

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

March 30, 1949

To Harrison C. Greenleaf, Commissioner of Institutional Service

I have your memo referring to a conversation we had in the middle of March concerning transfers from the State Hospitals to the Pownal State School and from Pownal to a State Hospital under the provisions of Section 13 of Chapter 23, R. S. 1944.

I feel that the phrase, "Any person who is committed to a state charitable or correctional institution, and is under the control of the department," should be interpreted broadly to include State Hospitals and the Pownal State School, as that is what the legislature was dealing with when this law was enacted and it had nothing to do with private charitable hospitals.

RALPH W. FARRIS
Attorney General

March 30, 1949

To Col. Francis J. McCabe, Chief, Maine State Police

I have your memo of March 21st, asking for a ruling on the following questions which were based on an attached hypothetical case presented in a memorandum from Lt. Earle S. Chase, Commanding Officer of the Scarborough Barracks.

"1. Is a member of the Maine State Police expected to enforce the Game Laws in extenuated (sic) circumstances?"

My answer to Question 1 is in the negative, except in cases where he personally observed the game laws of the State being violated.

"2. Does the 'any officer' in the section of the Game Laws relative to shooting dogs chasing deer apply to State Troopers?"

My answer to Question 2 is in the affirmative; but the State trooper has no legal authority to delegate the killing of any dog to a private person when he finds the dog in the act of hunting, chasing or killing deer.

"3. Has a member of the State Police the legal right to act under the Game Laws?"

My answer to Question 3 is in the affirmative. Section 19 of Chapter 33, the Inland Fish and Game Laws, Revision of 1947, provides:

"Sheriffs, deputy sheriffs, police officers and constables are vested with the powers of inland fish and game wardens, . . ."

"4. May a State Trooper or a Game Warden command aid in the performance of his duties to protect the life and property of the State, especially deer?"

In answer to Question 4 I will state that there is no statutory authority for a State Trooper or game warden to command aid in enforcing the fish and game laws of the State; nor can an officer delegate his authority to a private person, the reason being that the game laws are *mala prohibita*, and the persons violating the game laws are not in the commission of a felony. It is a very serious responsibility for an officer to delegate his constituted authority to a private individual.