

MAINE STATE LEGISLATURE

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February 14, 1933

Hon. Arthur W. Bushey
Waterville, Maine

Dear Mr. Bushey:

You have asked my opinion concerning the voting residence of one Mr. Butler who, so you state, has lived in Waterville since 1931, although during that period his wife has been living in Norridgewock. While I am not allowed to render any official opinion unless requested through the statutory channels, nevertheless I am glad to suggest, in an unofficial way, as follows:

Section 2 of Chapter 6, R. S., sets forth the qualifications of voters and the following is an excerpt from that section:

"--shall have his residence established in this state for a term of three 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 where his residence is so established."

Section 5 of the same chapter reads as follows:

"For the purposes of voting, office holding or serving on jury, husband and wife may be deemed each to have a separate residence; such residence to be determined as in the case of other persons."

This raises the question of where Mr. Butler has his established residence or domicile. The question of domicile is one of fact, and each case necessarily depends upon its own facts. The intention must be, not to make the place a home temporarily, but to make an actual real permanent home there. To constitute a permanent residence, the intention must be to remain for an indefinite period. There must be a bodily presence (although not a continuous bodily presence) coupled with an intention to remain for an indefinite period.

The above reasoning appears in 76 Me. 158, Sanders vs. Getchell, which, incidentally, is a Waterville case, where one Sanders recovered from the selectmen for unreasonably and wilfully omitting to place his name on the voting list.

I trust that the above covers your situation in Waterville respecting Mr. Butler.

Most cordially yours,

Attorney General