

MAINE STATE LEGISLATURE

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VOLUME 1



THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 20.

Attorney General.

Cross Reference.—See Me. Const., Art. 9, § 11, re election, etc.

Sec. 1. Duties; salary; fees.—The attorney general shall appear for the state, the secretary of state, the treasurer of state, the bank commissioner, the insurance commissioner, the head of any other state department and the state boards and commissions in all suits and other civil proceedings in which the state is a party or interested, or in which the official acts and doings of said officers are called in question, in all the courts of the state; and in such suits and proceedings before any other tribunal when requested by the governor or by the legislature or either branch thereof. All such suits and proceedings shall be prosecuted or defended by him or under his direction. Writs, summonses or other processes served upon such officers shall forthwith be transmitted by them to him. All legal services required by such officers, boards and commissions in matters relating to their official duties shall be rendered by the attorney general or under his direction. Said officers, boards and commissions shall not act at the expense of the state as counsel in any suit or proceedings in which the state is interested. The attorney general shall have an office in the state capital and shall receive an annual salary of \$7,000 in full for all services and in lieu of all fees. He shall receive his actual expenses incurred in the performance of his official duties while away from his home. During his term of service, he shall not be an officer or director of any corporation engaged in business for profit within the state of Maine.

The attorney general shall receive the following fees:

For approval of certificate of organization of a corporation under chapter 53, \$5 in advance.

For approval of the agreement under the provisions of section 84 of chapter 53, \$20.

For certificate that any corporation has ceased to transact business and is excused from filing annual returns, \$5.

The attorney general shall collect the legal and usual fees payable to him by virtue of his office and shall pay them over forthwith to the treasurer of state. (R. S. c. 17, § 1. 1945, c. 368. 1949, c. 349, § 18. 1951, c. 412, § 5.)

Cross references.—See c. 1, § 35, re destruction of old records; c. 4, § 44, re council for legislative committee on election returns; c. 8, § 4, re instructions printed on petitions for people's veto and direct initiative; c. 10, § 19, re explanation of constitutional amendments; c. 15, § 19, re approval of rules and regulations regarding fingerprints; c. 53, § 84, sub-§ X, re fee for consolidations and mergers of corporations; c. 137, § 48, re profiteering in necessities of life and rents.

Powers and duties not limited to those enumerated.—The attorney general represents the whole body politic, or all the citizens and every member of the state. Only a few of the duties of the attorney general are specified by this and the following sections. The attorney general is, however, clothed with common-law powers. It is for him to protect and defend the interests of the public. In re Maine Central R. R., 134 Me. 217, 183 A. 844.

Sec. 2. Prosecute all claims for the state.—All civil actions to recover money for the state shall be brought by the attorney general or by the county attorney in the name of the state; the attorney general shall appear before the departments and tribunals of the United States and the committees of congress to prosecute all claims of the state against the United States. (R. S. c. 17, § 2.)

Sec. 3. Prosecute intruders.—The attorney general may, if in his judgment the public interest so requires, prosecute by indictment or complaint any

person who intrudes on the land, rights or property of the state, or commits or erects a nuisance thereon. (R. S. c. 17, § 3.)

Sec. 4. Public charities.—The attorney general shall enforce due application of funds given or appropriated to public charities within the state and prevent breaches of trust in the administration thereof. (R. S. c. 17, § 4.)

Sec. 5. Opinions on questions of law submitted.—The attorney general shall give his written opinion upon questions of law submitted to him by the governor and council, secretary of state, treasurer of state, bank commissioner, insurance commissioner, state auditor or head of any other state department, or any of the state boards or commissions or by either branch of the legislature. (R. S. c. 17, § 5.)

Sec. 6. Deputy attorney general and assistant attorneys general, appointment and duties.—The attorney general shall appoint a deputy attorney general, who shall serve during the pleasure of the attorney general or until a successor is duly appointed and qualified. His office shall be at the capital and he may perform all the duties required of the attorney general by chapter 53, and such other duties as the attorney general may require of him. The attorney general may also appoint such assistant attorneys general and such temporary deputy attorneys general as the duties of the office may require with such powers and duties as he may delegate. The compensations of the deputy attorney general and such temporary deputy attorneys general and any assistant attorneys general appointed shall be fixed by the attorney general with the approval of the governor and council, but such compensations shall not in the aggregate exceed the amount appropriated therefor. The attorney general shall biennially designate one of the assistant attorneys general to assist the members of the legislature in the drafting of acts and resolves. Such assistant attorney general shall devote all his time during the legislative session to this work, but shall not receive extra compensation therefor. The attorney general shall also instruct one of his assistant attorneys general to assist the state tax assessor in the enforcement of the inheritance tax law, except that in the absence or inability to act of the attorney general and deputy attorney general such assistant attorney general may perform all the duties required of the attorney general by chapters 53 and 54, and the salary and expenses of such assistant attorney general shall be paid from the appropriation for salaries and clerk hire of said department. (R. S. c. 17, § 6. 1947, c. 354, § 1.)

Sec. 7. Clerks; office expenses.—The attorney general is authorized to employ in his office in addition to the officers named in section 6, additional clerks as the business of his office may demand, whose appointment and compensation shall be subject to the personnel law. He may also incur a reasonable expense for postage, printing, stationery and other office expenses. (R. S. c. 17, § 7.)

Sec. 8. Additional assistant attorneys general, clerks or attorneys may be paid from moneys collected by department.—Whenever the attorney general shall appoint any additional assistant attorneys general as authorized under the provisions of section 6, or shall employ additional clerks as provided by section 7, or shall employ attorneys at law to collect claims due the state, the compensation of such assistants, clerks or attorneys, as approved by the governor and council, may be paid, if the governor and council so direct, from moneys thus collected by the attorney general's department. (R. S. c. 17, § 8.)

Sec. 9. Consult with and advise county attorneys.—The attorney general shall consult with and advise the county attorneys in matters relating to their duties; and if in his judgment the public interest so requires, he shall assist them by attending the grand jury in the examination of a case in which the

accused is charged with treason or murder, and appear for the state in the trial of indictments for treason or murder. He may also institute and conduct prosecutions for all offenses against the provisions of chapters 3, 4, 5, 6 and 9, and for that purpose attend and present evidence to grand juries and assist them in the examination of witnesses and drawing indictments. He may also, in his discretion, act in place of or with the county attorneys, or any of them, in instituting and conducting prosecutions for crime, and is invested, for that purpose, with all the rights, powers and privileges of each and all of them. Provided, however, that the authority given to the attorney general shall not be construed to deny or limit his duty and authority as heretofore authorized, either by statute or under the common law. (R. S. c. 17, § 9. 1951, c. 239.)

Cited in *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

Sec. 10. Attend law courts and instruct county attorneys.—The attorney general, when practicable, shall attend all terms of the law court, and all trials of persons indicted for treason or murder, on notice from the clerk, and give all proper instructions to county attorneys when he is absent, and at other times. (R. S. c. 17, § 10.)

Cross reference.—See c. 89, § 116, re *Sagadahoc County*, 137 Me. 233, 18 A. (2d) county attorney to aid. 308.

Cited in *Watts Detective Agency v.*

Sec. 11. Cause witnesses to recognize and procure attendance of those out of state.—When a criminal prosecution in which he appears is continued, the attorney general shall cause the witnesses in behalf of the state to recognize to appear at the next term, unless otherwise directed by the court, and may procure the attendance of a witness living out of the state deemed by him material in procuring an indictment or conviction; and the court shall allow such witness a reasonable compensation beyond his legal fees. (R. S. c. 17, § 11.)

Sec. 12. Employ detectives.—The attorney general may, by himself or through the several county attorneys or other officers of the state, employ such detectives or other persons, offer rewards or use other means that he may deem advisable for the detection, arrest and apprehension of persons who commit crime in this state. (R. S. c. 17, § 12.)

Cross reference.—See c. 149, § 51, re fugitives from justice.

Purpose of section.—A considered purpose is disclosed by this section to invest the office of attorney general with the power and authority to employ detectives at the expense of the state, whenever in his judgment the occasion warrants. It is further made clear that upon his author-

ization county attorneys may avail themselves of such service, without expense to their counties. *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

History of section.—See *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

Sec. 13. Appropriation.—Such sum as may be appropriated for the purposes of sections 1 to 12, inclusive, may be expended under the direction of the attorney general. The attorney general shall, at the request of any state department, make or cause to be made investigations in behalf of such department and he shall also prosecute any case to such extent as may seem advisable with all the rights, powers and privileges of county attorneys; and the expense of any such investigation and of any prosecution which results from such investigation shall be charged to this appropriation. (R. S. c. 17, § 13.)

Cited in *Watts Detective Agency v. Sagadahoc County*, 137 Me. 233, 18 A. (2d) 308.

Sec. 14. Biennial report.—The attorney general shall, biennially, on the 1st day of December, make a report to the governor and council of the amount and kind of official business done by him and by the several county attorneys during the 2 years preceding, stating the number of persons prosecuted, their alleged offenses, the results and the punishments awarded, with any useful suggestions. (R. S. c. 17, § 14.)

See c. 89, § 119, re annual report of county attorney.

Sec. 15. Not to receive pay from prosecutor.—The attorney general shall not receive any fee or reward from or in behalf of any prosecutor for official services or, during the pendency of a prosecution, be engaged as counsel or attorney for either party in a civil action depending essentially on the same facts. (R. S. c. 17, § 15.)