

MAINE STATE LEGISLATURE

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vacancy, and the measures taken in accordance with the above requirements for filling the vacancy; such certificate shall be accompanied by the withdrawal, if any, and shall be signed and sworn to by the presiding officer or secretary of the convention or caucus, or by the chairman or secretary of the duly authorized committee, as the case may be. The name so supplied for the vacancy shall, if the ballots have not been printed for the office already, be placed on the ballots, instead of the original nomination; or, if the ballots have been printed, new ballots containing the new nomination shall, whenever practicable, be furnished, or slips containing the new nomination shall be printed under the direction of the secretary of state, which may be pasted in proper place upon the ballots and thereafter shall become part and parcel of such ballots as if originally printed thereon.

See § 18.

Sec. 58. Nomination papers to be open to public inspection. R. S. c. 7, § 37. All certificates of nomination and nomination papers when filed shall forthwith be opened and kept open under proper regulations to public inspection, and the secretary of state and the several city clerks shall preserve the same in their respective offices not less than 1 year.

Sec. 59. Penalty for neglect of duty by public officer. R. S. c. 7, § 38. Any public officer upon whom a duty is imposed by the provisions of sections 51 to 58, inclusive, who shall wilfully neglect to perform such duty or who shall wilfully perform it in such a way as to hinder any object of said sections, shall be punished by a fine of not less than \$5, nor more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

CHAPTER 5.

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Preparation and Distribution of Ballots

Sec. 1. Terms defined. R. S. c. 8, § 1. The term "state election," as used in this chapter, shall apply to any election held for the choice of a national, state, district, or county officer, whether for a full term or for the filling of a vacancy,

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and the term "state officer" shall apply to any person to be chosen by the qualified voters at such an election. The term "city election" shall apply to any municipal election so held in a city, and the term "city officer" shall apply to any person to be chosen by the qualified voters at such an election.

See § 95, re penalties applicable to §§ 1-15; 86 Me. 42; *108 Me. 170.

Sec. 2. Printed lists of nominations to be transmitted to clerks of cities, towns, and plantations 7 days before any election, and published. R. S. c. 8, § 6. The secretary of state shall, 7 days at least, previous to the day of any state election, transmit to the clerk in each city, town, and plantation in which such election is to be held, printed lists containing the names, residences, and party or political appellations of all candidates nominated as provided in chapter 4 for such election and to be voted for at each voting place in each such city, town, and plantation respectively, substantially in the form of the general ballot to be so used therein; and the clerks shall immediately cause the lists for each ward, town, or plantation, as the case may be, to be conspicuously posted in one or more public places in such ward, town, or plantation. The secretary of state shall likewise cause to be published prior to the day of any such election, in at least 2 newspapers, if there be so many printed or published in each county, representing so far as practicable, the political parties which, at the preceding election, cast the largest and next largest numbers of votes, a list of all such nominations, so far as may be, in the form in which they shall appear upon the general ballots. New nominations made or authorized shall be transmitted, posted, and published promptly, and so far as practicable in the manner herein directed, and communications transmitted as herein directed by the secretary of state to any clerk shall be duplicated on the succeeding day.

Sec. 3. Printed lists to be posted 4 days before city election; publication. R. S. c. 8, § 7. The city clerk of each city shall 4 days at least prior to the day of any city election therein, cause to be conspicuously posted in one or more public places in each ward of such city, a printed list containing the names, residences, and party or political appellations of all candidates nominated as provided in chapter 4, and to be voted for in such ward, substantially in the form of the general ballot to be so used therein; and he shall likewise cause to be published, prior to the day of such election, in at least 2 newspapers, if there be so many printed or published in such city, representing the political parties which cast at the preceding election the largest and next largest numbers of votes, a list of all such nominations made, so far as may be, in the form in which they shall appear upon the general ballots.

Sec. 4. Ballots used in elections to be furnished at public expense. R. S. c. 8, § 1. All ballots cast in elections for national, state, district, and county officers in cities, towns, and plantations and all ballots cast in municipal elections in cities shall be printed and distributed at public expense, as hereinafter provided. The printing of the ballots and cards of instructions to voters shall in municipal elections in cities be paid for by the several cities respectively, and in all other elections the printing of the ballots and cards of instructions and the delivery of them to the several municipalities shall be paid for by the state. The distribution of the ballots to the voters shall be paid for by the cities, towns, and plantations respectively.

86 Me. 42; 107 Me. 516.

Sec. 5. What the ballot shall contain and how printed; size of ballot. R. S. c. 8, § 2. 1939, c. 25. Every general ballot or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of this chapter, shall contain the names and residences, ward residences in city elections, of all candidates whose nominations for any office specified in the ballot have been duly made and not withdrawn in accordance herewith, and the office for which they have been severally nominated, and shall contain no other names except that in case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the party or political designation. The names of candidates nominated by any party shall be grouped together upon the ballot. Above each group shall be placed the name of the political party by which the candidates comprising such group were placed in nomination, or the political designation as described in the certificate of nomination, or nomination papers, under a square. Below the name of each candidate for any office in any group there shall be left a blank space in which the voter may write the name of any person for whom he desires to vote as a candidate for such office; at the right of each name and at the right of the blank space above provided for, there shall be left a blank square in which the voter may make a cross mark (X). If only 1 person be nominated by any party, or under any political designation, his name with the office for which he is a candidate shall be printed by itself under the name of such party or political designation. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people such question or questions shall be printed upon a separate ballot. The ballots shall be so printed as to leave a blank space above such amendment or question so as to give each voter a clear opportunity to designate by a cross mark, (X), therein, his answers to the questions submitted, and on the ballot may be printed such words as will aid the voter to do this as "yes," or "no," and the like. The ballot shall be not less than 4 inches in width and not less than 6 inches in length. Before distribution, the ballots shall be so folded in marked creases that their width and length when folded shall be uniform. On the back and outside, when folded, shall be printed "Official Ballot for," followed by the designation of the voting place for which the ballot is prepared, the date of the election, and a facsimile of the signature of the city clerk who has caused the ballot to be printed. All ballots furnished to any municipality by the secretary of state, as required by law for use at any state election, shall be printed upon the outside so that "Official Ballot for," the designation of the voting place for which the ballot is prepared, the date of the election, and the facsimile of the signature of the secretary of state shall appear on all sides of the folded ballot. Except as otherwise herein provided, ballots for use in elections of senators and representatives to the congress of the United States, state and county officers, and senators and representatives to the state legislature shall be printed upon clean white paper and ballots to be used in elections as to constitutional and referendum questions submitted to the vote of the people shall be printed upon tinted paper, the color or tint of which may be determined by the secretary of state, without any distinguishing mark or figure thereon.

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

Sec. 6. Number of ballots to be provided. R. S. c. 8, § 4. 1931, c. 89. There shall be provided for each voting place, at which an election is to be held, 1 set of such general ballots and 1 set of ballots containing any constitutional amendment or other question submitted to the vote of the people, each of not less than 75 for every 50 votes and fraction of 50 votes cast in such voting place

at the next preceding election, city, state, or national, corresponding to and in congruity with the election for which such ballots are to be provided.

Sec. 7. Ballots to be folded and fastened in blocks; record kept of number furnished each voting place. R. S. c. 8, § 3. All ballots when printed shall be folded as hereinbefore provided, and fastened together in convenient numbers in packages, books, or blocks, in such manner that each ballot may be detached and removed separately. A record of the number of ballots, printed and furnished to each voting place, shall be kept and preserved by the secretary of state and the several city clerks for 1 year.

Sec. 8. Ballots to be sent to city, town, and plantation clerks; record. R. S. c. 8, § 8. 1931, c. 90. The secretary of state shall send the general and special ballots, together with the specimen ballots and cards of instructions printed by him, as herein provided, to the several city, town, and plantation clerks, so as to be received by them, 48 hours at least previous to the day of election. They shall be sent in sealed packages, with marks on the outside clearly designating the voting place for which they are intended and the number of ballots of each kind enclosed; and the respective city, town, and plantation clerks shall, on delivery to them of such packages, return receipts therefor to the secretary of state. The secretary of state shall keep a record of the time when, and the manner in which, the several packages are sent, and shall preserve for 1 year the receipts of the city, town, and plantation clerks.

114 Me. 35.

Sec. 9. Instructions for guidance of voters; specimen ballots. R. S. c. 8, § 5. The secretary of state, in case of state elections, and the several city clerks, in case of city elections, shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, the manner of marking them, the method of gaining assistance, and the obtaining of new ballots in place of those accidentally spoiled, and they shall respectively cause the same, together with copies of sections 93 to 95, inclusive, and section 110 of this chapter, and section 2 of chapter 4, to be printed in large, clear type, on separate cards, to be called cards of instructions; and they shall respectively furnish them and the ballots for use in each such election. They shall also cause to be printed on tinted paper, and without the facsimile indorsements, ten or more copies of the form of the ballot provided for each voting place at each election therein, which shall be called specimen ballots and shall be furnished with the other ballots provided for each such voting place.

Sec. 10. Ballots, etc., to be provided by city clerks. R. S. c. 8, § 9. 1933, c. 92, § 3. The ballots together with the specimen ballots and cards of instructions printed by the city clerks, as herein provided, shall be packed by them in separate sealed packages, with marks on the outside clearly designating the voting places for which they are intended, and the number of ballots of each kind enclosed.

Sec. 11. One set of ballots to be sent to presiding election officer on day of election; cards of instructions and specimen ballots to be posted in each compartment. R. S. c. 8, § 10. 1933, c. 92, § 3. The several city, town, and plantation clerks, or municipal officers, shall send to the presiding election officer or officers of each such voting place before the opening of the polls on the day of election, 1 set of ballots so prepared, sealed, and marked for such voting place, and a receipt of such delivery shall be returned to them from the presiding elec-

tion officer or officers present, which receipt, with a record of the number of ballots sent, shall be kept in the clerk's office for 1 year. At the opening of the polls in each voting place the seals of the packages shall be publicly broken, and the packages shall be opened by the presiding election officer or officers, and the packages, books, or blocks of ballots shall be delivered to the ballot clerks. The cards of instructions shall be immediately posted at or in each voting shelf or compartment provided in accordance with this chapter for the marking of ballots, and not less than 3 such cards and not less than 5 specimen ballots shall be immediately posted in or about the voting room outside the guard-rail.

Sec. 12. In case of loss of ballots, other ballots to be prepared and furnished. R. S. c. 8, § 11. In case the ballots to be furnished to any city, town, or plantation, or voting place therein, in accordance with the provisions hereof, shall fail for any reason to be duly delivered, or in case after delivery they shall be destroyed, lost, or stolen, it shall be the duty of the clerk or municipal officers of such city, town, or plantation to cause other ballots to be prepared substantially in the form of the ballots so wanting and to be furnished; and upon receipt of such other ballots from him or them, accompanied by a statement under oath that the same have been so prepared and furnished by him or them and that the original ballots have so failed to be received or have been so destroyed, lost, or stolen, the election officers shall cause the ballots so substituted to be used in lieu of the ballots so wanting.

Duties of Municipal and Election Officers

Sec. 13. Division of towns and wards of cities into convenient voting districts; warden and clerk to be appointed for each voting place; check-lists to be prepared. R. S. c. 8, § 12. The municipal officers, 60 days before any election, may, after public notice and hearing, divide towns and wards of cities into not more than 3 convenient voting districts. By writing under their hands to be filed with and recorded by the city or town clerk, they shall define the limits and designate the voting places of each district, and attested copies thereof shall forthwith be posted by the clerks in not less than 6 public and conspicuous places in such town or ward, and the same shall be published in one or more of the newspapers, if any, printed in such city or town, 30 days at least before such election and an attested copy thereof shall be immediately filed in the office of the secretary of state. They shall also 10 days before any such election appoint a warden or presiding officer and clerk, in addition to the regular ballot clerks for each voting place other than the one in which the wardens duly elected for such ward shall preside, who shall perform the same duties at elections as presiding officers and clerks of towns and wards now perform. Any vacancy occurring after appointment may be filled by the voters of such voting district as similar vacancies are now filled. All such officers shall be sworn and make all returns of all elections directly to the city or town clerk. The board of registration of voters for any city in which a ward has been so divided, and the municipal officers of any town which has been so divided, shall in the manner now provided by law, prepare check-lists of the qualified voters for each of such voting districts, in lieu of the check-lists now provided by law for the entire ward or town, to be used as hereinafter provided, and all provisions of law applicable to check-lists for wards and towns shall apply to check-lists for such voting districts.

See § 101.

Sec. 14. Clerks to be appointed for each voting place; appointment of additional clerks. R. S. c. 8, § 13. The municipal officers of cities, towns, and plantations, voting in accordance with the provisions of this chapter, shall biennially in the month of May appoint clerks for each voting place; and such municipal officers shall appoint as such clerks such persons as shall be recommended for appointment by the several political party committees of the several cities, towns, or plantations representing the 2 political parties which, at the gubernatorial election next preceding such appointment, cast the greatest numbers of votes. For each voting place in cities and towns 4 clerks, and for each voting place in plantations and for each island ward of the city of Portland and for the island district of the town of Cumberland 2 clerks shall be appointed. Such clerks shall equally represent each of the political parties which cast the largest numbers of votes in the state election next preceding their appointment. Each of such clerks shall be sworn to the faithful performance of his duties, and shall hold office for 2 years from the date of his appointment, and until a successor is appointed and qualified, or he vacates the office. A removal to another ward or town shall constitute a vacancy. Vacancies occurring in the office of election or ballot clerk shall be forthwith filled by the municipal officers in towns and plantations and by the mayors of cities in manner hereinbefore provided. Such election clerks shall attend at the times and places designated for meetings in their respective wards, towns, or plantations for the election of any national, state, county, city, or ward officers and for the determination of any question submitted to the qualified voters of any city by lawful authority, shall be present at and assist in the counting by the presiding election officer or officers of all votes cast in such meetings, and shall receive such reasonable compensation for each day's actual service as the municipal officers of their respective cities, towns, and plantations may determine. On the recommendation of the political party committee of any other party represented on the official ballot, the municipal officers shall appoint 1 such election clerk in each voting place, for such political party, who shall be qualified for the performance of his duties, in like manner as the clerks of the 2 before-mentioned parties, shall hold office for a like term, or for such part thereof as the party for which he is appointed maintains its right to be represented upon the official ballot, and who during such term shall have like rights and duties with the before-mentioned clerks to be present at and assist in the counting of votes, and shall serve with or without compensation as the municipal officers in any case may deem advisable; vacancies occurring in case of such clerks to be filled as in case of other clerks herein mentioned. No person shall be eligible to the position of election clerk in any ward, town, or plantation where he is a candidate to be voted for. Two of the clerks in each voting place, one from each major political party, shall be detailed by the municipal officers to act as ballot clerks. The 2 ballot clerks thus detailed and appointed in each voting place shall have charge of the ballots therein and shall furnish them to the voters in the manner hereinafter set forth. A duplicate list of the qualified voters in each ward, town, or plantation shall be prepared for the use of the ballot clerks, and all the provisions of law relative to the preparation, furnishing, and preservation of check-lists shall apply to such duplicate lists. Provisions in the charter of any city for the election of 2 persons to assist the warden in receiving, sorting, and counting the ballots are not affected by the provisions hereof; but persons so elected shall be deemed election clerks for that purpose; they shall equally represent the 2 political parties which at the state election next preceding cast the greatest numbers of votes. Provided, however, that the municipal officers of cities, towns,

and plantations may, when necessity requires, appoint additional election clerks for each voting place in cities, towns, and plantations and for each island ward of the city of Portland and for the island district of the town of Cumberland, who shall be sworn and shall assist the election officers in the several voting precincts of the state. Such additional clerks shall be recommended and appointed in the same manner, hold office for the same time, and receive the same compensation as is provided for regular election clerks in this section.

Sec. 15. Voting compartments to be provided for use of voters while marking their ballots. R. S. c. 8, § 14. Resolves of 1919, c. 117. 1933, c. 5. 1941, c. 112. The municipal officers in each city, town, and plantation shall cause their respective voting places to be suitably provided with a sufficient number of voting shelves and compartments, at or in which voters may conveniently mark their ballots so that in the marking thereof they shall be screened from the observation of others, and each voting shelf and compartment shall have a wooden swing door or drop curtain so arranged that the top thereof shall be not less than 6 feet from the floor and the bottom thereof shall be at least 2 feet and 6 inches from the floor. Such entrance shall be closed while the voter is within the compartment, and no one shall be allowed therein with him, unless he calls for assistance in the marking of his ballot, and such assistance shall be furnished according to the provisions of this chapter. A guard-rail shall be so constructed and placed that only such persons as are inside it can approach within 6 feet of the ballot-boxes and of the voting shelves and compartments. The arrangement shall be such that the ballot-boxes shall not be hidden from the view of persons present, and the voting shelves and compartments shall be so arranged that the entrance of each compartment shall be next to the guard-rail, so as to admit to full view of the persons just outside the guard-rail those who enter and leave each compartment. The number of the voting shelves and compartments shall be not less than 1 for every 200 voters qualified to vote at such voting place, and not less than 2 in any town, and not less than 5 in any ward of a city. No persons other than the election officers, election clerks, and voters admitted as hereinafter provided, shall be permitted within the guard-rail, except by authority of the presiding election officer or officers for the purpose of keeping order and enforcing the law. Each voting shelf and compartment shall be kept provided with proper supplies and conveniences for marking the ballots. The American flag shall be displayed in each voting place at every election.

See § 95, re penalties applicable to §§ 1-15; 124 Me. 433.

Notifying Meetings and Proceedings

Sec. 16. Calling of meetings in towns for state elections; conduct of meetings. R. S. c. 8, §§ 23, 42. The selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified according to the constitution, to be notified and warned of every state election and of every election on questions submitted to the people by the legislature to be held therein in the same manner as is provided by law in the case of town meetings, such warrant to specify the officers to be voted for and the questions to be voted upon, and as to conducting town meetings for such elections, they shall be subject to the regulations contained in this chapter for meetings for the election of governor, senators, and representatives, unless otherwise provided by law.

131 Me. 503.

Sec. 17. Officers presiding have powers of moderator. R. S. c. 8, § 24. The selectmen or other officers, required by the constitution and laws to preside at any meeting called under the provisions of the preceding section, shall have all the powers of moderators of town meetings, as provided in chapter 80; and they shall refuse the vote of any person not qualified to vote.

See c. 80, § 43, re powers of moderator.

Sec. 18. Selectmen absent, others may be chosen pro tempore. R. S. c. 8, § 25. If a majority of the selectmen are absent from any such meeting duly warned, or being present, neglect or refuse to act as such and to perform all their duties, the voters may choose so many selectmen pro tempore, as are necessary to constitute or to complete the number competent to act.

70 Me. 565.

Sec. 19. Presiding officer at such choice. R. S. c. 8, § 26. During the choice of selectmen pro tempore any selectman present may act as moderator; if no selectmen are present, or if those present neglect or refuse to act as such, the town clerk shall preside; and the person so presiding shall have all the powers and discharge the duties of moderator.

Sec. 20. Duties and powers of selectmen pro tempore. R. S. c. 8, § 27. Selectmen pro tempore accepting the trust shall be sworn faithfully to discharge the duties of their office, so far as it relates to such meeting and election; and in making a record and return of the votes, as the constitution and laws require, and in all matters incidental to the trust, they shall have the powers of permanent selectmen and be subject to the same duties and liabilities.

Sec. 21. In case of division of a town, where electors may vote. R. S. c. 8, § 28. Whenever any territory is set off from one town and annexed to another, the inhabitants of the territory set off, otherwise qualified, may vote for representative to congress, senators, or representatives to the legislature, in the town to which they are annexed, if such town is within the congressional, senatorial, or representative district as the case may be, to which they previously belonged; otherwise, such inhabitants may vote for those officers in the town from which they were set off, until the next congressional, senatorial, or representative apportionment has been made.

See § 71; Const. Me., Art. IV, Part 1, § 3, re voting when town divided.

Sec. 22. Time of opening and closing polls. R. S. c. 8, § 21. 1933, c. 48. Meetings for the election of state and county officers, and for acting on initiative and referendum questions, and for the election of municipal officers in cities, may be opened at 6 o'clock in the forenoon, and shall be opened not later than 10 o'clock in the forenoon; the polls shall be kept open until 7 o'clock in the afternoon and shall then be closed, except that towns of 300 inhabitants or less shall have the option of closing the polls at 5 o'clock in the afternoon. Notice of the time of opening and closing shall be given in the warrant calling the meeting.

See § 95, re penalty.

Sec. 23. Check-list required; rule as to voting. R. S. c. 8, § 29. The officers presiding at any election, except for the choice of town officers, shall use the check-list herein required at the polls at state elections, and shall use but 1 ballot-box; and no votes shall be received unless delivered by the voter in person after he has audibly announced his name to the presiding officers, unless physically unable to do so, and they have had opportunity to be satisfied of his identity and find his name on the list and mark it, and ascertain that his vote is single.

See c. 3, § 47, re check-list for choice of town officers; 82 Me. 531; 96 Me. 434.

Sec. 24. Check-list to be returned to clerk within 24 hours after close of polls. R. S. c. 8, § 30. Wardens of cities and selectmen of towns shall, within 24 hours after the closing of the polls in their respective voting districts at any election, return the check-lists now provided by law for towns, wards, voting precincts, and voting districts to the clerks of their respective cities and towns.

See § 117, re penalty.

Sec. 25. Clerks to preserve check-lists, and furnish certified copies thereof. R. S. c. 8, § 31. Clerks of towns shall preserve the check-lists used at any election at which the ballots cast are to be returned to the secretary of state under the provisions of this chapter, for 1 year without alteration, and shall furnish to any person a certified copy thereof within 20 days after demand and payment or tender of the legal charges therefor, and shall without charge furnish the governor and council with a certified copy thereof within 20 days after demand, under the penalty provided in section 97.

See c. 3, § 47, re check-list for choice of town officers; 92 Me. 158.

Sec. 26. State ballot-boxes to be of uniform design and furnished by secretary of state; special ballot-boxes with mechanical device may be provided at expense of municipality. R. S. c. 8, § 33. Ballot-boxes used for the reception of official ballots shall be of uniform design; they shall be provided for each voting place by the secretary of state at the expense of the state, and shall be known as "state ballot-boxes"; each box shall be equipped with a suitable lock and key; in the top of each box there shall be an opening through which each ballot shall be put into the box; such opening shall be large enough and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box, and shall be covered with a slide which shall be kept shut except when opened to receive a ballot. Each box shall be large enough properly to receive and hold all ballots which may lawfully be deposited therein at any election. Provided, however, that with the approval of the secretary of state, the attorney-general, and 1 member of the governor's council to be designated by the governor, cities and towns may at their own expense provide ballot-boxes with sufficient locks and seal fastenings, which shall contain mechanical devices for receiving, registering, and indorsing every legal ballot deposited therein; but no such ballot-box shall record any distinguishing number or mark upon a ballot. Such ballot-boxes so provided shall be known as "state ballot-boxes", and shall be large enough properly to receive and hold all ballots which may be used at all state, municipal, or other elections.

Sec. 27. State ballot-boxes to be used for receiving all official ballots; regulations as to their use. R. S. c. 8, § 34. State ballot-boxes shall be used for receiving all official ballots cast at elections. The election officers at each voting place shall, at the opening of the polls and before any ballots are received, publicly open the ballot-box, and ascertain by personal examination, and publicly show that the same is empty, and shall immediately thereafter lock the box and deliver the key thereof to the ward, precinct, town, district, or plantation clerk, to be retained by him until the polls are closed. The ballot-box shall not after it has been shown to be empty and has been locked, be removed from public view nor opened nor any ballot removed therefrom until the polls are closed. If it becomes impossible to use the state ballot-box, the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot-box is not used, and shall enclose an attested copy of such record in the package with the ballots cast.

See §§ 98, 105, re liability and penalty.

Sec. 28. Other ballot-boxes, how constructed and used. R. S. c. 8, § 36. Ballot-boxes used at elections for which official ballots are not provided shall be covered at the top with a slide only, which shall be kept shut, except when opened to receive a ballot; but such boxes may contain mechanical devices which tend to prevent fraud in elections and do not materially abridge the rights of voters; and if the presiding officers do not comply with the requirements of this chapter, or if they attempt to evade the same, they shall be subject to the penalties provided in section 97.

Sec. 29. Commission to examine and approve voting and counting machines; secrecy essential. R. S. c. 8, § 37. The secretary of state, the attorney-general, and 1 member of the governor's council to be designated by the governor shall, at such times, under such conditions, and after such public notice as they see fit to give, examine voting and counting machines and apparatus; and they shall certify their approval of such machines as, in their judgment, furnish convenient, simple, and satisfactory means of voting and of ascertaining the true result thereof with facility and accuracy, special regard being had to preventing and detecting double voting; but no machine shall be approved which does not secure to the voter a degree of secrecy in voting equal to that afforded by the use of the official ballot provided by law. No machine except such as is approved by said officers and used in accordance with this and the 3 following sections shall be used in this state.

Sec. 30. Cities and towns authorized to purchase and use machines. R. S. c. 8, § 38. A city or town may, at a legal meeting held not less than 10 days before any regular election, determine upon and purchase or accept for trial, and order the use of one or more voting and counting machines for the then ensuing election in such city or town, and thereafter in case such machine or machines are purchased, they shall be used at all elections held therein for all purposes except elections of town officers until otherwise voted at a legal meeting.

Sec. 31. Bond to be given to keep machines in good order. R. S. c. 8, § 39. When voting and counting machines are approved and purchased, the seller thereof shall give to the secretary of state a suitable bond with sufficient sureties, conditioned to keep each machine in good working order for 5 years at his own expense.

Sec. 32. Regulations and instructions for use of voters to be furnished. R. S. c. 8, § 40. The secretary of state shall make regulations for the use of voting machines, and before each state and presidential election shall furnish appropriate instructions for the voters in cities and towns where such machines are used, and like appropriate instructions shall be furnished by clerks of cities before each city election.

Sec. 33. Presiding officer to have charge of ballot-box; custody of ballot-boxes; defective or lost ballot-boxes. R. S. c. 8, § 35. The presiding officer at each voting place shall have charge of the state ballot-box, and shall at the close of each election return it to the city, town, or plantation clerk. The clerk of each city, town, or plantation shall have the custody of the state ballot-boxes provided therefor and shall at the expense of the municipality provide for their safe-keeping and for keeping them in good order and repair, subject to the supervision and control of the secretary of state. If a state ballot-box becomes defec-

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

See §§ 98, 106, re liabilities and penalties.

Manner of Voting and Returns

Sec. 34. Voter to give his name to ballot clerk, and if on check-list he may enter within guard-rail; distribution of ballots. R. S. c. 8, § 15. Any person desiring to vote shall give his name, and if requested to do so, his residence, to one of the ballot clerks, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found upon the check-list by the ballot clerk having charge thereof, he shall likewise repeat the name, and the voter shall be allowed to enter the space enclosed by the guard-rail. The ballot clerk shall give him 1, and only 1, ballot and his name shall be immediately checked on the check-list. Besides the election officers and election clerks, not more than 2 voters in excess of the number of voting shelves or compartments provided, shall be allowed in the enclosed space at one time.

See § 95, re penalty.

Sec. 35. How voter shall prepare ballot; manner of voting. R. S. c. 8, § 16. 1941, c. 127. On receipt of his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments and shall prepare his ballot by marking in the appropriate place a cross (X) as follows: He may place such mark within the square above the name of a party group or ticket, in which case he shall be deemed to have voted for all the persons named in the group under such party or designation. If the voter shall desire to vote for any person or persons, whose name or names are not printed as candidates in such party group or ticket, he may erase or draw a line through any name or names which are printed therein and place a cross (X) in the square at the right of the name of the candidate of his choice in any other party group or ticket. Or, as an optional method of voting, the voter may omit the cross (X) in the party square and place a cross (X) in the blank square at the right of the name of each candidate he wishes to vote for. If the voter wishes to vote for a candidate whose name is not on the ballot, he may write the name under the name of the candidate erased or through whose name he has drawn a line. Or, if the voter does not desire to vote for a person or persons whose name or names are printed upon the party group or ticket, he may erase or draw a line through such name or names with the effect that the ballot shall not be counted for such candidate or candidates. Stickers shall not be counted unless used to fill a vacancy or correct an error in the printed ballot. In case of a question submitted to the vote of the people, he shall place such mark in the appropriate margin above the answer which he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, and he shall keep the same so folded until he has voted. Before leaving the enclosed space he shall deposit his ballot in the box with the official indorsement uppermost, and in case he has received a ballot containing a question submitted to the people, he shall deposit it likewise at the same time. He shall mark and deposit his ballot without undue delay, and shall quit the enclosed space as soon as he has voted. No voter shall be allowed to occupy a voting shelf or compartment occupied by another, or to

remain within the enclosed space more than 10 minutes, or to occupy a voting shelf or compartment for more than 5 minutes in case all of such shelves or compartments are in use and other voters are waiting. No voter not an election officer or an election clerk, whose name has been checked on the list by the ballot clerk, shall be allowed to reenter the enclosed space during the election. The presiding election officer or officers, for the time being, shall enforce the observance of the provisions of this section.

See § 95, re penalty; 86 Me. 50; 89 Me. 298; 108 Me. 167; 110 Me. 453; *114 Me. 35; *122 Me. 525.

Sec. 36. Voter unable from any cause to mark ballot, may receive assistance of election clerks. R. S. c. 8, § 19. Any voter who shall declare to the presiding election officer or officers that he cannot mark his ballot by reason of physical disability or from inability to read the same, or who shall declare to the election officers that his religious faith prevents him from marking his ballot shall receive the assistance; in the marking of his ballot, of two of the election clerks, who shall not both represent one and the same political party, and they shall certify on the outside of such ballot that the same was marked by them, or by the voter with their assistance, and thereafter shall give no information concerning the same. The presiding election officer or officers may require every voter who applies for such assistance to make oath to his inability to mark his ballot, before such clerks shall be directed to assist as aforesaid, and such officer or officers are qualified to administer such oath, and no clerk shall assist or offer to assist any voter in marking his ballot until directed to do so by the presiding election officer or officers.

See § 95, re penalty; 124 Me. 453, 473.

Sec. 37. If voter spoils ballot he may obtain others. R. S. c. 8, § 17. No person shall take or remove any ballot from the voting place before the close of the polls. If a voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately canceled, and together with those not distributed to the voters, and with the check-lists used, which shall be certified by the ballot clerks to be such, shall be secured, sealed, and sent to the several city, town, and plantation clerks.

See §§ 95, 116, re penalties; 124 Me. 453.

Sec. 38. Right of challenge; person challenged to state place of birth, occupation, business, etc.; penalty; note of challenge to be made on ballot and check-list. R. S. c. 6, § 26. 1935, c. 134. Any qualified elector in a town or city may challenge the right of any person to vote in such town or in any ward in such city at any election held therein, and shall be given opportunity by the presiding officer or officers thereof to make such challenge, who shall note the fact of such challenge, together with the reason stated therefor, upon the voting list used in such town or ward, and upon the ballot so challenged, witnessed by 2 election officers representing 2 different political parties. Before permitting a person so challenged to vote, the presiding officer or officers shall cause him to state his place and date of birth; occupation; place of business; whether married or single; if married, the name and residence of the husband or wife; how long a resident of the town or city; and where his last vote was cast; which answers shall be reduced to writing on blanks furnished for that purpose by the town or city clerk, and signed by the voter, whose signature shall be witnessed by 2 election officers representing 2 different political parties. The presiding officer or officers shall promptly return all such records to the town or city

clerk, who shall keep them on file for public inspection for 1 year. Any failure to comply with the provisions of this section shall constitute a felony and be punishable as provided in section 30 of chapter 3.

Sec. 39. Ballots, how counted. R. S. c. 8, § 18. 1931, c. 34. 1933, c. 201. 1941, c. 207. 1943, c. 60. The ballots shall be sorted and counted in open ward or town meeting by election officials who shall be duly sworn by the city or town clerks and who shall be considered public officials. No person in the employ of any political party or its agents or in the employ of any candidate for election or his agent or in the employ of any corporation interested in any referendum within 6 months next prior to the election or referendum shall serve as an election officer. The ballots counted by the election officers shall be made up into secure packages and each such package shall have plainly written or stamped thereon the names of the officials counting the ballots in such package; and all such election officers shall sign and file with such package a statement of their count thereof. The counting of ballots shall be done in such manner as to afford the electors present opportunity to observe the sorting and counting, and the result shall be declared and recorded in open ward or town meeting. When the ballots have been sorted and counted and the result declared and recorded, each lot of ballots together with the signed statement of the count of that lot thereof shall in open meeting be sealed in a package by the election official or officials who counted the same. The package so sealed shall be placed in the container in which the ballots had been delivered at the voting place together with all unused ballots and the container shall be sealed before removal from the voting place to the office of the city, town, or plantation clerk. The check-lists which have been used at such voting place shall likewise be sealed and forthwith returned to the city, town, or plantation clerk. In case two or more kinds of official ballots are used in any election, each kind shall be sealed in a separate package. All such ballots, check-lists, and signed statements of officials shall be so sealed that the packages and check-lists cannot be opened or examined without first breaking the seal; and the sealed packages of ballots cast at any state election or at any election of presidential electors shall have an indorsement of substantially the following tenor indorsed thereon or securely affixed thereto:

"This package contains the ballots cast at an election for held in the
of (or in ward of the city of) on the
day of 19 ; said ballots were sorted, counted, result declared, and
recorded, and this package sealed in open meeting in accordance with section
39 of chapter 5 of the revised statutes."

Such indorsement shall be signed by the ward, town, or plantation clerk and by the wardens in cities or voting precincts, or by a majority of the selectmen of towns and of the assessors of plantations. The ballots, check-lists, and signed statements of officials returned to the city clerk after any city election and all other ballots returned to him, which he is not required to forward to the secretary of state according to the provisions of section 42, shall be preserved by him as a public record for 6 months. The provisions of this section shall apply to all elections including primary elections and elections for determining initiated and referendum questions.

See §§ 95, 116, re penalties; *92 Me. 158.

Sec. 40. When ballot shall not be counted. R. S. c. 8, § 20. If a voter marks more names for any 1 office than there are persons to be elected to such office, or

if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office. No ballot without the official indorsement shall, except as herein otherwise provided, be allowed to be deposited in the ballot-box, and none but ballots provided in accordance with the provisions of this chapter shall be counted. Ballots not counted shall be marked defective on the back thereof, and shall be preserved as required by section 39. No marks, other than those authorized by law, shall be placed upon the ballot by the voter; but no ballot, after having been received by the election officers, shall be rejected as defective because of marks, other than those authorized by law, having been placed upon it by the voter, unless such marks are deemed to have been made with fraudulent intent, and no ballot shall be rejected as defective because of any irregularity in the form of the cross in the square at the head of the party column unless such irregularity is deemed to have been intentional and made with a fraudulent purpose.

See § 95, re penalty; 86 Me. 50; 110 Me. 453; 113 Me. 488; *114 Me. 35; 122 Me. 525; 124 Me. 453, 481.

Sec. 41. Secretary of state to provide suitable seals, printed forms of indorsements, blanks, returns, and letters of instruction. R. S. c. 8, § 50. The secretary of state shall at the expense of the state provide and seasonably send to the several city, town, and plantation clerks suitable seals for use as required by the provisions of this chapter, and printed forms of indorsements, and suitable blanks for all certificates, copies of records, and returns required to be made to his office, by this chapter; and shall also prepare and send in the same package with such seals a letter of instruction especially calling the attention of each clerk to the provisions of sections 27, 33, 37, 39, 42, 105, and 106.

Sec. 42. Clerk to transmit all ballots to secretary of state; secretary of state to preserve ballots for 6 months. R. S. c. 8, § 47. 1931, c. 216. Within 24 hours after the close of any election for governor, senators, representatives to the legislature, United States senators, representatives to congress, presidential electors, and for county officers, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him, under the provisions of section 39, without breaking the seal of the packages of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each voting place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said 24 hours shall deliver such box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor; or within 3 days after the close of such election, the clerk of each town shall otherwise deliver such ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of 6 months all such ballots so received by him as a public record.

See §§ 98, 116, 120, re penalties.

Sec. 43. Clerk to transmit returns of votes to secretary of state. R. S. c. 8, § 46. 1931, c. 216. The clerk of each town shall cause to be delivered at the office of the secretary of state the returns of votes given in his town for governor, senators, representatives to the legislature, United States senators, representatives to congress, presidential electors, and county officers, within 3 days next succeeding any meeting for their election, or shall deposit them, post-paid, in some post-office, directed to the secretary of state, within 24 hours after such meeting, to be transmitted by mail; and shall also forward to that office, as soon

as practicable, a statement attested by him of the number of votes for the several officers, given at such election in his town, which shall be opened and filed by the secretary of state, and kept for public examination.

See §§ 98, 120, re penalties; c. 18, § 5, re penalty for neglect to distribute blanks for election returns; 64 Me. 598.

Sec. 44. Secretary of state to send messenger for returns or ballots; expense of messenger, how paid. R. S. c. 8, § 48. At the expiration of 14 days after any election specified in the preceding section, the secretary of state shall forthwith send a messenger to every town from which returns of votes have not been received, as provided in the preceding section, or from which the sealed packages of ballots have not been received, as provided in section 42; and the expense of each messenger shall be audited and paid as provided in section 80 and added to the next state tax assessed on the town.

Sec. 45. County attorney to be notified if return is not received. R. S. c. 8, § 51. If any return of any town is not received by the secretary of state within 30 days next after such meeting, he shall forthwith notify the county attorney of the county in which such town is situated, who shall give immediate notice thereof to the clerk of such town, and unless he receives satisfactory evidence that such clerk has complied with the requirements of section 41, he shall prosecute for the penalty hereinafter provided.

See § 97.

Sec. 46. Loss of returns to be supplied by copy of record. R. S. c. 8, § 52. When an original return of any town is lost or destroyed, the selectmen and clerk of such town, on receiving information of such loss or destruction, shall forthwith cause a copy of the record of the meeting at which such vote was given to be made with their certificate upon the same sheet, that it is a true copy of the record, that it truly exhibits the names of all persons voted for, for the offices designated, and the number of votes given for each at such meeting, and that such copy contains all the facts stated in the original return.

See §§ 98, 118.

Sec. 47. Oaths to be made to copy. R. S. c. 8, § 53. The selectmen and town clerk, who were present at the meeting and signed the original return, shall sign the certificate mentioned in the preceding section, designating their offices against their names as in the original return, and make oath that such copy and certificate are true, before some justice of the peace of the county, who shall make certificate of such oath on the same paper.

See §§ 111, 118, 119, 120.

Sec. 48. Certificate, how sealed and returned. R. S. c. 8, § 54. Such copy and certificate provided for in section 46 shall then be sealed up and directed to the secretary of state, with the nature of the contents written on the outside; and the clerk of such town shall cause the same to be delivered into the office of the secretary of state, as soon as may be.

See §§ 98, 118, 119.

Sec. 49. Secretary of state to permit interested persons to inspect ballots. R. S. c. 8, § 49. The secretary of state shall permit any candidate or other interested person to inspect the ballots as returned to him, in his presence, or in the presence of the deputy secretary of state, or in the presence of any clerk of his office designated by him, under such reasonable regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury, or change in any respect. After each inspection the packages shall again be

sealed and the fact and date of inspection shall be noted on the package. Whenever required to do so, the secretary of state or the deputy secretary of state shall produce any package of ballots in his custody before the governor and council, the legislature or either branch or any committee thereof, or before any court or magistrate having jurisdiction of any proceeding relating thereto.

Sec. 50. Mode of determining who are elected; proceedings for correcting returns; notice of election; rule for canvassing returns and determining election. R. S. c. 8, § 55. 1941, c. 70, § 4; c. 150. The governor and council, not later than the 1st day of December as to presidential elections and not later than the 15th day of October as to all other regular elections, in each year in which an election is held, and within 15 days after any special election shall open and compare the votes so returned and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found erroneous, may be corrected by the record. The secretary of state shall cause to be printed copies of the tabulation of the vote of such election which shall be available to the public, and no such correction may be made without application within 20 days after the printed tabulation is so made available, stating the error alleged, nor without reasonable notice thereof given to the persons affected by such correction, and during said 20 days any person voted for, may personally, and by or with counsel, examine the returns in presence of the governor and council, or either of them, or of any member of the council. Upon written application filed with the secretary of state within 20 days after the printed tabulation is so made available, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town and specifying the offices as to which such errors are believed to have occurred, the governor and council in open meeting shall examine the ballots cast in such town and the return thereof, and if such return or record is found to be erroneous, it shall be corrected in accordance with the number of ballots found to have been actually cast in such town; but no such examination of ballots shall be made without reasonable notice to all candidates for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made, and affording such candidates a reasonable opportunity to be present in person or by counsel at such examination and be heard in relation thereto. The persons having the highest numbers of votes, not exceeding the number to be chosen, shall be declared elected; and the governor shall issue a certificate thereof in accordance with the provisions of section 4 of chapter 18, and such persons shall enter upon the discharge of their official duties on the 1st day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected.

To ascertain what persons have received the highest numbers of votes, the governor and council shall count and declare for any person all votes appearing by the returns to have been intentionally cast for him, although his name upon the return is misspelled or written with only the initial or initials of his Christian name or names; and they may hear testimony upon oath, in relation to such returns, in order to ascertain the intention of the electors, and shall decide accordingly. This section shall apply in determining the election of all county officers, and, so far as it relates to the examination and correction of returns, it shall apply in determining the election of United States senators, representatives

to congress, members of the legislature, and presidential electors. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

26 Me. 498; 54 Me. 603, 605; 64 Me. 590, 598; *70 Me. 561, 571, 587; *71 Me. 370, 384; 131 Me. 503, 506; 136 Me. 4.

Sec. 51. Result of any election by ballot, how determined. R. S. c. 8, § 43. 1941, c. 70, § 3. To determine the result of any election by ballot, the number of persons who voted shall first be ascertained by counting the whole number of separate ballots given in, which shall be distinctly stated, recorded, and returned. No person ineligible to an office shall be declared elected thereto; but such votes shall be counted to determine whether any person has received the necessary number of all votes cast. In case of United States senators, representatives to congress, members of the legislature, and county and state officers, except where a different rule is prescribed in the constitution, the person or persons, not exceeding the number to be voted for at any 1 time for any such office, having the highest number of votes given at such election shall be declared elected, and the governor shall issue a certificate thereof in accordance with the provisions of section 4 of chapter 18. If, by reason of two or more persons receiving an equal number of votes, the election of the requisite number of officers cannot be declared without declaring more than the requisite number elected, no one of those having an equal number of votes shall be declared elected. In all other cases no person shall be declared elected, who has not received a majority of the whole number of votes counted as aforesaid; and if a number greater than is required to be chosen receive a majority of such whole number, the number so required, of those who have the greatest excess in votes over such majority, shall be declared elected. If the number to be elected cannot be so completed by reason of any two or more of such persons having received an equal number of votes, the persons having such equal number shall be declared not elected. In all cases not otherwise provided for, if no person eligible to the office receives the requisite number of votes to elect him, then the governor shall order a new election; provided, however, that nothing in this section shall give the governor and council authority to determine questions of eligibility in cases of senators and representatives to the legislature.

See Act of Congress of June 4, 1914; U. S. Const., Art. I, § 2, ¶ 4; Const. of Me. Art. IV, Part 1, § 5; Part 2, § 3; Art. V, Part 1, § 3; Art. VI, § 7; Art. IX, § 10; *71 Me. 373; 131 Me. 506.

Sec. 52. Application in determining certain questions. R. S. c. 8, § 56. This chapter shall apply in determining the results of voting upon any resolve of the legislature submitting a constitutional amendment to the people and the results of voting upon any measures submitted to the determination of the people under the amendment to the constitution of the state adopted September 14, 1908, except questions relating to municipal affairs submitted under the provisions of section 21 of Part Third of Article IV of the constitution; provided, however, that the governor and council may without the application mentioned in section 50, examine in open meeting the ballots cast on any such resolve or measure; and when such examination is made with or without application, in lieu of the notice prescribed in section 50, a notice thereof and of the time and place fixed therefor shall be given by publishing such notice at least twice in some newspaper, if any, published in the town where the ballots to be examined were cast, and if there be no such newspaper then in a newspaper published in the

town in the same county nearest the town where the ballots to be examined were cast; the 1st publication of such notice shall be at least 7 days before the time fixed for such examination.

Sec. 53. Jurisdiction of superior court not affected. R. S. c. 8, § 57. Nothing contained in the preceding sections shall affect the jurisdiction of the superior court or any justice thereof to entertain proceedings under the provisions of sections 85 to 89, inclusive.

Elections in Cities, Including Portland Islands

Sec. 54. Electors in cities to meet in wards; warden to preside. R. S. c. 8, § 68. For the purpose of all elections regulated by the provisions of this chapter, the inhabitants of cities shall meet as the constitution requires, in ward meetings, to be notified and warned, as are town meetings for similar purposes. The warden shall preside; the clerk shall make such record as the constitution requires, and the city constables shall preserve order.

136 Me. 4; 137 Me. 42.

Sec. 55. Warden pro tempore may be chosen. R. S. c. 8, § 69. If the warden is absent from any meeting mentioned in the preceding section, or refuses or neglects to preside, a warden pro tempore shall be chosen, and during such choice, the ward clerk shall preside; and the warden pro tempore, accepting the trust, shall be sworn, and be clothed with the powers and perform the duties of warden of such meeting, and shall be liable to the same penalties as those to which a warden is liable.

Sec. 56. Portland islands constitute 2 wards for certain purposes. R. S. c. 8, § 70. The several islands within the city of Portland, so far constitute 2 separate wards as to entitle the voters of each of said wards to choose a warden, a ward clerk, and 1 constable, who shall be residents of said islands and of their respective wards. The 1st of said wards comprises Long Island, Crotch Island, Hope Island, Jewell's Island, and Little Chebeague Island, or such parts thereof as are within the city of Portland, and the ward meetings of said 1st ward shall be held on Long Island. The 2nd of said wards comprises the remaining islands within the city of Portland, and the ward meetings of said 2nd ward shall be held on Peak's Island. The electors of each of said wards may meet as provided in section 54, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

Sec. 57. Proceedings at island ward meetings. R. S. c. 8, § 71. The warden shall preside impartially at such island ward meetings, receive the votes of all electors present, and sort, count, and declare them in open meeting and in presence of the clerk, who shall make a list of the persons voted for with the number of votes for each person against his name, and the offices respectively, and in open ward meeting and in presence of the warden, shall make a fair record thereof; a fair copy of this list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number 1 in Portland within 18 hours after closing the polls, and the votes thus thrown shall belong to the last mentioned ward.

Sec. 58. If no choice, new meetings; vacancies. R. S. c. 8, § 72. When, in any city, a choice of any representative to the legislature is not effected, the municipal officers shall call new meetings of the wards for the purpose, to be

held at the same time, within 2 weeks after any former meeting; and like proceedings shall be had at such meetings, as at the 1st, until a choice is effected; and when the municipal officers of any city have knowledge that the seat of a representative therein has been vacated, they shall call meetings of the wards for the purpose of filling such vacancy; and like proceedings shall be had at such meetings as at other meetings for the election of representatives.

See §§ 54-59, 66, 74, 76-84; 70 Me. 560, 570.

Sec. 59. Elections by plurality in cities. R. S. c. 8, § 73. In all elections by the people in cities, the candidate receiving the greatest number of votes for any municipal office, although such number is not a majority of all the votes cast, shall be deemed elected to such office, provided that the provisions of this section have been adopted by majority vote at a regular or special election in the city where the election is held.

Plantations

Sec. 60. List of voters prepared, deposited, corrected, and posted. R. S. c. 8, § 77. The assessors of each plantation shall, on or before the 11th day of August in each year in which a biennial state election is held, prepare a list of such inhabitants within its limits, as they judge to be constitutionally qualified to vote in such election, deposit it in the office of the plantation clerk, and correct and post it in the manner required of selectmen of towns.

See c. 3, §§ 36-39, re selectmen.

Sec. 61. State officers, meetings to be called for their choice. R. S. c. 8, § 78. The assessors of each plantation shall call a meeting of the voters qualified under the provisions of the preceding section, to be held on the 2nd Monday of September in every such year, at some convenient and central place in the plantation, for the election of governor, senators, and representatives to the legislature, by a warrant in due form by them signed, in which the time, place, and purposes of the meeting shall be set forth; and notice shall be given by posting a copy thereof in one or more public places in the plantation at least 7 days before the day of the meeting. Similar notice shall be given of all meetings for choice of United States senators, representatives to the legislature, or to congress, of state and county officers, and of presidential electors.

Sec. 62. Votes, how received; record of votes to be returned to secretary of state. R. S. c. 8, § 79. 1933, c. 51, § 1. The assessors shall preside impartially at all meetings held under the provisions of sections 60 to 63, inclusive, receive the votes of all qualified voters present, sort, count, and declare them in open plantation meeting and in presence of the clerk, who shall form a list of the persons voted for, with the number of votes for each person written out in words against his name, and make a full record thereof in presence of the assessors and in open plantation meeting. The clerk shall transmit the record of votes aforesaid to the secretary of state in the manner provided for the return of record of votes in towns.

See § 43; 131 Me. 503, 506.

Sec. 63. Votes to be allowed in elections, as in towns. R. S. c. 8, § 80. 1931, c. 216. Votes cast under the provisions of the 3 preceding sections shall be received and allowed for presidential electors, for governor, senators, and repre-

sentatives to the legislature and to congress, United States senators, and county officers the same as votes cast in a town in the same county.

See § 50; 131 Me. 506.

Voters in Unincorporated Places

Sec. 64. Census; assessment of taxes; voting. R. S. c. 8, § 76. 1937, c. 209, §§ 1, 3. 1941, c. 20. 1943, c. 132. It shall be the duty of the state tax assessor through agents as hereinafter provided to procure annually, on or as of April 1, a sworn return enumerating all persons, male or female, 21 years of age and upwards, who are residents of the various unorganized units, government reservations excepted, of the unorganized territory as defined in section 142 of chapter 37, and he shall give a certificate of residence to all such residents as shall make written application therefor upon the form provided therefor by him. The enumeration shall designate persons therein as qualified voters, aliens, and others.

He shall have the authority for the purpose of carrying out the provisions of this section to appoint agents for the whole or any portion of the unorganized territory and they shall perform such duties, including the collection of the poll-tax as hereinafter provided, as he may authorize or delegate in each particular appointment. They shall have the same powers and may exercise the same methods in the collection of the poll-tax aforesaid as collectors of taxes in towns are authorized to exercise and use for the collection of personal and poll-taxes committed to them. He may require, in his discretion, the filing of surety bonds by his agents in such penal sums as he may deem necessary.

Poll-taxes shall be assessed annually, on or as of April 1, on all residents in unorganized territory who are required by law to pay a poll-tax, and the tax shall be paid to the state tax assessor or to his duly authorized agent, who shall give a receipt in proper form therefor. Poll-taxes paid to any such agent shall be remitted by such agent to the state tax assessor. The state tax assessor shall have authority to abate such tax in any case where conditions warrant such action, and in such case the person whose tax is abated shall not forfeit any right or privilege to which payment thereof would entitle him. Persons having legal residence in unorganized territory may upon presentation to the proper officials of an adjacent town of satisfactory evidence of such legal residence and of the legal qualifications of a voter, vote therein in all county, state, and national elections, if such town is in the same county; if not so situated, then only in state and national elections. The poll-taxes assessed and collected by the state tax assessor from electors in unorganized territory who register in a town as voters shall be paid by him to such town for any year in which such electors actually vote therein, provided the state tax assessor receives from the officials thereof a certification of such registration and act of voting by June 1st of the following year, and such payment shall be considered as an assessment on such electors by such town officials. The remainder of the poll-taxes collected, if any, shall be paid to the treasurer of state who shall credit them to the state school fund for the current year.

In the case of unorganized units located in remote sections of the state, the secretary of state shall, upon written request of an elector, designate the town wherein such elector may vote and shall notify the proper town officials thereof.

An elector who shall become a resident of any unorganized territory, or who shall remove from one unorganized unit to another, shall have the privilege of

voting in the town where previously registered for 3 months after such change of residence and thereafter as a resident of the unorganized territory under the same conditions as hereinbefore provided.

An elector in unorganized territory, who is unable to present himself because of distance or other good and sufficient reason in the adjacent town where registered as a voter, may vote by absentee ballot.

See §§ 109, 115, 122; Const. of Me. Art. IV, Part 1, § 5; Part 2, § 3; c. 3, § 2, re qualifications of voters; c. 6, re absent voting; 90 Me. 374.

Unclassed Towns

Sec. 65. In case of no choice of representatives in an unclassified town, meeting to be adjourned. R. S. c. 8, § 41. When at a town meeting held for election of representatives to the legislature, in a town not classed with other towns as a representative district, by reason of two or more persons having an equal number of votes, a full choice of representatives is not effected, the meeting shall be considered adjourned to the same day of the week following and to the same hour and place at which the first meeting was called; and at such adjourned meeting, the voters shall give in their votes for so many representatives as are necessary to make up the number to which such town is entitled; and like adjournments shall be had until the full number is elected.

Sec. 66. Vacancies, how filled in towns not classed for representatives. R. S. c. 8, § 58. When the selectmen of any town not classed with others as a representative district, have knowledge that the seat of a representative thereof has been vacated; they shall forthwith issue their warrant, giving at least 7 days' notice, for a meeting of the electors of such town to fill such vacancy; and at such meeting like proceedings shall be had, as at a state election.

See §§ 58, 74; 70 Me. 560, 571.

C. C. C., Soldiers, Etc., Authorized to Vote

See Const. of Me. Art. II, § 4.

Sec. 67. Inmates of Veterans' Administration Facility or civilian conservation corps camp, residence of, and right to vote, established. R. S. c. 8, § 82. 1939, c. 264. All persons who are inmates of the Veterans' Administration Facility at Togus, in the county of Kennebec, or who are subject to the rules and regulations thereof, or who shall receive rations therefrom, or who are enrolled as members of any civilian conservation corps camp, or similar institution in this state, shall be deemed citizens of the respective towns in this state in which they had a legal residence, when their connection with said Veterans' Administration Facility or such civilian conservation corps camp, or similar institution, commenced, so long as such connection therewith shall continue, but any person connected with the Veterans' Administration Facility or a civilian conservation corps camp, or similar institution, as aforesaid, but having a domicile in a town in this state, outside of said Facility, or such civilian conservation corps camp, or similar institution, and a voting residence therein, shall not be disqualified from voting in the town in which he has such residence, on account of his connection with said Facility or such civilian conservation corps camp, or similar institution, provided, however, that any enrollee of any civilian conservation corps camp, or similar institution, who shall become of voting age while stationed therein shall be deemed to be a voter in the town where he had his residence when his connection with such camp or similar institution commenced,

provided he has met all the necessary qualifications which would entitle him to vote in such town. He shall not be deemed to have lost his residence in such town by reason of his being stationed at any such camp or similar institution.

Sec. 68. Citizens absent in military service (if not in regular army) allowed to vote for presidential electors, congressmen, and for state and county officers. R. S. c. 8, §§ 83, 84. 1931, c. 216. All citizens of the state absent therefrom in the military service of the United States or of this state, and not in the regular army of the United States, may vote for presidential electors and for governor, senators, representatives to the legislature, county officers, United States senators, and representatives to congress on the days designated by law for the election of such officers. Such elections shall be held and conducted in the manner authorized by and in conformity with section 4 of Article II of the constitution. In the case of elections of presidential electors, the names of the voters shall be entered upon the poll lists by counties and the returns of such elections, with the poll lists, shall be delivered into the office of the secretary of state on or before the Thursday next before the 1st Wednesday of December next following such election and in the case of elections of other officers mentioned in this section, such citizens shall present but 1 ballot upon which shall be printed the names of all candidates voted for and the offices which they are intended to fill; 1 poll list and 1 return of votes only is necessary, and the return shall be made as provided in section 4 of Article II of the constitution.

See § 69; c. 6, § 7, re voting by absent voting ballot or physical incapacity ballot.

Sec. 69. Secretary of state to prepare poll lists, etc. R. S. c. 8, § 85. The secretary of state shall seasonably prepare and cause to be delivered to each military unit without the state, a sufficient number of blank poll lists and forms for returns of votes in conformity with the provisions hereof and with Article II, section 4 of the constitution; and said section of the constitution and sections 68 to 70, inclusive, of this chapter shall be printed in each poll list so delivered.

Sec. 70. Governor and council may correct errors and frauds in return of soldiers' votes. R. S. c. 8, § 86. The governor and council may correct errors and frauds, if any, in all returns of votes given for county officers by soldiers in the army. No informality, merely, shall authorize the rejection of any such return, if it appears on its face, or otherwise, that the provisions of the constitution and of this chapter were substantially complied with.

See § 69.

Representative Districts, Congressional and State

Sec. 71. Congressional districts for election of representatives to congress. 1931, c. 245, §§ 1, 2, 3. 1941, c. 228, §§ 1, 2, 3. Representatives to the congress of the United States shall be apportioned as follows: The counties of Cumberland, York, Oxford, and Sagadahoc shall compose the 1st district and be entitled to 1 representative. The counties of Androscoggin, Franklin, Knox, Lincoln, Kennebec, Somerset, and Waldo shall compose the 2nd district and be entitled to 1 representative. The counties of Aroostook, Hancock, Penobscot, Piscataquis, and Washington shall compose the 3rd district and be entitled to 1 representative, which divisions of the state into representative districts shall be and continue in force until the taking effect of a reapportionment under an act of congress.

The representatives chosen in the several districts shall at the time of their election be residents therein and their election shall take place on the day of the biennial state election.

See U. S. Const., Art. I, § 2, ¶ 2; Const. of Me., Art. XXIII.

Sec. 72. Governor to issue proclamation for election to fill congressional vacancy. R. S. c. 8, § 44. Whenever a vacancy occurs in the representation of the state in the senate of the United States or in the national house of representatives, the governor, in any manner having knowledge thereof, shall issue his proclamation for an election to fill the same. If congress is in session when such vacancy occurs, the proclamation shall issue forthwith; otherwise, in season to secure representation at the next called or regular session of congress.

See U. S. Const., Art. I, § 2, ¶ 4; Amend. XVII; 131 Me. 506.

Sec. 73. Clerks of towns to mail returns to secretary of state; canvass of returns, declaration of result, and issue of certificate of election. R. S. c. 8, § 45. The clerk of each town, within 24 hours after the close of the polls, shall deposit in some post-office the returns of the votes cast at such special election postpaid, directed to the secretary of state, to be transmitted by mail. The governor and council shall meet 7 days after such election, and open and canvass such returns, and declare the result. They shall receive certified copies of the record of any town if the return from such town is lost, or is not received by the secretary of state. The governor shall immediately issue a certificate of election to the person thus declared to have received a plurality of votes.

Sec. 74. Vacancies in representative districts. R. S. c. 8, § 74. When the selectmen of the oldest town in a representative district are notified or otherwise satisfied, that at the last meeting of the district for the election of a representative no choice was effected, or that the seat of their representative has been vacated, they shall, as soon as may be, leaving a convenient time for calling meetings in the several towns, appoint a day of election to fill such vacancy, and notify the selectmen of the other towns accordingly.

See §§ 54-58, 66, 76-84; 70 Me. 560, 570.

Sec. 75. Meetings and proceedings. R. S. c. 8, § 75. The selectmen of the several towns shall by warrant call meetings to be held upon the day appointed, and proceedings shall then be had as required by the constitution and laws for the election of representatives on the 2nd Monday of September.

See Const. of Me., Art. II, § 4.

Choice of Electors of President and Vice-President

Sec. 76. Presidential electors to be chosen; meetings, when and how called. R. S. c. 8, § 59. Whenever the election of president and vice-president of the United States is to take place, there shall be chosen from the inhabitants of the state as many presidential electors as the state is entitled to; and on the Tuesday next after the 1st Monday in November of such year, the people qualified to vote for senators shall assemble in city, ward, town, or plantation meetings to be notified, held, and regulated as prescribed by the constitution and laws for the election of senators.

See U. S. Const., Art. II, § 1, ¶ 2; Const. of Me., Art. II, § 4.

Sec. 77. Town officers to proceed as in other meetings. R. S. c. 8, § 67. All laws in relation to the duties of city, town, and plantation officers, and of voters

in the election of governor, senators, and representatives to the legislature, and to the penalties incurred for their violation, apply, so far as applicable, to meetings held for the election of presidential electors and to returns thereof.

Sec. 78. Secretary of state to furnish blanks. R. S. c. 8, § 66. The secretary of state shall procure blank returns of the proper form for such cities, towns, and plantations and furnish them to the several clerks thereof at least 30 days before the day of election of electors as aforesaid.

See c. 18, § 5, re duty to distribute blanks for election returns, penalty.

Sec. 79. Votes, how received, returned, and counted; secretary to send for delinquent returns; notice to persons elected. R. S. c. 8, § 60. 1937, c. 238, § 1. The votes shall be sorted, counted, declared, and recorded; and the returns of the number of ballots and of the votes given for each elector shall be made, according to the constitution and laws, to the secretary of state, on or before the 2nd Tuesday after such meeting; on said 2nd Tuesday, the governor and council shall be in session, and shall open, examine, and count the returns of votes so made, and the secretary of state shall forthwith send a messenger to every city and town from which a return has not been received at his office for the purpose of procuring the wanting return and the governor and council shall again meet on the 3rd Tuesday following such election, and examine and count all the votes received from the several cities, towns, and plantations and the votes of citizens in the military service lawfully returned into the office of the secretary of state; and they shall forthwith send a certificate of election to each person who has received the greatest number of all the votes returned, not exceeding the number to be chosen.

Sec. 80. Expense of sending for returns to be paid by state, and added to state tax of delinquent towns. R. S. c. 8, § 61. The expense of each messenger sent as required by the preceding section shall be audited and allowed by the governor and council, and paid out of the state treasury; and unless they are of opinion that the officers of any delinquent town have fully performed their duties in making the required returns, the amount so paid shall be added to the next state tax assessed on such town; but if the same messenger is sent to two or more towns on the same route, the amount to be paid by each of them shall be apportioned by the governor and council according to their relative distances and the expense of traveling.

Sec. 81. In case of no choice of majority of electors, governor to assemble legislature. R. S. c. 8, § 62. If, on such examination it appears that there has not been a choice of a majority of the whole number of electors, the governor, by proclamation, shall convene the legislature forthwith; and the legislature by joint ballot of the senators and representatives in convention assembled shall choose as many electors as are necessary to complete the number to which the state is entitled.

Sec. 82. Duties of governor; meetings of electors; vacancies, how filled. R. S. c. 8, § 63. 1937, c. 238, § 2. As soon as practicable after the electors are chosen, the governor shall communicate by registered mail under the seal of the state to the secretary of state of the United States a certificate of the ascertainment of the electors, setting forth the names of the electors, and the number of votes given for each person voted for; and the governor shall deliver to the electors, on or before the 1st Monday after the 2nd Wednesday of December next after their election, 6 original duplicates of the same certificate under the

seal of the state. If there shall have been any contest concerning the choice of any of the electors, or in case of a choice under the provisions of the preceding section, the governor, after such determination, shall communicate under the seal of the state to the secretary of state of the United States a certificate of such determination in form and manner as the same shall have been made. The electors shall convene in the senate chamber at Augusta on the 1st Monday after the 2nd Wednesday of December next after their election, at 2 o'clock in the afternoon; and if any elector so chosen is not present, the electors then present, by a majority of votes, shall forthwith elect a qualified person to supply such deficiency.

Sec. 83. Proceedings of presidential electors. R. S. c. 8, § 64. 1937, c. 238, § 3. When convened as required by the preceding section, the electors shall vote by ballot for 1 person for president and for 1 person for vice-president of the United States; one of whom, at least, shall not be an inhabitant of this state; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; they shall make and subscribe 6 certificates of all the votes by them given, each of which shall contain 2 distinct lists, one of the votes given for president, and the other of the votes given for vice-president; they shall annex to each of the certificates one of the lists of the electors which shall have been delivered to them by the governor; they shall seal them up and certify on each certificate, that a list of votes of the state of Maine for president and vice-president of the United States is contained therein. The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

I. They shall forthwith forward by registered mail one of such certificates and lists to the president of the senate of the United States at the seat of government.

II. Two of such certificates and lists shall be delivered to the secretary of state of the state of Maine, one of which shall be held by him subject to the order of the president of the senate of the United States; the other shall be preserved by him for 1 year, shall be a part of the public records of his office, and shall be open to public inspection.

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

IV. They shall forthwith cause the remaining certificate and list to be delivered to the judge of the United States District Court for the district of Maine.

See U. S. Constitution, amend. XII; and Acts of Congress of Feb. 3, 1887, Oct. 19, 1888, and May 29, 1928.

Sec. 84. Compensation. R. S. c. 8, § 65. Electors shall receive as compensation \$10 a day for as many days as are necessarily employed in the discharge of their official duty and such travel as members of the legislature receive. They may appoint a secretary and such other officers as they deem proper who shall receive such reasonable compensation for their services as the electors shall allow them.

Contested Elections

Sec. 85. Claimant of county or municipal office to proceed as in equity. R. S. c. 8, § 89. 1943, c. 94. Any person claiming to be elected to any county or

municipal office, or to the office of county attorney, may proceed as in equity against the person holding or claiming to hold such office, or holding a certificate of election to such office, or who has been declared elected thereto by any returning board or officer, or who has been notified of his election, by petition returnable before any justice of the superior court, in term time or vacation, in the county where either party resides or where the duties of such office are to be performed, and such justice shall have jurisdiction thereof and the power to issue restraining orders or injunctions in connection therewith.

86 Me. 43; 98 Me. 90; 106 Me. 510; 108 Me. 164, 178; 110 Me. 205, 450; 111 Me. 45, 328; 113 Me. 486; 114 Me. 443; *116 Me. 188; *118 Me. 101; 122 Me. 525; 123 Me. 106; 131 Me. 23.

Sec. 86. Petition of claimant to be filed in clerk of court's office; proceedings; judgment. R. S. c. 8, § 90. The petition shall state the names and residences of the several parties and the facts upon which the claimant relies to maintain his suit, and shall be signed by him and verified by his oath. Such petition shall be filed in the office of the clerk of courts in the county where it is returnable, and the time of hearing thereon shall be appointed by the justice having jurisdiction thereof, and indorsed thereon. Notice of pendency of the suit, and of the time and place of hearing thereon, shall be served on the adverse party, by giving him in hand, or leaving at his last and usual place of abode, a copy of the petition and order of the court thereon, or in such other manner as the justice directs, and such notice shall be given at least 7 days before the hearing. The parties, or their counsel, shall be heard upon written or oral testimony, according to the practice in like procedure, and in such manner as the justice directs; and if it appears upon such hearing that the petitioner has been elected, and is entitled by law to the office claimed by him, or if such adverse party fails to appear, the justice shall render judgment in favor of the petitioner.

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

Sec. 87. Appeal. R. S. c. 8, § 91. Either party may, within 10 days after rendition of judgment, enter an appeal therefrom in the office of the clerk of courts in the county where the judgment is rendered, which appeal shall briefly set forth the reasons therefor, and an attested copy thereof shall be served upon the appellee or his attorney within 10 days after the same has been filed, in such manner as the justice orders. The appellant shall cause copies of the petition, pleadings, findings, and testimony upon which judgment is rendered, approved by the justice before whom the hearing is had, to be printed and transmitted to the chief justice within 20 days after such appeal is taken, with written argument thereon. A copy of such argument shall, within said 20 days, be served upon the adverse party or his attorney, who may forward within 10 days thereafter an argument in reply, and thereupon the justices of the supreme judicial court shall immediately consider the cause and decide thereon and transmit their decision to the clerk of courts in the county where the suit is pending, and final judgment shall be entered accordingly.

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

Sec. 88. Court may issue order when final judgment has been rendered. R. S. c. 8, § 92. When final judgment has been rendered, any justice of the superior court may issue an order to the party unlawfully claiming or holding such office, commanding him to surrender such office to the officer who has been adjudged

to be lawfully entitled thereto, together with all papers, records, moneys, and property connected therewith or belonging thereto, and may enforce such order by fine or imprisonment, or both; and thereupon the party in whose favor such judgment is rendered, shall be qualified and enter upon the duties of such office, and hold the same until the expiration of the term for which he has been elected.

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

Sec. 89. Costs. R. S. c. 8, § 93. The prevailing party shall recover costs, and double or treble costs may be awarded in the discretion of the justice.

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

Sec. 90. Notice of intention to contest seat in house of representatives; testimony how taken and presented; neglecting party denied postponement; petition of contestant, when to be presented to house of representatives; depositions. R. S. c. 8, §§ 87, 88. When any person intends to contest before the house of representatives the right of any other person to his seat therein, he shall serve notice thereof upon such person which notice may be served at any time after the election and shall be served at least 15 days prior to the organization of the house; he shall present his petition to the house within 3 days after its organization, stating the grounds upon which he proposes to contest such seat, and all testimony on either side shall be by depositions taken in the manner authorized by chapter 104 in cases of contested senatorial elections, or by parol evidence, and shall be presented to the house within 3 days from the commencement of the session. If this law is not strictly complied with, except in extreme cases where injustice would be done if a continuance were not allowed, the party neglecting shall be denied a postponement, and the committee on elections shall proceed to determine the case by the testimony before them.

Regulations Affecting Purity of Elections

Sec. 91. Betting on elections punished; wager forfeited to town; recovery; money paid on bet may be recovered; conveyances for such purposes void; forfeit to town. R. S. c. 8, §§ 120, 121, 122. No person shall make a bet or wager upon the result of any election in the state, in money or in any kind of property, real or personal, under penalty of forfeiting the money or property so bet or wagered to the town in which he resides, or if he does not reside in the state, then to the town in which the bet or wager is made, to be recovered in an action on the case. The mayor or person performing the function of mayor of the city or the treasurer of the town or plantation entitled to such forfeiture shall forthwith proceed to sue for it, as soon as he has proper evidence of such betting or wagering.

Any party to such bet or wager, who has paid or conveyed to the winning party the money or property so bet or wagered, may recover it, or its value, in an action on the case.

All conveyances, by deed or otherwise, of any interest in real estate made by reason of any such bet or wager, are void; the person making them forfeits the full value of the interest so conveyed to the town entitled to the forfeiture for such betting or wagering, to be recovered in an action on the case.

68 Me. 531; *69 Me. 121; 70 Me. 496.

Sec. 92. Display of circulars, etc., prohibited at polling places. 1939, c. 23. On caucus, primary, or election days no poster, card, handbill, placard, novelty, picture, circular not required by law, or loud-speaker so called, intended to influence the opinion of any voter shall be posted, exhibited, circulated, distributed, or operated in the building where the polling place is located, on the walls thereof, on the premises on which the building is located, on the sidewalk adjoining the premises where such polling place is located, or within 250 feet of the entrance to such polling place. This does not apply to placards on automobiles traveling to and from the polling places.

Penalties

Sec. 93. Penalty for destroying any nomination paper or letter of withdrawal; or falsely filing same, etc. R. S. c. 8, § 96. Any person who shall falsely make or wilfully deface or destroy any certificate of nomination or nomination paper, or any part thereof, or any letter of withdrawal; file any certificate of nomination or nomination paper, or letter of withdrawal, knowing the same or any part thereof to be falsely made; suppress any certificate of nomination or nomination paper, or any part thereof which has been duly filed; forge or falsely make the official indorsement on any ballot; wilfully destroy or deface any ballot, or wilfully delay the delivery of any ballots; or shall take or remove any ballot outside of the enclosure provided for voting before the close of the polls shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 94. Penalty for destroying nomination lists, cards of instructions, or specimen ballots posted for instruction. R. S. c. 8, § 95. Any person who shall, prior to an election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this chapter, or who, during an election, shall wilfully deface, tear down, remove, or destroy any card of instructions or specimen ballot printed or posted for the instruction of voters, or who shall, during an election, wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or who shall wilfully hinder the voting of others shall be punished by a fine of not less than \$5, nor more than \$100.

Sec. 95. Penalty for neglect of duty by public officer. R. S. c. 8, § 22. Any public officer upon whom a duty is imposed by the provisions of sections 1 to 15, 22, 34 to 37, 39, and 40 who shall wilfully neglect to perform such duty, or who shall wilfully perform it in such a way as to hinder any object of said sections, shall be punished by a fine of not less than \$5, nor more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.

Sec. 96. Penalty for neglect of constable to summon voters; for wilful neglect to be recovered by indictment. R. S. c. 8, § 103. If any person required to summon the voters of a city, town, or plantation to assemble at any meeting for holding an election neglects to do so or to make due return of the warrant therefor, he forfeits \$25 to his city, town, or plantation for each offense, to be recovered as provided in section 99; and if he wilfully neglects or refuses, he shall forfeit not less than \$50, nor more than \$200, $\frac{1}{2}$ to the state and $\frac{1}{2}$ to the prosecutor, to be recovered by indictment.

See § 98.

Sec. 97. Penalty for neglect, misfeasance of selectmen or other officers. R. S. c. 8, § 100. If any town officer, or such officer chosen pro tempore, wilfully neglects or refuses to perform any duty required of him, or wilfully does, authorizes, or permits to be done anything prohibited by the constitution or by this chapter, he shall for each offense forfeit not less than \$50, nor more than \$500, and be imprisoned for not less than 3 months, nor more than 9 months, unless otherwise expressly provided in this chapter.

10 Me. 111.

Sec. 98. Liability of town officers limited; neglect deemed wilful unless contrary is shown. R. S. c. 8, § 114. In no case, except as provided in sections 96 and 99, shall an officer of a town incur any punishment, or be liable in damages by reason of his official acts or neglects, unless they are unreasonable, corrupt, or wilfully oppressive; but the neglect to prepare the list of voters, to deposit it in the town clerk's office, to post it, as required herein, to call town meetings for elections, to comply with the requirements of or to perform any duty imposed by sections 27, 33, 37, 39, 42, 105, and 106, or either of them, to cause returns of votes, or copies thereof, to be delivered into the office of the secretary of state, as required by the constitution and laws, or to make the records by law required shall be deemed wilful and unreasonable, and the burden shall be upon the accused to prove the contrary.

See §§ 16, 23, 46, 48, 73, 96, 99, 101; c. 3, §§ 38, 39, 45, 47; 37 Me. 88; *76 Me. 162, 217; 102 Me. 437; *111 Me. 47.

Sec. 99. Penalty for neglect to issue warrant for state or national election. R. S. c. 8, § 101. If aldermen of cities, selectmen of towns, or assessors of plantations neglect to issue their warrant as required by law for a meeting for the choice of state or county officers, representatives to the legislature, or to congress, United States senators, or of presidential electors, they shall each forfeit \$50 to their city, town, or plantation to be recovered in action of debt by the treasurer, or by any citizen thereof when the treasurer is a member of the delinquent board.

See §§ 16, 96, 98.

Sec. 100. Penalty for neglect of selectmen to deposit and post lists. R. S. c. 8, § 104. If selectmen of a town or assessors of a plantation wilfully neglect to deposit a list of voters with the town or plantation clerk, or to post such lists, as hereinbefore required, they shall each forfeit not less than \$50, nor more than \$100; and for each day's neglect after the 20th day of August, and until the state election then next ensuing, they shall each forfeit \$30.

Sec. 101. Penalty for neglect to keep check-list or to reject illegal votes. R. S. c. 8, § 105. If the selectmen or assessors wilfully neglect or refuse to keep and use a check-list, as provided in section 23, or fraudulently receive the vote of any person not qualified to be an elector, as provided by the constitution, they shall each forfeit not less than \$50, nor more than \$100.

See §§ 13, 98; 119 Me. 333.

Sec. 102. Penalties of 2 preceding sections, how recoverable. R. S. c. 8, § 106. The penalties provided in the 2 preceding sections may be recovered in an action of debt, in the name and to the use of the town or plantation, where the offense is committed, to be prosecuted to final judgment at the request of any voter therein, by the treasurer, unless he is one of the delinquent officers, and in that case, by one of the constables.

Sec. 103. Penalty for striking names from list without notice. R. S. c. 8, § 107. Any municipal officer who strikes from the list of voters, after it has been prepared and posted, the name of any person residing in the municipality, without the notice and opportunity for hearing provided in section 39 of chapter 3, shall forfeit not less than \$20, nor more than \$100, to be recovered in an action on the case by the person whose name was struck out.

Sec. 104. Penalty for altering, erasing, etc., names, or voting in another's name. R. S. c. 8, § 108. Whoever wrongfully alters, erases, or mutilates any name on a list of voters, or fraudulently votes in the name of another or under an assumed name shall for each offense be punished by a fine of not more than \$300, or by imprisonment for not more than 11 months.

See c. 3, § 33, re penalty for false registration or attempt to impersonate another, etc.

Sec. 105. Penalty for not complying with requirements of § 27. R. S. c. 8, § 34. Any presiding officer or ward, precinct, town, district, or plantation clerk who does not comply with the requirements of section 27 or evades or attempts to evade the same, or any person who violates any provision of said section or hinders or attempts to hinder any election officer or any ward, precinct, town, district, or plantation clerk in the performance of his duties under said section shall be punished for each offense by a fine of not less than \$50, nor more than \$500, and by imprisonment for not less than 3 months, nor more than 9 months.

See § 98.

Sec. 106. Penalty for neglect to perform duties imposed by § 33. R. S. c. 8, § 35. Any presiding officer or any city, town, or plantation clerk who shall neglect to perform any duty imposed by section 33 shall be punished by a fine of not less than \$5, nor more than \$1,000, or by imprisonment for not more than 11 months, or by both such fine and imprisonment, for each offense, and thereafter shall be disqualified from holding the office of election or ballot clerk.

See § 98.

Sec. 107. Penalty if election clerk offers to assist voter before being directed to do so. R. S. c. 8, § 97. Any election or ballot clerk who shall assist or offer to assist any voter before such clerk shall have been directed by the presiding officer or officers to do so shall be punished by a fine of not less than \$25, nor more than \$100, or by imprisonment for not more than 60 days for each offense, and thereafter shall be disqualified from holding the office of election or ballot clerk.

Sec. 108. Penalty for knowingly voting where not entitled. R. S. c. 8, § 119. Whoever, at an election of state and county or municipal officers or presidential electors, knowingly votes in any city, town, or plantation where he has no legal right to vote shall be imprisoned for not less than 3 months, nor more than 11 months.

57 Me. 149.

Sec. 109. Penalty for false statement as to qualifications as a voter of unorganized territory. 1937, c. 209, § 2. Any person who certifies to a false statement relative to qualifications as a voter or as a resident of unorganized territory, for the purpose of securing the privilege of suffrage under the provisions of section 64, shall be punished for each offense by a fine of not more than \$100, or by imprisonment for not more than 6 months.

Sec. 110. Penalty if voter allows his ballot to be seen, or makes false statement as to inability to mark ballot, or for interfering with voter when marking

ballot. R. S. c. 8, § 94. A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere or attempt to interfere with any voter while inside the enclosure provided for voting or while marking his ballot, or who shall endeavor to induce any voter before voting to show how he marks or has marked his ballot shall be punished by a fine of not less than \$5, nor more than \$100; and election officers shall report any person so doing to a police officer or constable, whose duty it shall be to see that the offender is duly brought before the proper court.

106 Me. 516.

Sec. 111. Penalty for misconduct of electors at elections. R. S. c. 8, § 115. At any meeting for an election, where a list of voters is necessary, whoever wilfully votes before the presiding officer has had opportunity to find his name on the list, or knowing that it is not on it, or wilfully gives any false answer or statement to the officers presiding at such meeting in order that his name or the name of any other person may be entered on such list or his vote or that of another be received, or casts more than 1 vote at 1 balloting, or is disorderly at such meeting shall forfeit for each offense not less than \$10, nor more than \$100.

See § 124; 56 Me. 513; *96 Me. 433.

Sec. 112. Penalty for bribery and corruption at elections. R. S. c. 8, § 118. Whoever by bribery, menace, wilful falsehood, or other corrupt means, directly or indirectly attempts to influence any voter in giving his vote or ballot, or to induce him to withhold it, or disturbs or hinders him in the free exercise of his right of suffrage at any election held under the provisions of the constitution or of this chapter, and whoever receives or offers to receive a bribe for his vote as aforesaid shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, and shall be ineligible to any office for 10 years.

See Const. of Me., Art. IX, § 13, re bribery at elections; *73 Me. 94.

Sec. 113. Penalty if any person shall sell his vote. R. S. c. 8, § 98. Whoever shall offer, or promise, or agree to receive any money or other valuable consideration for giving in his vote at any election held under the provisions of the constitution or of this chapter, and shall in accordance with such offer, promise, or agreement give in his vote at such election shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months, and shall be excluded from the right of suffrage for a term of 10 years.

Sec. 114. Copies of the preceding section to be furnished, and posted in voting precincts. R. S. c. 8, § 99. The secretary of state shall furnish the mayors or persons performing the function of mayor of cities, the selectmen of towns, and assessors of plantations with copies of the preceding section in a printed form suitable to be posted in conspicuous places in the voting precinct of every city, town, or plantation, and they shall cause such copies to be so posted.

Sec. 115. Penalty for refusing to permit elector of unorganized territory to vote. 1937, c. 209, § 2. The selectmen of a town or the assessors of a plantation who wilfully refuse to permit an elector of unorganized territory, who furnishes proper evidence of his legal qualifications as a voter and of his residence in the unorganized territory, to vote in accordance with the provisions of section 64, shall be punished by a fine of not less than \$10, nor more than \$100, or by imprisonment for not more than 6 months.

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Sec. 116. Penalty for neglect of duty under §§ 37, 39, 42. R. S. c. 8, § 111. Any election officer, selectman, warden, election clerk, ballot clerk, town clerk, or other officer however designated, who shall neglect to perform any duty imposed by either section 37, 39, or 42, and any person who shall abstract from or in any manner tamper with packages of ballots, or shall break any seal affixed to any package of ballots or to any box containing packages of ballots before they are delivered at the office of the secretary of state, or who shall in any manner abstract from or tamper with unused ballots, shall be punished for each offense by a fine of not less than \$50, nor more than \$500, and by imprisonment for not less than 3 months, nor more than 9 months.

See § 98.

Sec. 117. Penalty for violation of § 24. R. S. c. 8, § 30. Any person violating the provisions of section 24 shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for 30 days.

Sec. 118. Penalty for neglect to supply lost return. R. S. c. 8, § 109. If any town officer, or any such officer chosen pro tempore, wilfully neglects or refuses to perform the duties required by sections 46, 47, and 48, on notice of the loss and destruction of any return therein described, he shall forfeit not less than \$100, nor more than \$500.

Sec. 119. Penalty for making false certificate. R. S. c. 8, § 110. Any officer mentioned in section 118, permanent or pro tempore, who in such case makes a false certificate and makes oath to its truth shall be punished as for perjury and be disqualified from holding any office under the constitution and laws of the state for 10 years.

See c. 122, § 1, re punishment for perjury.

Sec. 120. Penalty for neglect of persons to whom returns are entrusted for delivery. R. S. c. 8, § 112. If a person, to whom returns of votes of any city, town, or plantation for governor, senators, or representatives in congress are entrusted by the clerk thereof to be forwarded to the office of the secretary of state, wilfully neglects to use all proper means for their delivery, within the time required, he shall forfeit not less than \$100, nor more than \$500, or be imprisoned for not less than 2 months, nor more than 6 months.

Sec. 121. County attorneys to prosecute for wilful negligence in not delivering returns. R. S. c. 8, § 113. Every county attorney who receives from the secretary of state a certificate that the return of votes of any town in his county for governor, senators, or representatives in congress has not been duly received at the office of the secretary of state shall immediately ascertain, so far as he can, by the default of what officer or person such omission occurred, and shall demand of him, if he finds such default to have been wilful or caused by culpable negligence, the sum thereby forfeited; and if it is not immediately paid, he shall prosecute the delinquent.

Sec. 122. Penalty for failure to remit poll-tax collections. 1937, c. 209, § 2. Any agent of the state tax assessor who shall fail to remit poll-taxes collected, to the said assessor within 3 months after collection, upon request therefor by the said assessor, shall be guilty of embezzlement and shall be punished accordingly.

See c. 119, re punishment for embezzlement.

Sec. 123. Penalty for military parades on election day. R. S. c. 8, § 116. Any officer of the militia who parades men under his command or exercises any military command on a day of election, except in time of war or public danger, or in case of riot, invasion, or insurrection, or imminent danger thereof, or in case of public danger resulting from flood, conflagration, or tempest, or at a regularly scheduled and ordered drill in an armory shall forfeit for each offense not less than \$10, nor more than \$300.

See § 124.

Sec. 124. Penalties in §§ 111 and 123, how recoverable. R. S. c. 8, § 117. The penalties provided in sections 111 and 123 may be recovered by indictment, $\frac{1}{2}$ to the state and $\frac{1}{2}$ to the prosecutor.

Sec. 125. Penalties, how recovered. R. S. c. 8, § 102. Any penalty provided for in this chapter, which may be recovered by the treasurer of a town may be recovered by any voter of said town in a suit in his own name, to the same uses as if recovered by the treasurer if the treasurer refuses or neglects for 10 days after written request of such voter to commence suit therefor.

CHAPTER 6.

ABSENT VOTING.

Sec. 1. Term "absentee voters" defined. R. S. c. 9, § 1. 1933, c. 136. 1937, c. 183, § 1. An absentee voter is defined to be any person who is a duly qualified registered voter and, in respect to any primary election, duly enrolled as a member of the political party in the primary of which he proposes to vote except when he is serving a sentence in jail or in any penal institution, after conviction, in this or any other state, of a criminal offense, but who, through absence from the city or town in which he is entitled to vote, or who, through some physical incapacity not adversely affecting his soundness of mind, to which condition a physician duly admitted to practice shall have certified after examination, is unable to cast his ballot at the voting place where he is entitled to vote, at any city election, at any primary election held pursuant to the provisions of sections 1, 15, 45, and 46, of chapter 4, or at any general or special state election as the term state election is defined in section 1 of chapter 5, including also elections for the choice of electors of president and vice-president of the United States, elections held in accordance with the initiative or referendum provisions of the constitution of Maine, and elections to vote upon amendments to the constitution of Maine.

Sec. 2. Secretary of state to prepare ballots, blank forms, instructions, etc., for city and town clerks. R. S. c. 9, § 2. 1937, c. 183, § 2. 1939, c. 234, § 1. Thirty days at least, when practicable, prior to any election at which absentee voting or voting prevented because of physical incapacity is authorized, and in other cases as early as may be practicable, the secretary of state, or in case of city elections the respective city clerks, shall prepare, in such quantities as the official preparing the same may deem necessary, the following papers:

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