

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

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FIRST ANNOTATED REVISION

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IN FIVE VOLUMES

VOLUME 1



THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA

### Chapter 3.

#### Citizenship. Qualifications and Registration of Voters.

##### Sex No Bar to Hold Office. Residence of Husband and Wife.

- Section 1. Citizenship.  
 Section 2. Qualifications of Voters.  
 Section 3. Sex No Bar to Hold Office.  
 Section 4. Residence of Husband and Wife.  
 Sections 5- 9. Lists of Voters.  
 Sections 10-34. Registration of Voters. Penalties.  
 Sections 35-49. Registration by Municipal Officers.  
 Section 50. Complaints Filed with Superior Court.

**Cross Reference.**—See c. 4, § 49, re provisions applicable to primary elections.

#### Citizenship.

**Sec. 1. Citizenship.**—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. (R. S. c. 3, § 1.)

See Const. of U. S. Amend. XIV; c. 2,  
re aliens.

#### Qualifications of Voters.

**Sec. 2. Qualifications of voters.**—Every citizen who had the right to vote on the 4th day of January, 1893 and every citizen, excepting paupers, persons under guardianship and Indians not taxed, who, not being prevented by physical disability from so doing, is able to read the constitution of the state in the English language in such manner as to show that he is neither prompted nor reciting from memory, and to write his name, and who is 21 years of age or upwards, and shall have his residence established in this state for the term of 6 months and in the city, town or plantation in which he is a resident for 3 months next preceding any national, state, city or town election, shall have the right to vote at every such election in the city, town or plantation where his residence is so established; and such right to vote at national and state elections in such city, town or plantation shall continue for a period of 3 months after his removal therefrom, if he continues to reside in this state during that period; provided, however, that his name has been properly entered upon the voting list of such city, town or plantation. The fact that the money for the payment of the wages of any person employed by any city or town is derived from relief funds shall not operate to give such person the status of a pauper so that he shall be denied on that account the right to vote. (R. S. c. 3, § 2. 1953, c. 226, § 1.)

See § 16, re sessions of boards of registration; Const. of U. S. Amend. XV, re right of impartial suffrage; Const. of U. S. Amend. XIX, re woman's suffrage; Me. Const. Art. 2, § 1, re qualifications of voters; c. 5, § 106, re penalty for knowingly voting where not entitled.

#### Sex No Bar to Hold Office.

**Sec. 3. Right to hold civil office not to be denied on account of sex.**—No citizen of the United States having a right to vote in this state shall be denied the right to hold any civil office under this state or any subdivision thereof on account of sex. (R. S. c. 3, § 3.)

**Residence of Husband and Wife.**

**Sec. 4. Husband and wife may have separate residence.**—For purposes of voting, office holding or serving on jury, husband and wife may be deemed each to have a separate residence; such residence to be determined as in the case of other persons. (R. S. c. 3, § 4.)

**Lists of Voters.**

**Sec. 5. Assessors required to make true lists of all persons liable to pay poll tax and of women registered voters; corrections.** — The assessors of any city, by one or more of their number or by one or more assistant assessors, shall, in the months of April and May in each year, visit every building in their respective cities and make true lists containing as near as can be ascertained from any owner or occupant thereof, the name, age, occupation and residence on the 1st day of April in the current year, and his occupation and residence on the 1st day of April in the preceding year, or of his becoming an inhabitant after the last named day, of every male person 21 years of age and upwards, residing therein and liable to be assessed for a poll tax; and of every female person who is registered as a voter; and shall ascertain if any such person has within the year next preceding the 1st day of April of the current year moved from such building out of the city and taken up his residence elsewhere, and shall make diligent inquiries and true record concerning all matters required of them in this section. They shall make correction of any error in the name or place of residence of a person assessed, on his personal application therefor, and, on proof of the same, shall make proper correction thereof on their books. (R. S. c. 3, § 5.)

See c. 92, § 1, re assessment of poll tax.

**Sec. 6. To transmit lists to boards of registration; street lists.**—The assessors of every city shall promptly, on or before the 1st day of July in each year, transmit to the board of registration the lists so made, or certified copies thereof, noting therein every change of name or residence of persons assessed a poll tax by them and of every female person who has been registered as a voter, and, on or before the 1st day of July in each year, shall prepare street lists containing the name of every person assessed by them, and of every female person who has been registered as a voter or who has moved out of the city. Such lists shall be arranged by wards or voting precincts, if any. They shall prepare a copy of such street lists and deliver the same to the board of registration on or before the 15th day of said July. (R. S. c. 3, § 6.)

**Sec. 7. Contents of street lists and voting list; assessors notified of errors.**—The assessors shall, in such street lists, arrange all buildings used as residences in the order in which they stand on the street or other place by giving their number or other definite description so that each building can be readily identified, and shall place opposite or under each number, as near as can be ascertained, the name, age, occupation and place of occupation of every person residing in such building on the 1st day of April of the current year and assessed a poll tax, and of every female person who is registered as a voter, with his residence on the 1st day of April of the preceding year or on the day of his becoming an inhabitant after said last named day. The board of registration shall enter on the voting list the name of every person assessed a poll tax for the current year and of every female person who is registered as a voter, as transmitted to them by the assessors, provided every such name can be identified as having been borne upon the voting list of the last preceding election. Each board of registration shall promptly transmit to the assessors of its city notice of any error in the name or residence of a person assessed, together with the name and residence of every male

citizen who shall prove for the purposes of registration that he was a resident of the city on the 1st day of April of the current year, and of every female person who is registered as a voter, but whose name does not appear on the list transmitted to the board by the assessors. (R. S. c. 3, § 7.)

**Sec. 8. Penalty for willfully making false entry of name.**—Any assessor or assistant assessor who shall knowingly or willfully enter or cause to be entered on any list of assessed polls the name of any person as a resident of any building, who is not a resident thereof, shall for each such offense be punished by a fine of not more than \$300, or by imprisonment for not more than 11 months. (R. S. c. 3, § 8.)

**Sec. 9. Penalty for refusing or neglecting to give full and true information.**—Any inmate of a building liable to be assessed for a poll tax who shall refuse or neglect to give his true name when inquired thereof by any assessor or assistant assessor and any owner or occupant of a building who shall refuse or neglect to give full and true information within his knowledge relating to all persons residing in such building, when inquired thereof by any assessor or assistant assessor, or who shall knowingly or willfully give to an assessor or assistant assessor for the purpose of the assessment of a poll tax the name of any person as a resident of a building, who is not a resident therein, shall be punished for each offense by a fine of not more than \$100, or by imprisonment for not more than 6 months. (R. S. c. 3, § 9.)

See c. 92, § 1, re assessment of poll tax.

#### **Registration of Voters. Penalties.**

**Sec. 10. Boards of registration; duties; municipal officers to supervise lists in cities of less than 3,500.** — In each city of the state having 3,500 or more inhabitants, a board of registration, hereinafter referred to as the board, appointed as provided in the following section, shall have exclusive power and authority to make up, correct and revise the list of voters in each of such cities. In all cities having less than 3,500 inhabitants, the municipal officers shall make such list, exercising the same powers and being governed by the same laws as municipal officers of towns having 500 or more registered voters; provided that no city having a board of registration on February 1, 1951 shall be deprived of such board; and also that no city later creating such a board of registration shall be deprived of such board by reason of the population thereof becoming less than 3,500. (R. S. c. 3, § 10, 1951, c. 283, § 1.)

For discussion of effective date as section originally read, see *Plummer v. Jones*, 84 Me. 58, 24 A. 585.

**Sec. 11. Number, appointment, terms, qualifications, nominations, vacancies; majority may act; members not to be candidates.** — The board shall consist of 3 members who shall be residents and legal voters of the city where it is established; they shall not hold any state, county or city office or be candidates therefor at any election, primary election or caucus so long as they shall continue members thereof. One member shall be appointed and commissioned by the governor with the advice and consent of the council for the term of 4 years. The other 2 members shall be chosen one from the political party polling the highest number of votes for governor at the next preceding state election, and one from the political party polling the next highest number of votes for governor at such election; they shall each hold their office for the term of 3 years; each shall be nominated by the city committee of his own political party, and upon due notice thereof in writing, the mayor or the officer performing the function of mayor of such cities shall forthwith appoint such persons, so nomi-

nated, members of the board. If either or both of such city committees refuses or neglects seasonably to nominate a member of such board and to notify the mayor or the officer performing the function of mayor of such city, he shall thereupon select and appoint a member of such board from the political party so neglecting and refusing to nominate, and such mayor or the officer performing the function of mayor shall so appoint in all cases of vacancy, however such vacancy may be caused; but the other 2 members may proceed with the business of the board until such vacancy shall be filled. If any member of the board be temporarily absent or disqualified by sickness or otherwise, the mayor or the officer performing the function of mayor shall upon notice thereof forthwith fill his place by the appointment of some qualified elector of such city of the same political party as the absent member represents, to act during his absence. (R. S. c. 3, § 11.)

**Quoted** in part in *Plummer v. Jones*, 84 Me. 58, 24 A. 585.

**Sec. 12. Chairman; powers and duties.** — The person appointed and commissioned by the governor shall preside at all sessions of the board as its chairman, but shall not vote therein except in case of a tie. He shall give notice of the time and place of the sessions of the board, and shall sign all orders and processes issued by it. If he is necessarily absent or disqualified by sickness or otherwise during any session of the board, the mayor or the person performing the function of mayor of the city shall upon notice thereof immediately appoint a qualified elector of the city, who shall be of the same political party as the chairman, to act in his absence. (R. S. c. 3, § 12.)

**Sec. 13. Duty of cities in respect to registration; compensation and fees.**—The chairman of the board shall receive \$7 and the other 2 members of the board shall receive \$6 each for every day that the board shall be in session for the revision and correction of the voting list and for completing the record thereof. They shall also receive such compensation as may be fixed by the municipal officers for such time as they are necessarily employed in making up and preparing the list of voters, and their necessary expenses. Cities where a board is established shall provide a suitable place for holding its sessions and shall pay for the services of such officers as the board may employ and have in attendance to preserve order and execute its precepts. Such cities shall also pay all reasonable expenses, such as the expense of blank books, stationery and the necessary assistance of clerks. All witness fees shall be paid at the rates established for municipal courts.

In cities of 39,000 inhabitants or more, the chairman of the board shall receive \$2,850 per year and the other 2 members of the board shall receive \$2,500 per year and such additional amounts as may be authorized by the municipal officers or board of finance. (R. S. c. 3, § 13. 1947, c. 347. 1949, cc. 93, 329. 1951, c. 366. 1953, c. 130.)

See c. 113, § 128, re witness fees.

**Sec. 14. Meetings of board to be public; record of names added to or stricken from lists.**—All sessions of the board shall be open and public and shall close on each day at 9 o'clock in the afternoon, except as hereinafter provided. A record shall be kept of all names added to or stricken from the voting list and of all other proceedings of the board. No name shall be added to or stricken from the voting list except during the open sessions of the board. (R. S. c. 3, § 14.)

**Sec. 15. Notices, how given, when and where posted.**—Notice of the time and place of the sessions of the board to revise and correct the voting list shall be given by the chairman and posted by the city clerk at the same times and places as are the certified copies of the lists of voters; and the voting lists as re-

vised and corrected by the board shall be used at every election held in such cities in the several wards thereof. All notices of boards of registration, assessors, city clerks or any other public officer relating to the registration of voters or to elections shall be posted at or as near as may be to the places designated for receiving votes on election days. (R. S. c. 3, § 15.)

**Sec. 16. Sessions of boards; names to be placed upon list only by personal request; voter who moves into another ward not required to appear before board to have name transferred; names may be added on election day if omitted by error of assessors or boards; aggrieved party may have case determined by court.**—In cities of 30,000 inhabitants or more, boards of registration shall be in session every day of the year, Sundays and court holidays excepted, for the purpose of registration and enrollment of voters and to revise and correct the voting list. Open sessions shall be held for the purpose of registration and enrollment of voters from 9 to 12 o'clock in the morning, and from 2 to 5 o'clock in the afternoon, Saturday afternoon excepted. From the 18th to the 13th days, inclusive, of their sessions next prior to any election, the board shall be in session from 9 o'clock in the forenoon to 1 o'clock in the afternoon, from 3 to 5 o'clock in the afternoon, and from 7 to 9 o'clock in the afternoon. On the 12 days of their sessions next prior to an election the board shall be in closed session to enable the board to verify the correctness of the list and to complete and close the records of its sessions. In cities of 25,000 inhabitants or any greater number less than 30,000, the boards shall be in session on each of the 16 days, Sundays and court holidays excepted, next prior to any election; the 1st 10 days thereof in open session, and the last 6 days thereof in closed session, during the hours and for the purposes as above provided. In cities of 10,000 inhabitants or any greater number less than 25,000, the boards shall be in session on each of the 12 days, Sundays and court holidays excepted, next prior to any election; the 1st 7 days thereof in open session, and the last 5 days thereof in closed session, during the hours and for the purposes as above provided. In cities of less than 10,000 inhabitants, the boards shall be in session on each of the 9 days, Sundays and court holidays excepted, next prior to any election; the 1st 6 days thereof in open session, and the last 3 days thereof in closed session, during the hours and for the purposes as above provided. No name, except as hereinafter provided, shall be added to or stricken from the general register of voters after 9 o'clock in the afternoon of the last of the days devoted to registration as herein provided. At least one member of the board shall attend any person, to receive proof that such person possesses all the qualifications of a voter, and to receive in writing the application of such person upon a printed form to be furnished by said board and conforming to the provisions of section 27. Such member shall write thereon the date when and by whom the application is received and shall file the same with the board of registration. The board shall in any open session take action thereon and if satisfied as to the necessary qualifications of the applicant, the applicant shall be enrolled as a voter and his or her name shall then be placed upon the general register of voters and each applicant so registered shall by said board be notified in writing of such registration. The board shall not place upon the voting list during the revision of the same, the name of any person who shall not personally appear before the board in open session and request it; but nothing in this chapter shall be so construed as to require any voter, whose name is already upon any ward list and who afterwards moves from such ward to any other ward in such city, to appear personally before the board in order that his name may be transferred from one ward list to another. If a person becomes 21 years of age between the last day of the open session and the closing of the polls on election day, his name may be added at any time without personal appearance if the board is satisfied that he is otherwise qualified. On the last of the days of their session devoted to the completion of the records as above provided, the sessions of the boards shall

close at 5 o'clock in the afternoon except when such last day is Saturday, and certified copies of the voting lists shall at that hour be delivered to the city clerk and receipts taken therefor. The wardens of cities shall be governed by such revised and corrected lists; and no name shall be added thereto or stricken therefrom on the day of election, except as hereinafter provided, and no person shall vote at any election whose name is not on such lists. No board of registration shall be answerable for any omission of a name or residence from the voting list or for any error therein, unless such name and residence are correctly entered in the general register of voters; but on the day of election the board shall be in session, and shall give to any voter whose name has been stricken from the general register or omitted from the voting list through any error of the assessors or the board, or in whose name or residence as placed on the voting list a clerical error has been made, a certificate signed by a majority of the board, giving the corrected name and residence of such person, and directed to the officer presiding over the election; such officer shall on receipt of such certificate, allow the person therein named to vote and shall check his name on such certificate, and securely attach it to the voting list. In case any person is aggrieved by any order or decision of the board, the whole case, upon petition for mandamus, shall be reexamined and determined by any justice of the superior court in the county in which the controversy arises, which determination, however, shall not affect any election held prior to the decision of such justice. No costs shall be allowed either party in any such proceeding. (R. S. c. 3, § 16. 1953, c. 123; c. 365, § 1.)

See c. 129, §§ 17-20, re mandamus.

**Sec. 17. Police officers to attend meetings of board.**—The officer or board in charge of the police force of the city, upon request therefor by the board of registration, shall detail a sufficient number of police officers to attend any session held by the board and preserve order and enforce the orders of the board. (R. S. c. 3, § 17.)

**Sec. 18. Exclusive power to determine qualifications of voters.**—The board shall have the exclusive power and authority to hear evidence and determine the qualifications of voters in the city in which it is established. The chairman, at the request of any member, shall cause any party or witness appearing before the board to be sworn; any member of the board may administer oaths; and the board shall have power to compel the attendance of witnesses, to punish for contempt and to issue all processes necessary to the performance of its duties. (R. S. c. 3, § 18.)

**Sec. 19. Appearance in person to register; where person qualified shall vote; name under which women voters shall register; to notify board of change in surname.**—Every person whose name has not been entered upon the voting list in any city in accordance with the provisions hereof must, if he desires to vote, appear in person before the board of registration or the city clerk and prove that he possesses all the qualifications of a voter. The said city clerk shall receive in writing the application of any such person who appears before him and shall stamp thereon the date when same is so received and shall file the same with the board of registration of voters and said board of registration shall in any open session of the board take action upon the said application and if satisfied as to the necessary qualifications of the applicant, the applicant shall be enrolled as a voter and his or her name shall then be placed upon the general register of voters and each applicant so registered shall by said board be notified in writing of such registration. All such applications so made to said city clerk shall be upon a printed form provided by said city clerk, which said printed form shall conform to the provisions of section 27. The provisions of this section shall not prevent any person from making personal appearance before the board of registration for the purpose of registering as a voter when said board is

in open session. Every person qualified to vote shall vote only in the ward of the city and voting precinct thereof, if any, in which he had his residence on the 1st day of April preceding, or in which he became an inhabitant after said day. Every married woman now registered, or who shall hereafter register as a voter, shall be registered under her given name and married surname. Any married woman or widow may use her family name as a part of the name by which she shall be registered as a voter. Whenever a registered woman voter shall assume through marriage or any process of law a new surname, she shall notify the board or the city clerk of such change, in person, and the board shall then register her again; but when the open session for registration of voters, as hereinbefore provided has ended, and before the close of the day of election, she may present to the board a duly executed certificate of her marriage, or of her change of name by process of law, and the board shall cause her name to be changed accordingly on the voting list and the general register, and shall issue its certificate directed to the officers presiding over the election, in the same manner and with the same effect as hereinbefore provided by reason of clerical error or omission of a name from the voting list. (R. S. c. 3, § 19. 1945, c. 317. 1951, c. 348, § 1. 1953, c. 365, § 1-A.)

**Person not entitled to vote in ward of which he is not a resident.**—Where a person is not a resident of a particular ward, he has no right to vote there, and no act of the board of registration or of the ward officers can give him any right to vote in

that ward. *Murray v. Waite*, 113 Me. 485, 94 A. 943.

**And his ballot should be rejected.**—A ballot cast in a ward wherein the voter admittedly never resided should be rejected. *Murray v. Waite*, 113 Me. 485, 94 A. 943.

**Sec. 20. Applicant for registration must be able to read in the English language.**—Every applicant for registration shall be required, unless prevented by physical disability from so doing, or unless he had the right to vote on the 4th day of January, 1893, to read in the English language, other than the title, from an official edition of the constitution of the state in such manner as to show that he is neither prompted nor reciting from memory, so much as may be necessary to demonstrate his ability to read the constitution, and to write his name in a book or on cards provided for that purpose. The name of the applicant, if admitted to registration, shall be announced in a clear, audible and distinct voice before entering it on the register. (R. S. c. 3, § 20. 1953, c. 226, § 2.)

See § 29, re penalty for refusal or neglect to require educational test.

**Sec. 21. Voter claiming exemption from educational test to make declaration under oath.**—Any applicant for registration as a voter, claiming exemption from the educational test required by the preceding section and section 2, except those exempted by their provisions, shall declare under oath that he was a legal voter in this state on the 4th day of January, 1893, and, if required to do so, shall furnish such other reasonable evidence of the truth of his statement as shall be satisfactory to the board. (R. S. c. 3, § 21.)

**Sec. 22. Requirements made of applicant who is a naturalized citizen.**—An applicant who is a naturalized citizen shall be required to produce for inspection his certificate of naturalization, or a duly certified copy of the court record of such naturalization from the court by which he was naturalized, and to make oath that he is the identical person mentioned therein, and the board, if satisfied that he has been legally naturalized, shall make a record or memorandum upon such certificate or copy of the date of such inspection and enter it upon the general register, and shall enter, in a book kept for that purpose, the name and location of the court by which such certificate or copy was issued, with the date thereof and the date of such inspection, together with the name of the applicant as it is spelled and recorded in such certificate or copy, which need

not again be produced before the board for examination. When citizenship is derived through some other person, the board shall have authority to require satisfactory evidence of such derived citizenship. (R. S. c. 3, § 22, 1953, c. 226, § 3.)

See c. 106, §§ 21-24, re naturalization.

**Sec. 23. Proceedings in case of challenge of voter.**—When the right of any person to have his name placed upon the voting list is challenged by any qualified elector, or when the right of any person to have his name remain upon such list is so challenged, before the board shall add to or strike from such list the name of any such person, the board or any member thereof shall issue a notice and summons to the person so challenged and allow him a reasonable opportunity to be heard. Such notice and summons shall be served upon such person by an officer qualified to serve civil process, by giving him in hand or by leaving at his last and usual place of abode an attested copy of such notice and summons, at least 6 hours before the closing of the final session of the board devoted to the revision and correction of the voting list. Such person and the board may also summon and examine other witnesses before the board concerning his right to vote, and if it appears to the board that such person is not or will not be qualified to vote at such election, they shall cause his name to be erased from the list and not add it thereto. (R. S. c. 3, § 23.)

**Sec. 24. Duty to notify city clerk of change of residence; record of changes.**—The residence of a voter as stated upon the list of voters used at the last preceding election shall be deemed his last and usual place of abode, unless he shall have given notice in person or in writing over his own signature to the city clerk of a change of his residence, which notice, if given after the 1st day of April, shall entitle him to have his residence so corrected on the voting list to be used at the next subsequent election, but shall not entitle him to have his registration otherwise changed, nor to vote in a ward or precinct other than that in which he resided on the 1st day of April. The clerk shall keep a record of all notices of change of residence, which record shall at all times be open to public inspection. (R. S. c. 3, § 24.)

**Sec. 25. Lists of deceased voters to be furnished board.**—The clerk or register of deaths of each city shall, at least 33 days before each election, and on the 1st day designated by the board for the revision and correction of the voting lists and also on the last of said days set apart for such revision and correction, transmit to the board a certified list of the names of all persons over 21 years of age deceased since the preceding election or since the date of the preceding list, with the ward, street and number where such persons resided at the date of death. (R. S. c. 3, § 25.)

**Sec. 26. To prepare lists of voters 30 days before election; certified copies to be furnished city clerk and posted; in case of special election new lists not required.**—The board shall prepare ward lists of such persons as appear to them to be legally qualified voters at least 30 days before any election to be held for any purpose by placing upon such lists all the names which appear upon the voting list for the last preceding election, except the names of such persons as have died, or ceased to reside therein, or shall appear to the board to have otherwise become disqualified to vote therein since the preceding election, but no new name shall be added during such preparation nor any other correction or revision of such lists, except the correction of errors discovered to have been of the board's own making. Certified copies of all such lists made in accordance with the provisions of this section shall be furnished to the clerk of such city by the board at least 30 days prior to any such election, and the clerk shall cause such copies to be posted in their respective wards at or near the several voting places customarily used as such, at least 27 days prior to any such

election; provided, however, that in case of a failure to elect any municipal officer at any election, or any person elected declines to serve, so that a special election is held to fill the vacancy, or in case of a special election to choose representatives to congress or members of the legislature, the board shall not be required to prepare nor the city clerk to post new lists of voters, and for this purpose the board shall be in session on the 3 days, Sundays and court holidays excepted, next preceding such election, the first 2 thereof to be devoted to registration of voters, and the last to enable the board to verify the correctness of such lists and to complete and close up the records of its sessions.

The list of voters in cities, made under the provisions of this chapter, shall state the street, and so far as practicable, the number of the street where each voter resides. (R. S. c. 3, § 26.)

See c. 5, § 60, re duties in plantations.

**Sec. 27. Boards to keep register of all voters.**—Each board of registration shall keep a general register of voters containing the name and record of every voter entered from year to year on the voting list under the provisions of this chapter, giving his full Christian name and the surname, or the full name or initial or initials of any other name or names he may have, date of registration, residence on the 1st day of April of the year of registration or on the day of his becoming an inhabitant after the 1st day of April, age, place of birth, occupation, place of occupation, how long resident of the city, place of casting his last vote, married or single, residence of wife or family, where naturalized, when naturalized, in what court, arranged under the following headings: When registered, ; name, ; residence, street and number, ; residence April 1st, street and number, ; place of birth, ; age, ; date of birth, ; occupation, ; place of business, ; how long a resident of city, ; where last vote was cast, ; married or single, ; residence of wife or family, ; where naturalized, ; when naturalized, ; by what court, ; remarks, . (R. S. c. 3, § 27.)

**Section not applicable to referendum petitions.**—This section provides rules merely for the registration of voters by boards of registration and has no bearing upon the counting of referendum petitions by the governor. In fact, boards of registration exist only in the cities, while these peti-

tions may come from every town and plantation in the state, and names properly verified and certified should not be rejected simply because initials are used in place of full Christian or middle names. Opinion of the Justices, 116 Me. 557, 103 A. 761.

**Sec. 28. Clerks of cities to be custodians of records; duties; penalty for neglect.**—The clerk of each city shall be custodian of the records of the board of registration and of the revised and corrected lists of voters prepared by the board for use at any election, and shall seasonably transmit to the wardens true and attested copies of such lists for their use on election day; and the clerk shall keep such lists 1 year and furnish certified copies thereof on application of any person and payment therefor, within 10 days thereafter; for failure to do so he shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months. The wardens and ballot clerks shall certify on such voting lists that they are the lists used by them respectively at such elections. (R. S. c. 3, § 28.)

See c. 111, § 12, re fee.

**Sec. 29. Penalty for refusal or neglect to enforce educational test.**—Any member of a board of registration who refuses or willfully neglects to require any applicant for registration to whom the same is applicable to submit to the tests required by the provisions of section 20 hereof, or who knowingly prevents or seeks to prevent the registration of any legal voter, or who knowingly

registers the name of any person not qualified to vote, or who is guilty of any fraud or corrupt conduct in the execution of the duties of his office shall for each offense be punished by a fine of not more than \$1,000, or by imprisonment for not more than 2 years. (R. S. c. 3, § 29.)

**Sec. 30. Penalty if any city officer refuses or neglects to perform duty.**—Any city officer who willfully neglects or refuses to perform any duty required of him by law in matters relating to the registration of voters shall for each offense be punished by a fine of not more than \$1,000, or by imprisonment for not more than 2 years. (R. S. c. 3, § 30.)

**Sec. 31. Penalty if a person registers falsely.**—Whoever causes his name to be placed upon the list of voters of more than 1 ward in any city for the same election, or aids or abets any person in such act, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months. (R. S. c. 3, § 31.)

**Sec. 32. Penalty for making false statement regarding the qualification of any person for assessment of tax or for registration, etc.**—Whoever knowingly or willfully makes a false affidavit, or takes a false oath, or signs a false certificate regarding the qualification of any person for the assessment of a tax or for registration, or injures or defaces any list of voters or any notice relating to the registration of voters in any city, or prevents or interferes with, or aids or abets any person in preventing or interfering with any public officer in the discharge of his duty relating to the registration of voters shall for each offense be punished by a fine of not more than \$300, or by imprisonment for not more than 11 months. (R. S. c. 3, § 32.)

**Sec. 33. Penalty for false registration or attempt to impersonate another, etc.**—Whoever causes his name to be registered knowing that he is not a qualified voter in the place where so registered, or falsely represents or attempts to represent himself as another person before any board of registration, or gives a false answer to such board concerning any matter relating to the registration of a voter or the right of any person to vote, or aids or abets any other person in doing either of the acts above mentioned shall for each offense be punished by a fine of not more than \$300, or by imprisonment for not more than 11 months. (R. S. c. 3, § 33.)

See c. 5, § 103, re penalty for altering, etc. names, or voting in another's name.

**Sec. 34. Penalty for refusing to obey board or for obstructing proceedings.**—Whoever refuses to obey the lawful orders or directions of any board of registration or interrupts or obstructs the proceedings at any session of a board of registration shall be arrested and detained in custody until a warrant can be procured, and shall for each offense be punished by a fine of not more than \$50, or by imprisonment for not more than 60 days. (R. S. c. 3, § 34.)

### Registration by Municipal Officers.

**Cross Reference.**—See c. 4, § 2, re enrollment of voters.

**Sec. 35. Assessors to prepare lists of voters and deliver to selectmen.**—In every town where the selectmen are not assessors, the assessors, on or before the 20th day of May in each year in which an election, including primary elections, of governor, senators and representatives is held, shall prepare a list of the persons whom they judge to be constitutionally qualified to vote therein at such election, and deliver it to the selectmen. (R. S. c. 3, § 35. 1953, c. 365, § 2.)

The selectmen of towns when performing the duties of a registration board are public officers. Their duties are imposed and clearly defined by statute. In the per-

formance of their duties they are not subject to the control of the municipality and it has neither power to correct their errors nor liability therefor. They are in no

sense the agents of the municipality. *Rumford v. Upton*, 113 Me. 543, 95 A. 226.

**Sec. 36. Selectmen to prepare corrected list.**—The selectmen of every town, on or before the 1st day of June in every such year, shall prepare a corrected list of persons qualified as provided in the preceding section, and shall, on or before the 15th day of August in such year, correct and revise such list. (R. S. c. 3, § 36. 1953, c. 365, § 3.)

See c. 5, § 97, re neglect to prepare list deemed willful.

**Sec. 37. Sessions of selectmen to correct lists; notice.**—In every town, having by the census of the United States last taken more than 3,000 inhabitants, the selectmen shall be in open session to receive evidence of the qualifications of persons claiming the right to vote at any primary election and for the correction of such list, for a reasonable time, on not more than 2 days, between the 1st and 7th days of June in every year, giving previous notice of the time and place of each session, as their town meetings are notified. The selectmen of every such town shall be in open session again for at least 1 day between the 2nd and 3rd Monday in August for the same purpose. (R. S. c. 3, § 37. 1953, c. 365, § 4.)

See note to c. 35, § 98, re liability of selectmen for erroneous decision as to voter's qualification.

**Sec. 38. Lists to be deposited with clerk and posted.**—On or before the 10th day of June and on or before the 20th day of August in every such year, the selectmen shall deposit in the office of the town clerk an alphabetical list of voters prepared and revised as provided for in the preceding sections, and post a certified copy thereof in one or more public places in the town. (R. S. c. 3, § 38. 1953, c. 365, § 5.)

See c. 5, §§ 97, 99, re neglect to deposit and post lists deemed willful, penalty.

**Sec. 39. Names not to be added or stricken out except as provided herein; names may be added at regular sessions on evidence.**—After the list provided for in section 38 is so prepared and deposited with the clerk and copy thereof posted, the selectmen shall not add thereto, nor strike therefrom, the name of any person, except in open session on one of the days prescribed by law for receiving evidence of the qualifications of voters; nor shall they strike from such list the name of any person residing in the town, without notice first given to him that his right to vote is questioned, with opportunity for a hearing on one of such days. At any regular session provided for by sections 37, 41, 42, 43 and 47, the selectmen shall place on the list of voters the name of every person known by, or proved to them to be so qualified, whether he applies therefor or not, including such persons who will become 21 years of age on or before election day. (R. S. c. 3, § 39. 1945, c. 13. 1953, c. 308, § 1; c. 365, § 6.)

See c. 5, § 102, re penalty for striking names from list without notice.

**Sec. 40. Selectmen, duties respecting papers of naturalization; indorsement and registry.**—When a person of foreign birth exhibits to the selectmen of his town a certificate of naturalization or a duly certified copy of the court record of such naturalization, issued to him in due form by a court having jurisdiction, they shall, if satisfied of its genuineness and that such person is entitled to vote, approve such certificate by a written indorsement thereon, with

the date thereof, signed by one of them; register in a book kept for that purpose the name of the person, the date of the certificate, the date of approval and the name of the court by which it was issued; cause the name of such person to be entered on the list of voters; and continue his name on the successive lists so long as he continues to reside therein and is in other respects qualified to vote. If they are of opinion that such certificate is not genuine, or was not issued to the person presenting it, or that he is not for other reason a voter, they shall not approve it or perform the other acts herein required; but he shall not, by their refusal to approve his certificate or to enter his name, be deprived of his right to vote, upon satisfactory proof. (R. S. c. 3, § 40.)

**Sec. 41. Registration in towns having 2,000 to 3,500 voters, and in small cities; changes in list may be made on election day.**—In all towns, cities not included, having 2,000 or more registered voters, and in all cities having less than 3,500 inhabitants, the municipal officers shall receive applications of persons claiming a right to vote, on the 3 days, Sundays and court holidays excepted, next preceding the day of election, and on such additional days prior thereto as they may determine, and no application shall be received after the hour of 9 in the afternoon on the day next preceding the day of election, Sundays and court holidays excepted; and no names shall be added to the list of voters on the day of election, by certificate or otherwise, except such as were upon the list used at the last preceding election, and have been inadvertently omitted by the selectmen; and on that day no change shall be made in names except to correct clerical errors therein. (R. S. c. 3, § 41. 1947, c. 227. 1951, c. 283, § 2.)

See c. 107, § 55, re court holidays.

**Sec. 42. Registration in towns having 500 to 2,000 voters.**—In all towns, cities not included, having not less than 500 nor more than 2,000 registered voters, the municipal officers shall receive applications of persons claiming a right to vote, on the day, Sundays and court holidays excepted, next preceding the day of election, and on such additional days prior thereto as they may determine, and no application shall be received after the hour of 9 in the afternoon; and no names shall be added to the list of voters on the day of election, by certificate or otherwise, except such as were upon the list used at the last preceding election, and have been inadvertently omitted by the selectmen; and on that day no change shall be made in names except to correct clerical errors therein. (1951, c. 283, § 3.)

**Sec. 43. Registration in towns having under 500 voters.**—In every town having less than 500 voters, the municipal officers shall be in session on the day of election to receive and decide on such applications, at some convenient place, for so long a time immediately preceding the opening of the polls as they think necessary, and shall hear and determine any such application at any time before the polls are closed. (R. S. c. 3, § 42.)

**Sec. 44. Board of registration and municipal officers acting as such, when registering voter coming from another town in state, shall notify officers of latter town.**—Whenever an applicant for registration before any board of registration or the municipal officers of any town acting as a board of registration states his last voting place to have been another city or town in this state, and the board determines that the applicant is entitled to register, it shall immediately notify by mail the board of the city or town where such person last voted of such registration, and the board receiving such notice shall at its first meeting strike such name from its list, if satisfied as to the identity of the person. (R. S. c. 3, § 43.)

**Sec. 45. Notice of sessions.**—The municipal officers shall order notice of the time and place of all their sessions required or authorized by the provisions

of sections 41, 42 and 43, to be given in the warrant for calling the meeting for such election. (R. S. c. 3, § 44. 1953, c. 308, § 2.)

**Stated** in *Thompson v. Mussey*, 3 Me. 305.

**Sec. 46. Lists of voters.**—The selectmen shall make a correct alphabetical list of the inhabitants in their town qualified to vote in the choice of town officers, and deposit it in the office of the town clerk, and post a copy thereof in one or more public places in their town, on or before the 20th day of February, annually. (R. S. c. 3, § 45.)

**Cross reference.**—See c. 5, §§ 97, 99, re neglect to prepare list deemed willful; penalty for neglect to deposit and post lists.

**Failure to prepare list does not preclude town election.**—Where no list of voters has been prepared by the selectmen the inhabitants of a town, legally warned and assembled in town meeting, can proceed to the election of town officers and the

transaction of the necessary business of the town. The regulations of this section are directory to the selectmen. The town is not disfranchised and its government dissolved. *Mussey v. White*, 3 Me. 290.

**Nor does preparation of erroneous list.**—The transactions of the next annual meeting of a town are not void because the list made by the selectmen was not correct. *Mussey v. White*, 3 Me. 290.

**Sec. 47. Selectmen's sessions to correct lists held on March election day or the day preceding, exclusive of Sundays or court holidays.**—The selectmen shall be in session at some convenient time and place to be by them specified in the warrant for calling the meeting in their town, on the day next preceding the annual election in March, Sundays and court holidays excepted, or on the morning of the day of election, to hear and decide upon the applications of persons claiming a right to vote; and such session, when held on the day preceding the election, shall continue at least 3 hours and, when held on the day of election, shall continue until the election of town officers required by law to be elected by ballot has been completed. (R. S. c. 3, § 46.)

**Sec. 48. Check list to be kept for choice of town officers.**—The town clerk shall have the list of voters provided for by the 2 preceding sections at every town meeting held for the choice of town officers required by law to be chosen by ballot, and it shall be kept and used as a check list at the polls by the clerk or moderator at such meeting, in the manner prescribed for selectmen or assessors by the provisions of section 23 of chapter 5 if demanded by 1/3 of the voters present. (R. S. c. 3, § 47.)

**The statutory requirement that a list of voters shall be kept and used at a meeting is directory only,** and its omission will not invalidate the proceedings of a town meeting. *State v. Gilman*, 96 Me. 431, 52 A. 920.

**Sec. 49. Penalty if clerk or moderator neglects or refuses.**—If the town clerk or moderator presiding at any town meeting held for the choice of town officers willfully neglects or refuses to comply with the requirements of the preceding section, he forfeits not less than \$50, nor more than \$100, to be recovered in an action of debt in the name and for the use of the town, to be prosecuted by the treasurer at the request of any voter therein. (R. S. c. 3, § 48.)

See c. 5, § 119, re recovery of penalties.

### Complaints Filed with Superior Court.

**Sec. 50. Citizens may file complaints with superior court relating to names on voting lists; procedure; clerks of courts to certify decision to election officials.**—Any citizen of this state may, in term time or vacation, file a complaint with the superior court stating that his name or that of some other citizen is illegally kept from or placed upon the list of qualified voters of a cer-

tain city, town or plantation, and the facts upon which the complaint is based, and thereupon the presiding justice in term time or any justice of the superior court in vacation shall order service by copy on the officials in charge of placing names on such list of qualified voters and by copy on the citizens named in the petition other than the complainant, and set a time and place for a hearing in the county within which the acts complained of are alleged to have taken place. The decision of the justice hearing the case shall be final on questions of fact, but appeals may be had on questions of law as in equity cases. The justice hearing the case may on petition award costs as in equity cases. The clerk of courts shall certify the decision to the officials in charge of the list of voters in question, who shall thereupon make up their list in accordance therewith. (R. S. c. 3, § 49.)