

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

*Answer.* It is our opinion that such a provision should not be included in the contract. The right of dismissal on the part of the school committee is absolute and is provided for in the above mentioned section 50. Such right to dismiss cannot be barred in any way or limited by contract. The arbitration board would be a further condition which would be repugnant to the principle first mentioned.

JAMES G. FROST  
Deputy Attorney General

May 25, 1953

To Raymond C. Mudge, Finance Commissioner  
Re: New Law on Bedding and Upholstery

This office has been asked to consider the problem presented by the enactment of Chapter 333, Public Laws of 1953, without an accompanying appropriation to administer and enforce the law.

The Act in question is designed to place appropriate safeguards around the manufacture and sale of bedding and upholstered furniture to insure a healthful product.

Section 129 is that section relating to funds for the administration of the provisions of the Act and reads as follows:

“Proceeds payable into the general fund. All fees and other moneys collected in the administration of sections 123 to 130, inclusive, shall be credited to the general fund of the state. Provided, however, that there shall always be available for the administration of the provisions of sections 123 to 130, inclusive, state moneys in an amount not less than the revenue derived from the fees collected under the provisions of sections 123 to 130, inclusive, except that any unexpended balance shall remain in the general fund.”

As stated, the legislature did not appropriate any money to enforce or administer the Act and the question is now asked:

“How shall the act be enforced and administered in the absence of an appropriation?”

It is our opinion that section 129 is to be interpreted to mean that fees and other moneys collected shall be credited to the general fund of the State if there is available from other sources a fund to administer the provisions of the Act. If such other fund has not been made available for the purpose of administration, then the fees and other moneys collected should not be credited to the general fund, but are to be handled as dedicated moneys and directed to such administration as if contemplated by the Act.

JAMES G. FROST  
Deputy Attorney General

May 25, 1953

To Fred J. Nutter, Commissioner of Agriculture  
Re: Maine Building Committee, Eastern States Exposition

We are in receipt of your memo of May 18th relative to the membership of the Maine Building Committee, Eastern States Exposition.

Chapter 51 of the Resolves of 1923 established the Maine Building Committee and provided that it should be composed of five members, including the Commissioner of Agriculture, to be appointed by the Governor. Chapter 313 of the Public Laws of 1953 repealed Chapter 51 of the Resolves of 1923 (and Chapter 134 of the Public Laws of 1925, which did not substantially change the earlier law) and enacted a new law relative to the same committee.

The structure of the membership of the committee, however, was changed in that, though there are now still five appointed members, the Commissioner of Agriculture is no longer an appointed member, but a member *ex officio*.

You ask this office the following question: "Will the present members of the Committee continue to serve until the expiration of their terms, or will their duties cease on the effective date of this act?"

The first sentence of Section 8 of Chapter 313, being that part of the Act with which we are here concerned, reads as follows:

"The State of Maine Building Committee of the Eastern States Agricultural and Industrial Exposition, Inc., as heretofore established, shall consist of 5 members, to be appointed by the governor with the advice and consent of the council."

Unlike some jurisdictions, in Maine, when an Act is repealed, all connection between the old and the new is cut off except what is saved by special provisions. In other words, saving clauses are sometimes included and have the effect of continuing rights and privileges or liabilities under the old act. In the present case, the newly enacted law contains words which have been used in this State for some years as a saving clause, to wit, "as heretofore established".

It is the opinion of this office that the words "as heretofore established" are intended to, and do, have the effect of continuing in existence the earlier Act except as amended either expressly or impliedly by the provisions of the Act. Thus, those persons holding office as members of the Maine Building Committee as of the effective date of the Act continue holding office until the expiration of their respective terms, subject only to the changes contemplated by the new Act, that the Commissioner of Agriculture will no longer be an appointed member of the committee, but an *ex officio* member, and that there will be five members appointed by the Governor and Council, which necessitates the appointment to office of one additional member.

ALEXANDER A. LaFLEUR  
Attorney General

May 29, 1953

To Marion Martin, Commissioner of Labor and Industry  
Re: Machine Alterations

This office has been asked for an opinion as to whether your department may, under Section 5 of Chapter 25 of the Revised Statutes, as amended, make recommendation for a machine alteration such as changing a square head on a jointer to a round head, the reason for such recommendation being that the opening on a round head is smaller and offers a greater degree of protection to the worker.