

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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“ . . . shall be used solely to defray administrative charges and salaries and examination required by law and for examining and auditing filed annual statements. . . ”

While this text provides that the fees payable to the commissioner of insurance shall be devoted to that purpose, payment for the services of an independent firm is not a salary paid by the department, nor, strictly speaking, an administrative charge such as the Controller can recognize as his authority for issuing the warrant. The reason, you inform me, that the State employs an outside firm is that the department does not employ examiners to make these examinations, and while you are undoubtedly justified in the practice, because the annual cost is less to the State than if the department employed a permanent staff of examiners on the payroll of the State, such practice, although it has great merit, would not, the Controller feels, justify him in issuing the warrant for a substantial sum of money.

Under the circumstances I would advise you to continue obtaining council orders authorizing the payment of bills incurred for these examinations.

ABRAHAM BREITBARD
Deputy Attorney General

December 11, 1946

To R. C. Mudge, Finance Commissioner, and
H. H. Harris, Controller

Agreeably to my conversation with you in my office this morning relating to the council order for \$175,000 to complete the construction of two fish hatcheries for which bids were accepted by the Governor and Council on behalf of the Inland Fisheries and Game Commissioner, it is my opinion that under the provisions of Section 63, Subsection V of Chapter 33 of the Revised Statutes as revised July 21, 1945, which reads as follows:

“V. The funds collected by agents and the commissioner shall constitute a fund to be expended under the direction of the commission for the propagation and protection of wild birds, fish and animals. The fund shall not lapse from year to year but any funds collected in any one year may be used for that year and any succeeding year for said purpose.”

broad powers are delegated to the commissioner to expend money from this fund for the propagation of fish, and these hatcheries are being built for that purpose. It is my opinion that the Commissioner of Inland Fisheries and Game is well within his legal rights in his request to the Governor and Council to provide funds for the completion of the two fish hatcheries which are now under construction on two contracts accepted by the State under the provisions of a Resolve passed at a special session of the legislature September, 1944, which said Resolve provided \$200,000 for this purpose, and said \$200,000, according to your statement, has been

expended in part performance of these two contracts aforesaid. The remainder of the contracts remains to be done, and the State has obligated itself through the commissioner and the Governor and Council to carry out the terms of this contract.

RALPH W. FARRIS
Attorney General

December 12, 1946

To Maine State Boxing Commission

This department acknowledges receipt of your letter of December 12th in which you ask the following question:

“Is it necessary for a boxing promoter to obtain a permit from the local city or town government where he intends to promote boxing exhibitions for the public, in addition to his license as granted for that locality by this Commission? In this particular instance, the location in question is the City of Rockland.”

On October 23rd this department, upon inquiry from the city solicitor of another municipality involving this same question, ruled as follows:

“It is my opinion that Section 7 of Chapter 78, R. S. 1944, which was enacted in Chapter 282, Section 8 of the Public Laws of 1939 and which gave the Boxing Commission sole direction, control and jurisdiction over all boxing contests and empowered it to promulgate rules and regulations necessary therefor, impliedly repealed whatever authority the City of may have had prior to 1939. . .”

ABRAHAM BREITBARD
Deputy Attorney General

December 12, 1946

To Hon. Horace Hildreth, Governor of Maine

Re: Resignation of a Member of the House of Representatives

With relation to the communication addressed to Your Excellency under date of December 6th and received by you on December 9th from James R. Pratt, Representative-elect of the class district of Harrison, Otisfield and Windham, stating that he declines the office and also tenders his resignation as a member of the 92nd Legislature:

Since his term in the 92nd Legislature expires on December 31st, it is unnecessary to take any action on that.

As to his membership in the 93rd Legislature, I think he may resign his seat, thereby creating a vacancy. As framed, the letter merely expresses a desire to resign, but I think we may well treat it as a resignation of the seat in the Legislature to be assembled on January 1st.

In addition to tendering his resignation to the Governor, he should also tender it to the selectmen of the Town of Windham, as that is the oldest town in this representative district and its municipal officers fix the date of the election and notify the selectmen of the other towns in that district.