

# MAINE STATE LEGISLATURE

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STATE OF MAINE.

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REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1908.

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would seem as if this custom, so long established, must have been so well known to the legislatures that their various acts have been passed upon the implied understanding, at least, that the custom should so continue. We believe that the salaries may be properly paid in accordance with the advice herein given.

#### DEPUTY FISH WARDEN.—FORM OF OATH.

*Hon. James Donahue, Commissioner Sea and Shore Fisheries, Rockland, Maine:*

DEAR SIR:—Your inquiry is noted as to the form of oath of a deputy warden, appointed under chapter 41, R. S., (relating to sea and shore fisheries).

The statute in question requires said deputy wardens to be "sworn." Turning now to R. S., chapter 1, section 6, paragraph XXII, I quote as follows:

"The words "sworn," "duly sworn," or "sworn according to law," used in a statute, record, or certificate of administration of an oath, refer to the oath required by the constitution or laws in the case specified, and include every necessary subscription to such oath."

Under all the circumstances I should recommend that the oath noted in the constitution be taken as provided in the paragraph just quoted. As doubtless you are aware the oath can be taken and subscribed before a magistrate in your county, commissioned by the governor for the purpose of taking such oaths. See R. S., chapter 57, sections 37-40.

#### FORTNIGHTLY WAGES.—ENFORCEMENT OF STATUTE.

*Hon. George E. Morrison, State Factory Inspector, Biddeford, Maine:*

DEAR SIR:—I have the honor to acknowledge receipt of your favor making inquiry as to the enforcement of the law against persons for failure to comply with R. S., chapter 40, section 57, requiring the payment of wages fortnightly.

R. S., chapter 40, section 57, reads as follows:

“Every manufacturing, mining, quarrying, stone-cutting, mercantile, street railroad, telegraph, telephone and municipal corporation, and every incorporated express and water company, and any person or firm engaged in any of the above specified kinds of business, having in their employ more than ten persons, shall pay fortnightly each and every employee engaged in its business, except municipal officers whose services are paid for by the day, or teachers employed by municipal corporations, the wages earned by such employee to within eight days of the date of said payment, provided, however, that if at any time of payment, any employee shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter on demand.”

Assuming that the persons guilty of the alleged violation are not included in the exceptions noted in the foregoing statute, they may be proceeded against under R. S., chapter 40, section 58.

R. S., chapter 40, section 58, reads as follows:

“Any corporation violating any provision of the preceding section shall be punished by a fine of not less than ten, nor more than twenty-five dollars on each complaint under which it is convicted, provided, that complaint for such violation is made within thirty days from the date thereof. When a corporation against which a complaint is so made, fails to appear after being duly served with process, its default shall be recorded, the allegations in the complaint taken to be true, and judgment rendered accordingly. When judgment is rendered upon any such complaint against a corporation, the court may issue a warrant of distress to compel the payment of the penalty prescribed by law together with costs and interest.”

Under the latter section, any of the employees having actual knowledge of the material facts proving the alleged violation, may proceed by going before the magistrate of some court having jurisdiction in the locality, and making complaint for violation of the law.