

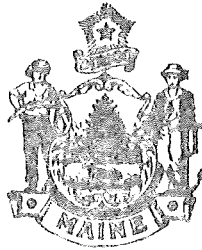
MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



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

April 9, 1981

Honorable John N. Diamond
House of Representatives
State House
Augusta, Maine 04333

Dear Representative Diamond:

This will respond to your inquiry regarding the constitutionality of L.D. 947 which, if enacted, would amend 21 M.R.S.A. § 241(3) to read as follows:

3. Residence. In order to vote in any election, he shall have established a residence in this State and in the municipality in which he resides for 30 days next prior to the election.

It is our opinion that the amendment proposed by L.D. 947 is inconsistent with the Equal Protection Clause of the 14th Amendment of the United States Constitution.

A question virtually identical to that which you have posed was addressed by the Justices of the Supreme Judicial Court in 1973. In that instance, the House of Representatives sought the Justices' opinion on a resolve which would have added to the Maine Constitution a 30-day durational residency requirement in order for an individual to qualify to be an elector for Governor, Senators and Representatives. In responding to the House's inquiry, the Justices set forth the general proposition that "a State imposed durational residency requirement is constitutionally permissible but only to the extent that it is 'tied to' and does not exceed in duration prior to election day such a reasonable period for completion of the 'registration process' as is 'necessary to achieve the State's legitimate goals.'" Opinion of the Justices, 303 A.2d 452, 456 (Me. 1973). Since the existing State statutes would have continued to allow voter registration within the 30-day period preceding election day, the Justices

found that the proposed residency requirement could not be justified on the ground that it was necessary to effectively complete the registration process. As a result, the proposed requirement was not supported by a compelling State interest and was thus inconsistent with the Equal Protection Clause.

In our view, the Opinion of the Justices is directly applicable to L.D. 947, and thus, the proposed statutory amendment encounters the same constitutional problem.^{1/} For your convenience, we are enclosing a copy of the Opinion of the Justices.

Sincerely,

Stephen L. Diamond

STEPHEN L. DIAMOND
Deputy Attorney General

SLD/ec

Enclosure

cc: Hon. Richard H. Pierce
Hon. Sharon B. Benoit
Hon. Marjorie C. Hutchings

^{1/} The fact that the 1973 proposal would have accomplished by constitutional amendment what L.D. 947 seeks to achieve by statutory change is without legal significance. Both proposals must satisfy the same standards under the 14th Amendment of the United States Constitution.