

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1225

H. P. 857

House of Representatives, March 12, 1959.

Referred to the Committee on Election Laws, sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Cousins of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Revising Certain Election Laws.

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

Sec. 1. R. S., c. 3, § 2, amended. Section 2 of chapter 3 of the Revised Statutes, as amended by section 1 of chapter 405 of the public laws of 1955, is further amended to read as follows:

'**Sec. 2. Qualifications of voters.** Every citizen who had the right to vote on the 4th day of January, 1893 and every citizen, excepting paupers and persons under guardianship, who, not being prevented by physical disability from so doing, is able to read the Constitution of the State in the English language in such manner as to show that he is neither prompted nor reciting from memory, and to write his name, and who is 21 years of age or upwards, and shall have his residence established in this State for the term of 6 months and in the ~~city, town or plantation~~ **municipality** in which he is a resident for 3 months next preceding any ~~national~~ state, city or town election, shall have the right to vote at every such election in the ~~city, town or plantation~~ **municipality** where his residence is so established; and such right to vote at national and state elections in such ~~city, town or plantation~~ **municipality** shall continue for a period of 3 months after his removal therefrom, if he continues to reside in this State during that period; provided ~~however~~ that his name has been properly entered upon the voting list of such ~~city, town or plantation~~ **municipality**. The fact that the money for the payment of the wages of any person employed by any city or town is derived from relief funds shall not operate to give such person the status of a pauper so that he shall be denied on that account the right to vote.'

Sec. 2. R. S., c. 3, § 36, amended. Section 36 of chapter 3 of the Revised Statutes is amended to read as follows:

'Sec. 36. Selectmen to prepare corrected list. The selectmen of every town, on or before the first day of June in every such year, shall prepare a corrected list of persons qualified as provided in ~~the preceding~~ section 35, and shall, on or before the 15th day of ~~August~~ **October** in such year, correct and revise such list.'

Sec. 3. R. S., c. 3, § 37, amended. The last sentence of section 37 of chapter 3 of the Revised Statutes is amended to read as follows:

'The selectmen of every such town shall be in open session again for at least one day between the 2nd and 3rd Monday in ~~August~~ **October** for the same purpose.'

Sec. 4. R. S., c. 3, § 38, amended. Section 38 of chapter 3 of the Revised Statutes is amended to read as follows:

'Sec. 38. Lists to be deposited with clerk and posted. On or before the 10th day of June and on or before the 20th day of ~~August~~ **October** in every such year, the selectmen shall deposit in the office of the town clerk an alphabetical list of voters prepared and revised as provided for in ~~the preceding~~ sections 35 to 37, and post a certified copy thereof in one or more public places in the town.'

Sec. 5. R. S., c. 4, § 15, amended. The 2nd sentence of section 15 of chapter 4 of the Revised Statutes is amended to read as follows:

'Every political party entitled by law to representation upon the official ballot at state elections held biennially on the ~~2nd Monday in September~~ **Tuesday following the first Monday of November**, or at any special election for state or county officers or for members of Congress or members of the Legislature, shall nominate all its candidates for such offices, to be voted for at such elections, under ~~the provisions of~~ this chapter and not in any other manner.'

Sec. 6. R. S., c. 4, § 21, amended. The first sentence of section 21 of chapter 4 of the Revised Statutes is 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~~ **Tuesday following the first Monday of November**, 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 preceding.'

Sec. 7. R. S., c. 4, § 22, amended. The 2nd sentence of section 22 of chapter 4 of the Revised Statutes is amended to read as follows:

'The order of offices shall be the same as in the regular ~~September~~ **state** election, except that when nominations for United States Senators are to be made, that office shall appear first on the ballots.'

Sec. 8. R. S., c. 4, § 25, amended. The first paragraph of section 25 of chapter 4 of the Revised Statutes is amended to read as follows:

'Not less than 7 days before the 3rd Monday of June 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 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~~ **Tuesday following the first Monday of November** 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 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~~ **Tuesday following the first Monday of November** 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 enrollment 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 enrollment unless a new voter or a voter enrolling for the first time in that municipality.

Dated at , this day of June, 19 .
.....
.....
.....
Selectmen of”’

Sec. 9. R. S., c. 4, § 50, amended. Section 50 of chapter 4 of the Revised Statutes is amended to read as follows:

'Sec. 50. Certain sections of chapter 5 made applicable. So far as necessary for the purposes of sections 15 to 51, and where not inconsistent therewith, the following sections of chapter 5 are made applicable to primary elections and all doings, therefor, thereat or thereafter, and for the purposes thereof, namely:

sections 7 and 9; 11 to 15; 17 to 23; 26 and 27; 54 to 57; 60 to ~~65~~ **65-C**; 90, 92 and 93; 95 to ~~104, inclusive; 105, 106 to 111, inclusive; 111 and 113; 114 to 117, inclusive; and 118 and to 119.~~

Sec. 10. R. S., c. 4, § 51, amended. Section 51 of chapter 4 of the Revised Statutes is amended to read as follows:

'Sec. 51. Primary election a separate election for each political party. In construing the provisions of this chapter, and of all sections of the Revised Statutes ~~herein~~ made applicable to primary elections, and to all matters herein contained before and after such primary elections 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 a primary election is a separate election for each political party making its nominations ~~hereunder~~, and to be conducted as to that party as nearly as practicable the same as the regular biennial state elections in ~~September~~ **November** are conducted for all the electors, except insofar as the manner of proceeding before, at and after a ~~September~~ **November** election may be modified or changed by this chapter for the purposes of primary elections. ~~The provisions of sections Sections~~ 15 to 50 do not modify or in any manner control the proceedings at the regular biennial state election, except insofar as they may be ~~herein~~ expressly and directly amended.'

Sec. 11. R. S., c. 4, § 54, amended. The first sentence of section 54 of chapter 4 of the Revised Statutes is amended to read as follows:

'Petitions filed in accordance with section 52 for the nomination of candidates for **electors of President and Vice-president**, United States Senate, Representatives to Congress, state and county officers and Representatives to the Legislature shall be filed with the Secretary of State on or before the 10th day of July of each year in which a biennial election is held ~~and for candidates for electors of president and vice-president on or before the 10th day of September in each year when a presidential election is held.~~

Sec. 12. R. S., c. 5, § 5, amended. Section 5 of chapter 5 of the Revised Statutes is amended by adding after the 2nd sentence, a new sentence, as follows:

'The names of the candidates for President and Vice-president shall appear first, followed by the names of candidates for the office of United States Senator, Governor and Representatives to Congress in that order whenever such offices are to be filled.'

Sec. 13. R. S., c. 5, § 5, amended. The 2nd sentence from the end of section 5 of chapter 5 of the Revised Statutes is amended to read as follows:

'Except as otherwise ~~herein~~ provided, ballots for use in elections of **President and Vice-president, 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. 14. R. S., c. 5, § 6, amended. Section 6 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 6. Number of ballots to be provided. There shall be provided for each voting place, at which an election is to be held, one set of such general ballots and one set of ballots containing any constitutional amendment or other question submitted to the vote of the people, each of not less than 75 for every 50 votes and fraction of 50 votes cast in such voting place at the next preceding election, city or state or national, corresponding to and in congruity with the election for which such ballots are to be provided.'

Sec. 15. R. S., c. 5, § 16, amended. Section 16 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 16. Calling of meetings in towns for state elections; conduct of meetings. The selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified according to the Constitution, to be notified and warned of every state election and of every election on questions submitted to the people by the Legislature to be held therein in the same manner as is provided by law in the case of town meetings, such warrant to specify the officers to be voted for and the questions to be voted upon, and as to conducting town meetings for such elections, they shall be subject to the regulations contained in this chapter for meetings for the election of **President and Vice-president**, Governor, Senators and Representatives, unless otherwise provided by law.'

Sec. 16. R. S., c. 5, § 42, amended. Section 42 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 42. Clerk to transmit returns of votes to Secretary of State. The clerk of each town shall cause to be delivered at the office of the Secretary of State the returns of votes given in his town for Governor, Senators, Representatives to the Legislature, **President and Vice-president**, United States Senators, Representatives to Congress, presidential electors and county officers, within 3 days next succeeding any meeting for their election, or shall deposit them, postpaid, in some post office, directed to the Secretary of State, within 24 hours after such meeting, to be transmitted by mail. The returns shall be opened and filed by the Secretary of State, and kept for public examination.'

Sec. 17. R. S., c. 5, § 50, amended. The first paragraph of section 50 of chapter 5 of the Revised Statutes is amended to read as follows:

'The Governor and Council, not later than the first day of December as to ~~presidential elections and not later than the 15th day of October~~ as to all other regular elections, in each year in which an election is held, and within 15 days after any special election, shall open and compare the votes so returned and have the same tabulated, and may receive testimony on oath to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the. The return, when found erroneous, may be corrected by the record. The Secretary of State shall cause to be printed copies of the tabulation of the vote of such election which shall be available to the

public, and no such correction may be made without application within ~~20~~ 10 days after the printed tabulation is so made available, stating the error alleged, nor without reasonable notice thereof given to the persons affected by such correction, and during said ~~20~~ 10 days any person voted for may personally, and by or with counsel, examine the returns in presence of the Governor and Council, or either of them, or of any member of the Council. Upon written application filed with the Secretary of State within ~~20~~ 10 days after the printed tabulation is so made available, 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 believed to have occurred, the Governor and Council in open meeting shall examine the ballots cast in such town and the return thereof, 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.~~ No such examination of ballots shall be made without reasonable notice to all candidates 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 at such examination and be heard in relation thereto. The persons having the highest numbers of votes, not exceeding the number to be chosen, shall be declared elected; and the Governor shall issue a certificate thereof in accordance with ~~the provisions of section 4 of~~ chapter 21, ~~section 4,~~ and such persons shall enter upon the discharge of their official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected.'

Sec. 18. R. S., c. 5, § 51, amended. The 3rd sentence of section 51 of chapter 5 of the Revised Statutes is amended to read as follows:

'In case of **President and Vice-president**, United States Senators, Representatives to Congress, members of the Legislature and county and state officers, except where a different rule is prescribed in the Constitution, the person or persons, not exceeding the number to be voted for at any one time for any such office, having the highest number of votes given at such election shall be declared elected, and the Governor shall issue a certificate thereof in accordance with ~~the provisions of section 4 of~~ chapter 21, **section 4.**'

Sec. 19. R. S., c. 5, § 60, amended. Section 60 of chapter 5 of the Revised Statutes is amended to read as follows:

'**Sec. 60. List of voters.** The assessors of each plantation shall, on or before the 11th day of ~~August~~ **October** in each year in which a biennial state election is held, prepare a list of such inhabitants within its limits, as they judge to be constitutionally qualified to vote in such election, deposit it in the office of the plantation clerk, and correct and post it in the manner required of selectmen of towns.'

Sec. 20. R. S., c. 5, § 61, amended. Section 61 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 61. Meetings for choice of state officers. The assessors of each plantation shall call a meeting of the voters qualified under ~~the provisions of the preceding section 60,~~ to be held on the ~~2nd Monday of September~~ **Tuesday following the first Monday of November** in every such year, at some convenient and central place in the plantation, for the election of Governor, Senators and Representatives to the Legislature, by a warrant in due form by them signed, in which the time, place and purposes of the meeting shall be set forth; ~~and notice.~~ **Notice** shall be given by posting a copy thereof in one or more public places in the plantation at least 7 days before the day of the meeting. Similar notice shall be given of all meetings for choice of **President and Vice-president,** United States Senators, Representatives to the Legislature or to Congress, of state and county officers and of presidential electors.'

Sec. 21. R. S., c. 5, § 74, amended. Section 74 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 74. Meetings and proceedings. The selectmen of the several towns shall by warrant call meetings to be held upon the day appointed, and proceedings shall then be had as required by the Constitution and laws for the election of Representatives on the ~~2nd Monday of September~~ **Tuesday following the first Monday of November.**'

Sec. 22. R. S., c. 5, § 75, amended. Section 75 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 75. Presidential electors to be chosen. Whenever the election of President and Vice-president of the United States is to take place, there shall be chosen from the inhabitants of the State as many presidential electors as the State is entitled to ~~and on the Tuesday next after the 1st Monday in November of such year, the people qualified to vote for Senators shall assemble in city, ward, town or plantation meetings to be notified, held and regulated as prescribed by the Constitution and laws for the election of Senators.~~

Sec. 23. R. S., c. 5, § 76, repealed. Section 76 of chapter 5 of the Revised Statutes is repealed.

Sec. 24. R. S., c. 5, § 77, amended. Section 77 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 77. Names of candidates to appear. ~~The Secretary of State shall procure blank returns of the proper form for such cities, towns and plantations and furnish them to the several clerks thereof at least 30 days before the day of election of electors as aforesaid.~~

The names of the electors shall not appear on the official ballot, but the names of the candidates for President and Vice-president, respectively, of the political parties as defined by law shall appear at the head of their respective tickets.'

Sec. 25. R. S., c. 5, § 78, repealed and replaced. Section 78 of chapter 5 of the Revised Statutes, as amended by section 6 of chapter 47 of the public laws of 1955, is repealed and the following enacted in place thereof:

'Sec. 78. Votes returned and counted; Secretary of State to send for delinquent returns; notice to persons elected. A vote for the candidates of any political party for both President and Vice-president shall be conclusively deemed to be a vote for candidates of the same party for presidential electors, and shall be so counted and recorded for such electors as the State shall be empowered to elect, and a certificate of election shall be sent to each presidential elector so chosen.

The canvass of the votes for candidates for President and Vice-president and the returns thereof shall be a canvass and return of the votes cast for the electors of the same party, respectively, and the certificate of such election made by the Governor and Council shall be in accord with such return.'

Sec. 26. R. S., c. 5, § 89, amended. Section 89 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 89. Contesting seat in House of Representatives. When any person intends to contest before the House of Representatives the right of any other person to his seat therein, he shall serve notice thereof upon such person which notice may be served at any time after the election and shall be served at least ~~75~~ 10 days prior to the organization of the House of Representatives; ~~he.~~ He shall present his petition to the House of Representatives within 3 days after its organization, stating the grounds upon which he proposes to contest such seat, and all testimony on either side shall be by depositions taken in the manner authorized by chapter 117 in cases of contested senatorial elections, or by parol evidence, and shall be presented to the House of Representatives within 3 days from the commencement of the session. If this law is not strictly complied with, except in extreme cases where injustice would be done if a continuance were not allowed, the party neglecting shall be denied a postponement, and the committee on elections shall proceed to determine the case by the testimony before them.'

Sec. 27. R. S., c. 5, § 99, amended. Section 99 of chapter 5 of the Revised Statutes is amended to read as follows:

'Sec. 99. Neglect of selectmen to deposit and post lists. If selectmen of a town or assessors of a plantation willfully neglect to deposit a list of voters with the town or plantation clerk, or to post such lists, ~~as hereinbefore required~~ they shall each forfeit not less than \$50 nor more than \$100; ~~and for.~~ For each day's neglect after the 20th day of ~~August~~ **October**, and until the state election then next ensuing, they shall each forfeit \$30.'

Sec. 28. R. S., c. 21, § 5, amended. Section 5 of chapter 21 of the Revised Statutes is amended to read as follows:

'Sec. 5. Distribute blanks for election returns; penalty for neglect. He shall cause blanks for all election returns required by law to be seasonably distributed to the clerks of the several towns, by mail; ~~and if.~~ If any clerk fails to receive such blanks by the 20th day of ~~August~~ **October** in any year in which an election is held, of which returns are to be made to the office of the Secretary of State, he shall forthwith notify the Secretary of State. If the Secretary of State neglects his duty he forfeits \$100 for each neglect.'

Sec. 29. R. S., c. 89, § 2, amended. The first sentence of section 2 of chapter 89 of the Revised Statutes is amended to read as follows:

‘Vacancies to occur by expiration of the term of office at the end of any year in which a biennial election is held shall be filled by election on the ~~2nd Monday of September~~ **Tuesday following the first Monday of November** in such year.’

Sec. 30. R. S., c. 89, § 5, amended. The first sentence of section 5 of chapter 89 of the Revised Statutes is amended to read as follows:

‘County commissioners shall be elected on the ~~2nd Monday of September~~ **Tuesday following the first Monday of November** in each even-numbered year by the written votes of electors qualified to vote for representatives!’

Sec. 31. R. S., c. 89, § 212, amended. The last paragraph of section 212 of chapter 89 of the Revised Statutes is amended to read as follows:

‘Vacancies shall be filled for the unexpired term by election as provided for in section 213 at the next ~~September~~ **November** election after their occurrence; ~~and in.~~ **In** the meantime, the Governor with the advice and consent of the Council may fill vacancies by appointment, and the person so appointed shall hold his office until the first day of January, next after the election last mentioned.’

Sec. 32. R. S., c. 101, § 7, amended. The last sentence of section 7 of chapter 101 of the Revised Statutes is amended to read as follows:

‘When a plantation is organized after the first day of July, such return is not required to be made by the clerk thereof during that year; but the votes of such plantations shall not be counted or allowed by the Governor and Council for any purpose, during the year of its organization, unless it is organized at least 60 days prior to the ~~2nd Monday in September~~ **Tuesday following the first Monday of November.**’