

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

September 18, 1946

To John M. Dudley, Esq., Judge
Calais Municipal Court

I have your letter of September 16th saying that a man from one of your outlying towns has called at your office with regard to the recent election. You state that it appears that the voting was done in a one-room schoolhouse on the desks. No booths were used in marking ballots.

You further state that the town has been wet and went wet again by three votes, and you cannot seem to find any procedure to have all the ballots in a town declared illegal and anyway suppose that if the total vote was illegal the town would stay wet.

In answer to the last question, I agree with you. The town was wet and if there was not a vote to make it dry, even if all the votes were thrown out in the last election, it would stay wet.

In the last paragraph of your letter you ask "just out of curiosity" if there is any method to throw out the entire vote of a town on the grounds that the election was not legally conducted. In answer to this question I refer you to 124 Maine page 474, Questions and Answers of the Justices of the Supreme Judicial Court in the contested election of Ralph O. Brewster and Frank G. Farrington, who were candidates for Governor in the 1924 primary election. You will note at the bottom of the page that the Supreme Court said this in answer to the question where election booths were not used as required by statute, but the voters marked their votes at open tables, were such votes to be counted:

"In our opinion, if these allegations are proved to the satisfaction of the governor and council, this was a violation of a mandatory requirement, the election was thereby invalidated, and none of the ballots in such town can be counted."

Now the only procedure that I know of is to raise this question when the Governor and Council canvass the votes, but an interested party must be the petitioner. If the petitioner proves the facts that voting booths were not used and the voters marked their ballots in the open, the Governor and Council can throw out the whole ballot in that precinct and not count them in their return.

Ralph W. Farris
Attorney General

RWF:c