



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

To Robert Healy

Date October 17, 1983

From Board of Election Commissioners

Reference

Subject Council Order - October 3, 1983

We are writing in response to your request for a report relative to the attached Council Order adopted October 3, 1983. The order asks whether a person, who was a registered voter in Cambridge but has relocated to another city or town too late to register in that city or town's local election, may vote in Cambridge's November 8th Municipal Election. The short answer to your question is "No".

Generally, the law provides that a person is entitled to vote only in the municipality where he or she is domiciled. Therefore, when a person relocates their domicile to another community, his or her right to vote in the previous community is extinguished. While there is an exception for state and federal elections (See G.L. c. 51, s. 1, providing a six month "grace period") this exception is not applicable to local elections.

If an individual who has relocated to another city or town seeks to vote in the November 8th Election, the appropriate process to follow is set forth in G.L. c. 54, ss 85, 85A and in regulations promulgated by the Secretary of State. These regulations, 950 CMR 51.03 (23), provide that such a voter's right to vote can be challenged by any election official or by any person. A copy of these regulations are attached for your information.

In conclusion, individuals who have established a domicile in another municipality at any time prior to November 8, 1983 should be advised that they are not entitled to vote in Cambridge's November 8th Election and that any attempt to vote would be subject to challenge pursuant to the above regulations.

Section.

VOTING LISTS.

- 55. Voting lists, contents, arrangements, etc.
- 56. Names of certain voters to be placed at end of list.
- 57. Posting of voting lists. Copies of lists, when furnished to state committees.
- 58. Additional names to be posted or published.
- 58A. Lists of persons qualified to vote only for president and vice president.

Section.

- 59. Certificate in case of omission or error.
- 60. Voting lists for use at polls.
- 61. Returns of registered voters, etc.
- 62. Voting list for use at caucus.
- 63. List of voters before a new division of a city into wards or certain towns into voting precincts.

Section 1. Except as otherwise provided in section one A, every citizen eighteen years of age or older, not being a person under guardianship and not being temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who is a resident in the city or town where he claims the right to vote at the time he registers, and who has complied with the requirements of this chapter, may have his name entered on the list of voters in such city or town, and may vote therein in any such election, or except insofar as restricted in any town in which a representative town meeting form of government has been established, in any meeting held for the transaction of town affairs. No person otherwise qualified to vote for national or state officers shall, by reason of a change of residence within the commonwealth, be disqualified from voting for such officers in the city or town from which he has removed his residence until the expiration of six months from such removal.

Section 1A. A person who has resided in the commonwealth and in the city or town where he claims the right to vote not less than twenty-eight days next preceding an election at which electors of president and vice-president are to be chosen, or a person not in active military service who lives on land within the commonwealth purchased by or ceded to the United States government and who will have resided thereon not less than twenty-eight days next preceding such election, may be qualified for voting only for such electors at such election; provided, he makes application therefor as hereinafter required and otherwise complies with the requirements of this chapter.

Applications to qualify for voting under this section, in substantially the following form, shall be prepared and furnished by the state secretary, in such quantities as he may determine necessary, to the registrars of voters of each city and town in the commonwealth: —

I,, hereby make application to qualify for voting for electors of president and vice-president only, as authorized by section one A of chapter fifty-one of the General Laws, at the election to be held in the city or town of on November, 19

I do solemnly swear that I now reside at in the city or town of in the Commonwealth of Massachusetts; that I have resided in the Commonwealth of Massachusetts since; and that, immediately previous to coming to the Commonwealth of Massachusetts to reside, I resided at in the city or town of in the state of, where I was a qualified voter or where I would have been eligible to qualify as a voter had I remained at such residence.

(If applicant is a person not in active military service and is living on land within the Commonwealth of Massachusetts purchased by or ceded to the United States government, the following statement is to be made in lieu of the foregoing: —

I do solemnly swear that I am not in active military service and that I am now living on land located within the limits of the city or town of which has been purchased by or ceded to the United States government, and that I have lived thereon since

Qualifications of voters.

- 1932, 206.
- 1943, 453, §10.
- 1954, 627, §19.
- Const. amend.
- Art. III, XX, XXIII, XVI, XXVIII, XXX-XXXII, LXVII.
- 1960, 300.
- 1961, 582, §1.
- 1962, 437, §1, §2.
- 1963, 160, §3.
- 1971, 382, §1.
- 1972, 28, §1
- 587, §1.
- Certain persons not to be disqualified.
- 1932, 206.
- 1954, 627, §19.
- 1974, 71.
- 1975, 275.
- 1977, 829, §6.
- Qualification to vote for president and vice-president.
- 1961, 582, §2.
- 1962, 437, §3.
- 1965, 536.
- 1966, 367, §1.
- 1971, 320, §1.
- 382, §2.
- 1972, 637, §1.
- 1974, 768.

Form.

Proceedings
when vote is
challenged.
1962, 437, §42.

Section 85. If in any state, city or town election at which official ballots are used the right of a person offering to vote is challenged for any legal cause, the presiding officer shall administer to him the following oath:

You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be that you are registered in this precinct (or town) and that you have not voted at this election.

If the right of a person offering to vote at a polling place where persons qualified to vote only for electors of president and vice-president shall cast their ballots is so challenged, the presiding officer shall administer to him the following oath:

You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be that you are a bona fide legal resident of this city (or town), that you have been determined by the registrars of voters of this city (or town) to be qualified to vote therein for electors of president and vice-president, and that you have not voted for such electors at this election in any other city or town in the commonwealth of Massachusetts, or in any other state of the United States, either in person or by absent voting ballot.

He shall also be required to write his name and residence on the outside of the ballot offered, and the presiding officer shall add thereto the name of the person challenging, and the cause assigned therefor, whereupon such ballot shall be received; and no person shall make any statement or give any information in regard thereto, except as required by law. The clerk shall record the name and residence of every person who has been challenged and has voted.

[Penalty for failure to make proper entry on ballot of challenged voter, Chap. 56, §13; for false oath by voter, Chap. 56, §25; for illegal challenging, Chap. 56, §31; for illegally giving information relative to challenged votes, Chap. 56, §14, §56.]

Challenger of
voters,
appointment.
1937, 275, §1.

Section 85A. A state committee of a political party may appoint a person to act as a challenger of voters at any polling place in the commonwealth at a state election, and a city or town committee of such a party, in a city or town in which municipal officers are nominated by primaries or by caucuses of political parties, may appoint a person to act as such challenger at any polling place in such city or town at a municipal election. Such challenger may challenge any voter during the hours that said polling place is open for the purpose of voting; and a statement signed by the chairman of the committee appointing him shall be sufficient evidence of his right so to act. He may be compensated for his services by the political party whose committee appointed him. He shall be assigned by the election officer presiding at the polling place to such position within the polling place as will enable him to see and hear each voter as he offers to vote. Nothing herein contained shall deprive any other person of the right to challenge a voter as provided by law.

ABSENT VOTERS.

Absent voters
may vote, when.
1945, 466, §1.
1950, 21.
1951, 153, §1.
1954, 101.
Const. amend.
Arts. XLV,
LXXVI.
1959, 178, §1.
1961, 213, §1.
1968, 632.
1971, 409, §1.

Section 86. Any voter who during the hours that polling places are open on the day of a special state election or the biennial state election or of any special or regular state primary or of a presidential primary is absent from the city or town where he is a voter by reason of his employment in another community or for any other reason or who will be unable to by reason of physical disability to cast his vote in person at the polling place or who for reasons of religious belief will be unable to cast his vote in person on the day of an election and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section

Regulations — Paper Ballots

disabled or blind person or a person who cannot read or who cannot read English.

(20) *Time Allowed.* Voters shall be allowed five minutes to vote if others are in line and ten minutes if there are no voters waiting. If a line of voters forms, this rule should be enforced equally. If there is no line, election officers may be more lenient.

(21) *Number of Voters Allowed.* If all the voting booths are filled, no more than four waiting voters shall be permitted inside the guard rail.

(22) *Candidates' and their Workers' Rights and Restrictions.*

(a) *Observers.* To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place, outside the guard rail, unless they are disorderly or obstruct the access of voters. They may keep notes including marked voting lists. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. The warden may exclude from the polling place any person who is disorderly or who obstructs the access of voters.

(b) *Voting booths clear of campaign literature.* Election officers shall check the voting booths regularly to see that no one has left any literature. The polling place must be kept clear of any campaign material.

(c) *Campaign material.* No campaign literature, buttons, signs or other material regarding the ongoing election may be displayed within 150 feet of the entrance to a polling place. Wearing, distributing and posting of material about candidates or questions on the ballot, and collecting signatures upon petitions or nomination papers shall not be permitted in the polling place or within 150 feet of it. The police officer shall enforce this rule as directed by the warden. Access to the polling place must be open and unobstructed and the voters may not be hindered.

(23) Challenges.

(a) *Challenges of the Right to Vote.* Any election officer or other person may challenge a person's right to vote. The challenger may challenge an absentee ballot as well. The challenger must state the reason for challenging the right of a person to vote, for example: this person is not old enough to vote; this person is not a citizen; this person should have been removed from the voting list; this person has already voted; this person is not the person he claims to be.

(b) *Illegal Challenges.* Challengers should be aware that any person challenging a voter for the purpose of intimidation or of ascertaining how he voted may be fined up to \$100.

(c) *Challenge Procedure.* Election officers shall not permit the challenger and the voter to engage in any arguments. If a voter is challenged, the warden shall administer the following oath to the challenged person:

Regulations — Paper Ballots

"You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct, and that you have not worked in this primary (or election)."

The warden shall require the challenged person to write his name and present residence on the outside of the ballot. (If it is an absentee ballot, the warden shall insert this information.) The warden shall add the name and address of the challenger and the state reason for the challenge, and the voter may cast the ballot in the ballot box. No statement shall be made or information given by any person as to how the person voted. The clerk of the precinct shall record in the clerk's election record the name and residence of every person who is challenged and has voted. The election officers in charge of the voting list shall mark the letters "CV" next to the challenged voter's name on the voting list.

(24) *Only the Following Personnel Are Permitted Within Guard Rail:*

- (a) Election officials
- (b) Voters in the process of voting
- (c) Police officers with the permission of the warden
- (d) Representatives of the Clerk's Office

(25) *Information by Election Officers Prohibited.* Before the public declaration of the vote, no election officer shall make any statement regarding the number of ballots cast, the number of votes given to any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls. But, if requested, the officer shall make a statement of the figures on the ballot box register. That statement shall not be considered an official declaration as to the state of the polls or of the number of ballots cast.

(26) *Opening of the Ballot Box.* The ballot box shall not be opened nor any ballot removed until the polls are closed; but in order to make room for more ballots, the warden may, in the presence of all the election officers, open the box and press down on the ballots in it. If the ballot box is too full to operate, the warden may, in the presence of a police officer, remove the ballots from the ballot box in convenient packages and place them in the fiberboard or other container which shall then be securely locked and kept in public view. No ballots may be counted until the polls close. If the ballot box becomes impossible to use, the warden shall establish a substitute box, which shall be kept in public view under the same security as the original ballot box; the clerk shall record a statement of the event and of the reason in the election record, and shall also include this statement in the envelope with the ballots cast.

(27) *Processing Absentee Ballots.*

- (a) *Deliver Absentee Ballots.* The absentee ballots shall be delivered during the day, not later than one hour after the polls close.
- (b) *Warden Shall Process Absentees.* The warden may process absentee ballots whenever there is free time, from the time the polls open in the morning and throughout the day.



CITY OF CAMBRIDGE

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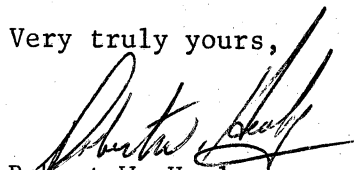
EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

October 17, 1983

To the Honorable, the City Council:

With respect to Awaiting Report Item No. 28 relative to the process followed by an individual previously registered to vote in Cambridge who has relocated to another community after its closing date for newly registered voters, enclosed please find copy of a report from the Cambridge Election Commission.

Very truly yours,


Robert W. Healy
City Manager

RWH/mbf
Enc.

Agenda Item Number Seventeen

SY 5711

Re: response to Awaiting Report Item No. 28
regarding the process followed by an individual
previously registered to vote in Cambridge
who has relocated to another community after
its closing date for newly registered voters.

In City Council,

October 17, 1983

10/17/83

Placed

ON

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