

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1943--1944

was the reason for the bill being reported "Ought not to pass," or if some such reason as that, originating in the State itself, was responsible for lack of passage, then I see nothing in the action of the legislature that should tie the hands of the Governor.

FRANK I. COWAN
Attorney-General

December 1, 1943

Harold E. Crawford, Municipal Auditor

I have your memo of November 30th in regard to court officers. I believe that the language of paragraph six of chapter 126, section 4, on page 1533 of the Revised Statutes, must be interpreted to mean that "for said attendance and service" "upon the supreme judicial court or the superior court," the deputy sheriff and court messenger are to receive \$5. a day. This is entirely separate from any other work they may do or services they may perform while not in attendance on the court. If the court sits for half a day or less, the officers nevertheless are entitled to a day's pay, because they are holding themselves in readiness for service, and it is not their fault if the judge is not in the courtroom. During such times as the judge is not in the courtroom and as he does not require the immediate attendance of the deputy sheriff or the messenger, these officials are entitled to any fees they may be able to earn from services that will not interfere with their court duties. The same is true of any services they may perform after court adjourns at night or before it comes in, in the morning.

FRANK I. COWAN
Attorney-General

December 1, 1943

Hon. Lester M. Bragdon
York Village, Maine

Dear Lester,

I have your letter of November 16th in regard to automobile inspection. The legislature passed Chapter 72, P. L. 1941, changing the dates of inspection from May and November to April and October. Under the procedure that has been in use for several years, an act to be amended is printed in full and the amendment printed in black-faced type.

At the same session the legislature passed Chapter 205, making further amendments to the original act. At that time the amendment which appears as Chapter 72 had not become law, and it could not be known that it would become law until ninety days after the legislature adjourned. Chapter 205 was set up in the ordinary fashion. Whether or not anybody noticed that there was an apparent conflict between 205 and 72, I don't know, and I cannot express any opinion on the subject.

In cases such as this, which, I may say, occur frequently, we take the original act and add to it all amendments made at a session of the legislature. If there is no conflict between the amendments themselves, we have assumed that there was no conflict in the laws, since the legislature plainly expressed itself on the matter of amendments.

The cases that you speak of as being dismissed came up in the Bangor Municipal Court, so I am told. It is possible, of course, that the Law Court might sustain the opinion of the judge of that court. If so, it would mean that many statutes on our books have been misinterpreted for many years.

Sincerely yours,

FRANK I. COWAN
Attorney-General

December 1, 1943

Frederick B. Dodd, Esq.
84 Harlow Street
Bangor, Maine

*Re: Town of Topsfield Deposit of Ministerial School Fund in Eastern
Trust and Banking Company*

Dear Fred,

I have before me a copy of an opinion given by Deputy Attorney-General John G. Marshall under date of November 15, 1943; a copy of a letter to Bill Newman from Dave Stevens bearing date November 16th; and a copy of a letter from yourself to Stevens, bearing date November 29th. Chapter 78, Section 2, of the Private and Special Laws of 1939 is not so clear as we wish it were. However, it is drawn on a pattern apparently designed some years ago and has been interpreted by this department in the same way that Mr. Marshall has interpreted it.

Other statutes having to do with "deorganized" towns and with the Emergency Municipal Finance Board have been interpreted as setting the State up in the capacity of trustee of any public funds which have been in the custody or under the authority of the officials of towns that have become defunct. (Rightly or wrongly, we have felt that we should interpret the deorganized town statutes in connection with the Emergency Municipal Board statutes, inasmuch as they all apply to municipalities in bad financial circumstances, and some of the more recent acts of the legislature have not made a clear distinction.)

The problem we have in connection with Topsfield is similar to one that has arisen in regard to other places. Two years ago I instructed the State to return to a new municipality the school funds that had been taken over. At that time I drew a line, making it as clear as I could, and established a precedent of the State holding the funds as trustee and when the necessity of so holding had ceased, turning the funds back to the municipality.

The ministerial school funds were, as a matter of fact, I believe developed out of "amounts raised by said town for school purposes or out of amounts paid by the state for school purposes," so that they do, it seems to me come within the provisions of Chapter 78, Section 2.

If you feel free to give me any further comment on this question, I shall be glad to have it.

Sincerely yours,

FRANK I. COWAN
Attorney-General