

MAINE STATE LEGISLATURE

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April 6, 1956

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To Paul A. MacDonald, Deputy Secretary of State
Re: Number of Primary Election Ballots

This will acknowledge receipt of your memorandum with reference to Section 23 of Chapter 4, R.S., 1954, which provides as follows:

"He (meaning the Secretary of State) 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."

It is to be noted at the outset that a similar provision, namely Section 6 of Chapter 5, R.S. 1954, deals with the general State election. A consideration of Section 23 of Chapter 4 of necessity requires a consideration of Section 6 of Chapter 5, as, in our opinion, one was taken from the other and from time to time the statutes have been amended to conform to each other. See Chapter 89 of the Public Laws of 1931 and Chapter 110, also of the Public Laws of 1931.

Following the history of Section 6 of Chapter 5, we find that originally a different basis was used for determining the number of ballots to be furnished. Originally, the provision was based on Section 12 of Chapter 102 of the Public Laws of 1891, which was as follows:

"There shall be provided for each voting place, at which an election is to be held, two sets of such general ballots, each of not less than seventy-five for every fifty and fraction of fifty voters therein, and it shall be the duty of the clerks in each city, town or plantation in which an election for state or county officers is to be held, to certify to the secretary of state fourteen days previous to any such election, the number of qualified voters in each city, town or plantation."

This was changed by Chapter 267 of the Public Laws of 1893 to read as follows:

"There shall be provided for each voting place, at which an election is to be held, two sets of such general ballots, each of not less than sixty for every fifty and fraction of fifty votes cast in said voting place at the next preceding election, city, state or national, corresponding to the election for which said ballots are to be provided."

It is to be noted here that the legislature changed the basis for the number of ballots from the number of voters in the district to the number of votes previously cast in the corresponding election. From that point thenceforth both the number of primary and election ballots have been based on the votes cast at the corresponding election.

The purpose of this inquiry, as you state it, is to determine whether or not the formula to be used in determining the number of primary ballots is to be based on the votes at the next preceding primary election or on the next preceding State election.

It is our opinion that, when determining the minimum number of primary ballots to be used, the basis is to be the number of votes cast in that party in that voting place or precinct at the last election in that place or precinct for the same office. This is the purpose of the words, "corresponding to and in congruity with the election for which such primary election is to be held."

Of course a different basis is to be used when considering the effect of Section 6 of Chapter 5. In such case the basis is to be the vote cast at the next preceding election.

It is to be recalled that this formula determines the minimum number of ballots, as Section 23 provides the mode for increasing the number which may be required in any given primary.

Roger A. Putnam
Assistant Attorney General

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