

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

July 1, 1958

To Samuel Slosberg, Director of Legislative Research

Re: Voting for Civilians on Federal Property

We have your memorandum of June 16, 1958, which reads as follows:

“The Legislative Research Committee has been ordered to study the privilege of voting for civilians who reside on federally-owned property in Maine.

The Legislative Research Committee would appreciate an answer to the following question:

In order to permit civilians who reside on federally-owned property in Maine to vote here in Maine, would it be necessary to amend Article II, Section 1, of the Maine Constitution?

For your information, at the last regular legislative session An Act Relating to Right to Vote of Civilian Employees Resident at Togus (L. D. 268), introduced by Senator Martin of Kennebec, was reported by the Judiciary Committee as Ought Not to Pass, which report was accepted by the Legislature. You will note that no effort was made to amend the Constitution.”

Article II, Section 1, Constitution of Maine, sets forth the qualifications required before a person is entitled to vote in election for governor, senators and representatives. Paragraph 1 of said section reads as follows:

“Every citizen of the United States of the age of twenty-one years and upwards, excepting paupers and persons under guardianship, having his or her *residence established in this state* for the term of six months next preceding any election, shall be an elector for governor, senators and representatives in the city, town or plantation where his or her residence has been established for the term of three months next preceding such election, and he or she shall continue to be an elector in such city, town or plantation for the period of three months after his or her removal therefrom, if he or she continues to reside in this state during such period, unless barred by the provisions of the second paragraph of this section; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this state, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any city, town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the city, town or plantation where such seminary is established. No person, however, shall be deemed to have lost his residence by reason of his absence from the state in the military service of the United States, or of this state.”

(Emphasis supplied)

Following the decision of our Court in *State v. Cobaugh*, 78 Me. 401, it is our opinion that Article II, Section 1, Maine Constitution, would have to be amended in order to permit civilians who reside on federally-owned property in Maine to vote in Maine.

By Chapter 66 of the Public Laws of 1867 and Chapter 612 of the Private and Special Laws of 1868, legislative jurisdiction was ceded by the State of Maine over Togus to the United States. The only jurisdiction retained by the

State of Maine over that tract was the right to service of process arising out of activities occurring outside the reservation.

Our Court said, in *State v. Cobaugh*, supra.:

“The laws of this state do not reach beyond its own territory and liquor sold in the ceded territory (Togus) cannot be considered sold in violation of the laws of this state.”

The Court was concerned, in this case, with a law dealing with liquor kept and deposited “in the state intended for unlawful sale *in the state* (emphasis supplied)”.

Consistent with the decision in the Cobaugh Case, a proper interpretation of a statute authorizing residents of federally-owned property to vote would be that such statute had no effect, because residents of Togus would not be persons having a residence established “in this state” as required by the Constitution.

The legal situation with respect to any federally-owned property would be similar to that of Togus, either by virtue of special legislation, as in the case of Togus, or by the provisions of Chapter 1, Section 10, Revised Statutes of 1954 as follows:

“Exclusive jurisdiction in and over any land acquired under the provisions of this chapter by the United States shall be, and the same is ceded to the United States for all purposes except the service upon such sites of all civil and criminal processes of the courts of this state; provided that the jurisdiction ceded shall not vest until the United States of America has acquired title to such land by purchase, condemnation or otherwise; the United States of America is to retain such jurisdiction so long as such lands shall remain the property of the United States, and no longer; such jurisdiction is granted upon the express condition that the state of Maine shall retain a concurrent jurisdiction with the United States on and over such lands as have been or may hereafter be acquired by the United States so far as that all civil and criminal process which may lawfully issue under the authority of this state may be executed thereon in the same manner and way as if said jurisdiction had not been ceded, except so far as said process may affect the real or personal property of the United States.”

JAMES GLYNN FROST
Deputy Attorney General

July 2, 1958

To Walter H. Kennett, Director, Civil Defense & Public Safety

Re: Civil Defense in Unorganized Territory

We acknowledge receipt of your memorandum of June 16, 1958, in which you inquire as to the level of the government, state or county, that is responsible for organizing, financing and directing civil defense operations in unorganized towns.

Unorganized towns have no officers such as selectmen or assessors who would be responsible for such organization and operation of civil defense programs.