

MAINE STATE LEGISLATURE

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February 17, 1944

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Honorable Robert Hale
House Office Building
Washington, D.C.

Dear Bob,

I have seen your letter of February 7th in regard to the press release of January 31st about the Maine Absent Voting Law in its application to soldier voting. You are, of course, correct in the general assumption that an Executive Order which would attempt to amend a statute would be in contravention of the State Constitutional provision to the effect that no one of the three branches of the government shall exercise any of the powers of the other two branches. However, as you are well aware, the old theory of absolute separability of governmental functions has, over the past hundred years, been greatly modified because of the practical necessities that at times arise.

P. L. 1941, Chapter 305, is purely a war measure. If modifying the registration laws to permit of a soldier's voting is something indissolubly linked to the "welfare" of the people of the State of Maine, and if it will assist in "cooperation with the federal government", then it is within the provisions of that statute. My first reaction was that there was such a relation and under the circumstances I felt no hesitation in approving the suggestion in regard to the modification of registration machinery as a purely temporary war measure.

Mature consideration of the matter has, however, shaken that opinion. This is an election matter. Our regard for the independence of election machinery from all executive interference is so tender that I now find I can't bring myself to advise the Executive that it is proper for him to do the act which the legislature certainly intended that he should. Even if I did so advise, it is probable that some defeated candidate would take the matter to court, and I feel that the court might very well say that even though the Civilian Defense Act by its plain words and meaning authorized the Governor to do this thing, nevertheless, even as a war measure, his action under that attempted authorization would be in contravention of public policy. . . .

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I was somewhat chagrined when I read the release in the newspaper, but it has not caused me any particular uneasiness, because I knew that neither you, Frank Fellows, Owen Brewster, nor Wallace White (all first-class lawyers) are going to be formulating any federal legislation basing it solely on newspaper reports indirectly quoting the Attorney General of the State of Maine.

~~Sincerely yours,~~

Frank I. Cowan
Attorney-General

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P.S. I have just read the above letter to the Governor and he suggested to me in no uncertain terms that I pass the word to you gentlemen that if you can't arrive at any practical solution of the problem in Washington, we damn well will here in Maine.

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