STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1918

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only state, county and forestry district taxes. The tax on insurance companies stock assessed to individuals is not in either of these classes. It is a municipal tax and is assessed by the municipal authorities. The Board of State Assessors are only concerned with it under their authority to equalize taxes and this has nothing to do with abatement.

Second. The Board of State Assessors under Section 12 of Chapter 9 of the Revised Statutes are only concerned with the valuation of a municipality as a whole. The fact that one piece of property, such as insurance stock or a particular piece of real estate, is over valued is a question for the local board and not for the Board of State Assessors. The Board of State Assessors are only concerned with the valuation of Bangor as a municipality and if, as stated in your letter, the valuation of the City of Bangor as made by the local board was $112,481. in excess of the State valuation as fixed by the Board of State Assessors, it appears to us that the Board of State Assessors would be amply justified in deciding that justice did not require the making of an abatement of the tax assessed against Bangor.

Very truly yours,

FRANKLIN FISHER,
Assistant Attorney General.

PRIMARY NOMINATIONS—USE OF DITTO MARKS—SIGNATURE OF VOTER BY ANOTHER PERSON.

1st February, 1918.

Hon. Frank W. Ball, Secretary of State, Augusta, Maine.

DEAR SIR: Your letter of the 29th, at hand and I note the questions which you submit, namely:

"Question 1. Shall the Secretary of State count the names upon a primary nomination blank, filed with him within the prescribed time, where the name of the voter is written by the voter himself, but the place of residence is designated by ditto marks.

Question 2. Shall the names upon a primary nomination blank be counted by the Secretary of State, when filed within the specified time, where it is apparent by the primary paper that the residence of the voter signing the nomination blank is written by some person other than the person himself."

Chapter 221 of the Public Laws of 1913 together with Chapter

127 of the Public Laws of the same year, appearing in the Revised Statutes of 1916 as Chapter 6 thereof popularly known as the Primary Law, constitute an important and radical departure from the former mode of nominating party candidates which has existed in this State. Section 5, originally Chapter 127, P. L. 1913, sets forth the various requirements of nomination papers and specifies in detail the means and manner by which a person may have his name placed upon the ballot to be used at the Primary election. One of the requirements is that

"Each voter signing a nomination paper shall make his signature in person and add to it his place of residence."

A primary election is essentially similar in character to the general elections with which we are all familiar and is in fact a preliminary election by parties of their respective candidates who shall be presented to the people at the following general election.

It is a "primary" election, that is, a "first" election. And it would seem to me that the principles governing general elections, except as limited and controlled by specific statutory language, may well be applied and should control the primaries.

The elective franchise guaranteed by our constitution as a sacred privilege belonging to the electors must be exercised at the primaries as well as at the general election, in accordance with such rules, regulations and restrictions as the legislature has from time to time deemed it necessary to provide in order to prevent false or fraudulent practices, to preserve the purity of the ballot box and thus obtain a fair and true expression of the will of the people. This principle as to the limitation of the privilege of the elective franchise has been recognized by our Supreme Court as appears in the Opinion of Justice Whitehouse in Curran vs. Clayton, 86 Maine 49.

Section 5 of Chapter 6, R. S. provides the time and mode by which nominations for places on the ballots to be used at primary elections shall be made and as said in Webster v. County Commissioners, etc., 64 Maine 436, "when the statute provides that a thing may be done and prescribes the time and mode of doing it, these directions should be strictly followed." The language of this section is plain and unequivocal. There is no ambiguity. Nothing is left to intendment. The directions are specific and in detail. If we look at the object in view and the remedy to be

afforded and to the mischief intended to be remedied, we may with reason believe that the legislature intended that a failure to comply with any of the requiremnts of this section should be deemed an irregularity.

Answering your second question first, I will say that it is my opinion that the voter himself must write his place of residence upon the nomination paper in order for his name to count as a signature of one of the qualified voters within the electoral division or district wherein such candidate is to be voted for. If the nomination paper itself discloses to you strong evidence that some of the signers have not personally written in their places of residence, you should reject such names when determining whether or not the would-be nominee has filed sufficient legal names to entitle him to a place on the primary ballot.

By section 6 of Chapter 6, R. S. it is provided that such nomination papers shall be filed with the Secretary of State on or before the first Monday of May, together with further provision that

"All such nomination papers so filed and being in apparent conformity with the provisions thereof shall be deemed valid; and if not in apparent conformity they may be seasonably amended under oath."

A primary petition or blank upon which signatures are subscribed by one person and place of residence written in by some other person is not to the extent of such irregularities, in apparent conformity with the provisions of Chapter 6, R. S. and would be the subject of amendment under oath. The word "seasonably" could fairly be construed it would seem to me to permit of amendment at any time prior to the expiration of the time of filing provided by the statute. In fairness to the party seeking a nomination, I would advise that notification of such irregularity be sent through the mail and full opportunity of amendment given.

Now returning to Question 1 wherein you inquire as to the sufficiency of indication of place of residence by use of ditto marks. I will advise that in my opinion the use of ditto marks is proper if above appears, properly written, some place of residence of some signer of the nomination paper.

In Wisconsin it is held that: "ditto marks" must be read as a representation of what appears written above them, and as meaning, "the same as above", since the abbreviations commonly used in the English language

may be used in general writing and legal documents and records as parts of the English language.

Chase v. Maxcy, 134 Wis. 435.

In Tennessee the Supreme Court speaking of ditto marks says that "ditto marks" are to be read as repetition of what appears on the line above and are as much a part of the English Language as are punctuation marks, such as the comma, semicolon, colon and period, etc., being regarded as a part of the language the Court will of course take judicial notice of their meaning.

Hughes v. Powers, 99 Tenn. 480.

In Indiana it is held that "the use of a double comma following the name of the subscriber to articles of association under the name of the specified locality, sufficiently designates such subscriber's residence."

Miller v. The Wild Cat Gravel Road Co. 52 Ind. 51.
Steinmetz v. Versailles & O. Turnpike Co. 57 Ind. 460.

See also Duerr v. Snodgrass, 58 W. Va. 472.
3 Words and Phases, 2141.
2 Words and Phrases, (2nd Series) 98.

In our own State the Justices of our Supreme Court in their answers to the questions submitted by Governor Garcelon in 1879 as appears in 70 Maine 567 had occasion to consider the question of ditto marks and gave recognition to the fact that the word "ditto" and its abbreviation "do" and the dots or marks that stand for the word "ditto" are of common use and have a perfectly well defined meaning known to persons generally, and that meaning should not be disregarded. It appeared in that opinion that in a return of an election the names of certain persons appear in the return and set against such persons' names were figures or words indicating the number of votes received. Upon following lines of the return, other persons' names appeared, followed by ditto marks or dots beneath the figures or words indicating the vote of the first person and the Justices held that such ditto marks indicated that the succeeding persons, according to the return, received the same number of votes as was written out by words or figures on the first line.

There can be no doubt as to the sufficiency of the use of ditto marks by a person signing a nomination paper to indicate his place of residence. And I am advising you to count all names upon primary petitions where the name of the voter is written by the voter himself and his place of residence indicated

by the use of ditto marks. The ditto marks must, however, be added by the voter himself.

Yours very truly,

GUY H. STURGIS,
Attorney General.

ERECTION AND EQUIPPING OF ARMORIES IN CITIES FROM FUNDS RAISED BY WAR LOAN.

10th July, 1917.

Hon. Carl E. Milliken, Governor of Maine, Augusta, Maine.

DEAR SIR: In reply to your inquiry as to the legality of using part of the war loan, so-called, for defraying the expense of erecting and equipping armories at Bangor and Lewiston as authorized by Resolves of the Legislature of 1917, I will say:

The loan authorized by the legislature for the purpose of suppressing insurrection, etc., will create a debt against the State in excess of the general Constitutional limitation of the State debt and is permissible only by virtue of the exception appearing in Section 14 of Article IX of the Constitution of Maine permitting the creation of debt or debts by the State without limit as to amount "to suppress insurrection, repel invasion or for purposes of war." This exception must be strictly construed and any debt created thereunder must be contracted and the proceeds of any loan negotiated therefor must be expended and applied only for such purposes as are expressly or impliedly within the terms of this Constitutional provision.

It cannot be questioned that this "war loan" was authorized to "suppress insurrection, repel invasion or for purposes of war" which might exist in the war between the United States and the Imperial German Government which was at the time of the passage of this act imminent and is now being waged. And if the construction of these armories can be deemed necessary for the purposes of this war undoubtedly the expenditure of part of this war loan therefor is entirely within your power.

If, however, the armories are not needed for this war, but are to be constructed simply for general use of state troops, in peace times as well as war. in the same manner and to the same extent that other armories already erected are now used, it does not