

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

WATERVILLE
SENTINEL PUBLISHING COMPANY

1915

POLITICAL PARTIES.—PARTIES ENTITLED TO
HAVE ELECTION OR BALLOT CLERKS AT
PRIMARY AND GENERAL ELECTION.

27th May 1914.

Hon. J. E. Alexander, Secretary of State, Augusta, Maine.

DEAR SIR: In relation to the question whether or not under Section 21 of Chapter 6 of the Revised Statutes, as now amended, any other political party than the Republican, Democratic and Socialist are entitled to be represented at the polling places by election or ballot clerks at the coming primary and general elections, I have examined the statutes previous to the amendment of 1909 and considered them as affected by that amendment, and also the primary law.

It seems perfectly clear that at the primary election no party except the Republican, Democratic and Socialist are entitled to have election or ballot clerks to serve at the polls. The Republican and Democratic parties are the two parties casting the largest vote at the last gubernatorial election and the Socialist is the only other one which conforms to the definition of a political party in Section 1 of the primary law, so there would be no question I think, that neither the Prohibition nor so-called Progressive party have any right to request the municipal officers of a town to appoint extra election clerks under Section 6 as amended by Chapter 17 of the Public Laws of 1909, to act in the coming primary election.

Neither do I think they have this right at the September election. Any other interpretation would result in rendering the statute absurd. The statute reads that "on the recommendation of the political party committee of *any other party represented on the official ballot*, the municipal officers shall appoint one such election clerk for each polling place of such political party." Of course, there will be other parties represented on the official ballot in September, or at least other party designations used than those of the Republican, Democratic and Socialist. Query: Is any group of citizens, styling itself a political party, and nominating its candidates by petition a political party within the meaning of the language of this statute? We think not.

The statute further provides that such an election clerk, that is, such additional one, shall hold office for a like term as those appointed on the recommendation of the two parties polling the largest vote, or "for such part thereof as the party for which he is appointed *maintains its right to be represented* upon the official ballot." I cannot conceive of any other interpretation of the above than that it refers to a party which is entitled to nominate its candidates as a party in convention under Section 3, of Chapter 6, R. S.

It is, of course, true that nominations by any group of citizens, calling themselves a political party can be made by petitions under Sections 4 and 5 of Chapter 6, R. S. And they may be said to be entitled to be represented upon the official ballot; but the point is that such nominations would not be made by a party, but by individuals, and when so made, it is possible to have three or four nominations for the same office of men claiming to belong to the same political party, or at least, claiming the right to be placed upon the ballot under the same political designation. In order to secure a party nomination so there will be only one candidate for each office, the political party must have polled at least one percent of the total gubernatorial vote at the last state election and that alone in my opinion gives a party the right to be represented upon the official ballot within the meaning of the language of Section 21 as amended by Chapter 17, P. L. 1909.

To hold that any organization arising between two gubernatorial elections, and calling itself a political party, and by organizing its political committees, thereby has the right to have an election clerk appointed might result in as many different election clerks as there were groups of citizens large enough in number to nominate a candidate for any one of the offices by petition under some political or party designation, which would, of course, give them sufficient number to organize a "political party committee" that could make a request for an election clerk. Such a thing is, of course, improbable, but an interpretation that would permit it, is in my opinion absurd.

The whole language of the election law and of this statute in particular seems to indicate that where a political party is referred to, it is one that has polled the necessary number of votes to entitle it to act as a party in convention under the old

law or under the present law to nominate its candidates at the primaries. The so-called Progressive party undoubtedly has a sufficient number of members to qualify as soon as an election is held, but at present in this particular it is only suffering the penalties of youthfulness; the Prohibition party may again possess this privilege when it finds its purposes can no longer be best attained by supporting the candidates of some other party, but at present both are deprived of this right under my interpretation of this statute.

Very sincerely,

SCOTT WILSON,

Attorney General.

HIGHWAYS.—RIGHT OF STATE TO CLOSE FOR
REPAIR, DISCOMMODING CARRIAGE OF MAIL.

25th June 1914.

*Paul D. Sargent, Chief Engineer, State Highway Commission,
Augusta, Maine.*

DEAR SIR: Yours of the 20th inst., relating to the closing of the roads to travel in the town of Trenton was duly received.

I think there can be no question but that the State must have the right to close the road whenever necessary for the proper construction and repair of it, even though it may temporarily discommode transportation of the United States mail. However, in the case of any extended closing, I should take the precaution to notify the Post Office officials from which R. F. D. matter goes out in order that suitable provisions may be made for taking care of it, and accommodate where possible.

Very sincerely,

SCOTT WILSON,

Attorney General.