

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

November 26, 1952

To Robert L. Dow, Commissioner of Sea and Shore Fisheries
Re: Continuous Survey of Closed Clam Areas

This office has been asked for an interpretation relative to Chapter 188 of the Resolves of 1949:

"That the sum of \$25,000 be, and hereby is, appropriated from the Maine Post War Public Works Reserve for the purpose of establishing and maintaining a continuous bacteriological and sanitary survey of closed clam areas and for the purpose of a mussel control program for the fiscal years 1949-1950 and 1950-1951, under the direction of the commissioner of sea and shore fisheries; and be it further

"Resolved: That the commissioner of sea and shore fisheries be, and hereby is, directed to obtain adequate personnel and equipment for the survey of closed clam areas with a view to establishing facts whereby such areas may be opened; and be it further

"Resolved: That the data be presented to the commissioner of agriculture for action under the provisions of section 94 of chapter 34 of the revised statutes, as revised; and be it further

"Resolved: That any part of such \$25,000 may be used at the discretion of the commissioner of sea and shore fisheries for the purpose of controlling and eliminating the encroachment of mussels on productive clam flats."

You have asked if, under this Resolve, the Commissioner has the legal right to expend a portion of this money for the following purposes:

"1. To assist those communities where a local pollution problem exists by obtaining more exact information on the degree of contamination and the value of the clams in the area.

"2. To obtain more specific information in order that recommendations may be made to the U. S. Public Health Service on the characteristics of clams in relation to pollution."

With respect to Question No. 1, the answer is, Yes. The purpose of the Resolve was to inaugurate a continuous bacteriological and sanitary survey of closed clam areas for the purpose of establishing facts whereby such areas may be opened. The question is within the intent of the Resolve if such a system relates to the closed clam areas.

The answer to Question No. 2 is, Yes. In view of the incorporation in this Resolve of section 94 of Chapter 34, which section has reference to the United States Public Health Service and that department's regulations and standards of purity, it would seem that the objective of your second question is not inconsistent with the intent of the Resolve.

JAMES G. FROST
Deputy Attorney General