

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

In all services of papers the hospital authorities should make a notation on the patient's record in the office that certain papers were served on the patient or the superintendent of the hospital, the nature of the legal documents, and reference of same to the Commissioner of Institutional Service with the dates. The Commissioner in turn will refer the papers to the Attorney General or his Deputy.

The appointment of a guardian is sometimes given by publication and the patients are not served, but the superintendent of the institution or this office is usually advised by the attorney who petitions for such appointment.

I do not believe that any Superior Court Judge in this State would hear a divorce without the return of the officer that service had been made upon a patient confined in either of the State Hospitals. I have had several divorce papers forwarded to my office by Dr. Tyson since I have been Attorney General.

You may advise Dr. Pooler that insanity is not a cause for divorce in this State and that the statutory causes for divorce alleged must be proven before the court.

During my experience no judge has ever heard a divorce case without proper legal service having been endorsed on the writ by the deputy sheriff.

Of course we could have a statute enacted at this coming legislature that the heads of all institutions shall make a record of all papers served on patients committed to their care and shall refer all papers served upon patients or upon heads of institutions to the Attorney General who is attorney for the institutions under the statute.

If a guardian has not already been appointed for Zoe Goodness Dore of Skowhegan, who is now an inmate of the Bangor State Hospital, it would be proper for Dr. Pooler to have an attorney apply for his appointment as guardian of her estate and then the money now in the Skowhegan Savings Bank will be transferred to the name of the guardian. In that way these relatives and friends cannot get it away from her, and the State's interest will be protected.

I am sorry I have been late in answering your memo, but I have been pressed with court cases and have been absent from the State House since your memo arrived.

RALPH W. FARRIS
Attorney General

October 26, 1950

To the State Highway Commission
Subject: Traffic Survey

Pursuant to the request of the Governor and Council, I have studied the laws of the State relative to the right of the State Highway Commission to undertake to cause a traffic survey to be made for future highway purposes between the city of Portland, Maine, and the city of Bangor, Maine.

It is understood that the purpose of such traffic survey is to assist in determining the feasibility of extending the Maine Turnpike beyond its present terminal at Portland, Maine, to points to be determined as a result of the survey, or, if the survey so indicates, to plan for or provide for other highway construction between the two mentioned points.

Chapter 69 of the Private & Special Laws of 1941, which is the Act creating the Maine Turnpike Authority, contemplates that the State Highway Commission shall perform and shall have authority over a number of the phases of the activities assigned to the Maine Turnpike Authority and in some instances shall act in cooperation with such Authority. Specific authority is given in paragraph (d) of Section 3 for the State Highway Commission to undertake, among other things, traffic surveys, and any expense connected therewith which is in connection with the construction of the turnpike shall be regarded as a part of the cost of the turnpike and such expense shall be reimbursed to the State Highway Commission out of the proceeds of the turnpike revenue bonds which are issued in connection with such construction.

Chapter 208 of the Private & Special Laws of 1949 is the Act which makes allocations from the general highway fund for the fiscal years ending June 30, 1950 and June 30, 1951. Paragraph V of Section 2 thereof authorizes expenditures from the unappropriated general highway fund surplus, with the approval of the Governor and Council, for extra administrative costs not anticipated in the budget of any department or agency receiving allocations from the general highway fund. It is apparent that in the operation of any large transportation network the cost of making traffic surveys is an administrative expense, which of course has been heretofore recognized in connection with previous surveys conducted by the State Highway Commission. It follows therefore that if there are funds available the State Highway Commission has the authority, if it so desires, to cause the proposed traffic survey to be made with the approval of the Governor and Council.

JOHN S. S. FESSENDEN
Deputy Attorney General

October 30, 1950

To Everett F. Greaton, Executive Director, Maine Development Commission
Re: Research Fellowship

I have your letter of October 26th in which you state that in the fiscal year 1948-49 the Potato Tax Advisory Committee set up in their budget the amount of \$1700 to be spent for a Research Fellowship at the University of Maine. This sum was not spent in that year and was carried over into the fiscal year 1950-51.

You state that there are students at the University of Maine now working on this Fellowship and that some expense has been incurred against this account, but that the Controller's office has raised a question whether an item of this kind comes within the scope of the Potato Tax Law. You therefore ask my opinion on this item.

Section 215 of the Potato Tax Act provides, under subsection 4, that funds remaining over after taking care of the first three subsections of said section may be expended by the Commission to carry out the purposes outlined in said subsections, as it may determine. If this account is spent for a research fellowship at the University to determine better methods of production and merchandising of potatoes, etc., it would be a legitimate item of expense and would come within the scope of the Potato Tax Law.

RALPH W. FARRIS
Attorney General