STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1951 - 1954

reserve battalions. This was clarified by Chapter 273 of the Public Laws of 1951, which was the Act which revised the State Civil Defense Law, and provided specifically for the power of arrest, by amending Section 7 of the Civil Defense Law. I would answer, therefore, that if the auxiliary policeman was a member of a police section of a mobile reserve battalion, he would have the authority without being deputized in Town B; otherwise he would not have the authority.

JOHN S. S. FESSENDEN
Deputy Attorney General

May 31, 1951

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Right of Access to Great Ponds

Reference is made to your memorandum of May 18, 1951, in which you requested an opinion on the subject of the public's right of access to "great ponds".

It would not be feasible for the Attorney General's office to write an opinion on the subject of the public's right of access to great ponds since such an opinion would necessarily be of an extended length. While the opinion might be entirely adequate as to the law, the important thing in each case would be the facts, and the application of the law to the facts would be controlling in each case.

The law has been adequately and completely expressed in the Opinion of the Justices found at 118 Maine 503, which Opinion of the Justices in part affirms the decision in the case of *Barrows v. McDermott,* 73 Maine 441. The actual rule of law, very briefly stated, is as follows:

"Any person has the right to go to a great pond on foot through unenclosed woodlands belonging to another and to take fish there; but the privilege must be exercised in the light of the authority by which it is conferred, in that he must see to it that he does not trespass on any man's corn or meadow, tillage or woodland."

JOHN S. S. FESSENDEN
Deputy Attorney General

June 4, 1951

To the Maine Real Estate Commission
Re: Irrevocable Consent

With reference to your memo of May 22, 1951, in which you inquire whether or not a new irrevocable consent from out-of-state brokers should be required every six years, it is our opinion that such a practice, while not absolutely necessary, is one which is probably the safest for all concerned.

It is also recommended that when an out-of-state broker has failed to renew his license and is required by the Commission to file a new application, then in such instance that out-of-state broker should be required to file a new

irrevocable consent, even if in the particular instance the original irrevocable consent has been in effect less than six years.

JAMES G. FROST
Assistant Attorney General

June 8, 1951

To Norman U. Greenlaw, Commissioner of Institutional Service
Re: Good Time Credits for Parole Violators

In response to your memo of May 3d, in which you inquire the method of computing the length of service owed by a parole violator to the State when he has broken his parole and been returned to the institution, we call your attention to Section 22 of Chapter 136 of the Revised Statutes of 1944, which provides that a prisoner violating his parole shall be considered as an escaped prisoner.

> ". . . The length of service owed the state in any such case shall be determined by deducting from the maximum sentence the time from date of commitment to the prison to date of violation of parole and such prisoner shall forfeit any deduction made from his sentence by reason of faithful observance of the rules and requirements of the prison prior to parole or while on parole. . ."

For example, assume the prisoner was committed on January 20, 1942, for 2-4 years for the crime of larceny.

Assume also that he was paroled on August 27, 1943, and he would be entitled to discharge, if he had fully observed the conditions of his parole, on April 21, 1945.

Assume, however, that on January 20, 1944, the prisoner violated his parole.

Applying the formula prescribed by the statute, the time from date of commitment to the prison to date of violation of parole (2 years) should be subtracted from the maximum sentence (4 years):

4 years (maximum sentence)
2 years (time from date of commitment to date of violation of parole)

Length of service owed 2 years.

The prisoner may in the future be granted good time allowances, or may later be reparoled, in the discretion of the parole board.

As to good time credits the prisoner had earned up to the date of violation of parole, such deduction made from his sentence shall be forfeited.

With reference to good time credits accrued by prisoners prior to July 9, 1943, and to the inability of the State to take away those credits because of the ex post facto effect of such action, attention is drawn to a letter to your office dated February 29, 1944, from Abraham Breitbard, Deputy Attorney General, Report of the Attorney General 1943-1944, page 120.

JAMES G. FROST
Assistant Attorney General