

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

Review of Consumer Protection Term in Director

# STATE OF MAINE

9-A M.R.S.A. § 6.103  
Inter-Departmental Memorandum Date March 1, 1978

To Alfred W. Perkins, Commissioner Dept. Business Regulation  
From S. Kirk Studstrup, Assistant Dept. Attorney General  
Subject Appointment of New Superintendent of Consumer Protection

I am responding to your memorandum of February 23, 1978, in which you requested our advice concerning the term of office for the Superintendent of Consumer Protection. John Quinn, the former Superintendent, resigned on February 10, 1978, leaving an unexpired term of approximately 17 months. Your question is whether the Superintendent who will be appointed to replace Mr. Quinn would have a term limited to the remainder of the unexpired portion or whether the term would be for a full 5 years. It is my opinion that the answer to this question is such appointment would be for a new term of five years.

A statement of general rule of law on this question is:

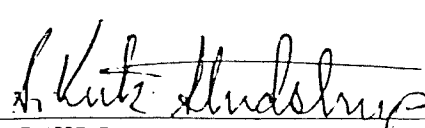
"Where no time is fixed for the beginning or end of the period during which a public office is to be occupied, and the duration of such period is alone designated, a person selected to fill a vacancy in such office may serve the full term and not merely the unexpired balance of the prior incumbent's term." 63 Am. Jur.2d, Public Officers and Employees, § 155, p. 724.

This general rule appears applicable in Maine.

The statute setting the Superintendent's term of office states simply:

"He shall be appointed for a term of 5 years or until a successor is appointed and qualified. . ." 9-A M.R.S.A. § 6.103.

There is no limitation contained therein upon the term of a Superintendent appointed to a vacancy occurring during an unexpired 5-year term. Nor is there any specification of the time for beginning or ending the term. By comparison, there are express statutory guidelines for other State agencies such as the Public Utilities Commission (35 M.R.S.A. § 1), which limit replacement commissioners to the unexpired portion of the term of the commissioners being replaced. In light of this expression of legislative intent in other statutory provisions, and its absence in the statute concerning the Superintendent of Consumer Protection, it is my opinion that the term of office of the replacement Superintendent would be for a full 5-year statutory term.

  
S. KIRK STUDSTRUP  
Assistant Attorney General