

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

which sets forth the position which your office took on the question of the taxing of motor vehicles of foreign manufacture and imported motor vehicles on that date, and which has been followed since. Under that memorandum "the 'maker's list price' of a foreign car for the purpose of motor vehicle excising includes custom duties and transportation to the port of entry," and said memo provides a price list on 1955 and 1956 Volkswagens, supplied by Hanson-MacPhee Engineering Company, New England distributors.

You state that a question has been raised as to whether the excise tax with respect to foreign motor vehicles should be based on the retail price at the port of entry or at the retail price at point of manufacture, which would not include duty or transportation charges to this country.

You wish the advice of the Attorney General as to whether your office is correct in taking the position noted above with respect to excise tax on a foreign motor vehicle.

I have discussed your memo and the attached memo with the Attorney General, and we are of the opinion that the position you have taken on this question is the only practicable one for a uniform "maker's list price" on foreign cars for the guidance of the many excise tax collectors of this State, and we confirm the position your office has taken on this question.

RALPH W. FARRIS
Assistant Attorney General

March 29, 1957

To Allan L. Robbins, Warden, Maine State Prison

Re: Sentence for Escape from County Jail

We have your memo stating that you will appreciate our opinion on whether an inmate's sentence for escape from a county jail should run concurrently with other sentences received, if the mittimus does not specify that it shall be served consecutively.

It is our opinion that a sentence imposed upon one for escape from a county jail does not run concurrently with other sentences received by the same person.

The absence of direction on the mittimus as to the manner of service of sentence, that is, whether such sentence should be consecutive or concurrent with other sentences imposed, has no effect upon the service of a sentence for the escape of one lawfully detained in any jail or other place of confinement (except the State Prison). The sentence imposed for such escape must be served consecutively with relation to sentences for other offenses.

Chapter 135, Section 28, R. S. 1954, reads:

"Whoever, being lawfully detained in any jail or other place of confinement, except the state prison, breaks or escapes therefrom, or attempts to do so, shall be punished by imprisonment for not more than 7 years; the sentence to such imprisonment shall not be concurrent with any other sentence then being served or thereafter to be imposed upon such escapee."

The provisions of Section 28 are of so direct and positive a nature that the statute must be considered self-executing, with the result that consecutive

service of the sentence is mandatory, even though it is not so stated on the mittimus.

JAMES GLYNN FROST
Deputy Attorney General

April 1, 1957

To Norman H. Nickerson, M. D., Medical Examiner

Re: Death on a Railroad

. . . You inquire if a medical examiner should be called on any case where a man is killed by a train or accidentally killed on a railroad.

Your question arises because of an information bulletin issued by the Bangor and Aroostook Railroad Company, dated November 22, 1946, which bulletin was shown to you at the time you examined the dead body of a person killed by a train.

In brief, the aforesaid bulletin advises employees of the B & A that since 1915 investigation of cases of accidental death on a railroad rests with the Public Utilities Commission and not with medical examiners.

The bulletin states:

"3. Whenever a person is accidentally killed on the railroad, employes should immediately notify the Superintendent and the head of their Department. The body should be suitably cared for by removing it to a suitable building or car, properly covering and placing it in care of a responsible employe, town officer or undertaker, or it may be turned over to relatives or friends. Trains need not be held after proper arrangements for caring for the body have been made and names of all witnesses procured. All of the facts, of course, should be reported to the proper officers."

Our examination of the law relating to dead bodies convinces us that the Bangor and Aroostook bulletin does not accurately express the law as it exists today; and because your question concerns a vital problem in the field of legal medicine we believe an examination of the laws on the subject is required.

Chapter 332, Section 4, Public Laws of 1915, stated:

"It shall be the duty of anyone finding a body of any person who may be supposed to have come to his death by violence or unlawful act to immediately notify one of the municipal officers . . ."

On September 9, 1915, the then Attorney General advised the Public Utilities Commission that it was not necessary "for a public utility in a case where death is clearly accidental and there is no reason to suppose that the person came to his death by any unlawful act, to leave the body where it is found and call a medical examiner . . ."

An opinon of such substance was consistent with the law of the times when written. See *State v. Bellows*, 62 Ohio 307 (1900), where a death "caused by violence," in a statute substantially the same as ours of 1915, was defined as

"death caused by unlawful means, such as usually call for the punishment of those who employ them."

The legislative history of amendments to our laws relative to medical examiners reveals, however, a change in the philosophy underlying the purpose of such laws.