

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE  
REVISED STATUTES

OF THE  
STATE OF MAINE

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## CHAPTER 8.

## Elections.

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## Preparation and Distribution of Ballots.

**Sec. 1. Ballots used in elections to be furnished at public expense. R. S. c. 7, § 1.** All ballots cast in elections for national, state, district, and county officers in cities, towns, and plantations and all ballots cast in municipal elections in cities shall be printed and distributed at public expense, as hereinafter provided. The printing of the ballots and cards of instructions to voters shall in municipal elections in cities be paid for by the several cities respectively, and in all other elections the printing of the ballots and cards of instructions and the delivery of them to the several cities and towns shall be paid for by the state. The distribution of the ballots to the voters shall be paid for by the cities, towns, and plantations respectively. The term state election, as used in this chapter, shall apply to any election held for the choice of a national, state, district, or county officer, whether for a full term or for the filling of a vacancy, and the term state officer shall apply to any person to be chosen by the qualified voters at such an election. The term city election shall apply to any municipal election so held in a city, and the term city officer shall apply to any person to be chosen by the qualified voters at such an election.

86 Me. 42; 107 Me. 516; \*108 Me. 170.

**Sec. 2. What the ballot shall contain and how printed; size of ballot. R. S. c. 7, § 2. 1917, c. 296. 1929, c. 3.** Every general ballot, or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of this chapter, shall contain the names and residences, ward residences in city elections, of all candidates whose nominations for any office specified in the ballot have been duly made and not withdrawn in accordance herewith, and the office for which they have been severally nominated, and shall contain no other names except that in case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the party or political designation. The names of candidates nominated by any party shall be grouped together upon the ballot. Above each group shall be placed the name of the political party by which the candidates

comprising such group were placed in nomination, or the political designation as described in the certificate of nomination, or nomination papers, under a square. Below the name of each candidate for any office in any group there shall be left a blank space in which the voter may write the name of any person for whom he desires to vote as a candidate for such office; at the right of each name and at the right of the blank space above provided for there shall be left a blank square in which the voter may make a cross mark (X). If only one person be nominated by any party, or under any political designation, his name with the office for which he is a candidate shall be printed by itself under the name of such party or political designation. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people such question or questions shall be printed upon a separate ballot. The ballots shall be so printed as to leave a blank space above such amendment or question so as to give each voter a clear opportunity to designate by a cross mark, (X), therein, his answers to the questions submitted, and on the ballot may be printed such words as will aid the voter to do this as "yes," or "no," and the like. The ballot shall be not less than four inches in width and not less than six inches in length. Before distribution the ballots shall be so folded in marked creases that their width and length when folded shall be uniform. On the back and outside, when folded, shall be printed "Official Ballot for," followed by the designation of the polling place for which the ballot is prepared, the date of the election, and a facsimile of the signature of the city clerk who has caused the ballot to be printed. All ballots furnished to any municipality by the secretary of state, as required by law for use at any state election, shall be printed upon the outside so that "Official Ballot for," the designation of the polling place for which the ballot is prepared, the date of the election, and the facsimile of the signature of the secretary of state shall appear on all sides of the folded ballot. Except as otherwise herein provided, ballots shall be printed upon clean white paper without any distinguishing mark or figure thereon.

\*86 Me. 50; 89 Me. 297; 107 Me. 516; \*114 Me. 35; \*122 Me. 525.

**Sec. 3. Ballots to be folded and fastened in blocks; record kept of number furnished each polling place.** R. S. c. 7, § 3. All ballots when printed shall be folded as hereinbefore provided, and fastened together in convenient numbers in packages, books, or blocks, in such manner that each ballot may be detached and removed separately. A record of the number of ballots, printed and furnished to each polling place, shall be kept and preserved by the secretary of state and the several city clerks for the term of one year.

**Sec. 4. Number of ballots to be provided.** R. S. c. 7, § 4. There shall be provided for each voting place, at which an election is to be held, two sets of such general ballots and two sets of ballots containing any constitutional amendment or other question submitted to the vote of the people, each of not less than sixty for every fifty and fraction of fifty votes cast in said voting place at the next preceding election, city, state, or national, corresponding to the election for which said ballots are to be provided.

**Sec. 5. Instructions for guidance of voters; specimen ballots.** R. S. c. 7, § 5. The secretary of state, in case of a state election, and the several city clerks, in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, as to the manner of marking them, and the method of gaining assistance, and as to obtaining new ballots in place of those accidentally spoiled, and they shall respectively cause the same, together with copies of sections ninety-four to ninety-six, both inclusive, of this chapter,

section twenty-two of this chapter, and section forty of chapter seven, to be printed in large, clear type, on separate cards, to be called cards of instructions; and they shall respectively furnish the same and the ballots for use in each such election. They shall also cause to be printed on tinted paper, and without the facsimile indorsements, ten or more copies of the form of the ballot provided for each voting place at each election therein, which shall be called specimen ballots and shall be furnished with the other ballots provided for each such voting place.

**Sec. 6. Printed lists of nominations to be transmitted to clerks of cities, towns, and plantations, seven days before any election, and published. R. S. c. 7, § 6.** The secretary of state shall, seven days at least, previous to the day of any election of state or county officers, transmit to the clerks in each city, town, and plantation in which such election is to be held, printed lists containing the names, residences, and party or political appellations of all candidates nominated as herein provided for such election and to be voted for at each polling place in each such city, town, and plantation respectively, substantially in the form of the general ballot to be so used therein; and the clerks shall immediately cause the lists for each plantation, town, or ward, as the case may be, to be conspicuously posted in one or more public places in such plantation, town, or ward. The secretary of state shall likewise cause to be published prior to the day of any such election, in at least two newspapers, if there be so many, printed or published in each county, representing so far as practicable, the political parties which, at the preceding election, cast the largest and next largest number of votes, a list of all the nominations made as herein provided and to be voted for in such county, so far as may be, in the form in which they shall appear upon the general ballots. New nominations made or authorized shall be transmitted, posted, and published promptly, and so far as practicable in the manner herein directed, and communications transmitted as herein directed by the secretary of state to any clerk shall be duplicated on the succeeding day.

**Sec. 7. Printed lists to be posted four days before city election; publication. R. S. c. 7, § 7.** The city clerk of each city shall four days at least prior to the day of any city election therein, cause to be conspicuously posted in one or more public places in each ward of such city, a printed list containing the names, residences, and party or political appellations of all candidates nominated as herein provided, and to be voted for in such ward, substantially in the form of the general ballot to be so used therein; and he shall likewise cause to be published, prior to the day of such election, in at least two newspapers, if there be so many printed or published in such city, representing the political parties which cast at the preceding election the largest and next largest number of votes, a list of all the nominations made, as herein provided, and to be voted for in such city, so far as may be, in the form in which they shall appear upon the general ballots.

**Sec. 8. Two sets of ballots to be sent to city, town, and plantation clerks; record. R. S. c. 7, § 8.** The secretary of state shall send, separately and at different times or by different methods, the two sets of general and special ballots, together with the specimen ballots and cards of instructions printed by him, as herein provided, to the several city, town, and plantation clerks, so as to be received by them, one set seventy-two hours at least previous to the day of election and the other set forty-eight hours at least previous thereto. The same shall be sent in sealed packages, with marks on the outside clearly designating the polling place for which they are intended and the number of ballots of each kind enclosed; and the respective city, town, and plantations clerks shall,

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on delivery to them of such packages, return receipts therefor to the secretary of state. The secretary of state shall keep a record of the time when, and the manner in which the several packages are sent, and shall preserve for the period of one year the receipts of the city, town, and plantation clerks.

114 Me. 35.

**Sec. 9. Two sets of ballots, etc., to be provided by city clerks. R. S. c. 7, § 9.** The two sets of ballots together with the specimen ballots and cards of instructions printed by the city clerks, as herein provided, shall be packed by them in separate sealed packages, with marks on the outside clearly designating the polling places for which they are intended, and the number of ballots of each kind enclosed.

**Sec. 10. One set of ballots to be sent to presiding election officer on day of election; cards of instructions and specimen ballots to be posted in each compartment; disposition of second set. R. S. c. 7, § 10. 1917, c. 108.** The several city, town, and plantation clerks, or municipal officers, shall send to the presiding election officer or officers of such voting place before the opening of the polls on the day of election one set of ballots so prepared, sealed, and marked for such voting place, and a receipt of such delivery shall be returned to them from the presiding election officer or officers present, which receipt, with a record of the number of ballots sent, shall be kept in the clerk's office for one year. At the opening of the polls in each polling place the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding election officer or officers, and the packages, books, or blocks of ballots shall be delivered to the ballot clerks hereinafter provided for. The cards of instructions shall be immediately posted at or in each voting shelf or compartment provided in accordance with this chapter for the marking of ballots, and not less than three such cards and not less than five specimen ballots shall be immediately posted in or about the polling rooms outside the guard-rails. The second set of ballots shall be retained by the respective city, town, and plantation clerks until they are called for or needed for the purposes of voting, and upon the requisition in writing of the presiding election officer or officers of any voting place, the entire second set of ballots shall be furnished to such voting place in the manner above provided as to the first set, and shall be transmitted in like manner to the secretary of state as provided in section forty-seven of this chapter. If said second set of ballots shall not be required for use as above, the same shall be kept intact by said city, town, or plantation clerks for a period of three months from the day of election for which said ballots were provided, during which time any person who was a candidate on said ballot may inspect said second set of ballots at the office of the city, town, or plantation clerk under the supervision of said clerk.

**Sec. 11. In case of the loss of ballots other ballots to be prepared and furnished. R. S. c. 7, § 11.** In case the ballots to be furnished to any city, town or plantation, or voting place therein, in accordance with the provisions hereof, shall fail for any reason to be duly delivered, or in case after delivery they shall be destroyed, lost, or stolen, it shall be the duty of the clerk or municipal officers of such city, town, or plantation to cause other ballots to be prepared substantially in the form of the ballots so wanting and to be furnished; and upon receipt of other such ballots from him or them, accompanied by a statement under oath that the same have been so prepared and furnished by him and that the original ballots have so failed to be received or have been so destroyed, lost, or stolen, the election officers shall cause the ballots so substituted to be used in lieu of the ballots wanting as above.

## Duties of Municipal and Election Officers.

Sec. 12. Division of towns and wards of cities into convenient polling districts; warden and clerk to be appointed for each polling place; check-lists to be prepared. R. S. c. 7, § 12. 1917, c. 205. 1921, c. 207. The municipal officers, sixty days before any election, may, after public notice and hearing, divide towns and wards of cities into not more than three convenient polling districts. By writing under their hands to be filed with and recorded by the city or town clerk, they shall define the limits and designate the polling places of each district, and attested copies thereof shall forthwith be posted by said clerks in not less than six public and conspicuous places in said town or ward, and the same shall be published in one or more of the newspapers, if any, printed in said city or town, thirty days at least before such election. They shall also ten days before any such election appoint a warden or presiding officer and clerk, in addition to the regular ballot clerks for each polling place other than the one in which the wardens duly elected for such ward shall preside, who shall perform the same duties at elections as presiding officers and clerks of towns and wards now perform. Any vacancy occurring after appointment may be filled by the voters of said polling district as similar vacancies are now filled. All such officers shall be sworn and make all returns of all elections directly to the town or city clerk. The board of registration of voters for any city in which a ward has been so divided, and the municipal officers of any town which has been so divided, shall in the manner now provided for by law, prepare check-lists of the qualified voters for each of said polling districts, in lieu of the check-lists now provided by law for the entire town or ward, to be used as hereinafter provided, and all provisions of law applicable to check-lists for towns and wards shall apply to check-lists for such polling district.

Sec. 13. Clerks to be appointed for each polling place; appointment of additional clerks. R. S. c. 7, § 13. 1917, c. 238. 1920, c. 266. 1925, c. 106. The municipal officers of cities, towns, and plantations, voting in accordance with the provisions of this chapter, shall biennially in the month of May appoint clerks for each polling place; and such municipal officers shall appoint as such clerks such persons as shall be recommended for such appointment by the several political party committees of the several cities, towns, or plantations representing the two political parties, which at the gubernatorial election next preceding such appointment, cast the greatest number of votes. For each polling place in cities and towns four clerks, and for each polling place in plantations and for each island ward of the city of Portland and for the island district of the town of Cumberland two clerks shall be appointed. Said clerks shall equally represent each of the political parties which cast the largest number of votes in the state election next preceding their appointment. Each of said clerks shall be sworn to the faithful performance of his duties, and shall hold office for two years from the date of his appointment, and until a successor is appointed and qualified, or he vacates the office. Vacancies occurring in the office of election or ballot clerks shall be forthwith filled by the municipal officers in towns and plantations and by the mayors of cities in manner hereinbefore provided. Such election clerks shall attend at the times and places designated for meetings in their respective wards, towns, or plantations for the election of any national, state, county, city, or ward officers and for the determination of any question submitted to the qualified voters of any city by lawful authority, shall be present at and assist in the counting by the presiding election officer or officers of all votes cast in such meetings, and shall receive such reasonable compensation for each day's actual service as the municipal officers of their respec-

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tive cities, towns, and plantations may determine. And on the recommendation of the political party committee of any other party represented on the official ballot, said municipal officers shall appoint one such election clerk in each polling place, for such political party, who shall be qualified for the performance of his duties, in like manner as the clerks of the two before mentioned parties, shall hold office for a like term, or for such part thereof as the party for which he is appointed maintains its right to be represented upon the official ballot, and who during said term shall have like rights and duties with the before mentioned clerks to be present at and assist in the counting of votes, and shall serve with or without compensation as the municipal officers in any case may deem advisable, vacancies occurring in case of said clerks to be filled as in case of other clerks herein mentioned. No person shall be eligible to the position of election clerk in any ward, town, or plantation where he is a candidate to be voted for. Two of the clerks in each polling place, one from each political party, shall be detailed by the municipal officers to act as ballot clerks. The two ballot clerks thus detailed and appointed in each polling place shall have the charge of the ballots therein and shall furnish them to the voters in the manner hereinafter set forth. A duplicate list of the qualified voters in each ward, town, or plantation shall be prepared for the use of the ballot clerks, and all the provisions of law relative to the preparation, furnishing, and preservation of check-lists shall apply to such duplicate lists. Provisions in the charter of any city for the election of two persons to assist the warden in receiving, sorting, and counting the ballots are not affected by the provisions hereof; but persons so elected shall be deemed election clerks for that purpose; they shall equally represent the two political parties which at the state election next preceding cast the greatest number of votes. Provided, however, that the municipal officers of cities, towns, and plantations, may, when necessity requires, appoint additional election clerks for each polling place in cities, towns, and plantations and for each island ward of the city of Portland and for the island district of the town of Cumberland, who shall be sworn and shall assist the election officers in the several voting precincts of the state. Said additional clerks shall be recommended and appointed in the same manner, hold office for the same time, and receive the same compensation as is provided for regular election clerks under this section.

**Sec. 14. Voting compartments to be provided for use of voters while marking their ballots. R. S. c. 7, § 14.** The municipal officers in each city, town, or plantation, as aforesaid, shall cause the polling places therein to be suitably provided with a sufficient number of voting shelves and compartments, at or in which voters may conveniently mark their ballots so that in the marking thereof they shall be screened from the observation of others, and each voting shelf and compartment shall have a wooden swing door so arranged that the top thereof shall be not less than six feet from the floor and the bottom of the door shall be at least two feet and six inches from the floor. And such door shall be shut while the voter is within the compartment, and no one shall be allowed therein with him, unless he calls for assistance in the marking of his ballot, and such assistance shall be so furnished according to the provisions of this chapter, and a guard-rail shall be so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot-boxes and of such voting shelves and compartments. The arrangement shall be such that the ballot-boxes shall not be hidden from the view of persons present, and the voting shelves and compartments shall be so arranged that the door of each compartment shall be next to the guard-rail, so as to admit to full view of the persons just outside of the guard-rail those who enter and leave each compartment. The

number of such voting shelves and compartments shall not be less than one for every hundred voters qualified to vote at such polling place, and not less than three in any town, and not less than five in any ward of a city. No persons other than the election officers, election clerks, and voters admitted as hereinafter provided, shall be permitted within said rail, except by authority of the presiding election officer or officers for the purpose of keeping order and enforcing the law. Each voting shelf and compartment shall be kept provided with proper supplies and conveniences for marking the ballots.

124 Me. 453.

See Resolves 1919, c. 117, the American flag shall be displayed in each polling place at every election.

### Manner of Voting.

**Sec. 15. Voter to give his name to ballot clerk, and if on check-list he may enter within guard-rail; distribution of ballots. R. S. c. 7, § 15.** Any person desiring to vote shall give his name, and if requested so to do, his residence, to one of the ballot clerks, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found upon the check-list by the ballot clerk having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard-rail, as above provided. The ballot clerk shall give him one, and only one ballot, and his name shall be immediately checked on said list. Besides the election officers and election clerks, not more than two voters in excess of the number of voting shelves or compartments provided shall be allowed in said enclosed space at one time.

**Sec. 16. How voters shall prepare ballot; manner of voting. R. S. c. 7, § 16. 1917, c. 306.** On receipt of his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided and shall prepare his ballot by marking in the appropriate place a cross (X) as follows: He may place such mark within the square above the name of the party group or ticket, in which case he shall be deemed to have voted for all the persons named in the group under such party or designation. And if the voter shall desire to vote for any person or persons, whose name or names are not printed as candidates in such party group or ticket, he may erase any name or names which are printed therein and place a cross (X) in the square at the right of the name of the candidate of his choice in any other party group or ticket. Or, as an optional method of voting, the voter may omit the cross (X) in the party square and place a cross (X) in the blank square at the right of the name of each candidate he wishes to vote for. If the voter wishes to vote for a candidate whose name is not on the ballot he may write the name under the name of the candidate erased. Or if the voter does not desire to vote for a person or persons whose name or names are printed upon the party group or ticket, he may erase such name or names with the effect that the ballot shall not be counted for the candidate or candidates whose names are so erased. Stickers shall not be counted unless used to fill a vacancy or correct an error in the printed ballot. In case of a question submitted to the vote of the people he shall place such mark in the appropriate margin above the answer which he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, and he shall keep the same so folded until he has voted. He shall vote in the manner provided by law before leaving the enclosed space and shall deposit his ballot in the box with the official endorsement uppermost. He shall

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mark and deposit his ballot without undue delay, and shall quit said inclosed space as soon as he has voted. No such voter shall be allowed to occupy a voting shelf or compartment occupied by another, or to remain within said enclosed space more than ten minutes, or to occupy a voting shelf or compartment for more than five minutes in case all of such shelves or compartments are in use and other voters are waiting to occupy the same. No voter not an election officer or an election clerk, whose name has been checked on the list of the ballot clerk, shall be allowed to reenter said enclosed space during said election. The presiding election officer or officers, for the time being, shall secure the observance of the provisions of this section.

86 Me. 50; 89 Me. 298; 108 Me. 167; 110 Me. 453. \*114 Me. 35; \*122 Me. 525.

**Sec. 17. If voter spoils ballot he may obtain others not exceeding three. R. S. c. 7, § 17.** No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately canceled, and together with those not distributed to the voters, and with the check-lists used, which shall be certified by the ballot clerks, to be such, shall be secured, sealed, and sent to the several city, town, and plantation clerks.

See § 111; 124 Me. 453.

**Sec. 18. Counting and sealing of ballots. R. S. c. 7, § 18.** The ballots shall be sorted and counted in open town or ward meeting in such manner as to afford the electors present ample opportunity to observe the sorting and counting, and the result shall be declared and recorded in open town or ward meeting. When the ballots have been so sorted and counted and the result so declared and recorded, all the ballots shall in open meeting be sealed in a package, which said package with the check-lists sealed in the same manner as the ballots shall forthwith be returned to the city, town, or plantation clerk. In case two or more kinds of official ballots are used at any election, each kind shall be sealed in a separate package. All ballots and check-lists shall be so sealed that the packages and check-lists cannot be opened or examined without first breaking the seal; and the sealed packages of ballots cast at any state election or at any election of electors of president and vice-president of the United States shall have an indorsement of substantially the following tenor indorsed thereon or securely affixed thereon: 'This package contains the ballots cast at an election for \_\_\_\_\_ held in the \_\_\_\_\_ of \_\_\_\_\_ (or in ward \_\_\_\_\_ of the city of \_\_\_\_\_) on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_; said ballots were sorted, counted, the result declared and recorded, and this package sealed in open meeting in accordance with section eighteen of chapter eight of the Revised Statutes.' Such indorsement shall be signed by the town, plantation, or ward clerk and by a majority of the selectmen of towns and the assessors of plantations, or by the wardens in cities or voting precincts. The ballots and check-lists returned to the city clerk after any city election and all other ballots returned to him, which he is not required to forward to the secretary of state according to the provisions of section forty-seven, shall be preserved by him as a public record for six months.

See § 111; \*92 Me. 158.

**Sec. 19. Voter unable from any cause to mark ballot, may receive assistance of election clerks. R. S. c. 7, § 19. 1920, c. 268, § 1.** Any voter who shall declare to the presiding election officer or officers that he cannot mark his ballot by reason of physical disability or from inability to read the same, or who shall declare to the election officers that his religious faith prevents him from marking his ballot shall receive the assistance, in the marking of his ballot, of two of the election clerks; such clerks shall not, both represent one and the same

political party, and they shall certify on the outside of such ballot that the same was marked by them, or by the voter with their assistance, and thereafter shall give no information concerning the same. The presiding election officer or officers may require every voter who applies for such assistance to make oath to his inability to mark his ballot, before such clerks shall be directed to assist as aforesaid, and such officer or officers are hereby qualified to administer such oath, and no clerk shall assist or offer to assist any voter in marking his ballot until directed so to do by the presiding election officer or officers.

124 Me. 453, 473.

**Sec. 20. When ballot shall not be counted.** R. S. c. 7, § 20. If a voter marks more names for any one office than there are persons to be elected to such office, or if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office. No ballot without the official endorsement shall, except as herein otherwise provided, be allowed to be deposited in the ballot-box, and none but ballots provided in accordance with the provisions of this chapter shall be counted. Ballots not counted shall be marked defective on the back thereof, and shall be preserved, as required by section eighteen. No marks, other than those authorized by law, shall be placed upon the ballot by the voter; but no ballot, after having been received by the election officers, shall be rejected as defective because of marks, other than those authorized by law, having been placed upon it by the voter, unless such marks are deemed to have been made with fraudulent intent, and no ballot shall be rejected as defective because of any irregularity in the form of the cross in the square at the head of the party column unless such irregularity is deemed to have been intentional and made with a fraudulent purpose.

86 Me. 50; 110 Me. 453; 113 Me. 488; \*114 Me. 35; 122 Me. 525; 124 Me. 453, 481.

**Sec. 21. Time of opening and closing polls.** R. S. c. 7, § 21. 1919, c. 10. 1927, c. 16. Meetings for the election of state and county officers, and for the election of municipal officers in cities, may be opened at six o'clock in the forenoon, and shall be opened not later than ten o'clock in the forenoon; the polls shall be kept open until seven o'clock in the afternoon and shall then be closed. Notice of the time of opening and closing shall be given in the warrant calling the meeting.

**Sec. 22. Penalty for neglect of duty by public officer.** R. S. c. 7, § 95. 1929, c. 90. Any public officer upon whom a duty is imposed by the preceding twenty-one sections who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder any object of said sections, shall be punished by a fine of not less than five dollars, nor more than one thousand dollars, or by imprisonment for not more than eleven months, or by both such fine and imprisonment.

#### Notifying Meetings, Proceedings, and Returns.

**Sec. 23. Call of meeting for election of state officers.** R. S. c. 7, § 22. The selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified according to the constitution, to be notified and warned seven days at least before the second Monday of September biennially to meet at some suitable place designated in said warrant to give in their votes for governor, senators, and representatives, as the constitution requires; and such meeting shall be warned like other town meetings.

**Sec. 24. Officers presiding have powers of moderator.** R. S. c. 7, § 23. The selectmen or other officers, required by the constitution and laws to preside at

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any such meeting, shall have all the powers of moderators of town meetings, as provided in chapter five; and they shall refuse the vote of any person not qualified to vote.

See c. 5, § 35.

**Sec. 25. Selectmen absent, others may be chosen pro tempore.** R. S. c. 7, § 24. If a majority of the selectmen are absent from any such meeting duly warned, or being present, neglect or refuse to act as such and to do all their duties, the voters may choose so many selectmen pro tempore, as are necessary to constitute or to complete the number competent to act.

70 Me. 565.

**Sec. 26. Presiding officer at such choice.** R. S. c. 7, § 25. During the choice of selectmen pro tempore any selectman present may act as moderator; if no selectmen are present, or if those present neglect or refuse to act as such, the town clerk shall preside; and the person so presiding shall have all the powers and discharge the duties of moderator.

**Sec. 27. Duties and powers of selectmen pro tempore.** R. S. c. 7, § 26. Selectmen pro tempore accepting the trust shall be sworn faithfully to discharge the duties of said office, so far as relates to such meeting and election; and in making a record and return of the votes, as the constitution or laws require, and in all matters incidental to the trust, they shall have the powers of permanent selectmen and be subject to the same duties and liabilities.

**Sec. 28. In case of division of a town, where electors may vote.** R. S. c. 7, § 27. Whenever any territory is set off from one town and annexed to another, the inhabitants of the territory set off, otherwise qualified, may vote for representative to congress, senators or representatives to the legislature, in the town to which they are annexed, if said town is within the congressional, senatorial, or representative district as the case may be, to which they previously belonged; otherwise, such inhabitants may vote for said officers in the town from which they were set off, until the next congressional, senatorial, or representative apportionment has been made.

**Sec. 29. Check-list required; rule as to voting.** R. S. c. 7, § 28. The officers presiding at any election, except for the choice of town officers, shall use the check-list herein required at the polls during the election of governor, senators, representatives, and other public officers, requiring like qualifications in the electors, and use but one ballot-box; and no votes shall be received unless delivered by the voter in person after he has audibly announced his name to the presiding officers, unless physically unable to do so, and they have had opportunity to be satisfied of his identity and find his name on the list and mark it, and ascertain that his vote is single.

See c. 6, § 47; 82 Me. 531; 96 Me. 434.

**Sec. 30. Check-list to be returned to clerk within 24 hours after close of polls; penalty for violation.** 1917, c. 47. Wardens of cities and selectmen of towns, shall, within twenty-four hours after the closing of the polls in their respective polling districts, at any election, return the check-list now provided by law for towns, wards, voting precincts, and voting districts, to the clerk of their respective cities and towns. Any person violating the provisions of this section shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for thirty days.

**Sec. 31. Clerks to preserve check-lists, and furnish certified copies thereof.** R. S. c. 7, § 29. Clerks of towns shall preserve the check-lists used at any election at which the ballots cast are to be returned to the secretary of state under the provisions of this chapter, for one year without alteration, and shall furnish

to any person a certified copy thereof within the twenty days after demand and payment or tender of the legal charges therefor, and shall without charge furnish the governor and council with a certified copy thereof within twenty days after demand, under the penalty provided in section one hundred.

See c. 6, § 47; 92 Me. 158.

**Sec. 32. Votes to be on white paper without marks or figures.** R. S. c. 7, § 30. No ballot shall be received at any election of state or town officers, unless in writing or printing upon clean white paper without any distinguishing mark or figures thereon besides the official indorsement, the names of the persons to be voted for, and the offices to be filled; but no vote shall be rejected on this account after it has been received into the ballot-box.

See §§ 105, 114; 54 Me. 604; 70 Me. 566; 106 Me. 517; \*108 Me. 169.

**Sec. 33. State ballot-boxes to be of uniform design and furnished by secretary of state; special ballot-boxes with mechanical device may be provided at expense of municipality.** R. S. c. 7, § 31. 1925, c. 131. Ballot-boxes used for the reception of official ballots shall be of uniform design; they shall be provided for each polling place by the secretary of state at the expense of the state, and shall be known as state ballot-boxes; each box shall be equipped with a suitable lock and key; in the top of each box there shall be an opening through which each ballot shall be put into the box; such opening shall be large enough and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box, and shall be covered with a slide which shall be kept shut except when opened to receive a ballot. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election. Provided, however, that with the approval of the secretary of state, the attorney-general and one member of the governor's council to be designated by the governor, cities and towns may at their own expense provide ballot-boxes with sufficient locks and seal fastenings, which shall contain mechanical devices for receiving, registering, and endorsing every legal ballot deposited therein, but no such ballot-box shall record any distinguishing number or mark upon a ballot. Said ballot-boxes shall be known as state ballot-boxes, and shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election. Said ballot-boxes may be used at all state, municipal, or other elections.

**Sec. 34. State ballot-boxes to be used for receiving all official ballots; regulations as to their use; penalty.** R. S. c. 7, §§ 32, 100. State ballot-boxes shall be used for receiving all official ballots cast at elections. The election officers at each polling place shall at the opening of the polls and before any ballots are received publicly open the ballot-box, and ascertain by personal examination, and publicly show that the same is empty, and shall immediately thereafter lock the box and deliver the key thereof to the town, plantation, ward, district, or precinct clerk, to be retained by him until the polls are closed. The ballot-box shall not after it has been shown to be empty and has been locked, be removed from public view nor opened nor any ballot removed therefrom until the polls are closed. If it becomes impossible to use the state ballot-box the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot-box is not used, and shall enclose an attested copy of such record in the package with the ballots cast.

Any presiding officer or town, plantation, ward, district, or precinct clerk who does not comply with the requirements of this section or evades or attempts to evade the same, and any person who violates any provision of said section, or hinders or attempts to hinder any election officer or any town, plantation, ward,

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district, or precinct clerk in the performance of his duties under said section shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars, and by imprisonment for not less than three months, nor more than nine months.

See § 114.

**Sec. 35. Presiding officer to have charge of ballot-box; custody of ballot-boxes; defective or lost ballot-boxes; penalty.** R. S. c. 7, §§ 33, 95, 111. 1929, c. 90. The presiding officer at each polling place shall have charge of the state ballot-box, and shall at the close of each election return the same to the city, town, or plantation clerk. The clerk of each city, town, or plantation shall have the custody of the state ballot-boxes provided for the town, and shall at the expense of the town provide for their safe-keeping and for keeping them in good order and repair, subject to the supervision and control of the secretary of state.

If a state ballot-box becomes defective or is lost or destroyed, the town clerk shall seasonably make written application to the secretary of state for another ballot-box, and the same shall be supplied at the expense of the town.

Any presiding officer or any city, town, or plantation clerk who shall neglect to perform any duty imposed by this section shall be punished by a fine of not less than five dollars nor more than one thousand dollars or by imprisonment for not more than eleven months or by both such fine and imprisonment for each offense, and thereafter shall be disqualified from holding the office of election or ballot clerk.

See § 114.

**Sec. 36. Ballot-boxes, how constructed and used.** R. S. c. 7, § 34. Ballot-boxes used at elections for which official ballots are not provided shall be covered at the top with a slide only, which shall be kept shut, except when opened to receive a ballot; but such boxes may contain mechanical devices which tend to prevent fraud in elections and do not materially abridge the rights of voters; and if the presiding officers do not comply with the requirements of this chapter, or attempt to evade the same, they shall be subject to the penalties provided in section one hundred.

**Sec. 37. Commission to examine and approve voting and counting machines; secrecy essential.** R. S. c. 7, § 35. The secretary of state, the attorney-general, and one member of the governor's council to be designated by the governor, shall, at such times, under such conditions, and after such public notice as they see fit to give, examine voting and counting machines and apparatus; and they shall certify their approval of such machines as, in their judgment, furnish convenient, simple, and satisfactory means of voting and of ascertaining the true result thereof with facility and accuracy, special regard being had to preventing and detecting double voting; but no machine shall be approved which does not secure to the voter a degree of secrecy in voting equal to that afforded by the use of the official ballot as provided by law. No machine except such as is approved by said officers and used in accordance with this and the three following sections shall be used in this state.

**Sec. 38. Cities and towns authorized to purchase and use machines.** R. S. c. 7, § 36. A city or town may, at a legal meeting held not less than ten days before any regular election, determine upon and purchase or accept for trial, and order the use of one or more voting and counting machines for the then ensuing election in said city or town and thereafter in case said machine or machines are purchased, at all elections in cities and at state and presidential elections in towns, until otherwise voted at a legal meeting, said machines shall be used for the purpose of voting for the officers to be elected at such elections and for

taking the vote upon constitutional amendments and all other questions submitted to vote at such elections.

**Sec. 39. Bond to be given to keep machines in good order.** R. S. c. 7, § 37. When voting and counting machines are approved and purchased, the persons of whom such machines are purchased shall give to the secretary of state a suitable bond with sufficient sureties, conditioned to keep each machine in good working order for five years at their own expense.

**Sec. 40. Regulations and instructions for use of voters to be furnished.** R. S. c. 7, § 38. The secretary of state shall make regulations for the use of machines approved, and before each state and presidential election shall furnish appropriate instructions for the voters in cities and towns where such machines are used, and like appropriate instructions shall be furnished by clerks of cities before each city election.

**Sec. 41. In case of no choice of representatives in an unclassified town, meeting to be adjourned.** R. S. c. 7, § 39. When at a town meeting held for election of representatives to the legislature, in a town not classed with other towns as a representative district, by reason of persons having an equal number of votes, a full choice of representatives is not effected, the meeting shall be adjourned to the same day of the week following and to the same hour and place at which the first meeting was called; and at such adjourned meeting, the voters shall give in their votes for so many representatives as are necessary to make up the number to which said town is entitled; and like adjournments shall be had until the full number is elected.

**Sec. 42. Meetings for choice of certain officers, and to determine certain questions.** R. S. c. 7, § 40. All town meetings required for election of county officers, state auditor, United States senator, representatives to congress, or of electors of president and vice-president of the United States, or for the determination of questions submitted to the people by the legislature, shall, as to calling, notifying, and conducting them, be subject to the regulations made in this chapter for election of governor, senators, and representatives, unless otherwise provided by law.

**Sec. 43. Result of any election by ballot, how determined.** R. S. c. 7, § 41. To determine the result of any election by ballot, the number of persons who voted shall first be ascertained by counting the whole number of separate ballots given in, which shall be distinctly stated, recorded, and returned. No person ineligible to the office shall be declared elected; but such votes shall be counted to determine whether any person has received the necessary number of all votes cast. In case of United States senators, representatives to congress, members of the legislature, and county and state officers, except where a different rule is prescribed in the constitution, the person or persons, not exceeding the number to be voted for at any one time for any such office, having the highest number of votes given at such election shall be declared elected, and the governor shall issue a certificate thereof. If, by reason of two or more persons receiving an equal number of votes, the election of the requisite number of officers cannot be declared without declaring more than the requisite number elected, no one of those having an equal number of votes shall be declared elected. In all other cases no person shall be declared elected, who has not received a majority of the whole number of votes counted as aforesaid; and if a number greater than is required to be chosen receive a majority of said whole number, the number so required, of those who have the greatest excess in votes over such majority, shall be declared elected. If the number to be elected cannot be so completed by reason of any two or more of such persons having received an equal number of votes,

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the persons having such equal numbers shall be declared not elected. In all cases not otherwise provided for, if no person eligible to the office receives the requisite number of votes to elect him, then the governor shall order a new election; provided, however, that nothing in this section shall give the governor and council authority to determine questions of eligibility in cases of senators and representatives to the legislature.

See Const. Me. Art. iv, part 1, § 5; part 2, § 3; Art. vi, § 7; Art. ix, § 10; Amend. xxiv, Act of Congress of June 4, 1914; \*71 Me. 373.

**Sec. 44. Governor to issue proclamation for election to fill congressional vacancy. R. S. c. 7, § 42.** Whenever a vacancy occurs in the representation of the state in the senate of the United States or in the national house of representatives, the governor, in any manner having knowledge thereof, shall issue his proclamation for an election to fill the same. If congress is in session when such vacancy occurs, the proclamation shall issue forthwith; otherwise, in season to secure representation at the next called or regular session of congress.

See U. S. Const., Art. i, § 2, ¶ 4; Amend. xvii.

**Sec. 45. Clerks of towns to mail returns to secretary of state; canvass of returns, declaration of result, and issue of certificate of election. R. S. c. 7, § 43.** The clerk of each town, within twenty-four hours after the close of the polls, shall deposit in some post-office the returns of the votes cast at such special election post-paid, directed to the secretary of state, to be transmitted by mail. The governor and council shall meet seven days after such election, and open and canvass such returns, and declare the result. They shall receive certified copies of the record of any town if the return from such town is lost, or is not received by the secretary of state. The governor shall immediately issue a certificate of election to the person thus declared to have received a plurality of votes.

**Sec. 46. Clerk to transmit returns of votes to secretary of state. R. S. c. 7, § 44.** The clerk of each town shall cause to be delivered at the office of the secretary of state the returns of votes given in his town for governor, state auditor, senators, representatives to the legislature, United States senators, representatives to congress, electors of president and vice-president of the United States, and for county officers, within three days next succeeding any meeting for their election, or shall deposit them, post-paid, in some post-office, directed to the secretary of state, within twenty-four hours after such meeting, to be transmitted by mail; and shall also forward to such office, as soon as practicable, a statement attested by him of the number of votes for said several officers, given at such election in his town, which shall be opened and filed by the secretary of state, and kept for public examination.

See § 114; c. 2, § 69. 64 Me. 598.

**Sec. 47. Clerk to transmit all ballots to secretary of state; secretary of state to preserve ballots for six months. R. S. c. 7, § 45.** Within twenty-four hours after the close of any election for governor, state auditor, senators, representatives to the legislature, United States senator, representatives to congress, electors of president and vice-president of the United States, and for county officers, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him, under the provisions of section eighteen of this chapter, without breaking the seal of the packages of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each polling place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said twenty-four hours shall deliver said box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor;

or within three days after the close of such election, the clerk of each town shall deliver said ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of six months all such ballots so received by him as a public record.

See §§ III, II4.

**Sec. 48. Secretary of state to send messenger for returns of ballot; expense of messenger, how paid. R. S. c. 7, § 46.** At the expiration of fourteen days after any election specified in the preceding section, the secretary of state shall forthwith send a messenger to every town from which returns of votes have not been received, as provided in section forty-six of this chapter, or from which the sealed packages of ballots have not been received, as provided in the preceding section; and the expense of each messenger shall be audited and paid and added to the next state tax assessed on the town, as provided in section sixty-one of this chapter.

**Sec. 49. Secretary of state to permit interested persons to inspect ballots. R. S. c. 7, § 47.** The secretary of state shall permit any candidate or other interested person to inspect the ballots so returned to him, in his presence or in the presence of any clerk of his office designated by him, or in the presence of the deputy secretary of state, under such reasonable regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury, or change in any respect. After each inspection the packages shall be again sealed and the fact and date of inspection noted on the package. Whenever required so to do the secretary of state or the deputy secretary of state shall produce any package of ballots in his custody before the governor and council, the legislature or either branch thereof, or any committee thereof, or before any court or magistrate having jurisdiction of any proceeding relating to said election.

**Sec. 50. Secretary of state to provide suitable seals, printed forms of indorsements, blanks, returns, and letters of instructions. R. S. c. 7, § 48.** The secretary of state shall at the expense of the state provide and seasonably send to the several city, town, and plantation clerks suitable seals for use as required by the provisions of this chapter, and printed forms of indorsements, and suitable blanks for all certificates, copies of records, and returns required to be made to his office, by this chapter; and shall also prepare and send in the same package with said seals a letter of instructions especially calling the attention of each clerk to the provisions of sections seventeen, eighteen, thirty-four, thirty-five and forty-seven of this chapter.

**Sec. 51. County attorney to be notified if return is not received. R. S. c. 7, § 49.** If any such return is not received by the secretary of state within thirty days next after such meeting, he shall forthwith notify the county attorney of the county in which such town is situated, who shall give immediate notice thereof to the clerk of such town, and unless he receives satisfactory evidence that said clerk has complied with the requirements of the preceding section, he shall prosecute for the penalty hereinafter provided.

See § 100.

**Sec. 52. Loss of returns to be supplied by copy of record. R. S. c. 7, § 50.** When such original return is lost or destroyed, the selectmen and clerk of such town, on receiving information of such loss or destruction, shall forthwith cause a copy of the record of the meeting at which such vote was given to be made with their certificate upon the same sheet, that it is a true copy of the record, that it truly exhibits the names of all persons voted for, for the offices designated,

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and the number of votes given for each at such meeting, and that said copy contains all the facts stated in the original return.

See §§ 109, 114.

**Sec. 53. Oaths to be made to copy.** R. S. c. 7, § 51. The selectmen and town clerk, who were present at the meeting and signed the original return, shall sign the certificate mentioned in the preceding section, designating their office against their names as in the original return, and make oath that said copy and certificate are true, before some justice of the peace of the county, who shall make certificate of such oath on the same paper.

See §§ 110, 112, 115.

**Sec. 54. Certificates, how sealed and returned.** R. S. c. 7, § 52. Such copy and certificates shall then be sealed up and directed to the secretary of state, with the nature of the contents written on the outside; and the clerk of such town shall cause the same to be delivered into the office of the secretary of state, as soon as may be.

See §§ 109, 110, 114.

**Sec. 55. Mode of determining who are elected; proceedings for correcting returns; notice of election; rule for canvassing returns and determining election.** R. S. c. 7, § 53. The governor and council, by the first day of December in each year in which an election is held, shall open and compare the votes so returned and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said twenty days any person voted for, may personally, and by or with counsel, examine said returns in presence of the governor and council, or either of them, or any member of the council. Upon written application filed with the secretary of state within twenty days after the returns are opened and tabulated, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town and specifying the offices as to which such errors are believed to have occurred, the governor and council in open meeting shall examine the ballots cast in said town and returned to the secretary of state, and if such return or record is found to be erroneous the return shall be corrected in accordance with the number of ballots found to have been actually cast in said town; but no such examination of the ballots shall be made without reasonable notice to all candidates for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made, and affording such candidates a reasonable opportunity to be present in person or by counsel at such examination and be heard in relation thereto. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and they shall be notified thereof by the secretary of state, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected.

To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes appearing by said returns to have been intentionally cast for him, although his name upon the return is misspelled or written with only the initial or initials of his christian name or names; and they may hear testimony upon oath, in relation to such

returns, in order to get at the intention of the electors, and shall decide accordingly. This section shall be applied in determining the election of all county officers, and, so far as it relates to the examination and correction of returns, it shall be applied in determining the election of state auditor, United States senator, representatives to congress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

26 Me. 498; 54 Me. 603, 605; 64 Me. 590, 598; \*70 Me. 561, 571, 587; \*71 Me. 370, 384.

**Sec. 56. Application in determining certain questions. R. S. c. 7, § 54.** The chapter shall be applied in determining the results of voting upon any resolve of the legislature submitting a constitutional amendment to the people and the results of voting upon any measures submitted to the determination of the people under the amendment to the constitution of the state adopted September fourteen, nineteen hundred and eight, except questions relating to municipal affairs submitted under section twenty-one of part three of article four of the constitution; provided, however, that the governor and council may without the application mentioned in the preceding section, examine in open meeting the ballots cast on any such resolve or measure; and when such examination is made with or without application, in lieu of the notice prescribed in the preceding section, a notice thereof and of the time and place fixed therefor shall be given by publishing such notice at least twice in some newspaper, if any, published in the town where the ballots to be examined were cast, and if there is no such newspaper then in a newspaper published in the town in the same county nearest the town where the ballots to be examined were cast; the first publication of such notice shall be at least seven days before the time fixed for such examination.

**Sec. 57. Jurisdiction of superior court not affected. R. S. c. 7, § 55.** Nothing contained in the preceding sections shall affect the jurisdiction of the superior court or any justice thereof to entertain proceedings under sections eighty-nine to ninety-three, both inclusive, of this chapter.

**Sec. 58. Vacancies, how filled in towns not classed for representatives. R. S. c. 7, § 56.** When the selectmen of any town not classed with others as a representative district, have knowledge that the seat of a representative thereof has been vacated, they shall forthwith issue their warrant, giving at least seven days' notice, for a meeting of the electors of said town to fill such vacancy; and at such meeting like proceedings shall be had, as at any meeting held on the second Monday in September for the like purpose.

See §§ 72, 74; 70 Me. 560, 571.

#### Choice of Electors of President and Vice-President.

**Sec. 59. Electors of president and vice-president to be chosen; meetings, when and how called. R. S. c. 7, § 57.** Whenever the election of president and vice-president of the United States is to take place, there shall be chosen from the inhabitants of the state, as many electors of president and vice-president as the state is entitled to; and on the Tuesday next after the first Monday in November of such year, the people qualified to vote for senators, shall assemble in town, plantation, city, or ward meetings, to be notified, held, and regulated as prescribed by the constitution and laws for the election of such senators.

See U. S. Const., Art. II, § 1, ¶ 2.

**Sec. 60. Votes, how received and returned, and counted; secretary to send for delinquent returns; notice to persons elected. R. S. c. 7, § 58.** The votes shall be sorted, counted, declared, and recorded; and the returns of the number

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of ballots and of the votes given for each elector shall be made according to the constitution and laws to the secretary of state, on or before the second Tuesday after such meeting; on the third Tuesday after such meeting, the governor and council shall be in session, and shall open, examine, and count the returns of votes so made, and the secretary of state shall forthwith send a messenger to every city and town from which a return has not been received at his office; and the governor and council shall again meet on the Tuesday next before the first Wednesday in December, and examine and count all the votes received from the several cities, towns, and plantations and the votes of citizens in the military service lawfully returned into the office of the secretary of state; and they shall forthwith send a certificate of election to each person who has received the greatest number of all the votes returned to said office, not exceeding the number to be chosen.

**Sec. 61. Expense of sending for returns to be paid by state, and added to state tax of delinquent towns. R. S. c. 7, § 59.** The expense of each messenger sent as required in the preceding section shall be audited and allowed by the governor and council, and paid out of the state treasury; and unless they think that the officers of any delinquent town have fully performed their duties in making the required returns, the amount so paid shall be added to the next state tax assessed on such town; but if the same messenger is sent to two or more towns on the same route, the amount to be paid by each of them shall be apportioned by the governor and council according to their relative distances and the expense of traveling.

**Sec. 62. In case of no choice of majority of electors, governor to assemble legislature. R. S. c. 7, § 60.** If, on such examination it appears that there has not been a choice of a majority of the whole number of electors, the governor, by proclamation, shall convene the legislature forthwith; and the legislature by joint ballot of the senators and representatives assembled in one room shall choose as many electors as are necessary to complete the number to which the state is entitled.

**Sec. 63. Duties of governor; meetings of electors; vacancies, how filled. R. S. c. 7, § 61.** As soon as practicable after the electors are chosen the governor shall communicate by registered mail under the seal of the state to the secretary of state of the United States a certificate of the ascertainment of the electors, setting forth the names of the electors, and the number of votes given for each person; and the governor shall deliver to the electors, on or before the first Wednesday in January next after their election, six original duplicates of the same certificate under the seal of the state. If there shall have been any contest concerning the appointment of any of the electors, or in case of an appointment under section sixty-two, the governor, after such determination, shall communicate under the seal of the state to the secretary of state of the United States a certificate of such determination in form and manner as the same shall have been made. The electors shall convene in the senate chamber at Augusta on the first Wednesday of January next after their election, at two o'clock in the afternoon; and if any elector so chosen is not present, the electors then present, by a majority of votes, shall forthwith elect the requisite number of persons qualified to supply such deficiency.

**Sec. 64. Proceedings of presidential electors. R. S. c. 7, § 62.** Said electors, on said first Wednesday of January, shall vote by ballot for one person for president and one person for vice-president of the United States; one of whom, at least, shall not be an inhabitant of this state; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as

vice-president; they shall make and subscribe six certificates of all the votes by them given, each of which shall contain two distinct lists, one of the votes given for president, and the other of the votes given for vice-president; they shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the governor; they shall seal them up and certify on each certificate, that a list of votes of the state of Maine for president and vice-president of the United States is contained therein. The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First: They shall forthwith forward by registered mail one of the same to the president of the senate of the United States at the seat of government.

Second: Two of the same shall be delivered to the secretary of state of the state of Maine, one of which shall be held subject to the order of the president of the senate of the United States, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third: On the day thereafter they shall forward by registered mail two of such certificates and lists to the secretary of state of the United States at the seat of government.

Fourth: They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district of Maine.

See U. S. Constitution, amendment xii and acts of Congress of Feb. 3, 1887, and Oct. 19, 1888. See Act of Congress of May 29, 1928.

**Sec. 65. Compensation.** R. S. c. 7, § 63. Electors shall receive as compensation ten dollars a day and such travel as members of the legislature receive. They may appoint a secretary and such other officers as they deem proper who shall receive such reasonable compensation for their services as the electors shall allow them.

**Sec. 66. Secretary of state to furnish blanks.** R. S. c. 7, § 64. The secretary of state shall procure blank returns of the proper form for such cities, towns, and plantations, and furnish them to the several clerks thereof at least thirty days before the day of election of electors as aforesaid.

See c. 2, § 69.

**Sec. 67. Town officers to proceed as in other meetings.** R. S. c. 7, § 65. All laws in relation to the duties of city, town, and plantation officers, and of voters in the election of governor, senators, and representatives to the legislature, and to the penalties incurred for their violation, apply, so far as applicable, to meetings held for the election of such electors, and to returns thereof.

#### Elections in Cities.

**Sec. 68. Electors in cities to meet in wards; warden to preside.** R. S. c. 7, § 66. For all purposes mentioned in sections twenty-three and forty-two, the inhabitants of cities shall meet as the constitution requires, in ward meetings, to be notified and warned, as town meetings for similar purposes are. The warden shall preside; the clerk shall make such record as the constitution requires, and the city constables shall preserve order.

**Sec. 69. Warden pro tempore may be chosen.** R. S. c. 7, § 67. If the warden is absent from any such meeting, or refuses or neglects to preside, a warden pro tempore shall be chosen, and during such choice the ward clerk shall preside; and the warden pro tempore, accepting the trust, shall be sworn, and have the power and perform the duties of warden of such meeting, and shall be liable to like penalties.

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**Sec. 70. Portland islands constitute two wards for certain purposes.** R. S. c. 7, § 68. The several islands within the city of Portland, so far constitute two separate wards as to entitle the voters of each of said wards to choose a warden, ward clerk, and one constable, who shall be residents of said islands and of their respective wards. The first of said wards comprises Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward shall be held on Long Island. The second of said wards comprises the remaining islands within the city of Portland, and the ward meetings of said second ward shall be held on Peak's Island. The electors of each of said wards may meet as provided in section sixty-eight, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

**Sec. 71. Proceedings at such meetings.** R. S. c. 7, § 69. The warden shall preside impartially at such meetings, receive the votes of all electors present, sort, count, and declare them in open meeting and in presence of the clerk, who shall make a list of the persons voted for with the number of votes for each person against his name, and the offices respectively, and in open ward meeting and in presence of the warden, shall make a fair record thereof; a fair copy of this list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one in Portland within eighteen hours after closing the polls, and the votes thus thrown shall belong to the last mentioned ward.

**Sec. 72. If no choice, new meetings; vacancies.** R. S. c. 7, § 70. When a choice of any representative to the legislature is not effected, the aldermen shall call new meetings of the wards for the purpose, to be held at the same time, within two weeks after any former meeting; and like proceedings shall be had at such meetings, as at the first, until a choice is effected; and when the aldermen of any city have knowledge that the seat of a representative therein has been vacated, they shall call meetings of the wards for the purpose of filling such vacancy; and like proceedings shall be had at such meetings as at other meetings for the election of representatives.

See §§ 58-74; 70 Me. 560, 570.

**Sec. 73. In cities, election by plurality.** R. S. c. 7, § 71. In all elections in cities by the people, the candidate receiving the greatest number of votes for any municipal office, although such number is not a majority of all the votes cast, shall be deemed elected to such office, provided that the provisions of this section have been adopted in the city where the election is held; by a majority vote, at a regular or special election.

#### Representative Districts.

**Sec. 74. Vacancies in representative districts.** R. S. c. 7, § 72. When the selectmen of the oldest town in a district are notified or otherwise satisfied, that at the last meeting of the district for the election of a representative no choice was effected, or that the seat of their representative has been vacated, they shall, as soon as may be, leaving a convenient time for calling meetings in the several towns, appoint a day of election to fill such vacancy, and notify the selectmen of the other towns accordingly.

See §§ 58-72; 70 Me. 560, 570.

**Sec. 75. Meetings and proceedings.** R. S. c. 7, § 73. The selectmen of the several towns shall call meetings upon the day appointed, and proceedings shall then be had, as required by the constitution and laws for the election of representatives on the second Monday of September.

**Voters in Unincorporated Places and on Islands.**

**Sec. 76.** Electors on unincorporated islands and places, may vote in adjacent towns, and be taxed there for state and county taxes. R. S. c. 7, § 74. 1929, c. 107. Electors living on islands adjacent to the mainland along the coast of the state and within the jurisdiction thereof, but not incorporated with any town, and all such electors living in other unorganized places may furnish lists of their polls and estates to the assessors of any adjacent town, on or before the first day of each April, and said assessors shall assess state and county taxes upon all such persons, and they shall be collected in the same manner and by the same officers as if such electors were inhabitants of such town. And such electors so presenting their polls and estates may vote in such town for all national, state and county officers and representatives to the legislature.

See Const., Me. Art. iv, Part 1, § 5; Part 2, § 3; 90 Me. 374.

**Plantations.**

**Sec. 77.** List of voters prepared, posted and corrected. R. S. c. 7, § 75. The assessors of each plantation shall, on or before the eleventh day of August in each year in which an election for governor, senators, and representatives is held, prepare a list of such inhabitants within its limits, as they judge to be constitutionally qualified to vote in the election of such state officers; deposit it in the office of the plantation clerk; and post and correct it in the manner required in case of towns.

**Sec. 78.** State officers, meetings to be called for their choice. R. S. c. 7, § 76. They shall call a meeting of such voters, to be held on the second Monday of September in every such year, at some convenient and central place in the plantation, for the election of governor, senators, and representatives to the legislature, by a warrant in due form by them signed, in which the time, place, and purposes of the meeting shall be set forth; and notice shall be given by posting a copy thereof in one or more public places in the plantation at least seven days before the day of meeting. Similar notice shall be given of all meetings for choice of United States senators, representatives to the legislature, or to congress, of state and county officers, and of electors of president and vice-president.

**Sec. 79.** Votes, how received; list of votes and voters to be returned to the secretary of state. R. S. c. 7, § 77. Such assessors shall preside impartially at all such meetings, receive the votes of all voters present, sort, count and declare them in open plantation meeting and in presence of the clerk, who shall form a list of the persons voted for, with the number of votes for each person written out in words against his name, and make a full record thereof in presence of the assessors and in open plantation meeting. The clerk shall make fair copies of the list of voters so posted as corrected, and of the names of all voters on said list who were present and voted at said election, which shall be attested by the assessors and the clerk in open plantation meeting, and he shall cause the record of said votes to be delivered, within the time required by the constitution and the laws, to the person appointed to receive them, and shall cause the copy of the list of voters and of the names of the persons present and voting to be transmitted to the secretary of state with the record of votes aforesaid.

**Sec. 80.** Votes to be allowed in elections, as in towns. R. S. c. 7, § 78. Votes so thrown shall be received and allowed for electors of president and vice-president of the United States, for governor, state auditor, senators, and representatives to the legislature and to congress, United States senators and for county officers, the same as votes thrown in a town in said county.

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**Sec. 81. Votes to be rejected on failure of plantation to comply with legal provisions; secretary of state to furnish blanks. R. S. c. 7, § 79.** If it does not appear by the return of the lists of voters so posted, and of the names of the voters on said list who were present and voted at such election, and by the return of its organization duly signed and made to the office of the secretary of state within the time required by law, that the plantation has been duly organized and that section seventy-nine has been fully complied with, such votes shall be rejected. The secretary of state shall furnish to the clerks of such plantations suitable blanks for the returns herein required.

**Soldiers Authorized to Vote.**

**Sec. 82. Inmates of National Home, residence of, and right to vote, established. R. S. c. 7, § 80.** All persons who now are, or may hereafter become inmates of the National Home for disabled volunteer soldiers at Togus, in the county of Kennebec, or subject to the rules and regulations thereof, or shall receive rations therefrom, shall be deemed citizens of the respective towns in which they had a legal residence when their connection with said National Home commenced, so long as such connection shall continue therewith, but any person connected with the National Home as aforesaid, but having a domicile in a town, in this state, outside of said Home and a voting residence therein, shall not be disqualified from voting in the town in which he has such residence, on account of his connection with said Home.

**Sec. 83. Citizens absent in military service (if not in regular army) may vote for presidential electors. R. S. c. 7, § 81.** All citizens of the state absent therefrom in the military service of the United States or of this state, and not in the regular army of the United States, may vote for electors of president and vice-president of the United States on the day designated by law for the election of those officers, in the manner authorized by, and in conformity with section four of article two of the constitution as amended. The names of the voters shall be entered on the poll lists by counties, and the returns of said elections, with the poll lists, shall be delivered into the office of the secretary of state on or before the Thursday next before the first Wednesday of December in each year when a presidential election occurs.

**Sec. 84. Citizens absent in military service (if not in regular army) allowed to vote for congressmen, and for state and county officers. R. S. c. 7, § 82.** All citizens of the state absent therefrom in the military service of the United States or of this state, and not in the regular army of the United States, may vote for governor, state auditor, senators and representatives to the legislature, county officers, United States senator and representatives to congress on the day designated by law for the election of such officers. Such elections shall be held and conducted in the same manner and under the same regulations as those provided for allowing citizens absent from the state in the military service to vote for electors of president and vice-president, and returns thereof shall be made in the same manner to the office of the secretary of state. Such citizens shall present but one ballot, upon which shall be printed the names of all candidates voted for and the offices which they are intended to fill, and one poll list and one return of votes only is necessary.

**Sec. 85. Secretary of state to prepare poll lists, etc. R. S. c. 7, § 83.** The secretary of state shall seasonably prepare and cause to be delivered to each regiment and battery without the state, a sufficient number of blank poll lists and forms for returns of votes in conformity with the provisions hereof and with

article two, section four of the constitution; and said section of the constitution and sections eighty-three to eighty-six inclusive of this chapter shall be printed in each poll list so delivered.

**Sec. 86. Governor and council may correct errors and frauds in return of soldiers' votes.** R. S. c. 7, § 84. The governor and council may correct errors and frauds, if any, in all returns of votes given by soldiers in the army for county officers. But no informality, merely, shall authorize the rejection of such return, if it appears on its face, or otherwise, that the provisions of the constitution and of this chapter, were substantially complied with.

#### Contested Elections.

**Sec. 87. Notice of intention to contest seat in house of representative; testimony, how taken and presented; neglecting party denied postponement.** R. S. c. 7, § 85. Notice of intention to contest the right of any person claiming to be elected to the house of representatives, with a statement of the reasons for so doing, may be served on such person by the contestant at any time after the election, and shall be served at least fifteen days prior to the organization of the house; and all testimony on either side shall be by depositions taken in accordance with the statute or by parol evidence, and presented to said body within three days from the commencement of the session. If this law is not strictly complied with, except in extreme cases where injustice would be done if a continuance was not allowed, the party neglecting shall be denied a postponement, and the committee on elections shall proceed to determine the case by the testimony before them.

**Sec. 88. Petition of contestant, when to be presented to house of representatives; depositions.** R. S. c. 7, § 86. When any person intends to contest before the house of representatives the right of any other person to his seat therein, he shall present his petition to said house within three days after its organization, stating the grounds upon which he proposes to contest such seat. Depositions may be taken in the manner authorized by chapter one hundred twenty-one in cases of contested senatorial elections.

**Sec. 89. Claimant of county or municipal office to proceed as in equity.** R. S. c. 7, § 87. Any person claiming to be elected to any county or municipal office, or to the office of county attorney, may proceed as in equity against the person holding or claiming to hold such office, or holding a certificate of election to such office, or who has been declared elected thereto by any returning board or officer, or who has been notified of such election, by petition returnable before any justice of the superior court, in term time or vacation, in the county where either party resides, or where the duties of such office are to be performed, and said court shall have jurisdiction thereof.

86 Me. 43; 98 Me. 99; 106 Me. 510; 108 Me. 164, 178; 110 Me. 205, 450; 111 Me. 45, 328; 113 Me. 486; 114 Me. 443; \*116 Me. 188; \*118 Me. 101; 122 Me. 525; 123 Me. 106.

**Sec. 90. Petition of claimant to be filed in clerk of court's office; proceedings; judgment.** R. S. c. 7, § 88. The petition shall state the names and residences of the several parties and the facts upon which the claimant relies to maintain his suit, and shall be signed by him and verified by his oath. Such petition shall be filed in the office of the clerk of courts in the county where it is returnable, and the time of hearing thereon shall be appointed by said justice, and indorsed upon said petition. Notice of pendency of said suit, and the time and place of hearing upon said petition shall be served on the adverse party, by giving him in hand, or leaving at his last and usual place of abode, a copy of said petition and order of the court thereon, or in such other manner as the

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court directs, and such notice shall be given at least seven days before such hearing. The parties, or their counsel, shall be heard upon written or oral testimony, according to the practice in like procedure, and in such manner as the justice directs; and if it appears upon such trial or hearing that the petitioner has been elected, and is entitled by law to the office claimed by him, or if such adverse party fails to appear, such justice shall render judgment in favor of such petitioner, if he is found, upon hearing, to be entitled thereto.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 51, 324; 114 Me. 443; 116 Me. 188; 118 Me. 101; 122 Me. 525.

**Sec. 91. Appeal.** R. S. c. 7, § 89. Either party may, within ten days after rendition of said judgment, enter an appeal therefrom in the office of the clerk of the judicial courts in the county where said judgment is rendered, which appeal shall briefly set forth the reasons therefor, and an attested copy of said appeal shall be served upon the appellee or his attorney within ten days after the same has been filed, in such manner as the justice orders. The appellant shall cause copies of the petition, pleadings, findings, and testimony upon which judgment is rendered, approved by the justice before whom the hearing is had, to be printed and transmitted to the chief justice within twenty days after such appeal is taken, with written argument thereon. A copy of such argument shall, within said twenty days, be served upon the adverse party or his attorney, who may forward within ten days thereafter an argument in reply, and thereupon the justices of the supreme judicial court shall consider said cause immediately, and decide thereon and transmit their decision to the clerk of the judicial courts in the county where the suit is pending, and final judgment shall be entered accordingly.

86 Me. 54; 88 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 47, 328; 114 Me. 35, 443; 122 Me. 525.

**Sec. 92. Court may issue order where final judgment has been rendered.** R. S. c. 7, § 90. Where final judgment has been rendered, any justice of the superior court may issue an order to the party unlawfully claiming or holding said office, commanding him to yield up to the officer who has been adjudged to be lawfully entitled thereto, said office, and all papers, records, moneys, and property connected therewith or belonging thereto, and may enforce said order by fine or imprisonment, or both, and thereupon said party, in whose favor such judgment is rendered, shall be qualified and enter upon the duties of such office, and hold the same until the expiration of the term for which he has been elected.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 204, 450; 111 Me. 47, 328; 114 Me. 35, 443; 122 Me. 525.

**Sec. 93. Costs.** R. S. c. 7, § 91. The prevailing party shall recover costs, and double or treble costs may be awarded in the discretion of the justice.

86 Me. 54; 106 Me. 510; 108 Me. 164, 178; 110 Me. 450; 111 Me. 328; 113 Me. 492; 114 Me. 35; 122 Me. 525.

#### Regulations Affecting Purity of Elections. Penalties.

**Sec. 94. Penalty, if voter allows his ballot to be seen, or makes false statement as to inability to mark ballot, or for interfering with voter when marking ballot.** R. S. c. 7, § 92. A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere or attempt to interfere with any voter when inside said enclosed space or when marking his ballot, or who shall endeavor to induce any voter before voting to show how he

marks or has marked his ballot, shall be punished by a fine of not less than five dollars, nor more than one hundred dollars; and election officers shall report any person so doing to a police officer or constable, whose duty it shall be to see that the offender is duly brought before the proper court.

106 Me. 516.

**Sec. 95. Penalty for destroying nomination lists, cards of instructions, specimen ballots posted for instruction.** R. S. c. 7, § 93. Any person who shall, prior to an election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this chapter, or who, during an election, shall wilfully deface, tear down, remove, or destroy any card of instructions or specimen ballot printed or posted for the instruction of voters, or who shall, during an election, wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or shall wilfully hinder the voting of others, shall be punished by a fine of not less than five dollars, nor more than one hundred dollars.

**Sec. 96. Penalty for destroying any nomination paper or letter of withdrawal; or falsely filing same, etc.** R. S. c. 7, § 94. 1929, c. 90. Any person who shall falsely make or wilfully deface or destroy any certificate of nomination or nomination paper, or any part thereof, or any letter of withdrawal; or file any certificate of nomination or nomination paper, or letter of withdrawal, knowing the same or any part thereof to be falsely made; or suppress any certificate of nomination or nomination paper, or any part thereof which has been duly filed, or forge or falsely make the official indorsement on any ballot; or wilfully destroy or deface any ballot, or wilfully delay the delivery of any ballots; or shall take or remove any ballot outside of the enclosure provided for voting before the close of the polls shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than eleven months, or by both such fine and imprisonment.

**Sec. 97. Penalty if election clerk offers to assist voter before being directed to do so.** R. S. c. 7, § 96. Any election or ballot clerk who shall assist, or offer to assist any voter, before such clerk shall have been directed by the presiding officer or officers to so assist such voter, shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars or by imprisonment for not more than sixty days for each offense, and thereafter shall be disqualified from holding the office of election or ballot clerk.

**Sec. 98. Penalty, if any person shall sell his vote.** R. S. c. 7, § 97. Whoever shall offer, or promise, or agree to receive any money or other valuable consideration for giving in his vote at any election held under the provisions of the constitution or of this chapter, and shall in accordance with such offer, promise, or agreement give in his vote at such election shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than eleven months, and shall be excluded from the right of suffrage for a term of ten years.

**Sec. 99. Copies of § 98 to be furnished, and posted in voting precincts.** R. S. c. 7, § 98. The secretary of state shall furnish the mayors of cities, the selectmen of towns, and assessors of plantations with copies of the preceding section in a printed form suitable to be posted in conspicuous places in the voting precincts of every city, town, or plantation, and said officers shall cause such copies to be so posted.

**Sec. 100. Penalty for neglect, misfeasance of selectmen or other officers.** R. S. c. 7, § 99. If any town officer, or such officer chosen pro tempore, wilfully neglects or refuses to perform any duty required by him, or wilfully does, authorizes, or permits to be done anything prohibited by the constitution or by this

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chapter, he shall for each offense, forfeit not less than fifty dollars, nor more than five hundred dollars, and be imprisoned for not less than three months, nor more than nine months, except where otherwise expressly provided in this chapter.

10 Me. 111.

**Sec. 101. Penalty for neglect to issue warrants for state or national elections.** R. S. c. 7, § 101. If aldermen of cities, selectmen or towns, or assessors of plantations neglect to issue their warrant as required by law for a meeting for choice of state or county officers, representatives to the legislature, or to congress, United States senators, or of electors of president and vice-president of the United States, they each forfeit fifty dollars to their city, town, or plantation, to be recovered in action of debt by the treasurer, or by any citizen thereof when said treasurer is a member of the delinquent board.

See §§ 103, 114.

**Sec. 102. Penalties, how recovered.** R. S. c. 7, § 102. Any penalty provided in this chapter, which may be recovered by the treasurer, may, if the treasurer refuses or neglects for ten days after written request of any voter to commence suit therefor, be recovered by said voter in a suit in his own name, to the same uses as if recovered by said treasurer.

**Sec. 103. Penalty for neglect of constable to summon voters; for wilful neglect to be recovered by indictment.** R. S. c. 7, § 103. If any person required to summon the voters of a city, town, or plantation to assemble at any meeting for choice of any officers mentioned in section one hundred one neglects to do or to make due return of the warrant therefor, he forfeits twenty-five dollars to his city, town, or plantation for each offense, to be recovered as provided in said section; but if he wilfully neglects or refuses, he forfeits not less than fifty dollars, nor more than two hundred dollars, half to the state and half to the prosecutor, to be recovered by indictment.

See § 114.

**Sec. 104. Penalty for neglect of selectmen to deposit and post lists.** R. S. c. 7, § 104. If selectmen of a town or assessors of a plantation wilfully neglect to deposit a list of voters with the town or plantation clerk, or to post such lists, as are hereinbefore required, they each forfeit not less than fifty dollars, nor more than one hundred dollars; and for each day's neglect after the twentieth day of August, and until the state election next ensuing, they each forfeit thirty dollars.

**Sec. 105. Penalty for their neglect to keep check-list or to reject illegal votes.** R. S. c. 7, § 105. If such selectmen or assessors wilfully neglect or refuse to keep and use a check-list, as provided in section twenty-nine or wilfully receive any vote prohibited by section thirty-two, or fraudulently receive the vote of any person not qualified to be an elector, as provided by the constitution, they each forfeit not less than fifty dollars, nor more than one hundred dollars.

See § 114; 119 Me. 333.

**Sec. 106. Penalties, of two preceding sections, how recoverable.** R. S. c. 7, § 106. The penalties in the two preceding sections may be recovered in an action of debt, in the name and to the use of the town or plantation, where the offense is committed, to be prosecuted to final judgment at the request of any voter therein, by the treasurer, unless he is one of the delinquent officers, and in that case, by one of the constables.

**Sec. 107. Penalty for striking names from list without notice.** R. S. c. 7, § 107. Any municipal officer who strikes from the list of voters, after it has been prepared and posted, the name of any person residing in the town, without the notice and opportunity for hearing provided in section forty of chapter

six, forfeits not less than twenty dollars, nor more than one hundred dollars, to be recovered in an action on the case by the person whose name was struck out.

**Sec. 108. Penalty for altering, erasing, etc., names, or voting in another's name.** R. S. c. 7, § 108. 1929, c. 90. Whoever wrongfully alters, erases, or mutilates any name on a list of voters, or fraudulently votes in the name of another or under an assumed name shall for each offense be punished by a fine of not more than three hundred dollars or by imprisonment for not more than eleven months.

See c. 6, § 34.

**Sec. 109. Penalty for neglect to supply lost return.** R. S. c. 7, § 109. If any town officer, or any such officer chosen pro tempore, wilfully neglects or refuses to perform the duties required by sections fifty-two, fifty-three and fifty-four, on notice of the loss and destruction of any return therein described, he forfeits not less than one hundred dollars, nor more than five hundred dollars.

**Sec. 110. Penalty for making false certificate.** R. S. c. 7, § 110. Any such officer, permanent or pro tempore, who in such case makes a false certificate and makes oath to its truth shall be punished for perjury and be disqualified from holding any office under the constitution and laws of the state for ten years.

See c. 133, § 1.

**Sec. 111. Penalty for neglect of duty under §§ 17, 18, 47.** R. S. c. 7, § 112. Any election officer, selectman, warden, election clerk, ballot clerk, town clerk, or other officer however designated, who shall neglect to perform any duty imposed by section seventeen or by section eighteen or by section forty-seven, and any person who shall abstract from or in any manner tamper with packages of ballots, or shall break any seal affixed to any package of ballots or to any box containing packages of ballots before such package of ballots or such box is delivered at the office of the secretary of state, or shall in any manner abstract from or tamper with unused ballots, shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars, and by imprisonment for not less than three months nor more than nine months.

See § 114.

**Sec. 112. Penalty for neglect of persons to whom returns are entrusted for delivery.** R. S. c. 7, § 113. If a person, to whom returns of votes of any city, town, or plantation for governor, senators, or representatives in congress are entrusted by the clerk thereof to be forwarded to the office of the secretary of state, wilfully neglects to use all proper means for their delivery, within the time required, he shall forfeit not less than one hundred dollars, nor more than five hundred dollars, or be imprisoned for not less than two months, nor more than six months.

**Sec. 113. County attorneys to prosecute for wilful negligence in not delivering returns.** R. S. c. 7, § 114. Every county attorney who receives from the secretary of state a certificate that the return of votes of any town in his county for governor, senators, or representatives in congress has not been duly received at the office of the secretary of state shall immediately ascertain, so far as he can, by the default of what officer or person such neglect happened, and demand of him, if he finds such default wilful or caused by culpable negligence, the sum thereby forfeited; and if it is not immediately paid he shall prosecute such delinquent.

**Sec. 114. Liability of town officers limited; neglect deemed wilful unless contrary is shown.** R. S. c. 7, § 115. In no case, except as in sections one hundred and one and one hundred and three, shall an officer of a town incur any

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punishment, or be liable in damages by reason of his official acts or neglects, unless they are unreasonable, corrupt or wilfully oppressive; but the neglect to prepare the lists of voters; to deposit it in the town clerk's office; to post it, as required herein; to call town meetings for elections; to comply with the requirements of, or to perform any duty imposed by sections seventeen, eighteen, thirty-four, thirty-five, and forty-seven, or either of them; to cause returns of votes, or copies thereof to be delivered into the office of the secretary of state, as required by the constitution and laws; or to make the records by law required shall be deemed wilful and unreasonable, unless the contrary is shown.

See §§ 23, 29, 32, 45, 52, 54, 101, 103, 105; c. 6, §§ 39, 40, 45, 47; \*76 Me. 162, 217; 102 Me. 437; \*111 Me. 47.

**Sec. 115. Penalty for misconduct of electors at elections.** R. S. c. 7, § 116. 1917, c. 164. At any meeting for the election of any officer, where a list of voters is necessary, whoever wilfully votes before the presiding officer has had opportunity to find his name on said list, or knowing that it is not on it, or wilfully gives any false answer or statement to the municipal officers of towns, cities or plantations when they shall be previously preparing such list, or presiding at such meeting, in order that his name or the name of any other person may be entered on such list, or his vote or that of another be received; or casts more than one vote at one balloting, or is disorderly at such meeting, forfeits for each offense, not less than ten dollars, nor more than one hundred dollars.

56 Me. 513; \*96 Me. 433.

**Sec. 116. Penalty for military parades on election day.** R. S. c. 7, § 117. 1929, c. 116. Any officer of the militia who parades men under his command or exercises any military command on a day of election, except in time of war or public danger, or in cases of riot, invasion, or insurrection, or imminent danger thereof, or in case of public danger resulting from flood, conflagration, or tempest, or at a regularly scheduled and ordered drill in an armory forfeits for each offense not less than ten dollars nor more than three hundred dollars.

**Sec. 117. Penalties in §§ 115, 116, how recoverable.** R. S. c. 7, § 118. The penalties, provided in the two preceding sections, may be recovered by indictment, half to the state and half to the prosecutor.

**Sec. 118. Penalty for bribery and corruption at elections.** R. S. c. 7, § 119. 1929, c. 90. Whoever by bribery, menace, wilful falsehood, or other corrupt means, directly or indirectly attempts to influence any voter in giving his vote or ballot or to induce him to withhold it, or disturbs or hinders him in the free exercise of his right of suffrage at any election held under the provisions of the constitution or of this chapter, and whoever receives or offers to receive a bribe for his vote as aforesaid shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than eleven months and be ineligible to any office for ten years.

\*73 Me. 94.

**Sec. 119. Penalty for knowingly voting where not entitled.** R. S. c. 7, § 120. 1929, c. 90. Whoever, at an election of state and county or municipal officers or of electors of president and vice-president, knowingly votes in any city, town, or plantation where he has no legal right to vote shall be imprisoned for not less than three months, nor more than eleven months.

57 Me. 149.

**Sec. 120. Betting on elections punished; wager forfeited to town; recovery.** R. S. c. 7, § 121. No person shall make a bet or wager upon the result of any election in the state, in money or in any kind of property, real or personal, under penalty of forfeiting the money or property so bet or wagered to the town in

which he resides, or if he does not reside in the state, then to the town in which the bet or wager is made, to be recovered in an action on the case. The mayor of the city or the treasurer of the town or plantation entitled to such forfeiture shall forthwith proceed to sue for it, as soon as he has proper evidence of such betting or wagering.

\*69 Me. 121; 70 Me. 496.

**Sec. 121. Money paid on bet may be recovered.** R. S. c. 7, § 122. Any party to such bet or wager, who has paid or conveyed to the winning party the money or property so bet or wagered, may recover it, or its value, in an action on the case.

68 Me. 531.

**Sec. 122. Conveyances for such purposes void; forfeit to town.** R. S. c. 7, § 123. All conveyances, by deed or otherwise, of any interest in real estate made by reason of any such bet or wager, are void; the person making them forfeits the full value of the interest so conveyed to the town entitled to the forfeiture for such betting or wagering, to be recovered as aforesaid.

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## CHAPTER 9.

### Absent Voting.

**Sec. 1. Term "absentee voters" defined.** 1921, c. 38, § 133. An absentee voter is hereby defined to be any person who is a duly qualified registered voter and, in respect to any primary election, duly enrolled as a member of the political party in the primary of which he proposes to vote, but who, through absence from the city or town in which he is entitled to vote, is unable to cast his ballot at the polling place where he is entitled to vote, at any city election, at any primary election held pursuant to sections one, twenty-three, and twenty-four of chapter seven, or at any general or special state election as the term state election is defined in section one of chapter eight, including also elections for the choice of electors of president and vice-president of the United States, elections held in accordance with the initiative or referendum provisions of the constitution of Maine, and elections to vote upon amendments to the constitution of Maine.

**Sec. 2. Secretary of state to prepare ballots, blank forms, instructions, etc. for city and town clerks.** 1921, c. 38, § 134. Thirty days at least, when practicable, prior to any election at which absentee voting is authorized, and in other cases as early as may be practicable, the secretary of state, or in case of city elections the respective city clerks, shall prepare, in such quantities as the official preparing same may deem necessary, the following papers:

(a) Official absent voting ballots similar in all respects to the official ballots to be used at such election, except that the words, "Official Absent Voting Ballot," shall be printed conspicuously on the back and outside thereof.

(b) Blank forms of application for such ballots worded as follows, but varying the bracketed word (state) so as to properly designate the election then next to be held, and omitting the bracketed clause concerning enrolment in elections other than primary:

"I, \_\_\_\_\_, hereby apply for an official absent voting ballot. I am a legal resident of the city or town of \_\_\_\_\_, in the county of \_\_\_\_\_, state \_\_\_\_\_"