

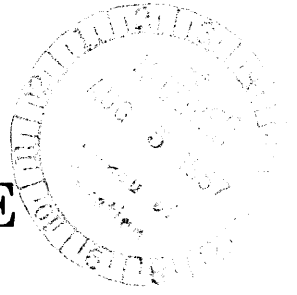
MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1955 - 1956

laid off for lack of work, and files a claim for benefits. If otherwise eligible, this claimant is entitled to benefits, he *not* having left his most recent or last employment voluntarily.

This agency has no jurisdiction over the granting or denying of benefits to an individual until such time as he files a claim for benefits. Consequently, the reason or reasons the claimant was separated from his last employment before filing a claim should be used as the test.

MILTON L. BRADFORD
Assistant Attorney General

These conclusions concurred in by Attorney General and Deputy.
Aug. 11, 1955.

J. G. F.

August 4, 1955

To Honorable Harold I. Goss, Secretary of State

Re: Vacancy in Office of Sheriff

I have your memorandum of July 28th requesting an opinion in regard to the length of the term to be served by the person appointed to fill the vacancy in the office of sheriff of Somerset County.

You quote Section 10 of Article IX of the Constitution of the State as follows:

"All vacancies in the office of sheriff. . . shall be filled in the same manner as is provided in the case of judges and registers of probate."

You also quote Section 7 of Article VI of the Constitution as follows:

"Vacancies occurring in said offices . . . shall be filled by election in manner aforesaid at the September election, next after their occurrence; and in the meantime, the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid."

You ask the specific question: "Shall the vacancies be filled by election at the next regular election for the choice of county officers or at the next election to be held in September, 1955 as provided by legislative acts relating to constitutional amendments?"

The vacancy is to be filled by election at the next regular election for the choice of county officers. Section 7 of Article VI provides that "Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in, at the biennial election on the second Monday of September." This portion of Section 7 is the first part of the section which you have quoted in part, and the specific part to which I wish to call attention reads as follows:

"Vacancies occurring in said offices. . . shall be filled by election in manner aforesaid at the September election. . ."

It is our opinion that the words "in manner aforesaid" refer back to "the biennial election on the second Monday of September," and that the words "at

the September election, next after their occurrence" were not enacted in contemplation of a special election and also refer to the regular biennial election.

FRANK F. HARDING
Attorney General

August 5, 1955

To Harry E. Henderson, Deputy Treasurer of State

Re: Mortgaged Property

. . . Your memo of August 4 reads as follows:

"The State of Maine holds a mortgage on farm property . . . in Wayne. The principal amount of the loan has been reduced by payments from the original amount of \$1400.00 to the present balance of \$391.52.

"The Treasurer of State has notice that on February 16, 1954, the Collector of Tax for the Town of Wayne recorded with the Registry of Deeds of Kennebec County a tax lien covering an unpaid tax for 1953. This lien will expire before the date of the next meeting of the Governor and Council.

"Section 25 of Chapter 177, Revised Statutes of 1954, provides for various actions by the Treasurer of State relative to mortgages owned by the state. Does the Treasurer of State have authority under the statutes to pay the tax and costs in this instance for the purpose of protecting the state's interest as mortgagee?"

It is our opinion that the Treasurer of State is not only authorized to pay the tax and costs in this instance, but is under a duty to do so. Investments authorized by the statutes must be safeguarded whenever possible.

JAMES GLYNN FROST
Deputy Attorney General

August 10, 1955

To Stanley R. Tupper, Commissioner of Sea and Shore Fisheries

Re: Herring under 4" Long

. . . You request that we reduce to writing an oral opinion given with respect to the provisions of Chapter 304 of the Public Laws of 1955, which law will become effective on August 20, 1955.

That part of the statute with which we are concerned reads as follows:

"Except for use as bait for fishing, it shall be unlawful for any person, firm or corporation to take from the coastal waters of Maine, or to sell, offer for sale, purchase, transfer in any manner, use, process, dispose of in any way or have in his possession for any purpose whatsoever herring less than 4 inches long, overall length measured from one extreme to another; except that when herring under 4 inches in length are mixed with longer herring and the herring of prohibited size represent less than 25% of the lot taken at any one time, sale or purchase, the foregoing provisions in this paragraph shall not apply. . ."