

MAINE STATE LEGISLATURE

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JAMES S. ERWIN
ATTORNEY GENERAL



GEORGE C. WEST
DEPUTY ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04330

January 11, 1968

Mr. Russell F. Hayes
R.F.D. Box 74-C
Cape Neddick, Maine 03902

Dear Mr. Hayes:

I have for acknowledgment and reply your letter of December 30, 1967 reciting that the Town of York does not issue absentee ballots for use in town elections.

It is true that Me. Rev. Stat. Ann., Tit. 21, § 1251 (1964) states: "Absentee ballots may be cast at any election." However, the term "any election" is defined in Tit. 21, § 1 (2) to mean "primary and general elections and referenda, whether regular or special." To carry our definitions one step further, Tit. 21, § 1 (14) defines "general election" as "the regular election of state and county officials occurring biennially in November." In summary, then, § 1251 does not apply to town elections, but only to state and county elections, state primaries, and referenda.

The use of absentee ballots in town elections is a matter of local option with the town. In some cases the town charter provides that absentee ballots may be cast at town elections. If the charter is silent, then the town must vote, at a meeting held at least 30 days before the annual town meeting, to permit the use of absentee ballots at its town elections. At the same meeting, the town must also vote to adopt certain procedures for conducting town elections if it has not already done so. I refer you to Me. Rev. Stat. Ann., Tit. 30, §§ 2061 and 2062 (1964). Has the Town of York voted to permit absentee ballots? Whether or not your parents are, under existing law, being disenfranchised depends on the answer to this question.

Mr. Russell F. Hayes

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If, after further research, you feel that your parents are being illegally prevented from voting, legal remedies are available to you, the nature of which your attorney will, I am sure, be pleased to explain. I am prohibited by law from dispensing legal advice, in my capacity as Attorney General, to private individuals.

Very truly yours,

James S. Erwin
Attorney General

JSE/slf

cc: Stanley F. Hanson, Jr.
Deputy Secretary of State