

MAINE REPORTS

126

CASES ARGUED AND DETERMINED

IN THE

SUPREME JUDICIAL COURT

OF

MAINE

DECEMBER 1, 1926—FEBRUARY 10, 1928

FREEMAN D. DEARTH¹
EDWARD S. ANTHOINE²

REPORTERS

¹Term expired December 21, 1927.

²Appointed December 29, 1927.

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BY

EDGAR C. SMITH

SECRETARY OF STATE FOR THE STATE OF MAINE

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QUESTIONS SUBMITTED BY THE SENATE TO THE JUSTICES OF THE
SUPREME JUDICIAL COURT, MARCH 24, 1927, WITH THE
ANSWERS OF THE JUSTICES THEREON

STATE OF MAINE

IN SENATE

March 24, 1927.

It appearing to the Senate that the following are important questions of law and the occasion a solemn one:—

ORDERED:—The justices of the supreme judicial court are hereby requested to give to the Senate according to the provisions of the Constitution in this behalf their opinion on the following questions, to which is prefaced the statement of facts.

There have been filed with the Legislature under the initiative and referendum provisions of the Constitution of Maine, petitions asking that a law repealing the Primary Law be submitted to the voters of the State. These petitions are in proper form and contain more than twelve thousand signatures. It is apparent, from an examination of some of the petitions, that several names are in the same hand-writing.

1. If on hearing, the Legislature finds as a fact that one person wrote several names on a petition does that invalidate the verification of the petition and should the other names on the petition be counted?

2. If on hearing, the Legislature finds as a fact that one person wrote several names on a petition but did so in good faith, believing that he had a right to do so, does that invalidate the verification of the petition and should the other names on the petition be counted?

3. If a person verifies a petition that he did not circulate and did not see such petitioner sign but does so honestly, believing that each name appearing on the petition is the true signature of the person whose name appears, is that a proper verification and should the names on that petition be counted?

Presented by Senator Oakes of Cumberland.

IN SENATE
MARCH 24, 1927.
READ AND PASSED

A TRUE COPY.

ROYDEN V. BROWN, *Secretary*.

ATTEST:

ROYDEN V. BROWN, *Secretary*.

TO THE HONORABLE SENATE OF THE STATE OF MAINE:—

The undersigned Justices of the Supreme Judicial Court having considered the questions on which their opinion was requested by the Senate order passed March 24th, 1927, relating to the verification of petitions under the initiative and referendum provisions of the Constitution of Maine respectfully submit their opinion in the following answers:

QUESTION 1. If on hearing, the Legislature finds as a fact that one person wrote several names on a petition does that invalidate the verification of the petition and should the other names on that petition be counted.

ANSWER: A petition regular in form and duly verified and certified in accordance with the provisions of section 20 of Part 3 of Article IV of the Constitution as amended by the thirty-first amendment may be regarded as *prima facie* evidence of its validity and of the authenticity of the signatures. The provision of the Constitution, however, requires such petitions to be signed with the "original signature of the petitioner." If it appears from the petition, or by proof

alunde, that certain of the signatures thereon are not original, such signatures should not be counted; but we are of the opinion that the fact that some of the signatures are not original should not be held *ipso facto* to invalidate the verification as to the others, and the remainder of the names, no other reason to the contrary appearing, should be counted.

QUESTION 2. If on hearing, the Legislature finds as a fact that one person wrote several names on a petition but did so in good faith, believing that he had a right to do so, does that invalidate the verification of the petition and should the other names on the petition be counted?

ANSWER: The answer to question number one also applies to question number two. The authority to sign such petitions can not be delegated, even if done in good faith.

QUESTION 3. If a person verifies a petition that he did not circulate and did not see each petitioner sign but does so honestly, believing that each name appearing on the petition is the true signature of the person whose name appears, is that a proper verification and should the names on the petition be counted?

ANSWER: A petitioner verifying as to the authenticity of the signatures appearing on a petition should have personal knowledge thereof. He can not verify upon hearsay alone, however honest his belief. The Constitution does not, however, require that the signatures be subscribed in his presence. He may verify upon his identification of the handwriting, or even have sufficient warrant for verification, although the signing was not done within his actual vision, if it was done under such circumstances that no reasonable person would doubt its authenticity. What constitutes personal knowledge sufficient to warrant verification is a matter within the sound judgment of the body, which must act upon the petition, which tribunal may also determine for itself the nature of the evidence it will receive upon this question and its weight.

Although it may appear that as to certain names the verification was based upon hearsay alone, that should not be held to invalidate

the verification as to the remainder of the names which, no other objection appearing, may be counted.

Respectfully submitted,

SCOTT WILSON
WARREN C. PHILBROOK
CHARLES J. DUNN
LUERE B. DEASY
GUY H. STURGIS
CHARLES P. BARNES
NORMAN L. BASSETT
WILLIAM R. PATTANGALL.

March 29, 1927.