

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

---

REPORT

OF THE

ATTORNEY GENERAL

---

for the calendar years

1943--1944

doubt of the abilities of the sureties to fulfil their obligations during the term of the guaranty, the Governor and Council would be absolutely right in insisting upon the alternative, to wit, a surety company bond.

JOHN G. MARSHALL

Deputy Attorney-General

September 15, 1943

William D. Hayes, Auditor

Audit

*Registers of Deeds Absent from their Offices while in Military Service*

Registers of deeds entering the military services of their country, who do not resign from their offices, would be considered absent. Chapter 15, Section 5, R. S. 1930, provides for the absence of the registers without limiting the term definitely. This section also authorizes the register to appoint a clerk for whose doings and misdoings he shall be responsible, who shall be sworn. The clerk would not be obliged to execute and deliver a bond, but would be required to take the oath provided for under this section, and the bond of the register would be liable for any misdoings of the clerk.

There is nothing in the statutes providing for the cessation of the salary of the register during his absence. Therefore it would seem that, so long as the register was absent from his office and had appointed a clerk in accordance with the provisions of Chapter 15, the register would be entitled to receive his pay.

JOHN G. MARSHALL

Deputy Attorney-General

September 16, 1943

David H. Stevens, State Tax Assessor

Bureau of Taxation

*Payment in lieu of Taxes*

I have your memorandum of September 7th, reporting on a conference in Governor Sewall's office. At that time, I gave you my opinion, which I have not had occasion to change, that at the present time the State lacks the legal machinery necessary to insure payments to it by municipalities of money received from the Federal Government under the Lanham Act in lieu of taxes.

FRANK I. COWAN

Attorney-General

September 17, 1943

George J. Stobie, Commissioner

Inland Fisheries and Game

I have your memo of September 16th, enclosing copy of a letter from Dr. W. E. Kershner of Bath, in regard to fishing in various bodies of water. It is true that Section 4 of the Inland Fish and Game Laws, 1943 Revision, provides, "All petitions shall be in the office of the commissioner of Inland Fisheries and Game before the first day of September of each year." However, in addition to procedure after petition, the statute provides "or upon the initiative of the commissioner of Inland Fisheries and Game."

The language of the first sentence in Section 4 is considerably involved and probably it is far from being grammatically correct. However, the meaning is not difficult to deduce. The sentence provides for petitions to be filed with the Commissioner; in each case, the notice must come to him before September 1st. If he has received such petition before September 1st, or, if he has not received such petition, then upon his own initiative, he may hold hearings on the subject matter at such times and places as he may select, save that the time must be "during the period from September 15 to December 14."

Therefore, although it is too late for you to receive a "petition," because of the provision in the statute about the time of filing, you are expressly authorized by the statute to act on your own initiative.

FRANK I. COWAN

Attorney-General

September 23, 1943

William D. Hayes, State Auditor

Audit

*Chapter 131, P. L. 1943*

You have inquired about Chapter 131, P. L. 1943, which amended P. L. 1939, Chapter 206 by striking out "July" "Beginning July 1, 1940" and provided for renewals, etc. Inasmuch as Chapter 131 did not become effective until July 9, 1943, what effect would this have on licenses issued in accordance with the law of 1939 and the fees therefor?

*Opinion*

Although the 1943 law was in the form of an amendment, it nevertheless repealed the provision in the 1939 law providing for the period covered by the license then. There was no saving clause to provide for unexpired licenses, so there could not be any implication that such was the intent by the legislature. See *Staples v. Peabody*, 83 Maine 207, and *State v. Pulsifer*, 129 Maine 423.

"All the privileges permitted by a license, and all the protection afforded thereby, although yet unexpired, are generally cancelled by repeal." 37 Corpus Juris 214, paragraph 68.

Our Supreme Court wrote in *State v. Pulsifer*, 129 Maine 423, "A mere license by a State is always revocable." The principle of law is clear that the State could here revoke the permission which it had granted. It is quite true that the legislature in the later act, which provided for a different method of licensing, does not expressly provide for the revocation of licenses outstanding under the former. Such express declaration is not however necessary, if it is obvious that such is the intent. The provisions of the later law in so far as they govern the issuing of licenses, are inconsistent with the provisions of the former act and obviously were intended to supersede them. The later act provides in express terms for the repeal of all acts or parts of acts inconsistent with it; and, even though this provision were absent, there would be a repeal of this part of the act by implication.

Consequently, the osteopaths in Maine must have been obliged to become licensed on or before July 1, 1943, and to pay therefor the fee