

were actually removed from the Spring Primary boxes, but thought that they were simply endeavoring to learn whether any one had had access to the ballots without proper authority. He therefore failed to appreciate the point under inquiry as he knew as stated to the Grand Jury that access had been given to those same boxes for preparation for use in the primary of August 29th.

In point of law, as a matter of fact, or what might be termed a legal fact, when the Board of Police Commissioners gave the Board of Supervisors of Elections in August, access to the Spring Primary boxes, those boxes whether emptied in part or whole immediately passed from the legal possession of the Board of Police Commissioners as custodians under the law, and the further responsibility was only that for the boxes as boxes and not for boxes containing ballots required to be safeguarded for a stated period. The possession of the Supervisors of a part was in fact and law the possession of the whole.

At the time therefore of the visit of the employees of the Supervisors to the Southwestern Station-house in August last, there were in fact no boxes at that station requiring protection as ballot boxes containing ballots and there was therefore no occasion for the employees of the Supervisors to be watched while preparing the boxes for the primary of August 29th.

While it does not appear by the letter of the Grand Jury above referred to, yet the questions addressed by the Grand Jury to Captain McGee would indicate that not even officers or employees of the Board of Supervisors should have access to or be allowed in the room where ballot boxes required by law to be kept in fact are stored.

In the opinion of this Board the election law does not justify such a conclusion.

The law provides, Code Art. 33, Sec. 76, that the Board of Police Commissioners shall put the boxes used at an election in "a secure place to which the public shall in no case have access."

The prohibition of access is against the public, meaning in the common acceptance of the term, citizens generally who