

MAINE STATE LEGISLATURE

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STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

January 31, 1949

To A. K. Gardner, Commissioner of Agriculture

Your memo of January 28th received, asking an opinion as to the legality of the Potato Tax Committee's allotting the sum of \$10,000 to the National Potato Growers Council for the purpose of promoting better public relations on the part of the potato industry and otherwise aiding and assisting the consumption of more potatoes.

You state that you believe it is my opinion that the Tax Committee has authority to allocate such funds under the provisions of Sections 206-217 inclusive of Chapter 14, R. S. of Maine, as amended by the Public Laws of 1945, but that Mr. Herbert Kitchin, chairman of the Tax Committee is desirous of having this oral opinion, which came to him at second hand, verified by a written opinion and is particularly anxious that such written opinion be forthcoming at the earliest possible moment because he wishes the committee to be brought together to pass on these funds.

Under the provisions of Section 215, subsection IV, which provides: "The funds remaining over and above the expenses of carrying out the provisions of Sections 206 to 217 inclusive, including expenditures authorized under the provisions of Subsections II and III of this section, may be expended by the commission to carry out the purposes outlined in said subsections *as it may determine*;" if the allotment of the \$10,000 to the National Potato Growers Council is used for the purpose of investigating and determining better methods of production, shipment and merchandising of potatoes and for the manufacturing and merchandising of potato by-products by the Maine Agricultural Experiment Station under the supervision of the Maine Development Commission, and if the Maine Development Commission is willing to go along with you on this allotment, in my opinion the provisions of this statute are broad enough for you to make this allocation.

RALPH W. FARRIS
Attorney General

January 31, 1949

To Honorable Frederick G. Payne, Governor of Maine

Dear Fred:

Jack wanted me to write you this afternoon concerning the law relating to probation officers in Washington County.

Under Section 28 of Chapter 136 of the Revised Statutes, as amended by Chapter 139 of the Public Laws of 1945 and Chapter 317 of the Public Laws of 1947, the County of Washington at the present time is allotted only one probation officer, who is to be a citizen of the county and of good moral character, to hold office during the pleasure of the Governor and Council.

Jack told me that Ray Foster, Sheriff of Washington County, feels that each Municipal Court should have a probation officer. Jack inquired about an assistant probation officer for Washington County. The section which I cited provides that the County of Androscoggin shall have two probation officers, one to be designated probation officer and one to be designated

assistant probation officer, and the county commissioners for that county shall pay the probation officer a salary of \$2400 and the assistant probation officer \$1800 annually; and in that county they are entitled to select a clerk for the probation office and the county commissioners of Androscoggin must appropriate \$1456 annually for such clerk hire and provide suitable quarters in the county building for this office.

I advised Jack that the statute would have to be amended before the Governor and Council could appoint an assistant probation officer in Washington County, as the present statute does not authorize any county to have more than one probation officer except Cumberland and Androscoggin; Cumberland is expressly exempted from the provisions of this statute. That county has probation and assistant probation officers appointed by the Judge of the Municipal Court in Portland and approved by a Justice of the Superior Court residing in Cumberland County or by the Chief Justice of the Supreme Judicial Court. Probation officers must give bond to the county to the satisfaction of the county commissioners.

I trust that this will answer the questions propounded by Sheriff Foster of Washington County. If you need further legal information on this matter, do not hesitate to give me a ring.

Sincerely yours,

RALPH W. FARRIS
Attorney General

January 31, 1949

To J. Wallace Lovell, Warden, Maine State Prison

Jack Welch, Administrative Assistant to the Governor, talked with me this morning in regard to who has authority to return a prisoner who has violated his parole.

Under Sections 19 and 20 of Chapter 136 a prisoner on parole is deemed to be still serving his sentence and is in the legal custody of the Warden and shall be subject at any time to be taken back within the enclosure of the prison for any reason that may be satisfactory to the Warden, and full power to retake and return any such paroled prisoner to the prison from which he was allowed to go at large is expressly conferred upon the Warden of the prison, whose written order will be a sufficient warrant authorizing all officers named therein to return such paroled prisoner to actual custody in the prison from which he was permitted to go at large. When he has returned the parolee to prison, the Warden shall at once report the fact and his reasons therefor to the Parole Board and his action shall stand approved unless reversed by a majority vote of said Board; but no prisoner shall be returned twice for the same offense. . . .

RALPH W. FARRIS
Attorney General