

MAINE STATE LEGISLATURE

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October 20, 1966

Edward Hinckley, Commissioner

Indian Affairs

George C. West, Deputy

Attorney General

QUESTION NO. 1:

Does the Tribe itself have competence to determine the question of a person's eligibility to run for Tribal office, by majority vote at a Tribal meeting, taking into account the fact that he is a resident member of the local Tribal community, having resided there for over ~~five~~¹⁶ years, his mother having been a Passamaquoddy, his father a Penobscot, and he also having a wife and children, all of whom were born at the Pleasant Point Passamaquoddy Reservation, residing with him there now, where he also maintains his place of business, a store, adjacent to his Pleasant Point home? If not, is such a person, by State law, eligible or not?

ANSWER NO. 1:

This question is partially answered in my first opinion to you under date of October 20, 1966. That portion of the opinion designated Question No. 3 partially answers this question.

The important part of the answer is as follows:

"It seems obvious that such office holders must be members of the Passamaquoddy tribe. To hold otherwise would allow anyone, Indian or non-Indian, to be a candidate."

The tribe cannot, then, decide at a tribal caucus who is eligible to hold office. That is determined at a meeting of the tribe with the tribal committee on the first Wednesday of January, under section 4832. In other words the annual census determines membership in the tribe. Membership cannot be determined at any other time.

QUESTION NO. 2:

If a candidate nominated at the Tribal caucus were ineligible for the one office to which he was nominated, does this render the

entire caucus results a nullity, so as to reopen nominations for all the other offices, thus calling for a whole new caucus meeting to be held as to all these other offices?

ANSWER NO. 2:

Ineligibility of one candidate does not nullify the whole caucus. It is no different than if a candidate withdraws or dies. That action would not void the caucus.

The new caucus can only consider nominations for the vacant office.

George C. West
Deputy Attorney General

GCW:H

P. S. It may be noted that the second paragraph of section 4832 states:

"Corrections of the list, by reason of births, deaths or omissions, may, as they come to the knowledge of the committee, be certified to the commissioner and he shall correct his list accordingly."

G. C. W.