

MAINE STATE LEGISLATURE

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March 7, 1940

Mr. Howard Penley
Executive Secretary
77 1/2 Exchange Street
Bangor, Maine

My dear Mr. Penley:

This office feels that it is its duty to advise the Governor and heads of departments and that it should not be giving advice to other parties when such parties have received a ruling from a State department. In this particular case, however, following receipt of your letter of March 5th, I have had a conference with Harold I. Goss Deputy Secretary of State, and I feel that the opinion which he gave you relative to the signing of nomination papers for the purpose of affecting a nomination outside of the Primary is correct in principle.

It seems to us that the whole aim and object of the Primary Law is defeated if voters are permitted to participate in the selection of candidates for other than their own political party, and that once a man enrolls in a party and then participates in its Primary he should not be permitted to go into the convention of another party or sign nomination papers for its candidates; and that as long as we have the Primary Law it is the duty of all State officials and all good party members to see that it is conducted properly.

There has always been a lot of discussion in the State relative to preventing persons of one particular political faith from having anything to do with the selection of candidates in another party. That is why the law was passed prohibiting changes in enrollment within six months of a Primary and why all the other restrictions have been thrown around the use of this method of nominating candidates.

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For years the blanks which have been printed and supplied by the State for the use of persons wishing to petition their candidate on the ballot outside of the Primary have contained the following line printed at the top of the space provided for signatures; "We certify that we have not subscribed to any other nominations of candidates for this office.". While the statute, which is Section 32 of Chapter 7 of the Revised Statutes, provides that the certification on the back of such papers shall be signed by the clerk of the town in which the voter lives is to the effect that the signers are qualified voters within the town, it seems manifestly improper for us to advise that such paper can be signed by persons who have enrolled in one of the major parties and taken part, or been qualified to take part, in its Primary elections. It has happened in this State on several occasions that persons not nominated at a Primary election have petitioned their names on the ballot as candidate for major State offices under the name of some other political party or group, and then have received at the election considerably less number of votes than the thousand names filed with their petitions.

The whole idea of the Primary as we conceive it is that each party or political group should select its own candidates for office either in the Primary or in a convention if the party has cast one percent of the vote in the last election, or by the signing and filing of nomination papers, and that it is our duty to do everything we can to protect this principle and to carry out the very obvious intention of the Legislature that members of other parties or political faiths should not have anything to do with the selection of candidates of other parties, the principle which I feel very sure the members of your particular party would desire upheld.

Very truly yours,

Franz U. Burkett
Attorney General

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