

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

December 16, 1943

Honorable Irvine E. Peterson
Judge, Caribou Municipal Court
Caribou, Maine

Dear Judge,

I have your letter of December 15th. We see no ambiguity in Chapters 72 and 205 of the Public Laws of 1941. The original statute was amended in two different parts by the same legislature. Under the system used for some years, an amendment is printed in blackface and the original text to be amended is printed in ordinary type. The purpose in printing both the amendment and original text is so that the reader can see immediately without turning to another volume just what change has been made in the statute. Inasmuch as neither amendment had become law at the time the other was enacted, the Revisor of Statutes incorporated the original language in each Act.

This happens at practically every session of the legislature and frequently several times. As far as I know, no one until last year ever raised any question in regard to the effect, and, also as far as I know, no judge has ever suggested that the mere printing of the original language, to show what has been changed, created an ambiguity.

Sincerely yours,

FRANK I. COWAN
Attorney-General

December 23, 1943

Roscoe L. Mitchell, M.D., Director

Bureau of Health

I have your memo of December 21st, asking whether a certificate from a chiropractor covers the statutory requirement in regard to a child returning to school after absence with indications of being or having been ill.

The statute authorizing chiropractors to practise their profession has not yet been extended to the point indicated by your question.

FRANK I. COWAN
Attorney-General

December 23, 1943

Roscoe L. Mitchell, M.D., Director

Bureau of Health

I am returning herewith the letter from Mr. A. Edwin Smith, city clerk of the City of Portland, asking if he is authorized under our statutes to record that a man who was married in Portland in 1939 under the name of Feinstein has now changed his name to Frederick L. Fenton.

P. L. 1933, Chapter 1, Sections 79 and 81, are the only provisions that I know of that have any bearing on this particular subject. Section 79 authorizes a correction of an error and describes exactly the means that should be used for correcting the error. In this particular case there was no error. Mr. Feinstein at the time of his marriage in 1939 was properly described as Feinstein.

Section 81 provides that when the clerk knows of any birth, marriage or death which is not reported in his office, he shall collect the facts and record them. Here again there was apparently no error. The marriage of Mr. Feinstein was correctly recorded according to law and needs no correction.

This question is, of course, not a new one. We have women getting married every day and assuming for purposes of convenience the family names of their husbands. If they have been voters under their maiden names, they usually notify the board of registration of voters that they have changed their names, and the board makes the appropriate change on its voting list. Attention is called to the numerous instances that occur of women obtaining divorces with permission from the court to resume their maiden names. The fact that this permission is unnecessary under our laws is beside the point. The reason I speak of this is because there is no record kept of this change in the town or city clerk's office.

FRANK I. COWAN
Attorney-General

December 28, 1943

Hon. Sumner Sewall, Governor

Subject: Reappointment of State Humane Agents

With regard to your inquiry of December 23rd, I beg leave to advise that I find no provision in the statutes relative to the reappointment of a State Humane Agent. The only provision is Section 70 of Chapter 135, which is the one you are familiar with and refer to in your inquiry as the "original application for a first appointment."

I am of the opinion that when the term of a humane agent expires his reappointment can be made only under Section 70, upon application by the officials of a city or town, the commissioners of any county, or the officers of any Society for the Prevention of Cruelty to Animals.

ABRAHAM BREITBARD
Deputy Attorney-General

January 5, 1944

F. K. Purinton, Secretary

Executive

With reference to your memo of December 30, 1943, relative to the status of Mr. who held a commission as Trial Justice issued in 1939 and, while holding said commission, qualified as a member of the 1943 legislature.

He had already been advised by this department that by qualifying as a member of the legislature he simultaneously vacated the office of Trial Justice. His inquiry now is whether his resignation from the legislature would reinstate him to the office of Trial Justice which he had vacated.

Such would not be the effect of his resignation from the legislature. By the act of qualifying in that body he surrendered his office as Trial Justice just as completely as if he had resigned. His commission was