

MAINE STATE LEGISLATURE

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STATE OF MAINE.

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1910.

AUGUSTA

KENNEBEC JOURNAL PRINT

1910

Chap. 228 provides that when certain work *is* done by contract then certain provisions prescribed in the latter act as to advertising, etc., must be complied with. It would appear, therefore, that if any contract work is done whether the amount be large or small, under the provisions of Chap. 228, then the provisions of that chapter must be complied with. On the other hand, as I have said, Chap. 202 seems to require a contract in every case where construction or repair of buildings are at the expense of the State, involving a total cost of more than \$3,000.

To your specific question therefore, I think I must reply, that if your work is to cost more than \$3,000, you must have a contract and would further add that in such case the contract should not only take into consideration this obligatory provision but also the provisions of Chap. 228 as to advertising, preference to workmen, bidders, etc.

Respectfully yours,

WARREN C. PHILBROOK,

Attorney General.

OFFICE OF THE ATTORNEY GENERAL.

AUGUSTA, MAINE, February 19, 1910.

Subject: Registration in Optometry.

*Albert M. Wentworth, Esq., Sec. Maine Board of Optometry,
Portland, Maine.*

SIR:— I am requested by the chairman of the Maine State Board of Registration and Examination in Optometry to write you an opinion as to whether the provisions of section 8 of chapter 105, P. L. 1909, forbid said board to act upon affidavits for registration received more than ninety days after said act took effect.

The question resolves itself to this, is the requirement that applicants for registration, who have been engaged in the actual and continuous practice of optometry, etc., "shall within ninety days" after said act takes effect file affidavits mandatory, or directory?

Are affidavits received after the lapse of said ninety days entitled to consideration or are they not?

It seems that when a statute prescribes the doing of an act and fixes the time for such doing, the requirement as to time is to be regarded as directory, and not a limitation of the exercise of the power, unless it contain some negative words, denying the exercise of the power after the time named.

This is the conclusion of the courts of last resort in our own and several other states where the question has been considered.

Had the legislature added a negative provision, that no affidavits should be entertained after the passage of ninety days from the time said act took effect, no discretion would have been left to the Board.

Such negative was omitted and the general interpretation giving said Board the liberty to exercise its discretion upon the question of entertaining such delayed affidavits without question obtains.

In my judgment the Maine State Board of Registration and Examination in Optometry may exercise a wide discretion as to receiving and acting upon affidavits filed after the first day of October, 1909.

Yours very truly,

CHARLES P. BARNES,
Assistant Attorney General.

OFFICE OF THE ATTORNEY GENERAL.
WATERVILLE, MAINE, March 22, 1910.

Subject: Dental Registration, Statute of 1891, Reciprocity with other states.

Langdon S. Chilcott, President, Board of Dental Examiners of the State of Maine, Bangor, Maine.

SIR:—I have the honor to acknowledge receipt of two inquiries upon which you desire my opinion.

“First. A man who was formerly in the practice of dentistry in this State, moved away prior to 1891. He has been in practice in another state, but did not register in Maine in accordance with Section 4 of the Dental Registration Act. He has now returned and desires to re-enter the practice of dentistry in Maine. Can he register without an examination, or has he forfeited his right to do so by his own neglect?