

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1930 - JUNE 30, 1932

STATE OF MAINE

REPORT

OF THE

Attorney General

for the calendar years

1931-1932

PAUPER SETTLEMENTS

April 1, 1931

To Grube B. Cornish, Secretary
Department of Public Welfare

Answering yours of March 25, I am of the opinion that the question of "settlement" is a matter of procedure rather than of substance. Our court has held that "settlement" is not a "vested status", *Augusta v. Waterville*, 106 Me. 394.

If this is so it would follow that the new law takes effect in all cases superseding the old law. The children about whom you inquire would therefore, take the mother's settlement under the new law.

PRIMARY ELECTION BALLOTS FOR COUNTY
COMMISSIONER

April 16, 1932

To Hon. Edgar C. Smith
Secretary of State

I have your inquiry as to the arrangement of the primary ballot in a county where nominations are to be made for more than one county commissioner. The problem as you fully appreciate, is not without difficulties.

You refer to P. L. 1880, ch. 239, sec. 32, now incorporated into the revision of 1930 as ch. 92, sec. 2.

You also refer to the fact that when later the primary law was passed, no express reference to the method of nominating county commissioners was made, the first section of the primary law, now R. S. ch. 7 sec. 1, merely making a general provision.

It is unfortunate that the primary law, or the subsequent revisions of the statutes which have included both the above sections, did not resolve the ambiguity, as was done in the case of United States Senators, by R. S. ch. 7, sec. 7.

I understand that in practice your office has placed together in one bracket on the primary ballot those filing nomination papers for long term county commissioner as candidates against each other for the nomination for that term, and similarly in another bracket those filing for a short term. Your office has requested those who file nomination papers in such cases to specify which term they are seeking. Consistently, on the election ballot in September you have classed as separate offices each county commissioner vacancy with one nominee from each party in each case.

This practice conforms to the practice expressly provided for in the case of United States Senators, and is consistent with a legal theory that each county commissioner holds a different office, i. e.,

that the office of long term commissioner differs from the office of short term commissioner as much as the office of either differs from the office of sheriff. There are some effective arguments for this theory and practice, and I hesitate to express an opinion against it.

It does seem to me, however, that we are more nearly taking the statutes as they stand if we rule that the express provision of the election law rises superior to the mere implications of the primary law. The election law prescribes that in the case of county commissioners the designation between the long and the short term is to follow mathematically from the tabulation of the votes for county commissioners at the September election, and not from the deliberately expressed intent of the voters at that or the primary election or from any choice by the candidates themselves of the term they seek.

The only way to make sure that in accordance with the election law the candidate who receives the most votes in September will hold the long term and his runner-up the short term, is by bracketing together on both the primary ballot in June and the election ballot in September, all candidates for county commissioner without distinction between their terms of office.

Accordingly, on the primary ballot in June, all who file nomination papers for county commissioner should be in one bracket, with the direction to "vote for two"; and on the election ballot in September, the two of these persons who have received the highest votes in their party's primary should again, as nominees of their party, appear in one bracket, with the same direction to the voter.

It is of course true that a tie between the two nominees of a party is apt to occur at the September election, as was found to be the case when the federal Constitution had a somewhat similar provision for the election of president and vice president. Our election law, however, provides for that contingency. By R. S. ch. 92, sec. 2 above quoted, the Governor and Council in such case designate the respective terms of office.

Under the present practice it may well happen that in the primary the successful nominee for a short term may receive but a tithe of the votes given to unsuccessful candidates for the long term, and an almost accidental benefit may accrue to a candidate who is lucky in his specification of the term for which he seeks nomination.

Voters are accustomed to vote for several candidates in the same bracket in counties entitled to more than one senator and in towns and cities entitled to more than one representative. To extend this custom to apply to county commissioners, where more than one is to be voted for, it seems to me, is more in accordance with the law than to classify a long term county commissioner as the holder of an entirely different office from a short term commissioner.

In my opinion, therefore, the practice should be changed to conform to the foregoing suggestion.