

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

With respect to the question at hand, the legislature of each State, representing the people (for whom the State holds the rights of common fishery in trust) has full power to regulate and control such fisheries by legislation designed to secure the benefits of this public right in property to all its inhabitants. And the equality clause of the Constitution is not necessarily infringed by special legislation, nor by a legislative classification of persons or things. *State v. Leavitt, supra*, p. 83. It is merely required that all persons subject to such legislation shall be treated alike under like circumstances and conditions.

Thus, the State of Maine can limit its fishing rights to residents of the State of Maine. *State v. Tower*, 84 Me. 444.

It can permit only residents of a particular town to remove clams from the beaches of the town for commercial purposes. *State v. Leavitt, supra*.

And it would similarly appear to be within the power and right of the Legislature to prohibit the use of a particular type of vessel in a particular territory. Such a law would apply equally to all persons using a particular kind of property in a certain location, and, *prima facie* at least, would not be a violation of the equality clause of the Constitution.

ALEXANDER A. LaFLEUR

Attorney General

March 12, 1953

To Honorable Burton M. Cross, Governor of Maine
Re: Appointment of the Chief Justice

This office has been asked for an opinion as to the method in which the Chief Justice of the Supreme Judicial Court is chosen.

The Supreme Judicial Court is composed, not of six Associates, one of whom shall be Chief, but rather of a Chief Justice and five Associates. This would indicate that the Chief Justice should be nominated by the Governor and appointed with the advice and consent of the Executive Council.

An examination of the records of the Secretary of State shows that this is in fact the method which has been used in the past. The late Harold H. Murchie had not completed his term of Associate Justice when the position of Chief Justice had to be filled because of the vacancy occasioned by the resignation of the late Chief Justice Sturgis. Mr. Murchie was then nominated Chief Justice and appointed as such with the advice and consent of the Council for a seven-year term.

We believe that this is the proper method in selecting a Chief Justice.

JAMES G. FROST

Deputy Attorney General

March 17, 1953

To Honorable Burton M. Cross, Governor of Maine
Re: Public Utilities Commissioner – Business Connections

This office has been asked to interpret that portion of Section 2 of Chapter