

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

OPINIONS RENDERED

The following pages contain a few of the opinions rendered by the Attorney General's Department, which have to do with administrative matters and which are used as precedents in this office in advising the various branches of the State Government in handling current problems.

January 24, 1941

From:

Frank I. Cowan, Attorney General

To:

Sumner Sewall, Governor of Maine

I have your request for an opinion of the power of the Governor or the Commissioner of Inland Fisheries and Game to issue complimentary hunting and/or fishing licenses without a fee being charged.

The statutory provision in regard to fishing licenses is found in Section 19 of the 1939 Revision of the Inland Fish and Game Laws. Paragraphs 2, 3 and 8 deal with charges to be made for fishing licenses. Paragraph 2 contains the following language: "Each resident of the state and each non-resident *shall purchase* from the commissioner or his authorized agent the written license" and so forth. Paragraph 2 designates clerks of towns as such "authorized agents" and provides that the commissioner may designate additional agents.

Paragraph 2 expressly sets a fee of \$1.15 for a resident, and Paragraphs 3 and 8 provide fees for non-resident licenses. Nowhere in the law do I find any provision authorizing any person to issue licenses without charge. Indeed, Paragraph 4 expressly provides that "each agent" shall forward the net funds by him collected. There is nothing in the statute to prevent the commissioner from appointing the governor as his agent for the issuance of licenses, but the statute does not relieve any agent of the duty of remitting to the commissioner a fee for every license he issues. Indeed, the words "shall purchase" above quoted are entirely unrestricted and cover completely the method required for procuring fishing licenses.

The law in regard to the issuance of hunting licenses appears in Section 41 of the 1939 Revision of the Inland Fish and Game Laws. The wording of Paragraph 2 of Section 41 is considerably at variance from the wording of Paragraph 2 of Section 19. Section 41, having to do with hunting licenses, uses the following language at the beginning of paragraph 2: "No resident shall hunt or have in his possession any wild bird or wild animal without first *having procured* from the commissioner or his authorized agent a written license" and so forth. The clerks of towns are "authorized agents" and the commissioner may appoint other agents. The statute expressly provides that the clerk shall function by issuing a license upon payment of a fee and, by implication, restricts his power of issuing hunting licenses to those occasions when a fee is paid.

Paragraph 3 of Section 41 provides for the issuing of licenses to non-residents and aliens, and here again the words are "having procured from the commissioner or his authorized agent" instead of "shall purchase" as in the case of the fishing license. The second section of Paragraph 3 provides that the licenses "shall be issued on payment" of certain fees and, by implication, makes the payment of the fee a condition precedent to the issuance of the license.

The fact that the legislature apparently intended that the wording of Section 41, having to do with hunting licenses, should have the same meaning as Section 19, having to do with fishing licenses, seems to be further evidenced by the language of Paragraph 6 of said Section 41, where it provides that "Any non-resident under the age of 16 years may buy a hunting license" and so forth.

It is my opinion, therefore, that there is no statutory authority for the issuing of either hunting or fishing licenses without the payment of the fee set by the legislature for the particular class or type of license issued.

Very truly yours,

FRANK I. COWAN

Attorney General

January 30, 1941

To The

Honorable Nathaniel Tompkins
 President of the Senate, and
 Honorable George D. Varney
 Speaker of the House of Representatives

Gentlemen:

I have the Order H. P. 455, dated January 23, 1941 requiring my report on the amounts recovered from the former controller William A. Runnells, and asking whether or not the case is closed.

According to the records of the State Treasurer and the State Auditor, recoveries in the Runnells case have been as follows:

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| Cash in brief case returned | \$26,420.00 |
| Cash received at settlement of Bill in Equity | 25,649.40 |
| Dividends received on Stocks, plus Cash found in desk | 556.47 |
| Cash received from sale of Stocks | 1,414.05 |
| Interest received on Postal Savings Acct. | 36.50 |
| | <hr/> |
| Total | \$54,076.42 |