

# MAINE STATE LEGISLATURE

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

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**Legislative Document**

**No. 1359**

S. P. 623

In Senate, March 16, 1949.

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

CHESTER T. WINSLOW, Secretary.

Presented by Senator Bowker of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-NINE

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**AN ACT Providing for Runoff Primary Elections.**

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

**Sec. 1. R. S., c. 4, § 16, amended.** The 1st sentence of section 16 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Not less than 60 nor more than 90 days before the 3rd Monday in ~~June~~ **May** of each year in which a biennial state election is to be held, each political party shall hold a state convention with such basis of representation and at such time and place and with such requisites as to call and notice therefor as the state committee of each such political party may determine.'

**Sec. 2. R. S., c. 4, § 20, amended.** The 1st sentence of section 20 of chapter 4 of the revised statutes is hereby amended to read as follows:

'No such nomination paper 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 3rd Monday in ~~April~~ **March** of that year.'

**Sec. 3. R. S., c. 4, § 21, amended.** The 1st sentence of section 21 of chapter 4 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, shall be chosen at the primary election held on the 3rd Monday in ~~June~~ **May** preceding or at a runoff primary election if necessary.'

**Sec. 4. R. S., c. 4, § 24, amended.** The 1st sentence of section 24 of chapter 4 of the revised statutes is hereby amended to read as follows:

'The secretary of state shall 14 days at least prior to the day of any **regular, special or runoff** primary election transmit to the clerk in each city, town and plantation a printed list containing the name, residence and party or political appellation of each candidate proposed for nomination as herein provided for such election and to be voted for at each voting place in each such city, town and plantation respectively, substantially in the form of the ballot to be used therein; and the clerk shall immediately cause the list for each ward, town or plantation, as the case may be, to be conspicuously posted in one or more public places in such ward, town or plantation.'

**Sec. 5. R. S., c. 4, § 25, amended.** The 1st paragraph of section 25 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Not less than 7 days before the 3rd Monday in ~~June~~ **May** and not less than 7 days before the date of any runoff primary as fixed by the proclamation of the governor 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 their regular voting places on the 3rd Monday in ~~June~~ **May** in the case of the regular primary election and on the date fixed by proclamation in the case of a runoff primary election 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 then next ensuing. The 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 2nd 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 voting places during the primary election on taking and subscribing the oath required by law, but such voters will not be allowed to vote at any primary election within the next 6 months following such enrolment unless a new voter, or a voter enrolling for the first time in that municipality.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of ~~June~~ **May**, 19 \_\_\_\_ .  
.....  
.....  
.....  
Selectmen of ....."

**The form of the warrant may be altered in accordance with the particular primary election to be held.'**

**Sec. 6. R. S., c. 4, § 26, amended.** Section 26 of chapter 4 of the revised statutes is hereby amended to read as follows :

**'Sec. 26. Qualifications of voters, how determined; uniform enrolment in all cities, towns and plantations provided for; enrolment required; those who have become voters within 8 months and those enrolling for 1st time permitted to enroll and vote.** In all regular, special or runoff primary elections the qualifications of voters shall be determined by the voting lists used at the municipal or general elections of the respective cities, towns and plantations next preceding the primary election and a list of the aforesaid voters enrolled by party designation as required by section 2, and no person shall be allowed to vote in any primary election unless his name appears legally on such voting list and enrolment list, except those who have become of age within 8 months preceding such primary ~~election~~ **elections**, and voters enrolling for the 1st time in that municipality, who shall be allowed to enroll and vote.'

**Sec. 7. R. S., c. 4, § 27, amended.** The 1st sentence of section 27 of chapter 4 of the revised statutes is hereby amended to read as follows:

‘No person shall vote at any **regular, special or runoff** primary election in any voting place unless a legally qualified and enrolled voter at such voting place, as set forth in the preceding section.

**Sec. 8. R. S., c. 4, § 28, amended.** Section 28 of chapter 4 of the revised statutes, as amended by section 2 of chapter 82 of the public laws of 1947, is hereby further 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 **regular, special or runoff** 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. 9. R. S., c. 4, § 29, amended.** The 6th sentence of section 29 of chapter 4 of the revised statutes is hereby amended to read as follows:

‘Such clerks shall cause the returns to be delivered at the office of the secretary of state, by mail or otherwise, within 7 days after ~~such~~ **any regular, special or runoff** primary election and if not so delivered within such time, like proceedings shall be had as provided by sections 44 to 48, inclusive, of chapter 5.’

**Sec. 10. R. S., c. 4, § 30, amended.** Section 30 of chapter 4 of the revised statutes is hereby amended to read as follows:

‘**Sec. 30. 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, not later than the 1st Tuesday of ~~July~~ **June** in each year in which a **regular, special or runoff** primary election is held, shall open and compare the votes so returned, and have the same tabulated, and then forthwith have forwarded to each candidate a copy of the 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 a return, when found to be erroneous, may be corrected from the record. No such correction shall be made without application therefor made in accordance with the provisions of section 31 hereof, nor without reasonable notice thereof given to the person affected thereby and during a period of 14 days after such tabulation any person voted for may personally, and by or with counsel, examine the returns in question in the presence of the governor and council, or either of them, or any member of the council or the secretary of state. The person having the highest number of votes for nomination to any office, **except as hereinafter provided**, shall be deemed to have been nominated by his political party for that office, provided that he shall have received at least as many votes as would be required to place his name on the primary election ballot by petition, and provided further that when a tie shall exist between two or more persons for the same nomination by reason of such persons having at least as many votes as would be required to place their names on the primary election ballot by petition, and having an equal and the highest number of votes for nomination by 1 party to one and the same office, the secretary of state shall give notice to each of such persons to attend at the office of the secretary of state at a time to be appointed by the secretary, who shall then and there proceed publicly to decide by lot which of such persons 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 the 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 determine 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 that purpose, the nominations for each party so ascertained, and shall forthwith notify by registered mail each person who is so nominated.'

**Sec. 11. R. S., c. 4, §§ 30-A, 30-B, additional.** Chapter 4 of the revised statutes is hereby amended by adding thereto 2 new sections to be numbered 30-A and 30-B, to read as follows:

**'Sec. 30-A. Proclamation for runoff primary; tabulation of votes.** After tabulation of the votes, as aforesaid, for the office of United States

senator, governor and representatives to congress if it appears that no candidate has received a majority of the votes cast, the governor shall forthwith by proclamation so declare and shall fix a date for a runoff primary election. Said proclamation shall contain the names of the 2 candidates who received the highest and next highest number of votes for any of the offices as aforesaid and shall direct the municipal officers of the several cities, towns and plantations to notify and warn the legally qualified voters in accordance with the provisions of section 25. The governor and council shall open and compare the votes so returned not later than 14 days after any runoff primary election in accordance with the provisions of section 30 and the person having the greater number of votes shall be deemed to have been nominated.

Sec. 30-B. Clerk to transmit all regular primary election ballots to secretary of state; secretary of state to preserve ballots for 6 months. Within 24 hours after the close of any regular primary election, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him, under the provisions of section 39 of chapter 5 without breaking the seal of the package of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each voting place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said 24 hours shall deliver such box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor; or within 3 days after the close of such election, the clerk of each town shall otherwise deliver such ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of 6 months all such ballots so received by him as a public record.'

Sec. 12. R. S., c. 4, § 31, repealed and replaced. Section 31 of chapter 24 of the revised statutes is hereby repealed and the following enacted in place thereof:

'Sec. 31. Right of candidates to inspect ballots and ask for examination by governor and council. The secretary of state upon written application filed with him within 10 days after the returns are opened, tabulated and copies of such tabulations forwarded to the candidates, alleging that the return or record of the vote cast in any town does not correctly state the vote as actually cast in such town, and specifying the offices as to which such errors are alleged to have occurred, shall permit any candidate or his

agent to inspect the ballots cast at any primary election after the same have been returned to him, under such reasonable regulations or restrictions consistent with the right of inspection as will secure every ballot from loss, injury or change in any respect. Such inspection shall be permitted only after written notice by the secretary of state to the other contesting candidates, allowing sufficient time to enable them to be present in person or by agent at the inspection. After each inspection the packages shall again be sealed, and the fact and date of inspection noted thereon. The governor and council in open meeting shall examine such ballots and if such return or record is found to be erroneous, it shall be corrected in accordance with the number of ballots found to have been actually cast in such town; but no such examination of ballots shall be made without reasonable notice to all candidates upon the ballot for the offices specified in the application as to which such errors are alleged to have occurred, stating when and where such examination will be made and affording such candidates a reasonable opportunity to be present in person or by counsel and be heard in relation thereto.

Candidates for United States senator, governor and representative to congress must file with the secretary of state a written application for an inspection as provided in this section within 3 days after receipt of the tabulation as aforesaid.'

**Sec. 13. R. S., c. 4, § 33, amended.** The 1st paragraph of section 33 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Every candidate so nominated and notified shall, within 7 days after the receipt of notification, send to the secretary of state by registered mail the following acceptance:

"To the Secretary of State:

I, \_\_\_\_\_, of \_\_\_\_\_, hereby accept the nomination to the office of \_\_\_\_\_, made at the (regular, special or runoff) primary election ~~June~~ \_\_\_\_\_, 19 \_\_\_\_\_; .....

**Sec. 14. R. S., c. 4, § 34, amended.** Section 34 of chapter 4 of the revised statutes is hereby amended to read as follows:

'Sec. 34. Return of expenditures; false statement deemed to be perjury; limitation of miscellaneous expenditures; penalty for failure to make returns. Each candidate nominated in any primary election shall, with his acceptance, send to the secretary of state the following return by him subscribed and sworn to:

“RETURN OF EXPENDITURES

To the Secretary of State:

“I, \_\_\_\_\_, of \_\_\_\_\_, nominated for the office of \_\_\_\_\_, at the primary election held on ~~June~~ \_\_\_\_\_, 19\_\_\_\_, on oath depose and say that the following is a true and perfect return of all expenditures by me made, or liabilities by me incurred, for any purpose whatever in connection with my said nomination, or the procurement thereof, before, at or since said primary election.

The total amount thereof was \_\_\_\_\_ \$

The aforesaid amount is made up of the following:

Printing	\$
Clerk hire	\$
Newspaper advertising	\$
<b>Radio broadcasting expense</b>	<b>\$</b>
Hall rent	\$
Soliciting agents	\$
Postage	\$
Telegrams	\$
Telephones	\$
Stationery	\$
Express	\$
Traveling expenses	\$
Hotel bills	\$
Miscellaneous	\$
Total	\$

Of the above, the following are itemized:

PRINTING

Name.	Date.	Amount.
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(The subdivisions of clerk hire, newspaper advertising, **radio broadcasting expense**, hall rent, soliciting agents, telegrams, telephones, stationery, express, traveling expenses and hotel bills shall follow the foregoing form.)

MISCELLANEOUS

Name.	Date.	Amount.	Purpose.
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I further depose and say that no person, firm, association, committee, organization or corporation has with my knowledge or consent paid any

sum, or incurred any liability, other than such as are included in reports filed with the secretary of state as required in section 37 of chapter 4 of the revised statutes, to procure, or to aid in procuring, my nomination aforesaid.

Dated A. D. 19 .....

State of Maine,

County, ss.

A. D. 19 .

Personally appeared  
the foregoing return by him signed is true.

and made oath that

Before me,

Justice of the Peace.

**Notary Public."**

If any statement in such return is wilfully false, it shall be deemed to be perjury and shall be punished accordingly. No expenditures shall be so made, or liabilities be so incurred, except for the purposes named in such return. The subdivision "Miscellaneous" shall not exceed 10% of the total amount expended and shall include no items not legitimate under the provisions of sections 1 to 9, inclusive, of chapter 8; ~~subsection~~ **subsections** IV and V of section 4, of chapter 8, as applied to primary elections, are to be construed as if reading as follows: "IV. Of renting and furnishing rooms to be used by candidates or their political agents, and for the reasonable entertainment and refreshment exclusive of alcoholic beverages, of political agents;" "V. Of compensating clerks and other persons employed in candidates' rooms and at the polls." Political agents of candidates appointed under the provisions of said sections shall, within 15 days after the date of the primary election, make to the secretary of state the return required by this section of candidates, and the form of the return shall be varied accordingly. Candidates who are their own political agents need not make a separate return in the latter capacity. Any political agent failing to make return within the time required shall be punished by a fine of \$25 for each day he is in default, unless he shall be excused by the court, but such failure shall not avoid nor affect the nomination of the candidate. The returns aforesaid shall be open to public inspection for 1 year and then be destroyed. The failure of any candidate to file a return within the time required by the preceding section shall render his nomination void. Each candidate nominated in any political convention shall, within 15 days after the date of such convention, file with the secretary of state a return similar in form to that hereinbefore set forth and the failure of any person so nominated to file a return within said period shall render his nomination void.'

**Sec. 15. R. S., c. 4, § 37, amended.** Section 37 of chapter 4 of the revised statutes is hereby amended to read as follows:

**‘Sec. 37. Expenditures on behalf of another’s campaign to be reported; when expenditures are to be reported; publication of the reports; penalty for not reporting.** It shall be unlawful for any candidate or for any person, firm, association, committee, organization or corporation, on behalf of a candidate or for the purpose of aiding the candidacy of any person, to make any expenditure or incur any liability, either for printing, publication, postage, clerk hire, newspaper advertising, **radio broadcasting expense**, renting of halls or other places, soliciting agents, transporting voters or any other act or thing calculated to induce or procure any person or persons to vote for any candidate for office in a primary election unless on the dates hereinafter set forth next ensuing after the making of any such expenditure or the incurring of any such liability such candidate, person, firm, association, committee, organization or corporation shall report the same to the secretary of state setting forth in detail the nature and amount of the expenditure made or liability incurred with the name of the candidate, his address, the election district and the office in question. For such expenditures as are made and such liabilities as are incurred during the period prior to the 30 days next preceding any such election, such report shall be made by all candidates for office to be voted for in the state as a whole, or in any congressional district, on the 1st day of each month next after such expenditure is made or such liability is incurred, and thereafter such a report shall be made each week, such weekly reports to be made so as to reach the office of the secretary of state not later than 10 o’clock in the forenoon of Wednesday in each week. In the case of candidates for representative to the legislature, or for any county office including state senators, such candidate shall make 1 report 30 days prior to the date of the election and a 2nd report which shall reach the office of the secretary of state not later than 10 o’clock in the forenoon of the Wednesday next preceding such election; this last report shall include in addition to such expenditures as have been made and such liabilities as have been incurred up to the time of the making of such report, a statement of such sum or sums, if any, as such candidate, person, firm, association, committee, organization or corporation proposes to make or incur thereafter in connection with such campaign.

The secretary of state shall, ~~25~~ **15** days before the date of any such election, publish in all the daily and weekly papers in the state a statement setting forth the total expenditures made in accordance with the information filed with him under the terms of the foregoing paragraph by every

candidate, person, firm, association, committee, organization or corporation reporting, giving for each office a list of the parties making such expenditures and the amounts thereof, which list shall for each office be arranged alphabetically except that the names of the candidates whose names are to appear on the ballots shall be first listed under each office. The secretary of state shall revise and republish such figures in each of such ~~papers 15 days as near as may be before such election and again in the daily~~ papers of the state on the Friday immediately preceding the day of any such primary election.

Such publications shall in the weekly papers be limited to those candidates whose names are to appear on the primary ballots used within the county where each such paper is published.

It shall be unlawful for any person, firm, association, committee, organization or corporation, on behalf of the candidacy of any person whose name is to be presented before any political convention as a candidate for any office, to make any expenditure or incur any liability for any of the purposes set forth in the 1st paragraph of this section, unless 7 days at least prior to the convening of such convention, the same shall be reported to the secretary of state in the same manner as above required for primary elections, and such report shall include in addition to such expenditures as have been made and such liabilities as have been incurred up to the time of the making thereof a statement of such sum or sums, if any, as the maker of such report proposes to make or incur thereafter in connection with such nomination.

All candidates whose names appear on the runoff primary ballot shall file the report as required in the first paragraph of this section each week following the proclamation calling for such runoff primary election, the last such report to be filed so as to reach the office of the secretary of state not later than 10 o'clock in the forenoon of the Wednesday preceding the date of the runoff primary election and to include in addition to such expenditures as have been made and such liabilities as have been incurred up to the time of the making of such report, a statement of such sum or sums, if any, as such candidate, person, firm, association, committee, organization, or corporation proposes to make or incur thereafter in connection with such campaign. The secretary of state shall publish such reports on the Friday immediately preceding the date of any such runoff primary election in all the daily papers in the state.

~~The secretary of state shall, on the day before the convening of any political convention, publish in all the daily papers in the state a statement setting forth the total expenditures made in accordance with the~~

~~information filed with him under the terms of the foregoing paragraph in connection with each office for which a candidate is to be nominated at such convention, and such list shall for each office be arranged alphabetically, except that the names of the persons whose names are to be presented to such conventions as candidates shall be first listed under each office.~~

Any candidate, person, firm, association, committee, organization or corporation which shall expend any money or incur any liability in excess of \$5, without reporting it as above provided or who subsequent to the filing of such last report, either of primary election or political convention expenses, shall expend for any purpose aforesaid more than the amount or amounts set forth in such final pre-election report, shall be punished by a fine or not more than \$1,000, or by imprisonment for not more than 11 months.'

**Sec. 16. R. S., c. 4, § 46, amended.** Section 46 of chapter 4 of the revised statutes is hereby amended to read as follows:

**'Sec. 46. Filling of vacancies at special primary election.** In case any duly nominated candidate for United States senator shall die before the day of the election at which such office is to be filled, or shall withdraw in writing, or shall forfeit his nomination by failure to accept or to file return, as provided in sections 33 and 34, or in case a 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 3rd 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 nearly as may be practicable to the provisions of this chapter; and in that event the governor in such 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, such nomination may be supplied in the manner provided in section 45. Candidates so chosen shall be subject to the provisions of this chapter requiring acceptance and returns of expenditures by candidates.'

**Sec. 17. R. S., c. 5, § 42, amended.** Section 42 of chapter 5 of the revised statutes is hereby amended to read as follows:

**'Sec. 42. Clerk to transmit all ballots to secretary of state; secretary of state to preserve ballots for 6 months.** Within 24 hours after the close of any **regular primary election**, election for governor, senators, representa-

tives to the legislature, United States senators, representatives to congress, presidential electors and for county officers, the clerk of each town shall securely pack in a box or boxes all ballots given out by him for use at such election and returned to him, under the provisions of section 39, without breaking the seal of the packages of ballots so returned to him, together with an attested copy of his record of the number of ballots sent by him to each voting place, and shall seal each box in such manner that the same cannot be opened without breaking the seal, and within said 24 hours shall deliver such box or boxes so sealed to some express company directed to and to be transmitted to the secretary of state, Augusta, Maine, express charges prepaid, and shall take a receipt therefor; or within 3 days after the close of such election, the clerk of each town shall otherwise deliver such ballots or boxes so sealed to the secretary of state at his office in Augusta. The secretary of state shall preserve for a period of 6 months all such ballots so received by him as a public record.'