

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

July 13, 1935

Hon. Raymond S. Oakes  
Fidelity Building  
Portland, Maine

Dear Brother Oakes:

In response to your inquiry of July 12, I am pleased to inform you that Chapter 13 of the Public Laws of 1935, Section 2, provides that,-

"Within 7 days from the effective date of this Act, the governor with the advice and consent of the council, shall appoint as members of a 'milk control board' 2 producers, a dealer and a producer dealer all of whom shall be residents of the state. The commissioner of agriculture shall be ex officio a member of said board."

It further appears in said section that,--

"Any vacancy in the membership of said board shall be filled by appointment by the governor, with the advice and consent of the council."

It is further provided in said section that,--

"Members of the board shall be allowed actual traveling and other necessary expense incurred in the performance of their duties and each member shall receive a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the governor and council."

Section 3 of said Act relates to the powers and duties of the board.

Section 5 relates to price fixing in which, - "The board is hereby vested with power to establish and change after investigation and public hearing minimum wholesale and retail prices to be charged for milk distributed for sale within the state for fluid consumption wherever produced, including the following classes" etc.

Section 6 relates to licenses and how issued, in which it is provided that,--

"No order of the board suspending or revoking a license or refusing to renew an existing license shall be effective until 10 days after the same has been issued and a copy thereof mailed to the holder of such license. Within said period of 10 days any party believing himself aggrieved by the order of the board may appeal to the term of the Superior Court next to be held

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in the county wherein the holder of such license resides and cause notice of such appeal to be served on the board."

Section 84 of R. S. Chapter 2, provides that,-

"All civil officers appointed by the governor and council whose term of office is not fixed by law or limited by the constitution, otherwise than during the pleasure of the governor and council,\*\*\*\*shall hold their respective offices for four years and no longer, unless reappointed; subject to removal at any time within said term by the governor and council."

See Lothrop v. Rockland & Rosknox  
Lime Company, 110 Me. 298.

The members of the Milk Control Board are civil officers appointed by the governor with the advice and consent of the council. Their term of office is not otherwise fixed by law or limited by the constitution. They are, therefore, by the express terms of the statute, to hold for four years and no longer, unless reappointed; subject to removal at any time within said term by the governor and council."

I quote from the Opinion of the Justices, 72 Me. 533, as follows:

"In all cases where the governor appoints with the advice and consent of the council, they remove. Where the appointing power is in the governor alone, he may remove."

I do not find any provision of this law which gives the governor and council power to revise any of the board's rulings.

Trusting that the foregoing will give you the information you require, I am

Very truly yours,

Deputy Attorney General

SLP H

V A G E N E R A L  
D E P A R T M E N T O F T H E A T T O R N E Y G E N E R A L  
S T A T E O F M A I N E

