

MAINE STATE LEGISLATURE

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September 3, 1924

To Dora B. Pinkham, Fort Kent (in behalf of Wallagrass)
Re: Voting by Illiterate Women

Your inquiry with reference to the election law received. Under the law we have to be careful not to give official opinions except under the circumstances required by law, but both the Attorney General and I are, of course, interested to give you all the unofficial help possible in answering the questions which you put.

Our law court has not ruled on the question . . . with reference to the voting of illiterate women, but it would be my impression that they have no right to be enrolled as voters.

Article 29 of the Constitution, which took effect on the first Wednesday of January, 1893, provided as follows:

"No person shall have the right to vote or be eligible to office under the constitution of this state, who shall not be able to read the constitution in the English language and write his name; provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards at the time this amendment shall take effect."

You will note that the only exception which might be claimed to apply to the case of illiterate women who are now under the age of ninety years would be the exception of persons who had the right to vote when this Article took effect. No women had such right. I understand it has been argued that the amendment to the Constitution giving women the right to vote should be interpreted in favor of extending the right to vote to illiterate women who were twenty-one years of age when Article 29 took effect. This amendment is as follows:

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex."

It is, however, my opinion that the Federal Constitutional Amendment does not extend the exception in the State Constitution. The State Constitution made a limited exception applying to a certain condition then existing, and the denial of the right to vote of illiterate women is not a denial on account of their sex, but because they did not have the right to vote when Article 29 was adopted.

The municipal officers in towns like Wallagrass prepare the voting list and it would seem to be their plain duty to omit from the list persons who are not constitutionally qualified to vote, which would, in my opinion as above stated, give them the right to exclude from the list illiterate women voters. . . .

William H. Fisher