

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

election. If the voter can be proved to have voted for some other candidate at the primary election, it is possible that he might be barred from taking part in a subsequent convention, caucus or meeting of qualified voters, or from signing a nomination paper for some other person to appear on the final ballot. The reason for this is that his act of voting in the convention, etc. or signing the nomination paper is exactly equivalent to his act of voting in the primary election and under our laws a voter is not permitted to vote twice for a candidate for the same office. However, since there is no way of proving how the man voted at the primary election, nor is there any way of proving that he actually voted at all, even though he may have received a ballot from the ballot clerk and may have entered a voting booth and may have returned and dropped the ballot in the ballot box, in the absence of statute, there is nothing to prevent his taking part in the nomination of some other candidate outside of the primary.

Your fourth question is in regard to procedure. Inasmuch as that is a question that it seems to me you will not have to trouble yourself about, I respectfully decline to answer.

Attorney General

July 29, 1942

To:

Governor Sewall

From:

The Attorney General

Municipal Court Judges

Under Article VI, Section 8 of the Constitution of Maine there is a provision for the appointment of Judges of Municipal and Police Courts "By the executive power, in the same manner as other judicial officers, and shall hold their offices for a term of four years".

These Judges of Municipal and Police Courts, when paid a salary, must necessarily be recognized as State employees. The source of salary is not material.

There is a sharp distinction between these Judges of Municipal and Police Courts so provided for in the Constitution on the one hand, and Judges and Registers of Probate and Justices of the Peace and Notaries Public on the other hand. The Judges and Registers of Probate are officials elected by the people of the county and there is nothing to justify considering them as State employees. On the other hand, Justices of the Peace and Notaries Public, although appointed by the Governor, are officials given certain authority for which they have a right to charge small fees. But their authority is almost exclusively one for their own convenience to be used in connection with private business affairs. There is no reason, therefore, for considering Justices of the Peace and Notaries Public as State employees.

FRANK I. COWAN

Attorney General