

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

July 29, 1936

The Honorable Governor and Council:

Replying to your recent request relative to Absentee Ballots hereto attached, I respectfully advise as follows:

From the affidavits hereto annexed, made by Edna J. Foster, Town Clerk of Machiasport, and Lucius E. Gardiner, Town Clerk of Cutler, it appears as follows:

The ballots were in each case prior to the election obtained through the offices of Candidate George M. Hanson, and on election day the envelopes containing said ballots were delivered to the respective Clerks of said towns as follows, viz:

To Edna J. Foster, Town Clerk of Machiasport, by said Hanson, in person, and to Lucius E. Gardiner, Town Clerk of Cutler, in an envelope addressed to L. E. Gardiner, Town Clerk, with the name of G. M. Hanson, Machiasport, Maine on the upper left hand corner.

It appears that the Machiasport ballots were delivered to the Town Clerk of Cutler, and the Cutler ballots were delivered to the Town Clerk of Machiasport.

The statutory requirements relative to absent voting are very definitely and clearly expressed. Section 4 of Chapter 9, R. S.

provides that a person applying for an absentee ballot may secure the proper form of application if he "by mail, or otherwise applies therefor to the clerk of the city or town where he is entitled to vote".

Section 6 of said chapter provides that an absentee voter may vote after filing application and receiving ballot "by mailing said ballot as hereinafter provided or by delivering said ballot in person to such city or town clerk". "Said voter shall enclose and seal the envelope provided for in Clause D of Section 2, endorse thereon his name, address and voting place, and mail the same within the time prescribed in the following section by registered mail requesting a return receipt therefor, postage prepaid, at any Post Office, or may deliver same in person as above provided".

Instructions to Voters, prepared by the Secretary of State, appear to be in accordance with the foregoing statutory requirements as we find on Page 11, "No person is permitted to make application for ballot to be used by any other voter". On Page 12 we find, "Send same by Registered Mail, postage prepaid, requesting a return receipt, or it may be delivered to the clerk in person".

In the instant case none of these requirements of the statute seem to have been complied with.

The statutes provide for an Official Nominating Ballot followed by the designation of the polling place for which the ballot is prepared. Opinion of the Justices, 124 Me. 481. "Ballots issued in one town may be transferred to another by authority of the Secretary of State, and ~~either be~~ transferred may be legal official ballots in the second town." Opinion of the Justices, 124 Me. 481.



There does not appear to have been any authority from the Secretary of State to transfer the ballots as was done in this case.

From the foregoing, it appears to me that the three Machiasport ballots appearing in the Cutler poll, and the three Cutler ballots appearing in the Machiasport poll cannot be counted because there was no legal authority for the transfer and the ballots do not appear to have been mailed or delivered in person to the town clerks, according to the requirements of the statute, by the voters themselves.

Respectfully submitted,

Deputy Attorney General

SLF H

UNUSUAL  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE OF MAINE

