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October 2, 1972

Peter M. Damborg, Deputy

Secretary of State

John W. Benoit, Jr., Deputy

Attorney General

Changes of Voting Places of Residents in Townships

This is our informal response to your inter-departmental memorandum dated September 29, 1972 posing two questions for our consideration. The two questions are considered separately below.

1. The first situation involves residents in a township in Aroostook County: T. 17, R. 5. That township is located in Senatorial District #31. Presently, residents of that township are registered to vote in Stockholm. It is fact that Stockholm is located in Senatorial District 32 and also that Stockholm is located in a Representative District other than the one in which T. 17, R. 5 is located. The question posed is whether the voters in T. 17, R. 5 may change their voting residences to a voting place in Senatorial District 31, the District in which T. 17, R. 5 is located, which other voting place is also within the same Representative District as that of T. 17, R. 5? We answer that question in the affirmative. The provisions of 21 M.R.S.A. § 246, sub-§ 1, authorize a resident of a township to register, enroll and vote in any town within his Representative District. Thus, persons residing in T. 17, R. 5 may register, enroll and vote in New Canada Plantation, Wallagrass Plantation, St. John Plantation, St. Francis, Allagash Plantation, Eagle Lake and Winterville Plantation; all of those voting places are in the same Representative District and Senatorial District as T. 17, R. 5. You ask specifically whether such a change may be made without the residents waiting three months specified in 21 M.R.S.A. § 246, Sub-§ 4. Yes. The reference statutory provision specifies that residents of a township may continue to vote in any election in the town where registered for a period of three months following his removal from the township, providing he continues to reside in the State during that period. The facts of the present case do not indicate that the voters in T. 17, R. 5 are moving from the township. Rather, the matter is one in which the voters of the township are seeking to have their voting place changed. Moreover, according to the provisions of 21 M.R.S.A. § 246, sub-§ 1, the residents of a township may register and enroll on election day.

2. In the other situation outlined in your memorandum, voters in T. 16, R. 4 in Aroostook County also vote in Stockholm. Stockholm and T. 16, R. 4 are in the same Representative District but whereas

Stockholm is in Senatorial District #32, T. 16, R. 4 is in Senatorial District #31. The question posed concerning this factual situation is whether residents in T. 16, R. 4 can change their voting place to another Senatorial District, i.e. #31. This second question is the more difficult of the two questions posed. The Township, (T.16, R. 4) is not a part of Senatorial District #32 although the five municipalities joined with the Township are located in Senatorial District #32. Thus, while the voters in T. 16, R. 4 may vote in Stockholm for the office of Representative to the Legislature, they cannot vote for State Senator from District #32. 21 M.R.S.A. § 246, sub-§ 3. The question posed in your memorandum is whether the voters in T. 16, R. 4 may legally choose to register, enroll and vote in a municipality located in another Representative District so that those voters might then be permitted to vote for a State Senator. Finding nothing to the contrary in 21 M.R.S.A. § 246, it is our opinion that the inhabitants of T. 16, R. 4 may legally register, enroll and vote in a municipality located in the same Senatorial District as is T. 16, R. 4. In answering this second question, it should be noted that the statutes on the subject are not without ambiguity. For example, 21 M.R.S.A. § 246, sub-§ 2 and 3 both contain a reference to "county". Any continuation of that statute overlooks the fact the term "county" has been replaced by Senatorial voting districts. Nevertheless, the legislative intention expressed in § 246 sponsors authority for residents of a township to register, enroll and vote in a town belonging to either the same Representative or Senatorial District to which the residents' township is a part. For example, note the language in 21 M.R.S.A. § 246, sub-§ 3, that if a person votes in a "county" other than the one in which he resides, "he may not vote for Representative to the Legislature, State Senator or for any county office." The inference is that the selection of a voting place by a resident of a township is not meant to be restricted to selection of a town belonging to the same Representative District in which the residents' township belongs, to the exclusion of selection of a voting place in the Senatorial District. As can be seen from the facts stated in both of the instances outlined in your memorandum, it is possible for voters of a township to be voters in common with those voters in other towns comprising a Representative District but at the same time be considered non-voters respecting the Senatorial District to which the voters of the other municipalities belong. Such is the case concerning residents in T. 16, R. 4. Because we find nothing restrictive in § 246 of Title 21 forbidding residents of T. 16, R. 4 from registering, enrolling and voting in a town located in Senatorial District #31, the same Senatorial District in which T. 16, R. 4 is geographically located, we answer the second question in the affirmative.