

# 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

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years  
1951 - 1954

This office would appreciate it very much if in the future, when opinions are requested concerning particular provisions of our laws, reference be made to the section which gives rise to the problem. It will expedite answers and be very helpful to this office.

JAMES GLYNN FROST  
Deputy Attorney General

May 7, 1954

To Nellie French Stevens, Superintendent, State School for Girls  
Re: Defective Mittimus

We have your memo and copy of mittimus issuing from the Western Washington Municipal Court.

You inquire as to the legality of the commitment papers, inasmuch as that portion of the commitment which refers to notice being given to the parent or the guardian and to the Department of Health and Welfare has been x'd out.

Notice or lack of notice in such an instance goes to the jurisdiction of the court and may be ground in future for some legal action. However, I do not feel that any action should be taken by you relative to this matter.

It is our opinion that you should continue holding the girl in your custody until such time as the court might release her, otherwise until she is released under your statute. . .

JAMES GLYNN FROST  
Deputy Attorney General

May 11, 1954

To A. D. Nutting, Forest Commissioner  
Re: Right of Fire Wardens to Require Assistance

We have your memo in which you raise a question regarding the duties of a State District Forest Fire Warden, as outlined in Chapter 355, Section 72-D, of the Public Laws of 1949:

"The part they refer to is 'shall have and enjoy the same rights as a sheriff to require aid in executing the duties of his office.' We have always thought this referred to his rights to appoint deputy fire wardens, as a sheriff has deputies for his work. However, some of our wardens interpreted it to mean that a state district forest fire warden could appoint a person to act as a deputy sheriff or constable while serving on a forest fire.

"I would like an interpretation as to whether the law means he can appoint only deputy forest fire wardens, or can he appoint someone to serve as a constable or deputy sheriff."

In comparing the right of a fire warden to require the same aid as the sheriff may require in executing the duties of his office, consideration should be given to the statute permitting a sheriff to require aid. We therefore quote in full Section 217 of Chapter 79, R. S. 1944:

"Aid may be required by officer; penalty for refusal. Any officer aforesaid, in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses to do so, forfeits to the county not less than \$3, nor more than \$30; and if he does not forthwith pay such fine, the court may imprison him for not more than 30 days."

We feel that the right of a forest fire warden to require aid is limited by Section 217 and, without determining whether or not the person required to aid is in effect a constable or deputy sheriff, we would state that when so requested he is compelled by law to render the assistance demanded, under pain of penalty if he refuses.

JAMES GLYNN FROST  
Deputy Attorney General

May 11, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Moosehorn Refuge

This is in response to your memo of April 8th, to which memo you attached a letter from the Calais Rod and Gun Club complaining that Mr. Radway, Supervisor of the Moosehorn Refuge, has employed trappers to remove muskrat from the Refuge, selling the pelts in the open market.

Initially, it is our understanding that Moosehorn Refuge is land entirely owned by the Federal Government and administered by the Department of the Interior. Where there is an excess of animals on federally owned land, which cause damage or injury to the land, it is within the power of the United States to cause their numbers to be reduced by killing such animals, the game laws or any other statutes of the State to the contrary notwithstanding. See *Hunt v. U. S.*, 278 U. S. 96.

In view of such circumstances and law, we would suggest that the Calais Rod and Gun Club contact Mr. Radway.

JAMES GLYNN FROST  
Deputy Attorney General

May 11, 1954

To Donald F. Ellis, Secretary, Board of Registration in Optometry  
Re: Delinquents

We have your letter of May 6th, in which you state that your Board would like to revoke the licenses of several persons who have failed to pay their annual renewal fees, required by the provisions of Section 5 of Chapter 69, R. S. 1944, as amended. You further state that your Board will meet May 15th and that you would appreciate our advising you before you then consider this matter.