

# 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**

"I am informed that the subject has currently been engaged under a contract to construct or repair a bridge under the jurisdiction of the State Highway Commission.

"I am also informed that this individual owes Unemployment taxes in the gross amount of \$1439.09.

"Kindly withhold any settlements with this individual until adjustments have been made on the Unemployment taxes due."

This office is now informed that, including interest, the amount due as Unemployment taxes now exceeds \$1800 and that Mr. Reed has never made a claim for payment from the Bridge Division, nor has he brought forward the issue in any way.

I see no reason why the amounts being held by the State should not be credited to the Unemployment Compensation Commission as this would in no way divest Mr. Reed of any of his rights, since if the State's claim for taxes is not well founded, the amount could be refunded to him under the refund provisions of the Employment Security Law.

JOHN S. S. FESSENDEN  
Deputy Attorney General

April 24, 1950

To Carl L. Treworgy, Clerk, Boxing Commission  
Re: Section 9, Chapter 78, R. S. 1944

I have your memo of April 21st, stating that the Commission would like a ruling on the interpretation of the last paragraph of Section 9, the last sentence of which reads:

"In the event the final judgment of the court reverses the finding of the commission, the court finding and order shall be conclusive upon the commission."

I note that you do not ask an interpretation of the true wording of the statute, however, but on the situation that arises when the court upholds the Commission in denying a license.

In my opinion that means that the applicant cannot secure a license unless the Commission so decides.

RALPH W. FARRIS  
Attorney General

April 24, 1950

To Dr. Alonzo H. Garcelon, Division of Dental Health  
Re: Maine Seacoast Missionary Society

I have your memo of April 24th in regard to the program of the Maine Seacoast Missionary Society and note that the people who would participate in this program are dental students in their third and fourth years who are not licensed to practice in any State.

It is my opinion that the statute does not authorize unlicensed persons to practise dentistry in Maine. However, the recent graduates of Harvard Dental School and faculty members of Harvard Dental School who are licensed to practise in Massachusetts could be taken care of under the reciprocity section of your statute.

Section 2 of Chapter 66, R. S., provides that the board "may make such rules, not contrary to law, as they may deem necessary for the performance of their duties, and shall conduct theoretical and practical examinations upon such subjects pertaining to dentistry as are hereinafter prescribed."

Therefore it is my opinion that the Board has no authority to promulgate any regulation under this provision of the Revised Statutes which would permit persons to practise dentistry in Maine, unless they had complied with Sections 3, 4, 5, and 6 of Chapter 66.

RALPH W. FARRIS  
Attorney General

April 25, 1950

To H. H. Harris, State Controller

Re: Fish Screen, Plantation No. 33, Hancock County, Resolves  
of 1949, c. 106

The Department of Inland Fisheries and Game informs me that you wish a memo in regard to paying the vouchers for labor in installing a fish screen on the west branch of the Union River at the outlet of Great Pond in Plantation No. 33, Hancock County, for which an appropriation was made by the legislature in the sum of \$655.68, the State to be liable for only one-half of the cost of said screen; providing that Frank Honey of said Plantation No. 33 shall assume all liability for the maintenance of said screen.

In view of the fact that many of the persons who did work in the installation of said fish screen have filed waivers for pay, it is suggested that the money be paid to the individuals who did the work on the screen upon their presenting proper vouchers for their labor and material, and not make payments of the full amount of the appropriation, to wit, \$655.68, to Frank Honey of Plantation No. 33.

RALPH W. FARRIS  
Attorney General

April 25, 1950

To Ralph A. Jewell, Chairman, Maine Racing Commission

In answer to your inquiry at my office Friday morning, April 21st, on which date you left a letter with me dated April 6, 1950, addressed to you from Attorney John E. Willey of Portland which related to the interpretation and definition of the word "shall" within our Revised Statutes:—

The reason for his letter was perhaps based on my memo to you dated May 17, 1949, in which I stated that the Commission "shall grant such licenses for night harness racing to such applicants only, who shall have and maintain adequate pari-mutuel facilities, etc., etc.," as provided in Section 5 of Chapter 388, P. L. 1949. I wish to state that John is right in his interpretation of the word "shall" and that his cases cited in his letter seem to be in point. I stated in my memo that the words, "The commission shall grant such licenses," are mandatory and in the plural number and I added, "to such applicants only who shall have qualified, etc." It is mandatory in the sense that you can issue licenses only to those who have qualified, but