

# MAINE STATE LEGISLATURE

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February 29, 1956

No.

To Roland H. Cobb, Commissioner of Inland Fisheries and Game  
Re: Unpaid Fine

This is in response to your letter of January 23, 1956, in which you posed two questions, the second of which, relating to the Spednic Chain of Lakes and your right to require a license under Section 66 of Chapter 37 for motor boats that have been licensed by the Coast Guard, we are not yet prepared to answer.

Your first problem relates to a person who was convicted in a trial justice court on a night-hunting charge on October 17, 1953, fined \$200 and costs, and placed on probation for two years with the condition that the fine be paid during that two-year period. The fine has not been paid and the justice who heard the case is now deceased. You ask if the new judge can issue a mittimus committing this man to jail in default of payment of fine.

It is our opinion that such mittimus may not now be issued. The sentence of the court generally takes effect and is enforced the day it is pronounced, and if the magistrate voluntarily discharges the convict from the custody, without day, he cannot afterward be taken in execution, certainly not after the time named for his imprisonment has elapsed. Tuttle v. Lang, 100 Maine 123.

We are of the opinion that the court has no jurisdiction of the case or the person under the circumstances above cited.

James Glynn Frest  
Deputy Attorney General

jgf/c