

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1947 - 1948**

December 15, 1948

Gen. George M. Carter, The Adjutant General  
Re: Bath Water District Easement

Referring to your memo of November 23rd, which came during my absence, with attached communication from the Attorney for the Bath Water District, John P. Carey, and diagram covering the matter of a request for an easement from the State relating to the location of a new water line:—

I note that you feel that this request is reasonable, but prefer to have an opinion from this office before answering this communication.

It is my opinion that under Section 24 of Chapter 12 you have authority to grant this easement.

Please have Mr. Carey, attorney for the Bath Water District, draw up the easement which he expects the State to sign, according to the plan enclosed and submit it to this office for approval as to form.

Of course, the grant must be in the name of the State of Maine by the State Military Defense Commission, which is headed by the Governor. . . .

RALPH W. FARRIS  
Attorney General

December 15, 1948

To Ernest H. Johnson, State Tax Assessor  
Re: Gasoline Tax Refunds

Referring to your memo of November 29th, calling my attention to Section 160 of Chapter 14, R. S. 1944, as amended, which provides that in certain cases 5c of the 6c gasoline tax shall be refunded as thereafter provided:—

Section 166 provides for a refund for vehicles that do not operate on the public highways of this State. It is my opinion that gasoline used in off-highway operation of unregistered farm trucks is subject to the refund provisions of Section 166 of Chapter 14 as referred to in Section 160 of the same chapter. . . .

RALPH W. FARRIS  
Attorney General

December 22, 1948

To A. K. Gardner, Commissioner of Agriculture  
Re: Apportionment of State Stipend

Your memo of December 21st received, calling my attention to Section 16 of Chapter 27, R. S., as amended by Chapter 366, P. L. 1947, which provides for the apportionment of the stipend among legally incorporated agricultural clubs, societies and fair associations of the State, and requesting me to render a definition of the terms "agricultural clubs, societies, and fair associations," within the meaning of this section.

In my opinion it means those clubs, societies and associations which have become legally incorporated under Chapter 50 of the Revised Statutes and the purposes of which are for the promotion of agriculture and the dissemination of information relative thereto, the awarding of premiums, gratuities

and prizes upon agricultural and domestic products. I feel that the words "legally incorporated" are important, because if the club does not have any legal entity, it appears from the reading of the statute, that it could not participate in the stipend. The language is "Said stipend shall be divided pro rata among the legally incorporated" societies. This includes clubs, societies and fair associations of the State.

RALPH W. FARRIS  
Attorney General

December 22, 1948

To Lester E. Brown, Chief Warden  
Re: Fees

I have your memo of December 21st, calling my attention to the apparent inconsistency between part of Section 18 and Section 110 of Chapter 33 of the Revised Statutes, the Inland Fish and Game Law.

Section 18 states that all such fees are to be paid to the Commissioner of Inland Fisheries and Game. That refers, I presume, to fees of the wardens for serving criminal processes on offenders against the law relating to camp trespassers or persons committing larcenies from any camp, cottage or other building. That means that the wardens cannot keep the fees, but said fees must be paid to the Commissioner of Inland Fisheries and Game.

Section 110 provides that all fines, penalties, officers' costs and other moneys recovered by the court under any of the provisions of this chapter shall accrue to the Treasurer of State and shall be paid into the treasury of the county where the offense is prosecuted; and it further provides that if the fees are not recovered from the respondent, they shall not be assumed or paid by the county where the offense was committed.

Therefore in my opinion the county should not pay these fees in case they are not paid by the offenders or recovered from the respondents.

Of course that part of Section 18 relating to the payment of fees to the Commissioner ties in with Section 110, where they are paid to the treasurer of the county and accrue to the Treasurer of State and are credited to the Department of Inland Fisheries and Game for certain purposes provided for in Section 110.

RALPH W. FARRIS  
Attorney General

December 23, 1948

To Ernest H. Johnson, State Tax Assessor  
Re: Dividends Paid by Mutual Life Insurance Companies

I have your memo of December 6th relating to the provisions of Section 135 of Chapter 14, R. S., as amended. You state in regard to this section that a question has arisen relating to the deduction of dividends from the life insurance premiums collected before computing the tax on life insurance companies and that you desire a ruling as to whether or not the amount of the mortuary dividends and the amount of the maturity dividends are deductible from the premiums collected in any year before computing the tax.