

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

Section 5 of Chapter 69 reads as follows:

“Every registered optometrist shall annually, before the 1st day of April, pay to the board the sum of \$5. as a license renewal fee for each year; and in case of default in such payment by any person his certificate may be revoked by the board.”

In view of the fact that your Board has duly notified on two occasions those persons who are delinquent, it is our opinion that under the above quoted statute you have the discretion to revoke the certificates of such registered optometrists. You should keep complete records of the minutes of the meeting, at which a majority of your Board must be present, in revoking certificates.

We would at this time point out that the revocation of a license carries with it a more severe penalty than the suspension of a license. When a license is suspended for a time certain, it is automatically returned upon the expiration of the suspension period. With respect, however, to revocation, the general rule appears to be that one whose license is revoked loses all rights and must start anew, presumably with an examination.

JAMES GLYNN FROST  
Deputy Attorney General

May 11, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Sale of Land

This is in response to your memo relative to the letters of Hans M. Hansen, who desires to purchase a small portion of property owned by your department. You ask this office for the procedure to be followed in such sale.

Section 4-A of Chapter 33 of the Revised Statutes, as amended, reads:

“The governor and council on recommendation of the commissioner may sell and convey on behalf of the state the interests of the state in property taken or acquired by purchase under this chapter and deemed no longer necessary for the purposes hereof.”

Your first step should be to have one of your men survey, plot, and describe the area to be sold. Request should then be made to the Governor and Council to sell the land in question, and it is our opinion that such sale should be placed on bid. This office will draw the deed for the sale, incorporating the description to be supplied by your department. . .

JAMES GLYNN FROST  
Deputy Attorney General

May 13, 1954

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Boothbay Harbor Memorial Library

This is in response to your request for an opinion as to whether the Boothbay Harbor Memorial Library could be covered under your agreement with the Town of Boothbay Harbor (Social Security) or should be covered by the Bureau of Internal Revenue as a non-profit organization.

On the facts submitted in your memorandum, merely that the Town of Boothbay Harbor appropriates annually a sum of money for the library and that its trustees are elected by the town, combined with the fact that our research discloses that the library is a charitable corporation, we are of the opinion that employees of said library should be covered under an agreement with the Bureau of Internal Revenue rather than under the agreement which your System has with the Town.

JAMES GLYNN FROST  
Deputy Attorney General

June 2, 1954

To Honorable Harold I. Goss, Secretary of State  
Re: Itinerant Vendors' Deposits

This is in response to your memo asking for an interpretation of the provisions of Section 96 of Chapter 88 of the Revised Statutes.

Under the provisions of the Itinerant Vendor's Law, such vendor must make a deposit with the Secretary of State (Section 86) and it is further provided by Section 96 that such deposit

“shall be subject so long as it remains in his hands, to attachment and execution. . .”

The same section continues in part in the following tenor:

“and the secretary of state if he has in his hands a sufficient sum deposited by such licensee shall pay the sum so specified. . . ; and if the secretary of state shall not have a sufficient sum so deposited he shall make payment as aforesaid, of so much as he has in his hands.”

With respect to these provisions of law you ask if such deposits shall be kept under your control at all times or if they should be deposited with the Treasurer of State.

We are of the opinion that funds deposited by you with the Treasurer of State, which funds have been received under the provisions of the before-mentioned law, are at least constructively in your possession and sufficiently within your possession to comply with the requirement that you be able to pay when so ordered by the final judgment of the court. We think that an orderly procedure for conducting the State's business would call for depositing the money with the Treasurer of State.

JAMES GLYNN FROST  
Deputy Attorney General

June 2, 1954

To Lillian Brush, PhD, Secretary, Board of Examiners of Psychologists

. . . The Board, under Section 2 of Chapter 243 of the Laws of 1953, is required to hold at least one meeting which will have the purpose of conducting examinations of candidates who desire to be certified. This is a minimum requirement, and the word “shall” is generally construed to be an absolute order