

INTER = OFFICE MEMO

SONOMA COUNTY

October 22, 1968

TO: Terry Lewis, Assistant County Clerk

FROM: County Counsel

SUBJECT: Voting Law

Provisions for poll tax commenced in California with the enactment of laws embodied in the 1850 Statutes. Chapter 17 provided that all male inhabitants over 21 and under 50 were required to pay a poll tax of \$5.00.

The provisions of this law, slightly modified, were included in the Constitution of 1879, Article 13, Section 12, which read as follows:

"The Legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State School fund."

In 1914, by initiative amendment, the poll tax was abolished by this wording:

"No poll tax or head tax shall be levied or collected in the State of California."

In 1920, the poll tax was restored by an amendment, to substantially the same language, except it was restricted to "alien" male inhabitants, and the rate was increased to four dollars.

As a result of the 1920 Amendment to the California Constitution, a new Act was added to Title 9 of the Political Code, which Act was commonly known as the alien poll tax law, which provided that ". . . every alien male inhabitant of this state over twenty-one years of age and under sixty years of age, except paupers, idiots and insane persons, must annually pay a poll tax of ten dollars." It also contained a provision that ". . . every person liable to pay such poll tax must register."

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This statute was declared invalid by the California Supreme Court in a case entitled In the Matter of Heikich Terui (1921), 187 Cal. Reports 20.

Heikich Terui was an alien male inhabitant of the State of California, of the age of about 35 years and a subject of the Empire of Japan. He failed to register as a person required to pay the poll tax provided for by the above mentioned statute, and was arrested and held in custody by the chief of police of Oakland, California upon a complaint charging him with failure to register as mentioned above. Mr. Terui petitioned the Court for a writ of habeas corpus, and because the Supreme Court decided the statute was invalid, he was discharged from custody. The Supreme Court held that the statute contravened a treaty with Japan.

Section 12, Article 13 was again amended in 1924 and rewritten as an "educational" poll tax, the rate was raised to five dollars, and applied to every male inhabitant over 21 and under 50 years of age, except that veterans and persons paying real or personal property taxes in excess of \$5.00 or more were exempt.

All provisions of California law providing for the imposition of poll taxes were repealed November 5, 1946.

* * * * *

The right of a person of Japanese ancestry to vote in 1894 was controlled by Article 2, Section 1 of the California Constitution as it existed in 1879. A Japanese person would be entitled to vote if he had the following qualifications:

1. If a native male citizen.
2. If a male naturalized citizen.
3. Age 21 years
4. Resident of California one year and of the county ninety days, and in the precinct thirty days.
5. And further provided that "no native of China, no idiot, insane person, or person convicted of an infamous crime, and no person hereafter convicted of embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State."

If I can be of further assistance, please advise.


NOEL C. STEVENSON
Deputy County Counsel