

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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September 15, 1960

To: Paul A. MacDonald, Deputy Secretary of State

Re: Reading of Constitution by Recently Naturalized Citizens Re Voting Registration

We have your memo of September 8, 1960 in which you ask three questions relating to the requirement that, to be eligible to vote, a citizen must be able to read the Constitution in the English language, as that requirement applies to naturalized citizens.

You ask these questions because the City Solicitor of a certain city has advised the election officials of that city that as the ability to read the United States Constitution is a requirement for naturalization, if a man qualifies for naturalization as a United States citizen, then he is qualified as a voter in the State of Maine with respect to the literacy test.

(1) Does the phrase "able to read the Constitution in the English language" refer to the Constitution of the State of Maine or the United States Constitution?

Answer: The phrase refers to the Constitution of the State of Maine.

(2) Is it incumbent upon a Maine board of registration to be satisfied that every applicant for registration as a voter be able to read from the Maine Constitution or the United States Constitution in the English language?

Answer: It is incumbent upon a Maine Board of Registration to be satisfied that every applicant for registration as a voter be able to read from the Maine Constitution.

(3) If a board of registration of voters is convinced that a recently naturalized applicant for registration cannot read from either Constitution in the English language, could they waive this requirement, relying upon the assumption that the applicant must have been able to read from the United States Constitution in order to qualify for naturalization?

Answer: No.

While United States citizenship insures to such citizen certain rights (*Slaughter House cases*, 16 Wall, 36) such citizenship does not confer upon a person rights which are peculiar to citizenship of a State.

Our Maine Constitution provides that

". . . .

"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 this shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who had the right to vote on the fourth day of January in the year one thousand eight hundred and ninety-three. (Emphasis ours)

". . . ."

Constitution of Maine, Article II, Section 1.

It is obvious that, in the above context, the word "constitution" refers to the constitution under which one holds office or votes — the Maine Constitution.

The legislature so believed when it enacted Section 2 of Chapter 3, Revised Statutes of 1954, and said:

"Every citizen who . . . is able to read the constitution of the state in the English language in such manner as to show that he is neither prompted nor reciting from memory . . . shall have the right to vote . . ." (Emphasis ours)

Section 20 of said Chapter 3 reiterates the reading requirement in the following manner:

"Applicant for registration must be able to read in the English language. Every applicant for registration shall be required, unless prevented by physical disability from so doing, or unless he had the right to vote on the 4th day of January, 1893, to read in the English language, other than the title, from an official edition of the constitution of the state in such manner as to show that he is neither prompted nor reciting from memory, so much as may be necessary to demonstrate his ability to read the constitution, and to write his name in a book or on cards provided for that purpose. The name of the applicant, if admitted to registration, shall be announced in a clear, audible and distinct voice before entering it on the register."

The statutory provision is clear as to which constitution is concerned. We think also that a reading of the constitutional provision reveals a meaning just as clear. The provisions of the statutes are compatible with the provisions of the constitution.

It will be noticed that both our constitution and our statutes exempt a person from the requirement of reading from the constitution if he is unable to do so because of a physical disability, or if he had the right to vote on the 4th day of January, 1893.

We would point out that, in practice, a requirement for naturalization is that a person be able to speak and write simple English, but that such requirement is waived in cases where a person is over a certain age and has lived in this country a certain number of years. The waiver, however, comes at an age less than our State exemption.

Thus, in theory, if a naturalized person against whom the requirement of reading had been waived did not have to comply with our State requirement, he would now have and would have had for some years, an advantage over a citizen of the State of Maine not contemplated by the privileges and immunity clauses of the Federal Constitution.

We are of the opinion, for the above reasons, that the reading requirement for registration as a voter is that the applicant be able to read from the Maine Constitution.

FRANK E. HANCOCK

Attorney General