

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04330

May 20, 1969

Honorable Sam A. R. Albair  
Executive Council Chambers  
State House  
Augusta, Maine

Dear Sam:

The Governor has posted the name of Albert Dana as Registration Commissioner for Peter Dana Point Reservation. Albert Dana is also the Representative of the Passamaquoddy Tribe at the 104th Legislature. A question has been raised as to whether or not there is any conflict of interest in holding these two positions. I conclude there is no conflict.

The Registration Commissioner is appointed by the Governor with the advice and consent of the Council. He has the same duties as a registrar of voters in a community, plus he acts as warden, ward clerk and clerk in the conduct of a State election. He also must notify the Indians of each election by issuing a warrant and posting attested copies 7 days before the election.

The Representative of the tribe at the legislature is elected biennially on the even-numbered years in September. The Passamaquoddy Tribe has its election on Tuesday following Labor Day and the Penobscot Tribe has its election on the second Tuesday of September. The statutes relative to these elections provide that certified members of the tribe who are 21 years of age or over shall be eligible to vote. Certified members of the tribe are determined by a tribal census taken early each January by the tribal council. The Registration Commissioner takes no part in the determination of voters eligible to vote for Representative at the legislature.

The election at which the Representative is elected is presided over by the Commissioner of the Department of Indian Affairs and he also gives notice of the time and place by posting notices 7 days before the election.

There is, therefore, no conflict between the duties of the two offices.

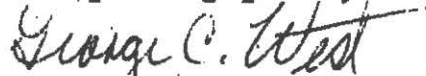
Honorable Sam A. R. Albair

-2-

May 20, 1969

Article IV, Part Third, Section 2, which provides that no person holding an office of profit shall have a seat in either House while continuing in such office, would not be applicable, as the Representative at the legislature of the respective Indian Tribes does not really sit in the legislature. He is not considered as a member of the legislature. He is, as stated in the statutes, a "Representative at the legislature." Therefore, the constitutional prohibition is not applicable to him.

Very truly yours,



George C. West

Deputy Attorney General

GCW:H