

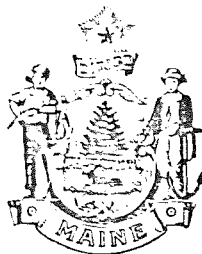
MAINE STATE LEGISLATURE

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RICHARD S. COHEN
ATTORNEY GENERAL



79-4
JOHN M. R. PATERSON
DEPUTY ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL

AUGUSTA, MAINE 04333

January 12, 1979

Honorable John Martin
Speaker of the House
State House
Augusta, Maine 04333

Dear Speaker Martin:

You have asked for our opinion on whether assessors and overseers in plantations may be elected on staggered terms as are selectmen in towns, or whether legislation is required to authorize plantations to stagger terms of those officials. Although the answer is not entirely clear from the statutes, it is my opinion that plantations must annually select its assessors.

Title 30 M.R.S.A. § 5607 provides that:

"Organized plantations shall hold their annual meeting in March and choose a clerk, 3 assessors, treasurer, collector of taxes, constable, school committee, one or more surveyors of lumber and 2 or more fence viewers."

Although the statute does not expressly establish the term of office for those officials, the implication from the language is that the plantation shall annually elect all those officials. The use of the verb "shall" in conjunction with the reference to "3 assessors" would seem to indicate that the obligation to select those assessors annually is mandatory on plantations.

It is possible to argue, given the language of other provisions in Title 30, that plantations retain the discretion to select the terms of assessors and other plantation officials. Specifically, Title 30 M.R.S.A. § 5609 provides that laws relating to the "election, appointment, [and] qualification", of town officials applies equally to plantation officials. Although § 5609 does not include a reference to term of office it could be argued that the words election, appointment, and qualification encompass the term of office of plantation officials. Assuming that to be the case, the provisions relating to the selection of selectmen for towns in Title 30, M.R.S.A. § 2060, sub-§ 5, would then apply. Section 2060(5) provides that a town may set the term for which selectmen serve and in the event that the town chooses not to set that term, the selectman shall serve for one year. Since under Title 30 M.R.S.A. § 5610, assessors of planta-

tions are considered to be the selectmen, the authority of towns to set the terms for selectmen arguably applies to the term of assessors in plantations.

Having stated this argument, however, it appears more plausible that the language in § 5607 of Title 30 mandates that plantations annually select three assessors and that plantations do not have the option of staggering the terms of such assessors. Since I understood you to ask this question for the purpose of determining whether clarifying legislation is necessary in the absence of a clear provision in the statutes, I believe that, if you desire to authorize plantations to stagger the terms of assessors, an amendment to that effect in § 5607 would not be inappropriate.

Sincerely,

A handwritten signature in cursive script, reading "John M. R. Paterson". The signature is written in dark ink and is positioned above the typed name.

JOHN M. R. PATERSON
Deputy Attorney General

JMRP:jg