

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1943--1944

sional conduct within their statute, authorizing revocation or suspension of a dentist's license. I have not the slightest doubt that our court would hold that operating with this dental concern as proposed in the description of an interview which Dr. .... sent to you, is unprofessional conduct and that you have full right to revoke the license of any dentist in the State of Maine who coöperates in any such activity.

Very truly yours,

FRANK I. COWAN

Attorney-General

September 11, 1943

David H. Stevens, Assessor

Bureau of Taxation

*Payment of Poll Taxes to Jackman Plantation*

Reference is to your memorandum of September 10th.

It is my opinion that the State Tax Assessor would be justified in making refunds to Jackman Plantation of poll taxes paid by electors registered in Jackman, who vote in the voting precinct maintained at Rockwood.

The Legislature, by Chapter 19, P. L. 1935, authorized the setting up of this polling place as part of the machinery for Jackman. The fact that the voter does not actually cast his ballot within the territorial limits of Jackman should have no bearing on the refund of poll taxes.

FRANK A. FARRINGTON

Deputy Attorney-General

September 15, 1943

William D. Hayes, Auditor

Audit

In answer to your question about the right of the Governor and Council to accept a surety company bond where the statute provided for two sureties, I call your attention to Chapter 60 of the Revised Statutes, Section 160, which provides that any company with a paid-up capital of not less than \$250,000, duly incorporated and organized for the purpose of transacting business as surety on obligations of persons, that has complied with the requirements of the law which would permit such company to transact business in the State, may be accepted as surety upon the bond of any person or corporation required by the laws of the State to execute a bond, and if such surety company shall furnish satisfactory evidence of its ability to provide all the security required by law, no additional surety may be exacted.

The legislature has left the matter of approving certain bonds with the Governor and Council. The legislature must have intended that these officials would demand a bond with surety or sureties that would guarantee the best fulfilment of the obligation. In my opinion, a surety company qualified to do business in the State of Maine would furnish the best guaranty of such an obligation. I would not say that the Governor and Council would be right in refusing in all cases to accept a bond containing individual sureties; yet where there is the slightest

doubt of the abilities of the sureties to fulfil their obligations during the term of the guaranty, the Governor and Council would be absolutely right in insisting upon the alternative, to wit, a surety company bond.

JOHN G. MARSHALL

Deputy Attorney-General

September 15, 1943

William D. Hayes, Auditor

Audit

*Registers of Deeds Absent from their Offices while in Military Service*

Registers of deeds entering the military services of their country, who do not resign from their offices, would be considered absent. Chapter 15, Section 5, R. S. 1930, provides for the absence of the registers without limiting the term definitely. This section also authorizes the register to appoint a clerk for whose doings and misdoings he shall be responsible, who shall be sworn. The clerk would not be obliged to execute and deliver a bond, but would be required to take the oath provided for under this section, and the bond of the register would be liable for any misdoings of the clerk.

There is nothing in the statutes providing for the cessation of the salary of the register during his absence. Therefore it would seem that, so long as the register was absent from his office and had appointed a clerk in accordance with the provisions of Chapter 15, the register would be entitled to receive his pay.

JOHN G. MARSHALL

Deputy Attorney-General

September 16, 1943

David H. Stevens, State Tax Assessor

Bureau of Taxation

*Payment in lieu of Taxes*

I have your memorandum of September 7th, reporting on a conference in Governor Sewall's office. At that time, I gave you my opinion, which I have not had occasion to change, that at the present time the State lacks the legal machinery necessary to insure payments to it by municipalities of money received from the Federal Government under the Lanham Act in lieu of taxes.

FRANK I. COWAN

Attorney-General

September 17, 1943

George J. Stobie, Commissioner

Inland Fisheries and Game

I have your memo of September 16th, enclosing copy of a letter from Dr. W. E. Kershner of Bath, in regard to fishing in various bodies of water. It is true that Section 4 of the Inland Fish and Game Laws, 1943 Revision, provides, "All petitions shall be in the office of the commissioner of Inland Fisheries and Game before the first day of September of each year." However, in addition to procedure after petition, the statute provides "or upon the initiative of the commissioner of Inland Fisheries and Game."