

# MAINE STATE LEGISLATURE

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March 14, 1966

Donald T. Brackett, Esquire  
County Attorney  
Lincoln County Court House  
Wiscasset, Maine 04578

Dear Don:

In reply to your letter of March 8, 1966, requesting an interpretation of that portion of 22 M.R.S.A., § 521, dealing with compensation of a medical examiner which reads, "For a view and autopsy, \$50.00;" I have reached the conclusion that this language precludes the paying of the \$50 fee if the making of the view and the performance of an autopsy are not both done by the medical examiner.

The use of the word "autopsy" must mean the actual performance of an autopsy and not just being present when an autopsy is performed. This interpretation is supported by the next clause in 22 M.R.S.A., § 521, which states:

"When the medical examiner performing an autopsy is a pathologist, \$100.00, whether he makes a view or not;"

It is apparent from this language that the performance of an autopsy is required before compensation can be paid for an autopsy.

Since the conjunctive "and" is used and not the disjunctive "or" in the portion of the statute to be interpreted, it is clear to me that if a \$50 fee is to be paid, both services, the making of a view and the performance of an autopsy, must be done by the medical examiner.

It should be pointed out that the last sentence of 22 N.R.S.A. § 521 provides:

" \* \* \* The physician and other person required to be present at an autopsy as provided in section 514 shall be allowed a reasonable compensation, to be audited by the medical examiner and county attorney."

If in fact a pathologist performs an autopsy instead of the county medical examiner, and the county medical examiner and one other person are present at the autopsy, the medical examiner could be considered the physician required as a witness by 22 N.R.S.A. § 514. The medical examiner under these circumstances would be entitled to a reasonable compensation as a witness to the autopsy, which compensation would be a supplement to the statutory fee of \$20 for a view and inquiry without an autopsy, and would, I presume, be less than the additional fee of \$30 that the medical examiner would have received if he had performed the autopsy.

I trust that this opinion will be of some assistance to you.

Sincerely yours,

Jerome S. Matus  
Assistant Attorney General

JSM/eh