

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

"To transfer unexpended balance as of June 30, 1942, in Appropriation Account 9065 to Sinking Fund Account 363." You state in the fourth paragraph of your memo that you have found in the files in regard to this matter some correspondence between Mr. Mossman, then Finance Commissioner, and Mr. Hayes, State Auditor at that time. In that correspondence you find that Mr. Hayes questioned this entry and pointed out the provision of Chapter 81 of the Resolves of 1941, An Act Freeing the Carleton Bridge of Tolls, which provided that after sufficient money had been collected from tolls and from excise taxes to retire 45% of the bonds, all tolls and excise taxes received by the State in excess of those necessary to take care of bond retirement, interest charges, etc., as set forth above, shall go into the general highway maintenance fund of the State. You ask my opinion as to whether or not this transfer of \$30,865.57 was rightly made from the Carleton Bridge Operating Account to the Sinking Fund to retire Kennebec Bridge bonds account, or whether it should have been made to the general highway maintenance fund, as stipulated in Chapter 81, Resolves of 1941.

In reply I will state that it is my opinion that the mandate of the legislature as set forth in Chapter 81 of the Resolves of 1941 should have been followed by the Finance Commissioner at that time, and all tolls and excise taxes received by the State in excess of those necessary to take care of bond retirement, interest charges, etc., should have been made to the general highway maintenance fund, as provided by the legislature in said Resolve.

RALPH W. FARRIS

Attorney General

December 19, 1949

To Hubert Ryan, Clerk, County Commissioners' Court,
Franklin County

Re: Fees

I have your letter of December 7th relating to the Judge of the Franklin Municipal Court at Farmington presenting a bill to the County of Franklin in the amount of \$33 for appeal fees at \$1.50 each under the provisions of Section 28 of Chapter 133, R. S. 1944.

I beg to advise that it was the intent of the legislature when the Franklin Municipal Court Act was amended, that the salary of the Judge and his \$400 additional for traveling expenses should be in full for his services; and that all fees should go to the County of Franklin. The salary was set in 1943 at \$800, amended in 1945, raising it to \$1000, and Chapter 95, P&SL 1949 raised the salary to \$1600, allowing not exceeding \$400 for necessary traveling expenses. I have checked with the other municipal courts and the other Judges who are on full salary do not charge any fees. All fees on appeals under Section 28 of Chapter 133 go to the county that pays the salary.

Prior to 1947 Trial Justices received fees for their services. The 1947 Legislature by Chapter 262 of the Public Laws of 1947 provided that their salaries should be determined by the County Commissioners and paid from the county treasury, and that they should receive no other compensation except their salaries established by the County Commissioners. It also provided in Chapter 262 that all fines, costs, fees and forfeitures, except as otherwise provided by law, shall be paid over to their respective counties.

Therefore it has been the intent of the legislature for the past few years to get all Judges, Recorders and Clerks off the fee system; and where a salary is provided by the legislature, with traveling expenses, and the salary is paid by the county, it is my opinion that all fees paid to the Judges and Recorders of the Municipal Court should be paid in to the county.

RALPH W. FARRIS

Attorney General

December 20, 1949

To Lester E. Brown, Chief Warden, Inland Fisheries and Game
Re: Powers of Wardens to Arrest and Prosecute

Answering your memo of December 8th, I will say that under Section 111 any officer authorized to enforce the Inland Fish and Game Laws may without process arrest any violators of said laws, etc., and jurisdiction is hereby granted to all municipal courts in adjoining counties, to be exercised in the same manner as if the offense had been committed in that county.

Section 18 provides that the wardens shall have the authority to serve criminal processes on offenders of the law and to arrest and prosecute camp trespassers or persons committing larceny from any cottage, camp or other building, etc., and they may serve all processes pertaining to the enforcement of any provisions of this Chapter.

It is my opinion that Section 111 and Section 18 should be read together, as Section 111 of Chapter 33 uses the language "to enforce the inland fish and game laws," and Section 18 uses the language, "They may serve all processes pertaining to the enforcement of any provision of this chapter."

RALPH W. FARRIS

Attorney General

December 21, 1949

To Ermo Houston Scott, Deputy Commissioner of Education
Re: Legality of withholding credentials, Normal School, for nonpayment of fees

I have your memo of December 21st, in which you ask me to give you a written opinion on the legal aspects of the following policy:

"No official credentials shall be issued by a Maine state normal school or teachers college in favor of any student or former student, unless that student has met all institutional financial obligations, or has made arrangements satisfactory to the related institutional administration for the eventual payment of such amounts as are receivable."

It is my opinion that the teachers' colleges in Maine and the Board of Education have statutory powers and duties to make rules and regulations relating to normal schools and teachers' colleges, including a rule to the effect that if students do not meet their financial obligations said schools and colleges are legally entitled to withhold their credentials until all financial obligations have been met or proper arrangements for their settlement have been made.