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ATTORNEY GENERAL



*Elections, Indian
voting, Registration*

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 7, 1978

To: Doris Hayes, Deputy Secretary of State
From: Donald G. Alexander, Deputy Attorney General
Re: Registration and Voting in Indian Township District

This responds to your memorandum in which you asked the question of whether non-Indians who live on land in Indian Township can register and vote in the Indian Township Voting District for federal and state elections. We answer in the affirmative.

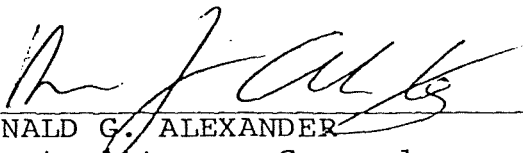
Response to this question requires analysis of 21 M.R.S.A. § 1622, sub-§§ 4 and 5. Those sub-sections read as follows:

"4. Duties of registration commissioner. The registration commissioner shall determine the constitutional qualifications of residents of his voting district who desire to register. If an applicant is a resident of the district and meets the requirements of the Constitution, Article II, section I, the registration commissioner may permit such applicant to register as a voter and enroll as a member of any political party. An applicant may register and enroll on election day.

"5. Office hours. The registration commissioner shall hold office hours at the voting place, or in some other convenient location in his district, on the Tuesday before each election from 2 to 5 p.m. and from 7 to 9 p.m. for the purpose of registering and enrolling Indian voters."

Subsection 4 specifies the duties of the registrar of the Indian Township Voting District. Those duties include the mandate that if an applicant meets the requirements of the Maine Constitution, then the registration commissioner is to permit the applicant to register, and if the applicant desires to do so, to enroll in any political party. This subsection is the key operative section setting the responsibilities of the registrar. It suggests no distinction between Indians and non-Indians in the registration process.

Subsection 5, on the other hand, relates to the manner of operation of the registrar's office. This section contains the indication that during certain hours the registrar shall register only "Indian voters." In our view subsection 4, which is the principal operative section setting the duties of the registrar of voters would prevail over sub-§ 5 which relates to the manner of running the office. Any alternative interpretation could well be viewed as discriminatory against non-Indian residents of Indian Township. Such discrimination will not be lightly construed unless it appears clearly in the legislative intent. It certainly cannot be found in the legislative intent in this section which, in setting the duties of the registrars, orders the registrar to register all those who apply and meet the standards of the Maine Constitution. Accordingly, it is our view that both Indians and non-Indians may register and vote in the Indian Township Voting District. We view the prior opinion on this issue, dated March 20, 1968, as incorrectly decided.


DONALD G. ALEXANDER
Deputy Attorney General

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