MAINE STATE LEGISLATURE

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April 14, 1938

William F. Church,Jr., Selectman
Jonesport, Maine

Dear Sir:

In your letter of April 11, you state that one of the assessors elected at your annual town meeting has resigned, and you asked what should be done.

In my opinion a man who is elected by a town meeting to the office of assessor, who does not refuse the office and is sworn into it, remains assessor until his resignation is accepted by a town meeting; and I do not believe there is any other way his resignation can be accepted.

Section 96, Chapter 15, Revised Statutes, provides that an assessor who is chosen and notified to take the oath of office and refuses to be sworn, forfeits to the town $15. Then it states that the selectmen shall forthwith call a town meeting to fill the vacancy.

Section 30 of Chapter 5, provides for the filling of certain vacancies in town offices caused by nonacceptance, death, removal, insanity or other incompetency, but does not provide for filling a vacancy caused by resignation. The decisions of our Courts establish the principle that an officer of a town can resign only to the body electing or appointing him, so while the selectmen have authority to fill certain appointive offices in the event of a resignation or vacancy for other reasons, it is my opinion the only way a vacancy in the office of assessor can be filled is by a town meeting, which town meeting must first vote to accept the resignation of the town officer who wishes to resign before there is any vacancy to fill.

Very truly yours,

Franz U. Burkett
Attorney General

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