

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

of a bank fiduciary. When a bank fiduciary is employed however, we do not believe that the legislature intended the Board to have a complete veto power over the day-to-day investment activities of its fiduciary employee. Furthermore, to allow the Board to execute orders or change investment policy without prior notification to its fiduciary agent could render the latter powerless to perform any useful service in regard to the investment of funds. This, we are certain, the Legislature did not intend as a consequence of the above-quoted statutory enactments.

PHILLIP M. KILMISTER
Assistant Attorney General

August 3, 1967
Indian Affairs

Edward C. Hinckley, Commissioner

Rights of Maine Indians Residing on Tribal Reservations to Hold State Elective Offices.

FACTS:

By memo you have requested information concerning rights of Maine Indians residing on any of the three tribal reservations in Maine to hold State elective offices.

QUESTION:

May a Maine Indian residing on one of the three tribal reservations in Maine run for any or all county and/or State elective offices, and if elected, serve?

ANSWER:

Yes, as qualified by the opinion.

OPINION:

The qualification for membership in the Maine State House of Representatives reads as follows:

“No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty-one years, have been a resident of this State one year; and for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents.” Art. IV, Part First, § 4, *Constitution of the State of Maine*.

A Maine Indian residing on a Maine tribal reservation is a citizen of the United States. We assume, for purposes of this opinion, that the Indian citizen is 21 years of age and has been a resident of this State for one year.

Upon the effective date of the 1967 Private and Special Laws, c. 137 (L.D. 1720), Indian voting districts will be placed within representative class districts. For purposes of this opinion, we assume that in the 1968 elections the Indian citizen who runs for elective office shall have been a resident of the representative class district for three months next preceding the election day and shall continue to be a resident of such a

district if he is elected. Thus, a Maine Indian residing on a tribal reservation can meet all of the Constitutional requirements for qualifications as a member of the State House of Representatives and if elected by other electors in his representative class district, can serve in the State House of Representatives.

Article IV, Part Second, § 5 of the Constitution of the State of Maine sets forth the qualifications for service in the Maine Senate and reads as follows:

“The Senators shall be twenty-five years of age at the commencement of the term, for which they are elected, and in all other respects their qualifications shall be the same as those of the Representatives.”

Thus, any Maine Indian who is 25 years of age and meets the qualifications for membership as a State Representative can hold the office of State Senator if elected by his fellow electors.

30 M.R.S.A. § 101 sets forth the qualifications for holding the office of county commissioner. 20 M.R.S.A. § 601 sets forth the qualifications for holding the office of county treasurer. 30 M.R.S.A. § 901 sets forth the qualifications for county sheriff. Maine Indians residing on tribal reservations if elected by their fellow electors can serve in any of these capacities as they meet the requirements of these sections.

30 M.R.S.A. § 451 sets forth the qualifications for county attorney. If a Maine Indian residing on a tribal reservation is an attorney at law admitted to the general practice of law, he can meet the residence and professional qualifications for the office and if elected by his fellow electors in the county, he may serve in this capacity.

We have not answered any inquiry concerning the rights of an Indian citizen on tribal reservations to hold office as a result of the 1966 general elections as this is moot.

JEROME S. MATUS
Assistant Attorney General

August 15, 1967
Bureau of Purchases

J. R. Dyer, State Purchasing Agent

Power of Legislature to authorize Clerk of the House of Representatives to make direct purchases without complying with Bureau of Purchases – Me. Rev. State. Ann., tit. 3, § 42 (1964) and Me. Rev. Stat. Ann., tit. 5; § 1811 – 1820 (1964).

FACTS:

On January 4, 1967 the Maine House of Representatives passed the following order:

“ORDERED, that the Clerk of the House be authorized to purchase such stationery, office supplies and equipment as may be needed to carry on the business of the House.”

QUESTION:

Does the House Order above quoted confer upon the Clerk of the House authority to make the purchases therein mentioned without complying with the procedures of the State Bureau of Purchases?

OPINION:

The Department of Finance and Administration, through the Bureau of Purchases,