

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

Section 3 of Chapter 20 of the Revised Statutes provides in part that

“ . . . the commission shall choose a chairman from its members every year, and in case of failure to make such choice, the governor shall appoint a chairman.”

The following questions have been asked of this office relative to the above statutes with respect to the chairmanship of the Highway Commission:

1. Is there presently a vacancy in the office of chairman of the Highway Commission such as will give effect to Chapter 398 of the Public Laws of 1953?

The answer is, “Yes.”

As will be noted in Section 7 of Chapter 20, the law imposes upon the Commission the duty of choosing a chairman from its members every year. Upon failure in that duty, the Governor shall then appoint a chairman.

Mr. Morton’s term of office as chairman of the Commission expired in July of 1953. The Commission having failed to make the necessary appointment, there is now a vacancy in that office.

2. If the Governor fails to take steps to appoint a chairman of the Commission, can the Commission now select a new chairman?

The answer is, “No.”

There being a vacancy in the office of chairman, then by the provisions of Section 2 of Chapter 398 the entire Act as seen in Chapter 398 of the Public Laws of 1953 goes into effect, and Section 1 of that chapter provides that the chairman shall be appointed by the Governor.

ALEXANDER A. LaFLEUR

Attorney General

December 3, 1953

To Roland H. Cobb, Commissioner, Inland Fisheries and Game

Re: Fairness in Trapping Licensing

We have your memo of November 30, 1953, in which you state that you have a game management area in Chesterville where you have a dam and a marsh for migratory waterfowl, muskrats, and other fur-bearing animals. You further state that in order to limit the number of muskrats taken out of the area you have given a direct concession to one person to trap in that area. You ask the following question:

“Under the law can we control the trapping in the Management Areas so that we may designate the trapper whom we want to take out a limited number of the fur-bearing animals?”

It is a basic principle of our laws that they be exercised uniformly and that one citizen of the State is not to be discriminated against to the favor of another. For this reason we do not feel that concessions should be given by the State to any person to the exclusion of others, to trap fur-bearing animals.

Another of our basic principles is that the animals of the State of Maine are held by the State in trust for the people. We feel also that this principle is violated when one and not another of our citizens is given an exclusive right to trap.

JAMES G. FROST  
Deputy Attorney General

December 3, 1953

To E. E. Edgecomb, Chief Inspector, Labor & Industry  
Re: Boiler Inspections in Schoolhouses

We have your memo of October 23, 1953, in which you ask for a definition of the word "schoolhouse" as used in Chapter 319 of the Public Laws of 1953. You specifically ask six questions, the first of which is, "What is the interpretation of a schoolhouse?" The remaining questions each set out a specific building and the question if it comes within the definition of a schoolhouse.

Search of the Legislative Record reveals that the principal object of this amendment was the safety of school children and that the measure was actually sponsored by the late Commissioner Ladd. In fact, such inspections had been made for a long time at his request without statutory authority. It would therefore appear that the word "schoolhouse" should receive its common everyday meaning, such as is used in our laws having application to schoolhouses coming within the jurisdiction of the Department of Education. This, of course, would exclude Sunday schools, convents, etc.

JAMES G. FROST  
Deputy Attorney General

December 28, 1953

To George Frederick Noel, D. O., Secretary  
Board of Osteopathic Registration

Re: We are in receipt of the following question from you: Whether or not a fee of \$2 should be charged to members for re-registration who fulfilled their obligation by attending a two-day post-graduate session in June, 1953 previous to the effective date of the new law which raised the fee to \$4.

Section 6 of Chapter 54, as amended by Chapter 294 of the Public Laws of 1953, provides in effect that every osteopathic physician shall pay an annual renewal fee for a certificate to practice. It is further provided, in addition to the payment of such fee, that certain annual educational requirements are necessary to comply with the law.

It is our opinion that the \$4 provided in this section of the law becomes effective as to all persons at the same time, regardless of the time when they complied with their educational requirements.

JAMES G. FROST  
Deputy Attorney General