

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

Section 204 of Chapter 37, R. S. 1944, provided in part that the Commissioner of Education could make special allocations, not exceeding \$500 for a plan or project approved by the Commissioner.

This section was repealed by Chapter 386, Section 2, P. L. 1951, which chapter states:

"The provisions of this section shall become effective for the allocations to be made in the year 1952. It is the intent of the legislature that the 1951 allocations be made under the provisions of law as they existed prior to the effective date of this section."

The question is then asked: "Can the commissioner of education make allocations under this section through the State's 1951 fiscal year (current fiscal year) for projects developed prior to the effective date of the general purpose aid law?"

It is the opinion of this office that the effective date provision of Section 2, Chapter 386, Public Laws 1951, is directed to the calendar year and not to the State's fiscal year.

Quite generally, the word "year", unless otherwise expressed, is always intended to mean the calendar year. Any presumption in favor of its referring to a fiscal year, because it is applied to matters of revenue, is overcome by the wording of the statute and the matters there considered.

The usual meaning of the word "year", in addition to the construction of the repealing statute compels us to state that after December 31, 1951, no allocation can be made under the provision of the now repealed Section 204 of Chapter 37, R. S.

Presumably, allocations are made at a particular time (our understanding is that they are made by your department during the month of December.) It would appear that the effect of Section 2, Chapter 386, P. L. 1951, was to permit allocations made up to December 31, 1951, to be made under the old law and to require subsequent allocations, after December 31, 1951, to be made under the provisions of Section 1, Chapter 386, P. L. 1951.

JAMES G. FROST
Assistant Attorney General

February 4, 1952

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Section 56-B — canoes

We have your memo of January 30, 1952 asking an interpretation of Section 56-B of Chapter 33, as amended.

That portion of 56-B in which we are interested reads as follows:

"Any boat, except a canoe, maintained for hire and boats furnished by the owners or operators of state licensed boys' and girls' camps upon any inland body of water to which the public has right of access shall be properly painted, repaired and fitted with oars. Any canoe maintained for hire upon any inland body of water to which the public has right of access shall be properly painted, repaired and fitted with paddles."

You inquire if the above quoted paragraph, pertaining to boats furnished by owners or operators of state licensed boys' and girls' camps includes canoes as well as other boats.

Actually, the first sentence of the above quoted paragraph is susceptible of two interpretations, one of which borders on the ridiculous: — that is, requiring that oars be furnished to canoes. We are of the opinion that such is not the intent of the law, but that a proper interpretation of that paragraph would exclude canoes from the definition of boats which are required by the owners of state licensed boys' and girls' camps to be properly painted, repaired, and fitted with oars.

JAMES G. FROST
Assistant Attorney General

February 6, 1952

To Honorable Frederick G. Payne, Governor of Maine
Re: Portland Municipal Court

With respect to whether or not the Acts establishing a Municipal Court for the City of Portland demand that the judge should be a resident of the City of Portland, it is our opinion that there is no part of those Acts which can be used to show that the judge must be a resident of Portland.

The Municipal Court of the City of Portland was established by an Act of the Legislature in 1825 (Chapter CCXCIV, Public Laws).

This Municipal Court was abolished in 1855 (Chapter 159) and in its stead there was established a police court in that city. Here again no provision was made with respect to residency of the judge of that court.

In 1856 the Police Court was abolished and a Municipal Court reestablished (Chapter 204, Public Laws 1856).

Under the Revised Statutes of 1841 there was a general provision (Section 1, Chapter 116) to this effect:

“Every justice of the peace, except those residing in any city or town, within which a municipal or police court now is, or may be established, and the judge of such court is not interested, shall have power to hold a court within his county. . .”

Basically, the jurisdiction of the Justices of the Peace and of the Municipal Courts, at the time in question, was concurrent. The effect of the above quoted section and of Section 14 of Chapter 204, Public Laws 1856, was to prohibit the Justices of the Peace residing in the City of Portland from exercising jurisdiction.

Section 13, Chapter 204, Public Laws 1856, merely provides that, in the event there is a vacancy in the office of the Municipal Court Judgeship, the Justices of the Peace in that city may again exercise their jurisdiction and hear civil and criminal trials.

It is upon consideration of the provisions of the Revised Statutes of 1841 and their relationship to Section 13 of Chapter 204 of the Public Laws of