

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

November 5, 1952

To Honorable George Meloon, Council
Re: Vacancy in Judgeship of a Municipal Court

This office has been asked to determine, in the event a municipal court judgeship is vacant, when term the judge would serve who was appointed by the Governor and Council to fill the vacancy.

The general rule is that, where the manner of filling the vacancy is not specified by the statute but it is specified that the appointment shall be for a number of years certain, then the newly appointed person shall serve a full term.

Judges are entitled to hold for a term certain from the time of their appointment and qualification, although their predecessors may have vacated their offices before the expiration of the full terms for which they were appointed.

See *Opinions of the Justices*, 61 Maine 601, and *French v. Cowan*, 79 Maine 439.

JAMES G. FROST
Deputy Attorney General

November 7, 1952

To General George M. Carter, The Adjutant General
Re: Insurance on former Colby Field House owned by the City of Waterville and leased to the State of Maine

Your letter of July 1, 1952, addressed to George H. Mahoney, has been referred to me for my consideration and reply.

It appears to me that the question which you have in mind is whether there may be incorporated into the State of Maine Fire Insurance Schedule policy a provision by rider or endorsement which will clearly spell out the fact that the State of Maine insurance coverage on the leased property, i. e., the Field House at Colby College, Waterville, does adequately protect the interest of the City of Waterville as lessor.

It is my opinion that a rider or an endorsement may be attached to the State Fire Insurance Schedule policy, which endorsement can clearly and definitely set forth that the City of Waterville does have the interest of a lessor in the so-called Field House. To this end, I have talked with the Insurance Commissioner and he advises me that he will take steps to see that such a rider or endorsement is incorporated into the present State Fire Insurance policy.

It is further my opinion that even at the present time the interest of the City of Waterville is protected by the present insurance coverage, in view of the fact that the present policy contains a provision which would give the City of Waterville, even though they are not specifically named in the policy, the legal right to come forward in case of loss and present a claim with respect to its interest against the carriers of the insurance.

I do believe, however, as I have stated above, that it is perfectly correct and proper that this right of the City of Waterville, which now is not set forth in the insurance policy, should be set forth specifically.

I would suggest that you keep in touch with Mr. Mahoney, and he will be able, undoubtedly, to advise you when the endorsement has been effected, which will bring about the precise words which the City of Waterville is interested in having incorporated into the policy. . . .

DAVID B. SOULE
Assistant Attorney General

November 12, 1952

To Hon. Harold I. Goss, Secretary of State
Re: Meaning of "Member" and "Another Corporation".

You ask for an interpretation of the meaning of section 31 of the general corporation law, which provides:

"Directors must be and remain stockholders, except that a member of another corporation, which owns stock and has a right to vote thereon, may be a director."

The inquiry is, "Does 'member' mean director or stockholder?"

The case of *Curtis v. Harlow*, 53 Mass. 6, is in point, showing that "member" in such case means stockholder, and of course in such case a holder of common stock or a holder of stock permitting him to vote in the corporation which holds the stock to be voted in this corporation.

Then you inquire, "Does 'another corporation' mean another Maine corporation or any duly organized corporation?"

It would appear that section 21 of Chapter 49, R. S., is in point here and that "another corporation" is not restricted in its meaning to "another Maine corporation".

NEAL A. DONAHUE
Assistant Attorney General

November 12, 1952

To Joseph M. Trefethen, State Geologist
Re: Mining Claims

. . . Chapter 36 of the Revised Statutes of Maine, as amended by Chapter 298 of the Public Laws of 1951, is pertinent to the questions you have propounded.

You ask, "Is there any point in the law that governs the orientation of claim boundary lines in staking mineral claims on state lands?"

The answer to this question is, No.

You ask, "Are the dimensions fixed for a single claim, or can a claim of equivalent area with different dimensions be staked?"

The statute provides that a claim may not be more than 600' wide or 1500' long, the point of strike to be somewhere within that area. We interpret