

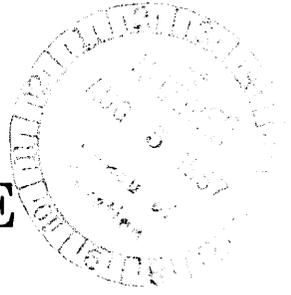
MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT
OF THE
ATTORNEY GENERAL

for the calendar years
1955 - 1956

the purpose of protecting game animals, birds, and fish. That section further provides that it is a crime to hunt, trap, etc., on these lands except under such rules and regulations as the Secretary of the Interior may from time to time prescribe.

It would appear to me that if the manager is authorized by the Department of the Interior or its properly designated agent to remove the excessive amount of beaver on this Refuge, he is fully empowered to do so under federal law, and that federal law supersedes State law.

Covering a point not requested in your inquiry, from the above it follows that it is not necessary to tag the beaver so taken, under the provisions of Section 100 of your chapter. In order to protect the individuals taking same, however, Mr. Radway should give some sort of certificate to the trapper in order to protect him from prosecution under Section 100; otherwise he may find it rather hard to prepare his defense.

ROGER A. PUTNAM
Assistant Attorney General

January 10, 1955

To William P. Donahue, County Attorney, York County

Re: Medical Examiners' Fees

. . . You ask for an interpretation of Section 252 of Chapter 89 of the Revised Statutes of 1954, which section reads in part as follows:

"Every medical examiner shall render an account of the expense of each case . . . and the fees allowed the medical examiner shall not exceed the following, viz: review and inquiry without an autopsy, \$15; for review and autopsy, \$50."

You inquire if a medical examiner who first conducts a review and inquiry without autopsy and later an autopsy at the request of this office is entitled to collect both the \$15 fee and the \$50 fee or whether he is entitled only to the \$50.

We believe that the clear wording of this statute precludes any determination other than that the combination of view and autopsy calls for a \$50 fee. We do not believe that the fact that the Attorney General has, in a particular instance, authorized the autopsy should call for the medical examiner's receiving both fees. It fairly often happens that the Attorney General authorizes the autopsy because the County Attorney is for the time being unavailable.

JAMES GLYNN FROST
Deputy Attorney General

January 14, 1955

To Colonel Robert Marx, Chief, Maine State Police

Re: Failure to forward Appeal Seasonably

We have your memo . . . requesting an opinion from this office.

It appears that a person was arraigned before a trial justice, found guilty, and sentenced to imprisonment and to pay a fine with costs. The respondent appealed to the September term of the Cumberland County Superior Court, but the trial justice through an oversight failed to send the appeal papers in time for the matter to be heard at that term of court, in fact after that term had closed.

You ask what procedure should now be followed to have this matter properly presented to the court.

We feel that the matter should not be again presented to the trial court or a municipal court, but that the County Attorney should handle the case by way of indictment before the Superior Court. In that way there will be no question of jurisdiction of the trial court.

JAMES GLYNN FROST
Deputy Attorney General

January 18, 1955

To K. B. Burns, Business Manager, Institutional Service

Re: Repairs at Pownal State School

I have your inquiry of January 17th relating to Chapter 209, Resolves of 1953, which provided funds for certain emergency repairs at Pownal State School.

We note that in the body of this Resolve there is a total sum of money appropriated from the General Fund in the amount of \$97,700. Below that appropriation are set out certain sums against certain repairs to be made, for instance, the sum of \$4500 was allocated to repair the old section of the water reservoir, while the sum of \$14,000 was given to complete the kitchen.

The question arises as to whether the sum of money saved under one subdivision of this appropriation may be used to supplement the funds in another subsection where the funds appropriated therefor have proved insufficient.

It is our opinion that the set-up on this Resolve shows a legislative intent to line-budget the total sum. That being true, the money must be expended only for the purposes indicated and cannot be transferred from one to another. Only the legislature can correct this deficiency.

ROGER A. PUTNAM
Assistant Attorney General

January 27, 1955

To Ray L. Littlefield, Trial Justice, Scarboro

Re: Suspension of Driving Licenses

We have your letter of January 22, 1955, in which you ask for an interpretation of Section 166 of Chapter 22 of the Revised Statutes of 1954. That section reads as follows:

“In addition to any other penalty provided in this chapter and imposed by any court or trial justice upon any person for violation of any provision of this chapter, the court or trial justice may suspend an operator's license for a period not exceeding 10 days, in which case the magistrate shall take up the license certificate of such person, who shall forthwith surrender the same and forward it by registered mail to the secretary of state. The secretary of state may thereupon grant a hearing and take such further action relative to suspending, revoking or restoring such license or the registration of the vehicle operated thereunder as he deems necessary.”