

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

R E P O R T

OF THE

ATTORNEY GENERAL

for the calendar years

1949 - 1950

"A. Conviction of violation of any law of this state or of the United States relating to the manufacture, possession, transportation, or sale of intoxicating liquor, except sales to minors;

"B. Conviction of violation of any law of the United States relating to carrying on the business of a wholesale or retail dealer without a federal tax stamp;

"C. Conviction of the violation or the provisions of section 32 of the United States liquor taxing act of 1934 relating to having in possession distilled spirits in unstamped containers.

"D. Transferring, assigning, or hypothecating a license."

Prior to the amendment in 1947, revocation of licenses was mandatory in the causes marked E, F, G, and H, but that has been relaxed, and these causes were removed from the mandatory revocation provisions and incorporated in subsection II, which leaves it to the discretion of the Commission to suspend or revoke.

It would also seem to me that where the duty to revoke is mandatory, the Commission may not go behind the conviction. Upon proof of the conviction, they cannot inquire into the circumstances, but are bound by the record of the conviction. This would appear to be the intent of the legislature when it enumerated the causes for which the licenses may be suspended or revoked in the discretion of the Commission, and then enumerated the causes for which it said that it shall be the duty of the Commission to revoke.

ABRAHAM BREITBARD

Deputy Attorney General

P. S. There is a bill now in the legislature, L. D. 1042, which would amend the law by putting those causes under Subsection III into Subsection II, thus making all infractions subject to discretionary suspension or revocation.

Another bill, L. D. 1134, would provide an appeal to the courts in all cases. L. D. 1193 also deals with the right of appeal.

March 2, 1949

To Honorable Frederick G. Payne, Governor of Maine
Re: Your Inquiry concerning Probation Officers

The statute, Chapter 136, Section 28, provides for the appointment of one probation officer in any county of the State where in the judgment of the Governor, by and with the consent of the Council, such appointment is desirable. Then in the same section provision is made as follows:

"If in any county it seems to the governor and council necessary to have more than 1 probation officer, the governor, with the consent of the council, may appoint one or more associates, who shall have all the authority under the direction of the probation officer which such probation officer has, and who shall receive for compensation and expenses such sum as the county commissioners of such counties shall deem just and proper."

Under this latter provision the Governor with the advice of the Council may appoint one or more associates who act under the direction of the probation officer with the same authority, if the Governor thinks such additional probation officers are necessary.

The same section expressly exempts Cumberland County, which is governed by a special act so far as that county is concerned. Then also in the County of Androscoggin provision is made by the legislature for two probation officers, one to be designated as the probation officer and one as the assistant probation officer; and this provision also fixes their salaries and that of a clerk or stenographer, and directs the county commissioners to pay it.

I thus feel that in the County of Androscoggin, where the legislature has fixed the number and salaries of probation officers, the provisions of the sections which I have above quoted, would not apply to Androscoggin County.

All other counties would be governed by that provision.

ABRAHAM BREITBARD
Deputy Attorney General

March 3, 1949

To Fred M. Berry, State Auditor
Re: Sheriffs' Fees

I received your memo of March 2nd, relating to the provisions of Chapter 313, P. L. 1947, which has to do with the compensation of sheriffs and their deputies for their services.

Deputy sheriffs are entitled to \$7 a day while performing duties in attendance and services at court, and to incidental expenses, under Sections 1 and 2 of Chapter 313; and to civil fees for serving civil writs, even though they are receiving \$7 a day as deputy sheriffs performing civil duties under this act.

Under Section 3, as you state, all fees chargeable under the statute by a deputy sheriff for the performance of criminal duties with the exception of actual expenses incurred, when charged by deputies receiving \$7, shall be charged, collected and paid over to the county treasurer.

RALPH W. FARRIS
Attorney General

March 7, 1949

To Ernest H. Johnson, State Assessor
Re: Stover Airport

Referring to your memo of February 18th, relating to the above subject matter, where John G. Stover operates a business under the name of Stover Airport, which is unincorporated, and purchases gasoline under the name of Stover Airport and sells to operators of airplanes:

He owns a plane registered in his own name, which is fueled at the Stover Airport. Sales slips are made out when gasoline is placed in his plane. Upon this statement of facts you ask the following question: