electors of the state, it shall be the duty of the secretary of state at the same time that he shall certify the names of candidates for state officers to the county clerks, likewise to certify to such county clerks any such amendment or amendments, or the question of the calling of a constitutional convention, to be submitted at the general election, and it shall be the duty of the county clerks to cause to be printed on the primary election ballots of all political parties the question of such constitutional amendments, or the question of the calling of a constitutional convention, in the same manner and form as they are required to be printed on the official general election ballots, and each elector may declare himself in favor of or against any such amendments, or the question of the calling of a constitutional convention, the same as at such general election. The election boards in the various precincts shall make returns of the number of votes in favor of and against any such amendment, or the question of the calling of a constitutional convention, to the county clerk at the same time and in the same manner as upon candidates for nomination, and such returns shall be canvassed by the county canvassing boards with other returns, and the county clerks shall make returns to the secretary of state of the votes upon such amendments, or the question of the calling of a constitutional convention, with the other returns of this article. Such returns shall be canvassed by the state canvassing board, and if a majority of the electors of any party voting upon such amendment shall declare in

favor of or against any such amendment, or the question of the calling of a constitutional convention, such declaration shall be considered as a portion of the ticket of such party and shall be so certified by him to the various county clerks. (Laws 1917, p. 111.)

2175 Sec. 237. Judges and clerks of primary elections.—All primary elections provided for in this article shall be presided over by the same judges and clerks of election provided by law to preside over general elections during the time for which they were so appointed, and said judges and clerks shall receive for their services at such primary election, the same compensation as is prescribed by law for judges and clerks of the November elections. And such judges and clerks shall be, in performing their duties as prescribed by this article, subject to the provisions of the general election laws in relation to their several duties and obligations, and liable thereto. (1907 p. 209; Ann. 5876; Comp. 3326p.)

2176 Sec. 238. Ballots.—The method of voting at primary elections shall be by ballot, and all ballots voted shall be printed as herein provided. On the fourteenth day before the primary election, the county clerk, or city clerk in the case of city elections, shall group the candidates for each party by themselves, including those candidates certified to him by the secretary of state, and shall prepare at once, in writing, a separate ballot for each party for public inspection, which he shall post in a conspicuous place in his office, these ballots to be prepared in the following manner: The official primary ballot shall be printed substantially as is required by law for official ballots used at November elections, except that names of candidates where there are more than one candidate for the same office shall be rotated and not placed alphabetically, but according to the following plan: The form shall be set up with the names in the order in which they are placed upon the sample ballot prepared by the county clerk. In printing the tickets for the various election districts the positions of the names shall be changed in each office division for each election district. In making the changes of position the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the column so that the name that was second before the change shall be first after the change. Sample ballots shall be printed in the same way. There shall be no printing on the back of the ballots and said ballots shall all be uniform in size, color and quality of paper and in arrangement and style of printing except as above provided. (1907 p. 206; 1909 p. 247; 1911 p. 220; Ann. 5869; Comp. 3326i.)

2177 Sec. 239. Opening and closing polls.—At the primary elections held under this article for the November election in cities where registration is required the polls shall be opened at 8 o'clock A. M., and closed at 8 o'clock in the evening. In all other places, and at primary elections at all other times when a primary election is held, polls shall be opened at 8 o'clock A. M., and remain open until 8 o'clock in the evening; but if the judges and clerks shall not attend at the hour of opening, or if it shall be necessary for the electors present to appoint judges or clerks, or any of them, the polls may then be opened at any time before the time for closing them shall arrive, as the case may require. If at the hour of closing there are any electors in the poll-

ing place or in line at the door desiring to vote, and who are qualified to register and participate therein, and have not been able to do so since appearing at the polling place, said polls shall be kept open reasonably long enough after the hour for closing to allow those present at that hour to register and vote. No one arriving after the hour of 8 P. M. shall be entitled to register and vote because the poll may not actually be closed when he arrives. (1907 p. 208; 1915 p. 100; Ann. 5874; Comp. 3326n.)

2178 Sec. 240. Ballot boxes.—The county board shall provide a sufficient number of ballot boxes with a sufficient number of locks and keys, at the expense of the county, for the several precincts or districts within which the primary election is to be held. (1907 p. 208; Ann. 5875; Comp. 3326o.)

2179 Sec. 241. Qualification of voters.—Any qualified elector desiring to vote at any primary election held under the provisions of this article, shall be entitled to participate in such primary election upon presenting himself at the polling place where he is entitled to vote, but he shall not be entitled to receive a primary ballot, or be entitled to vote at such primary election, until he shall have first stated to the judges of said primary election what political party he affiliates with, except as provided in the next six following sections. (1907 p. 209; 1909 p. 249; 1911 p. 221; Ann. 5878; Comp. 3326r.)

Requiring statement of political affiliation is proper. *State v. Drexel*, 74 Neb. 776 (105 N. W. 174.)

2180 Sec. 242. Qualifications of voters in cities where registration of voters is required.—In cities where registration is by law required, no voter shall receive a primary ballot or be entitled to vote until he shall have first been duly registered as a voter in the manner provided by law: Provided, in cities where registration is by law required, no unregistered elector shall be permitted to vote unless he be a first voter, or shall have moved into the precinct since the last preceding day of registration, and then only upon affidavit made by said voter, establishing the fact that he is a first voter or that he has moved into the precinct since the last preceding day of registration. (1907 p. 208; 1909 p. 249; 1911 p. 221; Ann. 5879; Comp. 3326s.)

2181 Sec. 243. Unregistered elector—swearing in vote.—In the event that any qualified elector has failed to register as provided by the registration laws of the city in which he resides, he shall not be entitled to vote in a primary election until he has subscribed and sworn to an affidavit giving as a reason why he did not register; first, that he was absent from the city on all of the registration days; or, second, that he could not register on any of the registration days because of the sickness of himself or members of his family; or, third, that he was otherwise unavoidably detained from registering on all of the registration days. When the third reason is given the elector shall set forth in his affidavit facts showing that it was impossible for him to register on any of the registration days. (1907 p. 208; 1909 p. 249; 1911 p. 221; Ann. 5879; Comp. 3326s.)

2182 Sec. 244. Same—affidavit.—The foregoing affidavit shall be signed by the elector in the presence of and be sworn to before the city clerk. Before subscribing to the said affidavit the elector making it shall be identified by two freeholders residing in the voting precinct of the elector making the

affidavit, and said freeholders shall appear in person before the city clerk to make said identification. The elector shall include in his affidavit the names and the city addresses of the freeholders who have identified him. (1907 p. 208; 1909 p. 249; 1911 p. 222; Ann. 5879; Comp. 3326s.)

2183 Sec. 245. Same—certificate.—The city clerk shall deliver the affidavit above provided for to the person making the same and said affidavit shall be presented and delivered, by the elector, to the board of election in the precinct or ward in which the elector resides at the time the elector presents himself to vote. No person shall be permitted to vote in any city where registration is by law required who has not been registered in the manner provided by law, or who does not comply with the provisions of this and two next preceding sections and present the affidavit as provided. Upon compliance with the above provisions and the presentation of the said affidavit, an unregistered elector shall be entitled to receive a ballot of the political party with which he affiliates and shall be entitled to cast the same. (1907 p. 208; 1909 p. 249; 1911 p. 222; Ann. 5879; Comp. 3326s.)

2184 Sec. 246. Record of votes sworn in.—The city clerk shall keep a record, similar in form to the books used by the registrars in said city, in which record the city clerk shall enter the names of all persons making the foregoing affidavits, and shall also note in said record, under proper headings, the information concerning the person making the affidavit that is entered by the registrars at the time a voter is registered, and shall also note in said record the names and the addresses of the freeholders who identified the person making the affidavit. (1907 p. 208; 1909 p. 249; 1911 p. 222; Ann. 5879; Comp. 3326s.)

2185 Sec. 247. Form of affidavit.—The affidavit above provided for shall be substantially in the following form:

“State of Nebraska,
County, ss.

“I do solemnly swear (or affirm) that I am a citizen of the United States (or have declared my intentions to become such), that I have been an inhabitant of the State of Nebraska for the last six months, and the county of _____ for the last forty days, and of _____ precinct (or ward) for the last ten days; that I have attained the age of twenty-one years to the best of my knowledge; that politically I affiliate with the _____ party and I intend to support a majority of the candidates of said party in the coming election; that I did not register on any of the regular registration days for the reason (here state the grounds either that he was absent from the city on the registration days or that he was sick or that there was sickness in his family on said registration days, and that such sickness was of such a nature as to prevent his registration or that he was unavoidably detained from registering, setting forth facts showing that it was impossible for him to register on any of said registration days) that because of the foregoing I was prevented and was not permitted to register as a voter in _____ precinct (or ward); that I have been identified by _____ and _____ (give full name and city address) freeholders residing in the precinct (or ward) of my residence.”

(1907 p. 208; 1909 p. 249; 1911 p. 223; Ann. 5879; Comp. 3326s.)

2186 Sec. 248. Registering party affiliation on registers.—For the purpose of providing a system of registration of party affiliation, it shall be the duty of the mayor and city council of each city wherein registration is required to provide in the registration books used for the purpose of registering persons who are qualified to vote at the next general election, space for the registering of all persons who may desire to participate in any primary election. Such space shall be provided in said registration books immediately following the last perpendicular rule column in such books and shall be headed as follows: “Party affiliation.” It shall be the duty of the supervisors of such regular registrations to ask each person who applies to be registered the ques-

tion, "with what political party do you desire to affiliate?" The name of the political party given by such elector so applying to be registered shall be recorded in the column provided in such registration books for that purpose. In case any party applying does not desire to state his party affiliation, he shall not be required to do so nor shall his failure to do so act as a bar to his registration for the purpose of voting at any election other than a primary election, but shall debar him from voting at any primary election. (1907 p. 208; 1909 p. 249; 1911 p. 223; Ann. 5879; Comp. 3326s.)

2187 Sec. 249. Party affiliation noted in poll book.—Upon any person entitled to vote at the primary election stating the name of the political party with which he affiliates, the clerks of said primary election shall thereupon, after the name of the person voting, write the name of such political party in the column of the poll book prepared for that purpose. (1911 p. 227; Ann. 5881; Comp. 3326u.)

2188 Sec. 250. List of voters by party prepared by city clerk.—The city clerk of each city wherein a registration of voters is required by law, shall immediately after each registration day compile an alphabetical list of the voters of each of the political parties in each precinct in such city, and within five days after each day of registration he shall furnish to the chairman or secretary of each political committee of his city and county, a certified copy of such lists, and also keep a copy of the same accessible to public inspection. He shall also, on the day of the primary, furnish to the officers of the primary election in each precinct, a certified copy of such list for the purpose of determining whether or not any person who desires to vote at such primary was registered at the last registration as affiliating with the party the ballot of which he desires to vote at such primary. (1907 p. 211 Ann. 5882; Comp. 3326v.)

2189 Sec. 251. Folding ballots—how.—When the elector has prepared his ballot he shall fold the same with the edges upon which are the signatures of the judges uppermost, and so fold so as to conceal the face thereof and all marks thereon, and hand the same to the judge of the primary election who is in charge of the ballot box. (1907 p. 211; Ann. 5882; Comp. 3326v.)

2190 Sec. 252. Challenge—grounds for.—The right of any person to vote at a primary may be challenged upon the same ground, and his right to vote be determined in the same manner, as at a general election. (1907 p. 212; Ann. 5883; Comp. 3326w.)

2191 Sec. 253. Challengers.—The party committee of each political party may appoint, in writing, one party agent or representative, with an alternate for each, who shall act as challengers for their respective parties or elements therein. (1907 p. 212; Ann. 5883; Comp. 3326w.)

2192 Sec. 254. Challenge of voter.—If the right of such person to vote be challenged, one of the judges of said election shall then propound to such person the questions provided for by law to be propounded to a voter at a general election when challenged, and in addition thereto the judge shall propound the following questions: 1. What political party do you affiliate with? 2. Do you intend to support the candidates of such political party, or majority of them, at the next election? If the challenge be not then determined in favor of such person by the judges of said primary election and

be not withdrawn, he shall not be allowed to vote until he shall have taken the following oath:

"You do solemnly swear (or affirm) that you are a citizen of the United States (or have declared your intention to become such); that you have been an inhabitant of the State of Nebraska for the last six months, and of the county of _____ for the last forty days, and of this precinct for the last ten days; that you have attained the age of twenty-one years, to the best of your knowledge; that politically you affiliate with the _____ party; and that you intend to support a majority of the candidates of said party at the coming election."

It shall be the duty of the clerks of said primary election to write at the end of such person's name "sworn." Said voter shall then be allowed to vote the ticket of the party with which he affiliates. A judge of such primary election shall instruct the voter that he is to vote for his choice for each office using only the ballot of the party with which he affiliates, and that he must return the ballot with the edges folded upon which are the signatures of the judges uppermost. (1907 p. 210; 1909 p. 250; 1911 p. 225; Ann. 5880; Comp. 3326t.)

2193 Sec. 255. Time allowed employees to vote at primary.—Any person entitled to vote at a primary election shall, on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two hours between the time of opening and closing the polls, and such voter shall not, because of so absenting himself, be liable to any penalty nor shall any deduction be made, on account of such absence, from his usual salary or wages: Provided, however, application for such leave of absence shall be made prior to the day of the primary. The employer may specify the hours during which the employee may absent himself. (1907 p. 217; Ann. 5894; Comp. 3327h.)

2194 Sec. 256. Canvass and returns by precinct and county boards.—Canvass and returns of votes cast shall, except as herein otherwise provided, be made in the same manner and by the same officers as the canvass of general elections. The party committeeman of the precinct, in a precinct canvass, the chairman or secretary of the county committee in a county canvass, and the state committee in a state canvass, or some duly appointed agent to represent each party, shall be allowed to be present and observe the proceedings. The county canvass of the returns of the primary shall be made by the same officers in the manner provided by law for the canvass of the returns of general election. The canvassers shall meet at ten o'clock A. M. on the Friday following the primary and canvass such returns.

The county canvassing board shall, after completing the canvass of the votes cast at the general primary within said county, adjourn until the second Friday succeeding the primary, at which time they shall reconvene and canvass and make return of the votes cast by absent voters who are in the military and naval service of the United States or of this State. The canvass of votes cast at a primary shall not be completed until said canvassing board has canvassed and returned the votes cast by the absent voters in the military and naval service of the United States or of this State. Said canvassing board shall issue whatever additional abstracts, or duplicates, are necessary to properly carry out the provisions of the act permitting absent voters in the military and naval service of the United States to cast their ballots. Their returns shall contain the whole number of votes for each candidate of each political party, and a duplicate as to each candidate of each political party, shall be delivered to the county chairman of such party. The canvassers shall also make an additional duplicate return in the same form as above provided, showing the votes cast for each candidate and voted for wholly within

the limits of the county. The county clerk shall send to the secretary of state, by registered mail, one complete copy of all returns as to such candidates, and he shall likewise send to the chairman of the State Central Committee of each party, a duplicate copy of the terms last described relating to such candidates of each such party. (Laws 1918, Special Session, p. 33.)

2195 Sec. 257. State Canvass.—The board of canvassers provided for by law to canvass returns of a general election, shall constitute the state board of canvassers of primaries, and all the provisions of law relating to the canvass of the return of a general election shall, as far as applicable, apply to the canvass, return and certification of the secretary of state of such primary. Such board shall meet at the office of the Secretary of State at ten o'clock A. M. on the second Tuesday succeeding the primary. After the state canvassing board has completed its canvass of the votes cast at the general primary it shall then proceed to canvass the vote cast by absent electors who are in the military or naval service of the United States or of this State. Said canvassing board shall not make a return until it has canvassed the votes cast by absent voters who are in the military or naval service of the United States or of this State. (Laws 1918, Special Session, p. 34.)

2196 Sec. 258. City canvass.—The canvass of the returns of a city primary shall be made by the mayor, the city clerk and the treasurer of such city, any two of whom shall constitute a quorum. Such board of canvassers shall meet at 11 o'clock in the forenoon of the second day following the city primary and canvass the vote substantially as provided in the two next preceding sections. They shall make and certify duplicate returns as to the votes cast for the candidates and forthwith certify and file one complete return with the city clerk. (1907 p. 213; Ann. 5887; Comp. 3327.)

2197 Sec. 259. Recount.—Whenever the candidate for any office under the primary law desires a recount of the votes he shall within three days after the canvassing board has completed its count, file with the canvassing board an affidavit requesting and setting forth his reasons for requesting the same. He shall also state in said affidavit the names of the other candidates whose votes he desires recounted. Upon filing such affidavits the canvassing board shall, within one day thereafter, proceed to recount the votes of the candidates named in the affidavit or affidavits filed in the above manner: Provided, no candidate shall be entitled to a recount of the votes, by such canvassing board, cast for any candidate when it appears to said canvassing board that the vote for said candidate is sufficiently large that the recount of the same would not result in the nomination of the affiant: Provided, further, this provision shall not apply to the rights of the affiant in seeking a recount in court. (1907 p. 213; Ann. 5887; Comp. 3327.)

Whether recount applies to any but city primaries, *quaere*. *Whedon v. Brown*, 83 Neb. 130 (118 N. W. 1086).

2198 Sec. 260. Party candidates.—The person receiving the greatest number of votes at a primary as the candidate of a party for an office shall be the candidate of that party for such office, and his name as such candidate shall be placed on the official ballot at the following election. (1907 p. 213; 1913 p. 215; Ann. 5886; Comp. 3326z.)

Names written in on ballots of one party not added to votes received on regular ticket. *State v. Sheldon*, 80 Neb. 4 (113 N. W. 802).

2199. Sec. 261. Certificate of Nomination.—The County Clerk or other officer charged with duty of canvassing the result of such primary shall within

three days after such result is ascertained mail by registered letter notice of said nomination to each candidate nominated by any party at such primary; and such candidate shall within ten days thereafter file his acceptance of such nomination so received with the proper officer, or his name shall be omitted from the official ballot as the candidate of such party. As soon as the state canvass of a primary shall be certified to him, the secretary of state shall make a certified statement of the result of such primary as to candidates for state officers and members of Congress, and any other candidates whose district extends beyond the limits of a single county, and shall mail to the chairman of the State Central Committee of each party so much of such certificate as relates to his party; provided, however, that no certificate of nomination shall be mailed or any notice given to any candidate for office until after the vote cast by absent voters in the military or naval service of the United States or of this State has been canvassed and returned. The time of mailing or giving the notices or nomination as provided for in this Section shall commence to run on the date that the canvass of the vote cast by absent voters in the military and naval service of the United States or of this State is completed. (Laws 1918, Special Session, p. 34.)

2200 Sec. 262. **List of candidates prepared by secretary of state.**—Not less than fourteen days before any November election the secretary of state shall certify to the county clerk of each county within which any of the electors may vote for the candidates for such offices, the name and description of each person nominated for any such office as specified in the nomination papers. (1907 p. 213; 1913 p. 215; Ann. 5886; Comp. 3326z.)

2201 Sec. 263. **Tie vote.**—In case of a tie vote, the tie shall forthwith be determined by lot of the canvassers. (1907 p. 216; Ann. 5892; Comp. 3327f.)

2202 Sec. 264. **Contest of primary election.**—Authority and jurisdiction are hereby vested in the county court and in the judges thereof in vacation, to hear and determine primary election contests, as to county, city or precinct officers. When any petition to contest a primary election shall be filed in the office of the clerk of the county court within twenty-four hours after the board of canvassers has made its return, said petition shall forthwith be presented to the judge thereof, who shall note thereon the day of presentation, and shall note thereon the day when he will hear the same, which shall not be more than five days thereafter, and shall order issuance of summons to each defendant named in the petition. (1907 p. 216; Ann. 5892; Comp. 3327f.)

District court has no original jurisdiction of contest over legislative office. Whedon v. Brown, 83 Neb. 130 (118 N. W. 1086.) Remedy adequate; mandamus will not lie to compel board to canvass rejected ballots. Crosby v. Haverly, 82 Neb. 565 (118 N. W. 123).

2203 Sec. 265. **Same—hearing.**—Summons shall forthwith issue to each defendant named in the petition and shall be served in the same manner as is provided in cases in civil action. The case may be heard and determined by the county court in term time, or by the judge thereof in vacation, at any time not less than two days after service of process, and shall have preference in the order of hearing to all other cases. The petitioner shall give security for costs. (1907 p. 216; Ann. 5892; Comp. 3327f.)

2204 Sec. 266. **Same—findings—judgment—appeal.**—If, in the opinion of the court in which the petition is filed, the grounds for contest alleged are

insufficient in law, the petition shall be dismissed. If the grounds alleged in the petition are sufficient, the court shall proceed in a summary manner, and may hear evidence, examine the returns, recount the ballots, and make such orders and enter such judgments as justice may require. The court shall hear and determine the case within two weeks of the filing of the petition. Immediately upon rendering judgment in any such contest, it shall be the duty of the county judge to at once certify the judgment to the county clerk, who shall cause to be printed on the official ballots the name or names of those whom such county court shall have so decided to have been nominated at such primary, and any appeal taken from such judgment of the county court shall not act as a supersedas to prevent the county clerk from so doing. (1907 p. 216; Ann. 5892; Comp. 3327f.)

2205 Sec. 267. Forms prepared by secretary of state.—It shall be the duty of the secretary of state and attorney general, on or before July 1st, 1911, to prepare all forms necessary to carry out the provisions of this article, which forms shall be substantially followed in all primaries held in pursuance hereof. Such forms shall be printed with copies of this article for public use and distribution. (1907 p. 217; 1909 p. 251; 1911 p. 227; Ann. 5893; Comp. 3327g.)

2206 Sec. 268. Expenses of primary election—how paid.—All ballots, blanks and other supplies to be used at any primary, and all expenses necessarily incurred in the preparation for or conducting such primary shall be paid out of the treasury of the city or county, as the case may be, in the same manner, with like effect, and by the same officers as in the case of general elections. (1907 p. 207; Ann. 5872; Comp. 3326 l.)

2207 Sec. 269. Political conventions—delegates.—Each of the various political parties shall hold a delegate state convention on the last Tuesday of July of each year. Said convention shall formulate and promulgate a state platform, shall select a state central committee, and shall select electors of president and vice president, the names of whom shall be certified to the governor by the officers of any such convention. No action shall be taken by said state convention either for or against any person who is or may be a candidate for any office that is to be voted on at the next general election. There shall be held a delegate county convention in each county prior to the time of holding the state convention provided for in this section, at which convention the delegates to the state convention and the members of the county central committee shall be selected; said convention shall transact such other business as shall properly come before it: Provided, the delegates to such state or state and congressional conventions shall be apportioned by such committees to the several counties upon the vote cast at the last election for president and vice-president in the respective counties; and, provided further, each county shall be entitled to at least one delegate in such convention or conventions. (1917 p. 104.)

2208 Sec. 270. Party committees.—The state, congressional, judicial and legislative committees of the various political parties shall be chosen in such manner as may be determined by the state central committee of each respective party. County committees shall be selected by the delegate county convention. (1907 p. 214; 1909 p. 254; Ann. 5889; Comp. 3327b.)

ARTICLE XII.

NON-PARTISAN JUDICIARY.

SECTION

2209. Judges—how nominated—non-partisan.

SECTION

2210. Ballots for primaries—election.
2211. Ballots for general election—election

2209 Sec. 271. **Non partisan election—judicial—schools.**—The judges of the supreme court of the State of Nebraska, the judges of the district court and county judges, state superintendent of public instruction, county superintendent and regents of the State University, shall hereafter be nominated, regardless of the political affiliation in the manner following:

At least ten days prior to the date of holding the general primary election in the State of Nebraska, all candidates for supreme judge, for district judge, and county judge, state superintendent of public instruction, county superintendents and regents of the State University, shall file with the officer whose duty it is to issue the certificate of election to the aforesaid officers, a statement of such candidate, in substantially the following form, to-wit:

PETITION AND AFFIDAVIT OF _____ CANDIDATE
FOR _____

STATE OF NEBRASKA }
COUNTY OF _____ } ss.

I, _____, being first duly sworn, say that I reside at _____, in the city of _____, in the county of _____, in the State of Nebraska; that I am legally qualified to hold said office; that I am a candidate for the nomination for the office of _____ to be voted upon at the primary election to be held on the _____ day of _____, 19____, and I hereby request that my name be printed upon the official primary ballot for the nomination at such primary election, for the office of _____

Subscribed and sworn to before me by the said _____ this _____ day of _____, 19_____.

And such person if he be a candidate for supreme judge, shall, at the same time, file with such statement a petition signed by two thousand five hundred duly qualified voters of the State of Nebraska; and if such person be a candidate for the office of district judge, file a petition signed by not less than five per cent of the duly qualified voters residing within said judicial district; and if such person be a candidate for the office of county judge, he shall file a petition signed by not less than ten per cent of the duly qualified electors within said county; and if such person be a candidate for the office of state superintendent of public instruction, county superintendent, or regent of the State University, he shall file a petition signed by not less than twenty-five qualified electors of the state, and in case of a candidate for county superintendent, such signers shall reside in the county where such candidate seeks to be elected. The aforesaid petitions shall be similar in form to those now provided for in requesting candidates to run for office by petition. All of the aforesaid petitions shall request the candidacy of the person named therein for the office named therein. All persons who are candidates for such positions shall also file with said petitions and affidavits a receipt for the sum of ten dollars signed by the county treasurer of the county in which such person resides, said amount to be used to help defray the expens of said primary.

The statements, affidavits, and petitions filed by any such candidates shall not in any way, refer to or designate the political affiliation of the candidate. (Laws 1917, p. 113.)

2210 Sec. 272. Ballots for primaries.—Notwithstanding any more general law respecting primary elections in force in the state, the official ballot to be prepared and used at such primary, when relating to judicial officers, state superintendent of public instruction, county superintendents and regents of the State University, shall simply place the names of all such candidates upon the primary ballot without any political designation, circle or mark whatever; and the ballot to be used at such primary shall be substantially in the following form, to-wit:

NON-PARTISAN BALLOT

Candidates for Supreme Judge. Vote for only.....

Candidates for District Judge.
For.....Judicial District. Vote for only.....

Candidates for County Judge. Vote for only one

Candidate for State Superintendent. Vote for only one

Candidates for County Superintendent. Vote for only one

Candidates for Regents of the State University. Vote for only.....

In all other respects the paper ballot to be used in such primary shall be the same as authorized by the "Australian Ballot Law" of this state. In printing the aforesaid ballot, the names shall not be arranged alphabetically, but shall be rotated according to the following plan, to-wit:

The form shall be set up by the printer with the names in the order in which they are placed on the ballot by the county clerk or other official, whose duty it shall be to have the ballot prepared, and in printing the ballot for the various election districts or precincts, the position of the name in each office division shall be changed for each election district or precinct. In making the change of position the printer shall take the line of type containing the name at the head of the form in such office division, and for each election district or

precinct, and place it at the bottom, shoving up the column so that the name in each office division for each election district or precinct that was second before the change shall be first after the change.

It shall be the duty of the election boards in the various election districts and precincts in the State of Nebraska, to deliver one of the aforesaid ballots to each qualified elector along with the regular primary official ballot, when said elector presents himself to vote at said primary election. After receiving such ballot from the election officials endorsed as by law provided, the voters shall mark and cast such ballot. The general laws of this state relating to the assistance of voters marking said ballots and the canvassing of the same, declaring the result, and certifying said results to the proper officials shall apply; that is, the general primary laws of the state, except in so far as the same have been modified and changed by the provisions of this act shall govern and control. (Laws 1917, p. 114.)

2211 Sec. 273. Ballots for general elections.—After said primary election, held as aforesaid, the county clerk or other official whose duty it is to prepare the official ballot for the general election to be held in this state, shall prepare a separate ballot similar and substantially in the same general form and the names rotated on said ballot as hereinbefore provided for in this act for the nomination of judicial officers, state superintendent of public instruction, county superintendents and regents of the State University, at the primary election; and said county clerk or other official shall place on said separate ballot, in each office division, twice as many names as there are places to be filled at the said general election. Said names shall be the names of the persons who received the highest number of votes for the office for which they were candidates in the primary. If more than one person was a candidate for the same position in the primary and the county clerk or other official, in preparing the separate official ballot for the general election, shall place thereon the names of the two persons who received the highest number of votes in said primary for the position for which they were candidates, but in no event shall the names of the official ballot in each office division be more than twice the number of offices to be filled at the said general election. The candidate or candidates receiving the highest number of votes at said general election shall be declared duly elected to the office or offices for which they were candidates. In all other respects the general laws in force in this state respecting the holding, conducting and declaring the results of any such general election shall apply so far as the same are applicable and not inconsistent with the provisions of this act. (Laws 1917, p. 116.)

ARTICLE XIII.

REGISTRATION OF VOTERS IN CITIES OF OVER 40,000 AND LESS THAN 100,000 INHABITANTS.

SECTION.

1. Supervisor of registration.
2. Register cards.
3. Supplies for supervisors of registration.
4. Registration of voters.
5. Method of registration.
6. Who may register.
7. Removal of voters—correct register.

SECTION.

8. Registration as in two precincts prohibited.
9. List of voters—supervisors prepare.
10. Precinct defined.
11. Deputy supervisor of registration.
12. Cost—expenses.

Sec. 1. **Supervisor of Registration.**—That the office of Supervisor of Registration be and the same hereby is created in all cities of the first class having a population of more than forty thousand and less than one hundred thousand, except in counties having a population of one hundred fifty thousand and over. The city clerk of every such city is hereby constituted, ex officio, Supervisor of Registration of such city, and all applicants for registration therein shall present themselves at the office of such Supervisor of Registration for the purpose of registering as by this act provided. (1915 p. 382.)

Sec. 2. **Register Cards.**—It shall be the duty of the Supervisor of Registration to cause to be prepared cards and records for the registration of names and facts required by this act. Said cards shall be known by the general name of registers, and be so arranged as to admit of the entering thereon of all the facts and information required by this act, and shall be ruled and printed in substantially the following form, to-wit:

VOTER'S REGISTER			
Name.....	Ward	Prec't	Sworn
Residence (1).....	(1).....		
Removal			
.....191 to (2).....	(2).....		
Removal			
.....191 to (3).....	(3).....		
Removal			
.....191 to (4).....	(4).....		
Age.....	Naturalized		
Color.....	Declared Intention		
Party Affiliation	Court		
Nativity.....	Date of Papers.....		
Term of residence preceding next succeeding election:			
Precinct (1)	City (2)	County (3)	State (4)
.....
.....
.....
.....

State of Nebraska,]
County] ss.

I, the undersigned, being first duly sworn (or affirmed) state that the statements herein contained are true and correct, and that I am an elector of the city of....., Nebraska, or will be an elector of said city at the next succeeding election to be held therein. (Signature).....

Subscribed in my presence and sworn to (or affirmed) before me this..... day of.....19.....

Supervisor of Registration.

By Deputy

Sec. 3. Supplies for supervisor.—The mayor and council shall provide for the use of the Supervisor of Registration, all the necessary cards, blanks, books, stationery, etc., necessary for carrying out the provisions of this act, and shall also provide for said supervisor a suitable cabinet or filing case which shall contain a compartment or drawer for each voting precinct of the city, and said supervisor shall file the registration cards, when filled out and executed as by this act provided, in such drawers or compartments, each precinct separately and in alphabetical order, and such registration cards, when so filled out and executed, shall constitute the official registers of such city. (1915 p. 383.)

Sec. 4. Registration of voters.—The registers shall be open for the purpose of registering voters at all times during office hours, Sundays and Holidays excepted, up to ten days before any election, at which time said registers shall be closed until after such election. Provided, that during the last week prior to the closing of the registers preceding any election, the office of the Supervisor of Registration shall be kept open in the evenings from the hours of 7:00 P. M. to 9:00 P. M. for the purpose of allowing applicants for registration an opportunity to be registered.

The first registration under the provisions of this act shall be opened and begin on August 1, 1915, and shall remain in force and effect until May 1, 1920, except during ten days preceding any election held within said time. The second registration shall begin on May 1, 1920, and a new registration shall begin on the first day of May every four years thereafter. If a voter is registered, he shall not be required to again register during the period that the registration at which he is registered is in force, unless he change his residence in the city, but may do so if he desires to change his party affiliation, in which event the Supervisor of Registration shall prepare a new card for the applicant in the same manner as an original registration. If a voter is registered and changes his residence within the city he must, in order to vote at succeeding elections, present himself at the office of the Supervisor of Registration and have his registration card corrected with respect to residence, as herein provided, at least ten days prior to any election at which he desires to vote. At the end of any registration period, as provided in this paragraph, all voters shall be required to re-register, as in the first instance, before voting at any election. (1915 p. 384.)

Sec. 5. Method of registering.—The Supervisor of Registration shall receive the application for registration of such legal voters of the city as then are, or on succeeding election will be, entitled to vote who shall personally present themselves for registration, and such only. He shall then examine the applicant as to his qualifications as an elector, and shall immediately in the presence of the applicant enter on the registers, as provided by this act the statements and facts herein provided, in the following manner:

a. On the first line of said card, opposite the word "Name," the full surname and Christian name of the applicant.

b. On the second line, opposite the word "Residence" (1)," the name and number of the street, avenue or other location of the dwelling; if there be a number, but if there shall not be a number, then such clear and definite description of the location of such dwelling as shall enable it to be readily

found; and if there be more than one family residing in the dwelling named by the applicant, in such case said applicant shall give the floor on which he resides (every floor below the level of the ground being designated as the basement, the first floor on or above the level, the first floor, and each floor above that as second or such other floor as it may be), or the number or location of the room or rooms occupied by the applicant.

c. Lines (2), (3) and (4), marked "Removal.....19..... to," shall be left blank at the time of registration, as shall also the blank spaces opposite the numbers "2," "3" and "4" in the upper right hand corner of the card, and under the subdivision "precinct" also. These blank spaces to be used later as removals, if any, are made by the voter.

d. Opposite the word "Age," the age of applicant at last birthday, as stated by him.

e. Opposite the word "Color," the word "White" or "Black" as the case may be.

f. Opposite the word "Party Affiliation," the name of the political party with which the applicant states he affiliates.

g. Opposite the word "Nativity," the state, country, kingdom, empire or dominion, as the fact shall be stated by the applicant.

h. Opposite the word "Naturalized," the word "Yes" or "No," as the fact may be stated.

i. Opposite the words, "Declared Intention," the word "Yes," if the applicant has declared his intention and has not yet been admitted to citizenship.

j. Opposite the word "Court," the name and location of the court out of which papers (either certificate of naturalization or declaration of intention) issued.

k. Opposite the words "Date of Papers," the date of the certificate of naturalization or declaration of intention, as the case may be, as same shall appear by the evidence submitted or presented by applicant in compliance with the requirements of this act. The Supervisor of Registration may require applicants to submit proof of the issuance of certificate of naturalization or declaration of intention.

l. Under the subdivisions of the general heading "Term of Residence, etc.," the period by days, months or years stated by applicant in response to inquiries made for the purpose of ascertaining his qualifications, and making the proper entry.

The applicant must sign the statement of facts so entered on said card and swear (or affirm) before said Supervisor of Registration that the statements made are true, and that he is an elector, or will be an elector at the next succeeding election to be held in such city. The Supervisor of Registration is hereby empowered and authorized to administer all oaths or affirmations as by this act provided.

At the time of entering the facts and information on said registration of the applicant upon an alphabetical register, the Supervisor of Registration card, the Supervisor of Registration shall also enter the name and residence to keep a separate register book for each voting precinct of the city for such purpose. (1915 p. 385.)

Sec. 6. Who may register.—Any person who is a qualified voter in any such city may challenge and contest the right of any person to be registered or may require the name of any registered person to be marked for challenge, and shall be entitled to be heard by the Supervisor of Registration in relation to the correctness of or additions to such registers. Upon any such challenge and application to be heard, the Supervisor of Registration shall set a date for such hearing as early as may be and before ten days prior to the next ensuing election, and shall give such person so registered and challenged actual notice of such hearing, by registered letter a sufficient time before such hearing to enable such person challenged to be present thereat. Any person may be challenged either at the time of registering or after registering, and the Supervisor of Registration shall administer to any person so challenged the oath or oaths provided by law to test the qualifications of challenged voters, and shall also administer to any elector who may be offered as a witness to prove the qualifications of any person claiming the right to be registered the following oath:

“You do solemnly swear (or affirm) that you are a voter in the city of.....; that you will fully and truly answer all such questions as shall be put to you touching the place of residence and other qualifications as a voter of (name of applicant) now claiming the right to be registered as a voter in precinct.....of the.....Ward.”

Said Supervisor of Registration shall then proceed to examine such witness or witnesses and such applicant or registered voter challenged, and from the evidence deduced shall determine the eligibility of such person for registration. (1915 p. 386.)

Sec. 7. Removal of voter—correct register.—Any person whose name appears upon the registers as a qualified voter and who shall have removed from the dwelling place under which his name shall, as a resident, be borne upon the registers, shall personally appear before the Supervisor of Registration and have his registration corrected, and shall swear (or affirm) before said supervisor that the statements made by him with reference to his removal are true and correct. Said supervisor shall then draw a line through the “Residence” of applicant as the same appears upon line (1) on the registration card, and also through the figures representing the precinct and ward in the upper right hand corner of said card; shall enter the corrected residence on line (2) together with the date of the application for correction, and shall also correct the precinct and ward in which the voter resides, the length of time he has resided in said precinct, as provided in the blank space below the figure “2” under the subdivision “Precinct”; shall indicate whether or not the applicant was sworn by writing the word “Yes” or “No” in the blank space provided following the figure “2” in the upper right hand corner of said card. The Supervisor of Registration shall then place the card in the proper drawer and make the proper entry upon the alphabetical book register required to be kept for each precinct, by running a line through the name and residence where it formerly appeared and entering it anew. If, however, the removal has been within the boundaries of the same precinct the name need not be stricken from the alphabetical register, but in such case the residence, as there appearing, shall be stricken out and the corrected residence be written above it with red ink. In case the voter again changes his residence, the change shall be made in the same manner on the card to

number 3, and if the voter again moves, the change shall, in like manner, be made to number 4 on said card. If more than four removals are made by the same person, the supervisor shall substitute a new card. (1915 p. 387.)

Sec. 8. **Registration as in two precincts prohibited.**—No person who is registered as residing in one election precinct in any such city shall be registered as residing in any other precinct while the prior registration remains uncorrected. (1915 p. 388.)

Sec. 9. **List of voter—supervisor prepare.**—During the ten days preceding any election the Supervisor of Registration shall make from the registers three typewritten lists, alphabetically arranged, showing the name, residence, age, color and party affiliation of each registered voter in each precinct. Said lists shall contain one blank column headed “Voted..... 19.....,” and the names on said lists shall be numbered, commencing with number 1 on each page. The Supervisor of Registration shall attach his certificate to each list, certifying that it contains a true and correct copy of the names of all the registered voters appearing upon the registers for each precinct, and shall send to each precinct, for the use of the election officials, the typewritten copies for that precinct. Such lists shall be in substantially the following form:

No.	Name	Residence	Age	Color	Party Aff'n	Voted 19
1.
2.
3.
4.

(1915 p. 388.)

Sec. 10. **Precinct Defined.**—The term precinct, as used in this act, shall be construed to mean and include any precinct, ward or other division of territory in any city governed by this act, created, designated and made by ordinance for election purposes. (1915 p. 389.)

Sec. 11. **Deputy supervisor.**—The Deputy city clerk of any such city is hereby made ex-officio Deputy Supervisor of Registration and shall have the same powers as the Supervisor of Registration under this act. (1915 p. 389.)

Sec. 12. **Costs—expenses.**—The costs and expense of all registers, blanks, books, stationery, additional help, and all supplies of all kind and nature necessary to carry out the provisions of this act, shall be paid out of the funds of such city. (1915 p. 389.)

2212 to 2241 (Repealed 1915, p. 382.)

ARTICLE XIV

REGISTRATION OF VOTERS IN CITIES OF LESS THAN 25,000 AND MORE THAN 7,000 INHABITANTS.

SECTION

2241. Registration required in cities of 7,000 to 25,000 inhabitants.
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 2245. Same—certificate of appointment—oath—organization.
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 2248. Expense of registration paid by city.
 2249. No extra pay allowed city clerk.
 2250. Supervisors exempt from jury service.
 2251. Supervisors excused—when—examination.
 2252. Penalty for failure to serve on board.
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SECTION

2256. Registering voter—oath.
 2257. Same—examination.
 2258. Appeal to full board by disqualified voter.
 2259. Challenging right to register.
 2260. Same—notice of hearing.
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 2262. Same—attendance of witnesses.
 2263. Challenger for political parties.
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 2265. List of voters registered—post up.
 2266. List of persons registered to be delivered to election boards.
 2267. Records kept open for inspection.
 2268. Revision of registration for special election.
 2269. Preserving order.
 2270. "Precinct" defined.

2241 Sec. 303. Registration required in cities of 7,000 to 25,000 inhabitants.—In all cities in this state having more than seven thousand and less than twenty-five thousand inhabitants as shown by census there shall be held in the month of November in the year 1903, a general registration of all voters of said cities, and thereafter only a revision of registration of such voters shall be held previous to each election, as provided for in this article. Provided, that prior to the municipal election to be held in cities of this class in the spring of the year 1916 there shall be a general re-registration of all electors of said cities in which all legal voters shall register, and thereafter there shall be a general registration of all voters of said cities every six years. (1903 p. 376; 1915 p. 104; Ann. 8685; Comp. 4903.)

2242 Sec. 304. Time and place for registration.—Such registration and revision of registration shall be held at the office of the city clerk and shall commence on the first Monday of the calendar month next preceding the month in which each and every election, except school district elections, shall be held, and shall end on the Saturday next preceding such election. On each and every election day such boards of registration shall be in session during all the time the polls are open on any election day: Provided, in the years in which a preferential vote is had for president and vice-president of the United States, such primary election day shall be the first day of registration. (1903 p. 376; Ann. 8685; Comp. 4903.)

2243 Sec. 305. Board of registration—appointment.—At the first regular meeting of the city council in the month of August, 1914, in all cities governed by this article, the council shall elect one member of the board of supervisors of registration of said city for the term of two years, and one member for the term of four years, and every two years thereafter; at the first regular meeting of the city council in the month of August, one member shall be elected for a term of four years, which term shall commence on the first day of September following such election. The two supervisors so elected, together with the city clerk of said city, who shall be ex officio member of said board, shall be and constitute the board of registration for said city. (1903 p. 374; 1913 p. 385. Ann. 8680; Comp. 4898.)

2244 Sec. 306. **Same—Qualifications.**—Persons so elected as such supervisors of registration shall be:

First—Citizens of the United States, and of the State of Nebraska;

Second—residents of, and qualified voters in, the city for which he is chosen;

Third—persons who are not candidates for any office to be filled at the election for which such registration is being had;

Fourth—members of opposite political parties; and one shall be selected from the party polling the largest vote in said city at the next preceding general election, and one from the party polling the next largest vote: Provided, in case any two parties unite or combine their vote at said election then, and in that case, they shall be considered as one political party and shall have but one member of said board. (1903 p. 374; Ann. 8680; Comp. 4898.)

2245 Sec. 307. **Same—certificate of appointment—oath—organization.**—The city clerk shall issue and deliver to each of said supervisors of registration, so elected, a certificate of election, and before entering upon the duties of their office, said supervisors of registration shall each take and subscribe to an oath or affirmation that "they will support the Constitution of the United States, the Constitution of the State of Nebraska, and will faithfully and impartially perform the duties of the office of supervisors of registration according to law and to the best of their ability." Said supervisors shall organize by the selection of one of their number as chairman and the city clerk shall be clerk of said board. (1903 p. 374; Ann. 8680; Comp. 4898.)

2246 Sec. 308. **Vacancy.**—Whenever there shall exist a vacancy in the office of supervisor of registration, the same shall be filled by the city council, and the person so appointed shall serve to the end of the unexpired term. (1903 p. 375; Ann. 8681; Comp. 4899.)

2247 Sec. 309. **Compensation of supervisors.**—The supervisors of registration appointed in pursuance of the provisions of this article shall receive for their services the sum of three dollars per day for each day's service at any registration, or revision of registration, but shall not receive pay for more than five days' service at any one registration, or revision of registration, which compensation shall be allowed and paid upon the certificate of the city clerk as to time of service; but no payment shall be made to any person as a supervisor of registration as aforesaid, who has not taken and subscribed the oath or affirmation herein required and who has not during the period of his service fully complied with all the requirements of the law in any wise relating to his duties. (1903 p. 375; Ann. 8682; Comp. 4900.)

2248 Sec. 310. **Expense of registration paid by city.**—The legal compensation of all supervisors of registration, the costs and expenses of all necessary notices, posters, maps, advertisements, registers, books, blanks, stationery and all supplies of any kind, necessary for the performance of their duties, shall, upon proper certificates and vouchers, be paid out of the general fund of said city in the same manner as by law provided for the payment of other expenses of said city. (1903 p. 376; Ann. 8682; Comp. 4900.)

2249 Sec. 311. **No extra pay allowed city clerk.**—No extra pay or compensation shall be allowed the city clerk for his services as supervisor of

registration or as clerk of said board as herein provided, or for any services herein required to be performed by him. (1903 p. 376; Ann. 8682; Comp. 4900.)

2250 Sec. 312. Supervisors exempt from jury service.—Supervisors of registration shall be exempt from jury duty during the time they hold such office. (1903 p. 376; Ann. 8682; Comp. 4900.)

2251 Sec. 313. Supervisors excused—when—examination.—Each and every person elected supervisor of registration, under the provisions of this article, shall, within five days after receiving notice thereof from the city clerk, appear before the mayor of said city for examination; and if found to possess the required qualification, shall, unless excused by the mayor by reason of sickness or some other good and sufficient cause, be bound to serve as supervisor of registration for the term for which he was elected. (1903 p. 376; Ann. 8683; Comp. 4901.)

2252 Sec. 314. Penalty for failure to serve on board.—Any one who has been elected supervisor of registration, as provided in this article, who shall wilfully neglect or refuse to act as such supervisor of registration, or to comply with all the requirements of this article, unless excused by the mayor as aforesaid, shall be fined in any sum not less than ten dollars and not more than one hundred dollars. (1903 p. 376; Ann. 8683; Comp. 4901.)

2253 Sec. 315. Books and blanks.—It shall be the duty of the city clerk of any city governed by this article, under the direction of the mayor and council of said city, to prepare and furnish all necessary registers, books, maps, certificates and other blanks, and all necessary supplies for the use of said registration board, all of which shall be kept in the office of the city clerk, except as herein provided. (1903 p. 379; Ann. 8687; Comp. 4905.)

2254 Sec. 316. Registration books.—It shall be the duty of the mayor and council of any city governed by this article, which shall include all portions of the voting precinct in which said city is situated, to cause to be prepared books for the registration of names and facts required by this article. Said books shall be known by the general name of "Registers" and shall be so ruled in parallel columns and arranged as to admit of the entering, opposite the name of each voter, of the street and number or other designation of place of residence of each voter, the name of each voter who shall apply for registration and the facts as required by this chapter. Such register or registers shall be so divided as to permit the names of the voters of each voting district to be registered by themselves, and the part of such register set apart for each voting district shall be of sufficient size to admit of the registration of eight hundred names, and so prepared that it may be used at each registration of voters, in any city governed by this article, for the period of one year, and, at each revision of registration, had immediately prior to the general election held in November of each year as hereinafter provided, new register or registers shall be prepared and the names of all voters on said registers, not having been erased or dropped from said registers as herein provided, shall be carried forward in the new register by the clerk of the said board.

Said registers shall, as near as may be, on the inside, be in the following form, viz:

Residence	Names	Sworn	Nativity	Color	Term of Residence			Naturalized	Date of Papers	Court	Qualified Voter	Date of Registration	Why Disqualified	Date of Erasing	Why Erased	Voted	Challenged	Party Affiliation	Remarks	
					Precinct	County	State													

(1903 p. 373; Ann. 8679; Comp. 4897.)

2255 Sec. 317. Time of meeting of board.—On the first day of said general registration and on the first day of any revision of registration next after the election of any member of the board by the city council as hereinbefore provided, the board shall meet at the office of the city clerk and organize by the selection of one of their number as chairman and during the time of registration or revision of registration, as provided for in this article, the office of the city clerk shall be open each day between the hours of 9 A. M. and 12 M. and between the hours of 2 and 5 P. M., and on each Saturday during said registration or revision of registration, between the hours of 7 and 9 P. M. also, for the registration of voters; and it shall be the duty of the clerk of the board to be present during such time and to register any person applying for registration. (1903 p. 377; Ann. 8686; Comp. 4904.)

2256 Sec. 318. Registering voter—oath.—When any person shall apply for registration it shall be the duty of the clerk to administer to the applicant the following oath or affirmation, viz:

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

Provided, however, in the absence of the clerk, the oath or affirmation may be administered by one of the other members of the board. (1903 p. 377; Ann. 8686; Comp. 4904.)

2257 Sec. 319. Same—examination.—The applicant shall then be examined as to his qualifications as an elector, and in his presence his answer to the questions propounded to him shall be written down in the register provided for that purpose in the manner following, viz:

First—Under the column “Residence” shall be written the name and number of the street, avenue or other location of the dwelling, if there be a number; but if there be no number, then such clear and definite description of the location of such dwelling as shall enable it to be readily found; and if there be more than one family residing in the dwelling named by the applicant, in such case the applicant shall give the floor on which he resides (every floor below the level of the ground floor being designated as the basement and each floor above that as the second or such other floor as it may be), or the number or location of the rooms occupied by the applicant, and whether rear or front rooms.

Second—Under the column “Name” the name of the applicant, giving the surname and Christian name in full.

Third—Under the column "Sworn" the word "Yes" or "No" as the case may be.

Fourth—Under the column "Nativity" the state, country, kingdom, empire, or dominion, where the applicant was born.

Fifth—Under the column "Color" the word "White" or "Black" or other color as the case may be.

Sixth—Under the subdivisions of the general column of "Term of Residence," the period by days, months or years, which he has resided in the precinct, county, or state respectively, as stated by the applicant.

Seventh—Under the column "Naturalized," the word "Yes" or "No" or "Native" as the fact may be stated: Provided, however, that in case the applicant has not been naturalized, but has made "Declaration of his intention to become a citizen of the United States," the words "First Papers" shall be written under said column.

Ninth—Under the column "Court" the name or designation of the court in which such naturalization was had or such declaration or intention was made, as the same shall appear by the evidence presented or submitted by the applicant in compliance with the requirements of this article.

Tenth—Under the column "Qualified Voter," the word "Yes" or "No" as the fact shall appear, and any person shall be designated as "qualified" who will be qualified on the day of the election for which registration is being had, though for non-age or lack of time of residence he is not qualified at time or registering.

Eleventh—Under the column "Date of Registration," the day, month and year when applicant presented himself for registration.

Twelfth—Under column "Party Affiliation" the name of the political party with which the applicant affiliates. (1903 p. 377; Ann. 8686; Comp. 4904.)

2258 Sec. 320. Appeal to full board by disqualified voter.—On the last three days of said general registration and on the last day of any revision of registration and on each and every day of any election, except school district elections, the board of registration shall be in session at the clerk's office, and any person feeling aggrieved at the action of the clerk in registering him as not a qualified voter, may appeal to the full board, from the action of the clerk; and the board shall hear such evidence as to the qualifications of the applicant as may be produced and the board shall then decide whether such applicant is a qualified voter or not: Provided, however, no registration shall be required to entitle any person to vote at school district elections or elections held for school purposes in any such city. (1903 p. 379; Ann. 8686; Comp. 4904.)

2259 Sec. 321. Challenging right to register.—Any qualified voter of any city governed by this article, may, upon the date of any registration or revision of registration, challenge and contest the right of any person to be registered to vote at said election. (1903 p. 382; Ann. 8690; Comp. 4908.)

2260 Sec. 322. Same—notice of hearing.—It shall be the duty of the clerk of the board of registration to notify the person so challenged to appear before the board on one of the days when the board is in session as herein provided for, (other than the day of any election) at a time named in such notice; and the voter challenging or contesting said registration shall be

notified to appear at the same time: The notices shall be issued and signed by the clerk of the board and shall be served by the chief of police or any policeman of the city without the payment of any fee therefor. (1903 p. 382; Ann. 8690; Comp. 4908.)

2261 Sec. 323. Same—hearing.—A hearing shall be had upon the challenge or contest before the whole board of registration, and the applicant for registration may be again sworn and examined and witnesses may be sworn and examined on the part of the applicant for registration and on behalf of the person contesting or challenging his right to register, and upon completion of the hearing, the board shall by a majority vote of the members of the board decide whether the applicant for registration is a qualified voter or not; and the status of such person as a qualified voter or as being disqualified to vote at the election shall be noted on the registration books. (1903 p. 382; Ann. 8690; Comp. 4908.)

2262 Sec. 324. Same—attendance of witnesses.—The clerk of the board, by virtue of his office as city clerk and under the seal of the city, is hereby authorized to issue subpoenas for witnesses on the part or behalf of either party, which subpoenas shall be served by the chief of police or any policeman of said city without the payment of any fee therefor. Any person who shall wilfully fail, refuse or neglect to appear as commanded in said writ, and any person who shall appear before said board and shall wilfully fail or refuse to testify, having been tendered the same fees as a witness as provided for witnesses in the police court of said city, shall be taken and deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than one and not more than ten dollars. (1903 p. 382; Ann. 8690; Comp. 4908.)

2263 Sec. 325. Challenger for political parties.—At any registration or revision of registration, in any city governed by this article, each political party shall have the right to designate a challenger who shall be assigned such position as shall enable him to see each person as he offers to register and who shall be protected in the discharge of his duties by the supervisors and the police officers of the city. Each political party may remove any challenger appointed by it, and any vacancies which arise from any cause shall be filled by the same party, power or authority that made the original appointment. (1903 p. 384; Ann. 8692; Comp. 4910.)

2264 Sec. 326. Removal or death of voter.—Any person who has registered as a qualified voter for any voting district in any city governed by this article, who shall, at least ten days prior to the day of the election next ensuing, change his place of residence from said voting district to another voting district in the city, or who may desire to register anew his party affiliation, may apply to the clerk of the board, on any day when the registration books are open for the registration of voters as herein provided, and register anew, in the district of his residence, and the clerk shall strike his name from the registration books as previously registered, noting opposite said name the cause of the erasure: Provided, however, when any person shall have moved only from one place to another in the same voting district, it shall only be necessary to report the same to the clerk of the registration board, who shall, in the presence of said voter, change the place of residence as it appears on said registration books to correspond with the new place of residence as stated

by the voter. And when it shall come to the knowledge of the board or the clerk thereof, that any person whose name appears on the registration books as a qualified voter has removed from the city or is dead or, for any cause has ceased to be a qualified voter in the district where he is registered, his name shall be stricken from the registration books and a notation shall be made of the cause of the erasure and how the facts became known to the board, and in case the person is still a resident of the same city, but of another voting district thereof, if such fact is known to the board, a notice by postal card shall be sent to him notifying him of such erasure and the cause thereof. The names of all persons appearing on the registration books as qualified voters, not having been erased as above provided, shall be continued on the registration books at each succeeding revision thereof. It shall be the duty of the board to use all proper care, to the end that only the names of qualified voters shall be carried forward or be allowed to remain on the registration books as qualified voters at each succeeding revision of registration of the voters of the city. (1903 p. 383; Ann. 8691; Comp. 4909.)

2265 Sec. 327. List of voters registered—post up.—It shall be the duty of the clerk of the board of registration, provided for in this article, to prepare and post up in a conspicuous place in his office, on the second Monday of any registration or revision of registration, the names of all persons who then appear on the registration books as qualified voters, adding to the lists on each succeeding Monday the names of such as have registered during the preceding week. Such lists shall remain so posted up in the office of the clerk of the board until the close of the polls of the election for which the registration or revision of registration is being had. (1903 p. 379; Ann. 8688; Comp. 4906.)

2266 Sec. 328. List of persons registered to be delivered to election boards.—It shall be the duty of the clerk, after the closing of the registration on the Saturday next preceding any election, to prepare a certified list of the qualified voters of each election district in the city, as the same appear on the registration books in his office, and to deliver the same, or cause the same to be delivered, to the judges of election of each district at or before the time of the opening of the polls of said election. The names of voters on the lists shall be arranged, as far as may be, alphabetically, or by streets or groups, so as to be easily found thereon. Such lists shall also contain the street and number, or other designation of the place of residence of the voter, and the color of the voter, as such facts appear on the original registration books in his office: A blank column shall be left with a heading at the top "Voted," to be filled up by the judges of election as provided by article VII. (1903 p. 379; Ann. 8688; Comp. 4906.)

2267 Sec. 329. Records kept open for inspection.—All data, statistics, registers and records of every kind and nature, which, under this article, or under any laws of this state, or any ordinance, order, resolution or direction of the mayor and council of any such city are or may be required to be made, ascertained or kept, by or returned to, or filed with, the city clerk, shall, at all times during office hours, be open to inspection, examination, comparison, and copying, by any voter of the city, free of charge. (1903 p. 384; Ann. 8693; Comp. 4911.)

2268 Sec. 330. Revision of registration for special election.—If at any time a special election shall be held in any city governed by the provisions of this article, or in any portion of any such city, the same revision of registration shall be had and made for any such special election, and in the same manner as if the election were a municipal election, for and throughout the city and each and every one of the provisions of this article, not inconsistent with the terms of this section, shall apply with as full force and effect to any such revisions of registration therefor as if the same were for a municipal election in, for and throughout the city. (1903 p. 384; Ann. 8694; Comp. 4912.)

2269 Sec. 331. Preserving order.—The supervisors of registration in any city governed by this article, shall, while discharging any of the duties imposed upon them, have full power and authority to preserve order and to enforce obedience to their lawful commands at and around the place of any registration during the time of said registration; to keep access to the place of registration open and unobstructed and to suppress any and all disorderly conduct that may disturb the board or any person registering or seeking to register. (1903 p. 376; Ann. 8684; Comp. 4902.)

2270 Sec. 332. "Precinct" defined.—The term "precinct," as used in this article, shall be construed to mean and include any precinct, ward or other division of territory in any city governed by this article, created and designated, by ordinance, for election purposes. (1903 p. 385; Ann. 8695; Comp. 4913.)

ARTICLE XV.

PRESIDENTIAL ELECTORS

SECTION

2271. Certificate of election of presidential electors.
2272. Meeting of presidential electors—vacancies.

SECTION

2273. Casting vote for president
2274. Compensation of electors.

2271 Sec. 333. Presidential electors—certificate.—The certificate of appointment for presidential electors shall be served on each person appointed notifying him to attend at the seat of government at noon of the Saturday preceding the second Monday of January next after his appointment and report himself to the governor as in attendance, and the governor shall at the same time designate and appoint one of the electors so appointed for the purpose of transmitting the sealed lists of persons voted for as President and Vice-President to the president of the Senate of the United States. (Laws 1917, p. 105.)

2272 Sec. 334. Meeting of presidential electors—vacancies.—The electors so attending shall meet at noon of the said Saturday, and the governor shall provide each of them a list of all the electors, and in case of the absence of any elector, or if the proper number of electors shall for any cause be deficient, those present shall forthwith elect from the citizens of the state so many persons as will supply the deficiency, and immediately issue a certificate of election, signed by those present or a majority of them, to the person so chosen. In case of failure to elect by noon of the following day, the governor shall fill the vacancies by appointment. (1897 p. 259; 1889 p. 472; Ann; 5712; Comp. 3271.)

2273 Sec. 335. **Casting vote for president.**—The college of electors, being full, shall meet at the capitol at noon of the said second Monday of January, and proceed to the election in conformity with the constitution of the United States. (1879 p. 259; 1889 p. 472; Ann. 5713; Comp. 3272.)

2274 Sec. 336. **Compensation of electors.**—The electors shall receive a compensation of five dollars for every day's attendance, and the same mileage, as members of the legislature. (1879 p. 259; Ann. 5714; Comp. 3273.)

ARTICLE XVI.

VACANCIES AND SPECIAL ELECTIONS.

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2275. Vacancies—how vacancies occur.
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 2281. Possession of office, books and papers
 in event of vacancy
 2282. Special elections—how governed.
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 cancy.
 2284. Same—canvass by state board.

2275 Sec. 337. **Vacancies—how vacancies occur.**—Every civil office shall be vacant upon the happening of either of the following events at any time before the expiration of the term of such office, as follows:

First—The resignation of the incumbent;

Second—his death;

Third—his removal from office;

Fourth—the decision of a competent tribunal declaring his office vacant;

Fifth—his ceasing to be a resident of the state, district, county, township, precinct or ward in which the duties of his office are to be exercised, or for which he may have been elected;

Sixth—a failure to elect at a proper election, there being no incumbent to continue in office until his successor is elected and qualified, nor other provision relating thereto;

Seventh—a forfeiture of office as provided by any law of the state;

Eighth—conviction of an infamous crime or of any public offense involving the violation of his oath of office;

Ninth—the acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the state for a period of not less than sixty days.

(1879 p. 268; Ann. 5753; Comp. 3311.)

First commissioners of new county hold only until successors elected at next general election qualify. State v. Field, 26 Neb. 393 (41 N. W. 988.) Redistricting county does not vacate office of commissioner who thus becomes non-resident of his district. State v. Haverly, 62 Neb. 767 (87 N. W. 959.) Removal of commissioner from district, though he remains in county, vacates office. State v. Skirving, 19 Neb. 497 (27 N. W. 723.) Vacancy by removal may exist though duties are being performed by temporary appointee. Prather v. Hart, 17 Neb. 598 (24 N. W. 282.)

Constitutional; failure to file bond, etc., under sec. 5721, also creates vacancy. State v. Lansing, 46 Neb. 514 (64 N. W. 1104.) Ineligibility of successful candidate, where incumbent holds over, creates no vacancy. Richards v. McMillin, 36 Neb. 352 (54 N. W. 566); State v. Rosewater 79 Neb. 450 (113 N. W. 206). Acceptance of incompatible office ipso facto vacates first. State v. Wait, 92 Neb. 313 (138 N. W. 159)

2276 Sec. 338. **Resignations—how made.**—Resignations of civil officers may be made as follows:

First—By the governor, to the legislature, if in session; if not, to the secretary of state;

Second—by senators and representatives in congress, and by all officers elected by the qualified voters of the state, and by judges of the supreme and district courts, and regents of the university, to the governor;

Third—by members of the senate and house of representatives, to the presiding officers of their respective bodies, if in session, who shall immediately transmit information of the same to the governor; if such bodies are not in session, to the governor;

Fourth—by all county and precinct officers, to the county board; and by members of the county board, to the county clerk;

Fifth—by all township officers, to the township clerk; and by the township clerk, to the town board;

Sixth—by all officers holding appointments, to the officer or body by whom they were appointed.

Such resignation shall not take effect until accepted by the board or officer to whom the same is made. (1879 p. 269; Ann. 5754; Comp. 3312.)

Supervisor files resignation with township clerk. *State v. Taylor*, 26 Neb. 580 (42 N. W. 729).

2277 Sec. 339. **Elections—vacancies—how filled.**—Vacancies shall be filled in the following manner: In the office of the reporter of the Supreme Court, by the Supreme Court, in all other state and judicial offices, and in the membership of any board or commission created by the state, where no other method is especially provided, by the governor; in county and precinct offices, by the county board; and in the membership of such board, by the county clerk, county attorney and county treasurer; in township offices, by the town board, but where the offices of the town board are all vacant the clerk shall appoint, and if there be no town clerk, the county clerk shall appoint; in city and village offices, by the mayor and council or board of trustees. (Laws 1917, p. 117.)

2278 Sec. 340. **When vacancy filled by election.**—Vacancies occurring in any state, judicial district, county, precinct, township or any public elective office, thirty days prior to any general election, shall be filled thereat. Vacancies occurring in the office of county judge or justice of the peace shall be filled by election, but when the unexpired term does not exceed one year the vacancy shall be filled by appointment, as provided in the next preceding section. Vacancies occurring in the office of any police magistrate in cities where the unexpired term does not exceed one year shall be filled by appointment, but vacancies occurring in such office less than thirty days prior to any city election, and where the unexpired term exceeds one year, shall be filled by special election. Any person so appointed or elected under the provisions of this section shall hold his office for the unexpired term. (1879 p. 271; 1883 p. 227; Ann. 5759; Comp. 3317.)

Section applies only in absence of special provision. *State v. Rankin*, 33 Neb. 266 (49 N. W. 1121); *State v. Walker*, 30 Neb. 501 (46 N. W. 648); *State v. County Commrs.* 60 Neb. 275 (83 N. W. 70). Section governs vacancies in railway commission. *State v. Furse*, 89 Neb. 652 (131 N. W. 1030). County commissioner; failure to include in election notice, where vacancy is generally known, votes held valid. *State v. Skirving*, 19 Neb. 497 (27 N. W. 723); *State v. Lansing*, 46 Neb. 514 (64 N. W. 1104).

Office of county judge being vacant, when unexpired term exceeds one year, is filled at general election; county board appoints until election; appointment is temporary, *quaere*. *State v. Lansing*, 46 Neb. 514 (64 N. W. 1104).

District judge; appointment where vacancy occurs less than thirty days prior to general election continues only until successor elected qualifies. *State v. Thayer*, 31 Neb. 82 (47 N. W. 704).

County attorney appointed by county board. *State v. Rankin*, 33 Neb. 266 (49 N. W. 1121); *State v. County Commrs.*, 60 Neb. 275 (83 N. W. 70).

County assessor; vacancy more than thirty days prior to general election, county board appoints. *State v. Coleman*, 91 Neb. 167 (135 N. W. 444).

Clerk of district court, vacancy filled at general election where vacancy occurs thirty days prior. *State v. Dodson*, 21 Neb. 218 (31 N. W. 788).

Councilmen of city of first class, vacancy less than thirty days prior to annual election not filled thereat. *State v. Hamilton*, 29 Neb. 198 (45 N. W. 279).

Aldermen of first class city, appointee holds only until successor elected at next municipal election qualifies. *State v. Schroeder*, 79 Neb. 759 (113 N. W. 192).

2279 Sec. 341. Elections—vacancies—congress—legislature—how filled.

—When a vacancy occurs in the office of representative in congress, or members of the legislature, and the body in which such vacancy exists will convene prior to the next general election, the governor shall order a special election to fill such vacancy at the earliest practicable time, and ten days' notice of such election shall be given: Provided, any vacancy occurring in either house of the legislature during a regular or special session thereof shall be filled by the governor within five days after said vacancy occurs by appointment of some qualified person of the same political affiliation as the previous incumbent from the district in which the vacancy has arisen. When, for any cause whatsoever, a vacancy occurs in the representation of the State of Nebraska in the senate of the United States, the same shall be filled forthwith by the Governor, who shall have power to appoint to fill such vacancy some suitable person possessing the qualifications necessary for Senator. The person so appointed shall hold office until the next regular election of State Officers. when such vacancy shall be filled by the election of a Senator who shall hold office for the unexpired term. (Laws 1917, p. 118.)

2280 Sec. 342. Term of office of appointees to fill vacancy.

—Appointments under the provisions of this chapter shall be in writing and continue until the next election at which the vacancy can be filled, and until a successor is elected and qualified, and be filed with the secretary of state or proper township clerk, or proper county clerk, respectively. (1879 p. 270; Ann. 5757; Comp. 3315.)

County attorney, appointed to fill vacancy, holds for remainder of term. *State v. Rankin*, 33 Neb. 266 (49 N. W. 1121); *State v. County Commrs.*, 60 Neb. 275 (83 N. W. 70). County assessor, appointed to fill vacancy, holds until successor at next general election qualifies. *State v. Coleman*, 91 Neb. 167 (135 N. W. 444). Alderman of first class city, appointed to fill vacancy, holds only until successor at next municipal election qualifies. *State v. Schroeder*, 79 Neb. 759 (113 N. W. 192).

2281 Sec. 343. Possession of office, books and papers in event of vacancy.

—When a vacancy occurs in a public office, possession shall be taken of the office room and of the books, papers, and all things pertaining to the office, to be held until the election or appointment and qualification of a successor, as follows:

First—Of the office of the county clerk, by his deputy, if there be one, if not, by the county judge; and in case of any delay in the election or appointment of a successor to the county clerk, his deputy shall continue to discharge the duties of the office, being responsible for the conduct and management thereof upon his official bond.

Second—Of the office of the county treasurer, by the sheriff.

Third—Of any of the state officers, by the governor; or in his absence or inability at the time of the occurrence, as follows: Of the secretary of state,

by the treasurer; of the auditor of public accounts, commissioner of public lands and buildings, and superintendent of public instruction, by the secretary of state; of the treasurer, by the secretary of state and auditor of public accounts, who shall make an inventory of the money and warrants therein, sign the same, and transmit it to the governor, if he be in the state; the the secretary of state shall take the keys of the safes and desks, after depositing the books, papers, money, and warrants therein, and the auditor shall take the key of the office room. (1879 p. 270; Ann. 5758; Comp. 3316.)

2282 Sec. 344. Special elections—how governed.—The provisions relating to general elections shall govern special elections, except where otherwise provided for. (1879 p. 272; Ann. 5761; Comp. 3319.)

2283 Sec. 345. Canvass of special election to fill vacancy.—Where special elections are held to fill vacancies in offices provided for by this article, the board of canvassers shall meet at 12 o'clock M., on the third day after said election, to canvass the votes cast at such election, and the county clerk, within four days after any special election for a member of the legislature, or representative in congress, shall transmit to the secretary of state an abstract of the votes cast at said election, if there be more than one county in the district. (1879 p. 272; Ann. 5762; Comp. 3320.)

2284 Sec. 346. Same—canvass by state board.—Within ten days after the election provided for by the next preceding section, the board of state canvassers shall meet and canvass the votes cast to fill such vacancy, and if the returns have not been received from all the counties composing said district, they may adjourn to such day as they deem necessary, not exceeding five, for the purpose of receiving the returns. (1879 p. 272; Ann. 5763; Comp. 3321.)

ARTICLE XVII.

VOTING MACHINES.

SECTION

- 2285. Voting machines authorized.
- 2286. Board of voting machine commissioners.
- 2287. Same—deputy commissioners.
- 2288. Examination of machine.
- 2289. Same—expenses and cost of commission paid by company.
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- 2291. Model provided for instruction of voters.
- 2292. When machines may be used.
- 2293. Trial use of machines.
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SECTION

- 2299. Custodians of machines—duties.
- 2300. Election officers instructed by custodian.
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- 2302. Sample machines for instruction of voter.
- 2303. Preparing machine before polls open.
- 2304. Duty of election officers and voters.
- 2305. Additional instructions to voter.
- 2306. Ignorant or disabled voter assisted by officer.
- 2307. Irregular ballots.
- 2308. Return of results—how made.
- 2309. Return of irregular ballots.
- 2310. General election law apply to machine voting.

2285 Sec. 347. Voting machines authorized.—In all elections hereafter held in this state for presidential electors and members of congress, or either of them, and in all state, district, county, city, town, school district, village, precinct and township elections, and in all other elections hereafter to be

held in this state, or in any political division thereof, for any purpose whatever, voting machines may be used; and at any and all such elections the vote or ballot may be had and taken, and the votes cast thereat registered or recorded and counted, and the result of such election or elections ascertained by voting machines instead of in the mode and manner now established by law: Provided, the use of said machines at any such election or elections shall be subject to the requirements, provisions, terms and conditions of this article hereinafter contained. (1905 p. 343; Ann. 5907; Comp. 3347.)

2286 Sec. 348. Board of voting machine commissioners.—There is hereby created a “state board of voting machine commissioners”; such board to be composed of the governor, secretary of state and auditor of public accounts. The board shall have power to appoint three deputies, who, when acting for or instead of the commissioners, shall have and may exercise an equal power and authority, subject to the approval of the commissioners; no member of the board or deputy shall have any pecuniary interest, directly or indirectly, in any voting machine; at least two of the deputies of said board shall be master mechanics or graduates of a school of mechanical engineering; the deputies shall be appointed for a term of two years. (1905 p. 343; Ann. 5908; Comp. 3348.)

2287 Sec. 349. Same—deputy commissioners.—The deputies shall severally take and subscribe to an oath or affirmation before some person authorized by the laws of this state to administer the same, that they will faithfully and impartially discharge the duties imposed upon them by law, and file the same with the secretary of state; they shall organize by electing one of their number to be chairman, and one to be secretary, and one to be treasurer; the secretary shall keep a record of all meetings held by the board or its deputies, and of all voting machines inspected and examined by it, and of the action of the board respecting the same. (1905 p. 344; Ann. 5909; Comp. 3349.)

2288 Sec. 350. Examination of machine.—Any person, company or corporation owning or being interested in any voting machine may apply to the state board of voting machine commissioners by application filed with the secretary of state, who shall notify said board to examine such machine and report on its compliance with the requirements of the law and its accuracy, efficiency and capacity to register the will of voters; upon such application the board or its deputies shall examine such machine, and make report whether in its opinion, or in the opinion of any two of the members thereof, the kind of machine so examined complies with the requirements of this article and can safely be used at elections to be held in this state under the condition prescribed by this article, the report of the board on said machines, signed by the members thereof, or any two of them, and all exhibits, drawings, photographs, descriptions, etc., filed in connection with and identifying said machines so examined, shall be filed in the office of the secretary of state within ten days, and shall be a public record; if the report of the board, or any two members thereof, be that machines of the kind examined can be used, such kind of machine shall be deemed to be approved by the board, and its use as herein provided shall be authorized at any such election as aforesaid to be held in this state, or any civil division thereof; any kind of voting machine

not so approved by the board shall not be used at any election; the examination herein provided for shall not be required of each individual machine, but only of each particular kind of machine before its adoption, use or purchase, as herein provided; when the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency or capacity shall not render necessary the re-examination or re-approval thereof. All examinations shall be in public; sufficient notice shall be given to such interested persons as shall file with the commission a notice of their desire to attend such examinations. (1905 p. 344; Ann. 5910; Comp. 3350.)

2289 Sec. 351. Same—expenses and cost of commission paid by company.—Any person, company or corporation, owners or agents for any voting machine applying to have the voting machine examined shall deposit with the treasurer of the board the sum of four hundred and fifty dollars; from said money shall first be deducted and paid all expenses incurred by the board in and about the discharge of its duties, including stationery, books, postage and traveling expenses; the balance remaining shall be divided into three equal parts or portions; each of the deputies shall receive one of said portions in payment of traveling and other expenses and for his compensation as such deputy of said board; the members of the board shall not receive any compensation or remuneration for their services. (1905 p. 345; Ann. 5911; Comp. 3351.)

2290 Sec. 352. Requisites of approved machine.—No voting machine shall be approved by the state board of voting machine commissioners unless it shall be so constructed as to insure every voter an opportunity to vote in secrecy. Each machine shall be so constructed as to provide facilities for voting for the candidates of at least seven parties or organizations; that a straight party ticket can be voted by the operation of a single device; that the voter may vote for a part of one party ticket, and a part of one or more other party tickets; that females or other restricted voters can vote when by law such persons are entitled to vote, but that no voter can vote for a candidate or on a question for whom or on which he is not lawfully entitled to vote; that the voter can not cast more than one vote for any candidate, or vote for more than one person for the same office, unless he is lawfully entitled to vote for more than one person therefor, and in that event can vote for as many persons for that office as he is by law entitled to vote for, and no more; that the names of the candidates for presidential electors need not appear on the ballot labels, but in lieu thereof, one ballot in each party column, or row, may contain only the words "presidential electors" preceded by the party name, and the names of the candidates for president and vice-president, and every vote registered for such ballot shall operate as a vote for all candidates of such party for presidential electors, and be counted as such, but it shall provide means for voting a split or irregular ticket for presidential electors; that any voter can by means of irregular ballots vote a written or printed ballot of his own selection for any person for any office, although such person may not have been nominated by any party. The machine shall be so constructed that within the period of one minute the voter can cast his vote for all of the candidates of his choice, and that he can change his vote for any regularly nominated candidate up to the time he starts to leave the machine. The voting machine shall have voting devices for the individual candidates ar-

ranged in separate parallel party lines, one line for each party, and in parallel office rows, transverse thereto. Each machine must be provided with a lock or locks, the keys of which can not be inter-changeably used, and by the locking of which any movement of the operating mechanism can be prevented, so that it can not be tampered with or manipulated for any fraudulent purpose; and that the doors of the compartment containing the registering mechanism can be locked so that no person can see or know the number of votes registered for any candidate. There shall be a counter, the registering face of which can be seen at all times from the outside of the machine, which will show during the election the total number of voters that have operated the machine at that election; there shall be a registering lock or a counter which can not be reset and will lock by the party that operates it, and will count up to one million; such lock or counter shall be known as a protective lock, or a protective counter, and shall be so constructed that the numbers on the lock will be changed or the number on the counter shall be advanced one every time the machine is operated. (1905 p. 345; Ann. 5912; Comp. 3352.)

2291 Sec. 353. Model provided for instruction of voters.—With each voting machine there shall be provided by the makers a working model for instruction of voters, which shall represent at least five office lines for two party rows, and the devices for voting for two questions, and shall correspond to the equivalent parts of the face of the voting machine, and the operation of the model shall be the same in outward appearance as the operation of the machine. (1905 p. 347; Ann. 5913; Comp. 3353.)

2292 Sec. 354. When machines may be used.—The county commissioners of any county, the city council of any city, the proper officers of any village, school or other district, precinct or township, may adopt for use at elections in one or more election precincts any kind of voting machine approved by the state board of voting machine commissioners, and thereupon such voting machine may be used at any or all elections held in such election precinct for voting, registering and counting votes cast at such elections: Provided, no purchase of voting machines shall be made for any voting precinct wholly without the corporate limits of any city or town, excepting in counties in which are located cities of the metropolitan class, nor by any city, town or village having less than twelve hundred population, until the question of such purchases shall have been submitted to a vote of the people of such county, city, town or village, who may, by a majority vote of those voting on the proposition, authorize such purchase. The number of votes for each machine shall be determined by the proper officers of the district, county, city, town, school or other district, village, precinct or township, but shall not exceed eight hundred votes in any one voting precinct. (1905 p. 347; Ann. 5914; Comp. 3354.)

2293 Sec. 355. Trial use of machine.—The proper officers of any district, county, city, town, school district, village, precinct or township may provide for the experimental use, at any election in one or more districts, of a machine which may be lawfully adopted without a formal adoption thereof, and its use at such election shall be as valid for all purposes as if it had been formally adopted. (1905 p. 347; Ann. 5915; Comp. 3355.)

2294 Sec. 356. Purchase of machines.—The proper officers of any district, county, city, town, school district, village, precinct or township adopting

a voting machine shall, as soon as practicable thereafter, provide for each polling place designated one or more voting machines in complete working order, together with a mechanical model of same. If it shall be impracticable to supply each and every election district designated with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election districts within such county, city, township, district, school districts, village, or precinct, as the proper officers may direct. (1905 p. 348; Ann. 5916; Comp. 3356.)

2295 Sec. 357. Payment—how made.—The proper officers of any district, county, city, town, school district, village, precinct, or township, on the adoption and purchase of a voting machine or voting machines, shall provide for the payment therefor in such manner as they deem for the best interest of such locality, and may for that purpose levy a tax, issue bonds, certificate of indebtedness, or other obligations, which shall be a charge on the particular county, city, district, town, school district, village, precinct or township so adopting said machines; such bonds, certificates or other obligations may be issued with interest at a rate not exceeding six per cent per annum, payable at such time or times not exceeding ten years, as the proper officers may determine, but shall not be issued or sold at less than par. (1905 p. 348; Ann. 5917; Comp. 3357.)

2296 Sec. 358. Ballot label.—The cardboard, paper or other material, placed on the front of the machine, containing the names of the candidates and officers, or a statement of the proposed constitutional amendment or other question or proposition to be voted on, shall be known in this article as the ballot label, and shall be deemed an official ballot. Two sets of ballot labels for each machine shall be supplied by the officers now charged with the duty of providing ballots, at least four working days before the election, and shall be printed in black ink, on clear white material of such size and thickness as will fit the machine, and in as large type as the space will reasonably permit. The ballot labels for each party shall be arranged on the machine, either in vertical columns or horizontal rows and shall be designated in the same manner as the counters for such columns or rows. Where two or more candidates are to be elected to an office, and the name of each of the nominated candidates therefor are placed in connection with a separate voting device, all of such voting devices shall be included in one group herein referred to as a multi-candidate group, which will permit the proper number of any of said candidates to be voted for and no more, and the ballot label or the part thereof that contains the names of the offices herein called the office caption ballot label, shall be printed in type as large as the space for such office will reasonably permit and the words below, "vote for two" (or such number as can be voted for) shall be printed to indicate that the voter can vote for any two, or such other number as he may be lawfully entitled to vote for, out of the whole number of candidates so nominated. Each ballot label shall have printed close to the margin thereof, in small type, the name of its party and the largest civil or political division thereof to which it is common. Independent nominations shall be placed upon the party row or rows following the party nominations as they can be arranged on the machine; two or more independent nominations may be placed upon the same row and the party device

in connection with such row may be locked or arranged so that such candidates may be voted for individually. On the ballot label for questions, the statement of the question submitted may be abbreviated to meet the requirements of the limited space with the words "Yes" or "No" for the voter to indicate the affirmative or negative vote on any such question by operating the proper device therefor. In case any party making nomination shall fail to nominate candidates for some of the offices to be voted for, the spaces on the ballot labels for such offices shall contain the words "No nomination." (1905 p. 348; Ann. 5918; Comp. 3358.)

Proposition submitted may be abbreviated on ballots; statement held sufficient. Linn v. City of Omaha, 76 Neb. 552 (107 N. W. 983).

2297 Sec. 359. Sample of ballots used in machine.—The officers now charged with the duty of providing ballots shall provide at least two sample ballots for each machine, which shall be arranged in the form of a diagram showing such portion of the face of the voting machine as will appear after the official ballot labels have been properly placed for voting on election day. Such sample ballots or diagrams may be of a reduced size, but the names of the candidates must be clearly legible, and shall be displayed for public inspection at such polling place during election day. Ballot labels on tinted cardboard shall be furnished free of charge by the officers providing the ballot labels for all instruction models and instruction machines to be used by the county, city, district, town, school or other district, village, precinct or township, for the instruction of voters. Requisition for such sample ballot labels shall be made as provided by the general election laws now in force in this state regarding sample ballots. (1905 p. 349; Ann. 5919; Comp. 3359.)

2298 Sec. 360. Conduct of election with machines.—So far as practicable, at all elections where voting machines are used, the voting machine shall be regarded and treated as a substitute for the paper ballot and ballot-box heretofore used; elections shall be conducted by the election officers as nearly as may be in accordance with existing laws, except as otherwise provided by this article; the arrangement of the polling room shall be the same, as near as may be, as is provided for elections where paper ballots are used; the compartments now provided for by law, wherein the voter shall prepare his ballot for voting, need not be provided or used at elections where voting machines are used; official ballots of the kind heretofore recognized by law shall not be furnished to the election districts where at any election voting machines are used; the exterior of the voting machines and every part of the polling-room shall be in plain view of the election officers; the voting machine shall be placed at least four feet from any table whereat any of the election officers may be engaged or seated; a guard-rail shall be constructed at least three feet from the machine, with an opening, or openings, to permit the entrance and exit of voters to and from the machine; and the machine shall be so placed that the ballot labels on the face of the machine can be plainly seen by the election officers and the party watchers when not in use by the voters. (1905 p. 350; Ann. 5920; Comp. 3360.)

2299 Sec. 361. Custodians of machines—duties.—For the purpose of preparing the voting machines for elections and instructing the election officers in their operation, the officers or board having charge of the machines

may employ one or more persons who shall be known as the voting machine custodians. Such custodians shall be persons of good eyesight, good reputation, and, if possible, machinists and not actively engaged in politics. If two or more custodians be appointed, they shall, if possible, be selected from more than one political party, and shall be retained until removed for cause other than partisanship. The custodians shall be sworn to perform their duties honestly and faithfully, and shall be paid for the time spent in the performance of their duties in the same manner as other election officers are paid, and they shall be supplied by the officers or board having charge of the election with the necessary supplies for preparing the machines for election and report blanks for certifying as to their condition. The custodians shall, before each election at which the voting machines are to be used, under the direction of the officers or board having charge of the election, place the ballot labels in their proper places in each machine; adjust the machine for voting in the manner required at such election; set the public counter and all the candidate counters in the machine at zero; and in every other way put the machine in perfect condition and arrangement for the election, and then lock and seal the operating mechanism against any movement. The custodian shall, after preparing the machines for the election, file with the proper officer of the board adopting the machines a written report upon blanks furnished by such board certifying that they have examined and prepared each machine for the election, that each is in perfect working order, and in every way properly adjusted, and set for the election, and giving the number and make of the machine and the number registered on the protective counter thereof. The custodian shall, under the direction of the officers or board adopting the machines, cause each voting machine to be delivered to the proper voting place, together with all the necessary furniture and appliances not later than one hour before the time fixed for opening the polls of that election; and after the machine has been prepared for the election they shall provide suitable protection against its being tampered with or in any way injured; and they shall, on the day of the election, provide sufficient light for the voters to clearly read the ballot labels on the machine and for the election officer to clearly read the vote registered on the counters. The custodians shall, after preparing the machines for the election, deliver the keys thereof to the proper officer of the board adopting the machines, who shall deliver them in a sealed envelope to the election officers of the respective election districts not less than forty-five minutes before the opening of the polls, and shall obtain a receipt therefor. (1905 p. 351; Ann. 5921; Comp. 3360a.)

2300 Sec. 362. Election officers instructed by custodian.—All election officers must be properly instructed in the use of the voting machine by the custodian of voting machines. (1905 p. 352; Ann. 5922; Comp. 3360b.)

2301 Sec. 363. Clerk of board as custodian.—If the board adopting the machines do not employ a custodian or custodians as herein provided for, the duties of such custodian shall be performed by the clerk of the board adopting the machines. (1905 p. 352; Ann. 5923; Comp. 3360c.)

2302 Sec. 364. Sample machines for instruction of voter.—In all places in which voting machines are to be used for the first time, a voting machine or a mechanical sample of same of sufficient size to contain the ballot labels for all of the candidates to be voted for may be placed on public exhibition in

charge of a competent instructor in each election. (1905 p. 352; Ann. 5924; Comp. 3360d.)

2303 Sec. 365. Preparing machine before polls open.—The election officers of each election district in which a voting machine is to be used shall meet at the polling place therein, at least forty-five minutes before the time set for the opening of the polls at each election, and if not already done, arrange in their proper places the furniture, stationery and voting machine for the conduct of the election. The election officers shall then and there have the voting machine, the keys for same, ballot labels and stationery required to be delivered to them for such election. The election officers shall thereupon cause the sample ballots or diagrams and posters of instruction as shall be furnished, to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper places on the voting machine, the official ballot labels. Before the polls are open for election, while the machine is locked against voting, each election officer shall carefully examine the seal upon the operating lever before it is broken, and shall examine every counter, and shall certify on the return sheet, form 2, as to the registry of each counter including the protective lock or counter, and shall not permit any of such counters to be operated thereafter except by electors in voting; and the same shall be subject to the inspection of the party watchers. If any counter for a candidate is found not to register zero and it shall be impracticable to so set the same, the election officers shall immediately enter upon return sheet, form 2, the actual registry of such counter together with its designation and shall post a copy of same in a conspicuous position within the polling place. After the close of the polls, the figures so shown upon such counter shall be deducted from the number appearing thereon at the time of canvassing the vote, and the remainder shall be declared the total number of votes cast for such candidate. If the number on any such counter shall be found to be less than the number shown upon it at any time of opening the polls, indicating that it has been operated up to and beyond nine hundred and ninety-nine, the election officers shall, in such case add one thousand to such number before deducting the number shown at the opening of the polls and the result shall be declared to be the total number of votes cast for such candidate. (1905 p. 352; Ann. 5925; Comp. 3360e.)

2304 Sec. 366. Duty of election officers and voters.—After the opening of the polls, one of the election officers shall stand near the machine, and shall regulate the admission of voters thereto. He shall always be in full view of the election board and the party watchers; the election officers shall not allow any voter to pass within the guard rail until they ascertain that he is duly entitled to vote. Only one voter at a time shall be permitted to pass within the guard rail to vote. The election officers shall not themselves remain or permit any other person to remain in any position, or near any position, that would permit one to see or ascertain how a voter votes, or how he has voted. It shall be the duty of one of the election officers to instruct voters in the use of the voting machines. For that purpose he shall take a position near the line of voters about to enter the machine, and he shall ask each voter if he understands how to vote, and to those who are willing to receive instructions, he shall then and there explain the operation

of the machine, and illustrate it by the instruction model which he shall have with him and permit the voters themselves to operate the parts; if it is an election at which one or more questions are to be voted upon, he shall call each voter's attention thereto and shall illustrate the method of voting the same; such instructor shall not request or seek to persuade or induce any voter to vote any particular ticket, or for any particular candidate, or for or against any particular question. The operating of the voting machine by the voter while voting shall be secret and obscure from all other persons except as provided by this chapter in cases of voting by assisted voters. No voter shall remain within the voting machine booth longer than one minute, and if he shall refuse to leave it after the lapse of one minute, he shall be removed by the election officers or upon their order after having first completed the registration of his vote, as he has prepared it, by means of the operating lever. No voter having entered the machine and returned the operating lever, shall be permitted to re-enter the same on any pretext whatever; the election officer stationed beside the machine shall inspect the face of the machine after each voter has cast his vote, to see that the ballot labels are in their proper places and that the machine has not been injured. During elections the door or other covering of the counter compartment of the machine shall not be unlocked or opened or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the election officers, and shall be delivered with the returns of the election. (1905 p. 353; Ann. 5926; Comp. 3360f.)

2305 Sec. 367. Additional instructions to voter.—In case any voter after entering the voting machine booth shall ask for further instructions concerning the manner of voting, an election officer shall give such instructions to him; but no election officer or person assisting a voter shall in any manner request, suggest or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate, or for or against any particular question. After such instructions have been given, they shall withdraw, and such voter shall vote as in the case of an unassisted voter. (1905 p. 354; Ann. 5927; Comp. 3360g.)

2306 Sec. 368. Ignorant or disabled voter assisted by officer.—Any voter who shall declare that he is unable to read the English language, or that he will be unable to operate the voting machine by reason of blindness, total disability of both hands, that he can not use either hand for ordinary purposes or by reason of disease or crippled condition, the nature of which he must specify, that he will require assistance in voting, shall upon request receive the assistance of two election officers of opposite political parties. Any election officer or officers who shall deceive any disabled voter or register his vote in any other way than as requested or shall give information as to what ticket or for what person or measure such disabled voter has voted, shall be guilty of wilful fraud and shall suffer the penalties prescribed therefor in the election laws. (1905 p. 355; Ann. 5928; Comp. 3360h.)

2307 Sec. 369. Irregular ballots.—Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as irregular ballots; where two or more candidates are to be elected to the same office, the voting devices belonging to all the candi-

dates for said office shall be included in a group herein referred to as a multi-candidate group; in all multi-candidate groups, except presidential electors, the name of each nominated candidate shall be placed upon or adjacent to a separate key or voting device, and all split ballots which are confined to the nominated candidates shall be voted on such keys or voting devices; except for presidential electors no irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any irregular ballot so voted shall not be counted. An irregular ballot voted for a candidate for any office must be cast in or upon that part of the irregular device provided for voting on such office, or it shall be void and not counted. In voting for presidential electors a voter may vote an irregular ticket, made up of the names of persons in nomination by different parties or partially of the names of persons so in nomination and partially of persons not in nomination, or wholly of names of persons not in nomination by any party. Such irregular ballot shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose. Suitable ballots for voting split tickets for presidential electors on voting machines shall be printed and furnished by the officers whose duty it is to provide ballots. Such ballots shall be uniform, and shall be of a size and kind as is best suited to the requirements of the machine in connection with which they are to be used (1905 p. 355; Ann. 5930; Comp. 3360j.)

2308 Sec. 370. Return of results—how made.—In an election district, in which a voting machine is in use, no tally sheets shall be furnished, but the record of the vote shall be made in ink upon return sheets as hereinafter provided. All return sheets shall be bound together in book form in the manner now provided by law for poll books. Each book shall contain on a separate sheet a statement of the condition of the counters, and the delivery of the keys, signed by the election officers of the election district before the polls are opened; followed by a statement of the number of voters, the return of each office and question voted for, in the same order as the offices and questions are placed upon the voting machine; followed by a certificate that the record is correct, which shall be signed by the election officers, according to the following forms. Two books containing complete sets of these sheets shall be filled out and placed in large sealed envelopes, and shall be delivered forthwith to the office of the officer to whom the election returns are now delivered.

Form 1.

ELECTION RETURNS AND STATEMENT OF CANVASS

.....Election District,.....Ward.....Municipality
County.
 STATE OF NEBRASKA.

Time polls were closed.....19.....
 Time returns were completed.....

Form 2.

STATEMENT OF THE ELECTION BOARD.
 CERTIFYING TO THE CONDITION OF THE COUNTERS OF THE VOTING MACHINE
 BEFORE THE OPENING OF THE POLLS.

The undersigned election officers of the _____ election district of the _____ ward, _____ of _____ Nebraska, have on this _____ day of _____, 19____, before the opening of the polls carefully examined each of the individual counters and the public counter in the voting machine No. _____ which is to be used in this election district, and certify that each of the said counters register 000, except as stated below; and further, that during such

each sheet contains a correct statement of the votes cast for the office named thereon as shown on the counters of the voting machine; and that the keys of the machine have been enclosed in an envelope sealed with a paster signed by us, which will be delivered with the returns.

examination the voting machine was locked against voting, in which condition it remained until the opening of the polls.

The following counters were not set at 000, but read as follows: ———. Number of the protective counter ———.

The keys of the machine were delivered to this board in a sealed envelope, which was opened in the presence of the board on the morning of election.

Attest: _____ } Clerks. _____ } Judges.
 _____ } _____ }
 _____ }

Form 3. ELECTION RETURNS AND STATEMENT OF CANVASS.

Official statement of the result of an election held on the _____ day of _____, 19____, in the _____ election district of the _____ county of _____, State of Nebraska, made by the election board in and for said district.

VOTING DONE WITH THE _____ VOTING MACHINE NO. _____

The whole number of voters who entered the voting machine, as shown by the public counter on the voting machine, and verified by the clerk's list is _____

(Number must be written out in words.)

(Number in figures.)

Number on the protective counter at the close of the polls.....

Form 4. STATEMENT AND RETURN OF THE VOTES
 —FOR—
 THE OFFICE OF _____

AS SHOWN ON THE COUNTERS OF THE VOTING MACHINE, MARKED I.

The whole number of votes cast for the office of _____ was _____.

Of Which	Ballot and Counter Marked	Number to be Written Out in Words	Column for Figures
.....	1 A Received	.....	.....
.....	1 B "	.....	.....
.....	1 C "	.....	.....
.....	1 D "	.....	.....
.....	1 E "	.....	.....
No nomination.....	1 F "	.....	.....
No nomination.....	1 G "	.....	.....
Irregular .....	.	.....	.....
		Total.....	.....

Clerks will record the number on each counter on every row from A to G inclusive. To be followed by as many sheets of Form 4 as there are candidates to be elected.

Form 5. STATEMENT AND RETURN OF THE VOTE CAST.
 ON QUESTION NUMBER 1.

(Statement of Question).....

Counter marked 1 Yes registered.....
 (In numbers.)

Counter marked 1 No registered.....
 (Number to be written out in words).
 (In numbers.)

.....
 (Number to be written out in words).

Form 6. RETURNS AND STATEMENT OF CANVASS. CERTIFICATE

We, the undersigned election officers of the _____ election district of the _____ ward of _____, certify that the statement of canvass on the _____ return sheets of this book was (Number of.)

called off by one of the election officers from the counters of the voting machine, and recorded in the book by the clerks; and that another of the election officers then called off the numbers as shown on the counters, which were recorded by the clerks in the additional book; and that each of the books has been carefully compared with the other, and that

Dated this _____ day of _____, 19____.

Attest: _____ } Clerks. _____ } Judges.
 _____ } _____ }
 _____ }

As soon as the polls of the election are closed, one of the election officers shall immediately lock the operating lever and the machine against voting, with the locks provided therefor, also seal the operating lever, and open the counting compartment in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. One of the election officers shall, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the result as shown by the counter numbers, giving the designation of each counter, reading the votes recorded for each office on the regular ballots; also the numbers registered on the counters opposite no nominations or blank spaces and on all unused party rows, to the length of the printed ballot label. The counters shall not in any case be read consecutively along the party rows or columns, but shall always be read along the office columns or rows and across the party rows or columns, and the vote as registered shall be entered upon the return sheets in the same order upon the line which has the same designation. The election officers shall also read the votes recorded for each office on the irregular ballots. They shall in the same manner announce the vote on each question. Each clerk shall simultaneously and independently enter in ink the vote on the official return sheets as it is announced by the judge, and no official return of any kind shall be made up from any other paper or record, but shall in every case be made directly from the counters on the machine. The judge shall call the votes deliberately, indicating each counter by its designation, and the clerks shall in every case record the vote in figures in the place on the return sheet for that office, and shall call back the number of votes, the name of the candidate for whom such vote is recorded, and the designation of such counter. The return sheets shall be compared with one another, and the vote for each candidate shall then be written in ink in full after his name, next to the figures as called from the counters. The written statements or returns so made, shall be properly signed, and then be distinctly and clearly read in the hearing of all persons present, the counter compartment of the machine shall remain open at least one hour from the time of the closing of the polls and until the adjournment of the board, and ample opportunity shall be given to compare the results so certified with the counters of the machine and to make any necessary corrections. The number registered on the protective counter at the close of the polls shall be recorded on the return sheets. Before the adjournment of the board the doors of the machine shall be locked and the keys shall be enclosed in an envelope which shall be securely sealed with a paster signed by the election officers, on which shall be written the number of the machine, and the election district and ward in which it has been used; and such envelope shall be delivered with the returns. All keys for voting machines when not in use shall be kept securely locked by the official having them in charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine; and all election officers or persons en-machine therefore shall not retain them longer than necessary to use them trusted with such keys for election purposes or for the preparation of the for such legal purpose. (1905 p. 356; Ann. 5931; Comp. 3360k.)

2309 Sec. 371. Return of irregular ballots.—Whenever irregular ballots have been voted, the election officers shall return all of such ballots in a properly sealed package endorsed “irregular ballots,” and file such package with the election returns; it shall be preserved for six months after such election, and may be opened and its contents examined only upon order of a court of competent jurisdiction; and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them. Nothing in this article shall prohibit the officers having charge of the election on the written request of any of the candidates, from opening the door of the counter compartment in the presence of representatives of the local party organization after such elections; but in no case, for a period of thirty days, shall any portion of the voting mechanism be unlocked or disturbed except by order of a court of competent jurisdiction. (1905 p. 361; Ann. 5932; Comp. 3360 l.)

2310 Sec. 372. General election law apply to machine voting.—All laws relating to elections now in force in this state, shall apply to all elections under this article, so far as the same may be applicable thereto; and so far as any laws or parts of laws now in being are inconsistent with or repugnant to this, the same are hereby declared to have no application to elections held with voting machines. (1905 p. 362; Ann. 5934; Comp. 3360n.)

ARTICLE XVIII.

ELECTION COMMISSIONER.

(APPLICABLE TO COUNTIES OF OVER 150,000 POPULATION.)

SECTION

- 2311. Election commissioner—appointment—qualifications—bond—power.
- 2312. Vacancies—removal.
- 2313. Office—supplies—records.
- 2314. Deputies—assistants—inspectors—appointment.
- 2315. Responsibility of commissioner—neglect of duty—removal.
- 2316. Election judges and clerks—oath—duties—removal.
- 2317. Same—notice of appointment—objections—refusal to serve.
- 2318. Registration of voters—supervisors—inspectors—appointment—qualifications.
- 2319. Lists of voters—prepared by precincts.
- 2320. Registration registers—change of residence—challenges.

SECTION

- 2321. Oaths and affirmations.
- 2322. Registration registers—form.
- 2323. Registration of voters—oath
- 2324. Same—errors—revision.
- 2325. Checking registers at elections—voting by certificate.
- 2326. Supplies—expenses.
- 2327. Election districts.
- 2328. Notices of elections served on commissioner.
- 2329. Certificates of nominations, etc.,—election expenses—where filed.
- 2330. Advertisements—notices, etc., of elections issued by commissioner
- 2331. Salaries.
- 2332. Ballots—voting—assisting voter.
- 2333. Construction of law—effect of unconstitutionality.
- 2334. Repealing clause.

2311 Sec. 373. Election commissioner—appointment—qualifications—bond—power.—There is hereby created the office of election commissioner for each county having a population of one hundred fifty thousand or more, and all of the rights, powers, authority, duties and obligations, by law, vested in and imposed upon any officer or officers of any such county or any political subdivision thereof or therein, with respect to general, city, special primary elections and registrations of voters in such counties or any political subdivision thereof or therein, excepting elections held for school district, village and city officers and purposes in districts, villages and cities outside of cities of the metropolitan class, and cities of the first class, and excepting the fixing

of the time and calling of special election, shall be vested in and imposed upon such commissioner. Within thirty days after this bill shall have become a law, the governor of Nebraska shall appoint for each of said counties such election commissioner who shall hold office until December 31, 1915, and until his successor is commissioned and qualified. Successors shall be appointed in like manner and their term of office shall be two years and until their successors are commissioned and qualified. Such commissioner shall be a legal voter, and resident of such county for at least five years and be of good moral character and of approved integrity and capacity. No person who is a candidate for any office or is a deputy or clerk or employee of any office or person who is a candidate for election shall be eligible for the office of election commissioner; and he shall hold no other office and shall be ineligible to any elective or appointive office or to become a candidate therefor during his term of office or within three months after the term for which he has been appointed has expired whether he shall serve the full term or not, and he shall before entering upon the duties of said office take and subscribe an oath in the form provided by law, and give bond to the state in the sum of ten thousand dollars to be approved by the governor conditioned for the faithful and honest performance of the duties of said office and the care and preservation of the property thereof; such oath of office and bond to be filed in the office of the secretary of state. Said election commissioner shall make all necessary rules and regulations not inconsistent with this article in regard to general, city, special and primary elections, and registration of voters in such counties, and shall have charge of and make provisions for all elections, general, special, local, municipal, city, state and county and all others of every description to be held in such county or any part or political subdivision thereof at any time, except as herein otherwise provided. (1913 p. 116.)

2312 Sec. 374. **Vacancies—removal.**—In case of vacancy in the office of election commissioner, the same shall be filled in the same manner and form as provided for the appointment of the election commissioner in this article, and he shall serve for the unexpired part of the term. The said commissioner shall be subject to removal by the governor of Nebraska at any time for incompetency or for conduct which shall be prejudicial to the public interest, whereby a vacancy shall be declared in said office and shall be filled as herein provided. (1913 p. 117.)

2313 Sec. 375. **Office—supplies—records.**—It shall be the duty of the board of county commissioners of each county governed by the provisions hereof, to provide an office for the election commissioner suitable for the preservation of the records of his office, and the performance of the duties devolving upon such commissioner; and the expense of providing and furnishing such office shall be a county charge.

All books, documents, papers, records and election appliances or appurtenances held or used by or under the control of any officer or officers of any county governed by the provisions hereof, or of any city or political subdivision thereof, or therein, and relating to or used in the conducting of general, city, special or primary elections and registration of voters shall, upon request of the election commissioner, be transferred to the care, custody and control of such commissioner. (1913 p. 117.)

2314 Sec. 376. Deputies—assistants—inspectors—appointment.—Such election commissioner shall appoint a chief deputy commissioner who shall be a member of a political party other than the one with which the election commissioner affiliates, and polling the highest number of votes at the preceding general election for governor. Such deputy commissioner shall hold his office during the pleasure of said commissioner and he shall give a bond to the state in the sum of five thousand dollars with security to be approved by the governor conditioned for the faithful performance of the duties of said office. The chief deputy may perform all the duties of the commissioner's office, and shall perform such duties as the election commissioner shall direct; such election commissioner shall appoint such other deputies, inspectors of election, supervisors of registration, peace officers, to serve at election, and such other assistants as may be necessary for the performance of the duties of his office, the registration of voters, and the conduct of elections in such counties. Such employees shall be divided between all political parties as nearly as practicable in proportion to the number of votes cast in said county at the preceding general election for the office of governor by said parties, respectively. (1913 p. 118.)

2315 Sec. 377. Responsibility of commissioner—neglect of duty—removal.—Said commissioner shall be responsible for the enforcement of the provisions of this law, for the competency, integrity and conduct of his deputy, clerks, employees and all registration and election officials appointed by him; and said commissioner shall be removed when it shall appear that said commissioner has been derelict in the performance of the duties of his office, whereby incompetent, negligent or corrupt officers of registration or election have been appointed or whereby in any election district of said county a fair and impartial registration or election was not obtained or the election laws not enforced. (1913 p. 118.)

2316 Sec. 378. Election judges and clerks—oath—duties—removal.—The election commissioner shall, using his own judgment and discretion and not restricted by any recommendation whatever, at least thirty days prior to the first general, city, special or primary election after this article becomes a law, select and appoint three qualified persons as judges of election for each election district in such county. They shall be men of good repute and character, able to read and write the English language, and qualified electors of the county or city in which such election is held. No person shall be appointed a judge or clerk of election who is a candidate for office at such election, or who is in the public employ in any capacity, or who holds a license for the sale of intoxicating liquors, or who is in the employ of any such licensee; two clerks of election for each district shall also be selected and appointed at the same time who shall possess the same qualifications as the judges aforesaid. Before entering upon the duties of their offices each judge and clerk so appointed shall take and subscribe a like oath as that taken and subscribed by the election commissioner. Such judges and clerks shall be appointed for a term ending thirty days prior to the next general state election after the election for which they were appointed to serve, and shall, during said term, serve as judges and clerks at all general, city, special, municipal and primary elections in such counties. Where a vacancy in the office of judge or clerk shall occur from any cause, said commissioner shall make an appointment, as herein pro-

vided, to fill such vacancy. If any judge or clerk fails to appear at the hour appointed for the opening of the polls, the remaining officers shall proceed to conduct the election and notify the election commissioner, and he shall send a substitute forthwith. Two of said judges and one of said clerks of election shall belong to the political party which at the last general state election cast the highest number of votes in the county for governor, and one of said judges and one of said clerks of election shall belong to the political party which, at said state election, polled the next highest number of votes in the county for governor. If any person holding the position of judge or clerk of election is found in the judgment of the commissioner not to possess all qualifications prescribed in this article, or if any such judge or clerk shall be guilty of neglecting the duties of his office or of any official misconduct, then such person shall be removed forthwith by the commissioner and the vacancy immediately filled. Said election commissioner may also appoint, at such time as shall be necessary, persons qualified as herein specified to serve in case of vacancy among any of said judges or clerks, or with and in addition to said officers in any election district wherein it may be deemed necessary by the commissioner to meet an emergency to have additional officers, not exceeding two, in any election district to carry into effect the provisions of this article. (1913 p. 119.)

2317 Sec. 379. Same—notice of appointment—objections—refusal to serve.—At the time of such appointment of judges and clerks, except to fill vacancies, or to supplement regular boards in case of emergency, the election commissioner shall publish for one day in three newspapers published in a city having a population of one hundred thousand or over, and in one newspaper in a city having a population of twenty-five thousand or over, in such county, in the English language, a notice stating that the persons mentioned below have been appointed to act as judges and clerks in the various election districts enumerated, at all elections to be held during their term of office; and they should have the qualifications by law required herein for judges and clerks, setting forth the same, and stating to which party they are respectively supposed to belong, and requesting all persons to inform the election commissioner as to want of qualifications on the part of any judge or clerk mentioned; that on a day named in said notice, which shall be not more than five days after the date of publication, the election commissioner will be in his office for the purpose of examining into any objections made as to the qualifications of any judge or clerk. Said notice shall further state that the office of the commissioner will be open from 9 A. M. to 9 P. M. to hear said objections, and if all objections to the qualifications of judges and clerks are not disposed of on said day, the commission will sit from day to day until the same are all determined and further that any person found disqualified will be removed. Each and every person, appointed by the election commissioner for deputy commissioner, inspector of election, judge or clerk of election or supervisor of registration, under this article, shall be notified of said appointment by registered letter and shall, at a time fixed in said notice, before the election commissioner, and if found qualified, unless excused by reason of ill health or other good and sufficient reason, serve as such officer for the term of his appointment; and in case of the neglect or refusal of any such person to serve or act, unless excused as aforesaid, the said person shall be deemed guilty of

a misdemeanor, and on conviction thereof shall be fined in any sum not less than fifty dollars nor more than two hundred dollars and shall stand committed until such fine and the costs are paid; and it is hereby made the duty of the election commissioner to make complaint against any and all election officers so offending. (1913 p. 120.)

2318 Sec. 380. Registration of voters—supervisors—inspectors—appointment—qualifications.—The election commissioner, the chief deputy commissioner and such other deputies and employees as the election commissioner shall designate as supervisors of registration, shall be supervisors of registration in said cities and shall serve as the election commissioner may direct.

The election commissioner shall appoint an inspector for each election district to be present in the polling booth during all elections, acting as the personal representative and deputy of the election commissioner in the election district to which they shall be respectively assigned by the said commissioner. It shall be the duty of such inspector to enforce the laws relating to elections and see that all proceedings are in accordance with the instructions, rules, regulations and laws, and to challenge any voter whose name does not appear on the election register or who he has reason to believe is impersonating a person whose name appears on the register or is attempting to vote illegally. It shall also be his duty to see that the judges and clerks obey the law in every particular and conduct the canvass of the votes as provided by law and make prompt returns thereof to the election commissioner.

Insofar as it is possible, the election commissioner shall appoint the same persons as supervisors of registration and inspectors of election, and insofar as it is practicable, the deputy commissioner who conducted the canvass as provided for in this article for any election district shall also serve as deputy commissioner or inspector of elections for such election district. Every supervisor and inspector appointed by the commissioner must have the same qualifications as to character, competency and integrity as provided for judges and clerks, with the further provision that the said officials who prepare the registers shall write legibly, and all election officials and supervisors of registration and inspectors of election shall, upon receiving notice of appointment, report to the office of the election commissioner at a time specified by him to be examined as to their qualifications, receive instructions, as to their duties and take the oath prescribed by law and receive a certificate of appointment from the election commissioner. (1913 p. 121.)

2319 Sec. 381. Lists of voters—prepared by precincts.—The election commissioner, starting as soon as practicable after this law becomes effective and again on the first day of September of every year in which is held a general state election, by the aid and assistance of deputy commissioners appointed by him, as herein provided not to exceed one for each district, shall visit every building in each city within said county wherein registration is required, and after diligent inquiry make true lists by streets, wards and voting districts of the name, age, occupation, place of occupation, residence and period of residence, at the time of taking of the canvass, of every male person twenty-one years of age or upward, or who is or will be at the next ensuing general election a qualified voter. Said commissioner shall designate in such lists all buildings used as residences by such male persons, in their order on the street where they are located by giving the number or other defin-

nite description of every such building so that it can be readily identified and shall place opposite the number or other description of every such building the name, age, and occupation of every such male person residing therein at the time of the canvass, which lists shall be used for checking, revising and correcting registration. (1913 p. 122.)

2320 Sec. 382. Registration registers—change of residence—challenges.
—As soon as the first canvass provided for in this article has been completed, the election commissioner shall provide for a new general registration of all voters in the county, who may be required by law to register. He shall furnish the necessary records as provided by this article, which records shall be known as the permanent registration register. The permanent registration registers shall be kept in duplicate and marked respectively "original" and "duplicate." The original shall remain in the office of the election commissioner; the duplicate shall be the one taken to and used in the various election districts for election purposes. Any person properly registering as a voter shall not be required to again register in said county unless he changes his residence. When any registered voter shall change his residence from one voting district to another, such change of residence shall operate as a cancellation of his registration and he must again register before he shall be permitted to vote.

The office of the commissioner shall remain open during the usual business days of the entire year for purposes of general registration and for the transaction of the business of said office.

The election commissioner may further provide such other places of registration as in his judgment the best interests of the service may require, which other places shall be opened at such time and during such hours as he may direct. Notice whereof shall be given by publication in three of the leading daily papers of the county.

It is hereby made the duty of the election commissioner to verify the registration in each election district, through the various inspectors, within the ten days next preceding each and every general state and regular city election and at such other times as the election commissioner may deem necessary, and he shall thereupon enter or cause to be entered the word "challenged" opposite the name of any voter reported by said inspector as unlawfully registered; and such entry shall not be cancelled nor the person so challenged permitted to vote without evidence being produced in writing and filed with said commissioner or inspector showing the correctness of his registration, which evidence shall be in the form of an affidavit, the filing of which shall be entered thus "affidavit," opposite the name of the voter so challenged, which affidavit shall be signed by the person challenged and by two regularly registered voters of the district and shall state facts sufficient to show the correctness of his registration. Whereupon such commissioner or inspector shall make entry "challenge withdrawn" opposite the name of such voter. Upon the entry of any such challenge against a person whose name appears upon the registration records, the commissioner shall send a notice over his signature, through the mail, duly stamped, to all such persons against whose names a challenge has been entered at the address given upon said registration records, requiring such person to appear before the election commissioner or inspector, to verify his registration under oath, and upon his failure so to appear

within one year thereafter, or to file with said commissioner an affidavit setting forth a good and sufficient reason for not appearing in person, and setting forth facts showing the correctness of such registration, verified by two registered voters of the same district as such voter, the said registration shall be cancelled. Two copies of the registration record of each district, as it shall be made up and appear ten days before any election, shall be provided by said commissioner for the use of judges and clerks of election in their respective districts on election day, said copies to be known as election registers. (1913 p. 122.)

2321 Sec. 383. Oaths and affirmations.—The election commissioner, deputy commissioners, judges of election, supervisors of registration and election inspectors are hereby authorized to administer all oaths and affirmations required or necessary in the administration of this article. (1913 p. 124.)

2322 Sec. 384. Registration registers—form.—It shall be the duty of the election commissioner to cause to be prepared records for the registration of names and facts required by this article: Said records to be known by the general name of registers and to be so arranged as to admit of the entering under the name of each street or avenue in each election district, the number of each dwelling on any such street or avenue, if there be a number thereto, and if there be no number, then under such definite description of the location of the dwelling place as shall enable it to be readily found, the names of all legal voters in each dwelling in each of said districts applying for registration. Such register shall be ruled in parallel columns, in which, opposite the name of every applicant for registration, shall be entered the words and figures hereinafter provided in this article. Said registers shall be suitably ruled and shall have columns entitled as follows:

Number; Full name; Age; Present place of residence; Street No., Room, Floor; Place of residence at last registration; Occupation; Term of residence; Nativity; Naturalized, when; Court; Married or single; Personal description; Color hair; Color Eyes; Apparent weight; Apparent height; Other means of identification; Date of application for registration; Date registry approved; Sworn; Signature of voter; Party affiliation; Remarks.

(1913 p. 124.)

2323 Sec. 385. Registration of voters—oath.—The election commissioner or the deputy commissioner acting for him shall receive the application for registration of all such legal voters as shall personally apply for registration at the office of the commissioner or other places designated for registration, who then are, or on the day of election next following the day of making such application, will be entitled to vote. Any person serving as supervisor of registration shall administer to all persons who may personally apply to register the following oath or affirmation, viz.:

You do solemnly swear or affirm that you will fully and truly answer all such questions as shall be put to you, touching your place of residence, name, place of birth, your qualifications as an elector, and all other questions provided for by the laws of this state affecting your right to register and vote therein.

They shall then examine the applicant as to his qualifications as an elector, and, unless otherwise provided herein, shall immediately in the presence of the applicant, enter in the registers the statements and acts, as above set forth, and in the manner following, viz.:

First—Under the column "Residence" the name and number of the street, avenue, or other location of the dwelling if there be a number; but if there shall not be a number, then such clear and definite description of the location

of such dwelling as shall enable it to be readily found; and if there be more than one family residing in the dwelling named by the applicant, in such case the said applicant shall give the floor on which he resided (every floor below the level of the ground being designated as the basement, the first floor on or above such level, the first floor, and each floor above that as the second or such other floor as it may be), or the number or location of the rooms occupied by the applicant and whether front or rear.

Second—under the column "Address" the name of the applicant giving the surname and christian name in full; and said names shall be kept by streets and avenues as far as the same can be done;

Third—under the column "Sworn" the word "Yes" or "No" as the case may be;

Fourth—under the column of "Nativity" the state, country, kingdom, empire or dominion, as the facts shall be stated by the applicant;

Fifth—under the column "Color" the word "White" or "Black" as the case may be;

Sixth—under the subdivision of the general column of "Term of Residence," the periods by months or years stated by the applicant in response to the inquiries made for the purposes of ascertaining his qualifications and filling such columns;

Seventh—under the column "Naturalized" the word "Yes" or "No" or "Native" as the fact may be stated:

Eighth—under the column "Date of Papers" the date of naturalization if naturalized, as the same shall appear by the evidence of citizenship submitted or presented by the applicant in compliance with the requirements of this article;

Ninth—under the column "Court" the designation of the court in which, if naturalized, such naturalization was done, as the same shall appear by the evidence of citizenship presented or submitted by the applicant in compliance with the requirements of this article;

Tenth—under the column "Qualified Voter" the word "Yes" or "No" as the facts shall appear and be determined by at least two of the said supervisors, it being, however, required of said supervisors to designate as a qualified voter any person, who, being otherwise qualified, shall not, at the time of making the application be of age: Provided, the time when such applicant shall be of the age of twenty-one shall be subsequent to the date of his making application and not later than the day of the election immediately following such time of applying;

Eleventh—under the column "Date of Application," the month, day, and year when the applicant presented himself for registration;

Twelfth—under the column "Signature of voter" the applicant for registration shall be required to sign his name on both original and duplicate registers. (1913 p. 125.)

2324 Sec. 386. Same—errors—revision.—The commissioner shall, upon the personal application of any person entered upon the registration record, correct any error therein, or whenever informed of any such error and after due investigation he may correct such error, and for said purpose may summon witnesses and compel their attendance to appear before said election commissioner at his office to give testimony pertaining to the residence, qualifications,

or any other facts required to be entered in said registration list, which testimony shall be transcribed and become a part of the records of his office.

If, through any error of the election commissioner, the name of any properly registered qualified voter of any election district fails to appear upon the election register of his election district, the inspector of election shall at the polling booth of such election district issue a certificate to such person which shall recite the facts and authorize the judges of election to receive his vote. If a qualified voter has removed from one place of residence to another within the election district wherein he is registered and his name appears upon the election register he shall be entitled to vote, upon complying with the provisions in the fourth preceding section of this article relating to challenged voters. (1913 p. 127.)

2325 Sec. 387. Checking registers at elections—voting by certificate.—The judges of election in each election district shall on the day of any election therein have at the polling place in said district the election registers provided for in this article; they shall make use of said registers for guidance on said day and no vote shall be received from any person unless the name of the person offering to vote be found by at least two of said judges to be upon said registers as a qualified voter, or shall furnish to the said judges the certificate of the election commissioner or inspector herein provided for, stating that the applicant is a qualified voter in said district. It shall be the duty of each of said judges to enter on the register in his possession in a suitable and separate part thereof the name and residence of each person voting by certificate, and whose name does not appear on the said registers. It shall further be the duty of said judges, immediately on the close of the polls on the day of election to compare the said registers as kept by them as herein provided, and attach to them a certificate in writing that the same are correctly checked, and within twenty-four hours after the completion of the canvass of the votes cast in the election district in which they served, to deliver all of said registers to the election commissioner whose duty it shall be to file and preserve the same; and in no election district in any such county shall any judge who has custody or charge of either or any of said registers in this article provided for, permit said registers to leave his possession from the time of receiving them until he shall deliver the same as herein provided. (1913 p. 127.)

2326 Sec. 388. Supplies—expenses.—Said election commissioner shall purchase and provide all necessary ballot boxes and all books of registration, poll books, tally sheets, ballot blanks, stationery and supplies of every description and other necessary and proper equipment for the registration of voters and the conduct of such elections and for every incidental purpose connected therewith and shall select and appoint the places of registration and also the polling place in each district and cause the same to be fitted up, warmed, lighted and cleaned; and such place or places shall be located in the most public, orderly and convenient portion thereof, and the expense thereof shall be a county charge: Provided, however, the expense of holding and conducting, separately, any city, municipality or school district election shall be charged to and paid by the city, municipality or school district holding the election.

In the event that all or any two of said last named elections be held jointly, then the election commissioner is hereby empowered to definitely fix and certify to each of such bodies joining in such joint election the portion of such

total expense which each shall bear and upon such certification the city, municipality or district shall contribute and pay to the county treasurer the share so certified.

Whereupon the county board shall draw warrants in payment of such election expense. (1913 p. 128.)

2327 Sec. 389. Election districts.—It is hereby made the duty of said commissioner, as soon as practicable after his appointment, to divide the election precincts and city wards in such counties and cities into election districts, composed of compact and contiguous territory, which shall contain as nearly as possible not more than three hundred actual voters; and in making such division and establishing such districts, such commissioner shall take as a basis the poll books of votes cast at the last preceding presidential election. Within six months after each subsequent presidential election, the election commissioner shall revise and rearrange such districts and increase or decrease their number on the basis of the votes cast at the previous presidential election for President, making such districts to contain as nearly as practicable three hundred votes. (1913 p. 128.)

2328 Sec. 390. Notices of elections served on commissioner.—All notices which are now or which hereafter may be required by law to be given by the secretary of state to the county clerk or other officer of any county governed by the provisions hereof, or of any political subdivision thereof or therein relating to the holding of any elections, and stating the officers to be elected thereat, or the questions to be voted upon by the people thereat, shall be communicated by the secretary of state to the election commissioner for such county. (1913 p. 129.)

2329 Sec. 391. Certificates of nominations, etc.—election expenses—where filed.—All certificates of nomination for office to be voted for by the electors of any such county or any political subdivision thereof or therein, to which this article applies, all declinations of nominations for office, all certificates of nomination to fill vacancies caused by such declinations or by death, all statements of candidates' expenses or other documents, required by law to be filed with any officer of any such county or subdivision governed hereby, shall be filed in the office of the election commissioner hereby established. (1913 p. 129.)

2330 Sec. 392. Advertisements—notices, etc., of elections issued by commissioner.—All publications, advertising or posting of election notices required by law, relating to primary, general, city and special elections to which this article applies, and all notices of such elections as are required by law to be published, advertised or posted shall be published, advertised or posted by the election commissioner. (1913 p. 129.)

2331 Sec. 393. Salaries.—The election commissioner shall receive a salary during the time in which he shall serve and hold office at the rate of three thousand dollars per annum payable monthly, and the chief deputy commissioner shall receive a salary during the period of his employment at the rate of fifteen hundred dollars per annum payable monthly. Other deputy commissioners and judges and clerks of election shall receive and be paid at the rate of five dollars per day for the time during which they shall serve, all of which shall be paid out of the general fund of the county, except as otherwise provided in this article. (1913 p. 129.)

2332 Sec. 394. Ballots—voting—assisting voter.—Official ballots shall be used at all elections held under the provisions of this article in the general form provided by law. No ballot shall be handed to any person for the purpose of use at any election governed hereby until such person shall have announced to the judges and inspector of election who shall be serving at the polling place in the election district in which he resides and is entitled to vote, his name and address, and until it shall be found by such officers that such person has been duly registered as a qualified voter as shown by the election registers or otherwise entitled to vote in said district under the provisions of this article and until the clerks shall have entered his name upon the poll books in consecutive number of voters, and until he shall have signed his name in said poll book opposite thereto. Any voter receiving assistance in voting shall declare by word of mouth to the officials empowered by law to assist him, the name of the candidates and the measures for which he desires to vote and the officials shall mark his ballot only as he so requests. (1913 p. 130.)

2333 Sec. 395. Construction of law—effect of unconstitutionality.—Should the courts declare any section, or any part of a section, of this article, unconstitutional or unauthorized by law, or in conflict with any other section or part or subdivision of a section or provision of this article, then such decision shall affect only the section or part or subdivision of a section, or provisions so declared to be unconstitutional, and shall not affect any other section or any other part or subdivision of a section or provision or part of this article. It is further expressly provided that each section and each part or subdivision of a section herein is independent of every other section and every other part or subdivision of a section; and not any section or any part or subdivision of a section is an inducement for the enactment of any other section or part or subdivision of a section. (1913 p. 130.)

2334 Sec. 396. Repealing clause.—All acts and parts of acts in conflict with either the express provisions of this article or with its intent and purpose are hereby repealed. (1913 p. 130.)

ARTICLE XIX.

INITIATIVE AND REFERENDUM.

SECTION	SECTION
2335. Referendum—act of legislature—petition.	2342. Ballots—form.
2336. Initiative—law or amendment to constitution—petition.	2343. Conflicting laws.
2337. Petitions—form—filing.	2344. Publication of measures and argument.
2338. Same—verification.	2345. Canvass and return of vote—proclamation of result.
2339. Same—refusal of secretary of state to file—procedure.	2346. Poll books—list of voters.
2340. Ballot title.	2347. List of registered voters.
2341. Same—certified to county clerk—numbered.	2348. List of voters for 1913, 1914.
	2349. Qualified signers—violations—penalty.

2335 Sec. 397. Referendum—act of legislature—petition.—The following shall be substantially the form of petition for ordering the referendum against any act or any part of any act passed by the legislature of the State of Nebraska:

WARNING.

It is a felony for anyone to sign any initiative or referendum petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign such petition when he is not a legal voter, or falsely to certify to the signatures upon any such petition.

PETITION FOR REFERENDUM.

To the Honorable _____, Secretary of State for the State of Nebraska:

We, the undersigned citizens and legal voters of the State of Nebraska and the County of _____, respectfully order that the Senate (or House) Bill No. _____ entitled (title of act, and if the petition is against less than the whole act then set forth here the part or parts on which the referendum is sought), passed by the Legislature of the State of Nebraska at the regular (special) session of said Legislature, shall be referred to the people of the state for their approval or rejection, at the regular election to be held on the _____ day of _____, A. D. 19____, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Nebraska, and County of _____; my residence and postoffice are correctly written after my name.

Name _____, Residence _____, Postoffice _____

(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

(1913 p. 488.)

2336 Sec. 398. Initiative—law or amendment to constitution—petition.

—The following shall be substantially the form of petition for any law or amendment to the constitution of the State of Nebraska:

WARNING.

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure or to sign such petition when he is not a legal voter, or falsely to certify to the signatures upon any such petition.

INITIATIVE PETITION.

To the Honorable _____, Secretary of State for the State of Nebraska:

We, the undersigned citizens and legal voters of the State of Nebraska and County of _____, respectfully demand that the following proposed law (or amendment to the constitution, as the case may be), shall be submitted to the legal voters of the State of Nebraska for their approval or rejection at the regular general election, to be held on the _____ day of _____, A. D. 19____, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Nebraska, and of the County of _____; my residence and postoffice are correctly written after my name. Name _____, Residence _____, Postoffice _____.

(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

(1913 p. 489.)

2337 Sec. 399. Petitions—form—filing.—Every such sheet for petitioners' signatures shall be attached to a full and correct copy of the title and text of the law or amendment to the constitution so proposed by the initiative petition; but such petition may be filed with the secretary of state in numbered sections for convenience in handling, and referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded and may be filed in numbered sections in like manner. Not more than twenty signatures on one sheet shall be counted. When any such initiative or referendum petition shall be offered for filing, the secretary of state, in the presence of the governor and the person offering the same for filing, shall detach the sheets containing the signatures and affidavit and cause them all to be attached to one or more printed copies of the measure so proposed by initiative petitions, or of the act or part of an act against which referendum petitions are filed: Provided, all petitions for the initiative and for the referendum and sheets for signatures shall be printed on pages seven inches in width by ten inches in length with a margin of one and three-fourths inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure or act, or part of an act, or amendment to the constitution; the detached copies of such measure shall be delivered to the person offering the same for filing. If any such measure shall, at the ensuing election, be approved by the people, then the copies thereof, so preserved, with the sheets and signatures and certifications, and a certified copy of the governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved. The secretary of state shall

cause every such measure and amendment to the constitution so approved by the people to be printed with the general laws enacted by the next ensuing session of the legislature, with the date of the governor's proclamation declaring the same to have been approved by the people. (1913 p. 489.)

2338 Sec. 400. Same—verification.—Each and every sheet of every such petition containing signatures shall be verified on the back thereof, in substantially the following form, by the person who circulated said sheet of said petition, by his or her certification thereon and as a part thereof:

State of Nebraska, County of _____, ss.

I, _____, hereby certify that (here shall be legibly written or typewritten the names of the signers of the sheet,) signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Nebraska and county of _____.

(Signature and postoffice address of (affiant).)

Witnesses:

 (Signature of two witnesses to certification and their postoffice address.)

The forms herein given are not mandatory, and if substantially followed in any petition it shall be sufficient, disregarding clerical and merely technical errors. (1913 p. 490.)

2339 Sec. 401. Same—refusal of secretary of state to file—procedure.—If the secretary of state shall refuse to accept and file any petition for the initiative presented not less than four months preceding the date of election at which the proposed statute or constitutional amendment is to be voted upon, or any petition for the referendum presented within ninety days after the legislature enacting the law to which the petition applied adjourns sine die or for a period longer than ninety days any citizen may apply, within ten days after such refusal, to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten days after a decision is rendered. The district court of Lancaster county shall have jurisdiction in all cases of laws, parts of laws or initiative amendments to the constitution to be submitted to the electors of the state at large. (1913 p. 491.)

2340 Sec. 402. Ballot title.—When any measure shall be filed with the secretary of state to be referred to the people of the state by the referendum petition, and when any measure shall be proposed by initiative petition, the secretary of state shall forthwith transmit to the attorney general of the state, a copy thereof, and within ten days thereafter the attorney general shall provide and return to the secretary of state a ballot title for said measure. The ballot title may be distinct from the legislative title of the measure, and shall express, in not exceeding one hundred words, the purpose of the measure. The ballot title shall be printed with the numbers of the measure, on the official ballot. In making such ballot title the attorney general shall, to the best of his ability, give a true and impartial statement of the purpose of the measure, and

in such language that the ballot title shall not be intentionally an argument, or likely to create prejudice, either for or against the measure. Any person who is dissatisfied with the ballot title provided by the attorney general for any measure may appeal from his decision to the district court, as provided by the next preceding section, by petition, praying for a different title and setting forth the reasons why the title prepared by the attorney general is insufficient or unfair. No appeal shall be allowed from the decision of the attorney general on a ballot title, unless the same is taken within ten days after said decision is filed. A copy of every such decision shall be served by the secretary of state or the clerk of the court, upon the person offering or filing such initiative or referendum petition or appeal. Service of such decision may be by mail or telegraph, and shall be made forthwith. Said district court shall thereupon examine said measure, hear arguments, and in its decision thereon certify to the secretary of state a ballot title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him. (1913 p. 492.)

2341 Sec. 403. Same—certified to county clerk—numbered.—The secretary of state, at the time he furnishes to the county clerks of the several counties certified copies of the names of the candidates for state and other offices, shall furnish to each of said county clerks his certified copy of the ballot titles and numbers of the several measures and initiative amendments to the constitution to be voted upon at the ensuing general election; and he shall use for each measure the ballot title designated in the manner herein provided. Such ballot title shall in no case exceed one hundred words, and shall not resemble, so far as probably to create confusion, any such title previously filed for any measure to be submitted at that election; he shall number such measures and such ballot titles shall be printed on the official ballot in the order in which the petitions by the people shall be filed in his office. The affirmative of the first measure shall be number 300 and the negative 301 in numerals, and the succeeding measures shall be numbered consecutively 302, 303, 304, 305, and so on, at each election. It shall be the duty of the several county clerks to print said ballot titles and numbers upon the official ballot in the order presented to them by the secretary of state and the relative position required by this article. Measures referred by petition shall be designated "Referendum ordered by Petition of the People"; measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading "Proposed by Initiative petition." (1913 p. 492.)

2342 Sec. 404. Ballots—form.—When any initiative or referendum petition shall be regularly and legally filed with the secretary of state, he shall, at the next regular general election, cause to be printed on the ballot, above and preceding all party names and circles, the title and number of the initiated act or constitutional amendment; or the referred law, or part of a law, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval thereof. All initiative and referendum measures shall be submitted in a non-partisan manner without any indication or suggestion on the ballot that they have been approved or endorsed by any political party or organization. (1913 p. 493.)

2343 Sec. 405. Conflicting laws.—If two or more conflicting laws shall be approved by the people at the same election, the laws receiving the greatest

number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such amendment may not have received the greatest majority of affirmative votes. (1913 p. 493.)

2344 Sec. 406. Publication of measures and argument.—Not later than the first Monday of the third month next before any regular general election at which any initiated law, or act or part of an act passed by the legislature, or amendment to the constitution is to be submitted to the people, the secretary of state shall cause to be printed in pamphlet form a true copy of the title and text of each measure to be submitted, with the number and form in which the ballot title thereof will be printed on the official ballot. The person, committee, or duly authorized officers of any organization filing any petition for the initiative, but no other person or organization, shall have the right to file with the secretary of state, for printing and distribution, any argument advocating such measure; said argument shall be filed not later than the second Monday of the fourth month before the regular election at which the measure is to be voted upon. Any person, committee, or organization may file with the secretary of state, for printing and distribution, any arguments they may desire, opposing any initiative measure, not later than the fourth Monday of the fourth month immediately preceding such election. Arguments advocating or opposing any measures referred to the people by referendum petition, at a regular general election, shall be governed by the same rules as to time, but may be filed with the secretary of state by any person, committee, or organization. But in every case the person or persons offering such arguments for printing and distribution shall pay to the secretary of state sufficient money to pay all the expenses for paper and printing to supply one copy with every copy of the measure to be printed by the state; and he shall forthwith notify the persons offering the same of the amount of money necessary. The secretary of state shall cause one copy of each of said arguments to be bound in the pamphlet copy of the measure to be submitted, as herein provided, and all such measures and arguments to be submitted at one election shall be bound together in a single pamphlet. All the printing shall be done by the state, and the pages of said pamphlet shall be numbered consecutively from one to the end. The pages of said pamphlet shall be approximately six by nine inches in size, and the printed matter thereon shall be set in eight-point, Roman-faced type, single leaded, and twenty-five ems in width, with appropriate heads and printed on sized and supercalendered paper, twenty-five by thirty-eight inches, weighing fifty pounds to the ream. The title page of every measure bound in said pamphlet shall show its ballot title and ballot numbers. The title page of each argument shall show the measure or measures it favors or opposes and by what persons or organization it is issued. When such arguments are printed, the secretary of state shall pay therefor from the money deposited with him and refund the surplus, if any, to the parties who paid it to him. The cost of printing, binding and distributing the measures proposed and of binding and distributing the arguments shall be paid by the state as a part of the state

printing, it being intended that only the cost of paper and printing the arguments shall be paid by the parties presenting the same; and they shall not be charged any higher rate for such work than is paid by the state for similar work and paper. Not later than the fifty-fifth day before the regular general election at which such measures are to be voted upon, the secretary of state shall transmit by mail, with postage fully prepaid, to every voter in the state whose address he may have, one copy of such pamphlet: Provided, if the secretary of state shall, at or about the same time, be mailing any other pamphlet to every voter, he may, if practicable, bind the matter herein provided for in the first part of said pamphlet, numbering the pages of the entire pamphlet consecutively from one to the end, or he may enclose the pamphlets under one cover. (1913 p. 494.)

2345 Sec. 407. Canvass and return of vote—proclamation of result.—The votes on initiative measures or constitutional amendments and on referred laws or parts of laws, shall be counted, canvassed and returned by the regular boards of judges, clerks and officers, as votes for candidates are counted, canvassed and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the secretary of state on separate abstract sheets, in the manner provided by law for abstracts of votes for state and county officers. It shall be the duty of the board of state canvassers to canvass the votes upon each initiative or referendum measure in the same manner as is prescribed in the case of presidential electors, and the governor shall, within ten days of the completion of the canvass, issue his proclamation giving the whole number votes cast in the state for and against each measure and question, and declaring such measures as are approved by the constitutional number or majority of those voting to be in full force and effect as the law of the State of Nebraska from the date of said proclamation: Provided, if two or more measures shall be approved at said election, which are known to conflict with each other or to contain conflicting provisions, he shall also proclaim which is paramount in accordance with the provisions of the second next preceding section. (1913 p. 495.)

2346 Sec. 408. Poll books—list of voters.—At all regular general elections the county clerk shall provide in each election precinct outside of cities having registration of voters, duplicate sets of poll sheets in the following form:

List of voters at an election held in _____ precinct _____ township in _____ county, on the _____ day of _____ A. D. _____.

No	Name	Postoffice Address
1.		
2.		

We, the undersigned judges and clerks of election, certify that the above is a true list of the names and addresses of all the persons voting at the above named election.

 Judges of election. _____

 Clerks.

Each clerk at said election precincts shall record on these poll sheets the name and address of every person voting. The judges and clerks shall certify to the poll sheets in the form and manner thereon provided, inclose them in an envelope or cover, and return to the county clerk, along with the poll books

and ballots, and until such poll sheets are thus filled out and returned, the said judges and clerks of election shall not receive any pay for their services. Within thirty days after the election, the county clerk shall forward one set of these poll sheets from each of said precincts to the secretary of state, and each of said officers shall keep a set of such poll sheets on file in his office until the next regular general state election. In case the poll sheets from any county fail to arrive within five days after said thirty day limit, the secretary of state is authorized, after ten days' notice, to dispatch a messenger for the poll sheets at the expense of the delinquent county. (1913 p. 496.)

2347 Sec. 409. List of registered voters.—The city clerk of each city having registration of voters shall, within thirty days after any regular general state election, make and transmit to the secretary of state a certified list, by election precincts, of the names and street addresses of all the then registered voters of the city, including also those who, at the last election, voted by certificate without registration. If such list of voters of any of said cities is not received within five days after the thirty day limit, the secretary of state is authorized, after ten day's notice, to send a messenger for the same at the expense of the delinquent city. These lists of voters in cities shall be kept on file by the secretary of state until the next regular general state election. (1913 p. 497.)

2348 Sec. 410. List of voters for 1913, 1914.—In the event that a referred or an initiated measure is to be submitted to the electors at a general state election in either 1913 or 1914, the secretary of state shall, at least one hundred days prior thereto, notify each county clerk and each city clerk of a city having registration of voters to furnish to him the names and addresses of voters as in this section provided. Within twenty days after such notice said city clerk shall transmit to the secretary of state lists of registered voters as provided for in the next preceding section. The county clerk shall, within twenty days after the aforesaid notice, prepare from the last assessment roll and other available sources of information, and transmit to the secretary of state a written or typewritten list, as complete and accurate as possible, of the names and postoffice addresses of voters in election precincts outside of cities having registration of voters. If the said lists of voters have not arrived from any county or city five days after the end of the twenty day limit, the secretary of state is authorized, after ten day's notice, to dispatch a messenger after the same at the expense of the delinquent county or city, as the case may be. (1913 p. 497.)

2349 Sec. 411. Qualified signers—Violations—penalty.—Every person who is a qualified elector of the State of Nebraska may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any person who shall falsely certify to any signature upon any such petition, or any officer or person wilfully violating any provision of this statute, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment. (1913 p. 498.)

ARTICLE XX.

CORRUPT PRACTICES.

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2350 Sec. 412. Election—expenses of candidates—statements.—No candidate for any public office created by the constitution or laws of this state to be filled by popular election shall, by himself, or by or through any agent or agents, committee or organization, or person or persons whatsoever, in the aggregate, with the intention to promote the nomination or election of such candidate, or in support of or in opposition to any measure submitted to popular vote, do any of the following things, which are hereby made unlawful, and the violation of any one or all of which is made a misdemeanor, punishable by a fine of not less than fifty dollars, or imprisonment in the county jail for a period not to exceed six months:

First—Furnish, pay for, or engage to pay for, any entertainment to any meeting of electors previous to or during an election at which he is a candidate;

Second—give away or treat to any drinks, cigars or other refreshments;

Third—to pay out, give, contribute, or expend, or offer or agree to pay, give, contribute, or expend any money or other valuable thing for the purpose of promoting the nomination or election of any candidate or in support of or opposition to any measure submitting to popular vote at any election, except for the bona fide personal expenses of any candidate for public office, and for the purpose of holding and conducting public meetings for the discussion of public questions, and then not in excess of a sum to be determined upon the following basis, namely: For five thousand voters or less, one hundred dollars; for each one hundred voters over five thousand and under twenty-five thousand, one dollar and fifty cents; for each one hundred voters over twenty-five thousand and under one hundred thousand, one dollar; and nothing additional for voters over one hundred thousand. Any payment, contribution or expenditure, or agreement or offer to pay, contribute or expend any money or thing of value, in excess of the limit prescribed by this article, for any or all such objects and purposes, is hereby declared to be unlawful, and to make void the election of the person making it. But this section shall not apply in cases where such nomination of such candidate, or of any rival can-

didate for the same office, shall have been made prior the taking effect of this article. Provided, that money expended by any such candidate for his necessary personal expenses incurred for himself alone, for travel and subsistence, for stationery and postage, for writing or printing and distributing letters, circulars and posters, and for telegraph and telephone service, shall not be regarded as an expenditure within the meaning of this section and shall not be considered any part of the sum herein fixed as the limit of expenses, and need not be shown in the statement herein required to be filed. (1899 p. 147; 1915 p. 104; Ann. 5966; Comp. 3426.)

2351 Sec. 413. **Number of voters—how determined.**—The number of voters shall be taken as equal to the total number of votes cast, for all the candidates for the office for which he is a candidate, at the last preceding election held to fill the same; and if at such last preceding election there shall have been more than one like office to fill, so that it cannot be determined who were the candidates for that particular office, then the number of voters shall be ascertained by adding together all the votes cast for all the candidates for such offices and dividing the sum by the number of such offices. Should no election to fill the office for which such person is a candidate have been previously held, the number of voters shall be ascertained by the total number of votes cast within the constituent territory at the last preceding election for state officers, for all the candidates for the state office for which at such last preceding election the largest aggregate vote was cast within the state; and should it be impracticable on account of change of boundaries to determine from returns of such last preceding election the exact number of votes so cast within such territory, the board, officer or officers, whose duty it may be to receive and canvass the returns of the election at which such person is or seeks to be a candidate shall determine the number according to their best judgment upon request of any elector, and the number so determined shall be taken to be the true number. (1899 p. 148; Ann. 5967; Comp. 3247.)

2352 Sec. 414. **Statement of nomination expenses.**—Every person who shall be a candidate before any caucus or convention or at any primary election, for nomination for the office of representative, in the congress of the United States, or for any office which under the constitution or the laws of this state is to be filled by popular election, except township, precinct and school district officers, or village trustees, shall within ten days after the holding of such caucus, convention or primary election, make out a statement in writing and file the same with the clerk of the county in which he resides, and make out and file a duplicate thereof with the board, officer or officers, if any, empowered by law to issue the certificate of election to such office. Such statement shall set forth in detail each and all sums of money and other things of value contributed, disbursed, expended or promised by him, and (to the best of his knowledge and belief) by any other person or persons with his procurement in his behalf, wholly or in part in endeavoring to secure, or in any way in connection with his nomination to such office or place, or in endeavoring to secure or defeat, or in any way in connection with the nomination of any other person or persons at such caucus, convention or primary election, and showing the dates when, and the persons by whom and to whom, and the purposes for which each such contribution, payment, expenditure or promise was made, and such candidate shall subscribe and swear to such state-

ment and such duplicate before an officer authorized to administer oaths. The form of such affidavit to be appended to each such statement and to each duplicate statement and signed by the candidate, shall be in substance as follows:

"I, ———, do solemnly swear (or affirm) that the foregoing statement is a true and full account of each and all sums of money and other things of value directly or indirectly contributed, disbursed, expended or promised by me, and (to the best of my knowledge and belief) by any and all other persons with my procurement in my behalf, wholly or in part, in endeavoring to secure, or in any way in connection with, my nomination to the office or place of ——— or in endeavoring to secure or defeat or in any way in connection with the nomination of any other person or persons at the caucus, convention or primary election before which I was a candidate for nomination to the office or place aforesaid; and that it is a true and full statement of the date when, and the person or persons to whom, and the purposes for which such contribution, payment, expenditure, or promise was made, and the person or persons by whom made, when not directly by myself.

(Signature of Candidate.)"

(1899 p. 149; 1901 p. 355; Ann. 5968; Comp. 3428.)

2353 Sec. 415. Same—election expenses.—Every person who shall be a candidate for election to the office of representative in the Congress of the United States, or to any office under which the laws or constitution of this state is to be filled by popular election, except township, precinct or school district officers, or village trustees, shall, within ten days after the election held to fill such office, make out a statement in writing and file the same with the clerk of the county in which he resides and make out and file a duplicate thereof with the board, officer or officers, if any, empowered by law to issue the certificate of election to such office or place. Such statement shall set forth in detail each and all sums of money and other things of value contributed, disbursed, expended or promised by him, and (to the best of his knowledge and belief) by any other person or persons by his procurement in his behalf, wholly or in part, in endeavoring to secure or in any way in connection with his election to such office or place, or in endeavoring to secure or defeat, or in any way in connection with the election of any other person or persons to any office to be voted for on the same day of election, or in support of or opposition to any measure or proposition submitted to popular vote upon the same day of election, and showing the dates when, the persons by and to whom, and the purposes for which each such contribution, payment, expenditure or promise was made. Such candidate shall subscribe and swear to such statement and such duplicate before an officer authorized by law to administer oaths. The form of such affidavit to be appended to each statement and to each duplicate statement and signed by the candidate shall be in substance as follows:

I, ———, do solemnly swear (or affirm) that the foregoing statement is a true and full account of each and all sums of money and other things of value directly or indirectly contributed, disbursed, expended or promised by me, and (to the best of my knowledge and belief) by any and all other persons with my procurement in my behalf, wholly or in part, in endeavoring to secure, or in any way in connection with, my election to the office or place of ———, or in endeavoring to secure or defeat or in any way in connection with the election of any other person or persons to any office to be voted for on the same day of election, or in support of or opposition to any measure or propositions submitted to popular vote upon the same day of election; and that it is a true and full statement of the dates when, and the person or persons to whom, and the purposes for which, each such payment, contribution, expenditure or promise was made, and the person or persons by whom made, when not made directly by myself.

(Signature of candidate)"

(1899 p. 150; 1901 p. 356; Ann. 5969; Comp. 3429.)

2354 Sec. 416. Same—penalty for failure to file.—Any person failing to comply with the provisions of either of the two next preceding sections shall be liable to a fine not exceeding one thousand dollars, to be recovered with costs in an action brought in the name of the state by the attorney

general or by the county attorney of the county of the candidate's residence, the amount of said fine to be fixed within such limit by the jury. (1899 p. 152; Ann. 5970; Comp. 3430.)

2355 Sec. 417. **Filing statement prerequisite for certificate of nomination or election.**—No board, officer, or officers authorized by law to issue commissions or certificates of election shall issue a commission or certificate of election to any person required by the second or third preceding sections hereof to file a statement or statements until such statement or statements shall have been so made, verified and filed by such person with such board, officer or officers. No person required by the foregoing sections of this article to file a statement or statements shall enter upon the duties of any office to which he may be elected until he shall have filed all statements and duplicates provided for by the foregoing sections of this article, nor shall he receive any salary or emolument for any period prior to the filing of the same. (1899 p. 152; Ann. 5971; Comp. 3431.)

2356 Sec. 418. **Complaint against officer for violating law—how made.**—At any time during the term of office of any occupant of any public office, other than the office of member of either house of the legislature or the congress of the United States, any elector entitled to vote at such election may present an application in writing, verified by his affidavit, to the attorney-general setting forth one or more of the following charges against any public office, to-wit:

First—That such officer, in seeking nomination or election, or both, to such office, violated one or more of the provisions of the foregoing sections of this article by expending, contributing or promising or offering an amount in excess of the sum allowed by this article; or,

Second—that such officer wilfully stated an untruth in some one or more of the statements and duplicates and affidavits made and filed by him pursuant to this article after such nomination or election; or,

Third—that any other act or acts declared unlawful or made punishable by any laws of this state were committed by such officer, or by his agent or agents, or with his or their consent or connivance by such committee, or organization, or political party of which party he was the nominee, or the agent or agents of any such committee, organization, or party, with intent to secure or promote his nomination or election; and further setting forth that the applicant desires the attorney-general to bring an action to have such public office declared vacant on account of such violation or violations of law. (1899 p. 152; Ann. 5972; Comp. 3432.)

2357 Sec. 419. **Same—bond.**—The application shall be accompanied by a bond in favor of the State of Nebraska in the penal sum of one thousand dollars subscribed by two sureties, who shall justify as freeholders of the state, and in double the amount of such penalty exclusive of all their debts and liabilities and property exempt by law from levy and sale on execution, such bond to be conditioned for the payment of all the taxable costs for which the state, such applicant, or such occupant of such office may become liable on account of such action, if none of such charges shall be sustained therein. (1899 p. 152; Ann. 5972; Comp. 3432.)

2358 Sec. 420. **Same—attorney general to prosecute.**—It shall be the duty of the attorney general, within ten days after the receipt of such appli-

cant and bond, to begin an action against such public officer, or to instruct the county attorney of the county in which such public officer resides, to bring such action within ten days after such instruction, to have said office declared vacant, and for such other and further relief as may be appropriate in an action against the usurper of any office. Such action shall be deemed to be, and shall be, conducted according to the rules prescribed by law for the action against a usurper of an office, and it shall be the duty of any county attorney to bring such action within ten days after receipt of such notice from the attorney general. (1899 p. 153; Ann. 5973; Comp. 3433.)

2359 Sec. 421. Same—applicant may prosecute—when.—In case such action shall not be brought by either the attorney general or county attorney within the time limited by the next preceding section, it shall be lawful for the applicant to bring such action at his own expense and by his attorney or attorneys, but in such action so brought by such applicant no recovery for costs and disbursements shall be had against the state. (1899 p. 154; Ann. 5974; Comp. 3434.)

2360 Sec. 422. Same—additional security for costs.—In any case whether instituted by the county attorney or attorney general, or by the applicant in person, if the court shall at any time pending such action find the bond given as aforesaid inadequate in amount to cover the costs accrued, or likely to accrue in the cause, or shall find any surety or sureties thereon insufficient, additional bonds or other sureties may be required by the court to be given within such time and upon such terms as the court may order, and upon the failure to comply with any such order of the court, such action may be dismissed at the costs of the applicant and his sureties. (1899 p. 154; Ann. 5974; Comp. 3434.)

2361 Sec. 423. Same—advancing cause.—Such action, whether brought by the attorney general, the county attorney or the applicant, shall have the preference on the docket of any court of the state in which the same shall be pending over all other civil actions whatever. (1899 p. 154; Ann. 5975; Comp. 3435.)

2362 Sec. 424. Same—judgment—vacating office.—If it shall be determined in any such action that any one or more of the charges set forth in the petition has been sustained, judgment shall be rendered declaring void the election of such defendant to such office and ousting and excluding him from such office and declaring the office vacant, and such vacancy shall thereupon be filled in the manner provided by law or by the constitution of this state with relation to filling vacancies occurring in such office. (1899 p. 154; Ann. 5976; Comp. 3436.)

2363 Sec. 425. Same—costs.—If judgment be rendered against the defendant upon one or more of the charges as contained in the complaint, judgment for costs of the action shall also be rendered against him; but if no one of such charges be sustained, judgment for such costs shall be rendered against the applicant and his sureties upon his bond. (1899 p. 154; Ann. 5976; Comp. 3436.)

2364 Sec. 426. Same—witnesses—privileges.—No person shall be excused from answering any question on trial of such action relating to any of the facts claimed to have been committed by any party thereto, or by any of the persons, committees or organizations mentioned or referred to in eighth

preceding section, on the ground that such answer would tend to incriminate or degrade the person so testifying, but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, and a person so testifying shall not be liable thereafter to indictment, prosecution or punishment for the offense with reference to which his testimony was so given and may plead or prove the giving of testimony accordingly, in bar of such indictment or prosecution. (1899 p. 155; Ann. 5977; Comp. 3437.)

2365 Sec. 427. Charges against member of legislature.—The election of any person to either house of the legislature of the State of Nebraska may be contested, by any elector entitled to vote at the election at which he was chosen, on any of the grounds for which elections to other offices are by the foregoing provisions of this article required to be avoided. Such contest shall be conducted in the manner provided by law for contesting elections to membership in the legislature. (1899 p. 155; Ann. 5978; Comp. 3438.)

2366 Sec. 428. Political committee—defined.—Every two or more persons who shall be elected, appointed, chosen or associated for the purpose, wholly or in part, of directing the raising, collection or disbursement, and every two or more persons who shall co-operate in the raising, collection or distribution, or in controlling or directing the raising, collecting or disbursement of money used or to be used to further or defeat the nomination or election of any person or any class or number of persons to public office, by popular vote, or to further or defeat the nomination for such election of any person or any class or number of persons or in support of, or opposition to any measure or proposition submitted to popular vote, shall be deemed a political committee within the meaning of this article. (1899 p. 155; Ann. 5979; Comp. 3439.)

2367 Sec. 429. Same—treasurer.—Every political committee shall appoint and constantly maintain a treasurer, who shall be a resident of this state, to receive, keep and disburse all sums of money which may be collected or received or disbursed by such committee or by any of its members for any of the purposes mentioned in the next preceding section of this article, and unless such treasurer is first appointed and thereafter maintained, it shall be unlawful and a violation of this article for a political committee or any of its members to collect, receive or disburse money for any such purpose. (1899 p. 156; Ann. 5980; Comp. 3440.)

2368 Sec. 430. Same—account of receipts and disbursements.—All money collected or received or disbursed by any political committee or by any member or members thereof, for any of the purposes mentioned in the second preceding section, shall be paid over and made to pass through the hands of the treasurer of such committee, and shall be disbursed by him, and it shall be unlawful and a violation of this article for any political committee, or for any member or members of a political committee, to disburse or expend money for any of the objects or purposes mentioned in the second preceding section of this article until the money so disbursed or expended shall have passed through the hands of the treasurer of such political committee. (1899 p. 156; Ann. 5980; Comp. 3440.)

2369 Sec. 431. Same—record of money received and spent.—Every treasurer of a political committee, and every person who shall at any time

act as such treasurer, shall, whenever he receives or disburses money as such treasurer, for or on account of the objects or purposes mentioned in the third next preceding section, immediately enter and thereafter keep, in a proper book or books to be provided and preserved by him, a full, true, and detailed statement and account of each and every sum of money so received or disbursed by him, setting forth in such statement each sum so received or disbursed, the object and purpose for which it was received or disbursed, and the person from whom it was received or to whom it was disbursed, as the case may be. Every individual receiving or disbursing money aggregating more than twenty dollars for or on account of any of the objects and purposes mentioned in the third next preceding section, unless he receives it from, or pays it to, the treasurer of a political committee, shall in like manner keep in a book a detailed written account of his receipts and disbursements. (1899 p. 156; Ann. 5981; Comp. 3441.)

2370 Sec. 432. Statement of receipts and disbursements.—Any person or persons receiving money or other thing of value to disburse or expend on behalf of a political committee, or contracting any obligations on behalf of a political committee, shall keep in writing, and within eight days after each and every election, caucus, convention or primary election in or concerning or in connection with which he shall have received it, or disbursed or promised it or any part thereof, or contracted any such obligations, or sooner, if called on by the treasurer of the committee, furnish the treasurer a detailed written and signed statement of such receipts, expenditures, promises and obligations setting forth therein each sum so received or disbursed or promised, as the case may be, and the date when and the person from whom received, or to whom paid or promised, as the case may be, and the character of each such obligation, and to whom incurred, and the object and purpose for which each sum was received, disbursed or promised and each such obligation incurred, which statement shall be incorporated in and form a part of the statement and account which the treasurer is to keep. (1899 p. 157; Ann. 5982; Comp. 3442.)

2371 Sec. 433. Statement by treasurer.—Every treasurer of a political committee as defined in this article, and every other person required by the second next preceding section to keep an account, shall, fifteen days before each and every election, caucus, convention or primary election in or concerning, or in connection with which he shall have received or disbursed any money for any of the objects or purposes mentioned in the fifth next preceding section, prepare and file in the office of the clerk of the county in which said treasurer or other person resides, a full, true and detailed statement, subscribed and sworn to by him before an officer authorized to administer oaths, setting forth the source of any money discovered in such treasurer's hands at the beginning of the campaign and each and every contribution received by him amounting to more than twenty-five dollars from one person, whether the sum be given in one sum or in smaller sums aggregating more than twenty-five dollars, and such treasurer, or other person, shall after the said publication until election file on the day that such contribution is received, a statement setting forth each and every individual contribution in excess of twenty-five dollars that may be received. Any such treasurer, or other person, shall not receive within two days of the election, any single contribution above twenty-five dollars. And every treasurer of a political

committee as defined in this article, and every other person required by the second next preceding section to keep an account, shall, within twenty days after each and every election, caucus, convention or primary election in or concerning, or in connection with which he shall have received or disbursed any money for any of the objects or purposes mentioned in the fifth next preceding section, prepare and file in the office of the clerk of the county in which such treasurer or person resides, a full, true and detailed account and statement, subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him for any of the objects and purposes mentioned in the fifth next preceding section, the date of receipt thereof and each disbursement, the name of the person from whom received or to whom paid and the object or purpose for which the same was received and the object or purpose for which disbursed. Such treasurer's statement shall also set forth the unpaid debts and obligations, if any, of such committee, with the nature and amount of each, and to whom owing, in detail and if there are no unpaid debts, or obligations of such committee, such statement shall state such fact. No treasurer of a political committee shall receive or accept more than one thousand dollars from any one person to be spent in any one campaign. (1899 p. 157; 1909 p. 278; Ann. 5983; Comp. 3443.)

2372 Sec. 434. Statement by individual contributor.—Every person contributing more than two hundred and fifty dollars to any campaign fund shall at the time of making such contribution file a statement with the clerk of the county in which said person resides, the same as if he were treasurer of a political committee, and for failure to do so, shall be subjected to the same penalties as are imposed upon such treasurer for failure to comply with the provisions of this section. (1899 p. 157; 1909 p. 278; Ann. 5983; Comp. 3443.)

2373 Sec. 435. Statements required from individuals receiving or disbursing money.—Any person not a treasurer of a political committee, who shall in his individual capacity receive money from any other person to be used in any campaign in this state, for the election or defeat of any candidate, shall be subject to all of the requirements of this article as to the receiving of said money, both as to the amount received and as to the publication of same, and shall, upon failure to comply with the provisions of this section, be subjected to the same penalties as are prescribed for the failure of a treasurer to comply with the provisions of this section, and with the other provisions of this article. (1899 p. 157; 1909 p. 278; Ann. 5983; Comp. 3443.)

2374 Sec. 436. Claims against candidates—when barred.—No claim against any candidate on account of any obligation incurred or promise made by him in furtherance of his nomination, or of the nomination or defeat of any other person or persons who may be candidates for nomination for any office at the same caucus, convention or primary election, shall be payable or be paid, unless presented for payment within eight days after the caucus, convention or primary election. No claim against any political committee shall be payable or be paid unless presented for payment within eight days after the caucus, convention or primary election or elections, in or concerning or in connection with which it shall have been incurred or promised, and no claim against any candidate on account of any obligation incurred or

promises made by him in furtherance of his election, or to further or oppose the election of any other person or persons voted for on the same day of election, or in support of or opposition to any measure or proposition submitted to popular vote on the same day of election, shall be payable or be paid unless presented for payment within eight days after the election in or concerning or in connection with which it shall have been incurred or promised, nor shall any claims not presented within the time herein limited be paid, and it shall be unlawful to pay any claim not presented within the time herein limited: Provided, however, the district court of the county within which such candidate, or the treasurer of such committee resides, may, on petition filed and good cause shown for delay, allow claims not presented until after the time herein limited to be paid; two weeks' notice of the filing of such petition having been given to the person, persons or committee against whom such claim is asserted, and also published in two newspapers of opposite political parties, of general circulation, published in said county, but should such claim not be shown by the statement required by this article to be filed by such candidate or committee, then after their allowance and payment such candidate or committee, as the case may be, shall file additional statements and duplicates thereof, duly verified, and in the same manner as herein required with relation to their original statements. (1899 p. 158; Ann. 5984; Comp. 3444.)

2375 Sec. 437. Statement of expenditures to be preserved.—Every officer with whom statements or accounts or duplicates thereof are by this article required to be filed, shall receive and file in his office, and there keep as part of the records thereof for four years after they are filed, all such statements, duplicates and accounts, and they shall at all reasonable times be opened to the public inspection, and copies thereof certified by such officer under the seal, if any, of his office shall be admitted as evidence in all courts with like force and effect that the original would have if produced. After four years succeeding the filing of such papers they shall be destroyed by such officer or his successor in office. (1899 p. 159; Ann. 5985; Comp. 3445.)

2376 Sec. 438. Penalty for failure to make statement.—Every treasurer of a political committee as defined in this article who shall wilfully fail, neglect or refuse to make out, verify and file with the county clerk the statement required by this article shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than five hundred dollars, which fine, when collected, shall be paid into the treasury of the county in which such fine was assessed, to the credit of the school fund of such county. (1899 p. 160; Ann. 5986; Comp. 3446.)

2377 Sec. 439. Penalty for keeping false record.—Every treasurer of a political committee, and every other person required by the eighth preceding section to keep an account, who shall either:

First—Neglect or fail to keep a correct book or books of account, setting forth all the details required to be set forth in the account and statement contemplated in this article (except that the book or books need not be subscribed or sworn to) with intent to conceal the receipt or disbursement of any sum received or disbursed by him or by any other person, or the purpose or object for which the same was received or disbursed, or to conceal the fact that there is any unpaid debt or obligation of such treasurer or com-

mittee, or the nature or amount thereof, or to whom owing, in detail; or,

Second—mutilate, deface or destroy any such book or books of account with intent to conceal any fact disclosed by such book or books; or,

Third—having failed to file within the time prescribed by this article any statement and account which he is by this article required to file, further fail to file the same within five days after he shall receive notice in writing signed by five resident freeholders of the county in which such treasurer or person resides, requesting him to file such statement and account shall be guilty of a misdemeanor, and on conviction shall be imprisoned for not less than two nor more than six months. (1899 p. 160; Ann. 5987; Comp. 3447.)

2378 Sec. 440. Naturalizing aliens—penalty.—It shall be unlawful for any candidate for any office which is to be filled by popular election under the constitution or laws of this state, or for any member of a political committee to pay, contribute, promise or offer, or to procure or connive at the paying, contributing, promising or offering any money or thing of value for the purpose of procuring, facilitating or defraying any fees or expenses in connection with the naturalization of any alien or aliens, and any violation of this section shall be punishable by a fine of not less than one hundred nor more than five hundred dollars, or imprisonment for not less than ten nor more than thirty days, or both. (1899 p. 161; Ann. 5988; Comp. 3448.)

2379 Sec. 441. Conveying voters to polls forbidden.—It shall be unlawful for any candidate or committee to run or cause to be run any conveyance for the purpose of conveying voters to the polls, and any person violating the provisions of this section shall be fined in the sum of fifty dollars, or imprisoned in the county jail not less than thirty days: Provided, nothing in this section shall be construed to interfere with conveying sick or disabled persons who are not able without assistance to attend the election. (1911 p. 554; Ann. 5991, 5992; Comp. 7863c, 7863d.)

2380 Sec. 442. Corporation contributions prohibited—penalty.—It shall be unlawful and a misdemeanor for any corporation whatsoever, whether organized under the laws of this state, or any other state or government and doing business in this state, to give or contribute any money, property, transportation, help or assistance in any manner or form to any political party, or to any candidate for any civil office, or to any political organization or committee or to any individual to be used or expended for any political purposes; and any such corporation violating any of the provisions of this section shall, on conviction thereof, be fined the sum of one thousand dollars for its first offense and upon the second and each subsequent offense shall be fined the sum of two thousand dollars; and if the offending corporation be organized under the laws of this state the court shall decree that its charter be cancelled and set aside and if the offender be organized or chartered in another state, territory or government and doing business within this state, it shall forfeit its right to do further business in this state, and it is hereby made the duty of the attorney general to proceed against such corporations violating the provisions of this section. (1897 p. 185; Ann. 4249; Comp. 2103; 1897 p. 185; Ann. 4250; Comp. 2104; 1897 p. 185; Ann. 4251; Comp. 2105.)

2381 Sec. 443. Same—disposition of fine—reward to complaining witness.—All fines collected under the provisions of the next preceding section shall be paid into the treasury of the county where the prosecution was had,

for the use and benefit of the school fund, and the county authorities of such county shall, upon the proper application of the person entitled thereto, in the manner provided for the presentation of other claims against counties, cause to be paid to the complaining witness in such prosecution, out of the general funds of the county, an amount equal to one-fourth of the fine actually collected. (1897 p. 185; Ann. 4249; Comp. 2103; 1897 p. 185; Ann. 4250; Comp. 2104; 1897 p. 185; Ann. 4251; Comp. 2105.)

ARTICLE XXI.

OFFENSES AGAINST ELECTIONS AND REGISTRATIONS.

SECTION

- 2382. Applicability to all election.
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SECTION.

- 2402. Electioneering, etc.—penalty.
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- 2416. Taking intoxicating liquor to place of registration.
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- 2418. Irregularities not a defense for violating registration laws.
- 2419. Offenses against primary elections.
- 2420. False certificates of nominations, or destroying same—penalty.

2382 Sec. 444. Applicability to all elections.—The provisions of this article shall apply to all elections authorized by the laws of this state. (1873 p. 766; Ann. 2263; Comp. 7845.)

2383 Sec. 445. Voting out of resident precinct.—Any person who shall vote in any precinct, school district, village or in any ward of a city in this state in which he has not actually resided ten days or such length of time as required by law next preceding the election, or into which he shall have come for temporary purposes merely, shall on conviction thereof be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars or be imprisoned in the jail of the proper county not more than three months. (1873 p. 766; 1901 p. 500; Ann. 2264; Comp. 7846.)

2384 Sec. 446. Voting outside county of residence.—Any person being a resident of this state who shall go or come into any county, and vote in such county, not being an actual resident thereof, for forty days next preceding the election, or for such time as may at the time be required by law, shall, on conviction thereof, be imprisoned in the penitentiary not more than three years. (1873 p. 767; Ann. 2265; Comp. 7847.)

2385 Sec. 447. Voting more than once.—Any person who shall vote more than once at the same election shall be imprisoned in the penitentiary

not more than five years nor less than one year. (1873 p. 767; Ann. 2266; Comp. 7848.)

2386 Sec. 448. Resident of another state voting in this state.—Any resident of another state who shall vote in this state shall, on conviction thereof, be imprisoned in the penitentiary not more than five years. (1873 p. 767; Ann. 2267; Comp. 7849.)

2387 Sec. 449. Disqualified person voting.—Any person who shall vote who shall not have been a resident of this state for six months, or such time as required by law, immediately preceding the election, or who, at the time of the election, is not twenty-one years of age, knowing that he is not twenty-one years of age, or who is not a citizen of the United States, and has not filed his declaration to become such according to the laws of the United States, knowing that he is not such citizen, and that he has not filed such declaration, or who, being disqualified by law, by reason of his conviction of some infamous crime, shall not have been pardoned and restored to all the rights of a citizen, shall be imprisoned in the county jail of the proper county not more than six months. (1873 p. 767; Ann. 2268; Comp. 7850.)

2388 Sec. 450. Aiding unlawful voting.—Any person who shall procure, aid, or assist, counsel, or advise another to give his vote, knowing that such other person has not been a resident of this state six months, or such time as required by law, immediately preceding the election, or that, at the time of election, he is not twenty-one years of age, or that he is not a citizen of the United States, and that he has made no declaration according to law to become such citizen; or that he is not duly qualified from other disability to vote at the place where, and the time when the vote is to be given, shall be fined in any sum not exceeding five hundred dollars, and imprisoned in the county jail not more than six months. (1873 p. 767; Ann. 2269; Comp. 7851.)

2389 Sec. 451. Procuring another to vote in county other than resident.—Any person who shall procure, aid, assist, counsel, or advise another to go or come into any county, for the purpose of giving his vote in such county, knowing that the person is not duly qualified to vote in such county, shall be imprisoned in the penitentiary not more than five years nor less than one year. (1873 p. 767; Ann. 2270; Comp. 7852.)

2390 Sec. 452. Bribing or threatening to influence vote of another.—Any person who shall, by bribery, attempt to influence any elector of this state in giving his vote or ballot, or who shall use any threat to procure any elector to vote contrary to the inclination of such elector, or to deter him from giving his vote or ballot, shall be fined in any sum not exceeding five hundred dollars, and be imprisoned in the county jail not more than six months. (1873 p. 768; Ann. 2271; Comp. 7853.)

2391 Sec. 453. Deceiving illiterate elector.—Any person who shall furnish an elector who cannot read with a ticket, informing him that it contains a name or names different from those which are written or printed thereon, with an intent to induce him to vote contrary to his inclination; or who shall fraudulently or deceitfully change a ballot of any elector, by which such elector shall be prevented from voting for such candidate or candidates as he intended, shall be imprisoned in the penitentiary not more than three years. (1873 p. 768; Ann. 2272; Comp. 7864.)

2392 Sec. 454. Misconduct of election officer.—If any judge of the election shall knowingly receive or sanction the reception of a vote from any person not having all the qualifications of an elector prescribed by the laws of this state; or shall receive or sanction the reception of a ballot from any person who shall refuse to answer any question which shall be put to him in accordance with the requirements of the laws of this state; or who shall refuse to take the oath prescribed by the laws of this state; or shall refuse to sanction the refusal by any other judge of the board to which he shall belong to administer any oath or affirmation required by the laws of this state, and in such case required to be administered; or if any judge of the election shall refuse to receive or shall sanction the rejection of a ballot from any person, knowing him to have the qualifications of an elector under the provisions of the laws of this state, at the place where such elector offers to vote, or if any judge or clerk of the election, on whom any duty is enjoined by the laws of this state, shall be guilty of any wilful neglect of any such duty, or of any corrupt conduct in the execution of the same; such judge or clerk shall be fined in any sum not more than one thousand dollars nor less than three hundred dollars, and be imprisoned in the jail of the county not more than six months nor less than three months: Provided, so much of the provisions of this section as may be superseded by any registration laws in force shall not be operative where such laws are in force. (1873 p. 768; Ann. 2273; Comp. 7855.)

2393 Sec. 455. Fraudulent voting.—Any person or persons, who shall, either before or after proclamation is made of the opening of the polls, fraudulently put a ballot or ticket into the ballot-box, shall be imprisoned in the penitentiary not more than three years nor less than one year. (1873 p. 768; Ann. 2274; Comp. 7856.)

2394 Sec. 456. Same—by election officer.—Any judge or judges of the election who shall, after proclamation made of the opening of the polls, put a ballot or ticket into the ballot-box, except his or their own ballot or ticket, or such as may be received in the regular discharge of his or their duties as such judge or judges, or who shall knowingly permit any ballot or ticket, fraudulently placed or deposited in such ballot-box by any other person or persons, to remain therein or be counted with the legal votes cast at such election, shall be imprisoned in the penitentiary not more than three years nor less than one year. (1873 p. 769; Ann. 2275; Comp. 7857.)

2395 Sec. 457. Altering, changing, defacing, etc., ballots, poll books, etc.—Any judge or clerk of any election under the laws of this state, or any other person or persons who shall, at any time wilfully, knowingly, and with fraudulent intent, inscribe, write, or cause to be inscribed or written, in or upon any poll book, tally sheet, tally list, in or upon any book or paper purporting to be such, or upon any election returns under the laws of this state, or upon any book or paper containing the same, the name or names of any person or persons not entitled to vote at such election, or not voting thereat, or any fictitious name, with intent to defeat, hinder, or prevent a fair expression of the will of the people at such election, shall be imprisoned in the penitentiary, not more than three years nor less than one year. (1873 p. 769; Ann. 2276; Comp. 7858.)

2396 Sec. 458. Unlawful possession of poll books, tally sheets, etc.—

Any person or persons who shall, at any time, have in his or their possession any falsely made, altered, forged, or counterfeited poll book, tally sheet, tally list, or election returns of any election under the laws of this state, knowing the same to be falsely made, altered, forged, or counterfeited, with intent to hinder, defeat, or prevent a fair expression of the popular will at any such election, shall be imprisoned in the penitentiary not more than three years nor less than one year. (1873 p. 769; Ann. 2277; Comp. 7859.)

2397 Sec. 459. Obtaining possession of ballots or ballot boxes.—If any person or persons, at any election held by virtue of any laws of this state, in any ward of any city, or in any village or election precinct in any county of this state, shall unlawfully, either by force, violence, fraud, or other improper means, obtain possession of any ballot-box, or any ballot or ballots therein deposited, while the voting at such election is going on, or before the ballots shall have been duly taken out of such ballot-box by the judges of election according to law, such person or persons shall be imprisoned in the penitentiary not more than three nor less than one year. (1873 p. 769; Ann. 2278; Comp. 7860.)

2398 Sec. 460. Destroying ballots, ballot boxes or poll books.—Whoever, from the time any ballots are cast or voted until the time has expired for using the same as evidence in any contest of an election, shall unlawfully destroy, or attempt to destroy, or incite or request another to destroy any ballot-box or poll book used at any election, or shall within the same time unlawfully destroy, falsify, mark, or write on any ballot cast or voted, or shall within the same time change, alter, erase or tamper with any name contained on any ballot cast or voted, shall be imprisoned in the penitentiary not more than five years nor less than one year. (1873 p. 769; 1901 p. 501; Ann. 2279; Comp. 7861.)

2399 Sec. 461. Same—attempt to commit.—If any person or persons, at any election held by virtue of any law of this state, in any ward of any city, or in any village or election precinct of any county in this state, shall unlawfully, either by force, violence, fraud, or other improper means, attempt to obtain possession of any ballot-box, or any ballot or ballots therein deposited, while the voting at such election is going on, or before the ballots shall all have been duly taken out of such ballot-box by the judges of such election, according to law; or if any person or persons shall unlawfully attempt to destroy any ballot-box used, any ballot or vote deposited, any poll book kept at any election held by virtue of any law of this state, such person or persons shall be imprisoned in the penitentiary not less than one nor more than three years. (1873 p. 770; Ann. 2281; Comp. 7862.)

2400 Sec. 462. Illegal printing or distributing ballots—penalty.—Any person causing ballots to be printed with a designated heading containing a name or names not found on the regular ballot having such heading, or any person knowingly peddling or distributing any such ballot with intent to have such ballot voted at any such general or special election, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, for each offense, be fined in any sum not less than fifty nor more than two hundred dollars, and be imprisoned in the county jail not exceeding sixty days. (1883 p. 228; Ann. 5840; Comp. 3325.)

2401 Sec. 463. **Unlawful opening or possessing ballots.**—Any judge or clerk of election, or printer, or other person entrusted with the custody or delivery of ballots, blanks, poll books, cards of instruction, or other required papers, who shall unlawfully open, or permit to be opened, any sealed packages containing ballots, or who shall give or deliver to any person not lawfully entitled thereto, an official ballot, or shall unlawfully misplace or carry away, or shall negligently lose, or permit to be taken away from him, or fail to deliver, or shall destroy any such package of ballots or any ballot, blank, poll book, card of instructions, or required paper; or if any printer employed to print the official ballots, or any person engaged in printing the same, shall print, or cause or permit to be printed any official ballots printed otherwise than the copy for the same furnished by the proper clerk, or print any false or fraudulent ballots, or shall appropriate to himself, or give, or deliver, or knowingly permit to be taken, any of said ballots by any other person than the said clerk, or who knowingly or wilfully seals up or causes or permits to be sealed up, or delivers to the said clerk a less number of ballots than the number endorsed thereon; or any person who shall knowingly have in his possession any official ballot illegally obtained, or shall attempt to vote any other than the official ballot lawfully obtained, every such person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than three hundred dollars, or be imprisoned in the county jail not less than three months nor more than one year, or both. (1897 p. 227; 1901 p. 349; Ann. 5832; Comp. 3388.)

2402 Sec. 464. **Electioneering, etc.—penalty.**—No officer of election shall do any electioneering on election day. No person whomsoever shall do any electioneering on election day within any polling place, or any building in which an election is being held, or within one hundred feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election officer, sheriff, constable, or other peace officer, is hereby authorized and empowered, and it is hereby made his duty to clear the passage ways and prevent such obstruction, and to arrest any person so doing. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots; nor shall any person other than the judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Every elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall, upon conviction thereof in any court of competent jurisdiction, be fined in any sum not less than twenty-five

dollars nor more than one hundred dollars, and adjudged to pay the cost of prosecution. (1897 p. 227; Ann. 5834; Comp. 3390.)

Ballots with intentional identifying marks are void. *Mauck v. Brown*, 59 Neb. 382 (81 N. W. 313.) But it must appear that markings were for purpose of identification. *Gauvreau v. Van Patten*, 83 Neb. 64 (119 N. W. 1).

2403 Sec. 465. Tampering with voting machine.—The provisions of this article shall apply to elections with voting machines. Any person who shall before or during an election tamper with any voting machine; or who shall interfere or attempt to interfere with the correct operations of the voting machine, or the secrecy of voting; or who shall wilfully injure a voting machine to prevent its use; or any election or police officer, or any one employed to assist in the care or arrangement of the voting machine, who shall permit any person to violate the secrecy of the voting, or to interfere in any way with the correct operation of the voting machine; or any unauthorized person who shall make a duplicate or have in his possession a key to a voting machine that has been adopted and will be used in elections in this state, shall be guilty of a felony, punishable by imprisonment in a state prison for not less than one year nor more than five years. (1905 p. 362; Ann. 5933; Comp. 3360m.)

2404 Sec. 466. Malfeasance of public officer.—Every public officer upon whom any duty is imposed by this chapter who shall wilfully do or perform any act or thing herein prohibited, or neglect or omit to perform any duty as imposed upon him by the provisions of this chapter, shall, upon conviction thereof, forfeit his office, and shall be punished by a fine of not less than fifty dollars and not more than three hundred dollars or by imprisonment in the county jail for a term of not less than three months nor more than one year, or by both. (1897 p. 227; 1901 p. 350; Ann. 5833; Comp. 3389.)

2405 Sec. 467. Employer coercing voter.—It shall be unlawful for any person or persons, firm, company or corporation employing any voter in the State of Nebraska to coerce or in any way attempt to coerce such voter in his voting or any other political action at any primary, caucus, convention or election held or to be held in this state or to attempt to influence the political action of such voter by threatening to discharge him because of his political action, or by threats on the part of such person or persons, firm, company or corporation to close his or its place of business in the event of the election of any candidate for public office, or in the event of the success of any political party at any election; and any person or persons, firm company or corporation in this state found guilty of a violation of this section shall be fined not more than one hundred dollars or be imprisoned not to exceed thirty days in the county jail. (1909 p. 579; Ann. 5989, 5990; Comp. 7863a, 7863b.)

2406 Sec. 468. Fraudulent registration—penalty.—If at any registration of voters, or at any meeting of supervisors of registration held for such purposes or for a revision thereof as provided in articles XIII or XIV of this chapter, any person shall falsely personate an elector or other person, and register or attempt or offer to register in the name of such elector or other person; or if any person shall knowingly or fraudulently register, or offer, or attempt or make application to register, in or under the name of any other per-

son, or in or under any false, assumed, or fictitious name, or in or under any name not his own; or shall knowingly or fraudulently register in two election districts; or having registered in one district, shall fraudulently attempt or offer to register at any election district not having a lawful right to register therein; or shall knowingly or wilfully do any unlawful act to secure registration for himself or any other person; or shall knowingly, wilfully, or fraudulently, by false personation or otherwise, or by any unlawful means, cause or procure, or attempt to cause or procure, the name of any qualified voter in any election precinct to be erased or stricken from any register of the voters of such precinct, made in pursuance of article XIII or XIV or otherwise provided; or by force, threat, menace, intimidation, bribery, reward, or offer or promise thereof, or other unlawful means, prevent, hinder, or delay any person having a lawful right to register, or to be registered, from duly exercising such right; or who shall knowingly, wilfully or fraudulently compel or induce, or attempt, or offer to compel or induce, by such means, or any unlawful means, any supervisor of registration, or other officer of registration, to register any person not lawfully entitled to registration in such precinct, or to register any false, assumed, or fictitious name, or any name of any person, except as provided in article XIII or XIV; or shall knowingly, or wilfully, or fraudulently interfere with, hinder, or delay any supervisor of registration, or other officer of registration, in the discharge of his duties or counsel, advise, or induce, or attempt to induce any such supervisor, or other officer to refuse, or neglect to comply with, or to perform his duties, or to violate any law prescribing or regulating the same, or shall aid, counsel, procure, or advise any voter, person, supervisor, or other officer of registration, to do any act forbidden by this chapter, or in this chapter constituted an offense, or to omit to do any act by law directed to be done, every such person shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in the state prison not less than one nor more than five years. (1889 p. 461; Ann. 5792; Comp. 4882; 1903 p. 385; Ann. 8696; Comp. 4914.)

2407 Sec. 469. Neglect of duty of supervisor of registration.—If any supervisor of registration, or revision of registration, shall be guilty of any wilful neglect of his duty, or of any corrupt or fraudulent conduct or practice in the execution of the same, he shall, on conviction thereof, be punished by imprisonment in the county jail for not less than ten days nor more than sixty days, or by fine of not less than one hundred dollars nor more than two hundred dollars, or both. (1889 p. 463; Ann. 5793; Comp. 4883; 1903 p. 386; Ann. 8697; Comp. 4915.)

2408 Sec. 470. Mutilating, removing or destroying registration records by officers.—Every supervisor of registration, clerk, or other officer, having the custody of any records, registers, or copy thereof, oaths, certificates, or any paper, document or evidence of any description by law directed to be made, filed or preserved, who is guilty of stealing, wilfully destroying, mutilating, defacing, falsifying, or fraudulently removing or secreting the whole or any part thereof, or who shall fraudulently make an entry, erasure or alteration therein, except as allowed and directed by law, or who permits any other person so to do, shall upon the conviction thereof, be adjudged guilty of a misdemeanor and shall be punished for each and every such offense by

imprisonment in the county jail for not less than ten days nor more than sixty days, and shall, in addition thereto, forfeit his office. (1889 p. 463; Ann. 5794; Comp. 4884; 1903 p. 386; Ann. 8698; Comp. 4916.)

2409 Sec. 471. Mutilating, removing or destroying registration records by strangers.—Every person not an officer, such as is mentioned in the last preceding section, who is guilty of any of the acts specified in the preceding section, or who advises, procures, or abets the commission of the same, or any of them, shall, upon conviction thereof, be adjudged guilty of a misdemeanor and for each and every such offense shall, on conviction thereof, be punished by imprisonment in the county jail for not less than ten days nor more than sixty, or by fine of not less than fifty dollars nor more than five hundred dollars, or both. (1889 p. 463; Ann. 5795; Comp. 4885; 1903 p. 386; Ann. 8698; Comp. 4916.)

2410 Sec. 472. False swearing by voter at registration, penalty.—Any person who shall be guilty of wilful or corrupt false swearing or affirming in taking an oath or affirmation prescribed by or upon any examination provided for in article XIII or XIV of this chapter, or upon being challenged as unqualified upon offering to register, shall be guilty of wilful and corrupt perjury, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one year and not more than ten years. (1903 p. 387; Ann. 8699; Comp. 4917; 1889 p. 464; Ann. 5796; Comp. 4886.)

2411 Sec. 473. Same—subornation of perjury.—Every person who shall wilfully and corruptly instigate, advise, induce, or procure any person to swear or affirm falsely, as set forth in the next preceding section hereof, or who shall attempt or offer so to do, shall be guilty of subornation of perjury, and shall, upon a conviction thereof, be punished by imprisonment in the penitentiary for not less than one year and not more than ten years. (1903 p. 387; Ann. 8700; Comp. 4918; 1889 p. 464; Ann. 5797; Comp. 4887.)

2412 Sec. 474. Wilful neglect of duty by supervisor of registration.—Any supervisor of registration who shall wilfully neglect, or when called upon, shall wilfully decline to exercise the powers conferred on him by article XIII or XIV of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for not less than thirty days nor more than six months, or by a fine of not less than two hundred and fifty dollars, nor more than one thousand dollars, or by both. (1889 p. 466; Ann. 5800; Comp. 4890.)

2413 Sec. 475. Misconduct of supervisor of registration.—If in any election precinct at any general registration of voters, or revision thereof, in any city governed by the provisions of article XIII or XIV of this chapter, any supervisor of registration shall knowingly or wilfully admit any person to registration or make any entry upon any register of voters, or shall consent thereto, unless a majority of all supervisors of registration in said election precinct are present and concur, he shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than thirty nor more than sixty days, or be fined not less than one hundred dollars nor more than one thousand dollars, or by both. And if any supervisor of registration in any election district shall, without urgent necessity, absent himself from the place of registration in said precinct upon any day of registration, whereby less than a majority of

all the supervisors in such election precinct shall be present during the hours of registration or revision of registration, he shall, upon conviction thereof, and shall, on conviction thereof, be punished by imprisonment in the county be adjudged guilty of a misdemeanor and shall be punished by imprisonment in a county jail not less than thirty days nor more than six months, or shall be fined not less than one hundred dollars nor more than one thousand dollars, or both. (1889 p. 466; Ann. 5801; Comp. 4891.)

2414 Sec. 476. Hindering registration.—If at any general registration of voters, or revision thereof, any person shall cause any breach of the peace, or use any disorderly violence, or threats of violence, whereby any such registration or revision shall be impeded or hindered, or whereby the lawful proceedings of any supervisor of registration or challenger are interfered with, every such person shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than ten days nor more than six months, or by a fine of not less than fifty dollars nor more than five hundred dollars, or both. (1889 p. 464; Ann. 5798; Comp. 4888; 1903 p. 387; Ann. 8701; Comp. 4919.)

2415 Sec. 477. Obstructing supervisors in discharge of duties.—If any person shall knowingly or wilfully obstruct, hinder, assault, or by bribery, solicitation or otherwise interfere with any supervisor of registration or other person designated, as provided by law, to be present at any registration, in the performance of any duty required of him, which he may by law be authorized or permitted to perform; or if any person, by any of the means before mentioned or otherwise unlawfully, shall, on the day of registration, or revision of registration, hinder or prevent any supervisor of registration or any person designated, as provided by law, to be present at such registration, in his free attendance and presence at the place of registration in and for which he is appointed or designated to serve, or in his full and free access and egress to and from any such place of registration or revision of registration or to and from any room in which any such registration or revision of registration may be had; or shall unlawfully molest, interfere with, remove or eject from any such place of registration or revision of registration any such supervisor of registration or person designated, as provided by law, or shall unlawfully threaten or attempt or offer so to do, every such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for not less than thirty days nor more than six months, or shall be fined not less than two hundred dollars nor more than one thousand dollars, or both, and shall stand committed until the fine and costs are paid. (1889 p. 465; Ann. 5799; Comp. 4889; 1903 p. 387; Ann. 8702; Comp. 4920.)

2416 Sec. 478. Taking intoxicating liquor to place of registration.—Whoever during the sitting of any board of supervisors of registration in any election precinct in any city, whether held for the purpose of registration or revision of registration, shall bring, take, order or send into, or shall cause to be taken, brought, ordered or sent into, or shall attempt to bring, take or send into any place of registration, or revision of registration, any intoxicating liquors whatever, or shall at any such time or place drink or partake of any such liquor, shall be deemed and held guilty of a misdemeanor,

jail not less than thirty days nor more than six months, or by fine of not less than one hundred dollars nor more than five hundred dollars, or both, and shall stand committed until the fine and costs are paid. (1889 p. 467; Ann. 5803; Comp. 4893.)

2417 Sec. 479. County attorney to prosecute offenders.—It is hereby made the special duty of the county attorney of any county in this state to immediately prosecute all complaints which may be made of violations of any of the provisions of this article to final judgment; and the court before which any conviction for such violation shall be had shall not in any case suspend sentence or judgment for more than twenty days; but no indictment or information for such violation shall be brought to trial unless the complainant, if any, if he shall be found, shall have at least two days' notice, in writing, from the said county attorney, of the day when he intends to try the same. (1889 p. 467; Ann. 5802; Comp. 4892.)

2418 Sec. 480. Irregularities not a defense for violating registration laws.—Irregularities or defects in the mode of noticing, convening, holding or conducting any registration, or revision of registration, authorized by law, shall constitute no defense to a prosecution for the violation of the provisions of this article. (1889 p. 468; Ann. 5804; Comp. 4894; 1903 p. 388; Ann. 8703; Comp. 4921.)

2419 Sec. 481. Offenses against primary elections.—It shall be unlawful for any person to falsely personate and vote under the name of any other person or intentionally vote without the right so to do; to wilfully or wrongfully obstruct or prevent others from voting, who have the right so to do, at any primary election; fraudulently or wrongfully deposit in the ballot box, or take therefrom, any official primary ballot, or commit any other fraud or wrong tending to defeat the result of a primary election; give or agree to give to any qualified voter, at any primary election held under the provisions of article XI of this chapter, any money or valuable thing as a consideration for his vote for any person to be voted for at said primary election; accept or receive any valuable thing as a consideration for his vote for any person to be voted for at said primary election; offer to accept and receive, or accept and receive, any money or valuable thing in consideration of his filing or agreeing to file, or not filing or agreeing not to file, nomination papers for himself as a candidate for nomination at any primary election; offer to accept or receive any money, or accept or receive money or any valuable thing, in consideration of his withdrawing his name as a candidate for nomination at such primary election. Any person who shall offer or, with knowledge of the same, permit any person to offer for his benefit any bribe to a voter to induce him to sign any election or nomination paper, or any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as a consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after such signing, or any person who shall sign more nomination petitions than there are positions to fill in any kind of offices, shall be guilty of a misdemeanor. Any person committing any of the acts herein declared unlawful shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by imprisonment in the county jail not less than one nor more than six months. Any act declared an offense by the general laws of

this state concerning caucuses and elections shall also, in like case, be an offense in all primaries, and shall be punished in the same form and manner as therein provided, and all the penalties and provisions of the law as to such caucuses and elections, except as otherwise provided, shall apply in such case with equal force and to the same extent as though fully set forth in this section. Any person who shall forge any nomination paper shall be deemed guilty of forgery, and on conviction, punished accordingly. Any person who, being in possession of nomination papers entitled to be filed under the provisions of article XI of this chapter or any act of the legislature, shall wrongfully either suppress, neglect, or wilfully fail to cause to be filed at the proper time in the proper office, shall on conviction be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed five hundred dollars or both. (1907 p. 218; Ann. 5897; Comp. 3327k.)

2420 Sec. 482. False certificates of nominations, or destroying same.—penalty.—No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy any certificate of nomination or any part thereof; or file, or receive for filing, any certificate of nomination, knowing the same or any part thereof to be falsely made; or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official endorsement on any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years. (1897 p. 226; Ann. 5831; Comp. 3387.)

ARTICLE XXII.

SOLDIER VOTES.

SECTION

1. Elections—soldier votes.
2. Election commissioner.
3. Card index—register.
4. Soldier's ballots—oath.
5. Primary election—ballots.
6. Ballots mailed to voters.
7. Soldiers' votes in cities—registers.
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SECTION

10. Canvass of primary elections.
11. Canvass at general election.
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13. Care of soldiers' votes.
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16. Penalties applicable to public officers.
17. Organization and rules of election commission.
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Section 1. **Elections—Soldiers' Votes.**—Notwithstanding any more general law respecting the time or manner of voting for candidates for office at any general or primary election, or the time or manner of voting on any question submitted to a popular vote at a general election, or at any primary or general election in any city where registration of votes is required by law, all qualified electors, in war time, or after peace but before demobilization, in the actual military or naval service of this State or of the United States, in the army or navy thereof, and by reason thereof absent from the State on any election day, shall be entitled to exercise the right of suffrage and to vote at such elections in the manner and form provided for in this Act. (Laws 1918, Special Session, p. 7.)

Sec. 2. **Election commission.**—The Secretary of State is hereby made the State Election Commissioner. To facilitate in the discharge of the duties imposed by the provisions of this Act, the Secretary of State shall appoint two qualified electors to assist him. These appointees shall be known as Assistant State Election Commissioners. The State Election Commissioner and said Assistant State Election Commissioners shall comprise a body to be known as the State Election Commission. Hereafter, in this Act, the State Election Commissioner shall be referred to as "Commissioner"; his assistants as "Assistant Commissioners;" and the State Election Commission as "Commission." The two Assistant Commissioners provided for in this section shall be appointed by the Secretary of State from a list of names to be recommended and submitted to the Secretary of State by the State Chairmen of the two political parties that received the highest percentage of votes at the previous general election. The Chairman of the State Committee of each of these parties shall submit a list of three persons in each of said parties, and from this list the Secretary of State shall select one Assistant Commissioner from each of said parties. Assistant Commissioners shall take the same oath as that taken by executive state officers, and shall give a bond, to be approved by the Secretary of State in such sum as he may fix. The Assistant Commissioners provided for in this section shall be appointed as herein required within thirty days after this Act takes effect, and the term of the first Assistant Commissioners that are appointed shall expire on the first day of January, 1919, and the successors to the first appointees shall thereafter be appointed for a term of two years. Any vacancy in the office of Assistant Commissioner shall be filled in the same manner as that provided for in this section. The person appointed shall serve the unexpired term. The Assistant Commissioners shall each receive a per diem of Five Dollars and traveling expenses for each and every day that they are necessarily employed in discharging their duties. The Commission shall have general charge and supervision of the administration of the provisions of this Act, and shall impartially discharge all duties imposed upon them and shall so administer the provisions of this Act as to carry out its true purpose and intent. It shall adopt an official seal. (Laws 1918, Special Session, p. 7.)

Sec. 3. **Card index—register.**—The Governor shall immediately prepare and make a card index, on which shall be entered the names of voters of this State, who are now absent or may hereafter be absent from their respective election districts in time of war, serving in the army, navy or other part of the military service of this State or of the United States. The index cards of the voters shall be arranged in alphabetical order for each county, and also for each city in this State where registration of voters is required by law. In counties that include a city in which registration is required, two card indexes shall be kept; one containing the names of all absent voters in the territory in said county outside of said city; the other containing the names of all absent voters within the city. Such index register shall contain on each card the name of the voter, as it appears on the records of the war or navy department, his post office address, the county, precinct or city in which said voter has a legal residence; if he resides in a city, his street or residence number, or such other description as will identify the place of his residence. Said cards shall contain the name or number or other designation of the Division, Regiment, Company, Troop, Vessel or other command in which the absent voter is serving at the time of such entry, so far as the Governor can ascertain the same. If there are military reasons why this information should not be placed on a card, a record of the same shall be preserved in the office of the Governor. The Governor shall obtain from the proper military or naval authorities of the nation, or from any other source that is available and expedient, the information required to carry out the provisions of this Act. In the future, the Governor shall keep a complete card index in accordance with the provisions of this section, not only of those who are now in the army or navy of the United States, but also of those who may in the future enter the military service of the State or of the United States in any capacity. The Governor shall make a copy of the names of the various absent voters which shall be known as a general register and shall be a public record and shall, at all seasonable times, be open to inspection. This register shall be a copy as near as may be of the information set forth in the card index. The names shall appear in alphabetical order for each county, except in counties which include a city where registration is required by law, the names of the voters inside of said city and those outside of such city shall be arranged in separate lists in alphabetical order. The Governor shall revise and correct the index cards and the register herein provided so that said cards and the records of the Governor's office, will as near as may be, correctly report the information relating to absent voters as required by the provisions of this Act. The Governor shall file with the Commissioner at least thirty days before a statewide, general or primary election, a copy of the general register as shown by the records of said office as revised and corrected to the date of its filing. The Governor shall file with the City Clerk, or other officer having charge of the preparation of the ballots and the conduct of an election in any city in which registration of voters is required by law, at least thirty days before any general or primary election in said city, a copy of said general register in so far as it relates to the absent voters in said cities. Said copy shall contain the information that appears on the general register in the Governor's office, revised and corrected up to the time of furnishing the same to the said city. Every public officer and every citizen, when requested so to do in writing by the Governor or the Commission, shall furnish to the Governor such information as he may possess relating to absent voters who are in the military service of the State or of the United States. Any person who shall refuse to furnish said information or shall willfully furnish false information with reference to such absent voter, shall be deemed guilty of a felony and shall, on conviction thereof, be punish-

ed by imprisonment in the State Penitentiary for any period not more than three years. (Laws 1918, Special Session, p. 9.)

Sec. 4. **Soldiers' ballots—oath.**—The Commission shall cause to be prepared and printed at least twenty-five days before any statewide primary sufficient primary ballots to supply each absent voter who at the time is stationed within the Continental United States with at least one ballot for each political party that has polled ten per cent., or more, of the total vote cast at the previous general election. Said ballots shall be prepared and arranged in accordance with the laws relating to the preparation and arrangement of primary ballots, except that the names of candidates for office that are to be elected in smaller subdivisions than the State shall be omitted therefrom. Said ballots shall have printed thereon, under the proper office division, the names of all offices for which candidates are to be nominated at said primary and blank spaces under each office division in which the voter may write in the name of any candidate for whom he desires to vote in said primary. The provision of the primary law with reference to printing constitutional amendments on official primary ballots and the arrangement of the ballots with reference to said amendments shall be the same as are provided by the general primary laws of this State. If persons are to be nominated at said primary on a non-partisan ticket the Commission shall prepare and print at least twenty-five days before any primary election sufficient non-partisan ballots to supply each absent voter, who at the time is stationed within the Continental United States, with at least one ballot. Said non-partisan primary ballot shall be arranged in accordance with the laws of this State relating to the preparation and arrangement of non-partisan ballots, except that the names of all candidates for office that are to be elected in smaller subdivisions than the entire State shall be omitted therefrom. Said ballots shall have printed thereon under the proper office division the names of all offices for which candidates are to be nominated on a non-partisan ballot and blank spaces shall be left under each office division in which the voter may write in the names of all persons for whom he desires to vote.

The Election Commission shall prepare and print at least one official envelope for each absent voter, who at the time is stationed within the Continental United States. Said envelope shall be made out of substantial paper of a red color. Hereafter in this Act said envelope shall be referred to as the "red envelope." Upon one side of said envelope shall be printed substantially the following:

“OFFICIAL WAR BALLOT FOR PRIMARY ELECTION,

August—, 19—

Name of voter.....
 Residence
 County of
 City or town of.....
 Precinct or Ward of.....
 Present location

STATE ELECTION COMMISSION.”

Upon the other side of said red envelope shall be printed substantially the following:

"INSTRUCTIONS TO VOTERS.

Before signing the affidavit read these instructions carefully:

(1.) If the voter is a citizen of the United States strike out in the affidavit the words: "that I have declared my intention to become a citizen of the United States." If the voter is not a citizen of the United States, but he has declared his intentions to become a citizen of the United States, strike out the words: "that I am a citizen of the United States."

(2.) Insert in the blank space the name of the precinct in which the voter resided at the time of his enlistment. If the voter resides inside a city, insert the name of the city in the proper space and give the street number of his residence, or such other description as will identify his place of residence.

(3.) Insert in the proper space the post office address of the voter. If in a city, give street number or such other description of his place of residence as will clearly point out the place of residence of the voter.

(4.) Insert in the proper space the Division, Regiment, Company, Troop, Vessel or other command to which the voter is attached at the time of signing this affidavit.

(5.) The venue to this affidavit may be omitted if there are military reasons why it should be. The acknowledgment of this affidavit must be signed by a commissioned officer of the army or navy of the United States, who is acquainted with the voter. The officer signing the same shall add the rank of his commission: whether Lieutenant, Captain, etc., and the subdivision to which he belongs.

OATH OF ABSENT ELECTOR.

(VENUE)

I do—solemnly swear—or affirm—that I am a citizen of the United States—that I have declared my intention to become a citizen of the United States; that I am of the age of at least 21 years; that I am a resident of the State of Nebraska; that my home post office is _____; that I have been for more than six months last preceding this election a resident of said State; that immediately prior to my enlistment I resided for more than 40 days in the county of _____ and for more than 10 days in _____ precinct, city of _____; that I am in the military service of the United States—or of the State of Nebraska; that I am at present attached to _____; that I am a qualified voter of the State of Nebraska; that I have enclosed in this envelope my ballot and that the same has been marked by me.

I hereby certify that on this—day of _____—19—, the affiant subscribed and swore to the foregoing affidavit in my presence and hearing; that I am personally acquainted with the affiant and know that he is the identical person who signed the foregoing affidavit."

(Laws 1918, Special Session, p. 10.)

Sec. 5. **Primary election—ballots.**—The Election Commission, at least twenty-five days prior to any statewide primary, and after they receive the copy of the general register of absent voters from the Governor, shall fill in the proper spaces in the blanks provided for on the outside of the red envelope, the information that appears on the general register with reference to the name, residence, county, city, precinct and home post office address of the absent voter, who at the time is stationed within the Continental United States,

and also the information with reference to the present address of said absent voter.

The information filled in these blank spaces shall be substantially what appears on the records in the Governor's office unless there is some military reason for not giving it in detail, but sufficient information shall be given to identify the residence of the voter in this State and his approximate location in the army or navy of the United States. After filling out these blanks on the red envelope the same shall be signed by the Election Commissioner or one of his assistants. The official seal of the Commission shall be impressed on said envelope.

The State Election Commission shall, on or before the 20th day of September following the primary prepare at least two official ballots and two official non-partisan ballots for each absent voter in the military or naval service of the State of Nebraska, as shown by the register furnished to the Election Commission by the Governor. Said ballots shall be the same in form and arrangement as the official ballot and the official non-partisan ballot as now provided by law, with the exception that the names of all candidates be left blank under all office divisions in which officers are to be elected in subdivisions smaller than the State. Sufficient blank lines shall be shown under each office division to write in the names of persons. The names of all candidates for office who are nominated in the primaries and who are to be voted for by the electors in the State shall be printed on the various ballots in the proper office division. All rules and regulations now prescribed by law shall be applied to the ballots that are printed under the provisions of this Act. (Laws 1918, Special Session, p. 13.)

Sec. 6. Ballots mailed to soldier voters.—The Election Commission shall mail to every qualified voter whose name appears on the general register in the Governor's office, and who is at the time stationed within the Continental United States, at least twenty-five days prior to any statewide primary, one ballot for each of the various political parties that polled 10 per cent., or more, of the total vote cast at the previous general election. If candidates are to be nominated on a non-partisan ballot, the Commission shall mail one non-partisan ballot to each absent voter who at the time is stationed within the Continental United States, which ballot shall be mailed to the address of said voter at the place at which he is stationed, as shown by the general register furnished by the Governor, and as appears on the outside of the red envelope. If the Army or Navy Department makes any rules or regulations relating to the delivery of mail to persons in the military or naval service of the United States, the Commission shall comply with the regulations and be directed by the rulings of said War or Navy Department. The Commission shall also enclose with said ballot the red envelope heretofore referred to and a second envelope addressed to the "State Election Commission, Lincoln, Nebraska"; also a letter of instructions in substantially the following form:

"TO ABSENT VOTERS OF THE STATE OF NEBRASKA IN THE MILITARY OR NAVAL SERVICE OF THE NATION OR STATE:

In accordance with the provisions of the laws of Nebraska, I am sending you herewith official primary ballots for the following political parties: (Here insert the names of parties whose ballots are enclosed). I am also enclosing a primary and official non-partisan ballot, a red envelope and a second envelope, which is addressed to the "State Election Commission, Lincoln, Nebraska," and this letter of instruction. It is of the utmost importance that you carefully read and understand this instruction and the affidavit on the outside of the red envelope. In voting you are to use only one official primary ballot

and one official non-partisan ballot. Destroy the ballots that are not used. Mark on the ballot of the political party with which you are affiliated your preference for office. Mark on the official primary ballot your preference for office. Mark on the official non-partisan primary ballot your preference for office. You can write in on these ballots under any office division the name of the person for whom you desire to vote and whose name is not printed on the ballot. Place the ballots that you have marked in the red envelope. Subscribe and swear to the affidavit on the outside of said envelope before any commissioned American officer who is acquainted with you. **A FAILURE TO RETURN THE RED ENVELOPE WILL PREVENT YOUR VOTE FROM BEING COUNTED.** You are at liberty to make inquiry as to the proper way to cast your ballot, but in casting it you should do so privately. No one has any right to see or know how you vote. After enclosing your ballots in the red envelope, seal said envelope up securely, enclose it in the other envelope, which is addressed to the State Election Commission, Lincoln, Nebraska. Seal up said envelope and place _____cents postage thereon. Do not make any identification marks of any kind on the outside of the envelope addressed to the State Election Commission. As your vote must be canvassed at Lincoln, Nebraska, on the _____day of _____it is important that you return your ballot immediately.

 State Election Commission.

The method of voting at a primary election under the provisions of this Act shall be as follows: The voter shall mark on said official primary ballot of the party with which he is affiliated on the official non-partisan primary ballot, his preference for office. In doing this he shall proceed the same as is provided under the general primary law of this State. He may write in under any office division the names of any persons for whom he desires to vote whose names are not printed on the ballot. The fact of writing in the name will be sufficient to have it counted for the person indicated. After marking the official primary ballot of the party with which he is affiliated and the official non-partisan ballot, he shall insert them in the red envelope and shall subscribe and swear to the affidavit on the outside of the red envelope before a commissioned officer of the army or navy of the United States who is acquainted with the voter. The officer shall sign his name and shall add below his signature his rank. The voter shall securely seal the red envelope, and shall then enclose it in the envelope which is addressed to the Election Commission, Lincoln, Nebraska. The envelope addressed to the Election Commission shall then be sealed. Place thereon whatever postage is necessary to carry said envelope. The Election Commission shall ascertain what postage is necessary and shall insert the amount necessary to carry the same in the instructions sent to the voter, as provided in this section. The voter shall not make any identification marks on the envelope addressed to the Election Commission. The voter shall have the right to make inquiry of any source that he may deem proper for information as to the proper method of casting his ballot. If the voter is unable to mark his ballot he may request assistance. No one has any right to see or know how the voter casts his ballot except the person who may be called to assist. The method of voting the Continental ballot shall be the same as that provided for in the general primary laws of the State.

All ballots cast under the provisions of this Act must be returned to the Commission before midnight of the day on which the primary is held. The

Commission shall count and canvass all ballots received by it up to midnight of primary election day. The Commission shall not open any of the envelopes or canvass any of the ballots received by it after midnight of primary election day. (Laws 1918, Special Session, p. 17.)

Sec. 7. Soldiers' votes in cities—registers.—In all cities where registration of voters is by law required, the Governor shall appoint two qualified electors. The City Clerk, Election Commissioner, or other officer whose duty it is to prepare ballots and conduct the primary election in any of the said cities along with the two persons, appointed under the provisions of this section, shall constitute a City Election Commission whose duties shall be to administer the provisions of this Act in so far as the provisions thereof relate to the conduct of elections in any of said cities.

The City Clerk, Election Commissioner or other officer, whose duty it is to prepare the ballots, is hereby made City Election Commissioner, and the persons appointed under the provisions of this section are known as Assistant City Election Commissioners. They shall conduct elections in said cities under the provisions of this Act in the same manner as that provided by the State Election Commission, the method of procedure by the City Election Commission being the same as that provided for in this Act with reference to the State Election Commission.

The City Election Commissioner shall perform the duties in the same manner as that provided in this Act with reference to the State Election Commissioner.

The Assistant City Election Commissioners shall perform the duties in the same manner as that provided in this Act with reference to the Assistant State Election Commissioners.

The method of mailing ballots, preparing the red envelope, receiving and canvassing ballots, cast under the provisions of this Act in city elections, shall be the same, as near as may be, to those provided for with reference to elections conducted by the State Election Commission.

The time fixed by law in which to conduct city elections being insufficient to have those take part therein who are in the military or naval service of the nation or State outside the Continental United States, the City Election Commission shall not send ballots to any persons in the military or naval service of the United States who, at the time of the election, is outside the Continental United States. Ballots shall be sent only to those who are within the Continental United States.

The primary ballots shall be sent out by the City Election Commission at least twenty-five days before any primary election, and only those candidates for office at such election as have filed a sufficient time prior to said time as to permit the printing of the ballots within such time, shall be placed upon said ballot. No ballots shall be counted that are not received within twenty-four hours after the close of the polls at the primary. The ballots for the general election shall be sent out within five days after the primary has been held unless the ballots cannot be prepared within such time, and in such event the ballots shall be sent out as soon as possible. No ballot cast at a general city election shall be counted unless it is received within twenty-four hours after the polls close at said election. (Laws 1918, Special Session, p. 17.)

Sec. 8. List of candidates nominated at primaries—instructions to voters.—Within fifteen days after any general primary election is held it shall be the duty of each County Clerk, Election Commissioner or other officer who discharge the duties that are imposed upon County Clerks with reference

to primary elections, to cause to be filed in the office of the State Election Commission a list of all nominations made in said county at said primary; said list shall contain the names, post office address and political party affiliation of all persons nominated in said county, at said primary; and the names of the offices for which all candidates were nominated.

Where persons were nominated at said primary on a non-partisan ballot, the names of the candidates, their post office addresses and the names of the offices for which said persons were nominated, shall be certified to by the State Election Commission.

Within twenty days after any general primary election the State Election Commission shall prepare from the records of the office of the Secretary of State, State Election Commission, and from the certificates furnished to the State Election Commission by the various County Clerks or other officers a list of all persons who were nominated at the previous primary for any office. The State Election Commission shall prepare lists for each county similar in form to the official ballot that is now provided by law for general elections. Separate lists shall be made for each county. Each list shall contain under each office division the names, addresses, and political party affiliations of all persons who are nominated in said primary, which includes all state, district and county officers. For the purposes of this Act, supervisors and county commissioners shall be considered county officers. The commission shall also cause to be printed in pamphlet form the lists provided for in this section. Said pamphlet shall show the names of all candidates that are to be voted for in each of the various counties of this State. On the outside of this pamphlet shall appear substantially the following:

“GUIDE FOR SOLDIER ELECTORS OF THE STATE OF NEBRASKA NOW ABSENT FROM THE STATE IN MILITARY OR NAVAL SERVICE, PREPARED UNDER THE DIRECTION AND AUTHORITY OF THE STATE ELECTION COMMISSION AT LINCOLN, NEBRASKA.

 Members of the State Election
 Commission.”

(In the above insert the names of the Election Commissioner and his Assistants.)

On another page should appear substantially the following:

“INFORMATION AND INSTRUCTION TO ABSENT ELECTORS.

This pamphlet has been prepared under the direction and authority of the State Election Commission of the State of Nebraska. The information given in it is authentic and correct. The information is given for your guidance and information. This pamphlet contains a copy of the Act permitting persons absent from the State to vote; the instructions provided by law regarding the method of voting in general elections, and the names of all persons who are to be voted for in the county of which you are a resident. If you are in doubt regarding the names of the candidates for the office for which they are candidates, consult the index, then refer to the county of your residence and under the head of your county you will find the names and post office addresses of all candidates in your county classified under the proper office division.”

On another page shall appear a copy of the letter of instructions that

has been sent out by the Election Commissioner to each absent voter. On another page shall appear substantially the following:

“INSTRUCTIONS IN PREPARATION OF BALLOT.

The ballots are prepared as follows: If you wish to vote a straight ticket, make a mark in the circle at the top of the ballot to the left of the name of your party, and your ballot will then be counted for each (c)andidate and as approval of party action on any constitutional amendment of that party on the ballot. If you wish to vote otherwise than a straight ticket make a cross in the square to the left of the name of each person for whom you wish to vote, or, for or against any constitutional amendment; if you wish to vote a straight ticket, with the exception of certain officers or constitutional amendments, place a cross in the circle at the head of the ticket for which you wish to vote in the main, and then place a cross in the square to the left of the candidates of the other parties for whom you wish to vote, or in the square to the left of the word “for” or “against” in any constitutional amendment. When two or more candidates in the same party are to be voted for for the same office (as two or more representatives) and the voter wishes to vote for one or more of your own party and one or more of another party, you must make a cross after each candidate for whom you wish to vote for that office. If you spoil one of the ballots sent you, use the other. Return only one ballot. Cast this ballot in the manner outlined in the letter of instructions enclosed along with the ballot. If you wish to vote for any person whose name is not printed on the ballot, you can here write in any name under the ballot. If you write in the name, write the name in the blank space on the ballot under the proper office you wish him to hold. A name written in on the ballot under the office divisor will be considered as a vote cast for the person whose name is written in.”

Non-partisan ballots are prepared as follows: “Make a mark in the square to the left of the name of the person for whom you desire to vote. You can write in names in the proper spaces on said ballot of persons for whom you desire to vote.”

On other pages of this pamphlet shall appear under the heading of each county, the complete list of candidates that are to be voted for in said county at said general election. Said lists shall be a copy of the lists that are provided for in this section and shall in substance be a copy of the official ballot as it will appear in each of the various counties of the State. The pamphlet shall be so indexed that the voter can readily refer to the county of his residence. (Laws 1918, Special Session, p. 18.)

Sec. 9. Official election ballots.—The State Election Commission shall, not later than the 20th day of September following any general primary election, prepare at least two official ballots and two official non-partisan ballots for each absent voter in the military or naval service in the United States, or in this State, as shown by the register furnished to the Commission by the Governor. Said ballots shall be similar in arrangements and form to the ballots that are now used at general elections, with the exception that the names of all candidates for offices of subdivisions smaller than a State office shall be omitted from said ballot, but blank spaces shall be left under each office division in which the names may be written by the voter. The names of all candidates who are nominated in the primary and are to be voted for by all the voters of the State shall be printed on said ballots. The laws relating to the printing, arrangement and form of the ballot shall apply.

On or before the 20th day of September succeeding any primary election

the Commission shall prepare the red envelope as outlined in Section 5. The ballot used in the general election shall be the same as used in the primary election, except that the outside of the envelope used in the general election shall show that it is for the general instead of the primary election and shall give the date of the election. The blank forms on the outside of the red envelopes for the general election shall be filled out the same as provided in Sec. 5. After these envelopes and pamphlets have been prepared as herein provided, the Election Commission shall mail to every qualified voter who is in the military or naval service in the United States or this State who is absent from the State and whose name appears in the general register furnished the Election Commission by the Governor, the following: Two official ballots, two official non-partisan ballots, one red envelope, prepared in compliance with the provisions of this Act, copy of the pamphlet referred to in Sec. 8, one envelope addressed to the State Election Commission, and letter of Instruction to Voters. The foregoing shall be mailed at the following times, to-wit:

To voters who are stationed at points outside of the Continental United States not later than the 20th day of September succeeding the primary.

To absent voters who are stationed at points within the United States not later than twenty-five days before the general election.

The letter of instructions referred to in this section shall be substantially as follows:

“TO ABSENT VOTERS OF THE STATE OF NEBRASKA IN THE MILITARY OR NAVAL SERVICE OF THE UNITED STATES OR OF THIS STATE:

In accordance with the provisions of the laws of Nebraska, I am sending you herewith two official ballots, two official non-partisan ballots, one red envelope, one pamphlet of instructions, one envelope addressed to the State Election Commission, Lincoln, Nebraska, and this letter of instructions. It is of the utmost importance that you carefully read and understand these instructions and the affidavit on the outside of the red envelope. Examine the pamphlet enclosed. It contains instructions and a copy of the law under which you are voting. It also contains a complete list of all candidates that are to be elected to office in the county of your residence. If you are in doubt as to the names of persons who are candidates for the office for which they are candidates, you will find these listed under the name of the county of which you are a resident. In voting, you are to use only one official ballot and one official non-partisan ballot. The extra ballots are sent you to be used by you in case either of the others is spoiled. Destroy the ballots not used by you. Do not return any but the ballots that are marked. In voting mark on the official ballot and on the official non-partisan ballot in the manner outlined in ‘Instructions to Voters,’ found on page—of this pamphlet, your choice for office. You can write in under the proper office division the name of any person for whom you desire to vote and whose name does not appear on these ballots. After marking the official ballot and the official non-partisan ballot, enclose one of the official ballots and one of the official non-partisan ballots in the red envelope, seal up the same securely and thereafter subscribe and swear to the affidavit that appears on one side of the said red envelope before any commissioned officer in the Army or Navy of the United States that is acquainted with you. Then enclose the red envelope containing your official ballot and official non-partisan ballot in the envelope addressed to the ‘State Election Commission, Lincoln, Nebraska,’

A failure to return the red envelope will prevent your vote from being counted. Seal up the envelope addressed to the State Election Commission, and place on it _____ cents postage. No ballots received after the _____ day of _____ will be counted. It is important that you act promptly. Dated this _____ day of _____ 19____.

(Signed.) State Election Commission."

The method of voting at a general election under the provisions of this Act shall be the same as that provided for by the general election laws of the State. The instructions given to voters with reference to general election, except as modified by this Act, shall govern and control. The voter may write in on the ballot the name of any person for whom he desires to vote. The fact that such name is written will be sufficient to count for the person indicated. The general method of marking the ballot, both on candidates and constitutional amendments, laws initiated and laws referred, shall be the same as that provided by the general election laws of this State. A voter shall have the right to make inquiry of any source he may deem proper for information as to the proper method of casting his ballot. No one has any right to see or know how the voter casts his ballot. He shall not mark his ballot in the presence of any one, unless he is unable to mark his ballot. In that instance he may require assistance.

After he marks his official ballot and his official non-partisan ballot he shall then insert them in the red envelope. Thereafter, he shall subscribe and swear to the affidavit on the back of the red envelope before a commissioned officer of the Army or Navy of the United States who is acquainted with him. He shall then securely seal the red envelope and insert it in the envelope addressed to the State Election Commission, seal up the envelope addressed to the State Election Commission and place sufficient postage thereon. There shall be no identification marks placed on the outside of the envelope addressed to the State Election Commission. The ballots not used should be destroyed. The Election Commission shall ascertain what postage is necessary to carry said envelope and shall insert the amount necessary to carry the same in the instructions sent to the voter as provided in this section.

All votes cast at a general election held under the provisions of this Act by absent voters, who at the time of the election are in the military or naval service of the State of Nebraska or of the United States, and who at said time are stationed within the Continental United States must be returned to the Commission before midnight of election day.

All votes cast at a general election under the provisions of this Act by absent voters, who are in the military or naval service of this State or the United States, and who at the time of holding the election are stationed at points outside of the Continental United States, must be returned and received by the Commission before midnight of the fourth Monday following the election.

The Commission shall count and canvass all votes received by it up to midnight of election day from absent voters, who at the time of holding said election are stationed at points within the United States. Said Commission shall not canvass or count any ballots which are received by said Commission after twelve o'clock midnight on election day where it appears that a person who cast his ballot was on the day of election stationed at a point within the United States. The Commission shall not count or canvass any ballot cast by an absent voter where it appears that the said absent voter was on the day of holding the election stationed at a point without the Continental United States which ballot was received by the Commission after midnight on the

fourth Monday following the general election. (Laws 1918, Special Session, p. 21.)

Sec. 10. Canvass of votes cast at primary election.—The Commission shall canvass all ballots cast under the provisions of this Act at any statewide primary or general election. The canvass of ballots cast at a statewide primary under the provisions of this Act shall commence at ten o'clock A. M. on the Friday following the primary. The Commission shall as speedily as possible complete said canvass. Upon the completion of said canvass the Commission shall prepare an abstract of the votes cast by those voting under the provisions of this Act on the various offices. The Commission shall send a certified copy of the abstract of said vote to the various officers and boards upon whom the law places the duty of issuing certificates of nomination to candidates for office; a certified copy of the abstract of the votes cast on all candidates for county offices, in the several counties in the State, shall be sent to the County Clerk, or other officer whose duty it is in the county to issue certificates of nomination to the successful candidates; a certified copy of the abstract of votes cast on all candidates for office in the subdivisions larger than a county, so far as relates to the candidate in said subdivision, shall be sent to the proper officers or board whose duty it is to issue certificate of nomination to the successful candidate; a certified copy of the abstract of votes cast in so far as they relate to all officers to whom the Secretary of State issues certificates of nomination, shall be furnished to the Secretary of State; the various County Clerk, canvassing boards, Secretary of State, the State canvassing boards, and all officers and boards upon whom the law has placed the duty of canvassing votes, shall receive certified copy of abstract of the votes cast under the provisions of this Act, and proceed in canvassing the votes in the manner now provided for canvassing votes at the general primary. No canvassing board shall complete its canvass until the vote cast under the provisions of this Act has been returned, counted and canvassed as herein provided.

No officer shall issue certificate of nomination to any person who is a candidate in said primary until the votes cast under the provisions of this Act have been returned, counted and canvassed as herein provided.

After the canvass has been completed in compliance with the provisions of this Act, certificates of nomination shall be issued to the persons entitled to receive the same by the officers whose duty it is to issue such certificates. (Laws 1918, Special Session, p. 25.)

Sec. 11. Canvass of vote at general election.—The canvass of the ballots cast under the provisions of this Act at any general election shall commence at twelve o'clock noon on the First Monday following the election. The Commission shall canvass all ballots received by it up to midnight of the day on which the election is held. Upon the completion of said canvass the Commission shall adjourn and take a recess until the Fourth Tuesday after the First Monday succeeding the general election, and shall then reconvene for the purpose of counting and canvassing all ballots cast by absent voters who were outside of the Continental United States on the day of the election, which ballots have been received by the Commission prior to midnight on the Fourth Monday succeeding the election. Upon the completion of said canvass the Commission shall send a certified copy of the abstract of the votes cast to the various officers and parties whose duty it is to issue certificates of nomination to candidates for office. A certified copy of this abstract of the vote cast on all county officers in the several counties of the State shall, so far as relates to each of the several counties, be sent to the county clerk or other

officer whose duty it is in each of said counties to issue certificates of election; a certified copy of the abstract of the vote cast on all offices in each of the several subdivisions larger than a county, so far as relates to the offices in said subdivision, shall be sent to the proper officer or board whose duty it is to issue certificate of election; certified copy of the abstract of the vote cast, in so far as relates to all officers to whom the Secretary of State issues certificates of election, shall be sent to the Secretary of State. The various county clerks, county canvassing board, Secretary of State, state canvassing board, and all officers on whom the duty of canvassing votes has been placed by law, shall proceed to canvass the vote under the provisions of this Act in the same manner as is now provided for canvassing of votes at any general election. No canvassing board shall complete its canvass until the ballots cast under the provisions of this Act have been returned, counted and canvassed as herein provided. No officer shall issue any certificate of election until the ballots cast under provisions of this Act have been returned, counted and canvassed as herein provided. After the ballots cast under the provisions of this Act have been returned, counted and canvassed as herein provided, certificates of election shall be issued to the persons entitled to receive the same by the various officers whose duty it is to issue such certificates. (Laws 1918, Special Session, p. 26.)

Sec. 12. Canvass by state election commission.—In canvassing the votes cast under the provisions of this Act the State Election Commission shall open, in the presence of each other, the envelope addressed to the State Election Commission, and shall thereafter examine the name and affidavit of the voter that appears on the red envelope. If the voter has signed the affidavit in compliance with the provisions of this Act and it appears to the Commission that he is entitled to cast his ballot, said Commission, in the presence of each other, shall open the red envelope and examine the ballot or ballots therein inclosed for the purpose of ascertaining whether or not said ballot is one that was sent out by said Commission. If the ballot or ballots inclosed is one that has been sent out by the Commission, the Commission shall deposit the same in a suitable ballot box. It is not necessary that all the ballots be placed in the same ballot box, but the Commission shall so proceed as to protect the secrecy of the ballot. In canvassing the votes cast under the provisions of this Act, the laws relating to the duties and powers of judges, and clerks of election, and election boards generally, shall, in so far as applicable apply to the State Election Commission. In case there is a conflict, the provisions of this Act shall govern. (Laws 1918, Special Session, p. 27.)

Sec. 13. Care of soldier votes.—All envelopes addressed to the State Election Commission containing ballots cast at any primary or general election shall be from the time of delivery until the votes are canvassed under the absolute and exclusive control of the State Election Commission. Said Commission shall make whatever provision is necessary to properly care for said ballots and to prevent the loss of any of said ballots or any tampering therewith. (Laws 1918, Special Session, p. 27.)

Sec. 14. Construction of Act.—No informality in the manner of carrying out the provisions of this Act shall invalidate the election held under the same or authorize the rejection of the returns thereof, and this Act shall be liberally construed for the purposes herein expressed. All elections held under the provisions of this Act shall be subject to contest and inquiry in the same manner as elections held within this State. (Laws 1918, Special Session, p. 28.)

Sec. 15. **Penalties.**—All the provisions of the penal laws relating to crimes against the elective franchise shall be deemed to apply to all elections held under the provisions of this Act. Any person who shall violate any such provisions shall be subject to the penalties prescribed by the laws of this State. The duties imposed upon officers under the provisions of this Act are mandatory and any officer who shall fail or neglect to perform the duties imposed upon him by the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding Five Hundred Dollars. Where no other penalty is imposed, any person violating any of the provisions of this Act shall be fined not to exceed One Hundred Dollars or be imprisoned in the county jail not to exceed three months. (Laws 1918, Special Session, p. 28.)

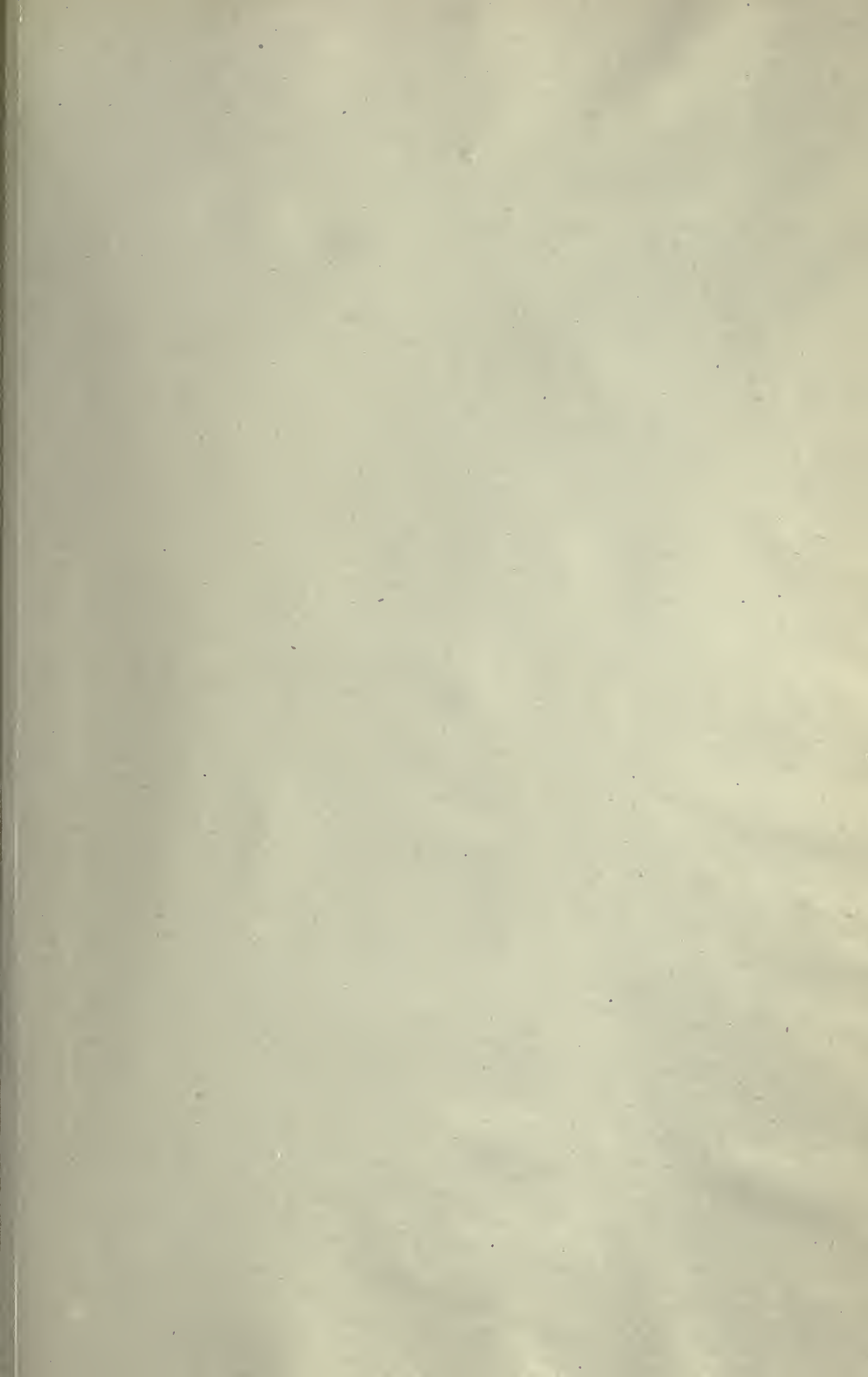
Sec. 16. **Penalties applicable to public officers.**—The several officers or persons directed and authorized to conduct elections under the provisions of this Act shall have like power and they as well as other persons who may be candidates for office at such election shall be subject to like penalties and restrictions as are declared and provided for by law in case of elections within this State, and all provisions of the laws of this State in so far as applicable and not inconsistent with the provisions of this Act shall apply to elections and primary elections held under the provisions of this Act. In the sending of the ballots in this Act provided for nothing shall be inclosed therewith except the matters in this Act provided for. (Laws 1918, Special Session, p. 28.)

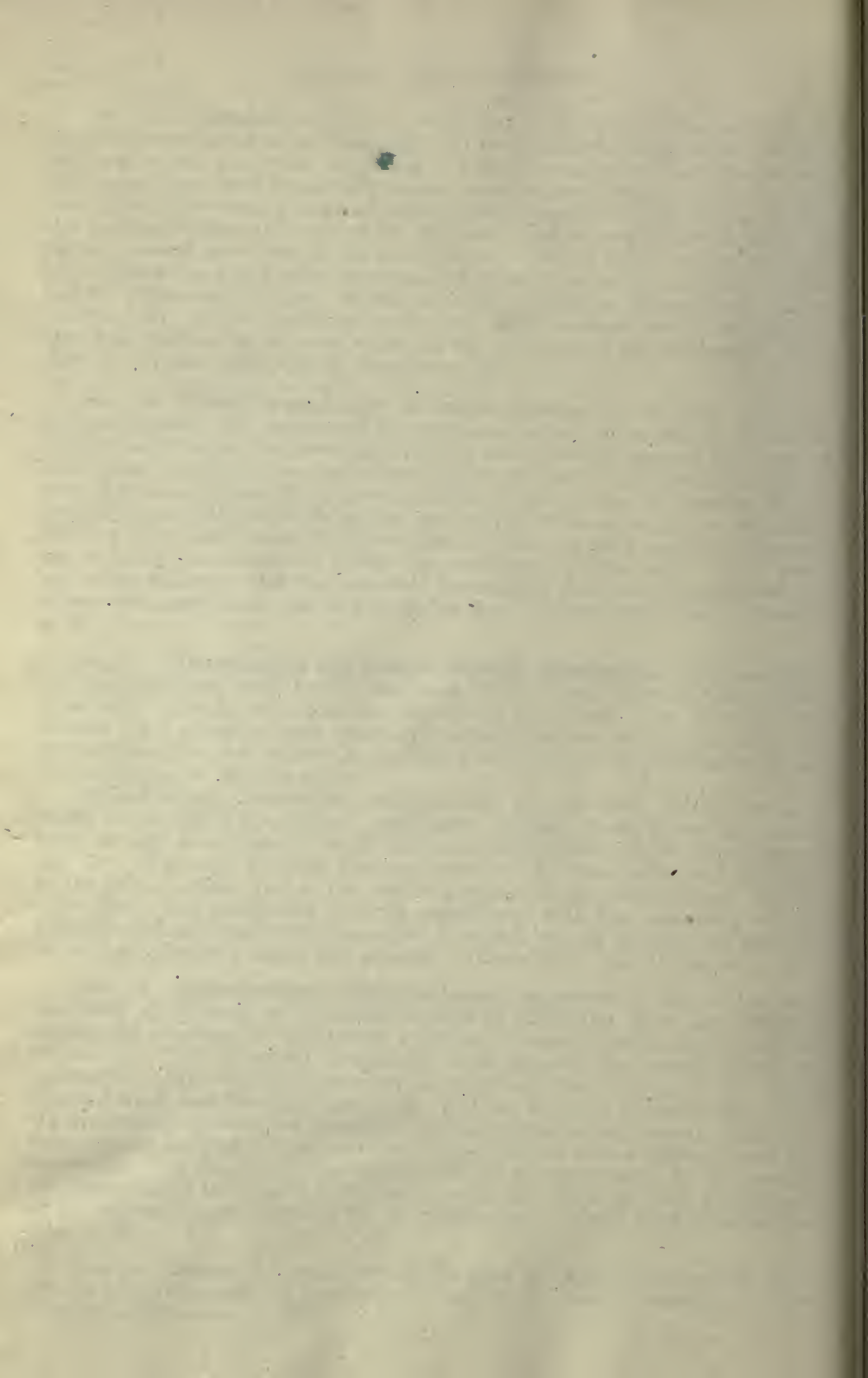
Sec. 17. **Organization and rules of election commission.**—The State Election Commissioner shall be the chairman of the State Election Commission. A majority of said commission shall constitute a quorum. The Election Commission shall prescribe such rules and regulations, not inconsistent with the provisions of this Act as may be necessary to carry out the provisions of this Act according to its true intent.

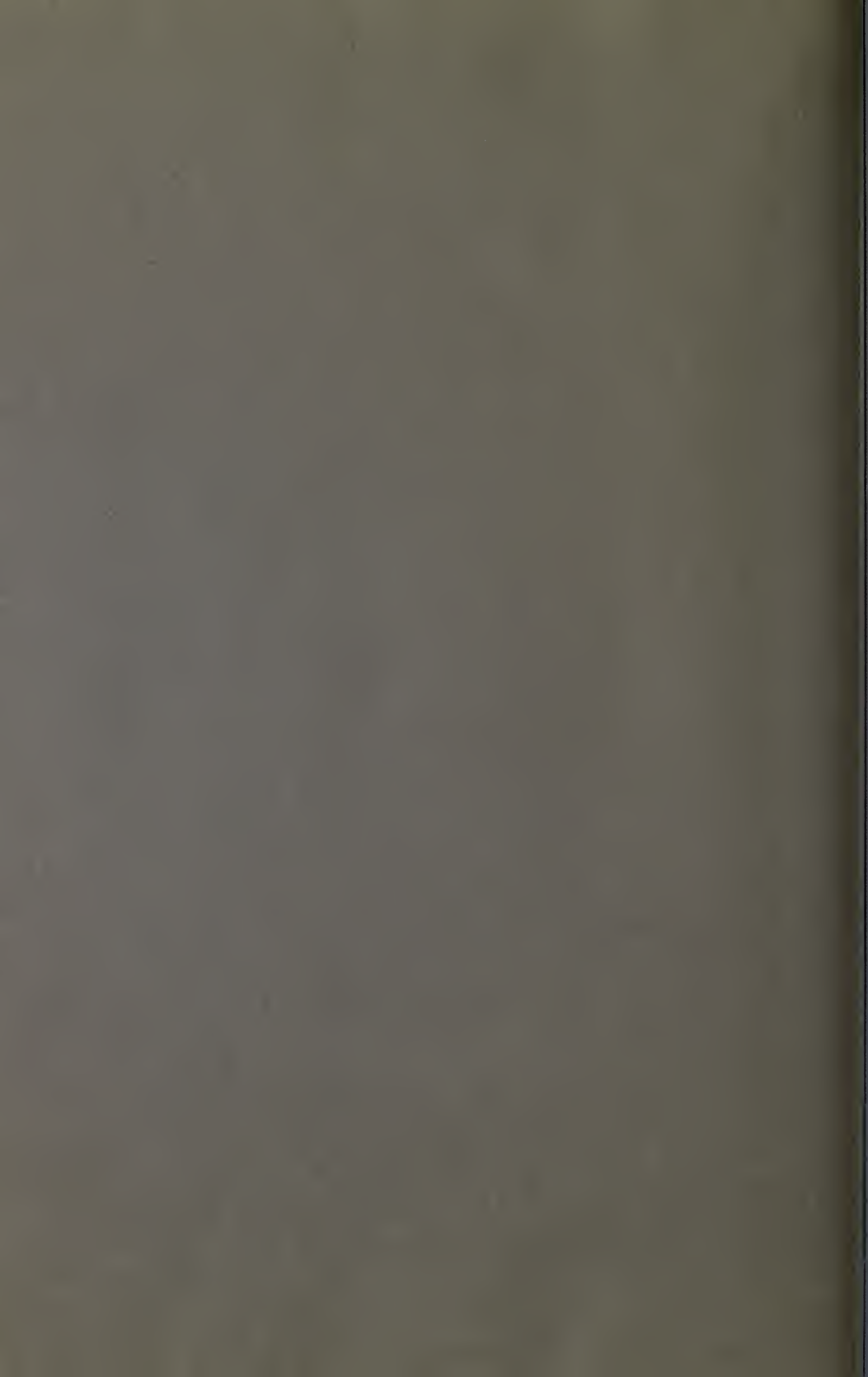
Said Election Commission shall provide all necessary ballots, records, books, forms, blanks, envelopes, stationery, postage, blank forms, and index cards as may be necessary for the proper administration of the provisions of this Act. The said Election Commissioner and his assistants shall transmit to the proper places and to the proper persons all necessary papers, ballots, instructions and pamphlets in strict compliance with the provisions of this Act and shall administer the provisions in such a way as to carry out this Act according to its true intent and purpose. (Laws 1918, Special Session, p. 28.)

Sec. 18. **Appropriation.**—There is hereby appropriated out of the general fund of the State of Nebraska the sum of \$25,000.00, or so much thereof as may be necessary to defray the expenses of administering the provisions of this Act. The Election Commission shall appoint the necessary clerical assistants to properly administer this Act in so far as it relates to the duties imposed upon said Election Commission and the Election Commissioner. The Governor shall appoint the necessary clerical assistants to properly administer the provisions of this Act in so far as it relates to the duties imposed upon the Governor. The Election Commissioner and the Governor shall fix the amount of compensation to be paid to the said clerks and the same shall be paid out of the appropriation provided for in this section. (Laws 1918, Special Session, p. 29.)

Sec. 19. **Repeal.**—Chapter 177 of the laws of 1917 and all acts or parts of acts in conflict with the provisions of this Act are hereby repealed. (Laws 1918, Special Session, p. 29.)







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