

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

November 9, 1951

To Honorable Frederick G. Payne, Governor of Maine
Re: Age Limits with respect to Tenure of Office

You have inquired whether it is legal for the Governor of the State to appoint persons to public office who are over the age of seventy years.

It is not possible for this office to give you a categorical answer to the question, for the reason that we are aware of no provision of the statutes or the Constitution placing an arbitrary limit on the holding of public office.

We should point out, however, that the statutes provide for the compulsory retirement of judges of our Supreme and Superior Courts before they attain the age of seventy-one years if such judges are to qualify for the retirement compensation provided for retired judges.

Also we should point out that the provisions of the State Retirement System provide direct limitations for employment at seventy years of age, employment thereafter to be only upon the express authority of the Governor and Council extending the employment under certain circumstances.

Another provision of law limits membership on the Board of Trustees of the University of Maine to such an extent that when a member reaches the age of seventy years, his tenure of office is automatically vacated. While this provision was originally enacted in 1865, it is interesting to note that when the law with respect to trustees of the University was amended in 1951, the age limitation was retained, indicating a present legislative intent to conform to what appears to have been a policy, at least with respect to the University of Maine, since 1865.

There may be other statutes not coming to mind at the moment; but whether or not there be other statutes, it is believed that the foregoing is sufficient to point out what appears to be a distinct trend in legislative policy to refrain from retaining in the public service persons who have arrived at the age of seventy years.

JOHN S. S. FESSENDEN
Deputy Attorney General

November 9, 1951

To William O. Bailey, Deputy Commissioner of Education
Re: Condemnation of Land for School Purposes

We are sorry that we have delayed so long in answering your oral request of recent date to help you relative to Frank M. Coffin's request with respect to appraising the damages when the city condemns land for school purposes.

Section 10 of Chapter 37, R. S., states that with respect to such a proceeding the damages shall be appraised as if provided for laying out town ways.

Referring to the sections of the statutes pertinent to town ways, we find that Sections 29 et seq. of Chapter 84 seem to provide quite adequately for such a procedure. Section 29 of that chapter states that written notice shall