

# MAINE STATE LEGISLATURE

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September 12, 1968

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Status of Appointed Members of the Maine State Cultural Building Authority.

SYLLABUS:

Members of the Maine State Cultural Building Authority appointed by either the Archives Advisory Board, the State Librarian or the Maine State Museum Commission hold their positions at the will and pleasure of the particular appointing authority.

FACTS:

The provisions of P. & S. L. 1965, c. 259, § 1 created the Maine State Cultural Building Authority. That Authority consists of the Director of Public Improvements, the State Archivist, the State Librarian, the Director of the Maine State Museum, and certain members appointed by the Archives Advisory Board, the State Librarian and the Maine State Museum Commission:

"The Maine State Cultural Building Authority shall consist of the Director of Public Improvements, the State Archivist, the State Librarian, and the Director of the Maine State Museum, and one member each appointed by the Archives Advisory Board, the State Librarian and the Maine State Museum Commission. \* \* \* ."

Neither the public nor the private laws of the State of Maine having reference to the Maine State Cultural Building Authority specify the particular terms of office to be held by the reference "appointed members" of the Authority.

The subject "appointed members" of the Authority qualified for their positions in the manner prescribed under 5 M.R.S.A. § 5 and 6.

**QUESTION:**

Whether or not an "appointed member" of the Maine State Cultural Building Authority may be replaced at the will and pleasure of the particular appointing authority?

**ANSWER:**

Yes.

**REASON:**

We express no opinion as to the applicability of 5 M.R.S.A. § 5 and 6 to those persons appointed to the Maine State Cultural Building Authority by the three reference appointing authorities pursuant to P. & S. L., 1965, c. 259, § 1.

Certain of the language appearing in the Constitution of Maine provides that no office shall be created for a longer time than a period of good behavior.

"Section 23. No title of nobility or hereditary distinction, privilege, honor or emolument shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behavior." Constitution of Maine, Article I, § 23.

Earlier we noted that the law creating the Maine State Cultural Building Authority did not specify the length of terms to be served by the particular members appointed by the Archives Advisory Board, the State Librarian and the Maine State Museum Commission. In such an instance, the particular appointee holds his position at the will of the appointing power and strictly speaking, has no term of office. The case standing in support of the principles which we enunciate are reported in 67 C.J.S., Offices, § 43, (notes 10 and 13).

The only reported limitations regarding the office of a member of the Maine State Cultural Building Authority appears in Section 10 of the Private and Special Laws creating the Authority and indicates that the Authority terminates when it shall have performed all of its duties prescribed in the Act. This is not to say, however, that members of the Authority appointed by the Archives Advisory Board, the State Librarian, or the Maine State Museum Commission are entitled as of right to their positions so long as the Authority exists. Where the term of office is not specified by statute, the subject appointees hold their offices at the will of the appointing authority.

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