

# MAINE STATE LEGISLATURE

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# Instructions to Election Officials

With brief suggestions as to the manner of conducting Elections, Preservation of Ballots, Counting Ballots, Preparing Returns, and Voting Procedure for Absent Voting by Civilians and Members of the Armed Forces, Voting Machine Procedure.



Compiled under the direction of the Secretary of State, in accordance with the provisions of Section 54 of Chapter 3-A of the Revised Statutes, as amended.

1962

## IMPORTANT NOTICE

### FOR

### 1962 PRIMARY ELECTION

The Republican ballots are white this year and the Democratic ballots are yellow.

The law provides that the party casting the highest vote for Governor at the last preceding General Election shall have the primary ballots printed on white paper, the party casting the next highest shall be on yellow.

### REFERENDUM QUESTION — June 18, 1962

The ballot for the Referendum Question on Educational Television is pink.

## INSTRUCTIONS TO ELECTION OFFICIALS

In accordance with the Revised Election Laws, (Ch. 3-A., R. S., 1954, Ch. 360, P. L. 1961 as amended by Chs. 408 and 417, P. L. 1961)

### DEFINITION OF LEGAL VOTERS AND VOTING REQUIREMENTS

A person who meets the following requirements may vote in any election in the municipality in which his residence is established:

He must be a citizen of the United States.

He must read from the Constitution of the State of Maine in a manner which shows he is neither being prompted nor reciting from memory.

He must write his name in English.

He must be at least 21 years of age.

He must have established a residence in the State of Maine for at least 6 months and in the municipality in which he resides for 3 months next prior to election day.

He must be registered to vote in the municipality.

If he wishes to vote at a caucus, convention or primary election, he must be enrolled in a party in the municipality in which he resides.

A pauper and a person under guardianship may not vote at any election. A pauper is defined by law as a person who has been directly or indirectly furnished supplies by a municipality within 3 months of any election at which he seeks to vote. The fact that money for the payment of wages of a person employed by a municipality is derived from relief funds does not give that person the status of a pauper. (Sec. 24)

### RESIDENCE REQUIREMENTS

In addition to the requirements outlined above, the maintenance of a voting residence is basically a matter of the intent of the voter. Once established, physical presence is not essential but may be considered as one demonstration of intent to maintain a voting residence.

If the voter, in the opinion of the registrar or the board of registration, genuinely demonstrates an intent to maintain a voting residence in any given municipality, and does not establish a residence elsewhere, such voting residence may be maintained. It is the sole prerogative of the registrar or board of registration to decide this question in any given case.

A married woman may be deemed to have a residence separate from that of her husband for the purposes of voting and such residence is determined as if she were single.

Members of the armed forces and students may not establish a voting residence merely by being stationed in a garrison, barracks or military place,

(NOTE: The references enclosed in the parentheses above refer to the section numbers in the 1961 Election Law Pamphlet.)

### Foreword:

In the following pages you will find, in abbreviated form, the basic provisions of the Maine Election Laws as revised by the 100th Legislature and amended in Special Session.

This booklet has been designed for your information and assistance but, since it is not a complete compilation of the revised law, you may well have occasion to refer to the Election Laws.

If you require information not contained herein, this office stands ready to be of all possible assistance. Please feel free to contact us with either your questions or suggestions for improving our service to you.

PAUL A. MacDONALD

Secretary of State

1962

or by attending an educational institution in a municipality. (Sec. 25)

A member of the armed forces who becomes 21 years of age while in the armed forces is deemed to have voting residence in the municipality in which he resided at the time he became a serviceman. (Sec. 25)

## REGISTRATION OF VOTERS

A person may register as a voter by appearing in person before the registrar or the board of registration and by proving that he is qualified as provided by Section 24. (Sec. 10)

In a city which has a board of registration, the clerk may accept applications for registration when the board is not in session, subject to the subsequent approval of the application by the board. The same qualifications shall apply as stated above. If the applicant qualifies, the clerk shall write "OK" and his initials on the application and file it with the board. Final action for acceptance must be taken by the board. (Sec. 13)

## PHYSICALLY DISABLED PERSON, Registration

The requirement of personal appearance applies in all cities and towns, regardless of size, except in the case of any person who is physically unable to appear in person and who lives within 20 miles of the office of the registrar or board of registration. The physically disabled applicant must make a written request to the registrar, accompanied by a written statement from his attending physician certifying the physical inability to appear personally.

In such case, and upon receipt of the request and statement, the registrar shall visit the applicant and otherwise follow the procedure for registration. (Sec. 17)

In cities, the chairman of the board of registration may designate himself or another member of the board to accept the application for registration from a person who is physically unable to appear before the board in person. (Sec. 8, IV-A)

(It should be noted that any duties incumbent upon a registrar apply equally to a board of registration. Sec. 8-IV)

## ENROLLMENT OF VOTERS

Enrollment is the act of joining a political party. Enrollment should not be confused with registration. A person must be a registered voter in order to vote at any election. He must be an enrolled voter to vote at any primary election or caucus.

Since there are only 2 political parties in Maine (Republican and Democratic), the word "enrollment" applies only to enrollment in either of those 2 parties. There is no such thing as an "Independent" enrollment.

A voter may enroll in a party by filing an application with the registrar personally, by mail or otherwise, at any time, except that a voter who enrolls on election day must do so personally. (Sec. 12)

In a city which has a board of registration, the clerk may accept applications for enrollment when the board is not in session, subject to subsequent approval by the board. (Sec. 13)

On election day, a voter who is not enrolled in a municipality may enroll by filing personally the required application with the incoming election clerk, after which he may vote. If the applicant votes by absentee ballot because of physical incapacity, he may file the application with his absentee ballot. The election clerk who receives the completed application shall initial it and deliver it to the registrar, after the polls are closed. (Sec. 14)

A voter may change his enrollment by filing an application with the registrar personally, by mail or otherwise. At the expiration of 6 months from the date of the application, the registrar shall enroll the applicant in the party requested. The voter may not vote at a caucus or primary election within the 6 months during change of enrollment. (Sec. 15)

A voter may withdraw his enrollment by filing a written request with the registrar, subject to the limitation, however, that the voter may not withdraw his enrollment for 6 months after the date on which he originally enrolled. (Sec. 16)

When a voter changes his residence from one municipality to another and establishes a new voting residence there, he may enroll in any party and vote at a caucus, convention or primary election, regardless of his previous enrollment. (Sec. 15)

## PREPARATION OF THE VOTING LIST

The registrar has the exclusive power to prepare and revise the voting list. It is his duty to not only prepare the voting list, but to keep that list current at all times by adding the names of new voters or by removing the names of those who have died, moved from the municipality more than 3 months previously or become disqualified to vote.

In a municipality which has voting districts, he shall make a separate list for each district and shall add the street address of each voter beside the name.

In making the list of polls in a municipality which has more than one voting district, the assessors shall also make a list of the names and street addresses of each male and female resident 21 years of age or over. They shall give the registrar of voters a certified copy of this list of residents annually, on or before July 1st. (C. 91-A, S. 37, amended)

The registrar shall keep a record of the names added to or removed from the voting list and the date when such action was taken. (Sec. 18)

The registrar shall deliver the necessary number of certified copies of the voting list to the clerk by 5 p.m. on the business day next prior to election day. The clerk shall give him a receipt for them. (Sec. 79)

## SCHEDULE OF OFFICE HOURS FOR REGISTRAR AND BOARDS OF REGISTRATION

The municipal officers shall establish reasonable office hours for the registrar consistent with the requirements of a municipality. (Sec. 6-VI)

The registrar shall accept registrations prior to a regular election according to the time schedules pre-

scribed by Section 56 of Chapter 3-A, or by the municipal officers. It would be well to bear in mind that the time schedules established by this chapter may be changed by the municipal officers according to the needs of the municipality. (Sec. 58)

The registrar shall accept registrations prior to a special election according to the time schedule prescribed in Section 57, or at such times as established by the municipal officers. (Sec. 58)

In whatever manner the time schedules for registration may be established, the registrar shall publish such schedules in a newspaper having general circulation in the municipality a reasonable time before it becomes effective.

**Exception.** In municipalities of 2,500 or less population, the publication by the registrar of his time schedule shall be discretionary, rather than compulsory. (Sec. 59)

## ELECTION OFFICIALS

In cities, the election, term of office, compensation and partial duties of wardens and ward clerks are determined by the city charter. Additional duties are prescribed by this chapter.

In a town, the chairman of the municipal officers shall appoint a warden and one or more deputy wardens to serve in the absence or disability of the warden. The warden and deputy wardens must be municipal officers. The chairman may designate himself as warden or deputy warden.

In a town which has more than one voting place, the clerk may appoint a special deputy to help perform his duties on election day. (Sec. 51)

In May of general election years, the municipal officers of each municipality shall appoint as election clerks for each voting place an equal number of persons nominated by the municipal committees of the 2 major parties. They shall appoint 4 election clerks for each voting place in each municipality who must be residents of the electoral divisions in which they are to serve. They may appoint additional clerks if necessary, provided those clerks are nominated by the municipal committees of the major parties, and appointed equally, as outlined above. (Sec. 52)

It should be noted that the following persons may not serve as election officials: An employee of a party or candidate, a person having a direct pecuniary interest in the result of a referendum question, a candidate or his spouse (except that this does not apply to a candidate for warden or ward clerk or his spouse). (Sec. 53)

## DIVISION OF TOWNS AND WARDS

The municipal officers may divide a town or ward into not more than 5 convenient voting districts after public notice and hearing held at least 60 days before any election. Towns and wards of cities may be divided into voting districts only by following the procedure contained in Sec. 195.

## OPENING AND CLOSING OF POLLS

The municipal officers of each municipality shall determine the time of opening the polls, which must

be opened not earlier than 6 a.m. and not later than 10 a.m. on election day. However, the polls must be closed at 7 p.m. on election day.

In a municipality of 300 or less population, the municipal officers may determine the time for closing the polls, which must be closed not earlier than 5 p.m. nor later than 7 p.m. on election day. In any municipality, the municipal officers may permit the polls to remain open until 9 p.m. on election day in a place which uses voting machines exclusively. (Sec. 78)

## VOTING BOOTHS AND ARRANGEMENT OF VOTING PLACE

The municipal officers of each municipality shall provide at least one voting booth for each 200 voters qualified to vote at each voting place. Each booth must have within it a pencil and a shelf on which a voter may mark his ballot conveniently. It must have a wooden swinging door or a drop curtain arranged so that the top of it is not less than 6 feet from the floor and the bottom is at least 2½ feet from the floor, so that the voter is screened from the observation of others. The entrance to the booth must be closed while the voter is inside. (Sec. 73)

The voting place must be arranged so that the ballot box is within view of persons present. Each voting booth must be arranged so that those outside the guardrail may see who enters and leaves it. (Sec. 74)

No one may enter a voting booth with a voter, except when he requests assistance (as provided in Section 89). (Sec. 86)

An American flag must be displayed in each voting place at any election. (Sec. 74)

## GUARDRAIL AREA

A guardrail must be constructed so that only those inside it can approach within 6 feet of the ballot box and the voting booths. (Sec. 74)

Election officials and not more than 2 voters in excess of the number of voting booths may be within the guardrail, except peace officers permitted therein to enforce the law. A voter may not remain within the guardrail for more than 10 minutes and may not occupy a voting booth for more than 5 minutes.

Party workers and others may remain in the voting place outside the guardrail as long as they do not attempt to influence or interfere with the free passage of voters. (Sec. 86)

## STATE BALLOT BOXES

The Secretary of State shall furnish an official ballot box for each voting district. A municipality may provide ballot boxes at its own expense and each box must meet the requirements of this section. When approved by the Secretary of State, each box becomes an official ballot box, but only an official ballot box may be used to receive official ballots cast at any election. (Sec. 71)

The ballot box is in the custody of the warden of each voting place during an election. He shall

return it to the clerk at the close of the election. At all other times, the ballot box is in the custody of the clerk, who shall keep it in good repair and shall provide safe storage for it at the expense of the municipality, subject to the supervision of the Secretary of State.

If a ballot box becomes defective, lost or destroyed, the clerk shall apply in writing to the Secretary of State for another. The Secretary of State shall supply a replacement at the expense of the municipality. (Sec. 72)

#### **DELIVERY AND RECEIPT OF BALLOTS AND VOTING LISTS**

The registrar shall deliver the necessary number of certified copies of the voting list to the clerk by 5 p.m. on the business day next prior to election day. The clerk shall give him a receipt for them. (Sec. 79)

Before the opening of the polls, the clerk shall deliver the election materials marked for each voting place, together with the copies of the voting lists supplied by the registrar, to the warden at that voting place. The warden shall give the clerk a receipt for them. (Sec. 82)

#### **PROCEDURE FOR OPENING OF POLLS**

At the opening of the polls the warden shall open the boxes of election materials, break the seals on the packages publicly and distribute the ballots to the incoming election clerks. He shall then post an instruction poster in each voting booth and 3 instruction posters and 5 specimen ballots in the voting room outside the guardrail.

The warden shall open the official ballot box, examine it and show publicly that it is empty, following which he shall immediately lock the box and deliver the key to the clerk, who shall keep it until the polls are closed. After the box has been locked, it may not be moved until the polls are closed. (Sec. 82)

#### **VOTER TO ANNOUNCE HIS NAME TO BALLOT CLERK BEFORE BEING GIVEN A BALLOT**

A voter who wishes to vote must state his name and, in a municipality which has voting districts, his street address to an incoming election clerk who shall announce the name in a loud clear voice. The incoming election clerk in charge of the voting list shall place a check mark on the list beside the voter's name and allow him to enter the area within the guardrail. The incoming election clerk in charge of the ballots shall give the voter one ballot of each kind to which he is entitled, whereupon the voter shall retire to a voting booth, mark his ballot without delay, fold it the same as it was when he received it and leave the voting booth. (Sec. 84)

#### **PROCEDURE AFTER LEAVING VOTING BOOTH**

After leaving the voting booth, the voter shall proceed to the ballot box and announce his name to the outgoing election clerk in charge of the voting

list. As soon as the outgoing election clerk checks his name on the list, the voter shall deposit his ballot in the ballot box and leave the area within the guardrail. He may not leave the area within the guardrail until he has deposited his ballot and, once having left the area within the guardrail, he may not reenter. (Sec. 84)

#### **ASSISTANCE IN VOTING**

A voter who is unable to read or mark his ballot because of physical disability, or whose religious faith prevents him from marking his ballot, may obtain assistance in so doing by the following procedure:

The voter shall declare his inability to the warden, who shall then designate 2 election clerks representing different political parties to assist the voter.

**Exception.** In a primary election the election clerks designated by the warden must be of the same political party as the voter.

The election clerks shall mark the ballot or assist the voter in doing so without attempting to influence his vote. They shall write on the outside of the ballot that it was marked by them, or by the voter with their assistance, and sign their names. They shall not reveal the names of the persons for whom the ballot was cast.

An election official shall not offer a voter assistance in marking his ballot until directed to do so by the warden. (Sec. 89)

#### **MARKING BALLOT AT PRIMARY ELECTION**

A voter shall mark his ballot at a primary election with a cross (X) or a check mark (✓) according to the following provisions: The voter shall place the mark in the square at the right of each candidate for nomination for whom he wishes to vote.

If he wishes to vote for a person whose name is not on the ballot, he shall write the name, or paste a sticker containing the name, in the blank space provided at the end of the list of candidates for nomination to the office in question. He shall then place the mark in the square at the right of it. (Sec. 87) (See also "WRITE-IN NOMINEE" section following.)

#### **MARKING BALLOT AT GENERAL ELECTION**

A voter shall mark his ballot at a general election with a cross (X) or a check mark (✓) according to the following provisions:

If he wishes to vote a **straight party ticket**, he may place the mark in the party square, or in the square at the right of each nominee of that party. If he does not wish to vote for a nominee under the political designation whose party square he has marked, he shall draw a line through the name of that nominee.

If he wishes to vote a **split ticket**, he may do so in either of two ways: Party-square method—He shall first place the mark in a party square and then draw a line through the name of each nominee of that party for whom he does not wish to vote. He shall then place the mark in the square at the right

of each nominee under another political designation for whom he wishes to vote.

**Individual-square method**—He shall place the mark in the square at the right of each nominee for whom he wishes to vote, regardless of political designation, leaving all party squares blank.

#### **WRITE-IN NOMINEE**

If he wishes to vote for a person whose name is not on the ballot, he shall write the name in the blank space provided at the end of the list of nominees for the office in question. He shall then place the mark in the square at the right of it, and if he has voted by the party square method, he must draw a line through the name of the nominee for whom he does not wish to vote. A write-in vote may be cast in combination with a straight or split ticket. (Sec. 88)

**NOTE:** In voting for a write-in candidate, stickers containing the name are permissible in a primary election but may not be used in a general election. (Sec. 87 & 88)

#### **SPOILED, CHALLENGED, DEFECTIVE AND VOID BALLOTS**

If a voter spoils his ballot, he may obtain a replacement not more than twice by returning the spoiled ballot to the election clerk in charge of issuing ballots. The election clerk shall mark "Spoiled by voter" on the outside of the spoiled ballot, sign it and keep it segregated from the other ballots. (Sec. 90)

A voter of any municipality may challenge the right of another to vote at any election in that municipality. The challenge must be made to the warden and the challenger must state his name, the name of the voter challenged and the reason for the challenge. As soon as the challenge has been made, the election clerk in charge of the incoming voting list shall write "Challenged" beside the voter's name on the list and give a ballot to the warden. The warden shall then write "Challenged" on the outside of the ballot, the name of the challenger, the name of the voter challenged and the reason for the challenge over his signature. An election clerk from each political party shall sign his name as a witness to the statements and the signature of the warden. The challenged voter shall then proceed to vote in the usual way, using the marked ballot. (Sec. 91)

A challenged ballot must be counted the same as a regular ballot. The validity of a challenged ballot need not be determined unless it affects the result of an election. In such case its validity must be determined by the Governor and Council, subject to the right of appeal provided in Sec. 138, unless otherwise provided by the State or Federal Constitution.

A ballot shall be deemed defective if a voter marks more names for an office than there are vacancies to be filled, or marks his ballot in such a way as to make his choice impossible to determine or fails to mark his ballot so that the intersection of the cross or the apex of the check mark is within the proper square. Such defective ballots must not be counted

for the office, candidate or question affected by the defect.

A ballot shall be deemed to be void which is not prepared in accordance with the requirements of law or on which a voter places a distinguishing mark indicating the apparent intent of the voter to make his ballot distinguishable. Void ballots must not be counted. (Sec. 96)

#### **ABSENTEE VOTING BY MEMBERS OF THE ARMED FORCES**

The following instructions relative to absentee voting by a member of the armed forces apply equally to his spouse, to a civilian attached to, serving with or subject to the control of the armed forces, and to his spouse. (Sec. 152)

##### **Registration & Enrollment:**

A member of the armed forces may register at any time as follows: He may complete and file the federal postcard application form with the registrar; or he may complete and file with the registrar an application provided by the municipality stating the information necessary to show his qualifications; or a blood relative, former guardian or spouse may complete and file with the registrar the application mentioned above. (Sec. 153)

On receipt of the application, the registrar shall register the applicant, unless it appears he is not qualified. If he is not, the registrar shall advise him the reason why. The registrar shall place the letter "S" on the voting list beside the name of each member of the armed forces registered under this law. (Sec. 154)

The registrar may add the name of a member of the armed forces to the voting list at any time. (Sec. 156)

A member of the armed forces who is registered to vote may enroll by designating his party preference over his signature. (Sec. 157)

##### **Absentee Ballot & Application:**

If a member of the armed forces desires an absentee ballot a written request from such member or from his spouse, a blood relative or a former guardian is sufficient. (Sec. 157)

On receipt of an absentee ballot application, federal postcard application or a written request as described above, the clerk shall mail the ballot forthwith to the member. The Secretary of State shall provide a ballot and an envelope which will move free of postage under federal law. The member shall mark his ballot in such a way as to make it impossible for anyone to see how he voted. He shall then seal the ballot in its return envelope, write his voting residence, including street address, in the upper left hand corner of the return envelope, sign his name and have his signature certified as that of the voter. His signature may be certified by any commissioned officer, non-commissioned officer not below the rank of sergeant, or petty officer in the armed forces, or by any diplomatic or consular official of the United States. He shall then mail the envelope to the clerk of his municipality. (Sec. 158)

On receipt of a return envelope apparently con-

taining an absentee ballot, the clerk shall note the date and time of delivery on it and deliver it to the registrar. The registrar shall certify on the envelope whether the person whose name appears as sender is registered (and in a primary election, enrolled) in the municipality. He shall then return the envelope to the clerk. (Sec. 159)

The clerk shall accept all absentee ballots delivered to him before 5 p.m. on election day. (Sec. 160)

On election day before the polls are closed, the clerk shall deliver the envelopes to the warden of the voting district in which the voter is registered. If there is more than one voting district, he shall also deliver a list of the names, addresses and districts of the voters as shown on the return envelopes. (Sec. 161)

An absentee ballot cast by a member of the armed forces may not be rejected for any immaterial irregularity in completing the application for the ballot or its return envelope. (Sec. 163)

### ABSENTEE VOTING BY CIVILIANS

On request, the clerk shall furnish a reasonable number of ballot applications to any person. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk shall send or deliver an absentee ballot and return envelope forthwith to him or to a third person designated in the application or request. He shall also include a ballot application to be completed by the person who signed only a written request.

**(Note:** In the latter case, for primary elections, the clerk shall check with the registrar to determine the party affiliation of the applicant, then send the applicant the appropriate primary ballot. If applicant is not enrolled in either party, the clerk shall forward the applicant an enrollment application with the ballot application—to be returned separately from the ballot—and a primary ballot of each party.)

The clerk shall keep a list of the persons to whom he furnishes absentee ballots, until after election day. As soon as reasonably possible the clerk shall deliver the completed application to the registrar. If the applicant is registered, and enrolled where necessary, the registrar shall so certify on the application. If not, the registrar shall write "Not registered" or "Not enrolled" upon the face of the application and sign his name. He shall return all applications to the clerk forthwith. (Sec. 142)

### PROCEDURE ON RECEIVING AND COUNTING ABSENTEE BALLOTS

In order to be valid an absentee ballot must be delivered to the clerk before 3 p.m. on election day in a municipality having more than one voting district. In other municipalities, it must be delivered to the clerk before 5 p.m. on election day. An absentee ballot received by the clerk after the deadline must be kept by the clerk unopened. He shall write "Received After Deadline" on it and keep it segregated from the other ballots, unopened. (Sec. 144)

When the clerk receives a return envelope apparently containing an absentee ballot, he shall observe the following procedure: Note the date and time of delivery on each return envelope; compare the signature of the voter on the application with that on the corresponding return envelope; examine the affidavit on the return envelope. If the signatures appear to have been made by the same person and if the affidavit is properly completed, he shall write "OK" and his initials on the return envelope. Otherwise he shall note any discrepancy on the envelope. He shall attach each application to the corresponding envelope but shall not open any return envelope.

In a municipality which has more than one voting district, he shall prepare a separate list of the names, addresses and districts of the voters as shown on the return envelopes, and the date on which each envelope was received. Before the polls are closed on election day, he shall deliver the return envelopes, including those received after the deadline, with the applications attached and the required list to the warden of the voting district in which the voter is registered. (Sec. 145)

An absentee ballot may be challenged in the same manner as a regular ballot. (Sec. 146)

**A person who has voted by absentee ballot, but who is present in the municipality and able to vote in person at the voting place on election day must do so.** (Sec. 147)

As soon as the polls are closed and the regular ballots removed from the ballot box, the warden shall review the notes of the clerk on each return envelope. If the warden finds that the signatures appear to have been made by the same person and that the affidavit is properly completed, he shall examine the check list to determine whether the voter voted in person at the election. He shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk mark the letters "AV" beside the name of each absentee voter on the voting list, he shall deposit the ballot in the ballot box.

At a primary election, when the warden removes an A. V. ballot from its envelope, he shall check its color to be sure it is the ballot of the party in which the voter is enrolled. If it is not, he shall immediately replace it in its envelope, reseal the envelope, and write "Rejected" on it, the reason why and his initials. These rejected ballots shall be kept in a separate lot and not deposited in the ballot box.

If the warden finds that the signatures do not appear to have been made by the same person, that the affidavit is not properly completed, that the person is not registered or enrolled, where necessary, that the voter has voted in person or that the ballot was received by the clerk after the deadline, he shall not open the envelope. He shall write "Rejected" on it, the reason why and his initials.

The warden shall place the return envelopes containing rejected ballots in a separate lot. He shall not deposit them in the ballot box.

As soon as the absentee ballots have been proc-



essed, they shall be removed from the ballot box and counted the same as regular ballots. Rejected ballots must not be counted. (Sec. 148)

An absentee ballot may not be rejected for any immaterial irregularity in completing the application or affidavit on the return envelope. (Sec. 150)

As soon as the ballots have been counted, the applications, absentee ballots, return envelopes, required lists, and other election materials shall be repacked in accordance with section 99 and returned to the clerk. The clerk shall keep them in his office for 3 months after election day, unless sooner released to the Secretary of State. (Sec. 151)

## **CLOSING THE POLLS**

The warden shall give all voters present at the voting place at closing time the opportunity to vote. Any person who arrives at the voting place after the time for closing the polls has elapsed may not vote. (Sec. 93)

## **VOTING LIST BECOMES CHECK LIST**

As soon as the polls are closed, an election clerk shall note on each certified copy of the voting list whether it was an incoming or outgoing list. Each election clerk shall sign his name on the copy used by him at the election. The warden shall countersign each copy, which then becomes the check list. (Sec. 94)

## **COUNTING THE BALLOTS**

The election officials shall count the ballots under the supervision of the warden as soon as the polls are closed. They shall be counted publicly so that those present may observe the proceedings. In counting the ballots, the election clerks shall separate them into distinct lots and place with each lot a statement of the count in that lot and the names of the election clerks who made the count. As soon as the ballots are counted, the warden shall declare the results publicly at the voting place. (Sec. 95)

(See also, previous section of this pamphlet entitled, "Spoiled, challenged, defective & void ballots")

## **ELECTION RETURN PROCEDURE**

As soon as the results of the election have been declared, the election return must be prepared. In a town which has one voting district, the clerk shall fill out in duplicate the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. He shall sign the return, have it attested by the warden and send the duplicate copy forthwith to the Secretary of State.

In a city, or in a town which has more than one voting district, the ward clerk shall fill out the election return form provided by the Secretary of State, showing the number of votes cast for each candidate or question. He shall sign the return, have it attested by the warden and deliver it to the clerk forthwith. Within 24 hours after the polls are closed, the clerk shall tabulate the returns in duplicate on

the election return provided by the Secretary of State, in the presence of the municipal officers. The clerk shall sign the return, have it attested by a majority of the municipal officers and send the duplicate copy forthwith to the Secretary of State.

The clerk shall record the original election return within 3 days after election day. (Sec. 97)

## **PACKAGING AND SEALING BALLOTS AFTER THE ELECTION**

As soon as the election return has been prepared, the election clerks shall pack each lot of used ballots and the tabulation of the count in that lot in a sealed package. Referendum ballots must be packaged separately.

Each package must be marked substantially as follows: "This package contains ballots cast at the (title of election) election held in (name of voting district and municipality) on (date of election). These ballots were counted, declared, recorded and packaged publicly in accordance with R. S. 1954, C. 3-A, Sec. 99." This statement must be subscribed by the warden and the ward clerk.

The election clerks shall place the sealed packages of used ballots, unused ballots, spoiled ballots, defective ballots, void ballots, absentee ballots, envelopes and applications in the containers in which they were delivered. They shall then seal the containers publicly.

They shall seal the copies of the check list in a separate package outside the containers of ballots. The warden shall deliver the ballots and lists to the clerk within 24 hours after the closing of the polls. When a container is required to be sealed, it must be done so that the seal on the container must be broken before its contents can be examined. (Secs. 99 & 100)

## **PRESERVATION OF BALLOTS AND CHECK LISTS**

The clerk of each municipality shall keep the ballots and other election materials listed in Section 99 in his office for 3 months and check lists for one year, unless sooner released to the Secretary of State or required by him to be kept longer. (Sec. 200 VII)

## **INSPECTIONS AND RECOUNTS**

### **Ballot and Check List Inspection:**

On the written application of a candidate in any election within 5 days after election day, the clerk shall permit him or his counsel to inspect the ballots and check lists under proper protective regulations.

On receipt of the applications, the clerk shall send written notice of the inspection to the candidates for the office in question, stating the time and place of inspection.

The inspection must be held as soon as reasonably possible at such a time and place as to afford the candidates a reasonable opportunity to be present.

After the inspection, the clerk shall reseat the packages of ballots and the check lists, and shall note the fact and date of inspection on them. (Sec. 126)

### Recount:

On the written application of a candidate in any election within 10 days after copies of the tabulation are made available to the candidates, the Secretary of State shall permit him or his counsel to recount the ballots under proper protective regulations.

On receipt of the application, the Secretary of State shall recall all the ballots and check lists from the clerk of each municipality concerned. The clerk shall return or release them to him as soon as any pending ballot inspection has been made.

### VOTING MACHINES

A municipality may either purchase or rent voting machines and voting machines shall be used at each type of election authorized by the legislative body of the municipality. Once authorization has been given for use of machines at any type of election, that authorization continues until specifically revoked by the legislative body. A municipality which has more than one voting district may use voting machines in one or more of the districts as determined by its legislative body. (Sec. 102)

The voting machines to be used must be of an identical type approved by the Secretary of State, the Attorney General and one member of the Governor's Council to be designated by the Governor. (Sec. 103)

(See Section 103 for construction, requirements, etc. of machines.)

The municipality shall pay reasonable expense for the storage and maintenance of each machine as authorized by the clerk. (Sec. 107)

The clerk has custody of a voting machine used by the municipality. He is responsible for the proper storage and maintenance of each machine and he shall have each machine locked, sealed and stored in a safe, dry building. He shall have each machine kept in proper operating condition. (Sec. 106)

The clerk shall hold a meeting before an election when it is necessary to instruct election officials in the operation of voting machines. He shall not permit a voting machine to be used at any voting place unless he is satisfied that the election officials at that voting place know how to operate the machine properly and how to instruct a voter in operating it. (Sec. 108)

The municipal officers shall arrange each voting place according to section 74 except that voting booths need not be furnished. The warden at each voting place shall not remain, or allow any other person to remain, where he can see how anyone votes, except a proper official whose assistance has been requested by a voter. (Sec. 110 & 111)

The clerk shall post 2 sets of specimen ballot labels conspicuously at the voting place at the opening of the polls on election day. (Sec. 112)

The clerk shall perform the following duties concerning the delivery of voting machines: He shall have the voting machines delivered to each voting place at least 12 hours before the opening of the polls on election day. At the time of delivery, the ballot labels must be in place on each machine. The clerk shall arrange each voting machine so that each ballot label, when not in use, and the exterior

of the machine are completely visible to the election officials. After the voting machines have been placed in the proper position at the voting place, the clerk shall make certain that each machine is ready for use when the polls open, and he shall then lock each machine. At least  $\frac{1}{2}$  hour before the opening of the polls on election day, the clerk shall deliver the keys to each machine in a sealed envelope, to the warden at the voting place. (Sec. 113)

### Readied for Voting:

When it is time for the polls to open, the warden shall open the envelope containing the keys to the voting machines in the presence of an election clerk who is a member of another political party.

If the number on the seal agrees with the number on the envelope, the warden shall open the doors concealing the counters, inspect the machine and sign a certificate provided by the Secretary of State showing that all the counters are set at 0, that the number of the protective counter agrees with the number on the envelope, and that all parts of the machine and the ballot labels are in proper condition for voting.

If the machine is in satisfactory condition for voting, the warden shall permit its use forthwith, after closing the doors concealing the counters. (Sec. 114)

### Directions for Voting:

A voter shall follow the same procedure prior to voting as if paper ballots were being used. He is entitled to the same assistance in voting by machine as by paper ballot.

(In a primary election, the election clerks designated by the warden must be of the same political party as the voter.)

It is to be noted that in a voting place which uses voting machines, there is no outgoing election clerk or outgoing voting list. (Sec. 115)

The voting machine shall be activated by the warden or an election clerk designated by him.

In a primary election, the warden or, in his absence, a designated election clerk, must activate each voting machine so that a voter can vote only for the candidates of the political party in which he is enrolled. (Sec. 116)

### Challenged Voter:

A voter who is challenged may not use the voting machine for casting his vote but must use an official absent voting ballot. (Sec. 105)

### Closing the Polls:

The warden shall give all voters present at the voting place at closing time the opportunity to vote. Any person who arrives at the voting place after the time for closing the polls has elapsed may not vote. (Sec. 93)

### Tabulating Vote:

As soon as the polls are closed, the warden shall unlock each machine to prevent further voting. He shall then open the counters on each voting machine so that anyone present can see the totals.

The warden shall announce the total for each candidate in the order shown on the ballot label, for

each referendum question, and for each write-in candidate. As each total is read, it shall be recorded by an election clerk from a political party other than that of the warden.

When all the totals for a voting machine have been read and recorded, the election clerk shall check the totals recorded by him with those appearing on the machine. If the totals do not agree, the election clerk shall correct the record and call it to the attention of the warden. If the totals agree, the election clerk shall record the number of the machine at the top of the column of the totals recorded from it.

After allowing any person to compare the record with the totals shown on the machine, the warden shall close and lock it with the totals remaining on it and proceed to tabulate the next machine in the same manner.

After the totals for all voting machines have been recorded and checked, the absentee ballots shall be counted. As soon as the absentee ballots have been counted, the total vote for each candidate and on each referendum question shall be tabulated and the result announced by the warden. (Sec. 117)

#### **Procedure After Election:**

In the presence of an election clerk who is a member of another political party, the warden shall enclose the keys to each voting machine in a separate envelope furnished by the clerk. The warden shall write the number of each machine, the location of the voting place in which it was used, the number on the seal and the numbers registered on the protective counter on the outside of the envelope. After sealing each envelope securely, the warden and the election clerk shall endorse their signatures on it and the warden shall see that it is returned forthwith to the clerk. The totals shown on the counters of a voting machine must be retained for 3 months after the election at which it is used.

If the occurrence of another election makes it imperative to remove the counter totals within 3 months after an election, the clerk shall have them photographed in his presence, and in the presence of the warden and an election clerk of a different party. The warden shall make a statement showing the number and counter totals of each machine as it is photographed. He shall sign the statement, have it attested and deliver it to the clerk who shall record it. As soon as the photographs are printed legibly, the clerk shall remove the totals, and retain the photographs for the balance of the 3-month period. (Sec. 118)

The clerk shall keep the keys to each voting machine in a vault or safe which is kept securely locked when the keys are not being removed from or replaced in it. He shall not allow any unauthorized person to have possession of the keys to any voting machine.

A person who is authorized to have possession of the keys to a voting machine shall return them to the clerk when he no longer needs them for the authorized purpose. (Sec. 119)

**NOTE:** The provisions of this chapter which are not inconsistent with sections 102 to 119 apply to all elections where voting machines are used. (Sec. 120)