

# MAINE STATE LEGISLATURE

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E I G H T Y - N I N T H   L E G I S L A T U R E

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**Legislative Document**

**No. 1182**

H. P. 2232

House of Representatives, April 13, 1939.

Reported by a majority of Committee on Judiciary and printed under joint rules.

HARVEY R. PEASE, Clerk.

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S T A T E   O F   M A I N E

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-NINE

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**AN ACT Relating to Primary Nominations.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., c. 7, § 2, amended.** The 1st sentence of section 2 of chapter 7 of the revised statutes is hereby amended to read as follows:

‘Not less than ~~sixty~~ 50 nor more than ~~ninety~~ 70 days before the ~~third~~ 1st Monday in ~~June~~ May of each year in which a state election is held biennially, the political parties aforesaid shall each hold a state convention with such basis of representation and at such time and place and with such requisites as to call thereof and notice therefor as the state committee of each such political party may determine.’

**Sec. 2. R. S., c. 7, § 6, amended.** The 1st sentence of section 6 of chapter 6 of the revised statutes is hereby amended to read as follows:

‘No such nomination papers shall be signed before the 1st day of January of the year in which such primary election is to be held, and all such nomination papers shall be filed with the secretary of state on or before the ~~third~~ 4th Monday in ~~April~~ March of said year.’

**Sec. 3. R. S., c. 7, § 7, amended.** The 1st sentence of section 7 of chapter 7 of the revised statutes is hereby amended to read as follows:

‘Whenever one or more United States senators are to be elected at the

biennial state election held on the 2nd Monday of September, the nominee or nominees for such office or offices, of each political party, **except as hereinafter provided**, shall be chosen at the primary election held on the ~~third~~ **1st** Monday in ~~June~~ **May** preceding.'

**Sec. 4. R. S., c. 7, § 10, amended.** The 1st sentence of section 10 of chapter 7 of the revised statutes is hereby amended to read as follows :

'The secretary of state shall 14 days at least previous to the day of any primary **or run-off primary** election transmit to the clerks in each city, town, and plantation printed lists containing the names, residences and party or political appellations of all candidates proposed for nomination as herein provided for such election and to be voted for at each polling place in each such city, town, and plantation respectively substantially in the form of the ballot to be used therein; and the clerks shall immediately cause the lists for each plantation, town, or ward, as the case may be, to be conspicuously posted in one or more public places in such plantation, town, or ward.'

**Sec. 5. R. S., c. 7, § 11, amended.** Section 11 of chapter 7 of the revised statutes, as amended by chapter 27 of the public laws of 1933, is hereby further amended to read as follows :

'**Sec. 11. Selectmen to issue warrants; posting of warrants; warrants directed to qualified and legally enrolled voters, only.** Not less than 7 days before the ~~third~~ **1st** Monday of ~~June~~ **May** preceding a biennial state election, the selectmen of every town, by their warrant, shall notify and warn all legally qualified and enrolled voters to attend at the regular voting places on the ~~third~~ **1st** Monday in ~~June~~ **May** for the purpose of voting for persons to be nominated by their respective political parties as candidates to be voted for on the 2nd Monday in September the next ensuing. Said warrant shall be in substance as follows :

PRIMARY ELECTION WARRANT

State of Maine

County of

ss.

To the qualified and legally enrolled voters of the town of

You are hereby notified that the primary election in this town, of all political parties, entitled by law to nominate candidates for the next election, will be held at .....on Monday, ~~June~~ **May** .....next, for the purpose of nominating candidates

for the following offices to be voted for at the election to be held on the second Monday in September next, viz :

(Here follow the officers to be nominated.)

The polls will be opened at ..... o'clock in the forenoon and continue open until 7 o'clock (or "5 o'clock" in towns that have so decided) in the afternoon, when they will close.

Voters not enrolled as members of a political party entitled to nominate candidates will not be permitted to vote. Voters entitled to enrolment may cause themselves to be enrolled at the polling places during the primary election on taking and subscribing the oath required by law, but said voters shall not be allowed to vote at any primary election within the next six months following said enrolment unless a new voter, or a voter enrolling for the first time in that municipality.

Dated at....., this.....day of ~~June~~ April, 19 .

.....  
.....  
.....  
Selectmen of .....

Such warrants shall be posted in the manner required by law for warrants for the state election. Like warrants shall be issued by the mayor and aldermen of cities and assessors of plantations with appropriate changes, and posted in like manner. The meetings may be opened at 6 o'clock in the forenoon and shall be opened not later than 10 o'clock in the forenoon. The polls shall be kept open until 7 o'clock in the afternoon and shall then be closed, except that in towns of 300 inhabitants or less the towns shall have the option of closing the polls at 5 o'clock in the afternoon. Notice of the time of opening and closing shall be given in the warrant calling the meeting. In all such warrants appropriate provisions shall be inserted calling the attention of voters to opportunities for correction of lists of voters by selectmen, municipal officers, or boards of registration in the manner required by law.'

**Sec. 6. R. S., c. 7, § 14, amended.** Section 14 of chapter 7 of the revised statutes is hereby amended to read as follows :

**'Sec. 14. Certain sections of chapter 8 as to voting applicable.** Except as modified or superseded by the 1st 29 sections of this chapter, sections 15 to 20, both inclusive, of chapter 8 shall apply to primary **and run-off**

primary elections, except, however, that in designating his choice of candidates the voter shall mark a cross (X) in the square to the right of the name of each person that he desires to vote for, and the voter, if desirous of voting for any person whose name is not printed upon the ballot, may do so by writing or pasting such name or names in the blank spaces left therefor and marking a cross (X) to the right of such name or names.'

**Sec. 7. R. S., c. 7, § 16, amended.** Section 16 of chapter 7 of the revised statutes, as amended by chapter 75 of the public laws of 1931, is hereby further amended to read as follows:

**'Sec. 16. Governor and council to tabulate votes returned; corrections may be made; tie vote decided by lot; intention of voters to be considered.** The governor and council, by the ~~first~~ 3rd Tuesday of ~~July~~ May in each year in which a primary election is held hereunder, shall open and compare the votes so returned hereunder, and have the same tabulated, and forthwith thereafter have forwarded to each candidate a copy of said tabulations of his precinct or district, and may receive testimony on oath to prove that the return from any city, town, or plantation does not agree with the record of the vote of such city, town, or plantation in the number of votes or the names of the persons voted for, and to prove which of them is correct; and the return, when found to be erroneous, may be corrected by the record. No such correction can be made without application within 14 days after the returns are opened and tabulated, stating the error alleged, nor without reasonable notice thereof given to the person affected by such correction, and during said 14 days any person voted for may personally and by or with counsel, examine said returns in the presence of the governor and council, or either of them, or any member of the council, or the secretary of state. **Except in the case of governor, United States senator, or representative to Congress,** the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office, provided, that he or she shall have received at least as many votes as would be required to place his or her name on the primary election ballot by petition, and provided further that when a tie shall exist between 2 or more persons for the same nomination by reason of said 2 or more persons having at least as many votes as would be required to place his or her name in the primary election ballot by petition, and having an equal and the highest number of votes for nomination by one party to one and the same office, the secretary of state shall give notice to the several persons having the highest and equal number of votes to attend at the office of the secretary of state at a time to be appointed by said secretary, who shall then and there proceed pub-

licly to decide by lot which of the persons so having an equal number of votes shall be declared nominated by his party with like effect as if there had been no such tie. To ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes appearing by said returns to have been intentionally cast for him, although his name upon the return is misspelled or written with only the initial or initials of his christian name or names, or with wrong initials or otherwise as the case may be; and they may hear testimony upon oath, in relation to such returns, in order to get at the intention of the voters and shall decide accordingly. When a return is defective by reason of any informality, an attested copy of the record may be substituted therefor.

The secretary of state shall enter in a register of nominations, to be kept by him for the purpose, the nominations for each party so ascertained, and shall forthwith notify by registered mail each person who is so nominated.

**In the case of candidates for governor, United States senator, or representative to congress, if said tabulation dicloses that no candidate received a majority of the votes cast in his district by the voters of his party, then the secretary of state shall immediately notify each of the candidates for said office of such failure of any candidate to receive a majority of such votes, and the voters of the district in which such failure to cast a majority of votes for any one candidate for the offices above enumerated shall be warned of an election to be held on the 4th Tuesday of June in said district at which a ballot shall be provided by the secretary of state as herein set forth for primary elections, which ballot shall bear the names of those offices only for which no candidate secured a majority of the votes cast for said offices, and shall contain the names of the 2 candidates for each of such offices receiving the greatest number of votes at the original primary election. The conduct of said second primary shall be as herein provided for the conduct of primary elections. The votes shall be counted, and shall be tabulated by the governor and council by the 2nd Tuesday of July and the person receiving the highest number of votes for nomination to each of said offices at said 2nd election shall be deemed to have been nominated by his political party for that office.'**

**Sec. 8. R. S., c. 7, § 24, amended.** Section 24 of chapter 7 of the revised statutes is hereby amended to read as follows:

**'Sec. 24. Filling of vacancies at special primary election.** In case any nominee for United States senator, nominated hereunder, shall die before the day of the gubernatorial election at which such office is to be filled, or

shall before that time withdraw in writing, or shall forfeit his nomination by failure to accept or to file return, as provided in sections 18 and 19; or in case vacancy occurs in any office which is to be filled at the next biennial state election, for which no nomination has been made at the primary election held on the ~~third~~ **1st** Monday in ~~June~~ **May** of the same year, a special primary election shall be ordered by proclamation of the governor, at such date as he deems best, conforming as near as may be practicable to the provisions of this chapter, but in that event the governor in said proclamation shall fix the time within which nomination papers shall be filed and the time for transmitting to town clerks lists of candidates proposed for nomination and the time within which and when the returns shall be received and the result declared. If the time is insufficient therefor, said nomination may be supplied in the manner provided in section 23. Candidates so chosen shall be subject to the provisions of this chapter regulating acceptances and returns by candidates for United States senator.'

**Sec. 9. R. S., c. 7, § 28, amended.** Section 28 of chapter 7 of the revised statutes is hereby amended to read as follows :

'**Sec. 28. Primary election to be considered as a separate election for each political party.** In construing the provisions of this chapter and of all sections of the revised statutes, hereby made applicable as aforesaid to the primary elections to be held hereunder, and to all matters herein contained before and after such primary election, material to the purposes thereof, they shall, as to the duties of officers, forms, blanks, ballots, elections, warrants, returns, and all other matters, so far as necessary for accomplishing the purposes of this chapter, be understood and interpreted as though said primary election is a separate ~~election~~ **caucus** for each political party making its nomination hereunder, and to be conducted as to that party as nearly as practicable the same as the regular biennial state elections in September are conducted for all the electors, except in so far as the manner of proceeding before, at, and after said September election may be modified or changed by this chapter for the purposes of said primary elections. The provisions of the 27 preceding sections do not modify or in any manner control the proceedings at the regular biennial state elections except in so far as they may be herein expressly and directly amended.'

**Sec. 10. R. S., c. 8, § 48, amended.** Section 48 of chapter 8 of the revised statutes is hereby amended to read as follows :

'**Sec. 48. Secretary of state to send messenger for returns of ballot; expense of messenger, how paid.** At the expiration of ~~fourteen~~ **10** days after any election specified in the preceding section, the secretary of state

shall forthwith send a messenger to every town from which returns of votes have not been received, as provided in section 46 of this chapter, or from which the sealed packages of ballots have not been received, as provided in the preceding section; and the expense of each messenger shall be audited and paid and added to the next state tax assessed on the town, as provided in section 61 of this chapter.'