

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.
2. The report of the Bangor State Hospital covers the period from 1919 to 1928.
3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

the governor, with the advice and consent of the council, shall appoint a person to fill the vacancy, who shall hold office until the first day of January after another has been chosen to fill the place."

Under this provision of the constitution, it seems clear that where a vacancy has occurred in the office of the Judge of Probate by either death or resignation, the vacancy must be filled by the people at the general election next following.

It is the duty of the Governor in the meantime, with the advice and consent of the council, to temporarily fill the vacancy by appointment, the appointee to hold office until the first day of January following the election of a successor by the people.

Respectfully yours,

RAYMOND FELLOWS,

Attorney General.

August 23, 1928.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

DEAR GOVERNOR BREWSTER: In answer to your inquiry as to whether a member of the Board of Registration appointed to fill a vacancy caused by death or resignation of the incumbent, holds for the full term of four years, or whether the appointment is to fill the vacancy in the term, I call your attention to the opinion of the court in *Wilson, Attorney General v. McCarron*, 112 Me. 181, where our court holds that when an office is created by statute which provides that it shall be filled by election or appointment for a term of years and is silent in regard to the time when the term shall commence, and there are no special provisions for filling a vacancy in the office, the term of office begins when the appointee is appointed and qualified and he holds office for the full term, unless sooner removed.

In other words, the court holds that unless the statute otherwise provides, "there is a vacancy in the office and not in the term."

The statute in question, Revised Statutes, Chapter 5, Section 6, provides that a member of the Board of Registration shall be appointed and commissioned by the Governor, by and with the consent of the council, for a term of four years. There is no special provision for filling a vacancy in the office so filled by

the Governor, and under the decision of the Court above cited, it would appear that the appointment was "for the term of four years."

Respectfully yours,

RAYMOND FELLOWS,
Attorney General.

November 5th, 1928.

Hon. Ralph O. Brewster, Governor of Maine, Augusta, Maine.

DEAR GOVERNOR BREWSTER: In regard to the order of the Eighty-third legislature providing for the appointment of a Committee to make investigation of facts and phases of the operations of the Workmen's Compensation law, this department respectfully calls your attention to pages 524 and 1206 of the Legislative Record for 1927, and to the fact that the Committee duly appointed by the President of the Senate and Speaker of the House has reported that an investigation necessary to make a full report as called for in the order will mean an expense to the State of approximately \$60,000.00.

I have been unable to find that the last legislature made any provision for the payment of the expenses of this Committee and the expense would necessarily have to be paid out of the Contingent Fund.

It is extremely doubtful if the Contingent Fund contemplates an expenditure of this nature under the circumstances and in view of the working of the original order. The order called for a full report on or before October 1st, 1928. The preliminary report of the Committee making an estimate of the expense to the State was filed September 27, 1928.

Very respectfully,

RAYMOND FELLOWS,
Attorney General.

November 10, 1927.

Hon. Willis E. Parsons, Commissioner of Inland Fisheries and Game, Augusta, Maine.

DEAR SIR: Answering your recent oral inquiry in regard to license being required to hunt foxes.