

SUPREME JUDICIAL COURT OF MAINE

Opinion of the Justices

2017 ME 100 · No. OJ-17-1 · Decided May 23, 2017

SUMMARY

The Maine Supreme Judicial Court issued an advisory opinion in response to three questions propounded by the Maine Senate concerning the constitutionality of Maine's Ranked-Choice Voting Act. The questions addressed centralized vote counting, the plurality-vote requirements in the Maine Constitution, and the statutory method for resolving gubernatorial ties. The opinion discusses the constitutional prerequisites and limits governing advisory opinions under Article VI, Section 3 of the Maine Constitution.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Leigh I. Saufley, Chief Justice; Donald G. Alexander; Andrew M. Mead; Ellen A. Gorman; Joseph M. Jabar; Jeffrey L. Hjelm; Thomas E. Humphrey
JURISDICTION	Maine
DECIDED	May 23, 2017
DOCKET	OJ-17-1
DISPOSITION	other
PROCEDURAL POSTURE	The Maine Senate requested an advisory opinion from the individual Justices of the Supreme Judicial Court under article VI, section 3 of the Maine Constitution concerning the constitutionality of Maine's Ranked-Choice Voting Act.
STANDARD OF REVIEW	For the constitutional analysis, the Justices applied Maine's heavy presumption of constitutionality and required a challenger to establish unconstitutionality beyond a reasonable doubt; a facial challenge requires showing that there is no set of circumstances in which the statute could be constitutionally applied. The threshold advisory-opinion inquiry required an important question of law and a solemn occasion, including unusual exigency and live gravity.
PRECEDENTIAL VALUE	No precedential value; advisory opinion under Me. Const. art. VI, § 3.

TOPICS

election law

election administration

constitutional law

separation of powers

election contests

PRACTICE AREAS

constitutional law

election law

constitutional advisory opinions

legislative procedure

QUESTIONS PRESENTED

1. Whether the Ranked-Choice Voting Act's ranked-choice tabulation method conflicts with the Maine Constitution's plurality requirements for Governor, State Senator, and State Representative.
2. Whether the Act's central counting process conflicts with constitutional provisions assigning municipal officials responsibility for sorting, counting, declaring, and recording votes.
3. Whether the Act's provision for resolving a gubernatorial tie by lot conflicts with the Maine Constitution's provision requiring the House and Senate to resolve such a tie.

HOLDINGS

1. Question 2 presented an important question of law and a solemn occasion under article VI, section 3 of the Maine Constitution because the issue was serious, immediate, unusually exigent, sufficiently precise, and implicated substantial uncertainty in the administration of upcoming elections.
2. Yes. The Ranked-Choice Voting Act conflicts with the Maine Constitution because it does not declare the candidate who first receives a plurality of all votes returned to be the winner; instead, it requires additional rounds of tabulation and elimination until a majority is achieved or ballots are exhausted.
3. No. Questions 1 and 3 did not present a solemn occasion because the Justices' answer to Question 2 resolved the central constitutional conflict and made further advice unnecessary.

KEY QUOTATIONS

"They are not binding on the Justices individually or together in any subsequent case that may come before the Law Court and they have no precedential value or conclusive effect." (§ 9)

"Accordingly, the Act is not simply another method of carrying out the Constitution's requirement of a plurality." (§ 65)

"Yes, the Ranked-Choice Voting Act conflicts with the Maine Constitution." (§ 72)

FACTUAL BACKGROUND

Maine voters approved a citizen initiative establishing ranked-choice voting for elections for Governor, State Senator, State Representative, and certain federal offices beginning January 1, 2018. The Act required sequential rounds of tabulation, elimination of last-place candidates, and redistribution of preferences until a candidate obtained a majority or ballots were exhausted. The Maine Constitution provided that Maine's Governor, Senators, and Representatives were elected by a plurality of votes returned, and the Senate sought guidance before funding and implementing the new system.

PROCEDURAL HISTORY

The Maine Senate propounded three constitutional questions by communication dated February 2, 2017. After receiving briefs from the Senate and interested parties and hearing oral argument on April 13, 2017, the Justices answered Question 2 and declined to answer Questions 1 and 3 because they did not present a solemn occasion in light of the answer to Question 2.

DISPOSITION

other

CASES CITED

- Opinion of the Justices, 682 A.2d 661 (Me. 1996)
- City of Belfast v. Belfast Water Co., 115 Me. 234, 98 A. 738 (1916)
- Moulton v. Scully, 111 Me. 428, 89 A. 944 (1914)
- Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)
- League of Women Voters v. Secretary of State, 683 A.2d 769 (Me. 1996)
- Hathaway v. City of Portland, 2004 ME 47, 845 A.2d 1168
- Opinion of the Justices, 2002 ME 169, 815 A.2d 791
- Opinion of the Justices, 396 A.2d 219 (Me. 1979)
- Opinion of the Justices, 2015 ME 27, 112 A.3d 926
- Opinion of the Justices, 2015 ME 107, 123 A.3d 494
- Opinion of the Justices, 229 A.2d 829 (Me. 1967)
- Opinion of the Justices, 371 A.2d 616 (Me. 1977)
- Opinion of the Justices, 2012 ME 49, 40 A.3d 930
- Opinion of the Justices, 2004 ME 54, 850 A.2d 1145
- Guardianship of Chamberlain, 2015 ME 76, 118 A.3d 229
- United States v. Salerno, 481 U.S. 739 (1987)
- Storer v. Brown, 415 U.S. 724 (1974)
- Opinion of the Justices, 673 A.2d 693 (Me. 1996)
- Opinion of the Justices, 673 A.2d 1291 (Me. 1996)
- Allen v. Quinn, 459 A.2d 1098 (Me. 1983)
- Crafts v. Quinn, 482 A.2d 825 (Me. 1984)
- Powell v. McCormack, 395 U.S. 486 (1969)
- Yick Wo v. Hopkins, 118 U.S. 356 (1886)
- Crawford v. Marion County Election Board, 553 U.S. 181 (2008)
- Ex parte Siebold, 100 U.S. 371 (1880)
- Buonanno v. DiStefano, 430 A.2d 765 (R.I. 1981)
- Rockefeller v. Matthews, 459 S.W.2d 110 (Ark. 1970)

- State ex rel. Attorney General v. Anderson, 12 N.E. 656 (Ohio 1887)
- Baxter v. Davis, 113 P. 438 (Or. 1911)

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