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THE HISTORY OF IMMIGRANT VOTING RIGHTS IN MAINE

*The Immigrant Voting Project and
New York University Law Students for Human Rights*

Resident Noncitizen Voting in Maine: A History

Maine has required its voters to be U.S. citizens since it first attained statehood in 1820. Maine's original inclusion of a citizenship requirement for suffrage was part of a broader trend away from widespread alien suffrage during the post-War of 1812 period, a result of the nationalism and hostility to foreigners engendered by the war.

The language of Maine's current constitution provides that:

Every citizen of the United States of the age of 18 years and upwards, excepting persons under guardianship for reasons of mental illness, having his or her residence established in this State, shall be an elector for Governor, Senators and Representatives, in the city, town or plantation where his or her residence has been established, if he or she continues to reside in this State; and the elections shall be by written ballot.

The constitution's citizenship requirement is repeated in its statutes: Title 21 §111 states that in order to vote "in any election in a municipality," the voter "must be a citizen of the United States."

In recent years, Maine has expanded or reaffirmed voting rights in several areas. In 2001, a federal court ruled that the clause of the Maine constitution disenfranchising those under guardianship for mental illness was both unconstitutional under the Fourteenth

Amendment and a violation of the Americans With Disabilities Act.

Two constitutional amendments to voting laws were proposed in 2003 --one to expand the franchise and one to reduce it. One, 2003 Maine House Paper No. 470, introduced on February 11, 2003 by Rep. Cummings of Portland, would have lowered the voting age to 17. The bill was subsequently changed from a proposed constitutional amendment to legislation which would allow 17-year-olds to vote in parties' primary elections only, a change which did not require a change to the state constitution.

The bill was passed as amended and signed by the Governor in 2004.

The other proposed constitutional amendment, Maine House Paper No. 159, would have disenfranchised those "convicted of murder or a Class A crime or a crime in another

jurisdiction that is comparable to murder or a Class A crime” while they are in prison. The bill was introduced on January 21, 2003, by Representative Andrews of York. H.P. 159 was referred to the Legal and Veterans Affairs Committee on January 21, 2003. It lost 8-5 in committee. On April 29, 2003, the House accepted the committee’s Ought Not To Pass Report, and the state Senate concurred on May 1, 2003.

Maine therefore remains, along with Vermont, one of only two states that does not disenfranchise felons.

Following these recent reaffirmations of voting rights in Maine, a local campaign is underway in Portland to give lawful permanent residents the right to vote in municipal elections. The extension of voting rights to non-citizens would require Portland to amend its charter under Maine’s home rule provisions, and obtain exceptions from the state laws requiring U.S. citizenship for voting. Home rule powers are granted to municipalities by Maine’s constitution:

The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act.

The procedures for adopting and revising charters are set forth in ME ST Title 30-A §§ 2101 – 2109. Further discussion of the Portland campaign can be found on the Immigrant Voting Project’s Maine page at <http://www.immigrantvoting.org/material/maine.html>.

[1] Gerald Rosburg, *Aliens and Equal Protection: Why Not the Right to Vote?*, 75 MICH. L. REV. 1092, 1097 (1977), at 1097. Raskin, Jamin B. Raskin, *Legal Aliens, Local Citizens: The Historical, Constitutional, and Theoretical Meanings of Alien Suffrage*, 141 U. PA. L. REV. 1391, 1402 (1993), at 1404.

[2] ME CONST. Art. 2, § 1.

[3] Doe v. Rowe, 156 F.Supp.2d 35 (D. Me. 2001).

[4] State of Maine, 121st Legislature, 2nd Special Session, Journal of the Senate, March 18, 2004.

[5] LD 640 (HP 270), 121st Leg. (Me 2004).

[6] LD 200 (HP 159), 120th Leg. (Me 2003).

[7] ME CONST. Art. 8, Pt. 2 §1

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