

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

power is limited to the right to issue and revoke licenses. Obviously, where no license has been issued, there is no power of revocation.

The remedy, if there be one, is to report the alleged crime to the County Attorney of the County of Penobscot and he may bring such action as he sees fit after he has investigated the facts and studied the law.

We in no way intimate that there has been a violation of the law, for the reason that it is the primary duty of the County Attorney to determine that fact, and secondly that there are many cases holding that where the entire transaction takes place in another jurisdiction and the land in question is in a second jurisdiction, the licensing of the broker in the first jurisdiction is sufficient to carry him through, and the mere fact that the property is located in another jurisdiction does not require him to be licensed in that particular State, to recover. Our limited research did not disclose any criminal cases on this particular point.

As you may well wish to forward a copy of this memorandum to the County Attorney for his benefit, I will cite the following cases: *Land Co. v. Fetty*, 15 F. 2d 942 (Ga.); *Aronson v. Cardbone*, 222 N.Y.S. 721; *Tillman v. Gibson*, 161 S.E. 630 (Ga.); *Baird v. Hines*, 225 N.Y. App. Div. 65.

ROGER A PUTNAM

Assistant Attorney General

July 13, 1954

To Mildred I. Lenz, R.N., Educational Secretary, Board of Registration of Nurses

This is in response to your letter of June 24th in which you ask, relative to Section 1, paragraphs two and three, of Chapter 63, the following question:

"If a person is appointed by the Governor to fill a vacancy for an unexpired term of one year, would that individual be eligible for appointment for a full term of five years, inasmuch as she completed another's appointment rather than her own. In other words — does the sentence, 'No person shall be eligible for appointment to succeed herself,' apply to only those members who have a full term appointment, or does it also include those who fill a vacancy for an unexpired term?"

This office is of the opinion that under the law in question a person who has been appointed by the Governor to fill a vacancy for an unexpired term would be ineligible for appointment for a full term, as she would then be succeeding herself. . .

JAMES GLYNN FROST

Deputy Attorney General

July 20, 1954

To Dairy Council Committee

Re: Status

A check of the statutes reveals that the Maine Dairy Council Committee was originally formed under the provisions of Section 2 of Chapter 278 of

the Public Laws of 1949 and was then known as the Maine Milk Advisory Committee. The title was changed by the provisions of Section 6 of Chapter 64 of the Public Laws of 1951 to the Maine Dairy Council Committee.

The Committee would, in my opinion, be an agency of the State of Maine, its purpose being to advise as to the expenditure of certain money accruing to a separate and distinct account from the assessment of a tax on the amount per hundredweight sold by dealers within the State. It works in conjunction with another State agency, the Maine Development Commission.

The Committee, carrying on an essential governmental function, is therefore not subject to Federal income tax exemption procedures or anything of that nature . . . It is an agency of the State of Maine, carrying on a governmental purpose. . . .

ROGER A. PUTNAM  
Assistant Attorney General

August 2, 1954

To Col. Robert Marx  
Re: Salaries for State Police Officers

Your question relative to the jurisdiction of the Personnel Board over the salary range of officers of the Maine State Police has been received this day.

The answer is found in Chapter 372 of the Public Laws of 1953. Section 1 of said Chapter provides as follows:

“The governor and council shall determine the salary of the chief and deputy chief. The compensation of the other members of the state police shall be determined under the provisions of the personnel law.”

This is a clear expression of the legislature’s desire to cast the jurisdiction relative to the setting of pay scales for the members of the State Police, other than the Chief and Deputy Chief, upon the Personnel Board. If any doubt be entertained, it can be clearly resolved by comparing L. D. 1546, 1953, a redraft, with L. D. 829, its predecessor. The redraft incorporated Section 1, *supra*, and dropped the grade scales which L. D. 829 enumerated in detail.

ROGER A. PUTNAM  
Assistant Attorney General

August 12, 1954

To Norman U. Greenlaw, Commissioner of Institutional Service  
Re: Contract Bond.

. . . Subscribing witnesses should be disinterested parties to the contract, at the very least not persons subscribing the contract. . .

JAMES GLYNN FROST  
Deputy Attorney General