

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

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,

has the authority to purchase all supplies, materials and equipment required by the State Government. Me. Rev. Stat. Ann., Tit. 5, § 1811 (1964). The State Purchasing Agent is directed by statute to purchase or contract for all supplies, materials and equipment needed by the State Government, with certain exceptions not here pertinent. Me. Rev. Stat. Ann., Title 5, § 1812 (1964). The State Purchasing Agent, with the approval of the Commissioner of Finance and Administration, may, within limitations, adopt rules authorizing any state department or agency to purchase certain specified supplies, materials or equipment directly. Me. Rev. Stat. Ann., tit. 5, § 1813, par. 1, (1964). Otherwise, such supplies must be purchased by, or furnished to, the State Government only upon requisition to the State Purchasing Agent. Me. Rev. Stat. Ann., tit. 5, § 1815 (1964).

Me. Rev. Stat. Ann., tit. 3, § 42 (1964) dealing with the duties of the Clerk of the House, in pertinent part provides:

“He shall when the Legislature is not in session be the chief executive officer of the Legislature, and unless the Legislature otherwise orders, . . . arrange for necessary supplies and equipment through the State Bureau of Purchases. . .”

The language “. . . unless the Legislature otherwise orders. . .” cannot reasonably be interpreted to mean that the Legislature can, by order, give the Clerk of the House authority to circumvent the clear intent of Me. Rev. Stat. Ann., tit. 5, §§ 1811-1820 (1964) to channel all state buying through the Bureau of Purchases. We interpret this language to mean that the Legislature may by order assign the duty of arranging for necessary supplies and equipment through the Bureau of Purchases to someone other than the Clerk.

We conclude that the House Order of January 4, 1967 was a nullity insofar as it purported to confer authority upon the Clerk of the House to contract for or purchase supplies and materials independently of the Bureau of Purchases and the State Purchasing Agent.

ROBERT G. FULLER, JR.  
Assistant Attorney General

August 17, 1967  
Parks and Recreation Comm.

Fred M. Bartlett

Election of Municipal Park and Conservation Commissioners.

*FACTS:*

30 M.R.S.A. § 3851 was amended by the Public Laws of 1965, c. 203, § 2 to read in part as follows:

“Cities and towns *Municipalities* may establish park and conservation commissions and choose by ballot 3 5 park and conservation commissioners, \* \* \* and after the first year choose annually a commissioner for 3 5 years \* \* \*.”

*QUESTION:*

What body of a municipality may “choose by ballot” and “choose annually” these park and conservation commissioners?