

# 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

Inasmuch as this suggestion does not apply to the State School for Boys and the State School for Girls, neither of which is, in our opinion, a penal institution, I am giving this as a separate memo.

FRANK I. COWAN

Attorney-General

November 10, 1943

Herbert E. Locke, Esq.  
Depositors Trust Building  
Augusta, Maine

Dear Herbert,

Your letter of September 7th in regard to abortions has been lying on my desk awaiting the day when I would have time to call you for discussion of the matter, as you suggested. In order that it may not seem to you that I have ignored your letter, I am taking this opportunity to make a brief reply.

1. *Abortion cases.* The county attorney should be notified in all cases. The day has not yet arrived when the doctors will have the burden of deciding whether or not the State is entitled to their honest coöperation. When they have evidence of crime, it is their duty to disclose it. They must not lose sight of the fact that they themselves are practising their profession by reason of a license from the State. . . .

Very truly yours,

FRANK I. COWAN

Attorney-General

November 10, 1943

Mrs. Alice S. Hawes, Clerk  
Board of Registration of Nurses  
54 Saunders Street  
Portland 5, Maine

Dear Madam:—

I have your letter of November 10th. Our statutes do not provide for any appeal from a decision of the Board of Registration of Nurses cancelling or suspending a registration. Such an appeal would have to be in the form of an action brought in the courts.

Very truly yours,

FRANK I. COWAN

Attorney-General

November 10, 1943

George J. Stobie, Commissioner      Inland Fisheries and Game

There is nothing in our statutes providing for dragging for the body of a drowned person. R. S. Chapter 38, Section 14, has to do only with the matter of search for a "lost" person.

The duty of searching for the bodies of persons known to have been drowned seems to be one that has not been taken away from the sheriff, whose office, as you know, is one of great historical importance

and in whom, until the powers were taken away from him by express statute, reposed the general duty of taking care of the interests of the people of the counties. The statute has now put on the Commissioner of Inland Fisheries and Game the responsibility formerly held by the sheriff of searching for persons who have gone on hunting or fishing trips, or trips for any other purpose, in the woodlands of the State and have not returned within a reasonable time. This statute, however, does not deprive the sheriff, a common-law officer, of any of his powers and responsibilities except those expressly so stated.

FRANK I. COWAN

Attorney-General

November 24, 1943

Carl R. Smith, Commissioner of Agriculture

*Interpretation of the Stipend Law, as amended under c. 87, P. L. 1943*

I have your memo of November 19th containing the following statement of your understanding of this law:

"It is my understanding that the Stipend may be paid on the basis of 1941, or any normal year prior to 1941, but if in 1943 any Fair paid out more premiums than were paid in 1941 (or 1940) that Fair should be paid on the basis of the premiums paid in 1943, or whichever were greater, 1941 or 1943."

You have correctly interpreted the statute. There is one addition that you have not mentioned. The statute authorizes you, in the case of a payment based on a year prior to 1941, to pay "a stipend or such proportionate part of such stipend" as you may determine. This gives you broad authority to determine how much of a stipend you shall pay under such circumstances and simply limits the maximum amount.

Your interpretation of the statute in the following words, "or whichever were greater, 1941 or 1943," is a liberal one and places a strained construction on the words, "shall cease to pay," but nevertheless it seems to me that it more nearly interprets the intention of the legislature than would a conclusion that if an association pays a small premium in 1943, it is thereby debarred from having this stipend based on an earlier year. . . .

FRANK I. COWAN

Attorney-General

November 24, 1943

Honorable Sumner Sewall, Governor

Executive

Miss Ross has sent to this office the letter of Henry L. Stimson, Secretary of War, bearing date November 1, 1943.

Any recognition by the Governor that the United States accepts exclusive jurisdiction, as set out in the third paragraph of Secretary Stimson's letter, should quote Chapter 248 of the Public Laws of 1939 in full and should contain a statement by the Governor that the juris-