

MAINE STATE LEGISLATURE

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

Legislative Document

No. 339

S. P. 144

In Senate, January 30, 1947

Referred to the Committee on Judiciary, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Bishop of Sagadahoc.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT to Validate the Use of Check Marks in Elections.

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

Sec. 1. R. S., c. 4, § 22, amended. Section 22 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Sec. 22. Ballots, how made up; order of offices; names to be in alphabetical order; printing, color, and size of ballots. Every ballot which shall be printed in accordance with the provisions of this chapter shall contain the names and residences of all candidates whose nominations have been duly proposed hereunder for any office specified in the ballot, and not withdrawn in accordance herewith, and the office for which they have been severally proposed through the nomination papers filed as aforesaid, and shall contain no other names. The order of offices shall be the same as in the regular September election, except that when nominations for United States senators are to be made, that office shall appear first on the ballots. The name of each person for whom as a candidate for nomination a valid nomination has been filed shall be printed on the ballot in but one place. The names of the candidates for nomination to each office shall be arranged under the designation of the office in alphabetical order, according to surnames. The list of candidates upon each ballot shall be arranged in 1 column, except that when more than 1 column is necessary, an equal num-

ber of names, as near as may be, shall appear in each column. There shall be left at the end of each list of candidates for nomination to each office a blank space or spaces, in which the voter may write or paste the name or names of any person or persons not printed on the ballot for whom he desires to vote as a nominee or nominees for such office, the number of blank spaces so left to be equal to the number of nominees to be selected for such office. The ballot shall be printed so as to give each voter a clear opportunity to designate his choice for candidates for nomination by making a cross (X) or a check mark (✓) at the right of the name of each candidate he wishes to vote for as a nominee to each office; and on the ballot shall be printed such words as will aid the voters to do this, "Vote for one," "Vote for two," and the like. At the top of the ballot there shall be printed in capital letters, "make a cross (X) or a check mark (✓) in the square at the right of the name of the person you wish to vote for. Follow directions as to the number of candidates to be marked for each office. Add names by writing or pasting stickers in blank spaces and mark a Cross (X) or a check mark (✓) at the right of such names. Do not erase names." The ballots shall be printed on tinted paper, of a separate tint for each political party, white for the party casting the highest vote for governor at the last preceding state election, yellow for the 2nd highest, blue for the 3rd highest, green for the 4th highest, other colors for others if any, and brown for specimen or sample ballots. They shall be of uniform size for all political parties and folded before distribution in marked creases so as to be of uniform length and width and to conceal the interior contents. All ballots furnished to any municipality by the secretary of state, as required by law for use at any primary election, shall be printed upon the outside so that "Official Nominating Ballot," the polling place for which the ballot is prepared, the date of the primary election and the facsimile signature of the secretary of state shall appear on all sides of the folded ballot.'

Sec. 2. R. S., c. 4, § 28, amended. Section 28 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Sec. 28. Certain sections of chapter 5 as to voting applicable. Except as modified or superseded by sections 15 to 50 of this chapter, sections 34 to 40, inclusive, of chapter 5 shall apply to primary elections, except, however, that in designating his choice of candidates the voter shall mark a cross (X) or a check mark (✓) in the square at the right of the name of each person for whom he desires to vote, 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) or a check mark (✓) at the right of such name or names.'

Sec. 3. R. S., c. 5, § 5, amended. Section 5 of chapter 5 of the revised statutes is hereby amended to read as follows:

'Sec. 5. What the ballot shall contain and how printed; size of ballot. Every general ballot or ballot intended for the use of all voters, which shall be printed in accordance with the provisions of this chapter, shall contain the names and residences, ward residences in city elections, of all candidates whose nominations for any office specified in the ballot have been duly made and not withdrawn in accordance herewith, and the office for which they have been severally nominated, and shall contain no other names except that in case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the party or political designation. The names of candidates nominated by any party shall be grouped together upon the ballot. Above each group shall be placed the name of the political party by which the candidates comprising such group were placed in nomination, or the political designation as described in the certificates of nomination, or nomination papers, under a square. Below the name of each candidate for any office in any group there shall be left a blank space in which the voter may write the name of any person for whom he desires to vote as a candidate for such office; at the right of each name and at the right of the blank space above provided for, there shall be left a blank square in which the voter may make a cross mark (X) or a check mark (✓). If only 1 person be nominated by any party, or under any political designation, his name with the office for which he is a candidate shall be printed by itself under the name of such party or political designation. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people such question or questions shall be printed upon a separate ballot. The ballots shall be so printed as to leave a blank space above such amendment or question so as to give each voter a clear opportunity to designate by a cross mark, (X), or a check mark (✓), therein, his answers to the questions submitted, and on the ballot may be printed such words as will aid the voter to do this as "yes," or "no," and the like. The ballot shall be not less than 4 inches in width and not less than 6 inches in length. Before distribution, the ballots shall be so folded in marked creases that their width and length when folded shall be uniform. On the back and outside, when folded, shall be printed "Official Ballot for," followed by the designation of the voting place for which the ballot is prepared, the date of the election, and a facsimile of the signature of the city

clerk who has caused the ballot to be printed. All ballots furnished to any municipality by the secretary of state, as required by law for use at any state election, shall be printed upon the outside so that "Official Ballot for," the designation of the voting place for which the ballot is prepared, the date of the election, and the facsimile of the signature of the secretary of state shall appear on all sides of the folded ballot. Except as otherwise herein provided, ballots for use in elections of senators and representatives to the congress of the United States, state and county officers, and senators and representatives to the state legislature shall be printed upon clean white paper and ballots to be used in elections as to constitutional and referendum questions submitted to the vote of the people shall be printed upon tinted paper, the color or tint of which may be determined by the secretary of state, without any distinguishing mark or figure thereon.'

Sec. 4. R. S., c. 5, § 35, amended. Section 35 of chapter 5 of the revised statutes is hereby amended to read as follows:

'Sec. 35. How voter shall prepare ballot; manner of voting. On receipt of his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments and shall prepare his ballot by marking in the appropriate place a cross (X) or a check mark (✓) as follows: He may place such mark within the square above the name of a party group or ticket, in which case he shall be deemed to have voted for all the persons named in the group under such party or designation. If the voter shall desire to vote for any person or persons, whose name or names are not printed as candidates in such party group or ticket, he may erase or draw a line through any name or names which are printed therein and place a cross (X) or a check mark (✓) in the square at the right of the name of the candidate of his choice in any other party group or ticket. Or, as an optional method of voting, the voter may omit the cross (X) or the check mark (✓) in the party square and place a cross (X) or a check mark (✓) in the blank square at the right of the name of each candidate he wishes to vote for. If the voter wishes to vote for a candidate whose name is not on the ballot, he may write the name under the name of the candidate erased or through whose name he has drawn a line. Or, if the voter does not desire to vote for a person or persons whose name or names are printed upon the party group or ticket, he may erase or draw a line through such name or names with the effect that the ballot shall not be counted for such candidate or candidates. Stickers shall not be counted unless used to fill a vacancy or correct an error in the printed ballot. In case of a question submitted to the vote of the people, he shall place such mark in the appropriate margin above the answer which

he desires to give. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, and he shall keep the same so folded until he has voted. Before leaving the enclosed space he shall deposit his ballot in the box with the official indorsement uppermost, and in case he has received a ballot containing a question submitted to the people, he shall deposit it likewise at the same time. He shall mark and deposit his ballot without undue delay, and shall quit the enclosed space as soon as he has voted. No voter shall be allowed to occupy a voting shelf or compartment occupied by another, or to remain within the enclosed space more than 10 minutes, or to occupy a voting shelf or compartment for more than 5 minutes in case all of such shelves or compartments are in use and other voters are waiting. No voter not an election officer or an election clerk, whose name has been checked on the list by the ballot clerk, shall be allowed to reenter the enclosed space during the election. The presiding election officer or officers, for the time being, shall enforce the observance of the provisions of this section.'

Sec. 5. R. S., c. 5, § 40, amended. Section 40 of chapter 5 of the revised statutes is hereby amended to read as follows:

'Sec. 40. When ballot shall not be counted. If a voter marks more names for any 1 office than there are persons to be elected to such office, or if for any reason it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office. No ballot without the official indorsement shall, except as herein otherwise provided, be allowed to be deposited in the ballot-box, and none but ballots provided in accordance with the provisions of this chapter shall be counted. Ballots not counted shall be marked defective on the back thereof, and shall be preserved as required by section 39. No marks, other than those authorized by law, shall be placed upon the ballot by the voter; but no ballot, after having been received by the election officers, shall be rejected as defective because of marks, other than those authorized by law, having been placed upon it by the voter, unless such marks are deemed to have been made with fraudulent intent, and no ballot shall be rejected as defective because of any irregularity in the form of the cross **or the check mark** in the square at the head of the party column unless such irregularity is deemed to have been intentional and made with a fraudulent purpose.'