

MAINE STATE LEGISLATURE

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October 13, 1922

To George H. Allen, Board of Registration, Portland
Re: Registration Law

I have made a careful study of Section 19 of the Registration Law in the light of the questions raised by your inquiry, and in reply I wish to say that in my opinion the law ought to be amended.

- History -

The Registration Law was adopted in other states before it was taken up by the Maine Legislature, and our law was patterned quite closely after the Massachusetts Law, and, in my opinion, the amendments which have since been made to it have not added to its workability.

Prior to the amendment of 1921, the board of registration had power on election day to correct errors and make such changes as would give the right to vote to those citizens who had for good reasons been omitted from the rolls. After the amendment of 1921, a different rule has obtained in different cities within the State and much uncertainty has developed as to what the correct interpretation of the law as it now stands is.

In determining what the duties of the Registration Board are on election day, it becomes necessary to study the law carefully, and your suggestions have been very helpful in figuring out what I believe to be the true rule which should guide their actions. For convenience, I have divided the question as follows:

(1). What the Board of Registration may do on election day.

They may correct the record by adding the name of any voter which has been omitted from the final list as prepared for use on election day by their own mistakes. This they may do for two reasons; First, - Because the Board of Registration is in a legal sense a court, and acts in a quasi judicial capacity, and as such they have control over their own records, and have authority to correct and amend them at all times in accordance with the facts. It is their duty to compare and correct the list and if at their last session they undertake to do so, and omit for any reason the name of a voter who is otherwise authorized to vote, they may and should on election day correct the record by adding the name so omitted by their own mistake. The authority for this position may be found in decisions of our courts as set forth in Donahue vs. Richards, 38 Maine 392; Saunders vs. Getchell, 76 Maine 160; and cases there cited.

Chapter 5, Section 7 of the Revised Statutes, it should be observed, confers power upon the board to hold a court and compel the attendance of witnesses.

For the above reasons I advise that names omitted from the roll by the fault of the board may be added on election day.

My Second reason is that the law as amended gives the right to add to the list names which have been erroneously stricken from said list at the previous session, so that all names which were erroneously omitted or stricken from the list at their last meeting before election may, if the board so rule, be added to the voting list on election day.

(2). What the Board may not do.

The law in 1921 having been amended so that only errors and omissions which have occurred at the last previous session can be corrected by the Board, no further power is found in the law to authorize the Board to make changes and for that reason, if the law works a hardship on any appreciable number of voters, administered according to the rules here laid down, it should be amended by the next Legislature.

I am not able to determine positively what the intention of the Legislature was in making the amendment of 1921, but the effect of it is to deprive the Board of much power which they had prior to that time on election day.

I have made this opinion rather long as it seemed to me to be quite necessary to go into detail in regard to it, and I hope it is responsive to your inquiry, and if there is any point about it which does not seem clear to your Board, have them write me again.

Ransford W. Shaw
Attorney General