

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)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

January 11, 1955

To William Fenton, County Attorney, Hancock County
Re: Collection of Fine

. . . You cite an instance where a respondent was convicted of the offense of high hunting and was sentenced as follows: "Fine \$400.00 and no costs, and thirty days in Hancock County Jail," that the respondent did not pay his fine, is now in jail, serving the thirty-day sentence, and that he is to be released on January 16th. In the absence of a provision in the sentence to the effect that upon default of the payment of the fine respondent shall be further confined in jail until the fine is paid, you ask if the sheriff will be obliged to release him without payment of the fine or whether the respondent can be held in jail for a further period.

It is our opinion that, the court having failed at the time of the sentence to collect the fine or to make provision for sentence in the event of default, the sheriff is without authority to retain the prisoner beyond the thirty-day period defined in the sentence.

We believe you are aware of the Maine cases which hold that once a respondent begins serving a sentence the court no longer retains jurisdiction; and we would also cite you Tuttle v. Lang, 100 Maine 123.

James Glynn Frost
Deputy Attorney General

jgf/c

To the same, January 13th.

. . . You inquire if we are familiar with any process by which the collection of the \$400. fine imposed could be enforced and draw our attention to Section 4 of Chapter 150 of the Revised Statutes of 1954, which provides that the clerk of the court shall issue warrants of distress or such other process as the court finds necessary in the event of failure to pay a fine. Generally, the warrant of distress is used as a method of enforcing the collection of taxes. We have consulted with our Assistants assigned to the Bureau of Taxation and they state that this warrant is uncommon, in fact never used by the State. Sheriffs seem reluctant to exercise their powers under this warrant and frequently call for excessive bonds before they will act. However, if you are interested in this procedure, forms which can be adapted to your use can be found in Sullivan's "Civil Officer".

Section 18 of Chapter 145 would seem to us a more effective method of enforcing payment of a fine. This section provides that all fines and forfeitures imposed as punishment. . . may, when no other mode is expressly provided, be recovered by indictment. In our opinion this would be a safer procedure.

jgf/c

James Glynn Frost
Deputy Attorney General