
ELECTIONS

CHAPTER 109.

[S. B. No. 1—Sharpe.]

PRIMARY ELECTION.

AN ACT Providing for the Selection of Candidates for Election by Popular Vote, and Relating to their Nomination and the Perpetuation of Political Parties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INTENT OF ACT.] It is the intention of this act to reform the methods by which political parties shall make nominations of candidates for all public offices by popular vote. It shall be liberally construed so that the real will of the electors may not be defeated by any 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 certify the results thereof.

§ 2. HELD, WHEN. WHAT OFFICES, FOR.] On the last Wednesday in June of every year in which occurs a general election there shall be held, in lieu of party caucuses and conventions, a primary election in the various voting precincts of this state, for the nomination of candidates for the following offices to be voted for at the ensuing general election, viz: Members of congress, state officers, county officers, district assessors and the following officers on the years of their regular election, viz: Judges of the supreme and district courts, members of the legislative assembly and county commissioners, and United States senator in the year previous to his election by the legislative assembly; provided, however, that the provisions of this act shall not be construed to include or provide for the nomination of presidential electors or delegates to national conventions. Such delegates to national conventions shall be nominated and elected, and presidential electors nominated as now or hereafter may be provided for by the various state central committees. For special elections for the officers enumerated herein the nominations shall be made as otherwise provided by law.

§ 3. PETITION REQUIRED. FEES FOR FILING. AFFIDAVIT OF CANDIDATES.] Every candidate for United States senator, member of congress, state officers, judge of the supreme and district courts, shall, not more than sixty days nor less than thirty days prior to said primary election, present to the secretary of state a petition

giving his name, postoffice address, the title of the office to which he aspires and the party which he represents, containing the names of 3 per cent of the total vote cast for the candidate of the party with which he affiliates, for the same position at the last general election; provided, however, that in no case shall more than three hundred names be required. Each name on the petition shall be that of a legal voter and be subscribed under a certified party heading.

Upon receipt by the secretary of state of such petition and the payment to him of an amount equal to one per cent of the annual salary of the office to which he aspires, and when accompanied by the following affidavit he shall place the applicant's name upon the primary election ballot in the columns of his party as hereinafter provided; provided, however, that no fee shall be required of candidates for United States senator. Said affidavit may be substantially as follows:

State of North Dakota,

County of

} ss.

I,, being duly sworn, depose and say that I reside in the county of.....and state of North Dakota; that I am a qualified voter therein and a; that I am a candidate for nomination to the office of to be chosen at the primary election to be held on the 19.., and I do hereby request that my name be printed upon the primary election ballot as provided by law, as a candidate of the party for said office.

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

Notary Public, North Dakota.

The fees designated in this section to be paid to the secretary of state shall be turned over by him to the state treasurer to be covered into the general fund.

§ 4. COUNTY AND LEGISLATIVE CANDIDATES, PETITION AND PLEDGE OF.] Every candidate for a county or district office shall not more than forty days nor less than thirty days and before 4 o'clock p. m. of the thirtieth day prior to any primary election present to the county auditor a petition giving his name, postoffice address, the title of the office to which he aspires and the party which he represents, containing the names of 5 per cent of the total vote cast for the candidate of the party which he represents, containing the names of 5 per cent of the total vote cast for the candidate of the party with which he affiliates for the same position at the last general election; provided, however, that in no case shall there be more than two hundred names; and, provided further, that the petitions of all candidates for members of the legislative

assembly shall, in addition to the requirements hereinbefore provided, contain the following pledge, viz: I, the undersigned, a candidate for the office of member of the legislative assembly of the state of North Dakota, do obligate myself to the people of the state of North Dakota and to the people of my legislative district that during my term of office I will support and vote for that candidate for United States senator in congress of the party of which I am a member, who has received a majority of such party votes for that position at the primary election next preceding the election of United States senator in congress; provided, that in case no candidate of my party receives forty per cent of all the votes cast for the office of United States senator of my party, then and in that case I pledge myself to vote for the candidate of my party who receives the highest number of votes of my party at the general election succeeding such primary election.

Each name on the petition shall be that of a qualified voter and be subscribed under a party heading. Each signer of a nomination paper shall sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing. Upon the receipt of such petition by the county auditor and the payment to him of an amount equal to one per cent of the annual salary of the office to which he aspires, except for state senators twenty dollars and representatives ten dollars, and in legislative districts having more than one county, the fee shall be equally divided between such counties and excepting candidates for county commissioners, district assessors, surveyor and coroner, who shall pay three dollars—and candidates for county constables and county justices of the peace shall pay one dollar and when accompanied by an affidavit as provided in section 3 of this act, he shall place the name of such applicant upon the primary election ballot in the columns of his party as hereinafter provided.

When a legislative district is composed of more than one county the petition herein provided for shall be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties composing such legislative districts the names of the candidates filing such petitions. For the purpose of this act candidates for the office of sheriff shall pay the same fee as candidates for the office of auditor. The money so received by the county auditor shall be turned over by him to the county treasurer to be covered into the general fund.

§ 5. NAMES ON PRIMARY BALLOT, HOW SECURED. VACANCIES, HOW FILLED.] Applications to have a name placed on the primary election ballots for nomination may be made by five qualified electors for any office designated in this act, by presenting the petition required in sections 3 or 4 to the proper official, and paying the amount required, accompanied by the following affidavit:

State of North Dakota, }
 County of } ss.

I, A....., B....., C....., D..... and E, being duly sworn, each for himself, deposes and says that he is a qualified voter in the state of North Dakota, that he hereby makes application to have the name of printed on the primary election ballot of the party for the office of, to be voted for at the primary election to be held on the day of, 19....; that said is to the best of his knowledge, information and belief, a and a qualified voter and eligible to hold the office of under the constitution.

.....

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

.....
 Notary Public, North Dakota.

When such application is received by the proper officer, accompanied by the necessary fee, as required in sections 3 and 4 of this act, he shall place the name on the primary election ballot as a candidate of the party named in said petition; provided, that such affidavit and petition shall not be filed without the written consent of such person to be nominated indorsed thereon; and provided, further, that when the time has expired at which a petition may be filed, and a vacancy exists in the primary election ballot of any political party by reason of no petition having been filed for such nomination, then and in that case the same may be filled by affidavit and petition as provided in this section, on the payment of one-half of the usual fee, and such affidavit and petition must be filed with the proper officers at least twenty days before the primary election; and provided, further, that no petition shall be circulated or signed more than ninety days previous to the time when any petition is required to be filed as herein provided for and any signatures to a petition secured prior to ninety days shall not be counted.

§ 6. FORM OF PETITION.] The petitions required in section 3, 4 and 5 of this act may be one continuous list of names under the proper political title or principle, or there may be a number of such petitions using the same title, giving the aggregate of names required.

§ 7. NOMINATIONS BY STICKERS.] A candidate may be nominated by having his name written on or by printed stickers placed

over the name or in a blank line left for that purpose underneath the group in each official position; but not more than one name shall be written or printed on any such stickers.

§ 8. ELIGIBILITY OF CANDIDATES.] All persons nominated in accordance with the provisions of this act shall be eligible as candidates to be voted for at the ensuing general election.

§ 9. BALLOTS, FORM OF. DUTIES OF JUDGES AND INSPECTORS.] The primary election and primary election ballot shall be provided for, arranged and conducted and all expenses paid as now provided by law for general elections, except as otherwise provided for in this act.

There shall be separate ballots for each party or principle and they shall all be of the same size, texture and color, except sample ballots, which shall be printed on tinted paper.

The ballot shall be entitled "Primary Election Ballot."

The names of all aspirants for nomination of each political party or principle for the different offices shall be arranged in separate groups in their order, on separate ballots under a proper political designation, leaving one or more blank lines or spaces below each group of names on which may be written or placed a name or a printed sticker attached for the nomination of the candidate. No squares shall be left at the head of the ballot.

At the head of each ballot shall be placed the title of the political party or principle that it represents.

At the left of each group shall be placed the title of the office, followed by a bracket, indicating the number of names in such group. Above each group there shall be a space in which shall be printed the number of names in that group to be voted for as follows:

"Vote for name (or names) only."

Immediately above the names of the candidates to be voted for shall be printed the following:

"To vote for a person whose name is printed on the ballot mark a cross (X) in the square at the right of the name of the person for whom you desire to vote.

"To vote for a person whose name is not printed on the ballot, write or paste his name in the blank space provided for that purpose."

Each ballot shall contain two columns, and each column is to have as nearly as possible the same number of names of candidates thereon, except that no groups or spaces beneath any group shall be divided, and the candidates for the various offices shall appear upon the ballot in the following order, commencing at the column to the left, viz:

Congressional—

United States senatorVote for one
Representatives in congressdistrictVote for....

State Officers—

Governor	Vote for one
Lieutenant governor	Vote for one
Justice of the supreme court	Vote for
Secretary of state	Vote for one
State auditor	Vote for one
State treasurer	Vote for one
Superintendent of public instruction	Vote for one
Attorney general	Vote for one
Commissioner of insurance	Vote for one
Commissioner of agriculture and labor	Vote for one
Commissioner of railroads	Vote for three

District Judges—

For district judge districtVote for one

Legislative—

State senatordistrictVote for one
Members of the house of representatives.....Vote for

County—

Sheriff	Vote for one
Auditor	Vote for one
Treasurer	Vote for one
Clerk of district court	Vote for one
Register of deeds	Vote for one
State's attorney	Vote for one
County judge	Vote for one
Superintendent of schools	Vote for one
Public administrator	Vote for one
County surveyor	Vote for one
County coroner	Vote for one
County commissioner district	Vote for one
District assessor district	Vote for one
County constable	Vote for
County justices of the peace	Vote for

A square shall be placed following the name to the right of every candidate and the voter shall place a cross (X) in such square following the name of each person he desires to vote for.

The judges and inspectors of election when handing a ballot to a voter shall inform him that he must vote for the candidates of the political party such ballot represents only, and the voter shall call for the ballot representing the party or principle with which he affiliates and he shall receive such ballot and no other.

§ 10. MUST VOTE PARTY BALLOT.] Any citizen otherwise eligible by law, affiliated with or representing the principles enumerated in the national platform of the following parties, are eligible to nomination under this act: The republican party, the democratic party, or any party designation that cast 5 per cent of the votes cast for governor at the last general election and it shall be unlawful for any person to call for or vote a ballot at the primary election

herein provided for, except a ballot representing the party or principle with which he affiliates, and any person who has reason to believe that the ballot called for by the voter does not represent the party or principle with which said voter affiliates, may challenge such vote, and he shall not be entitled to cast his ballot unless he makes and files with the inspector of such primary election an affidavit to the effect that such ballot represents the political party with which he affiliates.

§ 11. VACANCIES FILLED BY PARTY COMMITTEES.] Should a vacancy occur in any of the offices for which nominations are made under this act by reason of resignation or death, where there is only one aspirant for such office, before the printing of the primary election ballot such vacancy may be filled by the regularly constituted committee of the party to which such vacancy belongs, and no petition nor fee shall be required.

§ 12. PERCENTAGE OF VOTES REQUIRED FOR NOMINATION.] If the total vote cast for any party candidate or candidates for any office for which nominations are herein provided for shall equal less than 30 per cent of the total number of votes cast for secretary of state of the political party, he or they represented at the last general election, no nomination shall be made in that party for such office, but if 30 per cent or more of such vote is cast and there is more than one candidate for any such office, the person receiving the highest number of votes shall be declared the nominee of such party for such office; provided, further, that where there is more than one person to be elected to the same office the persons to the number to be elected receiving the highest number of votes cast for such office shall be declared the nominees of the party for such offices.

§ 13. NOMINATIONS FOR UNITED STATES SENATOR.] Party candidates for the office of United States senator shall be nominated in the manner herein provided for the nominations of candidates for state offices.

The candidate receiving the highest number of votes at such primary election shall be the nominee of his party for the office of United States senator at the succeeding session of the legislative assembly which is to elect a United States senator; provided, however, that in case no candidate receives forty per cent of all the votes of his party cast for the office of United States senator, then the two candidates of each party who receives the highest number of votes cast at such primary election shall be placed upon a separate ballot to be voted for at the general election following. Such ballot shall be prepared in the same manner as the general election ballot, commonly known as the Australian ballot, is prepared. The candidates of each party are to be placed upon such ballot under their proper party heading. The names of each candidate shall be placed upon such ballot in the same manner as the candidate for state offices and shall be voted for in the same manner. The votes for

candidates for United States senator shall be canvassed and returned in the same manner as the votes cast for state officers. The candidate of each party receiving the highest number of votes at such general election shall be the nominee of his party for the office of United States senator, and it is hereby made the duty of the secretary of state to certify to the next session of the legislative assembly the name of the candidate of each party who receives the highest number of votes for the office of United States senator.

§ 14. BALLOTS, HOW PREPARED.] The primary election ballot shall be prepared, unless otherwise provided in this act, as defined in sections 614 and 616 of the revised codes of 1905.

§ 15. ARRANGEMENT OF NAMES ON BALLOT.] The names of candidates for each office upon the sample ballots shall be arranged alphabetically, according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner, viz.:

First: The forms shall be set up with the names in the order in which they are placed upon the sample ballots prepared by the secretary of state for the state and district offices, and by the county auditor for the county offices.

In printing each set of official ballots for the various election precincts the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are the most names.

As nearly as possible an equal number of tickets shall be printed after each change.

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 columns so that the name that was second before the change shall be first after the change.

After the ballots are printed, before being cut, they shall be kept in separate piles for each change of position, and shall then be piled by taking one from each pile and placing it upon the other pile to be cut, the intention being that every other ballot in the pile of printed sheets shall have names in different positions.

After the piles are made in this manner they shall be cut and placed in blocks as provided by the general election laws.

§ 16. LIST OF OFFICERS TO BE NOMINATED.] The secretary of state shall between the first day of April and the first day of May, in such year, direct and cause to be delivered to the county auditor of each county, a notice specifying the officers to be nominated under this act, whose term of office will expire between the first Monday in December and the first Monday in March, next succeeding, also specifying the several officers to be nominated in such county at the next primary election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in section 637 of the revised codes of 1905.

§ 17. PROVISIONS OF ELECTION LAW APPLICABLE.] Excepting as herein otherwise provided, the following sections of chapter 8 of the political code of 1905, entitled "Elections," are hereby made applicable to primary elections and primary election ballots, under this act, to-wit: 605, 606, 607, 608, 609, 610, 611, 613, 614, 615, 616, 619, 620, 621, 622, 623, 624, 630, 635, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 654, 655, 656, 657, 658, 659, 660, 669, 671, 672, 673, 674, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, and 700.

§ 18. TALLY BOOKS. ARRANGEMENT OF NAMES.] Two tally books or two sets of tally sheets shall be provided for each political party or principle, having candidates to be voted for, at each voting precinct, the same to be furnished by the county auditor, at the same time and in the same manner that the poll books and ballots are furnished. The names of the candidates shall be placed on the tally sheets in the order in which they appear on the official sample ballot, and in each case shall have the proper party designation at the head thereof.

§ 19. POLLS, OPEN WHEN. CANVASS.] The polls shall be opened at 8 o'clock a. m. and remain open continuously until 5 o'clock p. m. When the polls are closed the judges and inspectors of such primary election shall open the ballot boxes, count the votes and compare the same with the clerk's lists, and should any irregularities appear they shall proceed as now provided by law. When the ballots compare with the clerk's lists, they shall proceed to canvass and place those of each political party in separate piles. The tally of the votes shall be separate for each political designation or principle and so returned by the judges and inspectors of election, giving the full vote for every candidate. The men's and women's votes shall be kept separately and so returned by the judges. The county canvassing board shall aggregate these for the candidates voted for.

§ 20. RETURNS.] The judges of such primary election in each precinct shall make a statement on blanks to be provided for that purpose, which shall be subscribed by them and filed in the office of the county auditor with the returns as follows: They shall contain the names of all persons voted for at the primary election, with the number of votes cast for each candidate and for what office. A separate statement shall be made for each political party or principle.

§ 21. POLL LISTS DELIVERED TO BOARDS OF REGISTRATION.] Clerks of primary elections shall keep a list of the names of all persons voting at said election, and shall return one list as now required and one tally sheet that shall be a part of the record, and deliver the other list to the board of registration within thirty days following any primary election. No registration of voters shall be required under this act to vote at any primary election. The poll list so kept at a primary election and delivered to the boards of registration shall take the place of the first registration of the voters

now required, and notice only shall be given of the date of the second day of registration, which shall be held and conducted as now provided, and no other shall be required to vote at the general election following.

§ 22. COUNTY CANVASSING BOARD.] The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners and the chairman of the county committees of the two political parties that cast the highest votes for governor at the preceding general election. The members of said board shall meet in the county auditor's office in the court house at 10 o'clock on the eighth day after any primary election, and shall proceed, after taking the usual oath of office, to open and publicly canvass the primary election returns made to the county auditor. Any three members of said board shall constitute a quorum and are authorized to make the canvass therein provided and to certify to the results thereof.

§ 23. STATEMENT OF CANVASSING BOARD. CONTESTS.] The canvassing board shall make and prepare a statement, the same to be signed by said board and filed in the office of the county auditor, as follows:

First. A statement containing the names of all candidates voted for at the primary election, with the number of votes received by each and for what office, said statement to be made as to each political party or principle separately.

Second. A statement of the names of the persons or candidates of each political party who are nominated, to-wit: those persons or candidates of such political party or principle who received the highest number of votes for the respective office, and where there is more than one person to be elected to a given office at the ensuing general election there shall be included in said statement of nomination the names of so many candidates of such party receiving the next highest number of votes for that office as there are persons to be elected to such office at said ensuing general election. Said statement shall in like manner be made separately as to each political party.

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

Fourth. A separate statement shall be made of the votes cast for United States senator, member of congress, state officers, judges of the supreme and district courts and members of the legislative assembly, which shall be transmitted to the secretary of state as provided in this act.

Fifth. It shall be the duty of the county auditor upon the completion of the canvass to mail or deliver in person to each candidate so nominated for any county or district office a notice of such fact and that his name will be put upon the official ballot, except as other-

wise provided. He shall also cause a copy of the findings of said board to be published in the official newspaper of the county.

§ 24. ABSTRACT OF VOTES TRANSMITTED TO SECRETARY OF STATE.] It shall be the duty of the county auditor of each county, under his official seal, excepting as provided in section 25 of this act, to return to the secretary of state on or before the first Tuesday of August following any primary election, a certified abstract under separate political designation or principle, of the number of votes cast in his county for every candidate for nomination for United States senator, member of congress, state officers, judges of the supreme and district courts and members of the legislative assembly. He shall seal up such abstracts and without delay transmit them to the secretary of state by registered mail.

§ 25. TWO OR MORE COUNTIES IN DISTRICT.] When two or more counties are embraced in one legislative district the respective county auditors shall attend at the office of the county auditor of the senior county of such district, within fifteen days after a primary election, and in conjunction with the auditor of the senior county shall compare the votes cast in the several counties comprising such district and such auditors shall immediately make out certificates of nomination for the persons of each political party or principle having the highest number of votes in such district for members of the legislative assembly, as provided in section 24 of this act, which certificates of nomination shall be forwarded without delay to the secretary of state by registered mail by the county auditor of the senior county, who shall give notice in writing to all the members of the legislative assembly nominated in such district.

§ 26. STATE BOARD OF CANVASSERS.] For the purpose of canvassing and ascertaining the result of any primary election the state board of canvassers shall meet at the office of the secretary of state on the first Tuesday in September next following a primary election, and be composed of the following members, viz.: Clerk of the supreme court, secretary of state, superintendent of public instruction and the chairman of the state central committee of the two political parties that cast the highest votes for governor at the last general election. After taking the usual oath of office the said board shall proceed to open and publicly canvass the primary election returns made by the several county auditors. Three members of said board shall constitute a quorum and are authorized to make the canvass herein provided and to certify to the result thereof.

§ 27. STATEMENT BY STATE BOARD.] The state board of canvassers shall make and prepare a statement, the same to be signed by said board and filed in the office of the secretary of state as provided in subdivisions 1, 2 and 3 of section 23 of this act. It shall be the duty of the secretary of state upon the completion of the canvass to mail to each candidate so nominated a notice of such fact, and that his name will be put upon the official ballot to be voted for at the ensuing general election, except as otherwise provided.

He shall cause a copy of findings of the said board to be filed in his office and published in a newspaper printed at the seat of government.

§ 28. OFFICIAL BALLOT, NAMES PLACED THEREON.] The secretary of state shall place the names of all the candidates of each political party or principle, who are shown to have been nominated for the respective offices in accordance with the certificates of nomination received from the several county auditors of this state on the official ballot to be voted for at the general election following.

§ 29. VACANCIES, HOW FILLED.] When there is but one aspirant and a vacancy occurs by death or resignation of such aspirant for nomination before the primary election and ballots are printed in legislative districts containing more than one county, the chairman of the party in which such vacancy occurs, of each county committee of the counties of which such district is composed and the member of the state central committee from that legislative district shall meet and by the majority vote of such shall fill such vacancy and by a certificate of nomination notify the county auditors of the several counties of which such district is composed, and the auditors of such counties shall place the name on the primary election ballots where the vacancy exists. Should a vacancy occur in a legislative office in a county composed of more than one district, or in a commissioner's district, then the county central committee of the party in which such vacancy occurs shall meet and fill such vacancy. On receipt of a certificate of nomination from said committee, the county auditor shall place the name of such nominee upon the primary election ballot where such vacancy exists.

§ 30. ERRORS, HOW CORRECTED.] Whenever it shall be made to appear by affidavit to the supreme court or to the district court of the proper county, that an error or omission has occurred or is about to occur in the placing of any name on an official primary election ballot; that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county auditor, canvassing board, member thereof, or other person charged with any duty concerning the primary election; or that any neglect of duty has occurred or is about to occur, such judge shall order the officer or person charged with such error, wrong or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty, or show cause at a time and place to be fixed by the court why he should not do so. Failure to obey the order of such judge shall be contempt of court.

§ 31. NOMINATIONS, HOW CONTESTED. APPEAL.] Any candidate at a primary election desiring to contest the nomination of another candidate or candidates for the same office, may proceed by affidavit within ten days after the completion of the canvass. In case the contestant shall set forth in his affidavit, upon information and belief, that the ballots in any precinct have not been correctly

counted, and that he has been prejudiced thereby, the judge shall make an order requiring the custodian of such ballots to appear before him at such time and place, and abide the further order of the court. At the time and place stated, the ballot boxes shall be opened and the ballots recounted in the presence of the court. If it should be found that a mistake has been made in counting such ballots, then the contestant shall be permitted upon application, to amend his affidavit of contest by including such additional facts therein.

All testimony and depositions taken in contests brought under the provisions of this article shall be taken in the same manner as in civil actions and depositions may be taken in more than one place at the same time on leave of the court, and all matters relating to such contests shall be heard and tried as nearly as may be as civil actions are tried, except as otherwise provided herein. The court shall make its findings of fact and conclusions of law. Appeals from final judgment and decisions of such contests may be taken without making a motion for a new trial in the district court in the manner provided for in the code of civil procedure, except that the undertaking on appeal shall be in a sum to be fixed by the judge, not less than five hundred dollars, and shall be approved by the judge and by the clerk of the district court of the proper county or subdivision under the directions of the judge.

Appeals to the supreme court under the provisions of this article must be taken within ten days after notice of entry of final judgment and the party appealing must immediately procure the transmission of the record on such appeal to the clerk of the supreme court and such appeal may be brought on for hearing before the supreme court at any time such court shall be in session, upon five days notice from either party; and the same shall be heard and determined in a summary manner, except as otherwise provided in this article. The provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article and the provisions of the civil code of procedure relative to appeals in civil actions, except in so far as they are inconsistent herewith apply to the proceedings mentioned in this article.

§ 32. PRESENT ELECTION STATUTES APPLY.] The provisions of the statutes now in force in relation to the holding of elections, the solicitation of votes, the manner of conducting elections, of counting the ballots and making return thereof, and all other kindred subjects shall apply to all primaries in so far as they are consistent with this act; the intent of this act being to place the primary election under the regulation and protection of the laws now in force as to election.

§ 33. TIE VOTE, DETERMINED HOW.] In case of a tie vote the same shall be determined by the canvassing board or boards concerned, at a time and place fixed by them in such manner as they

may designate in the presence of the candidate upon at least five days notice to such candidate.

§ 34. NOT REPEALED.] Nothing herein contained shall be construed as repealing or being in conflict with section 501 of the revised codes of 1905.

§ 35. FEES PAID COUNTY.] All fees paid to the secretary of state by candidates for the legislative assembly shall be paid by the secretary of state forthwith to the various county auditors in the state where such candidates reside and in case any legislative district is composed of more than one county such fee shall be paid to such counties in equal proportions, which fees are to be turned into the general fund of said county by the auditor.

§ 36. ACT VALID.] In case any of the provisions of this act should be declared unconstitutional that shall not affect the validity of any of the other provisions of this act.

§ 37. PENAL CODE APPLICABLE.] All of the provisions of chapter 5 of the penal code in so far as the same relates to crimes against the elective franchise, are hereby made applicable to elections held pursuant to the provisions of this act.

§ 38. PRESENT COMMITTEES CONTINUE.] Every state, county, district and city committee of each political party now eligible under the provisions of this act shall remain the regularly constituted committee of the respective parties until succeeded as provided for in this act.

§ 39. PRECINCT COMMITTEE, HOW ELECTED.] At the primary each voter may write in the space left on his ticket for that purpose the names of not to exceed three qualified electors of the precinct for members of his party precinct committee. The three having the highest number of votes shall constitute such committee, and the one having the largest shall be chairman. The official returns made by the election board from each precinct shall show the name and address of party committeemen chosen.

§ 40. COUNTY AND STATE COMMITTEE, HOW SELECTED.] The chairman of each precinct committee shall constitute the county committee of each county and they shall meet at the county seat between the first day of August and the tenth day of August following every primary election and organize by selecting a chairman, a secretary and a treasurer, and shall adopt rules and modes of procedure. They shall at the same time select one person who shall be a legal voter, to act upon and be a member of the state central committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district they shall select one person from each district; and when two or more counties are embraced in one legislative district the county committee of each county shall meet at the county seat of the senior county of such district on or before the fifteenth day of August following every primary election, and select one person who shall be a legal voter, to act upon and be a member of the state central com-

mittee of such party. The members so selected as state central committeemen shall meet at the state capitol between the first day and the tenth day of September and organize by selecting a chairman, a secretary and treasurer, and shall adopt rules and modes of procedure and promulgate and publish a platform or principle upon which its candidates shall stand. Each member of any committee shall retain such position until his successor is chosen. Every member so selected shall be a legal voter. Vacancies shall be filled by a majority of the committee by appointment from the district in which such vacancy exists.

§ 41. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed, in so far as they relate to the provisions of this act.

Approved March 19, 1907.

CHAPTER 110.

[S. B. No. 125—Pierce]

OPENING AND CLOSING OF POLLS.

AN ACT to Amend Section 638 of the Revised Codes, Relating to the Conduct of Elections.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 638 of the revised codes of 1905 be and the same is hereby amended and re-enacted so as to read as follows:

§ 638. WHEN POLLS ARE TO BE OPENED AND CLOSED.] At all elections held under the provisions of this chapter the polls shall be open at eight o'clock a. m., and closed at five o'clock p. m. Twenty minutes prior to five o'clock p. m. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at five o'clock p. m.; provided, however, that whenever it is made to appear to the satisfaction of the board of county commissioners that the conduct of any primary or general election may be facilitated or that the convenience of the people of any one or more precincts may be better subserved by the opening of the polls in said precinct or precincts at an earlier hour, not earlier than six a. m., or the keeping of the polls in such precinct or precincts open until a later hour, not later than eight p. m., the board shall, at the same meeting at which election precincts are designated and election officers named, by resolution designate the hours at which the polls in such precinct or precincts shall open and close, and that such resolution be published as a part of the notice of election.

Approved March 19, 1907.