

# 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**

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.

The statute uses this language, "Any student who completes the prescribed course of study and otherwise complies with the regulations of the school shall receive a diploma, etc." You will note the language, "and otherwise complies with the regulations." If a student does not comply with the regulations concerning payment of fees, it is legal for the Board to withhold official credentials until all financial obligations to the institution have been met.

RALPH W. FARRIS  
Attorney General

December 21, 1949

To Albert W. Emmons, Clerk of Courts, York County  
Re: Biddeford Municipal Court, Referees' Fees

I have your letter of November 29th, stating that last winter and spring you had some correspondence with Mr. Breitbard, my former Deputy, relating to fees of a referee appointed by the Biddeford Municipal Court. You state that there is nothing in the general statutes and you cited to him a section of the municipal charter of the City of Biddeford, just prior to his death, and received no reply.

In checking over his correspondence I find your letter of April 20th, addressed to Mr. Breitbard, which was in answer to his of April 14th. You cited Chapter 151 of the Laws of 1855, the Act establishing the municipal court in the City of Biddeford and recited Section 10, which reads as follows:

"Actions pending in this Court may be referred in the same manner as in the Supreme Court, and on the report of Referees to said Municipal Court, judgment may be rendered in the same manner and with like effect as in the Supreme Court."

You state that under this section the Judge of the Municipal Court appointed a Referee last winter. He presented a bill of \$50, approved by the Municipal Court, to the County, and you ask by whom should these fees be paid, the City of Biddeford or the County of York.

In answer I will say that these fees should be paid by the City, if the City receives the fees from the Municipal Court, and by the County if the County is receiving the fees from the Municipal Court.

I have checked an amendment to the 1855 charter, which is Chapter 247 of the Private & Special Laws of 1887, which provides that the Judge shall receive an annual salary of \$1400, payable quarterly out of the County treasury, etc., etc., which shall be in full for his services, and that he shall render to the County Treasurer on the second Tuesday of April and October a signed and sworn statement of all fees received by virtue of his office, etc. In view of this amendment it is my opinion that the County of York should pay Referee's fees.

You asked a second question in regard to the Biddeford Municipal Court, namely whether under the general statutes, in the absence of the Judge, the Recorder of the Municipal Court can hear both civil and criminal matters, and if he can hear civil matters, under what circumstances he can do so.