

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

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 Chapter 313 of the Public Laws of 1953 repealed Chapter 51 of the Resolves of 1923 (and Chapter 134 of the Public Laws of 1925, which did not substantially change the earlier law) and enacted a new law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Unlike some jurisdictions, in Maine, when an Act is repealed, all connection between the old and the new is cut off except what is saved by special provisions.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.

Such statutes as mentioned should not be so strictly construed as to deprive them of their effectiveness. However, this office doubts that a court would enforce any recommendation, however wisely given, with respect to the type of machinery used. The statute in question appears to extend only to the use of guards on machinery.

“If the commissioner . . . shall find upon such inspection that . . . the machinery in such workshops and factories (is) located or (is) in a condition so as to be dangerous to employees and not sufficiently guarded . . . he shall notify the owner, . . .”

JAMES G. FROST
Deputy Attorney General

June 4, 1953

To Gerald Murch, Chief Parole Officer

Re: Good Time Allowance for Prisoners Serving Life Terms

Your question relative to the allowance of good time for prisoners serving life sentences has been received. We understand that you are particularly interested in view of the fact that Chapter 404 of the Public Laws of 1953 provides that certain prisoners serving life sentences may be released on parole after serving thirty (30) years.

Chapter 84, Section 1 of the Public Laws of 1951, amending Section 27 of Chapter 23 of the Revised Statutes of 1944, provides as follows:

“Each convict, *except those sentenced to imprisonment for life*, whose record of conduct shows that he has faithfully observed all the rules and requirements of the prison, shall be entitled to a deduction of 7 days per month from the minimum term of his sentence, commencing on the first day of his arrival at the prison.”

The underlined in the foregoing clearly shows that such credit is not allowable and settles the question without even discussing the legislative intent in Chapter 404 of the Public Laws of 1953, allowing release “*after serving 30 years’ imprisonment.*”

ROGER A. PUTNAM
Assistant Attorney General

June 8, 1953

To General Spaulding Bisbee, Director of Civil Defense and Public Safety

Re: Auxiliary Policewoman – Compensation for Injury

Receipt is acknowledged of your inquiry of May 21st. You state that the question has come up of coverage under the Workmen’s Compensation Law in case an Auxiliary Policewoman who is a housewife and working as a volunteer might suffer a compensable injury and what the basis of compensation would be in that instance.

Section 2 of Chapter 267, Laws of 1953, provides that in computing the average weekly wage of any claimant under the provisions of that section,