

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

It is our opinion that Chapter 104, P. L. 1951, is an ordinary act and not an emergency measure and, therefore, became effective in 90 days after the close of the legislative session, that is, on August 20, 1951, therefore becoming effective on a date later than the completion of those evening school programs, and that, as a result, the sums due these particular schools are 2/3 the amount paid for such instruction, and not 1/2 the amounts paid for such instruction.

JAMES G. FROST
Assistant Attorney General

September 26, 1951

To Frank S. Carpenter, Treasurer of State
Re: Refunding Highway and Bridge Bonds

By Chapter 209, P&SL 1951, there was enacted An Act to Provide for the Issuance of Bonds of the State to Refund Kennebec Bridge Loan Bonds. It is stated in that Act that the Treasurer of State is authorized to issue refunding bonds of the State with the approval of the Governor and Council. This law went into effect on August 20, 1951.

Going into effect on the same day was Chapter 338, P. L. 1951, An Act Relating to Method of Issuance of State Highway and Bridge Bonds, which provided for an Economic Advisory Board, which board would be consulted by the Governor and Council in relation to the issuance of such highway and bridge bonds.

You state that as of this date the members of the Economic Advisory Board have not been appointed; that you find it necessary to consider the issuance of bonds as provided for in Chapter 209, P&SL 1951. It is your opinion that you should not delay the issuance of such bonds until the Economic Advisory Committee has been appointed, and you ask if it is necessary that you do wait until such board has been appointed.

Refunding bonds merely change the form of the indebtedness, being originally authorized by the Governor and Council. It is the opinion of this office that, being merely a change in the form of indebtedness, refunding bonds may be issued without consultation of the Governor and Council with the Economic Advisory Board. Of course, approval must still be had by the Governor and Council. We do not suggest that this will be the standard procedure, but advise you to inform the Governor of the necessity of appointing this Economic Advisory Board and suggest that in the future all bonds, whether original bonds or refunding bonds be issued only with the approval of the Governor and Council after consultation with the Economic Advisory Board.

JAMES G. FROST
Assistant Attorney General

October 2, 1951

To Col. Francis J. McCabe, Chief, Maine State Police
Re: Salary of Major Young

Chapter 408, Public Laws, 1951, is an Act designed to increase the salaries

of members of the State Police. The fifth paragraph of the Act relates to the salary of majors in the State Police, stating:

“On appointment as a major, the member shall receive a salary of \$86 per week, and thereafter he shall receive an increase in salary of \$4 per week at the beginning of each fiscal year until a maximum salary of \$107 per week is reached.”

The only major in the Maine State Police organization is the Deputy Chief, and in conflict with Chapter 408, Public Laws, 1951, which purports to control the salary of majors is the first paragraph of Section 5, Chapter 13, R. S. 1944, which paragraph states:

“The governor and council shall determine the salary of the chief and deputy chief.”

This paragraph remains unchanged throughout the amendments of 1947, 1949, and 1951, and is effective today.

There arises, then, the question which provision governs the salary of Major Young, Deputy Chief of the Maine State Police: the first paragraph of Section 5, Chapter 13, R. S. 1944, or the fifth paragraph of Chapter 408, Public Laws of 1951.

In considering this problem, attention should first be directed to that Council Order which provided that the Deputy Chief shall hold the rank of major. The Deputy Chief is, then, in effect, *ex officio* a major. To be further considered are the rules and regulations of the Maine State Police, the first paragraph of which contains the provision that there shall be only 1 major in the organization of the State Police.

As a result, the Statutes, Council Orders, and rules and regulations relative to this problem point to the fact that the State Police have only 1 major; that that major is an *ex officio* major by virtue of his being the Deputy Chief; and that the salary of the Deputy Chief is determined by the Governor and Council.

It is our opinion, therefore, that the salary of Major Young, Deputy Chief, is determined by the Governor and Council, and not controlled by Chapter 408, Public Laws, 1951. We therefore recommend that a Council Order be submitted requesting that the salary of Major Young be increased, retroactive to August 20th, in an amount equal to that amount which he would have received had his salary been controlled by Chapter 408.

JAMES G. FROST
Assistant Attorney General

October 3, 1951

To Doris St. Pierre, Secretary, Real Estate Commission
Re: License to Married Woman

You ask our opinion as to whether or not it is legal to issue a license to a married woman in her maiden name.

A married woman's name consists in law of her own Christian name and her husband's surname, marriage conferring on her the surname of her hus-