

# MAINE STATE LEGISLATURE

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January 14, 1964

Honorable E. Perrin Edmunds  
Senate Chamber  
State House  
Augusta, Maine

Dear Senator Edmunds:

You have asked my opinion as to whether or not federal legislation could effectively render invalid the requirement of payment of a poll tax as a qualification or condition to the right of suffrage in several of the states as does the proposed amendment to the United States Constitution.

I answer in the negative.

The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left to the several states by the United States Constitution, except as it is provided by that instrument that the electors for representatives to Congress shall have the qualifications requisite for electors of the most numerous branch of the state legislature. (U.S. Constitution - Article I, Section 2, and the 17th amendment.) Other exceptions are, of course, the 15th amendment which forbids denying to citizens the right to vote on account of race, color or previous condition of servitude, and the 19th amendment which forbids denying citizens the right to vote on account of sex.

The United States Supreme Court has ruled that the qualification in question is valid:

"To make payment of poll taxes a prerequisite of voting is not to deny any privilege or immunity protected by the Fourteenth Amendment. Privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the Fifteenth and Nineteenth Amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate." Breedlove v. Suttles, 302 U.S. 277.

January 14, 1964

The Breedlove case was decided in 1937 and stands as law today. Any federal legislation framed to invalidate the "poll tax" qualification of any state would, in my opinion, be violative of Article I, Section 2, and the 17th amendment of the United States Constitution.

I believe those who argue that federal legislation could effectively invalidate such a voter qualification are, in fact, saying that the United States Supreme Court, were it to rule today on the same subject matter, would uphold such legislation and overrule its 1937 decision. At the moment this is pure theory.

The joint resolution now before the Maine Legislature, when ratified by the appropriate number of states, would, of course, become an amendment to the United States Constitution and thereby become another exception to the power of the states to set voter qualifications along with the 15th and 19th amendments.

Because of the action of the Congress of the United States proposing the amendment as stated in the joint resolution, and of the action of several of the states which have thus far ratified the same, assuming that this legislature is in agreement that the poll tax qualification should be done away with, the quickest and easiest method of invalidating the poll tax requirement is to adopt the resolution.

Very truly yours,

Frank E. Hancock  
Attorney General

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