

MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

HOUSE

NO. 766

House of Representatives, Mar. 29, 1911.

Tabled for printing pending acceptance of either report.

C. C. HARVEY, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ELEVEN.

AN ACT to provide for the nomination of party candidates by
direct primary.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The words and phrases of this act shall, unless
2 the same be inconsistent with the context, be construed as
3 follows:

(1) The word "primary," the primary election provided
5 for by this act;

(2) The word "election" the biennial election held in Sep-
7 tember, as distinguished from the primary election;

(3) The word "party," any political organization which
9 at the preceding election polled at least one per centum of
10 the entire vote of the state given in for governor;

(4) The words "election officers," all officers performing
12 the duties of election officers.

Sect. 2. (1) This act shall not apply to special elections
2 to fill vacancies, nor to city, town and plantation elections.

(2) Moderators and other election officers, if any, chosen
4 at elections other than the regular biennial elections, shall
5 be considered regular election officers within the meaning
6 of this act for the biennial election of 1912.

Sect. 3. Hereafter all candidates for the office of gover-
2 nor, representatives in Congress and United States Senators
3 shall be nominated:

(1) By a primary held in accordance with this act, or

(2) By nomination papers, signed and filed as provided
6 by existing statutes.

Sect. 4. (1) A primary shall be held at the regular poll-
2 ing places in each plantation, town and ward or precinct in
3 the state on the second Tuesday of June, 1912, and biennially
4 thereafter, for the nomination of candidates for governor,
5 for representatives in Congress,

(2) Primaries shall be conducted by the regular election
7 officers as elections are conducted under existing laws.

Sect. 5. (1) At least sixty days before the time of hold-
2 ing any primary the secretary of state shall prepare and
3 transmit to each town, plantation and ward clerk in the state
4 a notice in writing designating the offices for which candi-
5 dates are to be chosen.

(2) Each town, plantation and ward clerk shall within

7 ten days after receipt of such notice, cause notice of such
 8 primary to be posted in three public places in his town, plan-
 9 tation, ward and precinct; such notice shall state the time
 10 when and place where the primary will be held in each town,
 11 plantation, ward and precinct together with the offices for
 12 which candidates are to be nominated. It shall also state
 13 the date before which declarations of candidacy must be
 14 filed to place names upon the ballots to be used at such pri-
 15 mary, the officers with whom they must be filed and the fees
 16 required to be paid at the time of filing such papers.

Sect. 6. (1) The name of no candidates shall be printed
 2 upon an official ballot used at any primary unless not more
 3 than sixty days prior to such primary a declaration of can-
 4 didacy shall have been filed by such candidate and the filing
 5 fee required by section 7 of this act shall have been paid.

Declarations of candidacy shall be in the following form:
 7 I,, declare that I reside in Ward, in the
 8 city (or town or plantation) of, county of,
 9 State of Maine, and am a qualified voter therein; that I am
 10 a member of party; that I am a candidate for nom-
 11 ination for the office of to be made at the primary
 12 election to be held on the day of; and I
 13 hereby request that my name be printed on the official pri-
 14 mary ballot of said party as a candidate for such
 15 nomination for election. I further declare that if nominated
 16 as a candidate for said office, I will not withdraw, and that
 17 if elected I will qualify and assume the duties of said office.

(2) Declarations of candidacy shall be filed as follows:

For Governor, for United States Senator or for Representatives in Congress with the secretary of state.

(3) Declarations of candidacy filed with the secretary of state shall be filed eighteen days before the primary.

Sect. 7. At the time of filing declarations of candidacy each candidate, or some person for him shall pay to the secretary of state the following fee:

(1) For Governor one hundred dollars;

(2) For Representatives in Congress fifty dollars;

(3) For United States Senator fifty dollars.

Sect. 8. At least ten days before any primary is to be held, an official ballot for each political party shall be prepared by the secretary of state and shall be as nearly as is practicable in the same form as ballots now used at elections. Below the name of each office shall be printed in small but easily legible letters the words, "Vote for one. Following the names printed on the ballot after the name of each office to be filled shall be a blank line. The ballots of all parties shall be upon colored paper, but the ballots of no two parties shall be upon paper of the same, or closely similar color, and each party ballot shall be so designated by the name of such party printed in prominent type on the back of said ballot.

Sect. 9. (1) Not later than six days before a primary the secretary of state shall furnish to the clerk of each town, plantation and ward ballots for each political party as follows: For each fifty and fraction of fifty voters of each

5 party as shown by the vote for Governor in the town, plan-
6 tation or ward at the last preceding election, he shall furnish
7 seventy-five ballots of said party, except that when any party
8 has cast less than ten votes in a town, plantation or ward,
9 he shall only be obliged to furnish twenty-five ballots.

(2) He shall in addition furnish each such clerk with ten
11 sample ballots of each political party, printed on white
12 paper.

(3) Each clerk shall within one day from the time when
14 he shall receive such sample ballots post three of each politi-
15 cal party in three public places in his town, plantation, ward
16 or precinct, and shall retain the others until the date of the
17 primary, when he shall post the same in prominent positions
18 in and about the polling place.

(4) The secretary of state shall also, upon request, fur-
20 nish a reasonable number of sample ballots printed on white
21 paper to each person whose name appears upon the ballot
22 as a candidate.

Sect. 10. (1) Boards of Registration of cities and the
2 municipal officers of towns and plantations shall prepare and
3 post the check-list of the legal voters in their respective
4 towns, plantations, wards and precincts, and hold sessions
5 for the correction of the same and give notice of such ses-
6 sions before all primaries held under this act in the same
7 manner as they are required to do before elections under
8 existing laws.

(2) No person shall be entitled to vote at a primary unless his name is upon the check-list of voters in the town, plantation or ward wherein he offers to vote.

(3) Any person offering to vote at a primary shall at the time of announcing his name also announce the name of the party to which he belongs. If his name is found upon the check-list, and if his party membership has not been before registered, it shall then be registered, and he shall be allowed to vote the ballot of his party, *provided, however*, that if he is challenged, he shall not be allowed to register as a member of such party, or to vote the ballot of said party unless he makes oath or affirmation that he affiliates with and generally supports the candidate of the party with which he offers to vote. If his party membership has been before registered he shall be allowed to vote only the ballot of the party with which he is registered.

(4) After the primary the town, plantation or ward clerk shall deliver to the Boards of Registration of cities and to the municipal officers of towns and plantations the check-list with the registration of the party membership of voters thereon. Before delivery, however, the election officers or ward clerk shall certify thereon under their hands that the list is the one used at the primary, and contains a correct registration of the voters as delivered into their hands or made by them at such primary. Such list shall be preserved by the Boards of Registration or municipal officers and shall be used by them in making up the check-list to be posted

36 before the next primary as provided in paragraph 6 of this
37 section.

(5) Any person whose party membership has been reg-
39 istered may change such registration by appearing in per-
40 son before the Boards of Registration of cities or municipal
41 officers of towns and plantations in which he is a legal voter
42 not less than ninety days before any primary, and stating to
43 them, under oath or affirmation, if required, that he intends
44 to affiliate with and generally supports the candidates of the
45 party with which he offers to register. He may also change
46 such registration at any primary upon making oath or affirm-
47 ation to the same effect if challenged, but, he shall not be
48 permitted in such case to vote the ballot of any party at such
49 primary.

(6) After the first primary held under this act the Boards
51 of Registration of cities and the municipal officers of towns
52 and plantations shall be in session for the alteration of the
53 registration of party members and for making additions to
54 such registration before each primary. The session shall be
55 on two days at least and shall be not less than ninety or more
56 than one hundred days prior to such primary. They shall
57 post copies of the check-list showing the persons in the town,
58 plantation, ward or precinct entitled to vote, with their party
59 registrations, so far as such registration has been made, in
60 three public places in such town, plantation, ward or pre-
61 cinct at least ten days prior to such session and notice of the
62 date, hour, and place of the daily sessions to revise such

63 registration shall be given upon such check-lists. After such
64 session the Boards of Registration of cities and the municipi-
65 pal officers of towns, and plantations shall prepare a cor-
66 rected check-list, showing the registration of the party mem-
67 bers as corrected by them, and such corrected check-list, with
68 such names as may be regularly added thereto as provided
69 in existing statutes shall be used at the primary. Whenever
70 names are added to the check-list, as provided in existing
71 statutes the Boards of Registration of cities and the municipi-
72 pal officers of towns and plantations shall register the party
73 membership of the voter, if he desires such membership reg-
74 istered; but if such voter has already been registered in any
75 town, plantation or ward in this state as a member of any
76 party, he shall not be registered as a member of a different
77 party within ninety days before any primary.

(7) The party membership of each voter may be regis-
79 tered by writing in ink after the name of such voter the first
80 three letters of the name of the party with which he reg-
81 isters.

Sect. 11. (1) Votes cast for the same person on the bal-
2 lots of different parties at any primary shall not be added
3 together but shall only count in favor of the person as the
4 candidate of each party on whose ballot his name appears.

(2) After the count is completed it shall be announced by
6 the clerk, and the clerk shall in the presence of the other
7 election officers, fill into blanks, provided him for that pur-
8 pose by the secretary of state, complete returns of all the

9 votes cast for the different candidates of each party. These
10 blanks shall be prepared in duplicate, and shall be signed by
11 the clerk. One copy shall be preserved by the clerk and
12 shall be opened to the inspection of any candidate, or of his
13 agent authorized in writing. The other copy shall be mailed
14 on the day of the primary or on the day following, by the
15 clerk to the secretary of state.

Sect. 12. (1) The second day after the primary, or as
2 soon thereafter as possible the secretary of state shall can-
3 vass the returns from all the towns, plantations and wards
4 in the state, and upon the completion of such canvass shall
5 declare what candidates have received the greatest number
6 of votes for the various offices in the various parties.

(2) After the completion of the canvass of the returns,
8 the secretary of state shall publish in some paper of general
9 circulation the names of the persons found to have been
10 chosen as candidates for the various offices by the various
11 parties, and shall cause a copy of such paper to be mailed to
12 each person whose name appeared upon any party ballot.

Sect. 13. (1) Persons voted for, at a primary, under this
2 act, who shall receive a plurality of all the votes cast by a
3 party, shall be candidates of that party for the office desig-
4 nated in the ballot.

(2) In case of a tie vote the tie shall be determined by lot
6 by the secretary of state in the presence of the candidates
7 who are tied, if, upon notice from the secretary of state, they
8 elect to be present.

(3) Vacancies upon any party ticket occurring after the holding of any primary shall be filled by the party committee of the state, provided, however, that should a vacancy occur in the candidacy for United States Senator the Legislature shall select the candidate for such office.

Sect. 14. (1) If any person who is voted for upon the ballot of any party is not, according to the count first made by the secretary of state, chosen as the candidate of such party, and desires a recount of the ballots cast in the primary he shall apply in writing to the secretary of state for such recount within ten days after the date of the advertisement of the result of the primary, provided for in paragraph 2 of section 12 of this act.

(2) The secretary of state shall fix a time for such recount not earlier than ten days after the receipt of the application, and shall notify the opposing candidates thereof, and as soon after the expiration of such ten days as circumstances will permit, such recount shall be held and conducted as recounts of votes cast at elections are now conducted.

(3) Upon the date set for the recount, the ballots shall be counted by the secretary of state and such assistants as he may require. The various candidates, however, and their counsel, shall have the right to inspect the ballots and participate in such recount under such suitable rules as the secretary of state may adopt.

(4) No candidate, however, shall be entitled to a recount

22 unless he shall pay to the secretary of state at the time of
23 filing his application fees as follows:

- (a) If a candidate for Governor, one hundred dollars.
- (b) If a candidate for member of Congress, fifty dollars.
- (c) If a candidate for United States Senator, fifty dollars.
- (5) If a recount shall show that some other person than

28 the one declared nominated upon the canvass of the returns
29 from the clerks of towns, plantations and wards as the great-
30 est number of votes cast at the primary, such person shall be
31 declared nominated and shall be the candidate of the party
32 for the office in question instead of the person so first de-
33 clared, and his name shall be placed upon the official ballot
34 at the following election.

(6) If the recount shall show that the person who applied
36 for the recount was chosen as the candidate of his party, the
37 secretary of state shall within ten days of such recount, re-
38 turn to him the fee paid at the time of filing the application
39 for a recount.

Sect. 15. At the primary election next preceding the elec-
2 tion of a Senator in Congress by the Legislature of Maine
3 there shall be placed upon the official primary nominating
4 election ballots the names of all candidates for the office of
5 United States Senator for whose nominations declarations
6 of candidacy have been filed with the secretary of state un-
7 der provisions of this law.

Sect. 16. The provisions of the statutes now in force in
2 reference to the holding of elections, the payment of election

3 officers, the filling of vacancies, the solicitation of voters at
4 the polls, the challenging of voters, the manner of conduct-
5 ing elections, of counting and preserving the ballots, and
6 making return thereof and all other kindred subjects, shall
7 apply to all primaries in so far as they are consistent with
8 this act, the intent of this act being to place the primary un-
9 der the regulation and protection of the laws now in force
10 at elections.

Sect. 17. Every candidate for nomination or election to
2 office under this act including candidates for office of United
3 States Senator, shall within fifteen days after the election at
4 which he was a candidate file with the secretary of state an
5 itemized sworn statement setting forth in detail all the mon-
6 eys contributed, expended or promised by him to aid and
7 promote his nomination or election or both as the case may
8 be, and all existing unfulfilled promises of any character
9 and all liabilities remaining uncanceled and in force at the
10 time such statement is made whether such expenditures,
11 promises and liabilities are incurred before, during or after
12 such election. If any money or other valuable thing was
13 not given, paid, expended, contributed or promised and no
14 unfulfilled liabilities were incurred by a candidate for public
15 office under this act to aid or promote his nomination or
16 election he shall file a statement to that effect within fifteen
17 days after the election at which he was a candidate. Any
18 candidate who shall fail to file such a statement shall be fined
19 twenty-five dollars for every day on which he was in default

20 unless he shall be excused by the court. Fifteen days after
21 any such election the secretary of state shall notify the at-
22 torney general of the state of any failure to file such a state-
23 ment on the part of any candidate within ten days thereafter
24 the attorney general shall proceed to prosecute such candi-
25 date for such offense.

Sect. 18. (1) It shall be the duty of the secretary of state
2 to prepare all forms necessary to carry out the intent of this
3 act and to furnish the same in reasonable quantities to the
4 proper officers. It shall also be his duty to furnish full direc-
5 tions to the clerks of towns, plantations and wards when he
6 sends them the notice provided for in section 5 of this act,
7 or when he furnishes them ballots, as provided in section 9
8 of this act, as to the posting of notices, holding of primaries,
9 and making return thereof.

(2) The secretary of state shall have authority to employ
2 such additional clerical assistance as may be required during
3 the canvass of votes, or in carrying out the provisions of this
4 act; and all expense necessary shall be paid out of the treas-
5 ury of the state from funds not otherwise appropriated.

Sect. 19. All sums paid to the secretary of state under the
2 terms of section 6 of this act and all sums paid to him under
3 the terms of paragraph 4 of section 14 shall be paid by him
4 into the state treasury.

Sect. 20. This statute shall be liberally construed, so that
2 the real will of the voters shall not be defeated, and so that
3 the voters of any town, plantation or ward shall not be de-

4 prived of their right to nominate or participate in the nomi-
5 nations of candidates for office by any informality or failure
6 to comply with all the provisions of law in respect to giving
7 notice of or conducting the primary or certifying the results
8 thereof.

Sect. 21. All acts or parts of acts inconsistent or in con-
2 flict with the provisions of this act are hereby repealed.

House of Representatives, Mar. 22, 1911.

An Act to provide for the nomination of party candidates by direct primary, reported by the Committee on the Judiciary, accompanied by the following reports from that committee:

Report "A" reporting "ought to pass" on Bill, An Act to provide for the nomination of party candidates by direct primary.

(Signed) HERBERT W. TRAFTON,
JOS. WILLIAMSON,
F. BOGUE,
GEORGE B. GOODWIN.

Report "B" reporting "ought not to pass" on same bill,

(Signed) L. M. STAPLES,
JOSIAH CHASE.

Report "C" reporting "ought not to pass" on same bill and recommending further that, unless the Davies Direct Primary Bill, so called, is enacted without change by the Legislature of 1911, the Pennell Bill, so called, be submitted to the people with the Davies Bill.

(Signed) HOWARD DAVIES,
ALBERT J. STEARNS.