

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years  
1951 - 1954

June 3, 1954

To A. D. Nutting, Forest Commissioner  
Re: Baxter State Park — Hunting

. . . You seek an opinion on whether the Baxter State Park Authority can exclude hunting from the areas which were accepted by the Governor and Council, or whether legislation is required to set the areas aside as a game sanctuary.

Governor Baxter has pointed out Section 127 of Chapter 33 and asks if that section would protect his gift without any additional legislation.

It is our opinion that Section 127 would not apply.

However, a reading of Sections 31 and 32 of Chapter 32, R. S. as amended, would indicate that Governor Baxter's latest gift to the State of Maine comes within the jurisdiction and protection of the Baxter State Park Authority. Section 31-A permits the Authority to establish rules and regulations necessary for the protection and preservation of such property and for the proper observance of the conditions and restrictions expressed in the deeds of trust of the Park to the State. It is our opinion that under such a provision the Authority may by rule and regulation enforce any of the restrictions or limitations contained in the deed giving the property to the State.

In this manner hunting can properly be prohibited on the area recently granted to the State by Governor Baxter.

JAMES GLYNN FROST  
Deputy Attorney General

June 3, 1954

To Fred L. Kenney, Director of Finance  
Re: Chapter 108, Resolves of 1953

The above captioned Resolve appropriated the sum of \$10,200 for the construction of a laboratory at the Madawaska Training School. This request had initially been prepared and presented to the Governor's Budget Committee and it is our understanding there deleted. Subsequently it was presented to the Legislature and passed. Initially the request had been for the construction of a laboratory and for other items including furniture. Although in the present Resolve this furniture item does not appear, nevertheless the sum initially requested was granted in the Resolve.

Construction of the laboratory has been completed at a saving of \$5,981. and the question is now asked if this remaining sum would be available for the purpose of equipping the laboratory, so that it can be used for the teaching of chemistry, physics and biology.

It is the opinion of this office that it could not have been the intent of the Legislature to appropriate a sum of money to construct the shell of a building to be used as a laboratory and leave it in that condition without the proper equipment to conduct the courses which were intended to be taught at the laboratory. We believe that it is proper to expend up to the amount of the

appropriation for the purpose of securing a laboratory equipped for the purposes of teaching the classes usually taught in such a laboratory.

JAMES GLYNN FROST  
Deputy Attorney General

June 9, 1954

To Joseph A. P. Flynn, Executive Secretary, Electricians Examining Board  
Re: Per Diem for Board Members

This is response to your memo of May 26th in which you ask, "Whether or not the Board Members, while engaged in traveling to and from a Board meeting on a day when there is no meeting, would be entitled to their per diem allowance?"

The statute relating to per diem payments for members of the Board reads:

"The members of the board shall each be allowed the sum of \$10 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for license, and for any necessary hearings."

Section 3, Chapter 307, P. L. 1953.

It is the opinion of this office that a member of the Board is entitled to a per diem compensation for that day in which it is necessary for that member to travel to or from the place of meeting of the Board.

A member residing at a distance from the place of meeting "is not engaged in his own private business while traveling to and from the place of meeting, but is then employed in and about the matter of his 'attendance' upon a session" and it is our opinion that the legislature intended to compensate members for time necessarily and actually employed in the service of the State in their capacity as members of the Board.

We are personally aware that distances between cities and towns in this State are in some instances such that it is not possible for a person to leave his home the same day that a meeting is scheduled and negotiate the journey in time to be present for the meeting. So, too, the return trip may be similarly lengthy.

It is for this reason and no other that the present opinion is being given and it is not to be construed as being applicable to a case where a member, regardless of where his home may be, decides to go to the meeting a day early, or leave for home the day after the meeting. In all cases the Controller is vested with the discretion to determine if per diem in such a case would be a reasonable charge and payment.

JAMES GLYNN FROST  
Deputy Attorney General

June 17, 1954

To Israel Bernstein, Esquire  
Re: Drug Sundries

. . . You state that it is agreed by the Maine Board of Commissioners of Pharmacy and yourself as attorney for The Jayson Company, that the dif-