

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

January next after election aforesaid. Under these statutory and constitutional provisions, the vacancy in the office of Register of Probate may be temporarily filled by appointment of a suitable person by the Judge of Probate, such person serving until the individual appointed by the Governor and Council qualifies for the position.

In this case Mr. McClure, by accepting and qualifying for the office of Governor's Councilor, thereby vacated his office as Register of Probate. Should he now be appointed and qualify as Register of Probate pro tem., the two offices being incompatible, he would thereby vacate his office as Executive Councilor.

NEAL A. DONAHUE  
Assistant Attorney General

January 16, 1953

To Honorable Burton M. Cross, Governor of Maine  
Re: Eligibility of Councilor for Appointment to Public Office

This office has been requested to advise you as to the legality of appointing a member of the Executive Council to the Board of Commissioners of Pharmacy.

We draw your attention to Article V, Part Second, Section 4, of the Maine Constitution, and to the last sentence of this section, which reads as follows:

“And no counsellor shall be appointed to any office during the time, for which he shall have been elected.”

There is no question but that a member of the Board of Commissioners of Pharmacy is an office, as it has some permanence and continuity and possesses a delegation of a portion of the sovereign power of the government, to be exercised for the benefit of the public.

For the above reasons it is our opinion that a member of the Executive Council may not be appointed to the Board of Commissioners of Pharmacy.

JAMES G. FROST  
Deputy Attorney General

January 30, 1953

To Ernest H. Johnson, State Tax Assessor  
Re: Property Tax – Indian Township

In reply to your memorandum of January 5, re the State property tax assessment in Indian Township, please be advised that the Attorney General has rendered an opinion to the Department of Education that the transportation of Indian children in Indian Township is properly within the jurisdiction of the Department of Health and Welfare and not the Department of Education. The expenditure for transporting Indian children in Indian Township made by the Department of Education was included in the statement of expenditures for school purposes in Indian Township furnished to your office by the Commissioner of Education. We think this amount was not properly chargeable to the residents of Indian Township. We understand that of some