

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

March 28, 1967

Honorable Louis Jalbert
House of Representatives
Augusta, Maine

Re: Meaning of "Two-Thirds Vote"

Dear Louis:

You have asked me to clarify the law with respect to the meaning of a two-thirds vote required to override a Governor's veto. Attached to this letter you will find the letter of February 12, 1965, which Attorney General Dubord wrote to Speaker Dana Childs. This letter covers the question of two-thirds vote in the case of Constitutional amendments and emergency legislation. My answer to your inquiry is an extension of the opinion and logic used by Attorney General Dubord.

Accepting the premise that the word "House" means a quorum of its membership, I interpret the requirement of a two-thirds vote necessary to override the veto of a Governor to mean two-thirds of the members present and voting, assuming there is a quorum. It is my opinion that in the absence of clarifying language, the same standard is used for the overriding of a veto that is used for the passing of a Constitutional amendment.

As pointed out by Attorney General Dubord in his letter of February 12, 1965, the only place where the Constitution in terms requires "a vote of two-thirds of all the members elected to each house" is for emergency legislation. This requirement was apparently dictated by the fact that emergency legislation denies the people their right of referendum.

No such special consideration obtains in the matter of overriding a veto and the requirement only speaks in terms of the "House." As stated above, we consider this to mean those present and voting (assuming a quorum). I refer again to the cases cited by Attorney General Dubord.

With the hope that this is useful to you, I am

Very truly yours,

JAMES S. ERWIN
Attorney General

April 27, 1967
Executive

Linwood Ross, Special Assistant

Voting Rights of Indians Residing on Tribal Reservations.

By memorandum dated April 27, 1967, you asked the following question: Whether an Indian residing on a tribal reservation has the right to vote for a State Representative to the State Legislature?

ANSWER:

Yes, as qualified by this opinion. There is no doubt that the amendment to Article II,

section 1 of the Maine Constitution in 1953 provided Indians with the right to vote for voting representatives to the State Legislature.

The Resolve passed by the Legislature proposing the constitutional amendment to Article II, section 1 and Article IV, Part 1st, section 2 stated in part:

“Form of question and date when amendment shall be voted upon. Resolved: That the aldermen of cities, the selectmen of towns and the assessors of the several plantations of this state are hereby empowered and directed to notify the inhabitants of their respective cities, towns and plantations to meet in the manner prescribed by law for calling and holding biennial meetings of said inhabitants for the election of senators *and representatives* at the next general or special state-wide election, to give in their votes upon the amendment proposed in the foregoing resolution, and the question shall be:

“‘Shall the constitution be amended as proposed by a resolution of the legislature permitting Indians to vote?’” (Emphasis supplied)

Thus it is clear that the intent of the Legislature in amending Article II, section 1 of the Maine Constitution by adding the sentence “Every Indian, residing on tribal reservations and otherwise qualified, shall be an elector in all county, state and national elections.” was to provide those Indians with the same voting rights as any other citizen of the State of Maine.

The Reapportionment of the State House of Representatives as promulgated by Chapter 81 of the Resolve of 1961 failed to specifically provide representation for Indians residing on tribal reservations. Therefore, it would be incumbent upon the Legislature by an appropriate action to provide this representation which is guaranteed by the Constitution of the State of Maine.

JEROME S. MATUS
Assistant Attorney General

April 28, 1967
Maine State Prison

Warden Allan L. Robbins
Forcing Medical Treatment on Prisoners at the Maine State Prison

FACTS:

From time to time prisoners at the Maine State Prison suffering from illness refuse medical treatment and diet prescribed by the prison physician.

QUESTION:

Can medical treatment and diet prescribed by the prison physician be forced upon prisoners at the Maine State Prison?

ANSWER:

No.

OPINION:

It is the opinion of this office that despite the powers of control of prisoners vested