

MAINE STATE LEGISLATURE

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VOLUME 1



THE MICHIE COMPANY

CHARLOTTESVILLE, VIRGINIA

Chapter 4.

Caucuses. Primaries. State Conventions.

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Sections 13-14. Caucuses and Meetings in Cities of Over 35,000 Inhabitants.

Sections 15-51. Nominations by Primary Elections. State Conventions. Town Committees.

Sections 52-58. Nomination of Candidates Not Included in the Primary.

Primaries governed by this chapter.—

The primary election for the nomination of candidates for the several offices by the members of the political parties entitled to representation on the primary ballot is governed by this chapter. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

The primary election law is modelled

after the biennial election law at which the Australian ballot method is in vogue. Under § 28 of this chapter, §§ 34-40 of chapter 5 are made a part hereof by reference and all the details as to secrecy are made to apply to primary as well as general elections. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

Political Caucuses.

Sec. 1. "Political parties" defined; enrollment required.—The term "political parties" as used in this chapter is declared to mean such political parties as at the gubernatorial election next preceding any primary election polled at least 1% of the entire vote cast in the state for governor. No person shall take part or vote in any caucus of any political party unless qualified therefor by enrollment as hereinafter provided. (R. S. c. 4, § 1.)

See § 11, re penalty; § 12, re exceptions.

Sec. 2. Enrollment of voters; enrollment declarations filed with board of registration; change of enrollment.—Any person who is a legal voter may enroll himself as a member of any political party by filing with or delivering to the board of registration of voters of the city, town or plantation of which he is a legal voter, a declaration in writing, signed by him, substantially as follows:

"I, _____, being a legal voter of _____, hereby elect to be enrolled as a member of the _____ party. The following statement of name, residence, place of last enrollment, if any, and party of last enrollment, if any, is true."

The foregoing declaration may be filed with the board of registration in person, by mail or otherwise, and when received, it shall be the duty of such board to cause the enrollment to be made. A voter may change his enrollment at any time, but the person making such change of enrollment shall not vote in any political caucus or primary election within 6 months thereafter. (R. S. c. 4, § 2.)

See § 11, re penalty; § 12, re exceptions; § 26, re determination of qualifications of voters.

Sec. 3. Clerk to record enrollment; records to be open to public; enrollment made during caucus; duty of secretary of caucus. — The clerk of the town where the enrollment is made, as above provided, shall receive and file the same, indorsing thereon the date of filing, and shall record the name, residence, place of last enrollment and date of filing in a separate book for the enrollment of members of each political party, entering the names alphabetically. Suitable blanks for such enrollment shall be provided by the town clerks and in addition thereto they shall provide books with proper headings, embodying the enrollment declarations above provided, which the person desiring to enroll may fill out and sign, thereby enrolling himself with the same effect as by filing such enrollment paper. Such books shall be public records and shall at all times be

open to public inspection. Any voter not previously enrolled may enroll as aforesaid up to the day of holding any caucus and may enroll himself during such caucus by subscribing and making oath to the following declaration before the chairman of the caucus:

"I, _____, do solemnly swear that I am a qualified voter in this ward or town, and have the legal right to vote in the caucus of the _____ party. I am a member of that political party and intend to vote for its candidates at the election next ensuing. I have not taken part in or voted at the caucus of any other political party in the 6 months last past."

The secretary of the caucus shall indorse thereon whether the person subscribing and swearing thereto voted in such caucus, and within 1 week thereafter the secretary shall return such declaration with the indorsement thereon to the clerk of the town wherein such caucus is held, who shall thereupon enroll such voter in the enrollment list of the party designated by him. Such declaration shall be preserved as a public record and shall be prima facie evidence in any court that such person took such oath and voted in such caucus. (R. S. c. 4, § 3.)

See § 11, re penalty; § 12, re exceptions.

Sec. 4. Caucuses must be held under §§ 1-12; citizens' caucuses not prevented.—Caucuses and meetings of political parties held for the purpose of nominating candidates or choosing delegates to assemble in convention to nominate any person to any public office whose name shall be placed on the final ballot, unless held under the provisions of sections 1 to 12, inclusive, are declared to be unlawful, provided that this shall not be construed as preventing citizens' caucuses. (R. S. c. 4, § 4.)

See § 11, re penalty; § 12, re exceptions.

Sec. 5. Votes to be by ballot.—All votes for the election of delegates to any political convention for the nomination of a candidate for any public office shall be by ballot, written or printed, on plain paper. (R. S. c. 4, § 5.)

See § 11, re penalty; § 12, re exceptions.

Sec. 6. Restrictions on voting.—No person shall vote or offer to vote more than once for any candidate or delegate or set of delegates in any 1 caucus, nor shall he vote or offer to vote in any caucus held in any caucus district in which he shall not at the same time be a legal voter. No person shall vote or offer to vote in any caucus where candidates or delegates are to be chosen, if he has already voted at the caucus of any other political party in the past 6 months. (R. S. c. 4, § 6.)

See § 11, re penalty; § 12, re exceptions.

Sec. 7. Oath to be taken by challenged voters. — No person whose right to vote is challenged shall be allowed to vote until he shall have taken the following oath, which shall be administered by the chairman of the caucus:

"You do solemnly swear that you are a qualified voter in this ward or town, and have the legal right to vote in this caucus; that you are a member of the political party holding the same and intend to vote for its candidates at the election next ensuing, and that you have not taken part in or voted at the caucus of any other political party in the 6 months last past."

The secretary of the caucus shall make a record of the administration of such oath, as provided in section 3, and with the same effect. (R. S. c. 4, § 7.)

See § 11, re penalty; § 12, re exceptions.

Sec. 8. Notices of caucuses.—Notices of caucuses, stating the place, day and hour of holding the same and signed by the chairman and the secretary or a majority of the committee shall be issued by each town committee and shall be filed with the town clerk who shall record such notice in the book in which the

record of town meetings is entered, not less than 7 days prior to the day on which such caucus is to be held and not less than 16 days prior to the day on which an election or convention relative thereto is to be held, and within said time 5 copies of such notice shall be conspicuously posted on the highways of each voting precinct. In case voting is by check list, a sufficient time shall be allowed for all to vote, and the call for the caucus shall state the hours fixed by the committee for the opening and closing of the polls. (R. S. c. 4, § 8.)

See § 11, re penalty; § 12, re exceptions.

Sec. 9. Bribery forbidden.—No person shall pay or offer to pay to any voter any pecuniary compensation for the vote of such voter, or to influence his action at any caucus held under the provisions of the 8 preceding sections. (R. S. c. 4, § 9.)

See § 11, re penalty; § 12, re exceptions; c. 135, § 5, re votes.

Sec. 10. Check lists, use of.—Voting lists as used in the election next preceding any caucus shall be used as check lists at such caucuses, if the town committee shall so determine and provide in the call, and such committee shall be required to provide for the use of such list upon written request, filed with the chairman or clerk of the committee, at any time before the call is posted, of voters of the party to the number of not less than 20 in towns of 2,000 and not exceeding 5,000 inhabitants, and of not less than 50 in towns of more than 5,000 inhabitants, according to the last official census of the United States. The officials having charge of such voting lists shall furnish certified copies thereof for use in caucuses, upon application of such party committee, the expense thereof to be paid as other expenses of registration are now paid. No person shall be deprived of his right to vote in any caucus by reason of the fact that his name does not appear on such list if he shall have become a legally qualified voter of such precinct subsequent to the last election and shall be otherwise qualified to vote as provided in the 9 preceding sections. (R. S. c. 4, § 10.)

See § 11, re penalty; § 12, re exceptions.

Sec. 11. Penalty for violations of §§ 1-10.—Whoever violates any provisions of the 10 preceding sections, or refuses to perform any duty required thereunder or willfully makes a false statement of fact in his declaration of enrollment shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months. (R. S. c. 4, § 11.)

See § 12, re exceptions.

Sec. 12. Exceptions.—The provisions of the 9 preceding sections shall not apply to towns of less than 2,000 inhabitants, nor to cities wherein the calling and holding of caucuses is regulated by special law. (R. S. c. 4, § 12. 1953, c. 365, § 7.)

Caucuses and Meetings in Cities of Over 35,000 Inhabitants.

Sec. 13. General law relating to political caucuses made applicable to cities of over 35,000; exceptions; caucuses to be held 2nd Wednesday of November; preparation of ballots; enrollment, how accomplished.—Caucuses and meetings of political parties in cities of over 35,000 inhabitants held for the purpose of naming candidates or choosing delegates to assemble in convention to nominate any person to any public office, for whose election the charter of any such city provides, and whose name shall be placed on the final ballot, shall be held as prescribed by the statutes relating to political party caucuses, except as hereinafter provided.

Only those voters enrolled as qualified to vote in such caucuses, as hereinafter provided, shall participate therein; the caucuses of all political parties, entitled

by law to nominate candidates to be voted upon at the next succeeding municipal election, shall be held in the several wards of such cities on the 2nd Wednesday of November, in each year, on which day the polls will be opened at 3 o'clock in the afternoon and continue open until 9 o'clock in the afternoon, when they shall close. Such caucuses shall be conducted by the same officers as elected at the preceding municipal election to have charge of such municipal elections, or their successors in office. No person shall vote at any such caucus unless a legally qualified voter in the ward where such caucus is held, nor unless enrolled as qualified to vote in the particular political party, then entitled to hold such caucus.

The city clerks shall, in season for such caucuses, prepare suitable ballots containing the names of all persons to be nominated at such caucuses and of a distinguishing color for each political party. Every person legally qualified to vote in such caucuses shall receive, upon application, at such caucuses, to the proper election officer, a ballot marked and designated by such distinguishing color as the ballot of that political party in which he is then enrolled and shall not be entitled to receive, nor shall such election officer deliver to him, any other ballot.

Every legally qualified voter of such city shall continue to be enrolled as a voter in the political party in which he is now enrolled, and when so enrolled, shall not be entitled to change such enrollment for the purposes of any of such caucuses within 6 months next prior to the date of the holding of such caucus. Any voter not previously enrolled may enroll before the board of registration at any time up to within 30 days of the date of such caucus or he may enroll during the caucus by subscribing and making oath to the following declaration before the chairman of the caucus:

"I, _____, do solemnly swear that I am a qualified voter in this ward, and have the legal right to vote in the caucus of the _____ party. I am a member of that political party and intend to vote for its candidates at the election next ensuing. I have not taken part in or voted at the caucus of any other political party in the 6 months last past."

Upon such enrollment he shall be permitted to vote. The warden shall indorse on every such enrollment blank, whether the person subscribing and swearing to the same voted at such caucus and shall return the same at the close of the caucus to the board of registration, and the board shall thereupon enroll the voter in the enrollment list of the party designated by him. The enrollment blank and the declaration thereon shall be preserved as a public record and shall be prima facie evidence in any court that such person took the required oath and voted in such caucus. The warden may appoint and swear to the faithful performance of their duties such number of enrollment clerks to assist him as may be required, who shall have power to administer the oath required of any person so enrolling at such caucus. All enrollment blanks shall contain the form of declaration and oath hereinbefore described but shall otherwise be in such form as the city clerk shall prescribe. The board of registration shall make up and certify, in season for such caucuses, true and correct lists of all the persons legally entitled to vote therein, after the same have been corrected, in accordance with the last registration of voters therein, and shall indicate on such lists of voters the political party, if any, in which each of such voters is enrolled; the lists, as so prepared by the board of registration, shall not be altered or amended by any person whomsoever, except the board of registration, and then only upon application to change his enrollment made by a person listed thereon as a legally qualified voter, which application shall not be made to the board within 6 months prior to the date of the holding of any such caucus. Such lists, so prepared, shall at the time of the holding of such caucuses, be delivered to the warden in each of the wards and shall be used in the wards for the purposes of holding the caucuses and shall be returned intact to the board of registration, after the caucuses

are closed, and shall be preserved by the board of registration until the same are superseded by new lists, prepared by the board. The board of registration shall supply to the political committees of each such political party such number of copies of these lists and of the enrollments noted thereon, as may be reasonably required for their purposes. (R. S. c. 4, § 13.)

Sec. 14. Penalty for disturbing primary political meetings; exceptions.—Whoever, by rude or indecent behavior, or in any way willfully or unlawfully disturbs or interrupts any public primary political meeting or caucus or public convention, lawfully assembled in any hall or other place of meeting, for the purpose of nominating or proposing candidates for any public office, or for the choice of delegates to conventions or other meetings called for such purpose, or creates a disturbance in any hall, walk or corridor adjacent or leading to the room where such primary political meeting or caucus or convention is held, shall be punished by a fine of not less than \$5, nor more than \$10, or by imprisonment for not more than 30 days. The provisions of this section shall be applicable only in cities of more than 35,000 inhabitants. (R. S. c. 4, § 14.)

Nominations by Primary Elections. State Conventions. Town Committees.

Sec. 15. Nominations by primary elections.—All nominations of candidates for any state or county office, including United States senator, member of congress and member of the state legislature, shall hereafter be made at and by primary elections to be held in accordance with the provisions of this chapter. Every political party entitled by law to representation upon the official ballot at state elections held biennially on the 2nd Monday in September, or at any special election for state or county officers or for members of congress or members of the legislature, shall nominate all its candidates for such offices, to be voted for at such elections, under the provisions of this chapter and not in any other manner. Nothing in this section shall be construed as preventing the nominations of candidates under the provisions of section 52. (R. S. c. 4, § 15.)

Sec. 16. State convention; powers; organization of committees; vacancies.—Not less than 60 nor more than 90 days before the 3rd Monday in June of each year in which a biennial state election is to be held, each political party shall hold a state convention with such basis of representation and at such time and place and with such requisites as to call and notice therefor as the state committee of each such political party may determine. At any such state convention the political party so represented shall formulate and adopt its declaration of principles, or platform, for the state election then next ensuing, nominate as many presidential electors as the state is entitled to, elect a state committee, a district committee for each congressional district, and a county committee for each county, severally of such number and to be elected in such manner as the convention may determine. The chairman and the secretary shall thereupon forthwith certify to the secretary of state the platform so adopted and the names and residences of the members of the committees so elected. Each of such committees shall thereafter, as soon as reasonably practicable, organize by the choice of a chairman and a secretary and shall certify such organization to the secretary of state; they may elect all other officers deemed needful, hold office until their next state convention hereunder, and perform such duties as may be imposed upon them by their respective state conventions. All vacancies for unexpired terms shall be filled by the county committee of the county wherein such vacancy occurs, and due certificate thereof shall be made to the secretary of state. All vacancies in the number of presidential electors shall be filled by the state committee. All such state conventions may transact such other business as

shall not be inconsistent with the provisions of this chapter. (R. S. c. 4, § 16. 1949, c. 90, §§ 1, 2.)

See § 18, re committees deemed regularly elected; § 46, re vacancies if candidate nominated.

Sec. 17. City and town committees, election and tenure.—All city, ward, town, plantation and representative class committees of political parties shall be elected in such manner and with such tenure of office and duties as the appropriate political party within such city, ward, town, plantation or representative class may from time to time determine. Each such committee may fill all vacancies in its membership. (R. S. c. 4, § 17.)

See § 18, re committees deemed regularly elected.

Sec. 18. Committees to be deemed regularly elected.—All committees created or elected under the provisions of sections 16 and 17 shall be deemed to be regularly elected general or executive committees within the meaning of section 56 and of all other provisions of this chapter. (R. S. c. 4, § 18.)

Sec. 19. Nominations for places on ballots; requirements of nomination papers.—Nominations for places on the ballots to be used at primary elections shall be made for each of the political parties entitled to representation thereon by nomination papers signed in the aggregate for each candidate of each political party by qualified voters within the electoral division or district, wherein such candidate is to be voted for, in number not less than 1% nor more than 2% of the entire vote cast for governor in the last preceding state election in the state at large, if the office for which such candidate is to be voted for is to be filled by the voters of the state at large; otherwise not less than 1% nor more than 2% of such gubernatorial vote within the electoral division or district wherein such proposed candidate is to be voted for. All such nomination papers shall besides containing the names of the proposed candidates specify as to each, 1st, the name of the office for which he is proposed as a candidate; 2nd, the political party which he represents; 3rd, his place of residence. There shall not be in any nomination paper the name of more than 1 candidate proposed for nomination. Nomination papers shall be signed only by members of the political party named therein. Each voter signing a nomination paper shall make his signature in person and add to it his place of residence. Each voter may subscribe his name to one nomination for a candidate for each office to be filled, and no more, except in cases where the office is to be filled by more than 1 person, and then, only to the extent of such number. One of the signers to each such separate paper, or the person circulating the same, shall make oath thereon, or by certificate of oath annexed thereto, that he believes the signatures are genuine and that the persons signing are members of the political party named therein and that they reside within the electoral division or district for which the nomination is proposed. The state at large shall be considered an electoral division within the meaning of this section; provided that nothing herein shall make it necessary for nomination papers for any candidate to be signed in the aggregate by qualified voters greater in number than 10% of the last gubernatorial vote cast by the party of such candidate within the electoral division or district wherein such candidate is to be voted for. (R. S. c. 4, § 19.)

See c. 5, § 92, re penalty for destroying nomination papers.

Sec. 20. Nomination papers, when to be signed and filed; may be amended; vacancies; papers preserved for 1 year.—No such nomination paper shall be signed before the 1st day of January of the year in which such primary election is to be held, and all such nomination papers shall be filed with

the secretary of state on or before the 3rd Monday in April of that year. With such nomination papers there shall also be filed the consent in writing of the persons proposed therein as candidates, agreeing to accept the nomination if nominated at the primary election, not to withdraw, and, if elected at the state election, to qualify as such officer. Such nomination papers so filed, and being in apparent conformity with the provisions hereof, shall be deemed to be valid; and, if not in apparent conformity, they may be seasonably amended under oath. In case any person who has been duly proposed as a candidate under the provisions hereof shall die before the day of the primary election, or shall withdraw in writing, so that the nominations shall be less than the number of the candidates required to be voted for by law, the vacancy may be supplied in the manner herein provided for such original nomination; or, if the time is insufficient therefor, then the vacancy may be supplied by the appropriate committee of the state, district, county, city, town, plantation or representative class by which such candidate is to be elected. Certificates for supplying the vacancy and the manner of placing the name of the nominee upon the ballots shall conform to the provisions of section 56. All nomination papers when filed shall forthwith be opened and kept open under proper regulations to public inspection, and the secretary of state shall preserve the same in his office not less than 1 year. (R. S. c. 4, § 20.)

See c. 5, § 92, re penalty for filing false nomination papers.

Sec. 21. Nominations for United States senators.—Whenever one or more United States senators are to be elected at the biennial state election held on the 2nd Monday of September, the nominee or nominees for such office or offices, of each political party, shall be chosen at the primary election held on the 3rd Monday in June preceding. Nominations therefor shall be made and filed as hereinbefore provided. Where but one United States senator is so to be elected, the nomination papers and official ballot shall specify simply the office of United States senator. When, however, 2 United States senators are so to be elected, the nomination papers and ballots shall by apt words designate the respective terms for which they are to be nominated. (R. S. c. 4, § 21.)

Sec. 22. Ballots, how made up; order of offices; names to be in alphabetical order; printing, color and size.—Every ballot which shall be printed in accordance with the provisions of this chapter shall contain the names and residences of all candidates whose nominations have been duly proposed hereunder for any office specified in the ballot, and not withdrawn in accordance herewith, and the office for which they have been severally proposed through the nomination papers filed as aforesaid, and shall contain no other names. The order of offices shall be the same as in the regular September election, except that when nominations for United States senators are to be made, that office shall appear first on the ballots. The name of each person for whom as a candidate for nomination a valid nomination has been filed shall be printed on the ballot in but 1 place. The names of the candidates for nomination to each office shall be arranged under the designation of the office in alphabetical order, according to surnames. The list of candidates upon each ballot shall be arranged in 1 column, except that when more than 1 column is necessary, an equal number of names, as near as may be, shall appear in each column. There shall be left at the end of each list of candidates for nomination to each office a blank space or spaces, in which the voter may write or paste the name or names of any person or persons not printed on the ballot for whom he desires to vote as a nominee or nominees for such office, the number of blank spaces so left to be equal to the number of nominees to be selected for such office. The ballot shall be printed so as to give each voter a clear opportunity to designate his choice for candidates for nomination by making a cross (X) or a check mark (✓) at the right of the name of each candidate he wishes to vote for as a nominee to each office; and on the ballot shall be printed such words as will aid the voters to do this, "Vote for 1," "Vote

for 2," and the like. At the top of the ballot there shall be printed in capital letters, "make a cross (X) or a check mark (✓) in the square at the right of the name of the person you wish to vote for. Follow directions as to the number of candidates to be marked for each office. Add names by writing or pasting stickers in blank spaces and mark a cross (X) or a check mark (✓) at the right of such names. Do not erase names." The ballots shall be printed on tinted paper, of a separate tint for each political party, white for the party casting the highest vote for governor at the last preceding state election, yellow for the 2nd highest, blue for the 3rd highest, green for the 4th highest, other colors for others, if any, and brown for specimen or sample ballots. They shall be of uniform size for all political parties and folded before distribution in marked creases so as to be of uniform length and width and to conceal the interior contents. All ballots furnished to any municipality by the secretary of state, as required by law for use at any primary election, shall be printed upon the outside so that "Official Nominating Ballot," the voting place for which the ballot is prepared, the date of the primary election and the facsimile signature of the secretary of state shall appear on all sides of the folded ballot. (R. S. c. 4, § 22. 1947, c. 82, § 1.)

Cross reference.—See c. 5, § 92, re penalty for destroying, removing, etc., ballots.

The facsimile signature gives to the ballot its official character. It guarantees to the voter and to the election officers that it is the official ballot according to law. It is the hallmark of authenticity and is an indispensable part of the ballot itself. Ballots which fail to bear this facsimile signature are not official, do not purport to be and cannot be counted. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

How "write in" counted.—If a Demo-

cratic voter wishes to vote for a person who is a Republican on his Democratic ballot, he may doubtless do so by writing or pasting in the name of such person and marking a cross at the right. But if this is done the person whose name is so written or pasted in becomes a Democratic, not a Republican, nominee for the office and must be counted among the Democratic nominees. The ballot cannot be counted with Republican ballots. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

Sec. 23. Ballots to be furnished by secretary of state; number to be provided for primary election; clerk of town may apply for larger supply.—All ballots, printed notices, sample ballots and cards of instructions shall be furnished by the secretary of state, at the expense of the state, in the same manner as in the case of regular elections. He shall provide and furnish for each voting place or precinct at which an election is to be held, not less than 75 of each party primary nominating ballots for every 50 votes and fraction thereof cast by that party in such voting place or precinct at the next preceding election, city, county, state or national, corresponding to and in congruity with the election for which such primary election is to be held and for which the ballots are provided. All ballots, printed notices, sample ballots and cards of instruction shall be forwarded by the secretary of state to the respective city, town and plantation clerks, and record thereof made and receipts therefor returned, as provided in section 8 of chapter 5; if the city, town or plantation clerk deems that more than the above number of ballots may be required by any party on account of an increased enrollment, he shall on or before the date for filing primary nomination papers so certify to the secretary of state, who shall add the number so asked for to the number of primary nominating ballots sent to that city, town or plantation. The expense of calling and holding primary elections and of making and forwarding the returns thereof shall be paid by the municipalities. All other lawful expenses incurred hereunder shall be borne by the state. (R. S. c. 4, § 23.)

Specimen ballots used by a voter cannot be counted. They are not designed to be used by voters, have no facsimile signature of the secretary of state (see § 22 and note) and therefore are not official.

This section makes a distinction between "ballots" which means official ballots and "sample ballots." Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

Sec. 24. Specimen ballots sent to clerks of towns; publication. — The secretary of state shall 14 days at least prior to the day of any primary election transmit to the clerk in each city, town and plantation specimen ballots containing the name, residence and party or political appellation of each candidate proposed for nomination as herein provided 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 ballot to be used therein; and the clerk shall immediately cause the specimen ballots 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 hereunder, in at least 2 newspapers in each county if there be so many printed or published therein, representing so far as practicable the political parties which at the next preceding gubernatorial election cast the largest and the next largest number of votes, a specimen ballot of all the nominations proposed, as herein provided and to be voted for in such county, so far as may be in the form in which they shall appear upon the general ballots. New nominations proposed as hereinbefore provided, to fill vacancies, 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. (R. S. c. 4, § 24. 1951, c. 348, § 2.)

See note to § 23, re use of specimen ballots by voter.

Sec. 25. Selectmen to issue warrants; posting; warrants directed to qualified and legally enrolled voters only.—Not less than 7 days before the 3rd Monday of June preceding a biennial state election, the selectmen of every town, by their warrant, shall notify and warn all legally qualified and enrolled voters to attend at their regular voting places on the 3rd Monday in June for the purpose of voting for persons to be nominated by their respective political parties as candidates to be voted for on the 2nd Monday in September then next ensuing. The warrant shall be in substance as follows:

“PRIMARY ELECTION WARRANT”

State of Maine,
County of

ss.

To the qualified and legally enrolled voters of the town of

You are hereby notified that the primary election in this town, of all political parties, entitled by law to nominate candidates for the next election, will be held at on Monday, June next, for the purpose of nominating candidates for the following offices to be voted for at the election to be held on the 2nd Monday in September next, viz:

(Here follow the officers to be nominated.)

The polls will be opened at o'clock in the forenoon and continue open until 7 o'clock (or 5 o'clock in towns that have so decided) in the afternoon, when they will close.

Voters not enrolled as members of a political party entitled to nominate candidates will not be permitted to vote. Voters entitled to enrollment may cause themselves to be enrolled at the voting places during the primary election on taking and subscribing the oath required by law, but such voters will not be allowed to vote at any primary election within the next 6 months following such enrollment unless a new voter, or a voter enrolling for the first time in that municipality.

Dated at , this day of June, 19 .

.....

 Selectmen of"

Such warrants shall be posted in the manner required by law for warrants for the state election. Like warrants shall be issued by the municipal officers of cities and the assessors of plantations with appropriate changes, and posted in like manner. The meetings 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. In all such warrants appropriate provisions shall be inserted calling the attention of voters to opportunities for correction of lists of voters by selectmen, municipal officers or boards of registration in the manner required by law. (R. S. c. 4, § 25.)

Cross reference.—See c. 5, § 16 et seq., re warrants for state elections.

Second primary cannot be called.—This section provides for one primary election to be held on the third Monday of June preceding the state election, and on no

other date. It makes no provision for a second primary in case for any reason the first does not fully function. No power is given to anybody to call such second primary, and none can be called. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

Sec. 26. Qualification of voters; enrollment; exception.—In all primary elections the qualifications of voters shall be determined by the voting lists used at the municipal or general elections of the respective cities, towns and plantations next preceding the primary election and a list of the aforesaid voters enrolled by party designation as required by section 2, and no person shall be allowed to vote in any primary election unless his name appears legally on such voting list and enrollment list, except those who have become of age within 8 months preceding such primary election, and voters enrolling for the first time in that municipality, who shall be allowed to enroll and vote. Any person who has the qualifications set forth in section 2 of chapter 3, and who has been a resident of the respective city, town or plantation for at least 3 months next preceding a primary, may register, enroll and vote at such primary. (R. S. c. 4, § 26. 1949, c. 218.)

Sec. 27. Conduct of primary elections; voters enrolled; board of registration to furnish lists; penalties.—No person shall vote at any primary election in any voting place unless a legally qualified and enrolled voter at such voting place, as set forth in the preceding section. The warden of each ward in cities shall be seasonably furnished by the board of registration with duly certified copies of all voting and enrollment lists arranged with each political party separately and the names of voters therein alphabetically. If not therein enrolled, any voter qualified by law and this chapter as a legal voter may, at such voting place, be enrolled after subscribing and making oath before a ballot clerk of wards in cities, or before one of the municipal officers in towns and plantations, to the following declaration:

"I, _____, do solemnly swear that I am a qualified voter in this ward, town or plantation, and hereby elect to be enrolled as a member of the _____ party. I am a member of that political party and intend to vote for its candidates at the election next ensuing. I have not taken part or voted at any caucus or primary election as a member of any other political party within the 6 months last past."

The person before whom the declaration is made and sworn to shall indorse thereon whether the person subscribing and swearing to the same voted at such primary election, and within 1 week thereafter, he shall return the declaration with the indorsement thereon to the board of registration of the city, town or plantation wherein the meeting is held, and the board shall thereupon enroll the voter in the enrollment list of the party designated by him. The declaration shall be preserved as a public record and shall be prima facie evidence in any court that such person took such oath and voted at such election. A suitable number of

such declarations shall be furnished at each voting place by the city, town or plantation; if the number be insufficient or none be furnished, the declaration aforesaid may be sworn to and return thereof made in like manner as if it had been subscribed. At all voting places each person applying to vote shall give his name, residence, party affiliation and place of last enrollment, if any; if already enrolled 6 months before in the precinct, he shall be given the ballot of his party, his name shall be checked on the enrollment list, and he shall be admitted to the voting booth and may vote. If not previously enrolled but then enrolled as hereinbefore provided, he shall be given the ballot of his party, checked, and may vote as aforesaid. No ballot shall be received containing any distinguishing mark or figure other than as herein provided. Every board of registration, ward or election officer, or person voting, who shall willfully violate any of the provisions of this section, shall be punished for each offense by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. (R. S. c. 4, § 27.)

See c. 3, § 2, re qualifications of voters.

Sec. 28. Certain sections of chapter 5 as to voting applicable. — Except as modified or superseded by sections 15 to 51 of this chapter, sections 34 to 40, inclusive, of chapter 5 shall apply to primary elections, except, however, that in designating his choice of candidates the voter shall mark a cross (X) or a check mark (✓) in the square at the right of the name of each person for whom he desires to vote, and the voter, if desirous of voting for any person whose name is not printed upon the ballot, may do so by writing or pasting such name or names in the blank spaces left therefor and marking a cross (X) or a check mark (✓) at the right of such name or names. (R. S. c. 4, § 28. 1947, c. 82, § 2.)

Cited in Opinion of the Justices, 124 Me. 453, 126 A. 354.

Sec. 29. Return of elections.—The secretary of state shall seasonably furnish blanks for all voting places on which to make the returns required herein. The names of the candidates shall be printed thereon substantially as on the nominating ballot and in the space made for the purpose following each name there shall be entered the number of votes received in that voting place by each candidate. The ballots shall be sorted and the result declared in open ward, town and plantation meetings. Such return and record thereof shall be separately made for the political parties respectively having proposed nominees upon the ballot and shall give the number of votes lawfully cast for each of the nominees thereon, following as nearly as practicable the order of the political parties, offices and nominees thereon, so as to give the detailed result of the voting. Returns shall be signed by the selectmen and attested by the town clerk in towns, and signed by the assessors and attested by the clerk in plantations, in like manner as at the biennial election for governor. Such clerks shall cause the returns to be delivered at the office of the secretary of state, by mail or otherwise, within 7 days after such primary election and if not so delivered within such time, like proceedings shall be had as provided by sections 43 to 48, inclusive, of chapter 5. In cities, the warden shall preside, as required by law at state elections, receive the votes of all qualified voters present, and, as herein required in case of town meetings, sort, count and declare the result in open ward meeting, and in the presence of the ward clerk, who shall make return and record thereof, as in towns, and a fair copy of the record shall be signed by the warden and attested by the ward clerk, sealed up in open ward meeting and delivered to the city clerk within 24 hours after the closing of the polls. The municipal officers of each city shall be in session within 24 hours after the close of the polls in such meetings, and in the presence of the city clerk shall open, examine and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a rec-

ord, and shall make return thereof into the office of the secretary of state in the same manner as clerks of towns are required to do. (R. S. c. 4, § 29. 1951, c. 8, §§ 1, 2.)

See c. 5, §§ 42, 62, re returns of votes to be transmitted to secretary of state.

Sec. 30. Return of party enrollment.—Within 10 days after the primary election each city, town and plantation clerk shall make a return on a blank provided by the secretary of state of the total number of voters enrolled in each political party in such municipality at the close of the polls on primary election day. (1953, c. 262.)

Sec. 31. Governor and council to tabulate votes; corrections; tie vote decided by lot; intention of voters.—The governor and council, not later than the 1st Tuesday of July in each year in which a primary election is held, shall open and compare the votes so returned, and have the same tabulated, and then forthwith have forwarded to each candidate a copy of the tabulations of his precinct or district, and may receive testimony on oath to prove that the return from any city, town or plantation does not agree with the record of the vote of such city, town or plantation in the number of votes or the names of the persons voted for, and to prove which of them is correct; and a return, when found to be erroneous, may be corrected from the record. No such correction shall be made without application therefor made in accordance with the provisions of section 32 hereof, nor without reasonable notice thereof given to the person affected thereby and during a period of 14 days after such tabulation any person voted for may personally, and by or with counsel, examine the returns in question in the presence of the governor and council, or either of them, or any member of the council, or the secretary of state. The person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office, provided that he shall have received at least as many votes as would be required to place his name on the primary election ballot by petition, and provided further, that when a tie shall exist between two or more persons for the same nomination by reason of such persons having at least as many votes as would be required to place their names on the primary election ballot by petition, and having an equal and the highest number of votes for nomination by one party to one and the same office, the secretary of state shall give notice to each of such persons to attend at the office of the secretary of state at a time to be appointed by the secretary, who shall then and there proceed publicly to decide by lot which of such persons shall be declared nominated by his party with like effect as if there had been no such tie. To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes appearing by 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, or with wrong initials or otherwise as the case may be; and they may hear testimony upon oath, in relation to such returns, in order to determine the intention of the voters and shall decide accordingly. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

The secretary of state shall enter in a register of nominations, to be kept by him for that purpose, the nominations for each party so ascertained, and shall forthwith notify by registered mail each person who is so nominated. (R. S. c. 4, § 30.)

Secretary of state not to tabulate ballots. —It is apparent from this section and §§ 32 and 33 that the secretary of state has no voice in the determination of what votes or ballots shall be counted. That is no part of his duty, and he has no right or authority to reject or count ballots. It is the duty of the governor and council to as-

certain the candidates who have received the highest number of votes cast by their respective parties. Hence, a prayer that the secretary of state be compelled to reject and not count certain votes must be denied. *Burkett v. Robie*, 137 Me. 42, 15 A. (2d) 71.

But must make record and issue notice.

—The governor and council, in the discharge of their official duties, having as-

certained which candidate had received the highest number of votes cast at a primary election, it became the duty of the secretary of state under the statute to make the proper record thereof and to issue to him the certificate or notice of nomination. *Burkett v. Robie*, 137 Me. 42, 15 A. (2d) 71.

Cited in *Opinion of the Justices*, 124 Me. 453, 486, 126 A. 354.

Sec. 32. Right of candidates to inspect ballots and ask for examination by governor and council.—The clerk of any city, town or plantation shall permit any candidate or his agent to inspect the ballots cast at any primary election after the same have been returned to 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. Such inspection shall be permitted only after written notice by the clerk to the ward, town or plantation officers who signed the returns of the election and to the other contesting candidates, sufficient to enable them to be present in person or by agent at the inspection. After each inspection the packages shall again be sealed, and the fact and date of inspection noted thereon. Upon written application filed with the secretary of state within 10 days after the returns are opened, tabulated and copies of such tabulations forwarded to the candidates, 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 alleged to have occurred, the secretary of state shall direct such clerk to forward to him forthwith the ballots cast in such town. The governor and council in open meeting shall examine such ballots 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 upon the ballot 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 and be heard in relation thereto. (R. S. c. 4, § 31.)

Cross reference.—See note to § 31.

Governor and council to ascertain facts.

—The governor and council are to find, that is to determine, the correctness of the record or return, and to make the necessary corrections if any are required. They are made by the legislature the tribunal to

pass upon the results in primary elections, and this necessarily implies the ascertainment of the necessary facts in connection therewith if challenge is made. *Opinion of the Justices*, 124 Me. 453, 466, 126 A. 354.

Quoted in *Burkett v. Robie*, 137 Me. 42, 15 A. (2d) 71.

Sec. 33. Agreements to facilitate recounts.—In the examination of ballots upon application as provided in the preceding section and in section 50 of chapter 5, the governor and council upon making corrected returns may in their discretion accept as facts such conclusions material to the inquiry as the candidates concerned may agree upon. (R. S. c. 4, § 32.)

Quoted in *Burkett v. Robie*, 137 Me. 42, 15 A. (2d) 71.

Sec. 34. Acceptance of nominee to be filed. — Every candidate so nominated and notified shall, within 7 days after the receipt of notification, send or deliver to the secretary of state the following acceptance:

“To the Secretary of State:
I, _____, of _____, hereby accept the nomination to the office of _____, made at the primary election June _____, 19____.”

The name of any candidate failing to file such acceptance shall not be printed

upon the official ballot to be used at the state election, and failure to file such acceptance within said 7 days shall be deemed to be a refusal of the nomination. (R. S. c. 4, § 33. 1951, c. 348, § 3.)

Sec. 35. Return of expenditures; false statements; limitation of miscellaneous expenditures.—Every candidate in any primary election who has incurred expenses to the amount of \$5 or more shall send to the secretary of state within 7 days after said primary election the following return by him subscribed and sworn to:

“RETURN OF EXPENDITURES

To the Secretary of State:

“I, _____, of _____, candidate for the office of _____, at the primary election held on June _____, 19____, on oath depose and say that the following is a true and perfect return of all expenditures by me made, or liabilities by me incurred for any purpose whatever in connection with my said campaign, before, at, or since said primary election.

The total amount thereof was \$ _____

The aforesaid amount is made up of the following:

Printing	\$ _____
Clerk hire	\$ _____
Newspaper advertising	\$ _____
Radio advertising	\$ _____
Television	\$ _____
Hall rent	\$ _____
Soliciting agents	\$ _____
Postage	\$ _____
Telephones and telegrams	\$ _____
Stationery	\$ _____
Express	\$ _____
Traveling expenses	\$ _____
Hotel bills	\$ _____
Transporting voters	\$ _____
Miscellaneous	\$ _____
Total	\$ _____

Of the above, the following are itemized:

PRINTING

Name.	Date.	Amount.
(The subdivisions of clerk hire, newspaper advertising, radio advertising, television, hall rent, soliciting agents, telephones and telegrams, stationery, express, traveling expenses, hotel bills and transporting voters shall follow the foregoing form.)		

MISCELLANEOUS

Name.	Date.	Amount.	Purpose.
I further depose and say that no person, firm, association, committee, organization or corporation has with my knowledge or consent paid any sum, or incurred any liability, other than such as are included in reports filed with the secretary of state as required in section 38 of chapter 4 of the revised statutes, to procure, or to aid in procuring, my nomination.			

Dated _____ A.D. 19 _____

State of Maine,

County, ss.

Personally appeared _____
by him signed is true.

A. D. 19 _____
and made oath that the foregoing return

Before me,
Notary Public
Justice of the Peace.”

If any statement in such return is willfully false, it shall be deemed to be perjury and shall be punished accordingly. No expenditures shall be so made, or liabilities be so incurred, except for the purposes named in such return. The subdivision "Miscellaneous" shall not exceed 10% of the total amount expended and shall include no items not legitimate under the provisions of sections 1 to 9, inclusive, of chapter 9; subsections IV and V of section 4 of chapter 9, as applied to primary elections, are to be construed as if reading as follows: "IV. Of renting and furnishing rooms to be used by candidates or their political agents, and for the reasonable entertainment and refreshment exclusive of alcoholic beverages, of political agents;" "V. Of compensating clerks and other persons employed in candidates' rooms and at the polls." Political agents of candidates appointed under the provisions of said sections shall, within 7 days after the date of the primary election, make to the secretary of state the return required by this section of candidates, and the form of the return shall be varied accordingly. Candidates who are their own political agents need not make a separate return in the latter capacity. Any political agent failing to make return within the time required shall be punished by a fine of \$25 for each day he is in default, unless he shall be excused by the court, but such failure shall not avoid nor affect the nomination of the candidate. The returns aforesaid shall be open to public inspection for 1 year and then be destroyed. (R. S. c. 4, § 34. 1951, c. 348, § 4. 1953, c. 365, § 8.)

Sec. 36. Candidates for U. S. senators to make returns.—Candidates for United States senators shall file like acceptances and make like returns. (R. S. c. 4, § 35. 1953, c. 365, § 9.)

Cited in *Brown v. Gannett Publishing Co.*, 147 Me. 3, 82 A. (2d) 797.

Sec. 37. Penalty for bribery, etc.—No person, firm or corporation shall directly or indirectly or by any device whatsoever pay any sum, or incur any liability, for procuring or aiding in the procurement of the nomination of any candidate to be voted for at any primary election without the knowledge and consent of such candidate. Whoever violates the provisions of this section shall be punished by a fine of \$500. (R. S. c. 4, § 36.)

Sec. 38. Expenditures for another to be reported; publication of reports.—It shall be unlawful for any candidate or for any person, firm, association, committee, organization or corporation, on behalf of a candidate or for the purpose of aiding the candidacy of any person, to make any expenditure or incur any liability, either for printing, publication, postage, clerk hire, newspaper advertising, renting of halls or other places, soliciting agents, transporting voters, radio advertising, television, telephones and telegrams, stationery, express, traveling expense, hotel bill, or any other act or thing calculated to induce or procure any person or persons to vote for any candidate for office in a primary election unless on the dates hereinafter set forth next ensuing after the making of any such expenditure or the incurring of any such liability such candidate, person, firm, association, committee, organization or corporation shall report the same to the secretary of state setting forth in detail the nature and amount of the expenditure made or liability incurred with the name of the candidate, his address, the election district and the office in question. For such expenditures as are made and such liabilities as are incurred during the period prior to the 30 days next preceding any such election, such report shall be made by all candidates for office to be voted for in the state as a whole, or in any congressional district, on the 1st day of each month next after such expenditure is made or such liability is incurred, and thereafter such a report shall be made each week, such weekly reports to be made so as to reach the office of the secretary of state not later than 10 o'clock in the forenoon of Wednesday in each week. In the case of candidates for representative to the legislature, or for any county office including state senators,

such candidate shall make one report 30 days prior to the date of the election and a 2nd report which shall reach the office of the secretary of state not later than 10 o'clock in the forenoon of the Wednesday next preceding such election.

The secretary of state shall, 15 days before the date of any such election, publish in all the daily and weekly papers in the state a statement setting forth the total expenditures made in accordance with the information filed with him under the terms of the foregoing paragraph by every candidate, person, firm, association, committee, organization or corporation reporting, giving for each office a list of the parties making such expenditures and the amounts thereof. The secretary of state shall revise and republish such figures in the daily papers of the state on the Friday immediately preceding the day of any such primary election.

Such publications shall in the weekly papers be limited to those candidates whose names are to appear on the primary ballots used within the county where each such paper is published.

Any candidate, person, firm, association, committee, organization or corporation which shall expend any money or incur any liability in excess of \$5, without reporting it as above provided or who subsequent to the filing of such last report of primary election expenses, shall expend for any purpose aforesaid more than the amount or amounts set forth in such final report, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months. (R. S. c. 4, § 37. 1951, c. 348, § 5. 1953, c. 365, § 10.)

Sec. 39. Preceding section applies to organized groups.—All the provisions of the foregoing section shall apply to any club or group of voters organized for the purpose of, or actually participating in, any campaign on behalf of a candidate for nomination to elective office or tending either directly or indirectly to aid the candidacy of any person for any nomination whatsoever. (R. S. c. 4, § 38.)

Sec. 40. Docket to be kept for registration of those aiding candidates.—The secretary of state shall prepare and keep a docket for the registration of every person employed to promote or further the candidacy of any person who is seeking nomination to elective office, which docket shall be open to public inspection during the office hours of the secretary and shall contain the name and address of each such person, the name of the candidate in whose behalf he is employed, the name of the office for which such candidate is seeking nomination, and a clear statement showing the basis of compensation, which shall in no event be dependent upon a contingency. (R. S. c. 4, § 39.)

Sec. 41. Persons aiding candidacies for nomination to register.—Any person accepting employment to aid, promote or further the candidacy of any person for nomination to elective office whose remuneration for such employment shall exceed the sum of \$5 shall, within 48 hours after accepting such employment, cause his name to be entered upon the docket required by the preceding section and shall file in the office of the secretary of state a full and complete statement of the basis of compensation on which his services in behalf of such candidate are being rendered. (R. S. c. 4, § 40.)

Sec. 42. Persons aiding candidacies for nomination to keep records of money.—Any person, firm, association or organization receiving money for labor, rent, printing, advertising or for any other service intended or designed to further the candidacy of a person for nomination to elective office or furnishing any such service or material on credit shall keep a careful and accurate detailed statement of the money received and the credit extended and shall preserve the same for 15 months from the date of the delivery of such material or the rendering of such service. Every candidate for elective office and every person, firm, association, committee, organization, club, group of voters or corporation who shall hire, contract for, arrange or otherwise provide or secure any material or

service intended or designed to further the candidacy of himself or of any other person for nomination to elective office shall keep a full, detailed and correct account of the money expended and the liabilities incurred and preserve the same for 15 months from the date of the delivery of the materials or of the rendering of the service. (R. S. c. 4, § 41.)

Sec. 43. Notice to be given of provisions of preceding section.—It shall be the duty of any person, whether candidate, political agent or interested worker, who arranges for any labor, rent, printing, advertising or other service intended or designed to further the candidacy of a person for nomination to elective office to advise each and every individual with whom he contracts for such labor, rent, printing, advertising or other service of the requirements of the preceding section. (R. S. c. 4, § 42.)

Sec. 44. Legislative committee to investigate.—Before the adjournment of the legislature biennially, it shall be the duty of the president of the senate to name 2 members on the part of the senate and of the speaker of the house to name 3 members on the part of the house, to serve as a special committee to investigate the expenditures made and liabilities incurred by and on behalf of candidates seeking nomination to elective office and such committee shall meet in Augusta on the Thursday preceding the primary election, at which time they shall make a preliminary investigation of all returns of expenditures and within 10 days after the primary election, the committee shall again meet in Augusta, at which time they shall examine the final returns of expenditures made under the provisions of this chapter. The members of said committee shall receive as compensation \$10 a day for as many days as are necessarily employed in the discharge of their official duty and reimbursement for all necessary expenses, including travel at the same rate as members of the legislature receive.

The committee may on its own motion and shall at the request of any candidate make a complete investigation into the expenditures made by or on behalf of any candidate and for that purpose shall have full authority to summon and require the attendance of witnesses and the production of records, books and papers and to take evidence pertaining to the matters under investigation.

The attorney general shall act as counsel for the committee and conduct the examination of witnesses called before it and in the event of any infraction of the election laws or any omissions on the part of candidates, their duly authorized political agents or other persons to account for all expenditures made or liabilities incurred in the conduct of elections, shall cause appropriate proceedings for the punishment of such offenders to be instituted. (R. S. c. 4, § 43. 1953, c. 365, § 11.)

Sec. 45. Penalty.—Whoever violates any of the provisions of the 6 preceding sections shall be punished by a fine of not less than \$100, nor more than \$500. (R. S. c. 4, § 44.)

Sec. 46. Vacancies, how filled.—In case any duly nominated candidate, except a candidate for United States senate, governor or representative to congress, shall die before the day of the election at which such office is to be filled, or shall withdraw in writing, or shall forfeit his nomination by failure to accept or to file a return, as provided in sections 34 and 35, then the vacancy may be supplied by the regularly elected county, city, town, plantation or representative class committee as the case may be of the political party of such nominee. In case a vacancy occurs in any office except that of United States senator, governor or representative to congress which is to be filled at the next biennial state election for which no nomination has been made at the primary election held on the 3rd Monday in June of the same year, nominations shall be made as provided in this section. When such a vacancy occurs, the governor shall, by proclamation, declare such fact and fix a date for the meeting of the appropriate committees. Cer-

tificates for supplying the vacancy and the manner of placing the name of the nominee upon the ballots shall conform to the provisions of section 56. (R. S. c. 4, § 45. 1949, c. 300.)

Cited in *Duquette v. Merrill*, 141 Me. 232, 42 A. (2d) 254.

Sec. 47. Filling of vacancies at special primary election.—In case any duly nominated candidate for United States senator, governor or representative to congress shall die before the day of the election at which such office is to be filled, or shall withdraw in writing, or shall forfeit his nomination by failure to accept or to file return, as provided in sections 34 and 35, a special primary election shall be ordered by proclamation of the governor, at such date as he deems best, conforming as nearly as may be practicable to the provisions of this chapter; and in that event the governor in such proclamation shall fix the time within which nomination papers shall be filed and the time for transmitting to town clerks lists of candidates proposed for nomination and the time within which and when the returns shall be received and the result declared. If the time is insufficient therefor, such nomination may be supplied by the regularly elected state or congressional committee, as the case may be of the political party of such nominee. Candidates so chosen shall be subject to the provisions of this chapter requiring acceptances and returns of expenditures by candidates. (R. S. c. 4, § 46. 1949, c. 300.)

Cited in *Duquette v. Merrill*, 141 Me. 232, 42 A. (2d) 254.

Sec. 48. Primary elections for nomination of candidates at special elections.—When a special election is to be held for the office of representative to congress as required by law, a primary election for the nomination of candidates to be voted for thereat shall be held at such time as shall be ordered by the governor by proclamation, and he shall therein fix the time within which nomination papers shall be filed and the time for transmitting to town clerks lists of candidates proposed for nomination and, so far as practicable, all the provisions of this chapter shall be applicable thereto. If the time is insufficient therefor, such nomination may be supplied in the manner provided in section 46. Candidates so nominated shall file acceptances and returns of expenditures as hereinbefore provided. When a special election is to be held for any office other than representative to congress, no primary election shall be held therefor but nomination shall be made in accordance with the provisions of section 46. (R. S. c. 4, § 47. 1949, c. 300.)

Cited in *Duquette v. Merrill*, 141 Me. 232, 42 A. (2d) 254.

Sec. 49. Chapter 3 made applicable.—Except as modified or superseded by the provisions of sections 15 to 51, inclusive, and so far as the same may be necessary for the purposes hereof, and where not inconsistent herewith, the provisions of chapter 3 are made applicable to primary elections. (R. S. c. 4, § 48.)

Sec. 50. Certain sections of chapter 5 made applicable.—So far as necessary for the purposes of sections 15 to 51, inclusive, and where not inconsistent therewith, the following sections of chapter 5 are made applicable to primary elections and all doings, therefor, thereat or thereafter, and for the purposes thereof, namely: sections 7 and 9; 11 to 15, inclusive; 17 to 23, inclusive; 26 and 27; 54 to 57, inclusive; 60 to 65, inclusive; 90, 92 and 93; 95 to 104, inclusive; 105, 106 to 111, inclusive; 113; 114 to 117, inclusive; and 118 and 119. (R. S. c. 4, § 49. 1953, c. 308, § 3.)

Sec. 51. Primary election a separate election for each political

party.—In construing the provisions of this chapter, and of all sections of the revised statutes herein made applicable to primary elections, and to all matters herein contained before and after such primary elections material to the purposes thereof, they shall, as to the duties of officers, forms, blanks, ballots, elections, warrants, returns and all other matters, so far as necessary for accomplishing the purposes of this chapter, be understood and interpreted as though a primary election is a separate election for each political party making its nominations hereunder, and to be conducted as to that party as nearly as practicable the same as the regular biennial state elections in September are conducted for all the electors, except in so far as the manner of proceeding before, at and after a September election may be modified or changed by this chapter for the purposes of primary elections. The provisions of sections 15 to 50, inclusive, do not modify or in any manner control the proceedings at the regular biennial state election, except in so far as they may be herein expressly and directly amended. (R. S. c. 4, § 50.)

Primary is two-fold election.—This section makes it plain that the primary election is designed to be and is in fact a two-fold election, one for each political party. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

And one not to interfere with other.—For considerations of convenience and ex-

pense, the primary elections are held on the same day and at the same time and place, but one must not interfere with another so far as official ballots are concerned. They are absolutely distinct. Opinion of the Justices, 124 Me. 453, 466, 126 A. 354.

Nomination of Candidates Not Included in the Primary.

Sec. 52. How nomination papers shall be signed; certificate by town clerk.—Nominations of candidates for any offices to be filled by the voters of the state at large may be made by nomination papers signed in the aggregate for each candidate by qualified voters of the state, the number of which shall not be less than 1% of the total vote for governor cast in the last gubernatorial election next preceding. Nominations of candidates for electoral districts or divisions of the state, or for municipal or ward officers, may be made by nomination papers signed in the aggregate for each candidate by qualified voters of such district or division not less in number than 1 for every 100 persons who voted at the next preceding gubernatorial election in such district or division, but in no case less than 25. In the case of a 1st election to be held in a ward, town or plantation newly established, the number of 25 shall be sufficient for the nomination of a candidate who is to be voted for only in such ward, town or plantation; and in the case of a 1st election in a district or division newly established, other than a ward, town or plantation, the number of 25 shall be sufficient. Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to 1 nomination for each office to be filled, and no more. The nomination papers shall, before being filed, be respectively submitted to the clerks of the cities, towns or plantations in which the signers purport to be qualified voters, and each clerk to whom the same is submitted shall forthwith certify thereon what number of the signatures are names of qualified voters both in the city, town or plantation of which he is clerk and in the district or division for which the nomination is made; one of the signers to each separate paper shall make oath to the truth thereof, and the certificate of such oath shall be annexed to or made upon the nomination papers. (R. S. c. 4, § 53. 1953, c. 63.)

See § 58, re penalty.

Sec. 53. Contents of certificates and nomination papers.—All nomination papers filed in accordance with section 52 shall, besides containing the names of candidates, specify as to each, 1st, the office for which he is nominated;

2nd, the party or political principle which he represents, expressed in not more than 3 words; and 3rd, his place of residence. In the 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 appellation. (R. S. c. 4, § 54. 1953, c. 365, § 13.)

See § 58, re penalty.

Sec. 54. Filing of certificates of nomination and nomination papers.—Petitions filed in accordance with section 52 for the nomination of candidates for United States senate, representatives to congress, state and county officers and representatives to the legislature shall be filed with the secretary of state on or before the 10th day of July of each year in which a biennial election is held, and for candidates for electors of president and vice-president on or before the 10th day of September in each year when a presidential election is held. Such certificates and papers for the nomination of candidates for the office of mayor and all other offices in cities shall be filed with the city clerks of the respective cities at least 14 days, exclusive of Sundays, previous to the day of election. Such certificates and papers for the nomination of candidates to be voted for at any special election to be held for choice of United States senators, representatives to congress or members of the legislature shall be filed with the secretary of state at least 14 days, exclusive of Sundays, previous to the day of election. With nomination papers and certificates shall also be filed the consent in writing of the person nominated. (R. S. c. 4, § 55. 1953, c. 365, § 14.)

Cross reference.—See § 58, re penalty.

Cited in Crosby v. Libby, 114 Me. 35,
95 A. 329.

Sec. 55. Nomination papers, if in apparent conformity to law to be deemed valid.—Said nomination papers being filed, and being in apparent conformity with the provisions of this chapter, shall be deemed to be valid; and if not in apparent conformity, they may be seasonably amended under oath. (R. S. c. 4, § 56. 1953, c. 365, § 15.)

See § 58, re penalty.

Sec. 56. Vacancies; contents of certificates; name placed on ballot.—In case a candidate who has been duly nominated under the provisions of section 52 shall die before the day of election, or shall withdraw in writing, the vacancy may be supplied by the political party or other persons making the original nomination, in the manner herein provided for such nomination; or, if the time is insufficient therefor, then the vacancy may be supplied by a regularly elected general or executive committee representing the political party making the original nomination. The certificates of nomination made for supplying any vacancy shall state, in addition to the other facts required by this chapter, the name of the original candidate proposed or the original nominee, the facts causing the 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 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. (R. S. c. 4, § 57. 1953, c. 365, § 16.)

See § 58, re penalty.

Sec. 57. Nomination papers to be open to public inspection.—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. (R. S. c. 4, § 58.)

See § 58, re penalty.

Sec. 58. Penalty for neglect of duty by public officer.—Any public officer upon whom a duty is imposed by the provisions of sections 52 to 57, inclusive, who shall willfully neglect to perform such duty or who shall willfully 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. (R. S. c. 4, § 59.)