

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

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

in the Warden of the Maine State Prison, such powers do not include the power to force medication and diet upon any prisoner against his will, subject to the exception that in instances wherein a prisoner becomes violent and uncontrollable, and thus detrimental to the peace and wellbeing of the prison, the administration of tranquillizing drugs against the prisoners' will may be necessary for the preservation of the good order of the prison.

It is our opinion that when a prisoner refuses medical treatment or diet prescribed by the prison physician the physician should explain the reason for the requirement of medical treatment or diet and the possible ill affects if treatment or diet is refused. If refusal persists the physician should make a statement in writing, indicating the nature of the refusal of treatment or diet, describing the explanation of the consequences of refusal given to the prisoner and stating the fact of persistence of refusal. The statement should be signed by the physician and dated; it should be signed by the recalcitrant prisoner, and witnessed, and if he refuses to sign the same it should be indicated on the form and witnessed. The completed form should be made a part of the prisoner's record.

Title 34, M.R.S.A., 1964, § 631 makes mandatory the furnishing of needed medical treatment or diet, but does not authorize the forcing of either.

COURTLAND PERRY
Assistant Attorney General

May 2, 1967
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

Property Taxation of property owned by Urban Renewal Authorities.

FACTS:

Prior to April 1, 1967, the Fort Fairfield Urban Renewal Authority acquired certain property from several individual owners. Most of the original owners have vacated the premises and the buildings have been demolished. However, one or two of the original owners continue to occupy their premises and will continue to do so until at least June of 1967. These individuals are paying rent to the Fort Fairfield Urban Renewal Authority.

QUESTION NO. 1:

Whether property acquired by an Urban Renewal Authority prior to April 1, is taxable to the authority?

ANSWER:

No.

OPINION:

Property of an Urban Renewal Authority acquired pursuant to 30 M.R.S.A. § 4813 is declared to be public property and not taxable.