

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

December 6, 1949

To Hon. Frederick G. Payne, Governor of Maine
Re: Penobscot Boom

With reference to the correspondence from William Eggleston relative to his appointment as Commissioner of the Penobscot Boom, you are advised that the Penobscot Boom Corporation was created by Special Act of the legislature, which corporate powers have been amended by sundry Private and Special Acts. Among them is Chapter 298 of the Private and Special Laws of 1854, which provides in Section 25 for the appointment of the commissioners by the Governor and Council. It is interesting to note that in Chapter 47 of the Private and Special Laws of 1842 the appointment of the commissioners for the Penobscot Boom required that the Governor and Council shall appoint "three competent and disinterested men," etc. I have found no provision of law to the effect that a commissioner may not be a director of the corporation.

However, it would be competent for the by-laws of the corporation to provide that a person may not be a commissioner and a director at the same time; and if the by-laws do so provide it might be a carrying forward of the intent expressed in the 1842 amendment to the effect that the commissioners should be "disinterested men."

By-laws of corporations are not on file in the Corporation Division of the Secretary of State's office, as there is no requirement to that effect.

If Mr. Eggleston is correct with respect to the corporate by-laws, he would of course have a choice as to whether he would remain a director of the corporation or accept the appointment as commissioner.

JOHN S. S. FESSENDEN
Deputy Attorney General

December 6, 1949

To Honorable Frederick G. Payne, Governor of Maine
Re: Contracts for Repairs and Construction of State Buildings

In your memorandum of December 6, 1949 you request a statement from this office as to the meaning of the word "contract" as used in Chapter 176, Section 5, of the Public Laws of 1943, particularly in connection with the procedure being followed with respect to Governor and Council approval of expenditures made for repairs and construction of State buildings.

Chapter 176, P. L. 1943, became Chapter 58 of the Revised Statutes of 1944, which is the chapter which provides for the office and duties of the superintendent of public buildings. Section 5 thereof reads as follows:

"All contracts for repairs and construction of state buildings shall be examined and approved by the superintendent of public buildings prior to their submission to the governor and council for their final approval and acceptance."

It would appear that Section 5 must be read in connection with Section 43 of Chapter 14, R. S. 1944, which section reads as follows:

"All contracts for construction or repairs of buildings at the expense of the state involving a total cost of more than \$3,000 shall be awarded