

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date January 5, 1976

To Markham L. Gartley, Secretary of State Dept. Secretary of State

From Joseph E. Brennan, Attorney General Dept. Attorney General

Subject Political party - political designation

This will respond to your memorandum dated December 23, 1975, raising several questions concerning the differences between political parties and political designations under the Maine Election Laws. You point out that in the 1974 gubernatorial election, the present Governor, James B. Longley, used the political designation "Longley for Me." In that election he received 142,464 votes against 132,219 for the Democratic candidate and 84,176 for the Republican candidate.

Your specific questions and our answers thereto are set forth below.

1. Does there exist in Maine a political party known as the "Longley for Me." party? The answer is no.

Presently, there is no political party in Maine known as the "Longley for Me." party. At the time of the 1974 election, the term "party" was defined by 21 M.R.S.A. § 1, sub-§ 21, as "a political party which polled at least 1% of the total vote for Governor . . . cast in the State at the last gubernatorial . . . election." Thus, even assuming "Longley for Me." would otherwise have qualified as a political party, it was not a political party during the 1974 election because it had not polled at least 1% of the total vote for Governor cast in the State at the previous gubernatorial election, (i.e. the 1970 election).

It is true that during the 1974 election, "Longley for Me." polled more than 1% of the total vote for Governor, and the argument has therefore been advanced that "Longley for Me." is, at this point in time, a political party. This argument will not stand up for the following reasons:

Effective July 1, 1975, the definition of "party" was amended by P.L. 1975, c. 623, § 24-A (21 M.R.S.A. § 1(21) as follows:

"21. Party. 'Party' refers to a political organization which polled at least 1% of the total vote for Governor or President cast in the State at the last gubernatorial or presidential election and which has organized to fulfill the requirements for existing political parties as prescribed by chapters 11 and 13."

Chapter 11 refers to organization by municipal caucus, and Chapter 13 refers to organization by State convention. It is our understanding that "Longley for Me." has taken no steps to fulfill the requirements

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prescribed by Chapter 11 (municipal caucus) or by Chapter 13 (State convention). Accordingly, even if "Longley for Me." otherwise qualified as a political party by polling at least 1% of the total vote for Governor during the last gubernatorial election, it would not qualify as a political party under present law because of the failure to fulfill the organizational and other requirements now set forth in 21 M.R.S.A. § 1, sub-§ 21.

Furthermore, the statutes distinguish between a "party" designation and a "political designation." As indicated above, the term "party" is presently defined by 21 M.R.S.A. § 1(21) as "a political organization which polled at least 1% of the total vote for Governor . . . cast in the State at the last gubernatorial . . . election and which has organized to fulfill the requirements for existing political parties as prescribed by chapters 11 and 13." The term "political designation," on the other hand, is not explicitly defined in the statutes. However, 21 M.R.S.A. § 491, sub-§1, explicitly provides that nonparty candidates may not use as their political designations "the name or combination thereof of a political party which is entitled to nominate candidates by primary election."

2. What are the two major parties in Maine?

The two major parties in Maine are Democratic and Republican.

3. What is the procedure that a person or group of persons would follow in order to dissolve any existing political party?

There is no statutory provision for the dissolution of an existing political party, and, therefore, no uniform procedure exists. Without specific knowledge of the party organization and structure, it would not be possible to provide a definitive answer.

4. If a person runs for office utilizing the nomination by petition process (21 M.R.S.A. §§ 491-494), should the political designation of the candidate's petitions appear on the general election ballot?

As we have indicated above, party names may only be used by candidates enrolled in parties. Parties are entitled to nominate candidates by primary election. Nonparty candidates, on the other hand, are not permitted to proceed by primary election but must proceed under the nomination petition process set forth in 21 M.R.S.A. Chapter 17 §§ 491 through 494. Such nonparty candidates identify themselves by "political designation" as opposed to "party" designation.

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Under 21 M.R.S.A. § 492, sub-§ 1, a nomination petition of a nonparty candidate "must contain. . .his political designation expressed in not more than three words." Similarly, party candidates must set forth the name of the party in which they are enrolled in primary election petitions. 21 M.R.S.A. § 444.

In contrast, the statutes setting forth the requirements for general election ballots do not expressly provide that the political designations of nonparty candidates shall appear on the ballot. 21 M.R.S.A. § 702, sub-§ 2 specifically provides that the ballot:

"must contain the things listed in this section.
It may contain no others."

Section 702, sub-§ 2, B specifically provides as follows:

"Party designation. . To the right of the name of each nominee upon the ballot and properly separated from said name in line with the name of the nominee, shall be printed the designation of the party which the nominee represents."
(Emphasis supplied.)

It is clear from the foregoing that it is not permissible to include the political designation of a nonparty candidate on the general election ballot. Had the Legislature intended to include the political designations of nonparty candidates on the general election ballot, it could have said so expressly, as it did in connection with the use of political designations on nominating petitions.


JOSEPH E. BRENNAN
Attorney General

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