

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

“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 Mooschorn 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.

Section 5 of Chapter 69 reads as follows:

“Every registered optometrist shall annually, before the 1st day of April, pay to the board the sum of \$5. as a license renewal fee for each year; and in case of default in such payment by any person his certificate may be revoked by the board.”

In view of the fact that your Board has duly notified on two occasions those persons who are delinquent, it is our opinion that under the above quoted statute you have the discretion to revoke the certificates of such registered optometrists. You should keep complete records of the minutes of the meeting, at which a majority of your Board must be present, in revoking certificates.

We would at this time point out that the revocation of a license carries with it a more severe penalty than the suspension of a license. When a license is suspended for a time certain, it is automatically returned upon the expiration of the suspension period. With respect, however, to revocation, the general rule appears to be that one whose license is revoked loses all rights and must start anew, presumably with an examination.

JAMES GLYNN FROST  
Deputy Attorney General

May 11, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Sale of Land

This is in response to your memo relative to the letters of Hans M. Hansen, who desires to purchase a small portion of property owned by your department. You ask this office for the procedure to be followed in such sale.

Section 4-A of Chapter 33 of the Revised Statutes, as amended, reads:

“The governor and council on recommendation of the commissioner may sell and convey on behalf of the state the interests of the state in property taken or acquired by purchase under this chapter and deemed no longer necessary for the purposes hereof.”

Your first step should be to have one of your men survey, plot, and describe the area to be sold. Request should then be made to the Governor and Council to sell the land in question, and it is our opinion that such sale should be placed on bid. This office will draw the deed for the sale, incorporating the description to be supplied by your department. . .

JAMES GLYNN FROST  
Deputy Attorney General

May 13, 1954

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Boothbay Harbor Memorial Library

This is in response to your request for an opinion as to whether the Boothbay Harbor Memorial Library could be covered under your agreement with the Town of Boothbay Harbor (Social Security) or should be covered by the Bureau of Internal Revenue as a non-profit organization.