STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

ATTORNEYS GENERAL OF MAINE, 1820-1942

Erastus Foote, Wiscasset	1820
Jonathan P. Rogers, Bangor	1832
Nathan Clifford, Newfield	1834
Daniel Goodenow, Alfred	1838
Stephen Emery, Paris	1839
Daniel Goodenow, Alfred	1841
Otis L. Bridges, Calais	1842
W. B. S. Moor, Waterville	1844
Samuel H. Blake, Bangor	1848
Henry Tallman, Bath	1849
George Evans, Portland	1853
John S. Abbott, Norridgewock	1855
George Evans, Portland	1856
Nathan D. Appleton, Alfred	1857
George W. Ingersoll, Bangor (died)	1860
Josiah H. Drummond, Portland	1860
John A. Peters, Bangor	1864
William P. Frye, Lewiston	1867
Thomas B. Reed, Portland	1870
Harris M. Plaisted, Bangor	1873
Lucilius A. Emery, Ellsworth	1876
William H. McLellan, Belfast	1879
Henry B. Cleaves, Portland	1880
Orville D. Baker, Augusta	1885
Charles E. Littlefield, Rockland	1889
Frederick A. Powers, Houlton	1893
William T. Haines, Waterville	1897
George M. Seiders, Portland	1901
Hannibal E. Hamlin, Ellsworth	1905
Warren C. Philbrook, Waterville	1909
Cyrus R. Tupper, Boothbay Harbor (resigned)	1911
William R. Pattangall, Waterville	1911
Scott Wilson, Portland	1913
William R. Pattangall, Augusta	1915
Guy H. Sturgis, Portland	1917
Ransford W. Shaw, Houlton	1921
Raymond Fellows, Bangor	1925
Clement F. Robinson, Portland	1929
Clyde R. Chapman, Belfast	1933
Franz U. Burkett, Portland	1937
Frank I. Cowan, Portland	1941

DEPUTY ATTORNEYS GENERAL

Fred F. Lawrence, Skowhegan	1919-1921
William H. Fisher, Augusta	1921-1924
Clement F. Robinson, Portland	1924-1925
Sanford L. Fogg, Augusta (retired 1942)	1925-1942
John S. S. Fessenden, Portland (Navy)	1942-1942
Frank A. Farrington, Augusta	1942-

ASSISTANT ATTORNEYS GENERAL

	Warren C. Philbrook, Waterville	1905-1909
	Charles P. Barnes, Norway	1909-1911
	Cyrus R. Tupper, Boothbay Harbor	1911-1913
	Harold Murchie, Calais	1913-1914
	Roscoe T. Holt, Portland	1914-1915
	Oscar H. Dunbar, Jonesport	1915-1917
	Franklin Fisher, Lewiston	1917-1921
	William H. Fisher, Augusta	1921-1921
	Philip D. Stubbs, Strong	1921-
*	Herbert E. Foster, Winthrop	1925
	Leroy R. Folsom, Norridgewock	1929-
	Richard Small, Portland	1929-1935
*	Ralph M. Ingalls, Portland	1938-1940
	Frank J. Small, Augusta	1934-
	Ralph W. Farris, Augusta	1935-1940
	William W. Gallagher, Norway	1935-1942
	Richard H. Armstrong, Biddeford	1936-1936
*	David O. Rodick, Bar Harbor	1938-1939
	John S. S. Fessenden, Portland (enlisted Navy, 1942)	1938-1942
	Carl F. Fellows, Augusta	1939-1940
*	Frank A. Tirrell, Rockland	1940-1940
	Alexander A. LaFleur, Portland (enlisted Navy, 1942)	1941-1942
	Harry M. Putnam, Portland (enlisted Army, 1942)	1941-1942
	Julius Gottlieb, Lewiston	1941-1942
	Neal A. Donahue, Auburn	1942-
	Nunzi F. Napolitano, Portland	1942-
	William H. Niehoff, Waterville	1940-
*1	Richard S. Chapman, Portland	1942
*1	Albert Knudsen, Portland	1942
*1	Harold D. Carroll, Biddeford	1942
*	John O. Rogers, Caribou	1942
	John G. Marshall, Auburn	1942-

*Temporary appointment.

*1 Limited appointment to handle cases arising under R. S. 1930, Chapter 138, Sec. 31-33, without cost to the State of Maine.

LIST OF COUNTY ATTORNEYS

Terms expire Dec. 31, 1942

Androscoggin	Armand A. Dufresne, Jr.	Lewiston
"	Asst. A. F. Martin	"
Aroostook	Parker Burleigh, Jr.	Presque Isle
Cumberland	Albert Knudsen	Portland
"	Asst. Richard S. Chapman	"
Franklin	Benjamin Butler	Farmington
Hancock	Frederick T. Larrabee*	Ellsworth
"	Ralph C. Masterman, *2	Bar Harbor
Kennebec	William H. Niehoff	Waterville
Knox	Stuart C. Burgess	Rockland
Lincoln	James B. Perkins, Jr. *1	Boothbay Harbor
"	Reginald Harris *2	" "
"	Harold W. Hurley *2	" "
Oxford	Theodore Gonya	Rumford
Penobscot	Randolph A. Weatherbee	Bangor
Piscataquis	Jerome B. Clark	Milo
Sagadahoc	Ralph O. Dale	Bath
Somerset	Lloyd H. Stitham*	Pittsfield
"	Clayton E. Eames *2	Skowhegan
Waldo	Hillard H. Buzzell	Belfast
Washington	Oscar L. Whalen	Eastport
York	Harold D. Carroll	Biddeford

* Entered military service.

*1 Inducted into the Army. Honorably discharged. Enlisted in Navy.

*2 Substitute County Attorney, appointed by the Governor.

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STATE OF MAINE

Department of the Attorney General

Augusta, June 30, 1943

To His Excellency Sumner Sewall, Governor,
and to the Executive Council
of the State of Maine:

In accordance with the provisions of the Revised Statutes of Maine, I am submitting herewith my report for the years 1941 and 1942.

In view of the fact that no reports have been filed from the Department of the Attorney General for the preceding eight years, it was my desire to have tabulations completed and incorporate them as a part of this report. The burden of getting the figures together and tabulated proved, however, greater than I had anticipated. I have had them prepared and made a part of this report, but in a form somewhat more brief than are the tables for 1941-1942.

FRANK I. COWAN,
Attorney General

REPORT

The Revised Statutes of Maine require a biennial report from the Attorney General (R. S. 1930, Chapter 91, Section 91). The requirements of this statute were faithfully followed by the Attorneys General down to and including the year 1932. From 1933 to 1940 inclusive, for reasons of economy, I am informed, no reports were filed. The burden of the present incumbent, in starting his report, is, therefore, very greatly increased in that he cannot tack his words on to those of his immediate predecessor. I shall be brief, and simply skim a few of the highlights, as a complete report would fill volumes.

The Department of the Attorney General has, in Maine, as elsewhere, been a matter of gradual growth. The legislature has set up new branches of government for the purpose of administering new laws. The Highway Department, the Health and Welfare Department, the Unemployment Compensation Commission, the Workmen's Compensation Department, the Liquor Commission, the Emergency Municipal Finance Board, the Milk Control Board, and the Inheritance Tax Division have all had large use for legal advice and assistance. Some of these have required full time attorneys. All of these departments and divisions have been added during the present generation and as greater demands have been made by the people of the State for governmental service, it has been necessary that more attorneys be employed. The custom has been in the past for a bureau, department or division, to hire a lawyer who is paid out of the administrative funds of the bureau, division or department for which he works and who has been regarded as the employee of that division, department or bureau to a considerable extent. This system is not only wrong from the point of view of propriety, but is contrary to the provision of the statutes. The Attorney General is the responsible law officer of the State, and also of the Departments.

I, therefore, at the beginning of my term notified all these attorneys that they are not the employees of the divisions, bureaus or departments to which they are assigned but that they are members of the Attorney General's Department and must function as such. This has resulted in a closer contact of the various assistants, and has brought it about that the various departments, divisions and bureaus are more intimately connected with one another. We have found, moreover, that in some instances there is such a relation of problems that the same attorney can very properly handle two departments instead of one.

An error in financial procedure exists in the custom of having these attorneys paid from the administrative funds of the departments. The legislature doesn't know how much the Attorney General's Department is costing. The legislature set me up a budget of $23,500 two years ago, and told me to operate the department with that money. I turned back $1840 at the end of the first fiscal year, which was economy, but not a true financial picture. I find that the actual cost for legal services to the State is normally about $60,000 per year. This includes all salaries and all expenses of attorneys when they are away from their official locations. It also includes stenographers and investigators. It includes the Inheritance Tax Division which is paid out of the income from inheritance taxes but does not include the salaries of the County Attorneys who are paid by the State through the Attorney General's office. If we add the salaries of the County Attorneys we find the total expense of the Department to be somewhere from eighty to eighty-five thousand dollars per year. This fact is one not generally known to the members of the legislature or to the people of the State. It seems to me that this is something that should be handled in a different fashion and that the legislature should set up an appropriation large enough to carry the Department, rather than set up legal services as administrative expense in the various departments. Unless the members of the legislature know how much a department is costing the State, they will not be in a position to properly criticize that department for unnecessary expense, and such criticism is something that is exceedingly important in any governmental system.*

***By direction of the Governor, the Commissioner of Finance is now setting up the expense of the department so that the true financial picture will be apparent.**

GENERAL ACTIVITIES OF THE ATTORNEY GENERAL

Another matter that might well be considered by the legislature as worthy of change in connection with the Attorney General's Department is the time at which a newly elected Attorney General takes office. He starts his duties at the same time that the legislature comes in. He is advisor to the legislature in addition to the multifarious activities in connection with his own department. On him is the responsibility that every department of the State shall receive proper legal advice. He is primarily responsible for the handling of murder cases; for abating public nuisances like the Androscoggin River case; for investigating irregularities among public officials throughout the State and taking such steps as may be necessary to correct improprieties; for coordinating with the Federal Government in all Federal and State relations, a matter that is especially important in time of war; for handling any and all other public matters that need to be acted upon and for which no express provision is made in the Constitution or in the Statutes.

I suggest that the legislature seriously consider an amendment to the State Constitution providing that the office of a newly elected Attorney General shall commence on July first (the beginning of the fiscal year after his election) rather than the first of January. This will make it possible for the legislature to have the assistance of an experienced Attorney General. It will also mean that the new Attorney General will not be handicapped during the first four months of his term by the necessity of dividing his time between the legislature and his other duties. It will also mean that a new man will start his term of office with his own financial budget to use, and will not be handicapped as some have been in the past by having to run the first half year with a sadly depleted budget.

There is another matter that the people of the State should understand about. The duties of the Attorney General's office have become so heavy that the idea of a part time Attorney General is no longer proper. It is costing the State of Maine a lot of money for part time attorneys doing the work that the Attorney General himself could do if it were seen fit to make the salary adequate so that the incumbent could give his whole time to the duties of the position. For many years certain duties have

been performed by part time attorneys that could be done much less expensively to the State if the legislature were to see fit to make it possible for the Attorney General to give the State his entire time. I am not urging that this be done during my incumbency. I am frank to say that the present system is better for my own selfish interests, but it isn't the most economical one for the State.

EXPENSE KEPT AT A MINIMUM

I set myself, at the beginning of my administration, to increase in every way possible the value of the legal services that were being rendered to the State and at the same time try to reduce the number of attorneys being employed. I, therefore, put a very high standard on the qualifications of the attorneys whom I would employ and set the salaries as high as I could from the money available. I got fewer men, but very good ones. As a result, I can say without possibility of successful contradiction that the Department has rendered much better service to the State than has been possible at some times in the past, and considerable money has been saved in expense. I note that the Bureau of Accounts and Control gives my Department credit for having had $5000 less money available for the first fiscal year of my administration than was available for the previous fiscal year, and yet out of that decreased appropriation, and with several murder cases to handle, I am credited, as I mentioned above, with turning back $1840 into the Treasury. This fact should be taken as evidence that by setting the Department up as an administrative unit, I have effected economies that redound to the profit of the State.

Many people seem to overlook, at times, the fact that the State of Maine is a tremendously important business organization. It handles annually as much cash as some of the financial and business concerns in Wall Street, and the ramifications of its operations are vastly more broad. Yet the expense of its legal department is, in comparison, almost infinitesimally small, and there is no particular reason why it should become much larger if we keep in mind the fact that one good lawyer is worth a dozen poor ones. That doesn't necessarily mean that the one can do the routine work of a dozen, but it does mean

that the ideas of that one good man will be worth more to the State of Maine in dollars and cents than all of the activities of a dozen men without ideas.

So I have endeavored to employ able men, possessed of ideas and imagination, who have the willingness to put those ideas and imagination to work for the State of Maine. I have put the interests of the State of Maine first and have given no jobs in my department as rewards for political activity or because of personal friendship. The qualifications I made are based solely on the ability of the individual to function best for the State of Maine in the particular activity to which I assign him, and I haven't hesitated to transfer a man from one department to another when I have found that he was a square peg in a round hole.

SPECIFIC ACTIVITIES

I. Legislative Activities

The Attorney General waited on the Legislature at its regular session in 1941. It is unnecessary for me to enlarge on the services my office performed at that time because fully half the members of the 1943 legislature were present two years ago and know that my door was always open and that no member of either House was ever turned away, and that each was given the fullest assistance of which I was capable.

II. Special War Session of January, 1942

Both the Governor and myself were fully convinced in the summer of 1941 that before the end of the year active hostilities with the Axis nations would break out. The Governor requested me to draft bills for submission to a special session of the legislature. With the aid of my assistants, Messrs. LaFleur, Putnam, and Fessenden, and of the Revisor of Statutes, Mr. Dunnack, bills were prepared and submitted to the Research Committee. The special session was called in January, 1942. I may say, without fear of successful contradiction, that no legislature of the State of Maine ever functioned more efficiently nor handled with a greater degree of intelligence matters of primary importance than did the legislature in that special session. In a matter of twelve days, they studied and finally passed the Civilian Defense Act which has been used as a model by the

State of New Jersey; several correlative acts; the Atlantic States Marine Fisheries Compact; and the Jointly Contributory Retirement System for State employees. As a last, but not least important measure, the 90th legislature, on Saturday, January 24, 1942, set aside its rules and passed an Emergency Act setting up the new Eastern Standard Time for the State of Maine, so as to make our time conform to the National Standard Time, and to save us the confusion which other states are experiencing by reason of having to use artificial "War Time."

III. Homicides

My two years in office have not been free of homicides. Some attained considerable notoriety, more so than was desirable for the State. The only source of gratification we can have from this notoriety is that some people who may have previously been doubtful on the subject, have been convinced that we do not tolerate loose law enforcement in this State.

During the year 1941, I had something to do with eight different homicide cases as follows:

1. Arthur Cox, a member of the Sect known as Jehovah's Witnesses, was convicted in 1940 in Cumberland County, for the murder of Dean Pray, a Deputy Sheriff, and sentenced to State Prison for life. My only connection with the case was to study the record and the briefs in connection with an appeal made to the Law Court in 1941. The conviction was affirmed.

2. At the January 1941 Term of the Superior Court for Cumberland County, one Cecil Burgoyne of Scarboro was indicted for the murder of his idiot child. The evidence was of such a nature that the State was unwilling to prosecute for an offense greater than manslaughter, and accepted a plea of manslaughter. He was sentenced by Judge Fellows to from four to eight years in State prison.

3. John Phelps of Rockland was indicted at the Knox Superior Court at the February 1941 Term for the murder of his stepdaughter, a girl named Young. I assisted the County Attorney in the preparation of his case, one that presented a real difficulty in that the body of the supposed victim had never been identified. Phelps had signed a "confession", which was really a plea of accidental killing when he struck, as he claimed, in self

defense. I finally secured from the girl's mother a good identification of the headless body. Phelps then changed his plea to guilty of murder and was sentenced by Judge Fellows to State Prison for life.

4. Arthur Pellerin of Lewiston confessed to murdering his wife, her son by a previous marriage, her sister and her mother. Pellerin pleaded "not guilty" on the ground of insanity, but was tried and found guilty of murder at the June 1941 Term of the Androscoggin Superior Court, and was sentenced by Judge Chapman to State Prison for life. I assisted in the preparation of the State's case, but it was actually handled in court by County Attorney Dufresne and Mr. Martin, his assistant, as I was engaged on the LaCroix case in the Kennebec Court at the time.

5. Louis LaCroix of Waterville was tried at the June 1941 Term of the Kennebec Superior Court for the murder of one Lessard, a taxi driver, some two years previous. The trial took five days. He was convicted of murder and was sentenced by Judge Murray to State Prison for life.

6. Dr. Merrill Joss of Richmond was indicted for the murder of his wife, Dr. Luverne Harris Joss, and was tried at the June 1941 Term of Sagadahoc Superior Court. After a trial lasting about two weeks, at which he was represented by Ex-Chief Justice Pattangall, Judge Ernest L. Goodspeed, and Robert S. Williamson, Esq., he was found guilty of manslaughter and was sentenced by Judge Fellows to State Prison for a term of ten to twenty years. This case achieved great notoriety, due to the importance of the victim and the respondent, and the fame of his counsel.

7. Fred Tibbetts had been indicted for the murder of his wife by the Grand Jury of Somerset County in 1939 and had been sent to a State Hospital for observation. The man was obviously insane, and was mentally incapable of conferring with counsel appointed for him by the Court. It was, therefore, impossible to properly enter any plea in his behalf, even one of not guilty by reason of insanity. At the September 1941 Term of Somerset Superior Court, I nolprossed the original indictment. I then caused the Grand Jury to be made acquainted with the facts in regard to Tibbetts' mental condition and, being instructed as to the law, they refused to return an indictment be-

cause of his insanity. He was, thereupon, committed by the Presiding Justice, Judge Fellows, to the State Hospital for the criminally insane as provided by Statute, and must remain there until released by order of court. This, with him, probably means incarceration for life, since he is a man now about eighty-two years of age.

8. Fred Wheeler of Farmington was indicted by the Grand Jury of Franklin County at the October 1941 Term for the murder of Florence Buzzell. The case was tried in November 1941. Evidence sufficient to justify conviction could not be obtained and the Jury very properly brought in a verdict of "not guilty".

9. Considerable time was given to the investigation of several cases, all except one of which had occurred in previous years, where homicide seemed probable, but no conclusion was reached.

10. The year 1942 was remarkable in that but one person actually was sentenced in a murder case by our State Courts. In both Portland and Saco cases of multiple murders occurred in the Spring or early Summer of 1942, but in each case the murderer committed suicide. In Auburn, on December 10, a man named Johnson, killed his wife, then himself.

11. The sole murder case that got into the courts, and in which sentence was imposed during 1942, was that of Marshall Fish who, at the November Term, 1942, of the Oxford Superior Court pleaded guilty to the murder in 1941 of his stepniece, a girl named Stevens. He was sentenced by Judge Tompkins to State Prison for life.

12. At Orrington, on November 11, 1942, a farm laborer, named James Renwick, shot and killed his employer, Raymond Perkins, in the presence of several witnesses. He was committed to the State Hospital for observation.

13. On November 21, 1942, someone shot and killed a Mrs. Palmer and her two little children at Unity Plantation in Kennebec County. George W. Palmer, the husband of the woman, and father of the children, has been bound over. The case will be considered by the Grand Jury in February, 1943.

14. On November 23, 1943, a negro soldier, named Adkins, is alleged to have shot and killed three men in Portland and badly wounded a fourth. At the request of the military authorities, he was turned over to the Army for punishment.

IV. Liquor Commission

During the year 1941, as a result of complaints received, I conducted an investigation of the activities of the State Liquor Commission. My investigations disclosed a disregard of the mandatory provisions of the law governing the revocation of licenses and the conduct of beer parlors. As a result of the evidence presented at a public hearing, the executive body voted to remove the Commission.

V. Baxter State Park Authority

The Attorney General is a member of the Baxter State Park Authority, the other two members being the Commissioner of Inland Fisheries and Game and the Forest Commissioner. During the years 1941 and '42, numerous meetings of the Authority were held, sometimes in company with Ex-Governor Baxter, the generous donor to the State of Mount Katahdin and its environs. Plans were made for the proper handling of the Park, which plans unfortunately have been disrupted by the war. Governor Sewall displayed a great interest in Mount Katahdin, and on September 10 and 11, 1941, he accompanied me to the top of the mountain. We spent the night of the tenth at Chimney Pond and on the eleventh climbed to the summit by way of the Cathedral Ledges and thence went across the Knife Edge and then down Pomola.

VI. Interstate Commission on Crime

The present Attorney General for Maine succeeded his predecessor as a Director of the Interstate Commission on Crime. I attended a conference of this Commission at Indianapolis in September, 1941, and attended a session at New York on September 23 and 24, 1942. At these sessions the crime problems in the various States were discussed by experts and the part that the Attorney General can play in assisting in the prevention, suppression and punishment of crime was strongly emphasized. The State of Maine has directly benefited from these conferences.

VII. National Association of Attorneys General

In September, 1941, immediately following the session of Interstate Commission on Crime, the National Association of Attorneys General had a two day conference in Indianapolis. At that time, problems peculiarly affecting the office of Attorney General were discussed. (It may be interesting to know that my attendance at this convention resulted some months later in a direct saving of $1100 for the State of Maine). On November 23, and 24, 1942, I attended a second conference of the Association at St. Louis. At that session, the question of cooperation between State and Federal Governments in the conduct of the war was discussed. Several serious differences were brought into the open and steps taken to correct them.

VIII. War Duties

The war has naturally greatly added to the burdens of the Attorney General. Those may be briefly enumerated as follows:

1. Drafting legislation for the special session of the legislature.

2. Interpretations of State and Federal Statutes, orders and regulations for the guidance of the Governor and heads of departments.

3. Ironing out conflicts between the State and Federal Governments.

(a) The office of Price Administration vs. the Liquor Commission (prices of liquors were frozen by the O. P. A. as of March 31, 1942.) The Liquor Commission, in order to make the net profit required by Act of the legislature, found it apparently necessary to raise prices on some lines as of April first. It looked as though we were heading for litigation in the U. S. Supreme Court, and my office made full preparation for the struggle. The O. P. A. made a concession that the State was able to meet and legal action proved unnecessary.

(b) Office of Price Administration vs. the State Milk Control Board. Here certain minimum prices were set by the Board as of April 1, 1942, which minimum prices were in excess of the maximums in some areas of the State frozen by

the O. P. A. as of March 31st. A long series of negotiations solved that particular problem, but the Milk Control Board is in need of constant legal advice due, perhaps, in part, to the fact that certain municipal judges have fancied they found ambiguities in the law, and in part to the difficulty some of our milk dealers meet in acknowledging that a statute enacted for the benefit of the producers and consumers, and setting up regulations governing the conduct of middlemen, can be valid.

(c) The regulation issued by Director Byrnes, attempting to include states and their subdivisions within the provisions of the Federal Wage and Salary Freezing Order, seems like an unwarranted invasion of the prerogatives of the states. I issued an opinion to Governor Sewall, in which I said that the State of Maine must decline to accept the theory that a subordinate public official of the Federal Government can invade the prerogatives of a State and make regulations having the effect of law which will restrict or change normal State activities. I reported this opinion at the annual conference of Attorneys General, held at St. Louis in November, 1942. The Association adopted the theory for the guidance of all the States. The President of the Association, Herbert of Ohio, was authorized to take the record of the conference and lay it before Judge Byrnes. As a result, the regulation was rescinded.

(d) The question as to whether or not the State of Maine shall tax malt beverages sold to Army and Navy Posts has caused a great deal of study and thought in my department. We ruled early in 1941 that the deficiency tax, so called, on beer, cannot be charged against government instrumentalities but that the importation tax, being a part of the cost to the distributor, can properly be charged. So far that is the way in which the matter has been handled, although a new formula is being studied.

(e) The question of how and to what extent the Federal Government shall acquire property in the State of Maine for fortifications, airplane and seaplane bases, bird sanctuaries, housing projects, etc. has proved a serious one. It was necessary for me to go into the Federal Court in Bangor and move the dismissal of condemnation proceedings brought in con-

nection with land in Washington County; and the problem of local taxation by reason of acquisition of property by the Federal Government has been a source of perplexity.

(f) One of the questions that have been presented over and over again is, "To what extent are municipalities liable for the schooling of pupils, the children of more or less transient laborers who have moved into areas in which there are war industries?" In some cases, land has been purchased by the Federal Government and houses erected but there has been no waiver of jurisdiction by the State of Maine. The Federal Government has directly or indirectly become the landlord for the workers and their families. It has been necessary to insist that the local municipalities are under the same obligation to furnish educational facilities for these children as for children of families who have private individuals as landlords. The fact that property of the Federal Government is, in general, tax exempt, has caused anxiety to many local officials who saw their municipalities burdened with an enormously increased cost for school facilities, streets, fire protection, police protection and sewage disposal. The Federal Government has, however, made arrangements for payment to municipalities of amounts in lieu of taxes to take care of this increased burden. Reports that have come to me are that the Federal officials have been fairly reasonable in their approach to the problem. Considerable uneasiness is reported in Kittery, Cape Elizabeth, South Portland, Bath and Brunswick, because of what seemed like unnecessary delay on the part of the Federal Government in payment of its tax equivalents.

The possible effect on local real estate values after the war, resulting from the erection of a vast number of dwellings which will, as a matter of course, be greatly in excess of the housing requirements during the post-war period, is an object of concern to every forward-thinking person. Whether or not we shall have the courage to wreck all of these buildings, except those that are really essential, is a question that I fear will have to be answered in the negative. Yet, unless the non-essential dwellings are taken down when they are no longer needed, the result must necessarily follow that there will be a period of great depression in rentals which will have a corresponding reflection in the upkeep of rented build-

ings. If there is no adequate profit to the owner of the building, he won't be able to keep it in repair, and the municipality will very shortly find itself burdened with areas of slums never contemplated by a well-intentioned government.

(g) Rent control and prevention of hoarding. Numerous instances of excessive charges for rents were brought to my attention, and also instances where people were required to buy certain kinds of canned goods from stores in order to purchase sugar or coffee, or some other temporarily limited article of foodstuffs. In order to counteract this, I acted under the provisions of the 1919 Statute and appointed Albert Knudsen, the County Attorney, and Richard S. Chapman, the Assistant County Attorney, of Cumberland County, as special assistants to the Attorney General, to handle these matters without expense to the State in the County of Cumberland. I also appointed Harold Carroll, County Attorney for York County, to take care of these matters in that County. The Federal Government has now extended its activities to cover both these problems.

4. Attending meetings of the Council of State Governments to work out cooperative efforts between the State and the Nation.

5. Assisting in the preparation of executive orders under the Civilian Defense Act.

6. Advising the Governor as to his powers and duties in time of war.

7. The distortion of the labor market, due to war conditions, has added another problem to the Attorney General's office. There has been an enormous influx of workers and their families into some of our towns and cities. There have been no adequate facilities for housing these people, and the Federal Government has been endeavoring desperately to remedy the situation by building low cost, and rather temporary, structures that will house these people adequately for the duration of the war. Various delays have occurred in this construction work due to shortage of critical materials and a difficulty in getting labor, so that defense workers and their families are reported to be living in conditions that would shame some of the worst slums in

the country. As a result, we are getting reports of filth and of verminous conditions such as this State has never before seen. Children of these families lacking proper home conditions and proper places to play are already developing into a problem that is causing our local police, municipal courts and child welfare agencies uneasiness. Women are reportedly leaving their children to run wild while the mothers seek the high pay that can be obtained in industry, they being under the erroneous impression that in that way they are helping out in the war effort. These problems, difficult as they are, should be solved locally, if possible. If local officials find themselves unable to solve the problems, then they shouldn't hesitate to call on the State for assistance. Otherwise, the Attorney General's Department will find itself in the anomalous position of having to prosecute for active crime persons who honestly believe that the things for which they are being prosecuted will further the war effort, and prosecute for passive crime persons who are honestly of the opinion that they are justified in winking at conditions which they regard as temporary and which are forced upon them by national emergency.

IX. Work of the Emergency Municipal Finance Board

The Attorney General is not a member of this board but he has the duty of advising it. During the years 1941 and 1942 the program of the Board for rehabilitation of insolvent municipalities has been continued. Equity actions involving various towns are in the courts and are being conducted under the authority of the Attorney General. An action involving the Town of Van Buren is now before the Law Court, and it is hoped that out of this trial will come a decision that will be of real assistance to us. The statute in regard to insolvent towns needs to be radically amended by the legislature if we are to work out a result that will be of real constructive value. The legislature should seriously consider also whether or not it is wise to have the State Auditor on this and certain other State Boards due to the great importance of his position as an impartial reporter on the State's fiscal policies.

X. Androscoggin River Pollution

For some years the Androscoggin River has been so badly polluted that during the summer months its whole valley has

been the source of an almost unbearable stench. A committee of the legislature, together with the Sanitary Water Board of the State, of which Dr. Elmer Campbell is executive director, made a study of the river in the year 1941 and attempted, through negotiations, to secure cooperation with the operators of industries along the river. In spite of the best efforts of the committee and members of the Board, it was necessary to take legal action. I brought a bill in equity in the nature of an information in the name of the Attorney General against the Brown Company, the International Paper Company and the Oxford Paper Company, which action is now pending in the Supreme Court for Androscoggin County. Negotiations are now under way for a stipulation which, if worked out, will result in abating the nuisance, and it is possible that we may obtain a decree of court without an actual contest. In any case, it is my intention to press this matter until a favorable result is obtained.

It is my hope that this is the only piece of litigation that will be necessary under Chapter 209 of the Public Laws of 1941. This act sets up a Sanitary Water Board and provides, among other things, as follows:

"It shall be the duty of the sanitary water board to study, investigate, and from time to time recommend to the persons responsible for the conditions, ways and means of eliminating from the streams and waters of this state, so far as practicable, all substances and materials which pollute, or tend to pollute, the same, and to endeavor to determine, and to recommend, methods, as far as practicable, of preventing pollution that is detrimental to the public health or to the health of animals, fish or aquatic life, or detrimental to the practicable use of said rivers and waters for recreational purposes."

This act provides for a long range program for restoration of the purity of our streams and rivers. Care should be taken that the State, in the exercise of its protective power, does nothing to destroy industries that are valuable to the State, but at the same time constant collaboration beween the State and the industries should be continued in order to achieve the result of eventually getting rid of all harmful industrial wastes and sewage in our streams and rivers. Our experience with the Androscoggin River shows the need of constant vigilance on the part of the State to stop pollution before it starts. At the time when factories are constructed, provision should be made so that wastes shall not be thrown into the rivers. After the mills are in operation, changing them over to eliminate pollution of the water entails an expense that oftentimes seems prohibitive.

However, I have faith to believe that the operators of our power companies and our industries will voluntarily cooperate with the State in a program so that in the course of a few years pollution from factories will be eliminated. At the same time that the industries are working on this program, the cities and towns must do their part by changing their system of sewage disposal. The office of the Attorney General can, if the incumbent is so inclined, very materially assist in this program, because in that office lies the decision as to whether or not public nuisances will be permitted to continue.

XI. Departmental Changes

My department has been rather fluid during the last two years. Mr. Putnam was loaned to the Governor and eventually entered the Army. Mr. LaFleur is in the Army. Mr. Fessenden is in Naval Intelligence. Mr. Gallagher has resigned to resume private practice. Mr. Williamson, who was acting as advisor to the Milk Control Board, gave up his duties with the State and accepted a position as Attorney for the Office of Price Administration. Judge Fogg, after many years of able service, was retired on a pension. To take the places left vacant by these men, I secured the services of Neal Donahue of Auburn, who is handling the Workmen's Compensation cases, and has been assisting on mandamus actions brought against the Secretary of State. I induced Mr. William Niehoff, who has a commendable record as County Attorney for Kennebec County, to act as advisor for the Liquor Commission. John Marshall of Auburn has been engaged by the Unemployment Compensation Commission and I have given him a commission as Assistant Attorney General.

The pressure of work on the Inheritance Tax Commissioner has always been too great and there have never been enough men there to handle the job properly. I employed Nunzi Napolitano, Esq. of Portland, to assist Mr. Stubbs, and Mr. Napolitano has proved his worth by collecting many thousands of dollars of what had been considered uncollectible inheritance tax accounts. John O. Rogers, Esq. of Caribou is working with the Department on a part time basis, and at the present is handling some collections and also some important litigation against closed banks to determine whether or not taxes for the

half year, beginning October 1932, are collectible. In place of Judge Fogg, I secured the services of Frank A. Farrington, Esq. of Augusta, whose service in the legislature and also his years as Judge of the Augusta Municipal Court stand him in good stead.

The statutes command the Attorney General to delegate one of his assistants to wait upon the legislature while it is in session and aid it in the drafting of bills. Since the creation of the office of Revisor of Statutes, this has not been done, as Mr. Dunnack was in a position to fulfill the required duties. He is now working on a revision, however, and won't have as much time for the legislature as he has had in the past. All of my regular assistants have specific, important duties that take up their time. I have, therefore, secured the services of Samuel Slosberg, Esq. whose four years in the House of Representatives and two years of labor on the revision now being made have peculiarly fitted him for the task.

XII. Medical Examiner System

A great improvement has been made in our medical examiner system during the last few years, but other changes have been suggested by some of the medical examiners which, it is believed, will result in real benefit to the State without any additional cost. As an experiment, I appointed Dr. Julius Gottlieb, the pathologist for the Central Maine General Hospital at Lewiston, as Medical Assistant to the Attorney General, about a year ago. I persuaded him to accept this position and to accept a small salary in lieu of the fees that he had been obtaining for autopsy work and made his services available to the counties in homicide cases without charge. Several counties have availed themselves of Dr. Gottlieb's services and the saving has been considerable. Dr. Gottlieb is entitled to the very highest praise for his cooperation in this matter because it has resulted in a considerable financial loss to him. As a result of the experiment, the following plan has been suggested.

1. Keep the medical examiners in their present positions performing the very important functions that the law assigns to them.

2. Have all public autopsies in the State performed by persons definitely assigned for that duty by the Attorney General. At present, there are, I believe, six fully trained and experienced

pathologists in the State, to wit: Dr. Warren in Portland, Doctors Gottlieb and Belliveau in Lewiston, Dr. Morrell in Augusta, and Doctors Thompson and Lippincott in Bangor. There are several other surgeons in the State who can do a very good job on an autopsy, but the above named men are specialists. The idea is to relieve the counties of the burden of autopsies in all homicide cases and have the cost paid directly by the State. This would save heavy expense on small counties like Sagadahoc where the Joss case threw a heavy burden on the taxpayers.

If the suggested change in the medical examiner law is made, every homicide can be reported directly to the Attorney General's Department. There will be a pathologist within a reasonable distance who can be called immediately to perform an autopsy. There will be no additional expense involved because the experience of the counties has shown that we have been every year until the year 1941 paying out large sums for expert services from outside the State, and even today we are paying out some money for assistance from outside, although the amount has been very materially reduced.

If this change is made, we should also have an arrangement with one of the colleges whereby the head of the chemical department can act as State Toxicologist, and will be immediately available in case of any belief that poisoning has occurred.

XIII. State Police and County Sheriffs

There seems to be in the minds of some of our sheriffs and local chiefs of police a misunderstanding as to the proper relation of the State Police Department to themselves. The time has long passed since either the local police chief or the county sheriff was the sole judge of law enforcement problems for his county or community. The advent of the automobile and the airplane, furnishing the possibility of criminals entering a locality, committing a crime and escaping across county lines within a few minutes, made it absolutely necessary that the old system, under which the authority of an enforcement official terminated at the county line, must give place to a recognition of a larger area in which criminals can be pursued without pause.

Modern methods of detecting crime call for very expensive machinery, and it is impracticable for the counties and municipalities to go to that great expense. The State Police, however,

can be equipped with this machinery and a few men can be carefully trained to use the machinery and can be kept acquainted with all modern or improved ideas of procedure. The State of Maine, several years ago, recognized these facts. It changed its State Highway Police to a State Police Force. It had already given the State Highway Police officers certain powers of sheriffs without regard to county lines, but the legislature recognized the need for greater powers in these State officers and gave to them the full powers and duties of sheriffs throughout the State. The Legislature spent a great deal of money in providing for the installation of the most modern machinery for the detection of crime at State Police Headquarters, and set up a two-way radio so that officers might be reached or might make reports in the briefest possible time. This equipment is far too expensive for the municipalities and the counties to install for themselves. It is paid for by the people of the whole State and is available for the use of the whole State.

Most of the sheriffs and chiefs of police are availing themselves of the state-paid experts and their equipment with great profit to themselves. Two or three, on the other hand, seem to have the erroneous idea that there is a rivalry between the State Police and the other law enforcement agencies. No such rivalry should, of course, be permitted to exist any more than it should be permitted to exist between the police of a city and the sheriff's department of the county in which that city lies. Any public officials who assume that it does exist have not given the matter intelligent thought. There may be a rivalry, it is true, between individuals, each trying to do a better job than the other, but there can be no hostile rivalry between different law enforcement agents of the State. All are working to the same end, and should be in closest harmony. Any other procedure would be highly pernicious.

Whenever there is a death with suspicion of foul play, the Attorney General's Department and State Police should be notified immediately. The Attorney General's Department is responsible for the handling of murders in this State and if the State Police Department is notified, then such assistance from that Department as the sheriff and the local chief of police need can be thrown to them immediately. We have had several unsolved homicides in the State of Maine where the reason for

the failure to solve the crime has apparently lain in failure of local officials to use the facilities which the State, at great cost, has provided for them.

Moreover, there must be no subservience as between the police and the medical examiners. The law provides that a body shall not be moved until the medical examiner has arrived and, so far as he can do so, has determined the cause of death, and has made a careful record of the location of the body and performed certain other duties that need not be mentioned here. However, it is the person with police powers, and not the medical examiner, who authorizes removal of the body where foul play is suspected, and it is the duty of the police or sheriff to take such photographs and make such plans of the location as may later prove of value to themselves and the Attorney General's Department (of which the County Attorneys are members) in the prosecution of the person charged with crime.

XIV. **The Runnells Case**

The State has apparently collected all it can from the Estate of William A. Runnells, the defaulting Controller. In January 1941, I reported to the legislature that the sum of $54,076.42 out of a total of approximately $150,000 had been recovered. In view of the fact that Mr. Runnells was not bonded, we can feel gratified that we got back so much. Every asset that the State could locate, in which he had any property right, was seized.

A new bonding act has been drafted after two years of work by the Attorney General, the State Auditor, the Insurance Commissioner and the Research Committee of the legislature, and will be submitted at the 1943 session.

XV. **Opinions of the Justices**

I am very happy to state that the legislature and the Executive have shown sufficient confidence in the opinions of the Attorney General's Department during these two years so that there have been no requests for the Opinion of the Supreme Justices on any problems that have arisen. I wish at this time, however, to express my gratitude to the individual justices for their friendly counsel and advice on many occasions. They have done much to smooth my path.

XVI. New Books

When I took office I found that the Attorney General's Department had for equipment a set of Maine Reports; the Revised Statutes; and a set of Sessions laws. For textbooks, it had none except "Wharton's Criminal Procedure".

Governor Sewall, in his usual far-sighted way, recognized the embarrassment and actual danger in not having under the immediate hand of the State's chief law officer more of the essential working tools of his profession. An executive order was passed under authority of which I purchased books as follows:

1. McQuillin, Municipal Corporations.
2. Michie, Banks and Banking.
3. Ruling Case Law.
4. Cooley, Constitutional Limitations.
5. Cooley, Taxation.
6. Fletcher, Cyclopedia of Corporations.
7. Couch, Cyclopedia of Insurance Law.
8. Jarman, Wills.
9. Words and Phrases.
10. Dorland, Medical Dictionary.
11. Bouvier's Law Dictionary.
12. United States Supreme Court Reports and Digest.
13. A new Webster's International Dictionary.

These books have been in constant use since their acquisition. More could have been used if shelf space in the office had been available. I wish here to express my gratitude to the Governor and Council for furnishing me with these volumes. The State has benefited greatly because of their acquisition.

XVII. Public Trusts

The Attorney General has the duty of protecting the public trusts existing in the State. Last year my suspicion was aroused by the activities of a Massachusetts group who were locating lost heirs to escheated estates. I started an investigation of their methods, getting great assistance from the State Auditor's Department. As a result of our combined activities, defi-

nite evidence of attempted frauds on the part of members of this group were found. I requested the Judges of Probate to require that the Attorney General be made a party to all petitions in the Probate Courts where escheated funds or missing heirs were involved. The undesirable activities ceased immediately.

SUMMARY

I can fairly and properly say that during the two years that I have been handling the Department of the Attorney General that department has been greatly strengthened. I have got along with fewer men to whom I have paid larger salaries and the result to the State has been very valuable. My files disclose that the Attorney General's Department has paid for itself during the last two years through the collection of accounts that had been previously shelved as uncollectible, and if certain matters on which we are now working develop in the fashion that we plan to have them, the direct profit to the State will be several times the total entire cost of the department, even when the correct figures of cost I have given heretofore are the ones taken. In closing, I want to pay my respects to the loyal and able attorneys who have joined my department. I have constantly refused to employ men unless they could convince me that they were temperamentally fitted for departmental work and were also possessed of unusual ability along the lines in which I wished to use them, and unless I was convinced that they were not entering the employ of the State solely by reason of the salaries they could obtain. If a man is not fully capable of making more money in private practice than he can in State employ, he isn't capable of handling the very important problems which confront a member of the Attorney General's Department of a State.

MAINE CRIMINAL STATISTICS FOR THE YEARS BEGINNING JANUARY 1, 1933, AND ENDING NOVEMBER 1, 1942

The last published report of the Attorney General's Department was for the years 1931-1932. In view of the great value of the tables of statistics, an extensive research has been made to pick up the reports from that date and bring them down to the present time. It was originally intended to publish the tables for 1933-1941 inclusive in an appendix, but it seems better to put them all together in this volume.

The plan adopted by the Honorable Clement F. Robinson when he served as Attorney General has been followed in making up these tables. No better explanation of their form can be found, it seems to me, than appears on pages 50 and 51 of Mr. Robinson's report for the years 1931-1932, and therefore I am quoting from those pages:

"Cases included

"The table deals with completed cases only, except that the last column, which is not included in the total, shows the number of cases pending at the end of the year. If a case has not been completely disposed of during the year, it is omitted from all columns of the table except that for cases pending at the end of the year, and is left for inclusion in the figures for the year in which it is finally determined. A case is treated as disposed of when a disposition has been made even though that disposition is subject to later modification. For example, if a defendant is placed on probation, his case is treated as completed, even though probation may be later revoked and sentence imposed or executed. No account is taken of the second disposition.

"Defendants in cases on appeal who have defaulted bail are treated as pleading guilty . . . . .

"Explanation of headings

"(a) Total means total number of defendants whose cases are disposed of during the year.

"(b) Dismissed includes all forms of dismissal without trial such as nol-prossed, dismissed, quashed, continued, placed on file, etc.

"(c) Includes convicted on plea of nolo contendere.

"(d) Here are placed cases of all convicted defendants which are continued for sentence, placed on special docket, given suspended sentence without probation, etc.

"(e) Includes cases of defendants who in addition to being placed on probation are sentenced to fine, costs, restitution or support.

"(f) Under sentence to fine only come cases where sentence is to fine, costs, restitution or support provided there is no probation or sentence to imprisonment.

"(g) Includes cases of fine and imprisonment. In the liquor offenses particularly, sentences to imprisonment usually carry fines with them as well.

"(h) Not included in any other column."

OPINIONS RENDERED

The following pages contain a few of the opinions rendered by the Attorney General's Department, which have to do with administrative matters and which are used as precedents in this office in advising the various branches of the State Government in handling current problems.

January 24, 1941

From:
Frank I. Cowan, Attorney General
To:
Sumner Sewall, Governor of Maine

I have your request for an opinion of the power of the Governor or the Commissioner of Inland Fisheries and Game to issue complimentary hunting and/or fishing licenses without a fee being charged.

The statutory provision in regard to fishing licenses is found in Section 19 of the 1939 Revision of the Inland Fish and Game Laws. Paragraphs 2, 3 and 8 deal with charges to be made for fishing licenses. Paragraph 2 contains the following language: "Each resident of the state and each non-resident *shall purchase* from the commissioner or his authorized agent the written license" and so forth. Paragraph 2 designates clerks of towns as such "authorized agents" and provides that the commissioner may designate additional agents.

Paragraph 2 expressly sets a fee of $1.15 for a resident, and Paragraphs 3 and 8 provide fees for non-resident licenses. Nowhere in the law do I find any provision authorizing any person to issue licenses without charge. Indeed, Paragraph 4 expressly provides that "each agent" shall forward the net funds by him collected. There is nothing in the statute to prevent the commissioner from appointing the governor as his agent for the issuance of licenses, but the statute does not relieve any agent of the duty of remitting to the commissioner a fee for every license he issues. Indeed, the words "shall purchase" above quoted are entirely unrestricted and cover completely the method required for procuring fishing licenses.

The law in regard to the issuance of hunting licenses appears in Section 41 of the 1939 Revision of the Inland Fish and Game Laws. The wording of Paragraph 2 of Section 41 is considerably at variance from the wording of Paragraph 2 of Section 19. Section 41, having to do with hunting licenses, uses the following language at the beginning of paragraph 2: "No resident shall hunt or have in his possession any wild bird or wild animal without first *having procured* from the commissioner or his authorized agent a written license" and so forth. The clerks of towns are "authorized agents" and the commissioner may appoint other agents. The statute expressly provides that the clerk shall function by issuing a license upon payment of a fee and, by implication, restricts his power of issuing hunting licenses to those occasions when a fee is paid.

Paragraph 3 of Section 41 provides for the issuing of licenses to non-residents and aliens, and here again the words are "having procured from the commissioner or his authorized agent" instead of "shall purchase" as in the case of the fishing license. The second section of Paragraph 3 provides that the licenses "shall be issued on payment" of certain fees and, by implication, makes the payment of the fee a condition precedent to the issuance of the license.

The fact that the legislature apparently intended that the wording of Section 41, having to do with hunting licenses, should have the same meaning as Section 19, having to do with fishing licenses, seems to be further evidenced by the language of Paragraph 6 of said Section 41, where it provides that "Any non-resident under the age of 16 years ..... may buy a ..... hunting license" and so forth.

It is my opinion, therefore, that there is no statutory authority for the issuing of either hunting or fishing licenses without the payment of the fee set by the legislature for the particular class or type of license issued.

Very truly yours,

FRANK I. COWAN
Attorney General

January 30, 1941

To The
Honorable Nathaniel Tompkins
President of the Senate, and
Honorable George D. Varney
Speaker of the House of Representatives

Gentlemen:

I have the Order H. P. 455, dated January 23, 1941 requiring my report on the amounts recovered from the former controller William A. Runnells, and asking whether or not the case is closed.

According to the records of the State Treasurer and the State Auditor, recoveries in the Runnells case have been as follows:

Cash in brief case returned	$26,420.00
Cash received at settlement of Bill in Equity	25,649.40
Dividends received on Stocks, plus Cash found in desk .	556.47
Cash received from sale of Stocks	1,414.05
Interest received on Postal Savings Acct.	36.50
Total	$54,076.42

In addition, the State has taken title to a Packard automobile which it is offering for sale at $600.00, a House Lot in the City of Hallowell which has an estimated value of $1,000.00; Books comprising the personal library of Mr. Runnells; and various articles of personal property now stored in the State House. These will all be converted into cash as soon as a purchaser can be found.

Mr. Runnells has been adjudged guilty of embezzlement, and I am informed has received a maximum sentence of 10 years in State's Prison.

In reply to the question as to whether or not the case is closed, please be assured that no case that comes into the Attorney General's office will be closed while there remains any possibility of making recoveries for the State.

It is not the intention of your present Attorney General to close this case on the records until I am positive that all possible means of recovery for the State have been exhausted.

Respectfully submitted,

FRANK I. COWAN
Attorney General

February 7, 1941

From:
Frank I. Cowan, Attorney General

To:
William D. Hayes, State Auditor

In re Railroad Tax Apportionment

I have your inquiry of January 30th, 1941, in regard to Council Order No. 18, dated January 4th, 1939. The subject is covered by an opinion of the Justices in 136 Maine, Page 529. The court there expressly ruled that the shares of stock "held" in a city or town which is the corporate domicile of the lessee of a railroad, shall be considered as so "held" for the purpose of apportionment to that city or town of the share of the tax represented by the stock so "held".

The court ruled expressly on the question of apportionment in the case of the Portland and Rumford Falls Railroad, the Portland-Ogdensburg Railroad and the Portland Railroad Company.

This opinion of the Justices takes precedence over any opinion that may have been given heretofore by an Attorney General.

Very truly yours,

FRANK I. COWAN
Attorney General

February 11, 1941

Mr. H. E. Rodgers
State Controller
State House
Augusta, Maine

Dear Sir:

In response to your inquiry of February 3, I will say that I have given careful study and thought to the matter of the 10% discount given to hotels and clubs by the Liquor Commission.

As I view the matter, the Liquor Commission is not a sales agency but rather an administrative body with rather limited powers. I am inclined to feel that the granting of discounts from the retail prices goes beyond the intent of the Legislature in setting up the Commission. It seems to me that had the Legislature intended that the Commission should have the power to set different prices among different classes of customers, that fact would have been expressly stated.

In that connection there is a bill before the present Legislature, L. D. 508, which authorizes the Commission to give discounts of not in excess of 10%.

Very truly yours,

FRANK I. COWAN
Attorney General

February 27, 1941

George W. Leadbetter, Esquire
Commissioner of Institutional Service
Augusta, Maine

Dear George:

I have your letter of February 25th, asking an opinion regarding the release of persons from institutions other than the prison as outlined in your letter of January 27th. We do not find any letter of January 27th from you. We have, however, found an undated memorandum with reference to Chapter 1, Section 370, Public Laws of 1933, and Chapter 223, Section 7, Public Laws of 1939 on which appears the following question: "If paroled, would the Parole Board have authority to discharge them before the expiration of the maximum period; that is, in less than one, three or five years from time of commitment?".

In Section 366 of Chapter 1, Public Laws 1933 I find the words "shall be imprisoned and detained in accordance with the sentences

or orders of said courts and the rules and regulations of said reformatory". I see nothing in this language to indicate a right to discharge a prisoner under the words "rules and regulations of said reformatory". These rules and regulations seem to me to refer only to the method of handling the convict while he is in custody.

Sections 369 and 370 do not seem to me to contain any language enlarging the powers of the Board beyond the clear meaning of the words used; "a permit to be at liberty ****** upon such other conditions as the department shall prescribe during the remainder of the term" seems to be the extent of the powers of the Parole Board in discharging the convict.

Section 7 of Chapter 223, Public Laws 1939 does not seem to me to increase in any way the powers of the Parole Board in this regard.

The discharge of prisoners before serving out their terms does not seem to me to be one of the powers granted to the Parole Board.

Very truly yours,

FRANK I. COWAN
Attorney General

February 28, 1941

George W. Leadbetter, Esquire
Commissioner of Institutional Service
Augusta, Maine

Dear Sir:

In answer to your inquiry of January 27th, as to whether persons released from the institutions, other than the Prison, should be released by the Parole Board or by the head of the institution.

Our answer is, the Parole Board.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

February 28, 1941

George W. Leadbetter, Esquire
Commissioner of Institutional Service
Augusta, Maine

Dear Sir:

I have given consideration to your letter of February 13th, asking about the payment of $2 per week by the town of settlement for board of persons in the tuberculosis sanatoriums.

I find in the second paragraph of Chapter 270, P. L. 1933, that the two-dollar fund was designed for the furthering of emergency tuberculosis work within the sanatoriums, or private and semi-private hospitals. Under the circumstances, the taking over of a municipality by the Emergency Municipal Finance Board would, in some cases, reduce the income provided for this particular work unless the Legislature had set up a source from which recovery could be made.

These persons are certainly unemployables and in those cases where the municipality has been taken over by the Board, if the Board is unable to make the $2 payments from the income of the municipality, the Health and Welfare department may very properly consider said amount as a part of the funds it shall advance for the relief of the municipality.

Very truly yours,

FRANK I. COWAN
Attorney General

March 3, 1941

Carl R. Smith, Secretary
Farm Lands Loan Commission
Augusta, Maine

Dear Sir:

I have had an examination made of the records of the Town of Charleston to learn the status of the tax deeds and lien certificates acquired by said town against certain Thayer property on which the State of Maine, through the Farm Lands Loan Commission, had a mortgage. In considering this matter and acquiring this information, I disregarded entirely the fact that the State of Maine is the mortgagee because my feeling is that the State, through placing itself in such a position, should not force a reduction in the income of the town from its taxes.

You understand, of course, that the State is not liable for taxes at all and that where the State has placed a mortgage the town cannot legally cut away the rights of the State by tax deed or lien, or in any other way except by consent of the Legislature. I feel, however, that the State should conduct itself like any other mortgagee and should pay any properly assessed taxes on lands on which it has taken a mortgage as long as those lands are in the possession of the mortgagor, or those claiming under him.

When the State actually takes over the property by foreclosure of its mortgage, then no tax can be properly levied against the land, and so no tax is legally payable on the land. When no tax is legally payable on the land either, (1) because of faulty assessment or, (2) because the State has itself acquired both legal and equitable title,

it is in my opinion improper for the State through its Farm Lands Loan Commission to pay out of trust funds amounts claimed due for taxes.

The State's mortgage was dated January 18, 1930. Foreclosure proceedings were started in August, 1932, and the equity of redemption expired in August, 1933. The first tax deed was dated July 1, 1935 and was a sheriff's deed based on action brought against Arthur L. Thayer in the Superior Court for Penobscot County, returnable at the September Term, 1934. This was to enforce payment of the 1933 tax. The writ was dated April 12, 1934, and the real estate was attached on April 20, 1934.

On the facts as given above, no tax could be legally assessed against the property after August, 1933. The sheriff's deed was for the collection of a tax assessed before the expiration of the equity of redemption. There are some defects in the procedure but not of such matter that we can feel absolutely certain the deed would be held invalid by the courts if the mortgagee had been someone other than the State. Under those circumstances, it is proper for the Farm Lands Loan Commission to pay the amount of that tax as consideration for a quit-claim deed from the town.

The State is not in any way liable for any taxes subsequently laid. However, the arrangement made to share with the town a part of the income as provided in the 1939 amendment is proper and should be continued.

Very truly yours,

FRANK I. COWAN
Attorney General

March 3, 1941

C. S. Robinson
Administrative Director
State Military Defense Commission
Augusta, Maine

Dear Sir:

Your letter of February 26th, containing copy of a letter from Mr. Gates, Chairman of the Board of Selectmen of Millinocket, is received.

In connection with the institution of condemnation proceedings at Millinocket Airport, a ruling is asked from the Attorney General as to whether the municipal officers of the town can proceed against the land, a part of which appears to be in unorganized territory,

without the permission of the county commissioners. Section 3 of Chapter 308, Public Laws of 1939, Special Session, provides that:

> "***before a city or town shall take land for an airport or landing-field, or for the expansion of an airport or landing-field, by eminent domain as hereinbefore provided, it shall secure the consent of the municipal officers of the town or city in which such land is located."

There does not appear to be any provision of our statutes which enables municipal officers of towns to institute eminent domain proceedings against land in unorganized territory.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

March 5, 1941

Archer L. Grover, Esquire
Deputy Commissioner
Inland Fisheries and Game
Augusta, Maine

Dear Sir:

Unfortunately the statutes of Maine do not contain any provision for payment for damage done by deer or moose. The statute of 1935 may have been intended by its author to contain such a provision, but, if so, one sentence, or a part of a sentence, was omitted. The only procedure we have is for a claim to be presented to the legislature and to be put through the claims committee.

In the particular case of Glenda J. Hoy the insurance company can, if it wishes, have a resolve introduced at the next legislature for reimbursing it.

Very truly yours,

FRANK I. COWAN
Attorney General

March 5, 1941

Hon. Bertram E. Packard
Commissioner of Education
Augusta, Maine

Dear Sir:

I have your communication of March 4th, inquiring about the liability of towns and cities for injuries received by students taking part in defense training programs for which funds are furnished by the Federal Government.

Municipalities are not liable for injuries occurring to persons when those persons are availing themselves of the governmental functions of a municipality. Carrying on a school is such a function.

As to the possible liability of individual teachers, it must be apparent that the answer must lie in each specific case, and that a teacher can be liable only for negligence directly attributable to him.

Very truly yours,

FRANK I. COWAN
Attorney General

March 20, 1941

Elmer W. Campbell, D. P. H.
Chief Clerk, Board of Barbers and Hairdressers
State House
Augusta, Maine

Dear Doctor Campbell:

I have your communication of March 20th, in regard to application of P. L. 1937, Chapter 190, Section 21, in cases where towns have increased in population so that they are now in excess of 1000.

You have no option except to require that persons operating barber shops in towns having a population of over 1000 according to the last census shall secure licenses.

The date January 1, 1938, is restrictive and you have no authority to set a later date at which an application for a license can be filed.

Very truly yours,

FRANK I. COWAN
Attorney General

March 25, 1941

From:
Frank I. Cowan, Attorney General
To:
Hon. James K. Chamberlain, Chairman
Joint Committee on Taxation

I have been asked to give an opinion of the constitutionality of a statutory provision placing a different rate of taxation on realty from that assessed against personalty. The State Constitution, Article IX, Section 8, reads as follows:

> "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof."

This language seems, at first glance, to allow for a difference in classification between real and personal property. However, in 68 Maine, Page 586, we find an opinion of the Justices bearing on this question which certainly justifies the conclusion that no such distinction in classes was intended. The Justices call attention to the fact that certain taxes are for the benefit of *all* of the people and that *all* of the property of the State is assessed, therefore, according to its valuation.

The Court has discussed this question of the constitutionality of certain tax legislation in the cases of Sawyer v. Gilmore, 109 Maine, Page 169, Keyes v. State, 121 Maine, Page 306, Manufacturing Company v. Benton, 123 Maine, Page 128, and also Water Company v. Waterville, 93 Maine, Page 594. In none of these cases has the exact point been raised, but the courts have uniformly held that it is *all* the property of the State which is to be taxed for the purpose of raising money for the benefit of *all* the people.

Under the circumstances there can be no question but what the courts would rule that any statute attempting to differentiate between the proportion of a tax to be paid by realty and personalty would be invalid.

Respectfully yours,

Attorney General

March 27, 1941

From:
The Attorney General

To:
William D. Hayes, State Auditor

In re Railroad Taxes.

I have given thoughtful consideration to your memorandum of March 13, 1941, in regard to the apportionment of railroad taxes to the municipalities, and have discussed it with persons who are acquainted with the history and the facts.

Section 29 of Chapter 12 of the Revised Statutes provides for the apportionment "to the several cities and towns in which, on the first day of April in each year, is held railroad stock of either such *operating* or *operated* roads." This very subject is covered by the opinion of the Justices appearing in 136 Me. 529, in which Judge Dunn says: "The language of this constitutionally valid statute is plain and unambiguous; adherence to its obvious meaning, which is not devoid of purpose, would lead neither to injustice nor to contradictory provisions."

Here we have a statute expressly referring to and providing for apportionment of stock of operating and operated roads, and it is very clear that the legislature intended apportionment to be on the basis of capital stock held in both types of road.

This opinion is given further force by the history of the railroads and of this legislation. When the railroads were constructed the municipalities contributed heavily to their construction, but the State contributed comparatively nothing. The purpose of this legislation was to try and return to the municipalities, to some extent, some of the money they had invested in the railroads.

FRANK I. COWAN
Attorney General

April 1, 1941

Frederick G. Payne, Esquire
Commissioner of Finance and
Budget Officer
State House

My dear Fred:

I have your letter of March 21st, in regard to the State Trust Funds. The State has always regarded itself in the light of a real trustee, and has usually accepted complete responsibility as insurer of these funds. It has not always gone the whole way, however, as insurer. For instance, when, through improper conduct, the Hebron Sanatorium lost the Hill fund of $200,000 in 1915, the State did not accept the responsibility and restore the fund.

The majority of these funds are out right gifts to the State or to the institutions and, under such circumstances, we are in no danger of losing them through legal action. Some, however, and I am not prepared to say offhand which ones, are endowments so created that failure to conform to the wishes of the giver will endanger the fund itself.

Where the condition of the gift has been that the State would guarantee a certain amount of interest annually, or that the State, in lieu of interest, appropriate a certain amount of money which would be the equivalent of four, five or six percent, any failure on the part of the State to conform to the terms of its contract will jeopardize the fund. If, however, the amount of the appropriation has been figured as, approximately, four, five or six percent of the principal of the fund, and there was no condition in the gift that any such sum of money should be raised by the State annually, failure to appropriate such an amount in any one year cannot weaken the legal rights of the State in the principal. Moreover, where the State has itself created a fund it can thereafter do with it as the legislature sees fit because, unless I

have forgotten some specific instance, there are no funds created by the State of such a nature that any person, or group of persons, or any institution, has obtained contractual rights against the State that can be enforced.

The State has encouraged some of the institutions to proceed on the theory that a certain annual amount equivalent to some fixed percentage of the principal of a trust fund will be received annually for the benefit of the inmates of the institution. This has been a fixed policy for many years. The State can change that policy as I suggested above at any time, and the only question that can arise is one concerning the wisdom of such a change.

If I have not given you the answers you want, let me know and I will go into the matter further.

Very truly yours,

FRANK I. COWAN
Attorney General

April 14, 1941

The Attorney General
William D. Hayes, State Auditor

In Publication of Municipal Audits.

I have your memorandum of April 11th. I do not know of any law preventing any head of a department from disclosing the private information contained in his department, but I seriously question the wisdom of making such public disclosures.

My personal feeling is that when you make an audit for a town you are acting in an official capacity. When the town receives the report, that report immediately becomes a public record. If the town officials for any reason conceal the contents of the report the auditor might very well feel it his duty to make the facts public. In the meantime, as I said, I believe the information you acquire should be regarded as confidential. This, however, does not in my opinion go so far as to preclude your delivering such information to any other State official who may have reason to see it.

F. I. C.

April 21, 1941

State Liquor Commission
98 Water Street
Augusta, Maine

Gentlemen:

In considering the matter of your inquiry as to whether or not the State Liquor Commission may properly grant rebates of excise taxes

to wholesalers in respect to malt liquors sold and delivered by them to post exchanges, canteens, etc., located in Federal areas, which taxes have been previously paid by such wholesalers, I think that, in addition to other laws, it is necessary to consider, separately, each of the two provisions of our Maine statutes relating to such taxes.

Section 21-A of Chapter 268 of the Public Laws of 1933, which was enacted by Section 2 of Chapter 236 of the Public Laws of 1937, reads in part as follows:

> ". . . . A wholesale licensee who imports malt liquors shall pay an excise tax on the following basis: case containing 24 12-ounce bottles, 9c; case containing 24 16-ounce bottles, 12c; case containing 12 24-ounce bottles, 9c; case containing 12 32-ounce bottles, 12c; $1.24 for a barrel, 62c for a half barrel, and 31c for a quarter barrel."

It will be noted that this tax is levied against "a wholesale licensee who *imports* malt liquors" into this state. The tax is not laid on the sales of such malt liquors nor because of any sale. True, it appears that the importation of such liquors into this state is with a view of selling it; but the fact remains that the importation of it is not part of the sale but preliminary to it. See Wheeler Lumber Co. v. United States, 281 U. S. 572.

It is my opinion that so far as this particular section of the law is concerned the taxes levied and imposed by it are collectible by the state from the wholesalers, and that the State Liquor Commission should not grant rebates of such taxes on the grounds or for the reason that the sales of malt liquors by the wholesalers were made to persons, post exchanges, canteens, etc., located in Federal areas. According to my views and as to this particular section the question of whether the purchaser of malt liquors from a wholesaler is or is not an instrumentality of the United States is immaterial and does not affect the right of the state to the taxes levied and imposed by this section.

Section 2 of Chapter 15, Private and Special Laws of 1937, as amended by Section 3 of Chapter 236 of the Public Laws of 1937, the emergency deficiency tax, reads as follows:

> "There is hereby levied and imposed, in addition to any other taxes now in effect thereon, an excise tax to be known as the 1936-7 Deficiency Tax on all malt liquor sold in the state of $3.72 on each and every barrel containing not more than 31 gallons and at a like rate for any other quantity or for the fractional parts of each barrel."

It will be noted that by this particular section the tax is "levied and imposed . . . on all malt liquor *sold* in the state . . ."

In the case of Panhandle Oil Co., vs. Mississippi, 277 U. S. 218, 48 S. Ct. 451, 72 L. Ed. 857, the State of Mississippi imposed upon distributors and retail dealers in gasoline, for the privilege of engaging in the business, an excise tax of so much per gallon upon the

sale of gasoline sold in the state. The oil company, a dealer, was sued by the state for certain sums alleged to be due under the tax statute, and resisted payment with respect to sales made by it to the United States Government for the use of the Coast Guard and Veterans' Hospital in Mississippi. The Supreme Court sustained the claim to exemption on the ground that the necessary effect of the tax was directly to retard, impede, and burden the exercise by the United States of its constitutional powers to carry on government instrumentalities.

In view of the decision in the Panhandle Oil Co. case it appears to me that instrumentalities of the United States are probably not subject to the burden of the tax imposed by this section of our Maine laws now under consideration. It is, therefore, my opinion that the State Liquor Commission may properly grant rebates of the taxes imposed by this section to wholesalers in respect to malt liquors sold by them to instrumentalities of the United States performing governmental functions, assuming, of course, that such wholesalers have previously paid such taxes to the state without having reimbursed themselves when, or since, making the sales to such instrumentalities. I feel, however, that considerable care should be exercised in determining the question of what is an instrumentality of the United States immune from state taxation. This question is not a simple one. In the case of Metcalf & Eddy v. Mitchell, 269 U. S. 514, 46 S. Ct. 172, 70 L. Ed. 384, we find such statements as the following: "Just what instrumentalities of either a state or the federal government are exempt from taxation by the other cannot be stated in terms of universal application." ". . . . it is apparent that not every person who uses his property or derives a profit, in his dealings with the government, may clothe himself with immunity from taxation on the theory that either he or his property is an instrumentality of government within the meaning of the rule." ". . . . it becomes necessary to draw the line which separates those activities having some relation to government, which are nevertheless subject to taxation, from those which are immune. Experience has shown that there is no formula by which that line may be plotted with precision in advance." Also it appears that the courts are not in accord on the question of what constitutes an instrumentality of the United States; for instance, see Dugan v. United States, 34 C. Cls. 458, (1899), and Pan American Petroleum Corp. v. Alabama, 67 F. (2d) 590. (C. C. A. 5th 1933). It is quite obvious then that no rebates of taxes levied and imposed by this provision should be granted unless and until proof is furnished to the Commission, and it is made to appear to the satisfaction of the Commission, that the activity or agency to which the malt liquors are sold is an instrumentality of the United States.*

Very truly yours,

WILLIAM W. GALLAGHER
Assistant Attorney General

*Procedure changed by Statute, 1943.

May 13, 1941

From:
Frank I. Cowan, Attorney General

To:
Henry P. Weaver, Chief
Maine State Police

I have your letter of May 2nd in regard to Chapter 211 of the Public Laws of 1937, stating that some of the Judges hold that in order to convict a person of reckless driving, under subdivision (a) it is necessary that some injury be caused.

Webster's Dictionary gives the following definition of the word "reckless":

> "1. That does not reck of one's duty, character, life, or the like; now usually, careless; neglectful; indifferent; inconsiderate; . . .
>
> "2. Characterized by or manifesting lack of due caution; rash, utterly heedless; . . . .
>
> "Syn.—Heedless, careless, thoughtless, regardless."

It seems to me that when the Legislature used the word "recklessly" in subdivision (a), it used it in its ordinary meaning as evidenced by the above definition, and that subdivisions (a) and (b) were set up to establish two distinct categories. Under subdivision (a), a person should be convicted of driving recklessly if his driving has been of a sort to come within Webster's definition, even though no damage has been caused. Subdivision (b) may have been inserted to cover cases that might arise where the evidence would be a little bit weak on the reckless driving, but where the lax conduct of the respondent has been combined with an actual damage to property.

I can't see any justification in the wording of the Act for a holding that actual damage is necessary before a respondent can be held guilty of reckless driving.

F. I. C.

May 16, 1941

From:
Frank I. Cowan, Attorney General

To:
Bertram E. Packard, Commissioner of Education

I have your letter of April 25th in regard to exclusion of children from school by local school boards.

R. S., Chapter 19, Section 32. "Every child between the said ages (of 5 and 21 years) shall have the right to attend the public schools in the town in which his parent or guardian has a legal residence, *subject to such reasonable regulations as to* the numbers and *qualifications* of pupils to be admitted to the respective schools and as to other school matters as the superintending school committee shall from time to time prescribe."

R. S., Chapter 19, Section 17. "Every child between the 7th and 15th anniversaries of his birth . . . . shall attend some public day school during the time such school is in session . . . . provided, also, that such attendance shall not be required if the child obtains equivalent instruction . . . in a private school . . . or in any other manner arranged for by the superintending school committee with the approval of the State Commissioner of Education . . . . and provided, further, that the . . . committee may exclude from the public schools any child whose physical or mental condition makes it inexpedient for him to attend."

R. S., Chapter 19, Section 44. "Superintending School Committees shall perform the following duties:

> Par. IV. "Expel any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior if found necessary for the peace and usefulness of the school; and restore him on satisfactory evidence of his repentance and amendment."

Donahue vs. Richards, 38 Me. at page 397:

"The committee may enforce obedience to all regulations within the scope of their authority. If they may select a book they may require the use of the book selected. If the plaintiff may refuse reading in one book, she may in another, unless for some cause she is exempted from the duty of obedience. If she may decline to obey one requirement, rightfully made, then she may another, and the discipline of the school is at an end. It is for the committee to determine what misconduct requires expulsion."

It would seem from the above that the school committee has authority to set up such regulations as, in the exercise of their proper discretion, seems best. If the regulation seems to be a wrongful exercise of discretion, the courts would doubtless overrule the board. One of the arguments raised in the case of Donahue v Richards, Supra, was that the committee might require the reading of certain atheistic and lascivious books. The court in the dictum suggested that even such conduct on the part of the school committee would not be subject to review by the courts but would be a matter for the citizens to correct at the next election.

It seems to me doubtful that the courts would support this dictum, but I believe they would go a long way in upholding the action of a school committee.

FRANK I. COWAN
Attorney General

May 17, 1941

Arthur R. Greenleaf, Commissioner
Department of Sea and Shore Fisheries
Boothbay Harbor, Maine

Dear Sir:

I have your letter of May 14th asking with regard to the constitutionality of Sec. 54-A of the Sea and Shore Fisheries law, being Chapter 230 of the Public Laws of 1937.

It is my opinion that the provision in the Act providing that clams taken from the clam flats of the five Eastern coastal counties cannot be sold in the three Western coastal counties, is invalid. The court of Maine has passed on this matter several times. In the case of State vs. Mitchell, 97 Maine, page 66, the question of a statute arbitrarily applying to one section of the State or one class of people, but not to another section or another class, was discussed at great length and the particular statute under discussion at that time was held invalid.

It is true that in the case of State v. Leavitt, 105 Maine, 76, the court upheld Chapter 317 of the Private and Special Laws of 1903 which forbade the taking of clams on flats of Scarboro during certain months by any person except residents of the town, but the court upheld that solely on the ground that the State has a right to give a preference to the locality in which the fishery is located.

You understand, of course, that Acts of the Legislature are regarded as valid until declared invalid by the courts. However, since you have asked the question, it is my duty to inform you that in my opinion if we attempt to enforce this Act by prosecution of any person in the courts, we will meet with an adverse decision.

Very truly yours,

FRANK I. COWAN
Attorney General

May 22, 1941

Arthur R. Greenleaf, Commissioner
Sea and Shore Fisheries
Boothbay Harbor, Maine

Dear Sir:

I have your letter of May 19th, asking for a ruling as to the legality of the selling of canned illegal lobster meat in Maine. Section 89, Public Laws of 1933, as amended by Public Laws of 1933, Chapter 247, as further amended by Public Laws of 1935, Chapter 176, is, I believe, the section to which your letter refers.

1. If the lobster meat is illegally canned in the State of Maine it cannot be legally shipped, transported, carried, bought, given away, sold or exposed for sale.

2. If the lobster meat is imported in the can, the wording of said section should be interpreted in accordance with the ruling of the Court of the State of Maine in the case of State vs. Bucknam, 88 Me., Page 385. This interpreted Revised Statutes of 1883, Chapter 30, Section 12, as amended by Public Laws of 1891, Chapter 95, Section 4. The words of said section: "No person shall . . . . have in possession between the first days of October and January more than . . . . three deer."

The Court in the above named case held that this statute could apply only to deer unlawfully taken. The Court said on Page 392, "They do not intend to interfere with foreign game, dead or alive, brought within the State at any time or with game lawfully taken or killed here."

The statute of 1883 was subsequently changed by Chapter 131, Public Laws of 1919. Said chapter contained the following language: "No person shall . . . . have in possession any bull moose or part thereof, whenever or wherever taken, caught or killed . . . . ." The Court in the case of Woods vs. Perkins, 119 Me., Page 258, held that these words "whenever or wherever taken" made the law apply to moose killed in Canada. The Court called attention to the express language of the statute of 1919, as distinguished from the language of the statute of 1883, and calls the earlier statute one of limited, not unlimited, scope.

My conclusion, if I have correctly interpreted your question, is that lobster meat canned in Maine must conform to the requirements of the State law in regard to length. Lobster meat canned outside of the State of Maine but brought into this State need not, under the wording of our present statute, conform to those requirements.

Very truly yours,

FRANK I. COWAN
Attorney General

May 24, 1941

Hon. Sumner Sewall
State House
Augusta, Maine

My dear Governor:

I have your request for an opinion in regard to the power of sheriffs to summon assistance for suppressing mobs and riots, and also asking about the rights of sheriffs or their deputies to cross county lines in order to assist in suppressing civil disorders.

The powers of a sheriff as a peace officer do not follow him outside of the limits of the county for which he is elected. When he leaves that county, his status is exactly the same as that of any other citizen in so far as relates to the suppression of crime.

However, under R. S. Chapter 134, Sections 16, 17 and 18, a sheriff is given very broad powers for suppressing riots and mobs in his own county. Under Section 16, he and other peace officers are empowered to command the dispersal of mobs and if there is lack of obedience, the officers are empowered to "command the assistance of all persons present in arresting and securing the persons so unlawfully assembled", and there is a criminal penalty provided for anybody, who, being so commanded, shall refuse to assist.

Under Section 17, if the persons unlawfully assembled neglect or refuse, after command, to disperse without unnecessary delay, any two peace officers may "require the aid of a sufficient number of persons in arms or otherwise, and may proceed in such manner as they deem expedient, to suppress such riotous assembly and to arrest and secure the persons composing it; and when an armed force is thus called out, it shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which it receives from the governor, any justice or a judge of a court of record, the sheriff of the county, or any two of the officers mentioned in the preceding section", (meaning municipal officers, constables, marshal, deputy marshal, police officers, deputy sheriffs, sheriff.)

In case of a riotous assembly in County No. 1, the sheriff of County No. 2 would have no authority to lead or send his deputies into County No. 1 to assist in suppressing the riot. It would be perfectly proper, however, for him to notify his deputies of the conditions in County No. 1, and if they saw fit to go voluntarily into County No. 1 with arms and place themselves at the disposal of the sheriff in that county, the latter could command their immediate assistance without the necessity of formal deputization, and it would be their legal duty to obey his commands, as provided in Section 17, quoted above, and failure to obey those commands would subject them to the severe penalties provided in Section 16.

So long as the sheriffs and their deputies bear in mind that their powers as sheriffs and deputies terminate at their own county lines, and that when they cross the line they cross it as private citizens, and that before they can give active armed assistance to the suppression of a riot in the second county they must be commanded by an officer of that county to give such assistance, there will be no difficulty.

The question in regard to the right of a private citizen to interfere in the prevention of crime in the absence of an authorization by an officer of the law is one that has caused a great deal of difficulty. A private citizen may always interfere to prevent the commission of a felony, using no more force than is necessary to prevent the act

and may prevent the commission of certain types of misdemeanors such as stretching out a hand to prevent a rock from being thrown through a window, or restraining an assailant from striking another person. In such cases, however, there is no protection for the man acting as peacemaker if he uses more violence than the facts warrant, or if he is mistaken when he thinks the person he restrains is in the act of or about to commit a crime, and good intentions are no defense.

Therefore, in the suppression of riots and mob action, the private citizen should, in general, act only when he is commanded to do so by a properly constituted officer. Otherwise we might have the case of a conflict between two mobs rather than an orderly suppression of crime by a properly disciplined body or group of citizens.

I trust this gives you the information you desire.

Very truly yours,

Attorney General
State of Maine

May 29, 1941

J. A. Mossman
State Controller
Augusta, Maine

Dear Sir:

I have your memorandum of May 27th calling attention to a requested opinion in connection with Carlton Bridge Special Maintenance Account.

It is improper practice for the State to pay interest on any sums ordered refunded by the Legislature unless there is definite instruction from the Legislature or an order of court. In connection with the Carlton Bridge Account, I can see in the Legislative Act of 1939, no authority whatsoever for paying to the railroad company interest on the money refunded.

Very truly yours,

FRANK I. COWAN
Attorney General

June 5, 1941

Marie J. Tibbetts
Legislative Reference Librarian
Maine State Library

Dear Madam:

I have your letter of June 3rd, asking in regard to the disposal of Maine Reports, Laws and Statutes in Judge Dunn's library.

Under Sections 17, 18 and 19 of Chapter 4 of the 1930 Revised Statutes, the volumes sent to the towns and plantations, to state, county or town officers, and to the several town and public officers in the State, distinctly remain the property of the State. Section 20 provides for distribution to various public officers, but it is noteworthy that the only place where the word "given" appears is in connection with State Departments and Institutions.

It is obvious that the volumes furnished to a Justice of the Superior or Supreme courts are for the library he uses in connection with his public duties as an officer of the State, and title does not pass to him as an individual. Section 18 expressly provides that if said office becomes vacant, the books shall be turned over to the officer's successor in office.

What I said above in regard to Section 20, applies with equal force to Section 21. Although the books sent to persons who are not officials of the State of Maine may become the property of the persons to whom sent, that is not true if the recipient is such an official.

In my opinion, under Section 19 every Maine Report, copy of the Revised Statutes, copy of the Public Laws or copy of the Digest distributed by the State Librarian to the several town and public officials, should be stamped as provided in said Section, but volumes sent to libraries, ex-Governors, United States Senators and members of Congress, to Federal officials, to the Library of Congress and the Maine State Bar Association, should not be so stamped.

Very truly yours,

FRANK I. COWAN
Attorney General

June 14th, 1941

Mr. Miles B. Mank
Chairman, State Racing Commission
State House
Augusta, Maine

Dear Sir:

I have carefully considered your questions in regard to interpretation of Section 20 of Chapter 130 of the Public Laws of 1935. This section expressly provides that "Every person, association or corporation conducting a race . . . . within 60 days after the conclusion of every race meeting shall submit to the commission a complete audit of its accounts certified by a public accountant qualified to practice in the state of Maine and approved by the commission."

This language, since it requires the employment of a qualified public accountant for the audit, by implication, of course, puts the bur-

den of payment of the accountant on the person employing him. However, there is nothing in the section requiring the presence of these public accountants at the races themselves, and it is the sole duty of the commission to determine whether or not the problem can be handled in a proper manner without the presence of such accountants.

A careful reading of the whole chapter discloses that the legislature intended that the commission should have charge of races and pari-mutuels. It is obviously impossible for the legislature to anticipate every situation that may arise. It is largely for that reason that commissions are set up and men of experience, firmness of mind and intelligence are appointed commissioners. Where the statute does not speak in regard to any detail, it is the duty of the commission to proceed along such lines as will best carry out the general intent of the legislature.

If, in the course of carrying out your duties, you find yourself in disagreement with the State Auditor, that does not necessarily mean that either of you is wrong. You each may have your ideas as to how best to proceed, but the final decision as to procedure must rest with you. There cannot be two different heads running a department. Either you are chairman of the racing commission or the auditor is chairman of the racing commission.

However, I strongly recommend that you give careful consideration to the auditor's suggestions because he seems to be a man sincerely desirous of furthering the best interests of the State. If, however, a suggestion of his is, in your opinion, impractical, you, as head of your department, must consider whether or not you are going to use your own judgment or capitulate to a suggestion that, in your opinion, it is unwise to follow.

Very truly yours,

Attorney General
State of Maine

July 10, 1941

From:
Frank I. Cowan, Attorney General

To:
John C. Burnham,
Director of Outdoor Advertising

I have your inquiry of July 9th in regard to a compact section of a town or city. Chapter 144 of the Public Laws of 1937 expressly describes the buildings which shall be considered in determining whether or not a section is "compact". These buildings must be devoted to business or be dwelling houses. We can hardly consider a private garage, an old barn, an ordinary hen house or an ordinary pig pen as "buildings devoted to business" and certainly they are not dwelling houses.

Over-night camps are dwellings devoted to business and so would be a store, an eating house or any other permanent structure erected for the handling of any kind of mercantile or financial transactions. It is possible, of course, for a pig pen or a hen house or a barn or garage to be a place of business as contemplated in the statute, but where they are merely accessories to the farm or the dwelling house, they cannot be so considered.

In considering the matter of distance, the Legislature has not expressly stated that distance must be considered along any one street or road. Therefore, if buildings devoted to business or dwelling houses are situated less than 150 feet apart for a distance of at least ¼ of a mile in any direction, that area is to be interpreted as a compact or built-up section.

FRANK I. COWAN

July 15, 1941

John G. Marshall, Esquire
33 Court Street
Auburn, Maine

Dear Sir:

I have your letter of July 10th, in regard to Dr. Arthur Werner, and note your two questions.

1. Query: "Whether or not the executors on the one hand can contract with an optometrist to continue in the business." In answer to this I will say that optometry has been recognized as a profession by our legislature, and we have a Board of Optometry set up to assist the members of the profession in their activities and to try to suppress improper practices. The legislature has said that members of this profession cannot be hired and exploited like day laborers. Since an optometrist is a professional man the right to practise his profession must, of course, die with him and the executors of his Will, unless themselves licensed optometrists, cannot be regarded as persons upon whom his mantle will fall.

If an optometrist is a professional man as distinguished from a business man, there is no "business" to continue. There is, however, a certain amount of good will that goes with the work of any professional man and that good will has a sale value which may be slight, or may be large. There can be no objection to the executors selling that good will to Mr. Werner, or to any other optometrist whom they can induce to purchase. But since it is not a "business", Mr. Werner must carry on the profession in his own name although I see no objection to his calling attention to the fact that he is "Successor to ....." so long as he does not violate professional ethics in his advertising.

Your second question was "Whether or not the Supreme Judicial Court in Equity can empower a trustee to contract with an optometrist to continue with the business." It would be presumptuous on my part to give an opinion on this subject inasmuch as you say the question is now pending before the Supreme Court.

Very truly yours,

FRANK I. COWAN
Attorney General

July 18, 1941

From:
Frank I. Cowan, Attorney General
To:
William D. Hayes, State Auditor

R. S., Chapter 125, Section 34, provides as follows: "Each member of the State Highway Commission shall receive an annual salary of $3500; they shall also receive their actual expenses incurred in the performance of their official duties."

In my opinion, this last clause means that wherever they are in the performance of their official duties, whether in Augusta or elsewhere, they are entitled to travel and the expense they incur. This even means that if they perform official duties in their home towns, they are entitled to travel between Augusta and those home towns. Their official office, wihout doubt, is Augusta, and if they reside in Augusta, of course, the statute doesn't cover their living expenses. If, however, their homes are elsewhere, they are entitled to their travel and living expenses while on official duty away from home.

You have asked whether or not a town can pay more than 6% interest on a note. R. S., Chapter 57, Section 142, reads as follows: "In the absence of an agreement in writing, the legal rate of interest is 6% a year". Money is a commodity and must be paid for like other commodities. There is no question but what a municipality can pay whatever wage is necessary to employ labor and pay whatever price is necessary to purchase materials. If it needs to borrow money, there is, in my opinion, no lawful objection to its paying whatever price it has to to get that money.

You have asked, in regard to a bond, as to whether or not a treasurer of a so-called "deorganized" municipality, or the manager of such a community, needs to give a special bond to the State Treasurer in connection with money advanced by the Treasurer under the Food Stamp Plan. In my opinion, such a special bond is necessary.

You have asked whether a deputy sheriff especially appointed to serve at an office of the Secretary of State should give bond to the sheriff or to the Secretary of State, or both. R. S., Chapter 94, Section 8, as amended by Public Laws of 1937, Chapter 220, provides as follows: "Every sheriff elected or appointed, may appoint deputies for whose official misconduct or neglect he is answerable, etc."

Section 9, Chapter 94, provides as follows: "Whenever a state of war shall exist or be imminent between the United States and any foreign country, sheriffs may appoint . . . . . special deputies who shall have and exercise all the powers of deputy sheriffs appointed under the general law, except the service of civil process. Such special deputies shall be personally responsible for any unreasonable, improper, or illegal acts committed by them in the performance of their duties, but the sheriffs shall not be liable upon their bonds, or otherwise, for any neglect or misdoings of such deputies."

In my opinion, any deputy appointed for service in one of the offices of the Secretary of State must be appointed under Section 8. Since the sheriff is himself the official to whom is intrusted the protection of lives and property in the county, it is his duty to protect the office which the Secretary of State may establish in that county, just as it is his duty to protect any other office or the contents of any other office which exists in his county. The deputy appointed to that particular duty should, therefore, give a bond to the sheriff in sufficient amount and with sufficient sureties, but since it is a special appointment requested by the State, it is perfectly proper for the State to pay the expense of the bond.

I understand that the Secretary of State is requiring that said deputies shall also give a bond to him. This at least is safe practice on the part of the Secretary of State. There is, of course, a question whether or not the sureties on such a bond would be liable in case of a default, since there is no statutory provision for such a bond and it would be given for the faithful discharge of duties as a deputy sheriff. However, in view of the fact that the cost of such a bond is very little, I think the Secretary of State is wise to require it. I will give more thought to the question of the legality of this bond when I get more time, and if I finally conclude that it is not a bond that would bind the bondsmen, I will let you know.

You asked about the constitutional provision for approval by the Legislature of the bonds of the Treasurer of State, and whether Sections 70 and 71 of Chapter 2 of the Revised Statutes, fully interpret the provisions of the constitution. That question I prefer to hold in abeyance until I have had the opportunity of giving it more extensive thought and study.

F. I. C.

July 24, 1941

Harold E. Kimball, Sec'y
State Park Commission
Augusta, Maine

Dear Sir:

I have a letter dated July 21st from Charles P. Bradford, Field Man for the Commission, asking about the maintenance by the Park Commission of a highway to Foster Cemetery located in the Frye mountain area in Montville, Maine.

In my opinion, the Park Commission has no authority to maintain any highways except such as may be maintained within the park areas for the benefit of the general public. It would have no authority to maintain a highway to a cemetery. It may be that that is a matter for the Legislature to consider.

Very truly yours,

FRANK I. COWAN

Attorney General

July 25, 1941

George E. Hill, Chairman
Belmont A. Smith, Member
William D. Hayes, Member

Emergency Municipal Finance Board
Augusta, Maine

Gentlemen:

In reply to query of Mr. Hayes in his memorandum of July 24th, concerning the subject of current expense, I beg to answer as follows:

1. What is the status of state taxes assessed prior to December 23, 1937?

Answer: Although the State has a legal right which makes it possible for it to treat these taxes as a debt requiring immediate payment, such an attitude would be unwise. These taxes should not be treated as current expenses but as preferred debts.

2. Status of interest on the above taxes?

Answer: Inasmuch as the interest can be added to the principal and the whole amount enforced at the discretion of the State, this interest also can be treated as a part of a past debt although if the financial situation of the City is such that the interest can be taken care of it certainly should be treated as a current expense.

3. Status of principal of bonds issued prior to December 23, 1937 having current maturity dates?

Answer: The bonds are a debt for a past consideration. The current maturity dates are promises to pay a past debt in installments at certain times. This promise is no more pressing than the expressed or implied promise to pay any other debt. But, the nature of the paper issued and recognition of the obligation is of a higher character than interest in the case of a simple note and, of course, is of a higher legal character than the implied promise to pay any current obligation.

I believe these current maturity dates should properly be treated as creating current obligations, but they are secondary in moral effect to the obligation to feed the poor, support the schools, police, fire department and the other necessary living expenses of the city.

4. Status of principal of bonds having maturity dates prior to December 23, 1937?

Answer: This is a past obligation and should not be treated as creating a current debt.

5. Status of interest on bonds?

Answer: Here again you have a current obligation second in effect to the immediate cost of operation of the city.

All of the above matters can be treated as current and if the city were solvent they certainly should be so treated but the extent of insolvency gives you a practical rule in deciding to what extent you will regard these as current. The problem is actually an administrative one and not a legal one.

Very truly yours,

July 25, 1941

Earle R. Hayes, Director
Bureau of Personnel
Augusta, Maine

Dear Sir:

I have your letter of July 23, informing me that in December, 1937 a rule was included among your Rules and Regulations which provided that: (1) so far as new appointments to the service, and/or (2) promotions within the service were concerned, council orders should be presented to the Governor and Council covering such items, in much the same manner as had been in effect prior to the enactment of the Personnel Law.

Careful consideration of the law is conclusive that such a rule violates both the letter and spirit of the law. The Personnel Board have no authority to delegate any part of their duties; and by the express terms of the Act they are prohibited from subordinating their judgment in appointments or promotions to that of any other person or group of persons.

Very truly yours,

FRANK I. COWAN

Attorney General

August 19, 1941

The Attorney General
Andrew J. Beck, Bank Commissioner

I have your letter of August 12th, in regard to mutual savings banks.

1. In my opinion, R. S. Chapter 57, Section 27, subsection 14, includes Federal Housing Administration Insured Mortgages.

2. In my opinion, a mutual savings bank can originate Federal Housing Administration Insured Mortgages so long as the 60% restriction is not passed, and can sell those mortgages and can service them as agent for the purchasers, receiving a fee for such service.

If the mortgages and the notes are sold without recourse a mutual savings bank can make a contract with the buyer to service the mortgages, but the contract should be of such a nature that the service of the mortgage should be entirely severed from any responsibility in connection with the mortgage debt.

Attorney General

August 20, 1941

From:
Mr. Cowan

To:
W. D. Hayes, State Auditor

I have your inquiry in regard to P. L. 1935, Chapter 51, § 5. Said section provides that the Commissioner of Agriculture shall enforce the provisions of the act which has to do with the branding of potatoes. It gives him power by himself or a duly authorized representative to enter any place or building and to open any container and take samples. He can proceed civilly in an action of debt, or he may prosecute in a criminal action.

The section goes on to provide: "All fees received under this act by the commissioner and all money in fines received by him under this act shall be paid by him to the treasurer of state and the same are hereby appropriated for the carrying out of the provisions of this act." Although the language "all money and fines received by him under this act" is somewhat ambiguous, a reading of the whole chapter shows that it was the intention of the legislature to make prosecutions financially self-supporting in so far as possible. Fines imposed by the Court and paid shall be transmitted to the Treasurer of State and shall be carried by him to the fund appropriated for support of the law.

Costs, except for any portion of the costs which under some other statute are expressly directed to be paid elsewhere, shall also be paid to the Treasurer of State and by him carried to the account of the Commissioner of Agriculture in the same way as said fines are carried.

Attorney General

September 18, 1941

Honorable Sumner Sewall
Governor of Maine
Augusta, Maine

Sir:

Several of the sheriffs have approached me recently to ascertain whether or not they can make appointments of special deputies under Chapter 94, Section 9, of the Revised Statutes. Said Section provides that: "Whenever a state of war shall exist or be imminent between the United States and any foreign country, sheriffs may appoint male citizens more than eighteen years of age not eligible for military service as special deputies who shall have and exercise all the powers of deputy sheriffs appointed under the general law except the service of civil process. Such special deputies shall be personally responsible for any unreasonable, improper, or illegal acts committed by them in the performance of their duties, but the sheriffs shall not be liable upon their bonds, or otherwise, for any neglect or misdoings of such deputies."

Section 10 provides that the sheriff appointing such special deputies shall notify the clerk of courts and county commissioners giving the names of the deputies and the dates of their appointment, and the county commissioners shall fix their compensation not exceeding $3.50 a day for time actually spent by them and also their actual necessary expenses incurred in performance of duty.

Up to the present time, it has seemed necessary to accept the statement of the President of the United States that a state of war is not imminent. However, in view of the disclosures made recently by the Secretary of the Navy to the effect that American naval vessels have been ordered to fire on sight at war vessels of Germany or Italy, we are justified in the opinion that a state of war is now imminent. Under the circumstances, you should so inform the various sheriffs of the State so that they may proceed to enroll special deputies to take care of any emergencies that may arise.

Very truly yours,

FRANK I. COWAN
Attorney General

September 19, 1941

From:
Frank I. Cowan, Attorney General

To:
Hon. Sumner Sewall, Governor

I have the letter from the Acting Petroleum Coordinator for National Defense to you in regard to use of toll bridges and toll roads in the State of Maine by army motor vehicles.

Revised Statutes, Chapter 31, Section 15, provides as follows: "All military companies, with their ordnance and equipage, on days of training or review, while under arms, or in going to or returning from their place of parade, ..., may pass over toll-bridges, free of toll."

This statute seems to take care of the necessities of the Petroleum Coordinator and is broad enough to permit the passage of army motor vehicles as described in the letter of September 7th, 1941, without the payment of tolls.

Attorney General

September 19, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Sir:

I have your letter of September 10th asking three questions in regard to administering the affairs of towns and plantations deorganized by Act of the Legislature. I will reply to your questions seriatim.

1. It seems to me that title to town owned property vests in the State of Maine as trustee.

2. The State Tax Assessor should destroy a tax lien under the circumstances you have cited as provided by statute.

3. You have raised a serious question in your third and fourth interrogatories which would better be answered when a specific case arises. Apparently the State of Maine will be the grantor, but unless you have an actual case in hand I prefer to withhold an opinion on the procedure. If you have a specific case give me the facts and I will work out the method.

Very truly yours,
FRANK I. COWAN
Attorney General

September 19, 1941

From:
Frank I. Cowan, Attorney General

To:
Belmont Smith, State Treasurer

I have your memorandum of September 18th, asking about the limit on deposits of State moneys in the Depositors Trust Company and the First National Granite Bank of Augusta, in reference to the provisions of Chapter 310 of the Public Laws of 1939, approved April 26, 1940, and appearing in the bound volume of the Laws of 1941, on page 16.

I have been informed by your Deputy Treasurer that the State has on hand, cash in an amount in excess of the total of the 25% of capital and surplus of all the trust companies and national banks, plus 25% of the reserve fund and undivided profits of all the mutual savings banks of the State. I have been further informed that this is a temporary matter, due to the fact that various State departments, including the State Highway Department, have not had occasion to draw against their funds as rapidly as they normally do.

Under the circumstances, it is necessary that you regard the excess moneys as coming within the provisions of the last sentence of said Chapter 310 which reads as follows:

> "The above restriction shall not apply to deposits subject to immediate withdrawal, available to meet the payment of any bonded debts or interest or to pay current bills or expenses of the State."

It is, of course, necessary that the funds shall be in the banks, and it seems to me that the sentence which I have quoted above was provided to protect you in case of any emergencies such as this.

Attorney General

September 19, 1941

From:
The Attorney General

To:
The Insurance Commissioner

I have your memorandum of September 8th in regard to an "insurance adviser".

While the statutes do not expressly refer to this form of activity in the requirement of licenses for insurance agents or brokers, the general insurance law is so expressly designed to regulate the insurance business and to protect the people of the State from fraudulent acts on the part of insurance companies and their representatives and from any fraudulent act on the part of any person representing himself to be an insurance agent, that it is impossible to believe that a person who busies himself in the fashion set forth in your memorandum is not within the purview of the law.

If such a person is not covered by the law requiring that he have a license and is not under the supervision of the Insurance Commissioner, he is in a position to do irreparable injury both to the public at large and to the insurance companies. In my opinion such a person must be licensed and must conform to the regulations of the Insurance Commissioner.

FRANK I. COWAN
Attorney General

September 19, 1941

The Farm Lands Loan Commission
State House
Augusta, Maine

Gentlemen:

Interest, in absence of contract, is a penalty allowed for the delay or default of the debtor. "Delay or default cannot be attributed to the government", according to 15 R. C. L. 17.

A State cannot be charged interest in the absence of express legislative authority.

The Courts have passed on this question many times.

Very truly yours,

FRANK I. COWAN
Attorney General

September 19, 1941

From:
The Attorney General

To:
William D. Hayes, State Auditor

In re Mr. Waite, Franklin County.

I believe I have already replied to your inquiry of August 29th, in regard to the fee book.

When you are called in for an investigation of the affairs of any department of the State or of any subdivision of the State or of any municipality in the State, one of your implied powers is that of seizing all books and records necessary for the performance of your duty, and keeping them under your control for such reasonable time as may be necessary for you to perform your audit. If the record happens to be something which is needed by the department, subdivision or municipality you should control it in such fashion that it will be available to necessary officials having to do with that department, subdivision or municipality for reference or for new entries.

FRANK I. COWAN
Attorney General

October 7, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Sir:

In re School Taxes on Unorganized Territories

In my opinion, there should be no distinction made between any types of taxation assessed against property in unorganized terri-

tories, and, in the enforcement or collection of the tax, all State taxes, including any taxation for school purposes or road construction and maintenance, should be included in the lien action.

In connection with so-called deorganized municipalities, it is proper for you to include in your tax lien or in any other procedure that you use for the collection of State taxes, any amounts especially assessed for the purpose of debt retirement of the particular area against which the tax is assessed.

Very truly yours,

FRANK I. COWAN
Attorney General

October 7, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Sir:

In re Conveyance of Real Estate Owned by Municipalities which have been Deorganized since Acquisition of such Real Estate

In my opinion, under the various Acts deorganizing municipalities, the real and personal property of such municipalities vests in the State of Maine, but for the benefit of such municipalities. The language of Section 1 of Chapter 73 of the Public Laws of 1937 certainly contemplates the possibility of reorganization of such areas and, by implication when taken in connection with the language of Section 1 of the deorganizing statute, contemplates that any public property owned by the municipalities at the time of deorganization, shall be restored when such reorganization takes place.

Under the circumstances, it seems to me that a deed of real estate in such an area, the title to which was in the town prior to deorganization, should be executed in the name of the State of Maine, as grantor. It should recite the statutes providing for the deorganization of the particular municipality involved, and also Chapter 73 of the Public Laws of 1937. The deed should further recite that the "powers" of the municipality have been vested in the State Tax Assessor and that it is acting under those powers that the deed is given. Such powers include the power that the inhabitants of the town formerly had to convey or authorize the conveyance of property owned by said municipality. The deed should be signed by the State Tax Assessor acting in his capacity under said Chapter 73 of the Laws of 1937, as amended.

Very truly yours,

FRANK I. COWAN
Attorney General

October 15, 1941

From:
Frank I. Cowan, Attorney General

To:
Belmont Smith, Treasurer of State

In re Section 42, Chapter 13, R. S. of 1930. Sale of Forfeited Lands

You ask an answer to:

1. Is it your opinion that notice must be served on the tax payer personally or at his last place of residence by a deputy sheriff?

Answer: Personally by a deputy sheriff unless he lives or has recently lived on said land, in which case service may be "at the last or usual place of abode on said land."

2. If your answer to the above is in the affirmative, will it be permissible under the law to add the cost of serving this notice to the tax?

Answer: Costs of service should be added to the tax (see R. S. 1930, Page 269, line 3).

3. Do you interpret the law to mean that such notice by a deputy sheriff must be served only in cases where the owner resides or has maintained a tenant on the land during the preceding twelve months?

Answer: Yes.

4. If your answer to the question above is in the affirmative, what sort of notice must be served on non-resident tax payers in order to effect a legal sale of the land?

Answer: The newspaper publication will be sufficient in case of non-resident owners.

Attorney General

October 15, 1941

From:
Frank I. Cowan, Attorney General

To:
Henry P. Weaver, Chief State Police

I have your memorandum of October 13th in regard to fines and costs accruing to State where State Police are arresting officers.

There is no justification for the State of Maine furnishing witnesses without charge in civil proceedings. When a State police officer or any other State official is called as a witness in a civil action, the same travel and per diem allowance should be made to him as to any other witness.

Of course, if he is using the time of the State, the per diem goes to the State Treasury. If his travel is regularly charged against the State, then the amount received as a witness fee in a civil action for travel will go back into the State Treasury. If his travel is not a matter of expense to the State, as for instance if he has a State motor vehicle assigned to him but uses some other means of transportation to get to the place of trial, then the travel allowance may be properly retained by him.

Attorney General

From: October 15, 1941
Frank I. Cowan, Attorney General

To:
Marie J. Tibbetts, State Library

I have your query as to whether or not a member of the Executive Council is a State officer under the provisions of Chapter 4, Section 18 of the Revised Statutes.

In my opinion, he is such an officer.

As such, each incumbent in the office is entitled to a copy of the Revised Statutes, Session Laws, etc. issued during his incumbency in office, and such volumes so issued, since they remain the property of the State of Maine, are to be turned over to the successor in office.

Attorney General
October 16, 1941

From:
Frank I. Cowan, Attorney General

To:
Henry P. Weaver, Chief, State Police

I have your memo of October 16th asking for a ruling in regard to Chapter 72 and Chapter 205 of the Public Laws of 1941.

Both of these acts are amendatory of Public Laws of 1939, Chapter 169.

Chapter 72 of the Laws of 1941 amends said Chapter 169 of the Laws of 1939 by striking out the words, "May" and "November" and inserting in their places the words, "April" and "October". This act was approved March 14, 1941.

Chapter 205 of the Laws of 1941 amends Chapter 169 of the Laws of 1939 by inserting between the second and third sentences of the second paragraph of Section 1 of Chapter 169 three new sentences. It further amends Section 1 by inserting an additional sentence between the third and fourth paragraphs of said section.

There are amendments to Section 2 of said Chapter 169, but those are not material in the present discussion. Said Chapter 205 was approved April 11, 1941.

Both acts took effect on the same day, to wit—July 26, 1941 by the provisions of Article XXXI of the Constitution of the State of Maine, adopted by the people, September 14, 1908, and proclaimed by the Governor to be a part of the Constitution on September 30, 1908, and which took effect on the 13th of January, 1909.

Both the said acts were introduced into the legislature in due course. Instead of combining them, the legislature saw fit to pass them individually. Inasmuch as Chapter 72 had not become the law, the amendments which appear in Chapter 205 were properly added to the original wording of Public Laws of 1939, Chapter 169. If the legislature had seen fit to combine the two bills, there would

have been no reason at all for passing Chapter 72 because all of Chapter 72 would have been included in Chapter 205. Inasmuch as under the present wording of the Constitution of the State, the two acts took effect at the same moment, there is no proper interpretation to be placed upon them other than to say that the legislature would not have solemnly passed two entirely inconsistent acts, one of which would have had the effect of repealing the other, without expressly calling attention to the fact that it was their intention to repeal the other.

The intention of the legislature is more clearly understandable by the fact that since 1933 the procedure has been used of setting out all amendments in black face type so that the reader can tell at a glance what part of the act is the amendment and what part is the original statute.

I am aware of the fact that in the case of Stuart vs. Chapman, 104 Maine 17, the court quoted approvingly its own language in the case of Weeks vs. Smith, 81 Maine 547, "No man should be required to hunt through the journals of a legislature to determine whether a statute, properly certified by the Speaker of the House and President of the Senate, and approved by the Governor, is a statute or not." This statement of the court may induce us to disregard the black face type as evidence.

But Stuart against Chapman, on pages 22 and 23, used the following: "In the case at bar the two statutes under consideration were approved upon the same day and went into effect the same moment of time."

There was considerable discussion of the fact that the signature by the Governor was the last legislative act and that there was no reason for saying that the two amendments discussed in that case did not take effect the same day, to wit—at the same moment. However, the case of Stuart against Chapman was decided on February 25, 1908. The amendment to the Constitution, providing that no act passed by the legislature, with certain exceptions, shall take effect until ninety days after the recess of the legislature passing it, was not voted on by the people until September 14, 1908 and did not take effect until the first Wednesday of January, 1909.

At the time of the decision in Stuart vs. Chapman, acts of the legislature took effect immediately upon signature by the Governor. Chapter 72 and Chapter 205 of the laws of 1941 did not take effect until ninety days after the adjournment of the legislature passing them. During that ninety days, the laws were incomplete in substance. They still had to pass the test of the ninety day period, at any time during which a referendum could be invoked suspending their operation or, if the referendum were sustained by the people at the polls, preventing them from ever taking effect.

Under the circumstances, the act of the Governor in signing Chapters 72 and 205 of the laws of 1941 may have been the last legislative act, but it was not the last act that could be applied to the bills. The people of the State had spoken since the decision in Stuart vs. Chapman and had set up a supplementary procedure which could veto the acts of the legislature and of the Governor. For the above reason, I feel that the argument concerning the signature by the Governor, which we find in the case of Stuart vs. Chapman, does not apply to the present situation.

The words of the court that the two statutes "went into effect the same moment of time", which we find on page 23 of the Stuart vs. Chapman opinion, seem to me to be the controlling words in our present situation. We can go on from those words and follow through the reasoning in Stuart vs. Chapman and find it will apply logically to the case we are considering.

On page 24, we find the court using the following language: "Force and effect can, and therefore should, be given to both amendments, and both must stand as statutes of the State. Section twenty-three reads, as thus amended by both statutes, with the words stricken out by chapter 131 and the words inserted by chapter 134. We apprehend that no man can have any doubt that this is precisely what the legislature intended to accomplish. The means it adopted were appropriate to the end, and we know of no iron rule of statutory interpretation which, under the circumstances of this case, must render its efforts abortive."

On the basis of the above reasoning, it is my opinion that both the amendments to Section 1 of Chapter 169 of the Public Laws of 1939 (those included in Chapter 72 of the laws of 1941 as well as those included in Chapter 205 of the laws of 1941) took effect and that the inspection of the automobiles shall be made during the months of April and October of each year.

FRANK I. COWAN
Attorney General

October 16, 1941

From:
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

I have your letter of October 15th asking me to inform you to what extent, if any, your bureau is legally charged with the duty of issuing tax bills, receiving tax payments, taking steps for the collection of the same, including conduct of sales and forfeiture of real estate for non-payment of taxes.

I will answer your questions in the order in which you ask them.

1. State, County and Forestry District taxes on wild lands.
   Your duty ends with the assessment of the taxes. All steps in connection with the collection are responsibilities of the Treasurer of State.

2. Personal property in unorganized townships.
   The same rule applies here as in No. 1.

3. Road repair tax.
   The same rule applies here as in No. 1.

4. School tax in unorganized territory.
   The same rule applies as in No. 1.

5. Debt Retirement tax.
   The same rule applies as in No. 1.

6. Gasoline tax.
   The State Tax Assessor procures the information as to the amount of taxes due from each distributor and forwards the information to the State Treasurer. The State Treasurer is responsible for the collection of taxes.

7. Use fuel tax.
   The State Tax Assessor has the duty of ascertaining the amount due from each user. The burden of collecting the tax is entirely on the State Treasurer.

8. The statutory provisions in regard to the collection of poll taxes in unorganized territory and the funds from the cigarette tax seem to place the burden of collection on you. Whether or not you are collecting actually as agent for the State Treasurer is a question that may at some time be passed upon by the law court. However, no matter what may be the technical nature of your position in taking in the funds from these two sources, there is no question but what it is your duty to get them and make remittance to the Treasurer, except such portion of the poll tax as, under Chapter 20 of the Public Laws of 1941, is paid by the State Tax Assessor to towns in which electors living in unorganized territories actually vote.

FRANK I. COWAN
Attorney General

(Portland Office)

October 20, 1941

From:
Frank I. Cowan, Attorney General

To:
Stephen Leo, Chairman, Liquor Commission

Re: *Transfer of licenses* (supplementary to opinion of last week)

Public Laws of 1933, Chapter 268, Section 10, as variously amended and as finally amended by Chapter 220 of the Public Laws of 1941, has to do with locations.

A license issued to X in connection with the operation of a restaurant at location A cannot be used by X in connection with the operation of a restaurant at location B. If X has succeeded in persuading a previous liquor commission to grant him a license in a location where it is unlawful for it to be granted, that fact can be no protection to him. As some courts have stated the matter, "Every man is presumed to know the law." As other courts have stated it, "Ignorance of the law protects no one."

The fact that X or X's attorney has persuaded a previous commission to grant a license to X in a location which the law has expressly declared to be out of bounds would make X no more entitled to protection in his illegal operations than he would be if he had obtained his license by some act of bribery or other evil means. It may very well turn out that the licensee may be without a license for a period of three months while he is establishing himself at a new and legally proper location, but that was a chance he took when he established himself with his license in his original unlawful location.

I might point out that if the license is worthwhile to Mr. X, and he knows that the Commssion is going to take a firm attitude and refuse to relicense him at situation A, he may see fit to start a restaurant at situation B and run it for a period of three months before the expiration of his license on situation A. The absurdity of this proceeding is immediately discernible, however. It discloses that the chief reason for his running a restaurant is to have a beer license, and where the chief reason for operating a restaurant is to get a beer license, the Commission is authorized, under the law, to refuse the license. The Statute very expressly provides that "No license . . . . shall be issued . . . . for any premises except a bona fide hotel, restaurant or club . . . ."

If Mr. X desires to live on the thin margin of the law and do business there, he certainly can have no reason for complaining if occasionally he slips over the edge. People who conduct their businesses on the broad plateau of legality never have such troubles.

FRANK I. COWAN
Attorney General

October 21, 1941

Stillman E. Woodman, Chairman
State Highway Commission
Augusta, Maine

Dear Sir:

In re Interpretation of Section of Chapter 69 of the Private and Special Laws of 1941, entitled "An Act Creating the Maine Turnpike Authority"

A careful examination of the whole Act discloses that the Legislature intended that a close relationship should exist between the Maine Turnpike Authority and the State Highway Commission. The statute further provides that the Turnpike Authority shall be entirely self-supporting. It provides, in Section 13, for the issuance of interim certificates to be exchanged later for bonds when issued, and with no apparent limitation on the use of the proceeds of said certificates providing said proceeds shall be used for carrying out the purposes of said Turnpike Authority Act.

Section 15 recognizes that the Authority may be put to expense in making preliminary studies of the problems involved and in making preliminary surveys prior to the time that there shall be any income from grants, bonds or revenue and permits them to incur such expense up to $10,000, which is to be charged against the highway funds of the State, and the Highway Department has no power of recovery of the amount so advanced and so expressly limited to $10,000.

The Highway Department is not authorized to advance any money in excess of said $10,000 for any purpose in connection with the acts of said Turnpike Authority, but is directed by the second part of Section 15 to assist the Authority with its engineering and advisory service "so far as the same are available", up to the time that the Turnpike Authority acquires funds from grants, bonds or revenue. There is nothing in the Act as a whole or in Section 15 when read with the whole Act that empowers the State Highway Commission to make its engineering and advisory service available for the Turnpike Authority in precedence of any other demands that may exist on said engineering and advisory service. Otherwise, the whole cost of the engineering and advisory service could be thrown on the State. This financial burden is one that the Legislature has not placed on the State and the Highway Commission has no authority to assume it.

However, insofar as the engineering and advisory service of the Highway Department are available without cost to the State and without diverting those services from other State projects, they are made available for the Turnpike Authority up to such time as the Turnpike Authority has received money from grants, bonds or revenue sufficient to take care of engineering and advisory service. Any such engineering or advisory service furnished by the State Highway

Department is to be charged at a fair rate against the Turnpike Authority and the Turnpike Authority must pay the State for such services, "as all other costs of said Turnpike".

Attention can be called to Section 13 of the Turnpike Authority Act which provides a method by which the Authority can raise temporary funds.

Very truly yours,

FRANK I. COWAN
Attorney General

October 29, 1941

From:
The Attorney General

To:
The State Highway Commission

I have your query of instant date in regard to bills rendered by the Department of Audit.

Inasmuch as Chapter 27, P. L. 1941 expressly provides that the Highway Department shall pay 30% of the cost of audit of the various Courts, and inasmuch as in case of a payment to be made by one department of the State to another department, the department paying is chargeable with knowledge of the reason for making the payment, and with the accuracy of the payment approved, it is your duty to require an itemized statement from the Department of Audit in each case where you are billed for services of that department.

FRANK I. COWAN
Attorney General

October 30, 1941

Harry V. Gilson, Esquire
Commissioner of Education
Augusta, Maine

Dear Mr. Gilson:

In response to your inquiry of October 22nd, relative to the responsibility for tuition charges based on permanent residence, I am pleased to inform you that it appears, in the instant case, that the whole case depends on the domicile of the parents of the pupil, Leola Meses, whose parents, within the year, moved from Friendship to Newcastle; who claim to own property in Friendship and claim that town as their legal residence.

It has been ruled by this Department that "for a person to acquire a new domicile depends wholly on residence and intention of remaining, and that a domicile cannot be lost by a temporary absence."

From the statement made by the parents, it seems evident that their residence in Newcastle is only temporary. If such is the case, facts not being shown to the contrary, there is in my opinion no doubt but that they still hold their domicile in Friendship with only a temporary residence in Newcastle. It has been held by our courts that a temporary residence is not sufficient to establish a domicile. It has been further held by our courts that a person's intention can only be shown by his acts and words, and when in doubt the domicile of origin prevails.

Trusting that this fully answers your inquiry, I remain

Yours very truly,

SANFORD L. FOGG
Deputy Attorney General

October 31, 1941

Lucius D. Barrows, Chief Engineer
State Highway Department
Augusta, Maine

Dear Sir:

I have your inquiry of October 27th in regard to the "wrought" part of any improved section of the state highways, etc.

In my opinion, the word "wrought" applies to that portion of the highways developed for actual travel and to the necessary shoulders and drainage ditches and no farther. The application of the word to the slopes of cuts and to the occasional extensive slopes of fills does not, it seems to me, come within the meaning of the Legislature when it used the word in Section 4 of Chapter 229 of the Public Laws of 1937.

Within a limited time after the fills are made and the slopes are cut, in many cases growth will have started on the slopes so that there would be nothing to distinguish them from a natural slope.

Under the circumstances, I cannot see that the Legislature could have had in mind any area beyond the ditches.

Very truly yours,

FRANK I. COWAN
Attorney General

November 4, 1941

Hon. George E. Hill
State Tax Assessor
Augusta, Maine

Dear Brother Hill:

In response to your inquiry of October 31st, I am pleased to inform you that, in my opinion, it is not necessary in conveyances by your Department in the name of the State, to attach the great seal of the State.

It is provided by our statutes that "when the seal of a court, magistrate, or a public officer is to be affixed to a paper, the word *seal* may mean an impression made on the paper for that purpose, with or without wafer or wax."

Our court has said "the annexing of a piece of paper by wafer or wax, or any adhesive substance, is now everywhere regarded as equivalent to the impression formerly required, and makes a valid seal."

It would seem to me that an ordinary seal, attached by you, is sufficient to make the conveyance legal and in accordance with our statutes.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

November 19, 1941

Adam P. Leighton, Jr., M. D.
Secretary Board of Registration of Medicine
192 State Street
Portland, Maine

Dear Sir:

I have your inquiry of November 7th, in regard to the use of the prefix "Dr.", or the word "Doctor". R. S. Chapter 21, Section 15 provides as follows:

> "Unless duly registered by said board, no person shall practice medicine or surgery," etc . . . "Unless duly registered by said board, no person shall prefix the title "Doctor" or the letters "Dr.", or append the letters "M. D." to his name, *or use the title of doctor or physician in any way* excepting that any member of the Maine Osteopathic Association may prefix the title "Doctor" or the letters "Dr.", to his name, when accompanied by the word "Osteopath". Whoever not being duly registered by said board practices medicine or surgery, or any branch thereof, or

holds himself out to practice medicine or surgery, or any branch thereof in any of the ways aforesaid, *or who uses the title "Doctor" or the letters "Dr." or the letters "M. D." in connection with his name, contrary to the provisions of this section,* shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars for each offense, or by imprisonment for three months, or by both fine and imprisonment; *the prefixing of the title "Doctor" or the letters "Dr." or the appending of the letters "M. D." by any person to his name, or the use of the title of doctor or physician in any way* by any person not duly registered as hereinbefore described shall be prima facie evidence that said person is holding himself out to practice medicine or surgery" etc.

Our Legislature has never enlarged upon the provisions of said section 15 to permit the use of the title of doctor or physician otherwise than as above provided, and such use, except in the case of honorary degrees or other degrees granted by a reputable college or university, is restricted to doctors of medicine and osteopathy as defined in said section.

Very truly yours,

FRANK I. COWAN
Attorney General

November 25, 1941

Oscar Fellows, Esquire
Bangor, Maine

My dear Oscar:

Your letter of November 21, addressed to General Cowan, came this morning. I am sorry to inform you that the General is in Farmington where the Wheeler murder trial is going on.

In the General's absence I am pleased to call your attention to 43 Corpus Juris, Pages 876 and 877, Sections 1576 to 1582, inclusive, and especially to Page 887, Section 1613, and Page 902, Section 1652. These indicate to me that a teacher is an employee and not an officer of the city or town. It is possible that some of the many citations under Section 1613 may give you the information you seek.

The case of Goud v. Portland, 96 Me., 126, while not in point, recognizes the difference between a public officer and a mere employee.

Very truly yours,

SANFORD L. FOGG
Deputy Attorney General

From: December 11, 1941
The Attorney General's Office

To:
LeRoy Folsom, Assistant Attorney General
Counsel Dept. Health and Welfare

In answer to your recent inquiry as to whether the same person can hold the office of Sheriff and be a member of the Old Age Assistance Commission at the same time, I am pleased to inform you that both being a part of the same State department, viz., the Executive Department, there does not appear to be any constitutional prohibition as to a person holding both offices.

It has been held by our Courts that: "Two offices are incompatible where the holder cannot in every instance discharge the duties of each".

Incompatibility comes where the nature and duties of the two offices are such as to render it improper from consideration of public policy, for one person to retain both.

I am unable to find any case where the question of the incompatibility of the two offices mentioned has been passed upon by the Courts, but from all the information I can get, I can see no inherent inconsistency in the two offices, which would exclude a person from holding both under the general rules of law.

SANFORD L. FOGG
Deputy Attorney General

From: December 11, 1941
The Attorney General

To:
Earle R. Hayes, Director Personnel

I have your memorandum of November 15th, in regard to payment of wages for "vacation earned but not taken prior to date of death" together with your memorandum of December 8th, explaining the meaning of the expression.

My understanding of the vacation rule is that it is for the benefit of the State, the theory being that an employee is of more value if he takes a vacation from his regular labors.

The only employees of the State that I know of to whom the question you have asked can apply are employees who are on a weekly basis. If they were on an annual basis and were receiving 52 weeks pay for 50 weeks work I am inclined to think that, inasmuch as the time of taking the vacation is indefinite, the proper procedure would be to credit 1/14 of the allowable vacation period against 1/14 of the year so that the employee would be rated as accumulating vacation pay. In such case, if the employee died during the year, it would seem proper to allow to his estate so many 1/14s of his two weeks vacation pay as he had accumulated.

Where, however, the employee is on a weekly basis, I do not see how we could properly do it. The time off is not carried in your department as a vacation, but as a leave of absence with pay. It is true that the leave of absence is oftentimes taken in fractions, but as I understand it, leave of absence is not a property right of the employee but is a privilege granted by the State. Under these circumstances I do not see where there would be anything left at the death of the employee that would justify you in directing payment to said employee's estate of any amount except such as might be still due for actual service performed by the employee.

Inasmuch as this query has come from your office instead of from the Controller, I assume that the question is purely academic so I am not sending a copy of this letter either to the Controller or to the State Auditor.

FRANK I. COWAN
Attorney General

From: December 12, 1941
Frank I. Cowan, Attorney General

To:
E. L. Newdick, Dept. of Agriculture

I have your question in regard to the authority of the Administrator of an estate to protect the land by plowing or by burning cornstalks so as to stop the development of the European corn borer.

It is the duty of an Administrator to take such reasonable steps as will protect the estate of which he is, in a manner, trustee from depreciation. Thus, if a fire started in one of the farm buildings and burned a hole through the roof, it would be the duty of the Administrator to cover that hole so that rain and snow could not come in and cause further damage to the building. So, where a tenant has raised corn and the corn is infested with European corn borers and the tenant has left the premises without either protecting the land or burning the stalks, it is the duty of the Administrator to either plow the land or burn the stalks so that the corn borer cannot infest the land next year.

Any other course could very well result in the land being of very little value to the estate.

Attorney General

From: December 17, 1941
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

It has been called to my attention that the State is not carrying insurance on school buildings in deorganized areas. While it is true that, technically, the title to public property in deorganized towns falls into the State, nevertheless, the State should be regarded as holding said property as a quasi trustee.

Under our statutes, if a sufficient number of people move into the town to bring the population up beyond a certain point, the area is then entitled to be reorganized as a plantation or as a town, as the case may be. Title to such public property as has belonged to the town and has vested in the State by reason of the deorganization, immediately shifts to the reorganized plantation or town, as the case may be.

In my opinion, the State should carry insurance on school buildings, town halls, and other valuable buildings within the deorganized areas until it seems practically certain that there will be no reorganization within a reasonable time.

I understand that the State is a self insurer on all buildings valued at less than 10,000, and that the subject of insurance as above will create an apparent exception to this rule. Actually, it will not because if the State is holding the property as quasi trustee, the carrying of insurance on these public buildings will not be a violation of the rule.

Attorney General

From: December 18, 1941
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

In re School Funds in Deorganized Towns

Your memorandum of 12/16/41

Under the provisions of Chapter 4 of the Private and Special Laws of 1941 which relates to the surrender by the Town of Baring of its organization, and Chapter 25 of said laws in re Silver Ridge, we find in Section 2 a provision in regard to the dispositon of school funds.

The provision in said Section 2 of Chapters 4 and 25 provides that all school funds deposited to the credit of said town and plantation and all funds unexpended for school purposes at the time when this Act became effective, out of amounts received by said town and plantation for school purposes or out of amounts paid by the State for school purposes, shall be paid by the person having custody of said funds to the Treasurer of State. The Section further provides that the amount so received shall be added to the unorganized township's funds as provided by Section 3 of Chapter 11 of the Revised Statutes.

In these two statutes, we find definite direction for the deposit of said funds with the Treasurer of State. The State Tax Assessor is not charged with any duty or responsibility in regard to custody or use of said funds. If the Department of Education has deposited with the State Tax Assessor in the past any of such funds, they have been so deposited through error and should be transferred immediately to the State Treasurer. The State Tax Assessor has no duty toward said funds and in case of any loss of any of said funds while in his custody, they would not be protected by his bond.

The above applies equally to any other funds from any other deorganized town or plantation where the Act providing for the surrender of its organization has contained the same wording that appears in Section 2 of Chapters 4 and 25 of the Private and Special Laws of 1941, and all such funds which have been received heretofore by the State Tax Assessor from the Treasurer or other person having custody of school funds of the area that has been deorganized, or funds unexpended for school purposes, should be delivered to the State Treasurer.

The school funds, whether received or accrued prior to or since the surrender of organization, cannot be used for the general purposes of government. They are quasi-trust funds, and must be held for use in accordance with Revised Statutes, Chapter 11, Section 3.

Attorney General

December 18, 1941

From:
Frank I. Cowan, Attorney General

To:
W. Earle Bradbury,

Inland Fisheries and Game

Supplement to Opinion of Judge Fogg of December 1st, 1941

Inasmuch as Section 19, paragraph 9, of the Inland Fish and Game Laws of 1941 provide that "No person required by law to pay a poll tax in this state shall be granted a resident hunting, fishing or combined hunting and fishing license until he shall present a receipt or a certificate that he has paid his poll tax in the town where he resided for the year preceding that for which the license is applied for, or a receipt or a certificate from the taxing authority of that town that he was legally exempted therefrom, or that the tax has been abated", and does not provide for any substitute for such receipt or certificate, it is necessary that such a "receipt or certificate" be presented in order to obtain the hunting or fishing license.

However, the informality of the receipt or of the certificate will not make it invalid. Any written evidence from the tax collector or his authorized agent that the applicant has paid his poll tax for the preceding year is sufficient to fulfill the requirements of the law.

Attorney General

Portland Office

January 5, 1942

Hon. Charles E. Gurney
119 Exchange Street
Portland, Maine

Dear Sir:

Commissioner Beck has referred to me the problem as to whether a loan and building association, under the present statutes, has the power to make a loan to another loan and building association where the loan must be made in whole or in part from borrowed money, or where the association making the loan is, at the time, owing borrowed money.

As the law stood, prior to March 1, 1933, I believe that such a loan could not be legally made. Apparently the powers of the loan and building associations to make loans were limited to the provisions of R. S. Chapter 37, Sections 99 to 108 inclusive, and loans were properly and legally made from the surplus funds of the associations only.

On March 1, 1933, as appears in Chapter 7 of the Public Laws of that year, an emergency act took effect which permits associations to borrow money "within or without the state". The purpose of this act, it seems to me, was to make it possible for the associations to procure the funds by borrowing so that they could continue in business, since no additional limitation was placed on the matter of loans.

Since that time, there have been two further amendments to Section 108, neither of which has restricted the associations in the making of loans. As matters stand then, we have the original Section 108, as enlarged by the provisions of 1933 P. L. Chap. 7, the effect of which has not been modified in any way by subsequent legislation.

1. It seems, therefore, that there is no restriction in our statutes on the right of an association to lend borrowed money, and, as a matter of fact, by implication we have a direct authorization to lend borrowed money.

2. The question then arises as to whether or not it is proper for a loan and building association to make a loan to another association for the avowed purpose of furnishing the latter financial aid. We are presented with the question of why Association A should ever be permitted to lend to Association B. The provision for the loan from one association to another has been in effect for a good many years, having first appeared as Chapter 30 of the Public Laws of 1917. The provision for borrowing outside of the loan and building association group was fixed in 1933. Certainly the legislature must have

had in mind, in passing the original act, that the borrowing association might be in need of money and a source from which it could be procured was provided.

That is exactly the situation that we have in the present case. An association needs some money and a pool has been arranged, and the Maine association is asked to be a contributor to that pool. I see no valid objection in the law to the Maine Loan and Building Association making the Loan to the Dexter Loan and Building Association.

Very truly yours,

FRANK I. COWAN
Attorney General

January 5, 1942

From:
The Attorney General's Office

To:
William D. Hayes, State Auditor

In re Expense Account—County Commissioners

Expense accounts of County Commissioners may be many and include a multitude of things; it is practically impossible to make any definite statement relative thereto.

Section 43 of Chapter 125, R. S., provides that they be allowed actual necessary expenses incurred outside of their respective counties for the transaction of official business; and expense incurred at public hearings away from the County Seat, and also such expenses as are provided for in Section 26 of Chapter 92, R. S. (Actual traveling expense).

Under the "Bridge Act", Chapter 28, R. S., Section 62, the county commissioners act with the Highway Commission and are evidently entitled to receive their required expense for travel, etc.

Under the provisions of Chapter 27, R. S., the commissioners are to lay out, alter and discontinue highways; they are required to fix boundaries of ways the location of which is lost.

> "When a petition is presented respecting a way in two or more counties, the commissioners receiving the petition may call a meeting of the commissioners of all the counties," etc. . . .

In all the foregoing cases it is evident to me that the commissioners are entitled to their travel and expense while away from their office. All their expense bills have to be approved by the County Attorney and Clerk of Courts which appears to me to be a pretty good check. The Board's fee for travel is 10 cents a mile.

The Board of County Commissioners is a Court, having a seal and clerk. (91 Me. 58)

"Hearings on petitions for laying out, altering or discontinuing ways are required to take place at the place of meeting fixed at the discretion of the commissioners, or at a place in the vicinity."

"When the petition for location was before them, the statute required of them a personal view in order that they might thereby acquire a full knowledge of the nature and situation of the premises."

The Kennebec County Commissioners expense accounts appear to me to be reasonable and in accordance with the statutes as follows:

"Mileage for auto when on official duty attending road hearings at 10 cents per mile, meals when away from their official station, (Augusta) and any necessary expense they would have in connection therewith.

Several years back the Commissioners arranged with the Treasurer's office to audit, assemble and to put into book form the Bills of Cost of the five Municipal Courts of the County and to prepare totals showing the amount due and payable to officers, witnesses etc. at the end of each quarter, as they have no facility for doing this work, and for doing this work they have allowed the amount of $250.00 yearly payable quarterly, which amount has been appropriated in the budget of their department, and charged to expense of same.

They are allowed for stamps and office material that is required."

SANFORD L. FOGG
Deputy Attorney General

January 6, 1942

From:
The Attorney General's Office

To:
Dept. Audit—Harold E. Crawford, Municipal Auditor

In re Your Question "May the County Commissioners' Chairman be a Trial Justice?"

In my opinion there is no constitutional or statutory reason why the same person may not hold both offices at once.

The rule seems to be that offices are incompatible when the holder cannot in every instance discharge the duties of each, and I can conceive of no circumstance where the office of county commissioner would interfere with the performance of duty by a trial justice. In this connection I call your attention to Section 8 of Chapter 92, R. S., as follows:

"No person holding the office of county commissioner shall at the same time hold either the office of mayor or assessor of a city, or selectman or assessor of a town."

SANFORD L. FOGG
Deputy Attorney General

January 8, 1942

Frank I. Cowan, Attorney General

William D. Hayes, State Auditor

In reply to your memorandum of January 6th, asking for further opinion on the matter of expense accounts of County Commissioners, we note that you ask "whether the County Commissioners had any right under the law to charge necessary travel expense within their own county in connection with the annual inspection of the highways, provided for by the statutes, or in connection with the proper supervision of construction work in process on those highways for which they are held responsible; and if so, where is the same provided for."

It is our opinion that the words in Section 43 of Chapter 125 of the Revised Statutes "and expense incurred at public hearings away from the county seat" were intended by the Legislature to provide for reimbursement to the County Commissioners for actual expense incurred by them in performing their various duties imposed on them by the Legislature. As our Court stated in Brown v. Mosher, 83 Maine, 116: "In the absence of any statutory prohibition, the commissioners had discretionary power," etc. This shows that the Courts do not regard the Board of County Commissioners as simply a ministerial body confined within the strict language of statutory enactments. They are a body endowed with great discretion and when they exercise that discretion, they are simply following out the desires of the Legislature. If in the exercise of that discretion it is necessary for them to incur expense, they are as justly entitled to recompense as is a head of a State Department incurring expense under the same circumstances.

It is well to note that the County Commissioners have no powers as individuals and can act only as a Board. When acting as a Board on inspections and on any matters where evidence is received by them in any form, whether by testimony of witnesses or from their own development of the autoptic evidence, they are, as a matter of fact, holding hearings and certainly are entitled to their expense when so acting.

Attorney General

January 22, 1942

State Racing Commission
State House
Augusta, Maine

Gentlemen:

I have your request for an interpretation of Section 14, Chapter 130 of the Public Laws of 1935. This Section reads as follows:

"Every person, association or corporation licensed under this act shall before said license is issued, give bond to the state in such reasonable sum not exceeding $50,000 as may be fixed by the commission with a surety or sureties to be approved by the commission . . ."

This statute puts the duty squarely on the Commission to determine two things: 1. The amount of the bond; and 2, who shall be acceptable as sureties.

On you gentlemen is placed the duty of handling the affairs of your division to the best of your ability.

Very truly yours,

FRANK I. COWAN
Attorney General

January 23, 1942

From:
Frank I. Cowan, Attorney General
To:
William D. Hayes, State Auditor

In re Fees—Registers of Probate

I have your memorandum of December 16th asking about fees of Registers of Probate. The statutes are clear. R. S. Chapter 75, Section 25, provides for fee of fifty cents for copy of a will, plus five cents for each ten word line in excess of ten lines.

Section 39 provides a fee to the Register of Probate of one dollar for making and certifying to the Register of Deeds a copy of a devise of real estate.

Section 40 allows the Register of Probate for copies of papers as are taxable by law twelve cents a page. This does not permit the addition of the twelve cents a page to the fifty cents plus five cents a line provided for in Section 25 in the case of wills. Section 40 further provides for authenticating the official signature of a magistrate, twenty-five cents; and for certificate of appointment, twenty-five cents.

R. S. Chapter 76, Section 3, provides a fee of one dollar for the safe-keeping of a will.

R. S. Chapter 77, Section 33, provides a fee of fifty cents for every order, appointment, etc.; and for copies of records "the fees that are now allowed by law for the same."

R. S. Chapter 75, Section 42, provides that the Registers of Probate "shall account quarterly under oath to the county treasurers for all fees received by them or payable to them by virtue of the office, specifying the items, and shall pay the whole amount of the same to the treasurers of their respective counties quarterly . . . ." Under the provisions of Chapter 75, Section 42, a Register of Probate who gives credit, does so at his peril, since all fees, either received by him or which should have been received by him because of papers filed, must be paid to the County Treasurer.

There is nothing in the law to prevent a Register of Probate from earning an honest dollar outside of his duties, any more than there is anything to prevent any other man from earning an honest dollar outside of his duties, so if a Register of Probate prepares documents that are not provided for either by direct reference or by implication, he is entitled to keep any money he is paid for them, providing the work is not done on the County's time.

Inasmuch as the statutes are very general in regard to copies and the charges to be made for said copies, and the statute further declares that the "whole amount" of "all fees received by them or payable to them by virtue of the office" shall be payable to the County Treasurer, I am unable at this moment to cite an instance where a Register of Probate would be entitled to retain any fees paid for any copies made of documents in his official office. Moreover, there is no justification for any Register charging more for a document than the statute provides.

If you will take this letter in combination with the second paragraph of Mr. Burkett's letter of February 5th, 1940, I think you will have about as clear a statement of the law as you can be given.

Attorney General

January 28, 1942

From:
Frank I. Cowan, Attorney General

To:
Homer M. Orr, State Purchasing Agent

Under the Public Laws of 1931, Chapter 216, Section 18, Paragraph 4, the Department of Finance, through the Bureau of Purchases, has authority: "To lease all grounds, buildings, office or other space required by the state departments or agencies;"

We find no statutory authority for the Secretary of State to execute leases, although the Revised Statutes, Chapter 29, Section 30, puts on him the burden and duty of selecting "convenient places within the State to receive application for registrations and licenses, etc."

The Secretary of State is under the necessity of moving his Portland office immediately due to the fact, so I am informed, that the United States Navy is taking over his present quarters. He has arranged to lease certain property on St. John Street and corner of Danforth, which, in his opinion, is a good location, and he is prepared to move immediately.

I have approved the form of the lease but the lessor requires a certificate of authority in the Secretary of State to execute the lease for the State. I cannot certify that he has this authority, but I can certify that you have the authority.

Attorney General

January 29, 1942

From:
Frank I. Cowan, Attorney General

To:
J. A. Mossman, State Controller

I have been considering the wording of P. L. 1941, Chapter 325, Section 2 of the salary adjustment act. This law expressly uses the word "employees of the State government". Three times in the single sentence that makes up the body of the act the word employee occurs. In no place does the word "officer" or "official" occur.

There is a marked distinction between an officer and an employee. The Law Court of the State of Maine in Bowden's case, 123 Maine, page 363, speaking of a certain section of the Workmen's Compensation Act, uses this language:

> "Primarily, it was intended for employees, as distinguished from officials, employees directly employed by our officials authorized to act for the State, or persons employed or in the service of any department without such official or authorized sanction."

Again, on Page 366, the Court says:

> "In addition to the statutory definition of 'employee' it is well settled that an officer is distinguished from the employee in the greater importance, dignity and independence of his position, in being required to take an official oath and perhaps to give an official bond, in the more enduring tenure, and in the fact that the duties of the position are prescribed by law."

The New York court has defined employee and officer thus:

> "An employee is one who works for an employer; the person working for salary or wage. The words apply to anyone who works, but usually only to clerks, workmen, laborers, etc., and but rarely to officers of a government or corporation."

Under the circumstances it is my opinion that the word "employee" as used in the statute, does not cover heads of departments nor, as a matter of fact, any elected or appointed official, but only persons employed as illustrated by the New York case cited.

Rather a surprising distinction between the apparent meaning of a word when used in two different sections of the same statute is to be found in the said Chapter 325 in regard to employees. In Section 2, the word employee is primarily used in its strict meaning. In Section 4, on the other hand, we have a provision for automobile mileage allowance. Inasmuch as privately owned automobiles are used by some employees of the State in all classifications, it is obvious that the word employee, when used in Section 4, includes every person regularly employed by the State. Therefore, a distinction, such as I have called attention to above, between employee and officer, does not, in my opinion, apply to said Section 4.

Attorney General

January 30, 1942

Honorable George J. Wentworth
Councilor, First District
Kennebunk, Maine

Dear George:

In reply to your query as to whether or not the County Commissioners may spend the county's money for advertising the county and its natural resources, the answer is, "No." The powers of the County Commissioners are wholly of the delegated type. They have no inherent rights to spend the money of the county except as authorized by statute, and there is no such statutory authority.

As you will recall, the County Commissioners biennially submit to the Legislature their detailed estimates as to expenditures for each of the following two years and the estimates have to meet legislative approval before they have the authority to spend the money. Any emergencies can be met through the issue of bonds up to $10,000, but in my opinion advertising the county's resources would not be such an emergency.

Very truly yours,

FRANK I. COWAN
Attorney General

February 11, 1942

From:
Frank I. Cowan, Attorney General

To:
George J. Stobie, Commissioner
Fish and Game Department

In re Archer L. Grover, Deputy Commissioner

I have your memo of January 28th asking whether time spent by Archer L. Grover as instructor at the University of Maine will in any way help him toward receiving a State pension if he retires at the present time.

The answer is that it will not. The University of Maine is not such a State institution that time spent in its employ can be reckoned as time spent in the employ of the State of Maine. Our Law Court, in the case of Orono v. Sigma Alpha Epsilon fraternity, 105 Maine 214 to page 219, used the following language:

> "The University of Maine while chartered by the State and fostered by it especially in recent years, is not a branch of the State's educational system nor an agency nor an instrumentality of the State, but a corporation, a legal entity wholly separate and apart from the State."

Attorney General

February 19, 1942

From:
Frank I. Cowan, Attorney General

To:
J. A. Mossman, State Controller

In re Your Memo of February 16; Bounty on Bobcats

Inasmuch as an interpretation of the Public Laws of 1937, Chapter 205, requiring that the person killing a bobcat sign a certificate under oath within five days, would make it impossible for most trappers to collect any bounty, and since it was the intention of the Legislature to encourage the killing of bobcats and the bounty provision was expressly written for that purpose, the only proper construction of the statute is that the exhibition of the bobcat to the warden must be made within the five days. The actual signing and swearing to the certificate can take place any time thereafter, but is, of course, a condition precedent to the payment of any bounty.

Attorney General

February 19, 1942

From:
Frank I. Cowan, Attorney General

To:
Henry P. Weaver, Chief
Maine State Police

In re Arrest in Criminal Cases by (1) State Detectives and (2) Insurance Inspectors

(1) Under the provisions of Revised Statutes, Chapter 142, Section 18, detectives appointed under the provisions of Section 17 of said Act "have the same authority to arrest in cases of offenses under Chapter 131 and the first Sections of Chapter 136, and of felonies in any part of the state, and shall receive the same fees as sheriffs in similar cases. No extra compensation shall be paid to them in any case from the state or county treasury."

Chapter 131 has to do with larcenies. The first thirteen Sections of Chapter 136 have to do with gambling and search for implements of gambling.

(2) An insurance inspector has no authority to make arrests. The sole authority in his case is Chapter 35, Section 52, authorizing the Commissioner to have investigations made and using the following language: "If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, he shall cause such person to be arrested and charged with such offense . . . ."

Attorney General

February 20, 1942

From:
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

In re Payment of Fire Bill in Deorganized Township

I have your memo of January 26th in regard to the Plantation of Concord. The State Tax Assessor, in my opinion, has authority to use funds in his hands belonging to the former Plantation for payment of the bill rendered by the Town of Bingham for aid in putting out a forest fire. It is a current item and as such should be paid if there are funds available.

You say that Concord is not a part of the Maine Forestry District. If this is correct the Public Laws of 1939, Chapter 211, provides for its being placed in the Forestry District. Thereafter, the Forest Commissioner can act to protect the property under the terms of Public Laws of 1939, Chapter 224, and taxation is assessed accordingly under the provisions of the Forestry District law, which appears in Revised Statutes, Chapter 11, Section 68ff.

Attorney General

February 24th, 1942

W. Mayo Payson, Esq.
Corporation Counsel
City Hall
Portland, Maine

Dear Mayo:

I have your letter of February fourteenth in regard to special deputies and police, and I agree with you that designations by the Governor of persons with the powers and immunities of constables will, in many cases, be much wiser than to put in additional special police and deputies.

I have been thinking about the provision in Section 2 of the Defense Act to the effect that certain designated members of the Corps, while engaged in certain activities, "shall have the powers and immunities of constables". I have been mulling that over in connection with Article III of the State Constitution, which reads as follows:

"ARTICLE III

"Distribution of Powers.

"Sec. 1. The powers of this government shall be divided into three distinct departments, the Legislative, Executive and Judicial.

"Sec. 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted."

Stubbs vs. Lee, 64 Maine 197, uses the following language:

". . . . The appointment of a person to a second office, incompatible with the first, is not absolutely void; but on his subsequently accepting the appointment and qualifying, the first office is ipso facto vacated. The People v. Carrique, 2 Hill, 93. A vacancy may arise in an office from an implied resignation; as by the incumbent's accepting an incompatible office. Van Orsdale v. Hazard, 3 Hill, 243. The acceptance of the office of constable of a town by a person holding at the time the office of justice of the peace, is of itself a surrender of the latter office. Magie v. Stoddard, 25 Conn., 565. In 3 Maine, 486, this court, in their answer to the senate say, "that the office of justice of the peace is incompatible with that of sheriff, deputy-sheriff or coroner."

In drafting the original defense act, I used much more detail, but I believe you have included all the meat of it in the language of the last sentence in the first paragraph of section 2. I never anticipated that there would be a rush of lawyers to become constables or deputy sheriffs. From my point of view, membership in the bar, and the power to exercise the multitudinous prerogatives that are appurtenant to that membership, is such a great position that I can't conceive of a member of the bar desiring to be a policeman or a deputy sheriff.

However, it seems that many members of the bar do not regard their membership in the same light that I do, or that you and the other members of the research committee and the judiciary committee do, for were it otherwise there would be no such desire on the part of the lawyers to get badges so that they could exercise authority as subordinates.

Of course there is the possibility that the courts will hold that these persons endowed with the "powers and immunities of constables" are not members of the executive at all but are simply persons temporarily designated to have certain authority. It is true that they take

no oaths, sign no pledges and give no bonds. The oath, it may with propriety be argued, is a very important part of the qualification of a member of either the executive or judicial branch. All deputy sheriffs take oaths and regular deputies give bonds. Constables take oaths and give bonds. It is very possible, as I suggested above, that the courts may hold that these persons designated with the power, during certain limited times, to do the things that constables can do, are not really members of the executive branch and so do not, by the acceptance of such designation, vacate their offices as Justices of the Peace and Notaries, but I am strongly of the opinion that the court will not so hold. The courts, throughout the history of this nation, and before that in England, were very careful to maintain the distinction between the executive and judicial branches. I feel that for any Justice of the Peace or Notary to accept a commission or authorization as special deputy or special police officer, with constable powers, vacates his office as Justice or Notary immediately. I believe the courts will insist on the distinction being very carefully preserved.

I am glad you wrote me and I will have a talk with the Governor about this matter.

Sincerely yours,

FRANK I. COWAN
Attorney General

March 5, 1942

From:
Frank I. Cowan, Attorney General

To:
Henry P. Weaver, Chief
Maine State Police

In re Leland L. Nelson, Towle St., Auburn, Maine

The act of Mr. Nelson was in direct violation of the provisions of Chapter 164 of the Public Laws of 1937 which reads as follows:

> " 'And provided further that no motor vehicle, including trucks, combination of tractor and semi-trailer, passenger buses and passenger cars shall exceed in length 40 feet over all and no trailer attached to a motor vehicle shall exceed in length 26 feet over all.' "

In authorizing the release of this particular load, I was thinking about the load and not the driver. Whether or not authority could have been given to Mr. Nelson under Chapter 305 of the Public Laws of 1941 (the Emergency Defense Act), such authority was not previously given nor, as far as I have heard, was any such authority ever asked for until after this episode had occurred. There is no reason at all why you shouldn't prosecute this man Nelson.

Under the emergency powers, the Governor may authorize the doing of many things if, in his opinion, it contributes to the safety and

welfare of the people during this emergency, but the Legislature has placed that power solely in the hands of the Governor and there is in the emergency, no justification for breach of the laws by unauthorized persons. If the Legislature had felt it wise that every man could in his judgment decide what laws he should and what laws he should not obey, it would have said so. We must maintain our governmental functions even in time of war insofar as possible. The very purpose of the war is to protect our form of government.

Attorney General

March 19, 1942

The State Liquor Commission
Augusta, Maine

Gentlemen:

Sometime ago I gave an oral opinion in regard to the appointment of liquor inspectors.

Public Laws of 1937, Chapter 227, Section 6, provides as follows:

"The classified service shall consist of all persons holding offices and employments now existing or hereafter created in the State service, except persons who are holding or shall hold offices and employments exempted by section 7 of this act."

This was approved on April 23, 1937 and took effect ninety days after adjournment of the regular session of the Legislature. The Legislature adjourned on April 24, 1937 so said act took effect on July 23, 1937.

At a special session of the Legislature held in October, 1937 an emergency act was passed, which was approved on October 28, 1937 and became effective that day. It provided as follows: "The liquor commission shall appoint, subject to the approval of the governor and council, a chief inspector and as many inspectors as may from time to time be found necessary to serve during the pleasure of the liquor commission, whose compensation shall be fixed by the liquor commission, subject to the approval of the governor and council."

This is found in Chapter 247, Public Laws 1937 and, by implication, repeals so much of Section 6 of Chapter 221 of the Public Laws of 1937 as applies to the appointment of liquor inspectors.

Very truly yours,

FRANK I. COWAN
Attorney General

From: March 27, 1942
Frank I. Cowan, Attorney General
To:
Guy R. Whitten, Deputy Insurance Comm'r

In re Continuation Certificates

I have your memo of March 26th asking if there is any legal objection to the filing by insurance companies of continuation or renewal certificates upon the expiration of policies instead of the renewal policies usually issued.

I find nothing in our statutes to prevent this proposed procedure being followed, and, at the present time when saving of materials and labor is important, I certainly shall not advise against the companies being permitted to act as suggested.

Attorney General

From: April 11, 1942
The Attorney General's Office
To:
Guy R. Whitten, Deputy Commissioner Insurance

In re Out of State Mail Order Insurance

I am pleased to inform you that the general rule seems to be that insurance contracts made in foreign jurisdictions are recognized and enforced because of comity.

As a rule an insurance contract is governed as to its nature, validity and interpretation by the law of the place where it is made.

It has been held that if the contract is made by correspondence it may be deemed to have been made in the place where the application is accepted and the policy is issued.

In some cases it has been held to have been made at the place where accepted by the insured.

In this State it has been held that in case the company has an agent within the State, the delivery of that policy by the agent to the insured is the place where the contract must be enforced.

SANFORD L. FOGG
Deputy Attorney General

From: April 13, 1942
The Attorney General's Office
To:
Guy R. Whitten, Deputy Commissioner Insurance

In re Your Inquiry of April 6, 1942, Relative to "Smoke Damage"

It is my opinion that the provisions of Chapter 60, Section 9, of the Revised Statutes, as amended by Chapter 171 of the Public Laws of 1933, "Relating to the Time Limit for Adjusting and Paying Fire Losses", apply to losses by fire and losses arising out of fire.

Smoke damage arising from other causes is not within the provisions of this statute.

SANFORD L. FOGG
Deputy Attorney General

April 23, 1942

Honorable Sumner Sewall
Governor of Maine
Augusta, Maine

My dear Governor:

I have your memorandum of April 15th, referring to this department for reply a question in regard to the status of workers in the navy yard at Kittery, Maine. This problem is one that has called for a great deal of thought because any decision arrived at concerning the status of these workers must apply in varying degrees to people living in several other parts of the State.

The discussion has been particularly concerning those people living in the houses in the Town of Kittery built by the Federal government on land acquired in fee simple by the Federal government and now owned by the Federal government. A very important factor in arriving at a decision is the fact that the State of Maine has not in any way waived jurisdiction over said area, so that, from our point of view, the Federal government holds title in fee simple, acknowledging the overlordship of the State of Maine, just as any other landlord would hold.

The fact that the Federal government is the immediate landlord is not important. If the Federal government sees fit to take title to real property in the same way that a private individual does, the Federal government necessarily accepts, to the extent that it is acting as landlord and insofar as its relations to the State of Maine go, the status of a private individual. The tenant of a private individual gains no particular rights as against the State or municipality, and loses no such rights by reason of his tenancy. He will, therefore, neither gain nor lose any rights by reason of being a tenant of the Federal government where said government accepts a relationship toward the State comparable to the relationship of a private individual.

If a man comes to this State to take a job that is not strictly seasonal or temporary in nature; brings his family with him; has no fixed intention of staying a short time and then returning to the State of his origin; expresses a desire to pay a poll tax and other taxes and receive the benefit of residence in this State; buys or hires a fixed place of occupancy and installs his family therein; he has a right to be regarded as a resident of Maine with all the rights and privileges pertaining to that status and without said status being affected in any way by the fact that his immediate landlord happens to be the Federal government. If he is a citizen of the United States, he is, of course, a citizen of this State and he has the right to live in any State of his choice and in any municipality of the State of his choice, and to exercise therein, all the rights and privileges of citizenship and be subject to all the duties and obligations to which residents of that particular municipality are subject.

It is not the duty of the person taking up his residence in a municipality of this State to act at his peril in seeking a place in which to live. The fact that he hires a house or apartment which happens to be in a "housing project", so-called, does not change his status as a citizen nor impose any restrictions on his exercising the rights of citizenship. A "housing project", so-called, where the land and buildings are owned by the United States Government and where the State has not waived jurisdiction, is not a Federal reservation of the same type as forts and lighthouses. Neither are civilian workers in shipyards owned by the Federal government or by private industry, civilian laborers working constructing and maintaining Federal fortifications and lighthouses, and civilian workers in any other Federal activity in the same status as persons in the military, naval or marine service of the United States or of this State. The former possess freedom of contract and come and go as they will, sometimes to the embarrassment of their employers it is true, but nevertheless in such fashion as to completely demonstrate that they retain their freedom of action. Such persons certainly do not fall within the classification of those who are in a certain locality solely by reason of being located here under orders from a commanding officer. The latter are by the State Constitution, for that reason, expressly prevented from obtaining the rights of residents.

The various departments of this State and the clerks and other officials of our municipalities should guide their conduct in accordance with this opinion and thereby avoid confusion.

Very truly yours,

FRANK I. COWAN
Attorney General

From:
The Attorney General

April 23, 1942

To:
Henry P. Weaver, Chief
State Police

I have your memorandum of April 18th in regard to the cooperation of Shipyard workers in the use of their automobiles. The subject is brought up particularly by the letter to you from George G. Brown, Chairman of the O. P. A. Rationing Board # 3-2, Brunswick, Maine.

I think there is nothing in the emergency that requires that we permit an absolute breakdown in our laws in regard to the operation of automobiles for hire. It seems to me that we can very easily suggest a method by which these workers can cooperate without any violation of State statutes. If Messrs. A, B, C, D and E each own an automobile and arrange that the automobile of Mr. A only shall be used the first week, Mr. B only the second week, and so on, we will have the conservation of rubber and gasoline that we desire without the problem of violation of the law regarding carrying passengers for hire.

If Messrs. A, B and C each own an automobile, but Messrs. D and E do not, it is obvious that Messrs. D and E will have to obtain transportation by some means. If there is insufficient means for transportation by public utilities in the area involved, then we can properly allow D and E to contribute a small amount to help out on the cost of upkeep and operation of the automobile of the neighbor in which they ride, although a fixed charge by the neighbor, even though it is based on the operation and upkeep, will be a violation of the law. In other words, Mr. A cannot let it be known that he will transport workers for a certain amount. The minute he does that he is competing with the public utilities companies. If, however, he gives a neighbor a lift and permits the neighbor to help out by buying some gas or some oil there can be no objection.

If there is adequate public utility transportation service to take care of all workers who have not automobiles of their own, then any cash payments for transportation made to persons not holding public utility licenses will be a violation of the law. We get down to the question of whether or not, as a matter of fact, there exists in the various areas to which this problem applies sufficient means of transportation by licensed carriers so that there is no necessity for private individuals going into the bus business. Where emergencies exist we must recognize them and apply the law accordingly. Where no emergencies exist we must insist on a strict compliance with existing statutes.

We must be sure that we do everything possible to further the war effort, but at the same time we must insist that the war effort shall not be used as an unnecessary excuse for breaking down our governmental structure which has been built up through many years of effort and the chief object of which is to better protect the rights of the people of the State as a whole, and also protect the rights of the private individual. It is not every time that a person demands a waiver of the law on the ground of a public emergency that such waiver is justified. If there is a method of procedure that will take care of the situation that arises and at the same time will not permit any relaxing of our enforcement of existing statutes, that is the procedure we should follow.

FRANK I. COWAN
Attorney General

April 24, 1942

William B. Mitchell, Secretary
Business Men's Association, Inc.
Old Orchard Beach, Maine

Dear Sir:

I have your letter of April 8th in regard to daylight saving time.

Under the limitations of R. S. Chapter 91, Section 82, the Attorney General is not permitted to give official opinions except to the State

or State Departments. I cannot, therefore, give you an official opinion on this matter and must leave it to your private attorneys.

Unofficially, I can say that "war time", so-called, does not exist in Maine. That expression is a very happy one suggested by the President to assist those States whose Legislatures were not in session at the time when Congress passed the new standard time act. Such States had to go through the bunglesome process of adopting a daylight saving time rule by Executive Order, the result being one of very dubious legality. In Maine our Legislature happened to be in session and picked up the Federal act and adopted a new standard time law for Maine so that standard time in Maine is the same as standard time set by act of Congress.

There is no restriction in our law on any individual, group or municipality, or on the State itself, setting clocks in any fashion desired. Eastern standard time is the official time and courts have to function on that time. Contracts operate in accordance with that time unless there is something expressly stated to the contrary in the contract itself.

If any or all the people of Old Orchard Beach or any other municipalities in the State want to set their clocks at any time different from Eastern standard time, they are at perfect liberty to do so. They can set their clocks ahead an hour or set them back an hour and adopt any other system of time they see fit. The one thing they can't do is change legal time which is the Eastern standard time set by Congress and adopted as such by our Legislature.

Very truly yours,

FRANK I. COWAN
Attorney General

From: April 27, 1942
Frank I. Cowan, Attorney General

To:
Department of Insurance

You have requested from this office an opinion as to the endorsement which should be prescribed by your department under the provisions of the financial responsibility law of Maine as amended in 1941. Section 91 contains the definitions which control the subsequent sections of the statute wherein the filing of proof of financial responsibility is required.

Subsection VI of Section 91 defines "certificate". An insurance company authorized to transact the business specified in Chapter 60 of the Revised Statutes may issue a certificate that it has issued a motor vehicle liability policy covering the particular motor vehicle trailer or semi-trailer involved in an accident.

Subsection VII defines "motor vehicle liability policy". This is a policy of liability insurance providing indemnity for the operation of

the insured's motor vehicle trailer or semi-trailer when operated by himself or by others with his expressed or implied consent. Section 96 refers to the form of the policy and provisions required therein. In Section 96a it is stated that the policy must contain the name, address and business of the insured and a description of the motor vehicles and trailers or semi-trailers covered. The policy which is to contain these facts is in the same section referred to as the motor vehicle liability policy defined in Section 91. Subsection d of Section 96 refers to the motor vehicle liability policy as defined in Secton 91. Subsection a of Section 97 is in reference to the amount of proof required when it becomes necessary for evidence of financial responsibility to be filed.

I understand that you wish to be informed specifically as to whether any of the provisions of the statute under consideration require a motor vehicle liability policy which provides for "drive other car coverage" or "named operator coverage", when proof is required of an owner of a motor vehicle involved in an accident. It has been suggested that a part of subsection a of Section 97 indicates that a named operator policy or drive other car coverage policy might be required since reference is made to "use of a motor vehicle". This phrase in itself is insufficient to support a ruling that would require broad form coverage under the statute. The particular phrasing must be read in connection with the context of the section as well as the context of the act itself. The same section provides that whenever required, proof shall be furnished for each motor vehicle, trailer or semi-trailer registered by such person.

It would appear to be the intention of the Legislature in using this phrasing to safeguard, insofar as such phrase will provide a safeguard, the Secretary of State in other provisions of the act wherein the Secretary of State, if dissatisfied with the proof required of an owner of a vehicle, may pursue the operator of the vehicle even though he may not be an owner. So far as the substance of the section itself is concerned it appears that its purpose looks to the amount of proof to be required and that it could not be intended as a substantive extension of the coverage requirements more specifically set out in other sections of the statute.

We are informed that the so-called "bureau companies" have prepared a so-called standard provisions policy for automobile liability. Incorporated in such standard policy is a provision whereby such insurance as is afforded by this policy complies with the provisions of the motor vehicle financial responsibility law with respect to any liability arising out of the ownership or maintenance of the automobile covered by the policy to the extent of the coverage and limits of liability required by such law. We understand that during the month of June last the then insurance commissioner issued his instructions to the effect that a policy to become "a motor vehicle liability policy" as defined in the law should contain an endorsement to that effect.

It is the opinion of this office that an endorsement meeting the requirements of the act will comply with the statute when such endorsement is incorporated in the policy either by way of incorporation in the body of the policy or by attachment thereto as a rider.

It is my opinion that the following provision

> "Such insurance as is afforded by this policy for bodily injury liability or property damage liability shall comply with the provisions of the motor vehicle financial responsibility law of any state or province which shall be applicable with respect to any such liability arising out of the ownership, maintenance or use of the automobile during the policy period, to the extent of the coverage and limits of liability required by such law, but in no event in excess of the limits of liability stated in this policy. The insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except for the agreement contained in this paragraph"

constitutes an effective endorsement to convert a standard provisions motor liability policy into a "motor vehicle liability policy" when certificate thereof is filed with the Secretary of State. While I am definitely of this opinion I should like to point out that the final clause of the first sentence of this endorsement "but in no event in excess of the limits of liability stated in this policy" is open to litigation in that it is conceivable though not probable, that the clause could be interpreted to mean the substantive coverage of the policy rather than the financial limitations of the policy. I am not of the opinion that this particular possibility warrants a requirement at the present time which would preclude litigation on this point but I would strongly urge that if there is any evidence of abuse of this provision by insurance companies doing business in this State either by way of litigation or by way of attempts to "whittle down verdicts" on the threat of an appeal to the law court involving this point the endorsement requirements should then be modified.

I would suggest that the Insurance Department make a recommendation to the insurance companies that the clause in the contract referred to in the previous paragraphs be clarified at the next revision of the standard form insurance policy.

Attorney General

From: April 28, 1942
Frank I. Cowan, Attorney General

To:
Honorable Sumner Sewall
Governor of Maine

The question has been asked by some sheriffs and police officers as to whether enforcement of the Executive Orders under the Civilian Defense Act is confined to such persons as are designated by the

Governor under the provisions of Sections 1 and 2 of said Act (Public Laws 1941, Chapter 305).

It should be clearly understood by all executive officers that the authority given to the Governor under the Civilian Defense Act to invest certain persons with powers, does not in any way lessen the authority of sheriffs, constables, police, wardens and other executive officers in the enforcement of all laws, including the Civilian Defense Act itself. In other words, violations of the Civilian Defense Act come within the authority of the duly constituted officers of the law even though there may be other persons named who shall possess limited authority for the enforcement of the orders and regulations issued under the Act. The fact that certain persons have authority to enforce the rules and regulations issued under this particular law, does not in any way lessen the authority of the regular law enforcement officers to enforce those rules and regulations.

Instructions to this effect should be sent out to all sheriffs and police heads.

Attorney General

From: April 28, 1942

Frank I. Cowan, Attorney General

To:
Honorable Sumner Sewall
Governor of Maine

I have been discussing with Adjutant General Carter the question of your authority to authorize the organization and enlistment as a part of the Maine State Guard of certain irregular bodies and groups and certain individuals who for one reason or another are not eligible to become regular members of the Maine State Guard or are not so situated that they can accept the training requirements of the Guard. Our difficulty in the past has been in the provision of Section 92 of Chapter 7 of the Laws of 1941 setting up the Maine State Guard which uses the words "provided that the organization shall not conflict with the laws of the United States."

General Carter has now shown me a copy of a War Department circular out of the office of the Chief of the National Guard Bureau, bearing date of April 13, 1942 and bearing number 421 (insignia) gen.-78. This circular quotes a "directive" issued by the Adjutant General of the Army to the Commanding Generals of all Corps Areas, etc.; refers to Article I, annexed to the Hague Convention No. 4, October 18, 1907, which classifies irregular or guerrilla troops as lawful belligerents; and sets up a set of suggested regulations.

It is very possible that the common law doctrine of militia, to wit, that it includes all males capable of bearing arms, is the law in Maine without regard to the fact that Section 1 of the Military Law restricts the militia to ages between 18 and 45. However, the Maine State Guard Act, as amended by Chapter 312 of the Public Laws of

1941, approved January 23, 1942 as an emergency Act, sets the age of the persons from whom the State Guard can be drawn as "such able bodied male(s) . . . . who shall be more than 18 years of age".

There is no doubt in my mind that you have the authority to set up as many divisions or branches or different types of organization of the Maine State Guard as you see fit. These can include both regular and irregular bodies and may be equipped with any type of uniform that you wish to authorize. The State Guard Act does not require any particular type of armament and it does not require that the arms shall be furnished by the State.

As a matter of fact the extent of your authority in time of war, insofar as organizing and equipping the militia is concerned, can be carried to the fullest extent without any Legislative authority whatsoever.

Section 4, Article XL of the State Constitution provides in part as follows:

> "It shall be the duty of the Governor to issue from time to time such orders and regulations and to adopt such other means of administration as shall maintain the prescribed standard of organization, armament and discipline; and such orders, regulations and means adopted shall have the full force and effect of law."

It is to be seen that the above Constitutional provision expressly authorizes you to perform all functions in connection with the militia except actual enlistment. Whether or not the power of enlistment or drafting is included among the necessary powers of the Governor in time of war is a question that we don't have to pass on at the present time because the amended State Guard Act covers the matter of enlistment.

In other words, the war-time powers for enlisting, organizing, training and equipping the State Militia which you, by virtue of constitutional and statutory provisions, possess as Governor, are sufficiently broad so that you can act as your judgment dictates in incorporating into the State Guard any added branches which you may desire, and the rules and regulations in regard to their equipment and training, as long as they do not directly conflict with the laws of the United States, are wholly discretionary with you.

Attorney General

May 1, 1942

William D. Hayes, Esquire
State Auditor
State House
Augusta, Maine

Dear Sir:

I have been giving further thought to the question you brought up for discussion yesterday in regard to your right or duty to with-

hold or disclose information obtained by you or your assistants in your auditing of the books of courts, counties, municipalities and other departments or agencies of the State Government.

Under Public Laws of 1931, Chapter 216, Section 4 (the Code Act) the State Auditor is required to report annually, setting forth the essential facts of his continuous post audit of the records of the departments and agencies of the State Government. It is further made mandatory on him that if he finds, in the course of his audit, evidence of improper transactions or incompetence in keeping accounts or handling funds "or of any other improper practice of financial administration", he shall report the same to the Governor immediately. "If he shall find evidences of illegal transactions he shall forthwith report such transactions both to the governor and to the attorney general." Said Section further provides "all such evidences shall be included in the annual reports of the state auditor, and *he may at his discretion*, make them public at any time during the fiscal year." The above language is sufficiently broad to disclose the intent of the Legislature that the State Auditor shall be the person in whom the people of the State repose a vast degree of confidence. He is carefully selected. He is a man whose character, so far as known, is above reproach and whose judgment is regarded as sound. In him is reposed the power of the State, through its Legislature, and its Executive and its Attorney General, to pry into the most closely guarded financial transactions of any department of the State or agency thereof, and to bring out into the open and scrutinize carefully any financial matters of public concern or any matters that may have a bearing on the financial transactions of the department or body under examination.

The discretion of the Auditor contained in the authority to make public certain information from time to time during the year is given to him so that if public officials having irregularities or evidence of criminality called to their attention, fail to take appropriate action, the people of the State may be informed of that fact. No public official should be exempt from the right of his employers who have placed him in a position of trust, to know exactly how he is handling their affairs and it is the State Auditor who is empowered by law to use his discretion in turning the white light of full publicity on any official who has failed in his duty to (1) properly administer the funds entrusted to him, or (2) properly to move in punishment, if such be his duty, of the dishonest or incompetent official.

The State Auditor himself is not exempt from investigation and criticism. The Legislature which created him, or either branch thereof, has the power at any time through order properly passed to examine the conduct of the State Auditor and ascertain if he has performed properly the duties that have been imposed upon him and has faithfully and with good judgment exercised the great powers and the confidence that have been reposed in him. The Attorney General has, of course, the power at any time to look into the conduct of any State official and it is not necessary that he shall have any expressed

reason for doing so. It is one of his duties to investigate any department or any branch of the State government whenever, in his opinion, conditions warrant it. The only restriction on his activity along that line is a financial one. His investigation activities are, of course, limited by the amount of money he has available for such purposes.

The Executive Department has the power, even without any express statement or statute, of requiring a report from the State Auditor on his activities and it is the duty of the Governor to require such report and call on the Attorney General or any other agency he may see fit to procure to assist him when, in his opinion, the best interests of the State and the people thereof require it. Thus, the State Auditor although endowed with such great authority and discretion, is not left without moral support. He is himself subject to the same possibility of having his acts scrutinized to determine whether or not he has fulfilled his obligations to the public as is any other public official.

As to how he shall interpret the word "discretion" in the last sentence of Section 4 of Chapter 216 is, of course, a question the answer to which must depend on the circumstances at the time.

Your query related specifically to what are and are not public documents or records and what is the meaning of the expression "public documents or records."

It is not every document compiled by a public official that the individual members of the public have a right to examine. A State is a governmental body and, as such, there must of necessity exist in the files of its various offices, information of a highly confidential nature. The State is empowered to inquire into the most minute details of the conduct of people, both in their private lives and in their businesses, and some records of the facts so learned must of necessity be in the documentary records of the offices obtaining the information. Such facts are, of course, highly confidential and it would be an act of tyranny for the State or any official thereof, to feel free to disclose them under any circumstances not necessary for the public welfare or under order of court. Such information, therefore, is to be regarded by you as highly confidential.

There is another type of information which you obtain from the examination of the public records and the acts of public officials in connection with the handling of financial transactions. It is your duty to examine thoroughly all such records when, in your opinion, it seems wise to do so. There is no limit on the extent or care that you shall use in your examination. The examination, however, is for the purpose of determining certain facts. When your examination discloses what appear to be irregularities, it is your duty to report those irregularities to the Governor and if there seem evidences of criminality, to report them also to the Attorney General. It is not your duty to disclose such irregularities immediately to the general public. It would be contrary to public policy for you to deliver such evidence for immediate publication under any circumstances. Such an act might

make it possible for a delinquent or dishonest official to make his escape before he could be apprehended. The expressed duty on your part to deliver evidence to the Governor and to the Attorney General shows that the Legislature had this fact in mind. It is only after you have disclosed the facts that you have found to the Governor and to the Attorney General that your discretion arises. You will note that Section 4 of Chapter 216 places this discretion in you at a later date than your report to the Governor and to the Attorney General, and it is obvious that the Legislature did not intend that you should exercise your right of giving full publication to the facts until after they have been so submitted. Even then it is not your duty to make them fully public unless, in your opinion, it is for the best interest of the State and of the people thereof that such publicity shall occur.

To get back to the question of the different kinds of public documents or records: Some records are kept for the express purpose of being available to all the world. The records in the Registries of Deeds and the Registries of Probate are typical examples. Here it is a matter of public policy that every individual shall be assumed to have such an interest in the records that he shall have the right to examine them himself or have them examined by a properly authorized representative. There are other public records that are available to the individual members of the public only when the courts shall so order, and then only to the extent that they are matters pertinent to the case before the court. In this class in general fall the records in your office.

Every individual in the State has a right to demand that you disclose facts learned by your office in connection with the financial transactions of any public official. It is not, however, your duty to conform to that demand. If there is no evidence of irregularity, impropriety or criminality you have, of course, the same right that is inherent in every one of us, to say you have no evidence on the subject. When, however, the records do disclose irregularity, incompetence or criminality, it is not only not your duty to disclose those facts to any one except the properly constituted authorities, but it is decidedly contrary to public policy for you to make such disclosures until such time, as in your opinion, the proper authorities are failing to take steps to correct the irregularities or take proper cognizance of the crime.

This is rather a rambling symposium on the subject. I haven't endeavored to put the thing into connected form. I have thought about your question deeply and have looked through the books somewhat to see what other people have thought and said about it. I believe that in what I have written above, you will find the answer that you want.

Sincerely yours,

FRANK I. COWAN

Attorney General

May 6, 1942

From:
Frank I. Cowan, Attorney General

To:
Sumner Sewall, Governor

There is no incompatibility between the offices of Controller and Commissioner of Finance.

The Commissioner of Finance can, while occupying that office, be Controller, and the advancement of the Controller to the office of Commissioner of Finance does not automatically vacate the office of Controller. That office, like any other, can become vacant only through death, resignation, removal, or acceptance of an incompatible position.

Until the office of Controller becomes vacant by reason of one of the eventualities mentioned above, Mr. Mossman continues in charge of that office and his right and duty to sign checks and other documents of the State as Controller are not affected in any way by his appointment to the office of Commissioner of Finance and his qualification for such office.

FRANK I. COWAN
Attorney General

May 15, 1942

From:
The Attorney General

To:
Philip D. Stubbs, Inheritance Tax Commissioner

Where we find the word "cousin" used in our inheritance tax and estate tax statute, the word plainly refers to first cousin only. Any other conclusion would be wholly illogical because there would be no limit to the extent to which we could go if we pursued the word "cousin" through all the ramifications of blood relationship.

Certainly the Legislature never intended to use a word that cannot be definitely defined. In the construction of the meaning of this word the courts of New York, New Jersey, Connecticut and Massachusetts and the English courts have consistently interpreted it as meaning first cousin only.

I have not seen any decision by the courts of Maine on this particular matter, but in my opinion if it were presented to our court for ruling, the decision would agree with the above interpretation.

FRANK I. COWAN
Attorney General

May 15, 1942

From:
Frank I. Cowan, Attorney General

To:
Sumner Sewall, Governor of Maine

The Secretary of State is a constitutional officer of great importance. Certain essential functions of government are vested in him only and without an officer to perform those functions the government would be severely handicapped.

The Constitution of Maine, Article V, Part 3, provides, in Section 2, that the Secretary of State "may appoint his deputies, for whose conduct he shall be accountable". Section 3 provides that "he shall attend the Governor and Council, Senate and House of Representatives, in person or by his deputies, as they shall respectively require."

Although there are numerous provisions in our statutes in regard to the duties of the Secretary of State, there is but one place in our statutes that I have found where the office of Deputy Secretary of State is mentioned at all, and that is where it provides that the traveling expenses of the Secretary of State and his Deputy shall be paid by the State when they are on official duties.

The Secretary of State of the State of Maine has enrolled in the armed military forces of the United States and has departed from the State of Maine to perform the duties of his new office. Such a departure must necessarily be for an indefinite term and the nature of his duties in his new office are such that it will be impossible for him to perform his functions as Secretary of State. However praiseworthy we may regard his enlistment in the military arm of our government, the fact remains that by so doing he has abandoned the office of Secretary of State and unless all the duties of the office can be carried on by a deputy possessing all the powers and rights of the Secretary himself, such abandonment creates a vacancy.

In general, a deputy possesses all the powers and functions of his principal. This is certainly true when the powers and functions of the principal are purely ministerial, and if the duties of the Secretary of State were purely ministerial, then, since the functions of his office could be fully performed in his absence, such absence need not be construed as an abandonment and so no vacancy would exist.

The Secretary of State, however, possesses various quasi judicial powers. In connection with the handling of violations of the motor vehicle law the Secretary of State sits in a quasi judicial capacity and passes on the evidence and decides whether or not the parties before him shall be adjudged worthy of having the privilege conferred on them of operating automobiles on our highways. This is but one of several quasi judicial functions which he exercises and under the definition of deputy appearing in Bouvier's Law Dictionary, such functions cannot be deputed.

Moreover, a deputy cannot himself appoint a deputy, which is a very distinct limitation on the powers and authority of a deputy.

It therefore seems necessary that we hold that there is a vacancy in the office of Secretary of State.

Attorney General

May 21, 1942

From:
The Attorney General

To:
Dept. Adjutant General—Colonel Hart

Re: *Enlistment in State Guard*

I have your memorandum of May 20th asking if a person must be a citizen of the United States to be eligible for appointment as a commissioned officer in the Maine State Guard. The answer is, "No".

Chapter 312, P. L. 1941, approved January 23, 1942, uses the words, "such able-bodied male citizens of the state and such other able-bodied men who have or shall have declared their intention to become citizens of the United States". The language must be interpreted in accordance with the general military law of the State in view of the fact that it contains no express statement about citizenship of officers.

R. S. Chapter 18, Section 1, provides that the "militia of the State of Maine shall consist of all able-bodied male citizens of the state and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, ...".

Section 2 of said Chapter 18 provides for commissioned officers without requiring that they shall be full citizens.

As clearly appears from the wording of the general military law of the State, there was no intention on the part of the legislature that a person must be a full citizen in order to be an officer in the National Guard. The language of the State Guard Act being exactly the same, we should put the same interpretation on it. Certainly, if, over a period of many years, the policy of the State has been that a person may serve as an officer in the National Guard without being a full citizen, the same intention is clear when we find exactly the same language in the State Guard Act.

FRANK I. COWAN
Attorney General

May 22, 1942

Robert B. Williamson, Chief Attorney
Office of Price Administration
Augusta, Maine

Dear Sir:

The Public Laws of 1941 of the State of Maine, Chapter 295, Section 1, reads as follows:

> "All spirits and wines as defined in section 4 of chapter 300 of the public laws of 1933 shall hereafter be sold by the state at a price to be determined by the liquor commission which will produce a state liquor tax of not less than 61% based on the less carload cost f. o. b., Augusta, Maine, excepting only that spirits and wines sold at wholesale under the provisions of section 5 of chapter 301 of the public laws of 1933, as amended, may be sold at wholesale prices established pursuant to the provisions thereof. Any increased federal taxes levied on or after April 1, 1941 shall be added to the established price without mark-up. All net revenue derived from such tax shall be deposited to the credit of the general funds of the state."

You will note that there is no discretion in the State of Maine Liquor Commission to produce an amount less than 61% in excess of the cost to the Commission of that liquor, f. o. b., Augusta, less carload lots (less carload lots means highest price in broken lots).

It is my understanding that there has been an increase in freight rates allowed as of March 18th which was quoted to us on April 1st or after, and so does not appear in our March price lists and certainly is not reflected in any March sales.

I understand there are also other charges, some of which may be for increased freight which appear in the basic cost of the liquor to the distillers, wholesalers or rectifiers when the liquor is in the warehouses in New York or from whatever State it is shipped to us. Such added costs appear reflected in the price that is charged to this State.

There are also other increased costs to the distiller and to other persons handling the liquor before it is shipped to us that can be reflected in the charge against us due to the fact that, as a monopoly State, we have customarily been able to purchase liquor at a lower price than can individual distributors. It is my understanding that under the order, the distiller is permitted to charge us the highest price that he has received for similar goods sold to any person during the month of March. This makes it possible for him to charge us a price considerably in excess of the price we have been paying (there is a possible defense we would have for ourselves which we feel is improper to use and of which we do not wish to avail ourselves).

In view of the fact that the Legislature of Maine has put on the Liquor Commission the burden of producing an amount that is 61% in excess of the cost to the State of the liquor f. o. b., Augusta, are we justified in refusing to pay the distiller a price which would include increased freight rates and increased other costs to him when the result will be that we shall either have to increase our liquor prices correspondingly or act in violation of the plainly expressed law laid down by our Legislature?

You understand, of course, that it is the desire of the State of Maine to cooperate with the Federal government in this matter insofar as we can do so. We insist, however, that our cooperation is voluntary. We insist that the Federal government has not the right to require that the State shall set any particular price on its own goods which it is selling, and in cooperating in this regard we are not in any way waiving any rights that the State may have to refuse to cooperate. Any waiver of rights of the State of Maine in this particular instance is not to be considered as a precedent as a waiver on any other occasion or in any other regard.

Very truly yours,

FRANK I. COWAN
Attorney General

From: May 22, 1942
Frank I. Cowan, Attorney General

To:
Harold I. Goss, Deputy Secretary of State

In re Calvin Lane

I have your request for an opinion based on the following set of facts:

> A candidate from the City of Portland files a nomination paper in which it is clearly set forth that the electoral district from which he is seeking election is the City of Portland.
>
> This nomination paper is one of several which he files.
>
> If we count all the names on the nomination papers he will have ample names to justify placing his name on the ballot.
>
> We find, however, the following facts: (1) Several signatures are followed in the column marked "residence" by the word "Gorham" or "Westbrook" or "Cape Elizabeth", etc. None of these names are struck off of the nomination papers. (2) Some of the signatures are followed in the column marked "residence" by such designations as "11 Smith Street".

The questions you ask are: (1) Shall the Secretary of State count as names properly on the nomination paper, persons who gave their places of residence as towns or cities known to be different from the town or city which is the electoral district in which the

candidate is running for office, even though investigation might (might, if such investigation were carried on) disclose that the person who has signed his name to the paper and gave his residence as such other town or city, actually had a voting residence in the city from which the candidate is running?

(2) Shall the Secretary of State count as names properly on the nomination paper, persons who designated their residence simply by a street address, without adding the name of the city or town in which they hold residence?

My answer to your first question is that the law expressly requires that the signer of a primary nomination paper set down his signature and his residence. Residence means "voting residence". There is no burden on the office of the Secretary of State to investigate in cases where the nomination paper is not itself clear. Any such burden rests upon the candidate and it is not my understanding that there is any question on the matter of proof which the candidate must furnish in order to correct this particular phase of the papers.

My answer to the second question is that although the person who has signed the nomination paper has set down a residence which may be his voting residence in the city or town from which the candidate is running for office, nevertheless, in view of the fact that the candidate has on his papers other names indicating residence in towns other than the town or city from which he is running as a candidate, the Secretary of State is not correctly informed as to the actual city or town of residence of the persons who have simply placed their street addresses on the nomination paper. In view of the fact that the candidate himself has left on his papers names of persons indicating that they reside in other municipalities than the one from which he is running for office, he has himself overcome any presumption that might exist that all persons signing the nomination paper reside in the municipality from which he is running for office. There is no burden on the office of the Secretary of State to investigate and learn whether or not the persons who have set down their street addresses are actually residents of any particular municipality. That burden rests with the candidate.

I am informed that the above interpretation is the one that has been accepted by the office of the Secretary of State of this State for many years as the correct one and that many candidates have failed to get their names on the ballot because of failure to conform to this interpretation. It seems to me that in view of the fact that the above interpretation is logical, the fact that it has been the rule under which the office of the Secretary of State has administered the law for many years, is entitled to great weight. Even though another interpretation of the law is possible and might be equally logical, a change in administrative procedure now would create confusion in the minds of the hundreds of election officials throughout the State and it is my feeling that a rule that can be justified in law which has such a long history should be adhered to.

There is a provision of law which appears in Section 6 of Chapter 7 of the Revised Statutes which runs as follows:

> "Such nomination papers so filed, and being in apparent conformity with the provisions hereof, shall be deemed to be valid; and, if not in apparent conformity, they may be seasonably amended under oath."

I have examined a list of names of voters which has been filed in your office as a correction of the nomination petitions. I note that said list is certified by what purports to be two members of the Board of Registration of the City of Portland. However, the list is not under oath, and however informally the amendment may be made, the requirement for an oath is mandatory and cannot be waived.

It is, therefore, my opinion that the document which you have received, which may have been intended to show the place of residence in the City of Portland of certain persons who signed the petitions of Mr. Lane, is not sufficient in law.

You further inform me that although the ballots for the City of Portland have not already been printed, the absentee ballots which must be sent to our absent voters, have been printed and are ready to send to the City Clerk of the City of Portland today. I am compelled to say that, in my opinion, an amendment will not now be "seasonable" so that, regrettable as it may seem, if any name of a prospective candidate has been left off the list due to an error in form of the nomination paper, the error was not caused in your office and the candidate did not avail himself of the statutory means of amending his paper so that it would conform to statutory requirements.

FRANK I. COWAN
Attorney General

May 25, 1942

From:
John S. S. Fessenden, Assistant Attorney General

To:
Guy R. Whitten, Deputy Insurance Commissioner

Reference is made to your memorandum of April 16th, 1942 in which you ask a question with respect to Section 104, Chapter 60, Revised Statutes of 1930.

In reply you are advised that an investment in real estate cannot be considered as a net cash asset within the meaning of the statute, so that in the case of a mutual company, "net cash assets" are those assets as expressed in the net policyholders surplus which consist of negotiable securities and cash. A mutual company must, therefore, have "net cash assets" of at least $100,000.

Assistant Attorney General

From: May 27, 1942
The Attorney General

To:
The Commissioner of Education

Subject: State Employees Retirement Act,
as it applies to Superintendents of Schools.

Reference is made to your memorandum of February 14, 1942, in which you propound four questions pertaining to the status of superintendents of schools, or employees of the State who have former service as superintendents of schools to their credit under the Joint Contributory Retirement Act passed at the Special Session of the Legislature.

Before answering your questions, it appears to be advisable to set forth certain general principles as they will apply to service as a superintendent of schools.

First: Superintendents in service prior to July 1, 1924 are regarded as State employees for retirement purposes both under the provisions of the Joint Contributory Retirement Act and the provisions of Chapter 303, Public Laws of 1941.

Second: Chapter 303, Public Laws of 1941 is merely an expression of the foregoing principle subject only to the limitation that under the pension provisions of Sections 227 to 233 of Chapter 1, Public Laws of 1933, a superintendent may receive a pension at the rate of fifty percent of his average salary for the last five years, excepting that the amount shall not exceed $1200.00.

Third: Section 3 of Chapter 303, Public Laws of 1941, while it is a repealing clause, does not in fact become fully operative until July 1, 1945, by virtue of the provisions of the Joint Contributory Retirement Law enacted subsequent to said chapter.

Having the foregoing in mind, we proceed to answer the questions propounded by you.

1. A superintendent will complete twenty-five or more years of service June 30, 1942. Is he eligible to receive a pension under Sections 227 to 233 inclusive of Chapter 1, P. L., 1933?

A. If eligible will he receive one-half his average salary for the last five years of service, or will his pension be limited to a maximum of $1200 per year?

B. If eligible as above, but he prefers not to retire at once, must he join the retirement system or may he continue his employment, and retire at will under the provisions of Chapter 1, P. L., 1933, as amended?

A superintendent in service prior to July 1, 1924, who retires before midnight, June 30th, 1942, and who has twenty-five years of service or twenty years of service and attained the age of seventy, is eligible to receive a pension under Sections 227 to 233 of Chapter 1, P. L., 1933, and

A. Notwithstanding the provisions of Subsection 3 of Section 227C of the new retirement law, his pension will be limited to a

maximum of $1200 as provided in Chapter 303, P. L. 1941, since his retirement takes place before midnight of June 30th, 1942.

The only way such a superintendent might receive a pension in excess of $1200 would be by virtue of his becoming a member of the retirement system, which he can not do unless he remains in service on and after July 1, 1942.

B. Such a superintendent may continue in service and may within one year from July 1, 1942 elect to become a member of the Joint Contributory Retirement System, or he may not become a member of the system and on or before July 1, 1945 retire under the provisions of Chapter 1 of the Public Laws of 1933, as amended.

2. What is the status of an employee of the State Department of Education who has been employed in his present capacity since 1923, and who was employed as a superintendent of schools from 1909 to the time of entering the State Department of Education?

Such an employee may elect within one year from July 1, 1942 to become a member of the Joint Contributory Retirement System, or he may elect not to become a member of the system. In the latter case, he may retire before July 1, 1945 under the provisions of Chapter 1 of the Public Laws of 1933, as amended, and his eligibility for such retirement will be based upon his years of service as a superintendent of school and, in addition thereto, his years of service as an employee in the State Department of Education.

3. Are superintendents of schools not in service as such prior to July 1, 1924 barred from the benefits of the State Employees Retirement Act, or are they automatically included unless action is taken by the Board of Trustees as provided in Chapter 328, Section 227C, Subsection 4?

Yes, they are barred from the benefits of the Joint Contributory Retirement Act. The trustees of the Retirement System have no right either to deny or admit to the system superintendents not in service prior to July 1, 1924.

4. Will superintendents who have already taken advantage of the provisions of Chapter 303 of 1941 automatically become subject to the provisions of the new retirement law, or will they remain subject to the original provisions under which they secured a pension?

The answer to this question is found in Section 227N of the new retirement law. This section provides in part that all pensions payable to former employees retired under the provisions of Chapter 1 of P. L. 1933, as they existed immediately prior to the effective date of the new system, shall be continued and paid at the full amount stipulated under said law prior to such effective date.

FRANK I. COWAN
Attorney General

May 29, 1942

From:
Frank I. Cowan, Attorney General

To:
Col. F. H. Farnham, Director
Civilian Defense Council

I am returning to you herewith, letter of Bertha (Mrs. Wilfred J.) Haggan, Eustis, Maine, who asks the following question:

> "Is a person giving first aid, to his best knowledge and ability; liable to suit for damages, in the State of Maine, if he makes a mistake or unknowingly causes further injury,"

It is impossible to answer this question completely because every case must stand on its own merits. Any person who goes to the assistance of another, does so at his peril to a certain extent. That is true in all Anglo-Saxon countries. If the person being assisted is caused further injury through the acts of the person trying to help him, there is always the possibility of liability on the part of the person who has so volunteered.

However, the danger is rather remote. Judges and juries are human beings and look with approval on the acts of the charitable man who tries to be of assistance to his injured fellow. The layman helping another person who has been hurt is not held to the same degree of skill as is the trained nurse, physician or surgeon. He is expected to use a certain amount of care commensurate with his training, but if he uses reasonable care and precautions and tries to do a good job, under the circumstances danger of a judgment against him is very slight.

In connection with that very possibility, Section 10 of the Civilian Defense Act reads as follows:

> "*Civil liability.* The state shall provide defense and indemnity for any claims and suits for alleged negligence or lack of permission instituted against any person by reason of his action in pursuance of authority granted hereunder, provided such person, within 14 days after written notice to him of such claim, gives written notice thereof to the attorney-general."

This statute, in the opinion of several high grade attorneys who helped to draft the Civilian Defense Act, is adequate protection for the person who without request or permission undertakes to assist somebody who has been hurt.

Attorney General

From: June 2, 1942
John S. S. Fessenden, Assistant Attorney General

To:
Charles P. Bradford, Field Man
State Park Commission

You state that you have been notified by a representative of the Bureau of Internal Revenue that a tax is required on persons visiting a State Park who pay a fixed amount which the State has set to help offset a part of the cost of maintenance. Your question is whether or not the State is liable to pay the Federal tax on admissions, which tax is at the rate of 1¢ for each 10¢ or fraction thereof of the amount paid for admission to any place.

The facts in connection with the State Parks, so-called, as presented to this office, appear to be as follows: The State of Maine operates and maintains certain recreational areas under a Cooperative and License Agreement between the United States of America and the State of Maine. The full details of the license appear in an Agreement signed May 9th, 1939, by H. A. Wallace, Secretary of Agriculture of the United States of America and executed under authority of the action of the Governor and Council of the State of Maine on January 14th, 1939 by the Secretary of the Maine State Park Commission. Among other things it is provided in the Agreement that "The State shall operate, maintain and administer the existing and subsequently developed recreational facilities for the use and benefit of the general public; any fees charged for such public use to be non-discriminatory and consistent with the public-non-profit character of the areas." It is also provided that if the annual income and revenue received by the State from the "use and operation" of the property exceeds the annual cost to the State of operating the property, the United States may hold a conference to determine:

(a) The rental to be paid during the remainder of the term of the license;

(b) The sums which should be paid by the State to counties or other local governmental subdivisions of the State; and

(c) The use to be made of any such excess income which has been accumulated.

All income received from the "use" of the property shall be paid into the State Treasury and impressed with a trust for making repairs and replacements on the property and for effectuating the purposes set forth in Section 2 of the license and of certain other purposes all of which are subject to the control of the United States of America.

Whether or not the income from the property provides for its proper maintenance, it appears that the State has a duty to appropriate funds for maintenance purposes and that if it fails to do so, the United States shall have a right to terminate the license.

Any publicity given to the project must state that the program was conducted on land acquired and developed in connection with the land conservation and land utilization program of the United States Department of Agriculture.

The State is obliged to submit its plan of operation and development biennially to the United States and to furnish any information in regard to the use of the property as may be requested from time to time.

The license is revocable by the United States at any time on twelve months' notice and, at the time of termination, the State may remove only such "improvements which have been erected exclusively with funds specifically appropriated by the State Legislature and which have not been erected in any part with funds derived from income from the use of the property". If such removable improvements have not been removed within eighteen months from the date of termination, the title to such improvements is to vest in the United States.

The entire duty of the State of Maine, as the licensee of the United States of America, is specifically set forth in full detail in the license agreement. At no place is it provided that the State of Maine shall pay any taxes in connection with the operation, maintenance or use of the property. At no place does it appear that the State of Maine shall profit from the use of the property. Any benefit that there may be to the State of Maine is indirect in that its citizens, as well as the citizens of all other States, may benefit from the use of a public recreational area. The State has not agreed to collect from any persons any taxes, nor has it assumed the duty under the license to remit any taxes to the United States of America. At no place does it appear that the State is entitled to make a charge for admission to the recreational areas, but it is specifically agreed that charges may be made on a non-discriminatory basis for the "use" of facilities furnished.

This office is informed that with the exception of the recreational area in the Sebago region, there is in fact no admission charge to the recreational areas, and that in connection with the Sebago region, while there appears to be an admission charge, such charge is not in fact a charge for admission but is, on the contrary, a charge for the "use" of the public property. The entrance to the Sebago area is over a road approximately two miles in length, which road leads to privately owned property as well as the public recreational area. Persons passing over and upon this road to privately owned property pay no fee. Persons passing over and upon this road for the purpose of visiting the area but who do not desire to use the facilities of the area, pay a fee of 10c, which fee is returned to them upon leaving the area if they leave within one hour and do not use any of the facilities other than the road. It appears, therefor, that the use of the word "admission" on vouchers used in connection with the use of facilities offered in the recreational areas is actually a misnomer and should be discontinued.

You are advised that under the terms of the license agreement the State of Maine, by and through the Maine State Park Commission, has not assumed the duty or obligation to collect any taxes for the United States of America; that as a matter of fact there appears to be no admission charge to which the Federal tax would apply even if it could apply to the State of Maine; that the State of Maine is merely the licensee of the United States of America under a license agreement obviously constituting the State of Maine the agent of the United States of America; that as such agent the State of Maine need not assume any duty other than the duty imposed by the Agreement and that, therefore, if any tax is collectible or payable, derived from the use of the property, that it will be necessary for the United States of America, as principal, to arrange for the collection and payment of its own taxes.

Assistant Attorney General

June 2, 1942

From:
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

Under date of May 25th, 1942, you inquired as to the levying of a tax upon Cumberland County Power & Light Company or Portland Railroad Company, the former of which companies operated a street railroad under lease from the latter, but which street railroad was discontinued as such on or about May 4th, 1941.

The tax about which you inquire is provided for under the provisions of Sections 29 to 35 of Chapter 12 of the Revised Statutes, as amended by Chapter 99 of the Public Laws of 1941.

It appears that the tax is levied on April 1 of each year against every corporation operating a railroad for the privilege of exercising its franchise. Street railroad corporations which own or operate a street railroad are subject to the tax.

Under the facts presented by you, it appears that neither of these companies either own or operate a street railroad, although a street railroad was operated until approximately the 4th day of May, 1941.

If a tax is payable, the tax is ascertained or measured by the business done in the previous year. While it is a fact that the railroad was operated during a part of the previous year, to wit, 1941, it appears that no tax is payable in 1942 for the reason that the tax is imposed on the privilege of exercising the franchise. Since the franchise is not being exercised, it necessarily follows that it is not taxable.

Attorney General

From: June 12, 1942
John S. S. Fessenden, Ass't Attorney General

To:
Governor Sumner Sewall

RE: Authority to Grant Permissive Use of Fort McClary, at Kittery Point

You are advised that under Section 54, Chapter 18, of the Revised Statutes of Maine, as amended by Chapter 308 of the Public Laws of 1939, you, as Chairman of the Military Defense Commission, have authority to grant the right to the Harbor Defense Command of the United States Army, at Portsmouth, to use Fort McClary, Kittery Point, for the purpose of establishing a searchlight position. Since this use does not involve a leasing or ceding of buildings, or of any of the other properties, but is merely to be a temporary use, it is not necessary for any action to be taken either by the Council or by the full membership of the Maine Military Defense Commission.

Accordingly, I have prepared, for your signature, a letter which will grant the authority which has been requested by Colonel Pendleton, Commanding, Harbor Defense of Portsmouth.

JOHN S. S. FESSENDEN
Ass't Attorney General

From: June 17, 1942
The Attorney General

To:
Harold I. Goss

Under the Constitution of Maine the Secretary of State is elected by joint ballot of the two Houses of the Legislature. No provision is made for filling a vacancy in the office. The Legislature, however, has provided that in case of a vacancy the Governor and Council shall appoint "a suitable person to act as Secretary of State".

The proper designation of the person so appointed is "Acting Secretary of State" since there is no authority in the Governor and Council to appoint a "Secretary of State".

FRANK I. COWAN
Attorney General

From: June 19, 1942
Frank I. Cowan, Attorney General

To:
William D. Hayes, State Auditor

Re: *Town Clerks' collecting dog taxes—Your memo of May 22nd.*

Public Laws of 1941, Chapter 278, Section 1, amending R. S. Chapter 5, Section 157, puts the burden on the municipality to make a correct report to the Commissioner of Agriculture of all dogs owned

or kept in the municipality on April 1st. On the basis of that return, or on the basis of any other information he may have, the Commissioner of Agriculture shall report to the State Treasurer the number of dogs, as provided in the second paragraph of Section 1 of Chapter 278, whereupon the Treasurer of State shall notify the municipal officers of each city or town of the amount due for dog licenses. Failure of the municipality to pay the amount due on or before October 15th will result in the amount so due being added to the state tax of the delinquent municipality for the following year.

Failure of the local assessors to file a list that would be substantially correct would constitute either non-feasance or mal-feasance, according to the circumstances, and could be so treated.

The wording of Section 3 of said Chapter 278, amending Chapter 5, Section 159 of the Revised Statutes, creates an ambiguity. Section 1 puts the duty absolutely on the municipality and makes the municipality responsible to the State for the payment of the money. Section 3 says that the clerk shall issue the licenses and receive the money therefor and pay the same to the Treasurer of State. This, it seems to me, is simply a ministerial act on the part of the clerk and may have been deliberately designed by the legislature to save bookkeeping or to save the money from going through unnecessary hands.

The logical method would seem to be for the clerk to pay the money over to the Town Treasurer, and the Town Treasurer pay it to the State Treasurer. Section 3 simply shortcuts that operation, and sends the money directly from the Town Clerk to the State Treasurer. It does not, however, in any way lessen the responsibility of the Town to see that the money is properly paid over.

In your third question, you ask whether the clerk would get the extra eighty dollars in case one hundred twenty dogs were licensed, of which only forty had been committed by the assessors. The answer is that all dogs shall be reported and any such problem as you suggest would be considerable evidence of a criminal conspiracy for which the law provides a severe punishment.

FRANK I. COWAN
Attorney General

From: June 19, 1942
Frank I. Cowan, Attorney General

To:
William D. Hayes, State Auditor

Re: Deer Isle-Sedgwick Bridge District

I have your memo of May 8th.

The Deer Isle-Sedgwick Bridge District started out as a quasi-municipal corporation, the purpose of which was to handle and operate the Deer Isle-Sedgwick Bridge until such time as all debts should be fully paid. The bridge, under the original plan, would then be-

come the property of the State of Maine. The State was not to invest any money whatsoever in the bridge nor guarantee its bonds nor in any other way incur any obligations whatsoever.

This plan was materially altered, and under a constitutional amendment, which appears as Chapter 133 of the Resolves of 1935, and became Section 21 of Article IX of the Constitution, the State issued bonds to assist in the construction of the bridge.

Under the provisions of Chapter 20 of the Private and Special Laws of 1939, the Legislature placed the bridge, after completion, under the complete control of the State Highway Commission, and gave to the Commission the veto on any disbursements and expenses of the trustees. It further provided that leases of the bridge to utilities made prior to the completion of the bridge must be approved by the Commission, and that after such completion, the Commission should have sole power to make leases. The State Highway Commission was given the duty of charging and collecting tolls for the use and crossing of the bridge, acting under the direction of the Public Utilities Commission.

The present statute further provides that all money collected must be deposited in a Bank designated by the Treasurer of the State, and on the first secular day of each month the balance must be transmitted to the Treasurer of State. All rentals must be paid direct to the Treasurer of State, who, on warrants signed by the Highway Commission and approved by the Governor and Council and by the State Controller, pays all bills for maintenance, upkeep, repairs and operation of said bridge, interest on state bonds, and for the retirement of said bonds. These provisions, when read with the original act which makes the bridge absolutely the property of the State when all bonds are retired, in substance makes the State the custodian of the bridge and fully responsible to the people of the State for its permanent preservation as part of our highway system. This is an entire change of position, since the original act made the trustees the custodians.

Under Private and Special Laws of 1935, Chapter 88, Section 9, as amended by Section 4 of Chapter 20 of the Private and Special Laws of 1939, the State Treasurer "shall pay the Bridge District such sums as may be necessary for interest and retirement of bridge district bonds . . . ." I understand from your statement of fact that occasionally there is a technical default due to the fact that you do not get word from the Treasurer of the Bridge District in time to make the payment when due.

The fact that the Highway Commission and the State Treasurer have been charged by the legislature with the responsibility of preserving this bridge as a part of our general highway system puts on them a duty and a responsibility that cannot be avoided. The provision of Private and Special Laws of 1939, Chapter 20, Section 9, above quoted, cannot be regarded as mandatory when an attempt on the part of the state officials to act strictly in accordance with the

language of the statute will serve to defeat the purpose of the legislature. There is nothing in the quoted language to prevent the State Treasurer, when authorized by the trustees, from making payments of interest and for retirement of the Bridge District bonds directly to the National Shawmut Bank of Boston, or such other bank as may be owner of the bonds or acting as trustee or collecting agent for the bondholders.

It will be a wise thing if the legislature be asked to amend the law at the next session so that the payments can be made directly to the bank without having to consider the trustees, but in the meantime, since the administrative departments of the State have been made responsible by the legislature, the method of payment I have suggested above can be put into effect. The law will never permit a thing of great public value to be endangered because of ambiguity in the wording of the statute which has been set up to enhance the value of the object.

FRANK I. COWAN
Attorney General

See Memo of July 16, 1942.

From: June 24, 1942

Frank I. Cowan, Attorney General

To:
Sumner Sewall, Governor of Maine

In connection with the many inquiries relative to the holding of a commission as Notary Public or Justice of the Peace by a person who is serving as an Auxiliary Policeman under Civilian Defense, you are advised that the discussion and confusion on this subject probably arises from the fact that duly constituted law enforcement officials holding offices which are provided for by statutes of the State, have been held by our Supreme Court to be a part of the executive branch of the government. Justices of the Peace are a part of the Judicial branch. Under our constitution no person belonging to one branch "shall exercise any of the powers properly belonging to either of the others. . . . ."

As far as Auxiliary Policemen are concerned, under the present emergency civilian defense activities, these individuals are not, simply by reason of being such auxiliary police, holding public office. That is to say, it is not a public office provision for which is made or created by the statutes or constitution of this State, and they neither possess nor exercise any of the "powers" of the executive branch. When acting as Auxiliary Policemen, such individuals are in fact performing no more than the common law duty of any able bodied citizen of the State who may be required in time of emergency to perform those acts inherently his duty of allegiance to the sovereign State.

Since Auxiliary Policemen are not actually "exercising any of the powers" of the executive branch, there can be no incompatibility in such individuals retaining their commissions either as Notaries Public or Justices of the Peace.

This opinion must not be considered as an interpretation of the status of Civilian Defense Corps members mentioned in Section 2 of the Civilian Defense Act. Such persons are expressly endowed with "the powers and immunities of constables," and are thereby made a part of the executive branch.

Attorney General

From: July 2, 1942
Frank I. Cowan, Attorney General

To:
William D. Hayes, State Auditor

In re Port of Portland Authority

In my opinion the Port of Portland Authority is an agency of the State of Maine, set up in the form of a corporation for greater facility in transacting its peculiar type of business.

All assets of the Authority are property of the State of Maine.

Attorney General

From: July 8, 1942
Frank I. Cowan, Attorney General

To:
Honorable Sumner Sewall, Governor of Maine

I have carefully considered your query as to whether or not as Governor you have the power and the right to use such material forces as may be available for the protection of shipping along the coast of the State of Maine and for the escort of cargo vessels in and out of our ports and along the waters washing our shores.

The Federal Constitution, Article I, Section X, Paragraph 3, provides as follows: "No State shall, without the consent of Congress, ... engage in War, unless actually invaded, or in such imminent danger as will not admit of delay." The Constitution of Maine, Article V, Part First, Section 7, provides as follows: The Governor "shall be commander-in-chief of the army and navy of the State and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State, without their consent or that of the Legislature, unless it shall become necessary in order to march or transport them from one part of the State to another for the defence thereof."

On the statement of fact which you have given me, merchant vessels entering and departing from our ports are being met by enemy submarines and sunk. The people of the State of Maine are lacking in necessary oil and coal for the coming winter. The navy of the United States is not yet in a position to give that shipping the protection which we have a right that it shall have. The Secretary of the Navy of the United States has been quoted several times recently by the newspapers as saying that in case of invasion, the States may very well have to look after themselves for the time being.

The Constitution of the United States was never intended to deprive a State and the people thereof of the right of defense against any enemy, private or public. The right to repel invasion or to act in a case where the State was "in such imminent danger as will not admit of delay" is expressly recognized as I have quoted above.

The word "invasion" is not limited to mean solely the crossing of our boundaries by foreign armies. "Invasion" may be by airplane coming over a portion of the land included within the boundaries of the State of Maine with hostile intent on the part of the operators, whether actual immediate damage is done to any of the people or property of this State or not. An invasion of the rights of our people to food and fuel and to the usual necessities of life is just as much an "invasion" as is a crossing of our frontiers, although if that invasion of rights occurs at a great distance, the question of practical repulsion arises and, in general, will prevent action by a State. However, the right of the Governor of the State to protect the people of the State from an invasion of our rights to have fuel and food is not limited to the actual dry land boundaries of the State. A submarine that lurks off one of the ports of the State for the purpose of depriving our people of food and fuel is "invading" the State of Maine just as much as if it landed armed troops to seize or destroy one of our food or fuel storehouses.

I understand that you can buy and equip airplanes and can offer escort to ships entering and leaving our harbors. This is a power that you possess under the Constitution of the State in time of crisis even without statutory authority, but the Civilian Defense Act (Chaper 305 of the Public Laws of 1941) in Section 1 states as follows: "The governor is hereby *empowered and directed* to provide for the *security, health and welfare* of the people of the state,". For that purpose the Legislature at its Special Session, authorized a bond issue of $1,000,000 for you to use in case of emergency, but even without that the authority given to you under Sections 5 and 6 of the Civilian Defense Act is ample to provide the funds for this activity and to authorize the use thereof.

It is not necessary that you set up this air unit under the State military law. It can be either independent as far as the State military law is concerned and responsible only to the Executive under the Civilian Defense Act, or it can be organized as a part of the State Guard, or it can be organized as a part of the naval militia

as provided in Chapter 18, Sections 32 to 35, inclusive, of the Revised Statutes. As you will note, Section 33 of Chapter 18 provides as follows: "The commander-in-chief may organize the forces prescribed in the preceding Section as he may deem proper; and when in his judgment the efficiency of the naval militia will be increased thereby, or whenever public interest may demand it, he may alter, reorganize or disband any or all of the organizations therein; . . . . no part of the naval militia shall be attached to the organization of the national guard except when especially ordered by the Governor, in which case the senior officer present shall command the whole, unless the commander-in-chief shall direct otherwise."

You have asked the question in regard to the extent of the jurisdiction of the State of Maine into our coastal waters. Some two hundred or more years ago, a "three-mile limit", so-called, was adopted because that was in excess of the range of any cannon. The courts generally construed the three-mile limit as meaning a line drawn from headland to headland. This three-mile limit has become ineffective due to the longer range of guns and during the prohibition era you will recall that the United States declared that the limit would be twelve miles. This twelve-mile limit was not universally adopted.

Some two or three years ago at the Pan-American Congress the American nations adopted a three hundred mile limit. This three hundred mile limit was not accepted by some European nations with whom we are now at war, but it is a part of the declared policy of this country. What the effect may be on the extent of the jurisdiction of a State government over its coastal waters is a question for the courts to decide, but until such decision, it is proper to accept the national policy as governing the extent of the jurisdiction of this State.

The Supreme Court of the United States has recognized the right of the State to set its own territorial jurisdiction in the following language, as appears in the case of Manchester v. Commonwealth of Massachusetts, 139 U. S. 240:

> "The extent of the territorial jurisdiction of Massachusetts over the sea adjacent to its coast is that of an independent nation; and, except so far as any right of control over this territory has been granted to the United States, this control remains with the State."
>
> "Within what are recognized by the law of nations as the territorial limits of states, a state can define its boundaries on the sea and boundaries of its counties; Massachusetts can include Buzzard's Bay within the limits of its counties."

Attorney General

July 15, 1942
Employees' Retirement System

To:
Earle R. Hayes, Secretary

From:
John Fessenden, Ass't Attorney General

In reply to your memorandum of July 8, 1942, the answers to your questions are as follows:

1. Contributions by employee members of the Retirement System should be made on the basis of base pay, plus the 10% increase allowed by the legislature. The State's contributions to the System should be made on the same basis.

2. Contributions by employee members in cases involving maintenance should be made on the basis of cash salary, plus the value of maintenance involved.

3. Under Paragraph 4 of Section 227c, the Board of Trustees may, by the exercise of its discretion, deny the right to become members to employees whose status as employees under the Personnel Laws and rules of the State is temporary. Since the laws of the State and the rules of the Personnel Board indicate that persons entering into the classified service are on a temporary basis until the probationary period has been served, the Board will have authority to deny membership until the employee is permanent.

4. The Board of Trustees has authority to establish a rule making a provision that seasonal or part time employees on other than a per annum basis may be admitted to membership with their creditable service being allowed on an accumulative basis. The only limitation upon this authority appears to be that no employee shall be given credit for a year's service when such year includes a period of absence without pay of more than a month's duration.

5. Members absent on leave without pay may continue their contribution if they so desire. It should be noted, however, that in the case of leave of absence without pay in excess of one month in any one year, the employee will not receive service credit nor will the State be required to make contributions even though the employee has continued to make his contribution.

July 15, 1942
Employees' Retirement System

To:
Earle R. Hayes, Secretary

From:
John Fessenden, Ass't Attorney General

In reply to your memorandum of July 10, you are advised that there is no statutory authority whereby in calculating prior service credit, employees of the State who served in the armed forces of the United States during World War I shall be given retirement credit for the time of their absence in the armed forces.

Any person employed by the legislature, who is regularly employed in a State department, commission, institution or other agency of the State, is eligible to become a member of the Retirement System. Legislative committee clerks and stenographers who are not otherwise regularly employed in a State department would constitute a class of employees who are serving on a temporary or other than per annum basis, whose entry into the System may be controlled by the discretion of the Board of Trustees.

July 16, 1942

From:
The Attorney General

To:
William D. Hayes, State Auditor

Thanks for returning my memo of June 19th, in reply to yours of May 8th in regard to the Deer Isle Bridge District. My conclusion was based on my understanding that the State of Maine did issue bonds under Chapter 133, Resolves of 1935, which became Section 21 of Article IX of the Constitution.

I have checked through the various statutes to see if we can safely reach the conclusion that the State Treasurer may make payments of interest and for retirement of the Bridge District bonds directly to the National Shawmut Bank of Boston, or to such other bank as may be the owner of the bonds, or acting as trustee or as collection agent for the bondholders.

In my opinion the State Treasurer cannot do this unless through the neglect of the Trustees there is an actual default in the bonds. If the default occurs then the State can step in and use such reasonable means as may be necessary to protect the bridge. This is because of the fact that the State has a very great interest in the bridge, and on the State officials is placed the duty and responsibility of handling and maintaining the bridge, collecting tolls and doing all things necessary to protect the bridge as a part of our highway system.

Apparently the next Legislature should be asked to amend the law so as to get rid of the Trustees entirely, or to provide that payments can be made directly to the bank without having to consider the Trustees.

FRANK I. COWAN
Attorney General

From: July 21, 1942
The Attorney General

To:
Harold I. Goss,
Acting Secretary of State

The Absent Voting Law (R. S. Chapter 9, § 6, as most recently amended by P. L. 1941, Chapters 15, 17 and 170) provides that a voter who is in the armed services of the country, whether within or outside the State of Maine, may mark his ballot "in the presence of any commissioned officer of the army, navy or marine corps, including officers of the national guard, officers' reserve corps, naval militia, naval reserve, or marine corps reserve in federal service" who are respectively authorized under said Chapter 17 to administer the oaths required in said Absent Voting Law.

The statute provides further that the voter shall enclose and seal the envelope and mail the same "by registered mail requesting return receipt thereof, postage prepaid at any post office, or may deliver the same in person or by his or her accredited agent as above provided". (See said Chapter 15)

The Federal Congress has provided that men in the armed forces of the Federal Government may send mail without paying postage. Therefore the words "postage prepaid" are meaningless as far as soldiers' mail is concerned.

The provision "by registered mail requesting a return receipt therefor" cannot, in my opinion, be regarded as mandatory, but simply as a protective measure. Certainly there can be no connection between the registering of the envelope containing the ballot and the acceptance of that ballot by the municipal officers. The voter gets evidence that his ballot has been received if he sends it by registered mail and gets back a return receipt, but otherwise this provision is of no particular value to him and certainly it can be of no value to a municipality or to the State. I find, as a matter of fact, that the town and city clerks accept absentee ballots as a matter of course when they come through the mail even though they are not registered, and that procedure is to my mind the correct one.

FRANK I. COWAN
Attorney General

From: July 22, 1942
Frank I. Cowan, Attorney General

To:
Harold I. Goss, Secretary of State

I have your memo of July 21st, asking several questions in regard to nominations "outside the primaries". I will answer the questions in the order in which you ask them.

1. The fact that a candidate has been such in a primary does not bar him from the right to nomination outside of the primary under

Sections 30-31-32-33 and 34 of the primary election law. The subject is discussed in 20 Corpus Juris, Page 126, paragraphs 139 and 140.

2. Your question reads as follows: "Is the signature of a duly registered voter on the petition for nomination outside of the primaries an invalid signature because of the fact that he has signed a petition for primary nomination for the same office?"

Section 5 of the primary election law provides as follows: "Each voter may subscribe his name to one nomination for a candidate for each office to be filled . . . . " Section 32 of the primary election law which has to do with nomination of candidates not included in the primary, contains the following language: "Each voter signing a nomination paper shall make his signature in person, and add to it his place of residence, and each voter may subscribe to one nomination to each office to be filled, and no more."

The above phraseology appearing twice as it does in the statutes, in one place in regard to the primary petition and in the other place for petition for nomination outside the primary, indicates that the Legislature considered the primary election and a nomination at a convention or caucus (as provided in Section 30) or by special nomination papers (as provided in Section 32) as two entirely separate and different acts. Both it is true, have as their objective the obtaining of candidates for the final election, but the primary election is, by Section 28 of the Act, set up as "a separate election for each political party making its nominations hereunder" and the Courts have uniformly held that a "primary election" is an "election" just as much as an election where all the people exercise their choice among candidates put up by different parties.

A "convention of delegates", a "caucus" and a "meeting of qualified voters" mentioned in Section 30 as places at which candidates not included in the primary may be nominated, cannot be considered as a part of the Primary Election. Neither can "nomination papers" as provided by the first and second sentence of Section 32 be considered as a part of the Primary Election.

It is, therefore, my opinion that a person who has signed a petition for a candidate in order to get his name on the primary ballot of his party, is not thereby barred from signing a nomination paper or taking part in a convention of delegates or taking part in a caucus or taking part in a meeting of qualified voters and voting there for some other person to run in the final election with a different party designation from that which appeared on the primary ballot.

3. Your third question reads as follows: "Is the signature of a duly qualified voter on the petition for nomination outside of the primaries an invalid signature because of the fact that such voter participated by voting at the primary election?

My answer to this question must be "No", by reason of the fact that we use the secret, so-called Australian, ballot in our primary

election. If the voter can be proved to have voted for some other candidate at the primary election, it is possible that he might be barred from taking part in a subsequent convention, caucus or meeting of qualified voters, or from signing a nomination paper for some other person to appear on the final ballot. The reason for this is that his act of voting in the convention, etc. or signing the nomination paper is exactly equivalent to his act of voting in the primary election and under our laws a voter is not permitted to vote twice for a candidate for the same office. However, since there is no way of proving how the man voted at the primary election, nor is there any way of proving that he actually voted at all, even though he may have received a ballot from the ballot clerk and may have entered a voting booth and may have returned and dropped the ballot in the ballot box, in the absence of statute, there is nothing to prevent his taking part in the nomination of some other candidate outside of the primary.

Your fourth question is in regard to procedure. Inasmuch as that is a question that it seems to me you will not have to trouble yourself about, I respectfully decline to answer.

Attorney General

July 29, 1942

To:
Governor Sewall

From:
The Attorney General

Municipal Court Judges

Under Article VI, Section 8 of the Constitution of Maine there is a provision for the appointment of Judges of Municipal and Police Courts "By the executive power, in the same manner as other judicial officers, and shall hold their offices for a term of four years".

These Judges of Municipal and Police Courts, when paid a salary, must necessarily be recognized as State employees. The source of salary is not material.

There is a sharp distinction betweeen these Judges of Municipal and Police Courts so provided for in the Constitution on the one hand, and Judges and Registers of Probate and Justices of the Peace and Notaries Public on the other hand. The Judges and Registers of Probate are officials elected by the people of the county and there is nothing to justify considering them as State employees. On the other hand, Justices of the Peace and Notaries Public, although appointed by the Governor, are officials given certain authority for which they have a right to charge small fees. But their authority is almost exclusively one for their own convenience to be used in connection with private business affairs. There is no reason, therefore, for considering Justices of the Peace and Notaries Public as State employees.

FRANK I. COWAN
Attorney General

July 29, 1942

The Attorney General

Office of Civilian Defense

Transportation of Workers

I have your query received from the South Portland Civilian Coordinating Council bearing date of July 28.

In view of the fact that there are inadequate common carrier transportation facilities, it is recognized as a necessity during the war emergency that the car owners shall cooperate in transportation of themselves and their fellow workers to and from places of employment. It is also recognized that the owner of the car cannot afford to carry all of the expense of operation of the car himself. This office has adopted the rule that during the war emergency, and for such period only, if the owner of an automobile accepts from fellow employees a small gratuity to assist said owner in keeping his automobile on the highway we will not regard the acceptance of such gratuity, so long as it is not a fixed charge, as a charge for transportation of the sort that would be a violation of the registration laws of the State and we will not require of the automobile owner, acting under such circumstances, that he take out special registration as the operator of an automobile for hire. Each case will, however, be regarded on its own merits and this temporary interpretation of the law is not to be regarded as a precedent after the emergency has passed, nor is it to be regarded as any relaxing of the rules in regard to the registration of automobiles, or the attitude of this department and the various police departments toward enforcement of those rules.

If members of the Civilian Defense Coordinating Council see fit to advise automobile owners to arrange for transportation of fellow workers, said owners should be very carefully instructed that the Council has no power to waive any legal obligations which the car owner assumes. He is taking his own chance of involvement in litigation when he gives anybody a ride whether he accepts a gratuity from that person or not and the law in regard to financial responsibility in this State will still apply.

If the members of the Council will have this fact in mind when advising workers, more embarrassment may be saved later if some automobile loaded with workmen is involved in an accident which can be attributed to the fault of the driver of the car in which they are riding.

FRANK I. COWAN
Attorney General

August 6, 1942

Ralph Leavitt, Esquire
Executive Secretary
Maine Maritime Academy
179 Commercial Street
Portland, Maine

Dear Mr. Leavitt:

In reply to your letter of July 31, 1942, you are advised that employees of the Maine Maritime Academy cannot be considered, under present legislation, to be employees within the meaning of the definition of employees as found in Chapter 328 of the Public Laws of 1941, an Act to Provide a Jointly Contributory Retirement System for State Employees Except Teachers.

The authority for this ruling is the decision of the court in the case of Inhabitants of Orono vs. Sigma Alpha Epsilon Society, 105 Maine 214, in which the court held that the University of Maine is not an agency nor an instrumentality of the State but a corporation, a legal entity wholly separate and apart from the State.

I do not know of any reason why the Legislature could not include employees of the Academy within the definition of employees as set forth in Chapter 328 if the Legislature should so desire.

Very truly yours,

JOHN S. S. FESSENDEN
Deputy Attorney General

August 20, 1942

From:
Frank I. Cowan, Attorney General

To:
Earle R. Hayes, Director of Personnel

Mr. Kane has shown me your memorandum of August 13th designating him as the proper person to certify all State payrolls. In my opinion, in spite of the general language used in P. L. 1937, Chapter 221, Section 21, paragraph 1, Mr. Kane is not a proper person to be so designated. The law, it seems to me, places the duty squarely on the shoulders of the Director of Personnel. The provision for his designating some person to approve the payroll is, it seems to me, to enable him to designate some person *in his Department* who can act in his absence. There is no provision in the law for a Deputy Director and so, without some such provision as the one we have in this statute, it would be absolutely necessary for him to approve each payroll job in person and if he were away from the State House no payrolls could be met.

I am, therefore, advising Mr. Kane that he is an improper person to be so designated and that he must not serve in that capacity.

Attorney General

August 29, 1942

From:
John S. S. Fessenden, Deputy Attorney General

To:
Earle R. Hayes, Secretary
Retirement Pension System

In re Retirement at Age 70

In reply to your memo of August 6th, you are advised, (1), that the Board of Trustees of the Retirement System has no responsibility with respect to the enforcement of retirement at age seventy. The responsibility for enforcement of this part of the statute lies with the Director of the Personnel Board who, by law, has the authority to approve payrolls;

(2), that this retirement is compulsory regardless of the fact that the employee has not become a member of the System;

(3), that it is the intent of the law to prevent the State, as a matter of general policy, from employing persons seventy years of age or older, so that while such persons may become employees on a temporary basis, they may not become employees on a full time basis;

(4), that it is the Controller's responsibility with respect to the payment of salaries to persons over seventy years of age to have an attested copy of the action of the Governor and Council and the action of the Retirement Board relative to continuance in service under the provisions of the law, otherwise such persons should not be paid.

Deputy Attorney General

August 29, 1942

From:
John S. S. Fessenden, Deputy Attorney General

To:
Earle R. Hayes, Secretary
Employees' Retirement System

In re Status of Employees of the Legislature

In reply to your memo of August 17, 1942, you are advised that:

1. All employees of the Ninetieth Legislature are eligible to become members of the new retirement system on the basis of their Legislative employment.

2. That Legislative Committee clerks, stenographers, etc., are to be considered as employees of the Legislature as well as the regularly appointed or elected officers of the House and Senate.

3. That such persons should be allowed prior service credit on the basis of the time for which they were in actual employment.

Deputy Attorney General

August 29, 1942

From:
John S. S. Fessenden, Deputy Attorney General

To:
J. Franklin Anderson, Deputy Bank Commissioner

In reply to your memo of August 25, 1942, you are advised that, in my opinion, prepaid shares of loan and building associations are not, under the laws of this State, legal investments for savings banks.

The statute enumerates the several investments which are legal for savings banks, among which investments prepaid shares of loan and building associations are not mentioned. Failure to enumerate such as a legal investment indicates that they should not be considered legal.

Deputy Attorney General

September 11, 1942

From:
John S. S. Fessenden, Deputy Attorney General

To:
Earle R. Hayes, Secretary
Employees' Retirement System

Subject: Salary Deductions—Superintendents of Schools

In connection with the Jointly Contributory Retirement System, you are advised that superintendents of schools in service as such prior to July 1, 1924, being by definition of the Legislature employees entitled to participate in the System and, by further definition of the Legislature, being entitled to an annuity and a pension upon retirement based upon earnable compensation, such individuals as become members of the System shall contribute from their compensation, regardless of the portion paid by the State and the portion paid by the town or towns, the full percentage provided for in the case of all employees participating in the System.

Deputy Attorney General

September 29, 1942

From:
Frank I. Cowan, Attorney General

To:
George E. Hill, State Tax Assessor

In re Abatement of Taxes by Local Assessors

R. S. Chapter 13, Sec. 73, as amended by P. L. 1939, Chapter 84, Sec. 2, provides as follows: "The assessors for the time being on written application stating the grounds therefor, within two years from the assessment, may make such reasonable abatement as they think proper . . . ." There is nothing, in my opinion, in Chapter 244 of the Public Laws of 1933, as amended, which conflicts with the

above quoted provision. The description of the tax lien notice as a "mortgage" does not change its actual nature. It is simply a method provided for collecting a tax and there can be a redemption within any time within 18 months from the time of filing the lien notice, which 18 month period must by statute begin not earlier than 8 months after the date of the assessment of the tax so that the minimum time under the tax lien procedure before any rights to title of the property become absolute, is 26 months. The provision for abatement within 2 years from the time of assessment cannot, then, conflict with any property rights that have been acquired because an abatement within the 2 year period would have exactly the same effect on a buyer under the lien procedure as would a redemption. In either case he would be entitled to have his money back with interest and nothing more.

The same argument holds true if the abatement is made after the 2 year period but before any rights have been gained by reason of the expiration of the 18 month period above referred to.

In my opinion, the assessors have the right to abate at any time within the 2 years on application or after the 2 years if the circumstances conform to the provisions of said Sec. 73, provided the abatement is previous to the expiration of the 18 month period set as a definite term for redemption from the so-called lien mortgage.

Attorney General

October 7, 1942

From:
The Attorney General

To:
Roscoe L. Mitchell, M.D.

I have your query as to whether two osteopaths can sign a commitment of an allegedly insane person to a State Hospital. P. L. 1939, Chapter 267 provides: "No person shall be declared insane or sent to any institution for the insane . . . . unless . . . . examined by two reputable physicians . . . ." R S. Chapter 23, Section 35 defines "physician" as, "A practioner of medicine duly registered under the laws of Maine or of some other state".

R. S. Chapter 21, Section 64, provides that, a person who has been granted a certificate mentioned in section 63 shall be designated as an "osteopathic physician".

R. S. Chapter 21, Sections 60 to 70, inclusive, apply to osteopaths. Section 60 refers to "degrees in osteopathy"; Section 62 uses the expressions, "practice of osteopathy" and "practice osteopathy"; Section 63, having to do with qualifications, refers to "principles and practices of osteopathy". It calls for the issuance of a certificate giving one the right to "practice osteopathy". Section 64 speaks of the rights and privileges the certificate holder has to "practice oste-

opathy" but provides that "no osteopathic physician shall practice major surgery or obstetrics" who has not fulfilled certain qualifications.

P. L. 1939, Chapter 206 refers to persons who "practice osteopathy". In no place do we find an osteopathic physician referred to as one who practices "medicine". However, osteopathy has been defined as, "A method of treating diseases of the human body without the use of drugs by means of manipulation applied to various nerve centers—chiefly those along the spine—with a view to inducing free circulation of the blood and lymph, and an equal distribution of the nerve forces".

In Illinois a person who practices osteopathy without a license was found guilty of practicing medicine without a license. On the other hand, Kentucky has held that the practice of medicine within the meaning of the statutes related thereto, does not include the practice of osteopathy.

North Carolina has held that the practice of osteopathy is not the practice of medicine or surgery as commonly understood. Ohio failed of convicting an osteopath physician of practicing medicine without a license on the ground that the practice of osteopathy is not the practice of medicine.

Texas required an osteopath to obtain a license before practicing on the ground that it was the practice of medicine.

Illinois has held that an osteopathic physician is one engaged in practicing medicine and is required to be licensed therefor.

Alabama has held that the practioners of medicine are not simply those who prescribe drugs or similar substances as remedial agencies, but the term is broad enough to include, and does include, all persons who diagnose disease, and prescribe and apply any therapeutic agent for its use; and thus, one practicing osteopathy, a system of healing by manipulation of limbs and body, practices medicine.

Webster's Dictionary, Latest Edition, defines medicine thus: "The science and art of dealing with the prevention, cure or alleviation of disease. b. In a narrower sense, that part of the science and art of restoring and preserving health as distinguished from the surgeon and obstetrician."

Idaho has defined medicine as the science and art of dealing with the prevention, cure or alleviation of disease

Georgia has declared that "medicine" is an experimental and not an exact science.

West Virginia says that medicine relates to the prevention, cure and alleviation of disease, the repair of injury or treatment of abnormal or unusual states of the body, and their restoration to a healthful condition, and is not confined to the administering of medical substances, or the use of surgical or other instruments.

Utah says that the term "medicine" is not limited to substances supposed to possess curative or remedial properties, but means also

the healing art, the science of preserving health and treating disease for the purpose of cure, whether such treatment involves the use of medical substances or not.

The above shows that there is a very marked difference in the attitude that Courts of different states have taken toward the question of interpretation of the status of the osteopathic physician. All of them, however, show that the osteopathic physician is still, to a certain extent, in a different class from the Doctor of Medicine. We are, therefore, able to apply to this question the distinction which is set up by our own statutes. R. S. Chapter 21, Section 70, declares that: "All laws, rules or regulations now in force in this state, or which shall hereafter be enacted, for the *purpose of regulating the reporting of contagious diseases, deaths or births* to the proper authorities, and to which the registered practitioner is subject, shall apply equally to the practitioner of osteopathy, *and all reports and health certificates* made by osteopathic physicians shall be accepted by the officers of the departments to which the same are made *equally with the reports and health certificates* of doctors of medicine."

It is a well known principle of law that the enumeration of certain powers is held to impliedly exclude powers not expressly given. It is apparent that the Legislature of Maine has not yet gone so far as to give to osteopathic physicians all of the same powers, rights and responsibilities that have been given to Doctors of Medicine, and that the Legislature still maintains a legal distinction between the two classes. We must conclude, therefore, that osteopathic physicians are not qualified under our statutes to serve as examiners on the question of insanity.

FRANK I. COWAN
Attorney General

Oct. 28, 1942

To:
Alfred W. Perkins, Commissioner

From:
The Attorney General

Renewal Certificates on Fire Insurance Policies

I have your inquiry of October 28th, as to whether under our law a renewal certificate can be issued in connection with fire insurance policies. In my opinion it cannot because the renewal certificate does not conform to the requirement in the statute providing for inclusion of the standard form.

An opinion given by me last March in reply to an inquiry from you about renewal certificates in connection with casualty policies must be construed as not applying to fire insurance policies.

FRANK I. COWAN
Attorney General

October 29, 1942

From:
Frank I. Cowan, Attorney General

To:
Sumner Sewall, Governor of Maine

In re Continuing Suffrage for Veterans at the Veterans Administration Facility at Togus, formerly the United States Veterans Bureau Hospital

Revised Statutes, Chapter 8, Section 82, as amended by Public Laws of 1939, Chapter 264, expressly provides that "all persons who now are, or may hereafter become inmates of the Veterans' Facility at Togus, in the county of Kennebec, ... shall be deemed citizens of the respective towns in this state in which they had a legal residence, when their connection with said Veterans' Facility . . . . commenced, so long as such connection shall continue therewith, but any person connected with the Veterans' Facility . . . ., but having a domicile in a town in this state, outside of said Facility, ... and a voting residence therein, shall not be disqualified from voting in the town in which he has such residence, on account of his connection with said Facility. . . ."

There cannot be the slightest doubt that a veteran retains the voting rights which he had in his town in Maine where he lived before he entered the Facility at Togus. Moreover, even in the absence of this statutory provision there would be no loss of voting rights because of entry into the Facility. A veteran does not go there to establish a domicile but for the treatment or correction of some physical or mental incapacity just as he would go to any other location for medical treatment. There is no intent on his part to establish a domicile there and his stay is strictly temporary even though it may continue over a number of years.

Attorney General

Nov. 3, 1942

To:
G. W. Leadbetter, Commissioner Institutional Service

From:
Frank A. Farrington, Deputy Attorney General

In an Inter-Departmental Memorandum dated October 29, 1942 you ask for an opinion as to whether the following institutions, or any of them, may properly be considered as penal institutions:

State School for Boys
State School for Girls
Pownal State School.

Bouvier's Law Dictionary defines *penal* and *penalty* as follows: "The words penal and penalty in their strict and primary sense, denote a punishment, whether corporal or pecuniary, imposed and enforced by the state for a crime or offence against its laws.".

Chapter 241, P. L. 1931, as amended, dealing with juvenile offences, provides in Section 1, that no adjudication or judgment under its provisions shall be deemed to constitute a conviction for crime.

Section 4 of the same chapter, as amended, states "Unless the offense is aggravated or the child is of vicious or unruly disposition no court shall sentence or commit a child to jail, reformatory, or prison, or hold such child for the grand jury.".

Section 1, Chapter 154, R. S. 1930, transferred to Section 374 of Chapter 1, P. L. 1933, recites that the State School for Boys was "established . . . . for the instruction, employment and reform of juvenile offenders", and that the State School for Girls was established "for the education, employment and reform of girls". There is no indication of commitment being for the purpose of punishment.

Section 3 of Chapter 154, R. S. 1930, transferred to Section 375 of Chapter 1, P. L. 1933, states in part "the record . . . . shall be that the accused was convicted of juvenile delinquency".

It is thus apparent throughout that the State Schools are set apart from prisons and jails and that commitment to them is not punishment for a crime. It is, therefore, the opinion of this department that the State School for Boys and the State School for Girls are not penal institutions.

As to the Pownal State School, there would appear to be no reason for its being considered a penal institution unless Chapter 245, P. L. 1941, amending "Power of the court in juvenile cases" so as to permit commitment of mentally defective children to Pownal were to make it a penal institution in part at least. The foregoing paragraphs would remove this possibility and it is therefore the opinion of this department that none of the institutions mentioned in your memorandum should be considered as penal institutions.

FRANK A. FARRINGTON
Deputy Attorney General

Approved
FRANK I. COWAN
Attorney General

November 3, 1942

Ralph A. Leavitt, President
Maine Maritime Academy
Castine, Maine

Dear Sir:

In your letter of October 31, 1942 you ask for an opinion as to whether the Maine Maritime Academy is a direct agency of the state, or whether it is an entirely separate corporation to which the State appropriates certain funds.

Chapter 37 of the Private and Special Laws of 1941, as amended by Chapter 102 in Section 1, sets up the Maine Maritime Academy as a "body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law, ...".

Section 3 of said chapter provides that "The trustees may receive in behalf of the school grants from any federal government agency and/or from any of the several states and/or from any other source". Note this is "on behalf of the school" not on behalf of the State.

Chapter 97 of the Private and Special Laws of 1941 has to do with the leasing of the Eastern State Normal School property to the Maine Maritime Academy, reciting "Any such lease shall be executed on the part of the State of Maine by the chairman of the board of normal school trustees and on the part of the Maine Maritime Academy by the chairman of its board of trustees and shall contain a provision that the lessee shall keep the buildings adequately insured against fire, shall keep them in good repair and shall deliver them up to the State of Maine at the expiration of the term of such lease in as good condition as they were at the commencement thereof." A clear cut distinction can be noted as between the State and the school.

Chapter 102, aforesaid, provides for an appropriation, but under the heading of "State Aid".

The school property, both real and personal, covered by the lease is of course property of the State, subject to the lease, but it is the opinion of this department that the Maine Maritime Academy is a separate corporation for which the State appropriates money and not a direct agency of the State.

Very truly yours,

FRANK A. FARRINGTON
Deputy Attorney General

November 10, 1942

From:
Frank A. Farrington, Deputy Attorney General
To:
Earle R. Hayes, Secretary
Employees Retirement System

With reference to your memo of November 6th, asking questions in connection with the Employees Retirement System, we render the following opinion.

1. It is the opinion of this Department that Mr. Arthur H. Whitman was not a State employee during the years he was paid by the County or Counties in which the Court sat.

2. It is the opinion of this Department that an employee separated from the State service because of having reached the age of 70 on July 1st, 1941, may not thereafter become a member of the new retirement system. A member is defined in the Act *as any employee* included in the membership of the retirement system.

Deputy Attorney General

To: November 18, 1942
Governor Sewall

From:
The Attorney General

Wage and Salary Adjustment Federal Statute

1. The State of Maine must reject the suggestion contained in the regulation issued by Mr. Byrnes, the director under the Wage and Salary Adjustment Act, that States are subject to this particular law.

2. The State of Maine recognizes that officials in Washington are conscientiously endeavoring to carry the war through to a successful conclusion and at the same time prevent, in so far as they can, any unnecessary disruption of economic conditions surrounding our civilian population.

3. It is the desire of the State of Maine to cooperate with the men who are handling the nation-wide problems, and, even when we disagree with them in regard to certain internal matters, we will travel with them if no fundamental rules are being upset and no precedents set that will cause danger to our democratic form of government.

4. I see no objection to our certifying to the National War Labor Board any adjustment in salaries as made among State employees, provided the certificate expressly recites that the State does not accept the theory of authority in the Board so far as the State is concerned, and that the certificate is being filed simply for the convenience of the Board.

FRANK I. COWAN
Attorney General

From: December 4, 1942
Frank A. Farrington, Deputy Attorney General

To:
Earle R. Hayes, Secretary
Employees' Retirement System

You ask for an opinion as to whether an employee retired under the provisions of the old Retirement Law of the Governor and Council and who was at the time of retirement also a member of the New Retirement System, may, upon such retirement, be refunded the amount he has contributed to the new System by the processes of payroll deductions, or otherwise.

Reference to Section 227-H of Chapter 328, Public Laws of 1941, indicates that contributions shall be paid to a member who ceases to be an employee except by death or by retirement under the provisions of Sections 227-A to 227-T.

Section 227-C (3) provides for retention of rights under Sections 227 to 233, inclusive, of Chapter 1 of the Public Laws of 1933. It therefore follows that retirement under the circumstances set forth in your memorandum is retirement under the provisions of Sections 227-A to 227-T of Chapter 328, Public Laws of 1941, and that no refund of amounts paid to the new System should be made.

Deputy Attorney General

December 23, 1942

From:
Frank A. Farrington, Deputy Attorney General

To:
David H. Stevens, State Tax Assessor

Subject: School Funds in Deorganized Towns

Reference is to your memorandum of December 22nd. In reply to your inquiry and with reference to a previous inquiry by George E. Hill, former State Tax Assessor, on December 16, 1941, and the replies of the Attorney General of December 17 and 18, 1941, the following answer is given.

The memorandums of the Attorney General, indicated above, seem to have been misinterpreted as nothing is found in them which states that bills contracted for but not paid, where funds are available for payment, would make such funds constitute unexpended funds. The memorandums referred to do state that funds coming within the definition of Section 2 of Chapters 4 and 21 of the Private and Special Laws of 1941 should be delivered to the State Treasurer.

It is the opinion of this department that the intent of the legislature was to prevent use of school funds for other than school purposes and that any school funds in the possession of the town at the time of deorganization which would cover bills contracted for but unpaid, should not be considered as funds unexpended for school purposes.

This same theory would apply to funds which would be apportioned to the town covering the period before deorganization and which funds could be used by the State Tax Assessor in administering the affairs of the town after deorganization, in so far as bills contracted for school purposes prior to deorganization, but unpaid, are concerned.

Deputy Attorney General

December 24, 1942

From:
Frank A. Farrington, Deputy Attorney General

To:
Earle R. Hayes, Secretary
Employees' Retirement System

Subject: Prior Service Credit for Employees not in the Employ of the State on July 1st, 1942

Reference is to your memorandum of December 23, 1942. Section 227-A (9) provides that prior service shall mean service rendered prior to the date of establishment of the retirement system, which credit is allowable under Section 227-D. Section 227-D (2) provides that under such rules and regulations as the Board of Trustees shall adopt, each employee *in service on the date of establishment* who becomes a member within one year after the date of establishment, shall file a detailed statement of all service as an employee rendered by him prior to the date of establishment for which he claims credit. Subsequent provisions of Section 227-D provide for issuance of Prior Service Certificates, subject to restrictions contained in the Section. By Section 227-D (2), the statement of prior service is to be filed only by employees in service on date of establishment.

It is the opinion of this department that these provisions of the law preclude giving of prior service credit to employees unless they were actually in the employ of the State on July 1st, 1942.

The conclusion arrived at is borne out by Subsection (6) of Section 227-D, which makes a Prior Service Certificate void when membership in the System ceases, and provides that if the employee again becomes a member, he enters as a member not entitled to prior service credit. To allow a former employee not an employee on the date of establishment of the Act to receive credit for prior service would give more privileges to him than to one who was an employee on the date of establishment, leaves the employ of the State, and later becomes an employee again.

It is my understanding that you have had a special ruling as to part time or seasonal employees who may not have been actually on the payroll on the effective date of the Act. This is in connection with Subsection (4) of Section 227-C as mentioned in the second paragraph of your memo of December 23rd; these employees being considered as regular part-time or seasonal employees. This opinion is not intended to overrule any prior ruling on this particular situation but is intended to apply to persons entering the employ of the State after the effective date of the law.

Deputy Attorney General

December 30, 1942

From:
Frank I. Cowan, Attorney General

To:
A. L. Kane, State Controller

I have purposely withheld reply to your memo of November 20 in regard to the legality of making payroll deductions covering War Bond sales, insurance premiums and the victory taxes, for the reason that there is a very serious question of policy of the States involved. Deductions for War Bond sales and insurance premiums can be made by the State if the employee authorizes the State to make them. However, there should be an Order of the Governor and Council authorizing you to perform this service because the matter of expense to the State in performing the extra work must be given consideration.

The victory tax is a different matter. The tax is imposed by the Federal Government under such circumstances as apparently constitutes a direct tax against the States. It would be our duty, if we were not at war and if the victory tax were not an apparently highly commendable method of obtaining funds for pursuing the war, to object to the wording of this Act of the Congress and to contend that the Congress has not the right, under the Federal Constitution, to impose this burden on a State. However, since we are at war and since the burden of collecting the tax from State employees and paying it over to the Federal Government is not a relatively heavy one, we are fully justified, for the time being, in proceeding as though we fully admitted the validity of the Act of Congress.

In my opinion, you may make the deductions in accordance with the Federal law, although I believe you should do it under authority of an Order of the Governor and Council, to be passed at the first meeting of the new Council, in which Order the Executive may see fit to include a recital of the contention of the State that by going along with the program of the Federal government, the State of Maine is not in any way waiving any rights it may have to raise objection to the procedure if, at a later date, it sees fit to do so.

Attorney General

December 31, 1942

From:
Frank I. Cowan, Attorney General

To:
William D. Hayes, State Auditor

I have your memo of December 30th, asking whether or not a public administrator is a State official whose acts are subject to audit under the Public Laws of 1931, Chapter 216, Article VI, Section 3.

The duties of a public administrator, as set out in the Revised Statutes, Chapter 76, Sections 30 to 34, inclusive, distinctly deter-

mine that he is a State official to the extent that his acts are subject to such audit. It is his duty under the law to accept administration in all estates where a person has died intestate "not known to have in the state a widow, widower or any heirs or kindred who can lawfully inherit such an estate". In his official capacity (subject, of course, to the jurisdiction of the Judge of Probate of the County) he gathers in the assets of the estate, pays the debts, makes sure that the State receives its inheritance taxes, if any, and deposits with the Treasurer of the State any residue that shall remain unclaimed. He is, in my opinion, acting as an "agency" of the State Government, and, as such, his acts are subject to post-audit. No new legislation is, in my opinion, necessary.

Attorney General

January 5, 1943

From:
Frank A. Farrington, Deputy Attorney General

To:
William D. Hayes, State Auditor

Subject: Sustenance of Prisoners Previous to Conviction

Reference is to your memorandum of October 26, 1942.

It is the opinion of this department that charges by an officer for keeping the prisoner or for employment of an aid in criminal cases are legitimate charges under Section 4, Chapter 126, R. S. 1930, when it is necessary for the officer to keep the prisoner or to provide for his keep. The propriety of such a charge is not contingent upon subsequent conviction and sentence.

The Fort Kent situation, as outlined in Mr. Ellis' letter and the correspondence attached, is confused. Apparently, the officers use a lock-up provided by an individual. This constitutes employment of an aid and may be included in the bill of costs at the rate prescribed by the statute, and would, of course, eliminate the officer's fee for keeping the prisoner.

The papers enclosed with your memorandum are returned herewith.

Deputy Attorney General

January 5, 1943

To:
Earle R. Hayes, Director of Personnel

From:
Frank I. Cowan, Attorney General

In November I gave you an opinion to the effect that the State of Maine cannot accept the theory that a subordinate Federal official can make rules and regulations having the effect of law over the internal affairs of a State. This was because of the attempt by James Byrnes to force the States to accept the provisions of the Fed-

eral wage and salary freezing law. At the meeting of the National Association of Attorneys General in St. Louis on November 24th, the matter was brought up for discussion and it developed that the Attorney General of Maine was the only one who had at that time been called upon to define the position of a State. I was requested by the Attorneys General present to inform them for the record what the attitude of the State of Maine is to be, and I did so. The National Association thereupon instructed President Tom Herbert, Attorney General of Ohio, to lay the record before Director Byrnes. He requested me to go to Washington with him, but I told him I was too busy here in Maine and that I felt the record would speak for itself.

He laid the record before the Director and, it is my understanding, informed the latter my statement expressed the ideas of the several Attorneys General. Director Byrnes thereupon renounced his demand that the States ask his permission to make changes in salary wage schedules and I have today received a letter from Frank Bane, the Executive Director of the Council of State Governments, in which he says: "State and local governments are no longer asked to certify salary adjustments to the Board or the Commissioner."

You should, therefore, hereafter withhold any certification to the National War Labor Board in regard to changes in wages or salaries of State employees.

Attorney General

January 5, 1943

From:
Frank I. Cowan, Attorney General

To:
Hon. Sumner Sewall, Governor

Section 227-N of the Jointly-Contributory Retirement Act provides that pensions granted prior to July 1, 1942 shall be continued and paid from the Pension Accumulation Fund provided for in the new law. The question as to what shall be done about pensions for persons retired since June 30, 1942, is not clearly covered by the Act. However, Section 227-C (3) extends the "rights and benefits" of the old Act to persons who will become eligible prior to July 1, 1945. It seems proper to me to regard this provision as a modification of Section 227-N and to extend to persons who will have fulfilled the qualifications before July 1, 1945 the protective provisions of Section 227-N.

It seems to me further proper that we should accept the use of the word "right" as used in Public Laws 1941, Chapter 328 (Jointly-Contributory Retirement Act), as a definition by the Legislature of the status of the pensioner under the old system, thus avoiding the embarrassment in which we might find ourselves if we clung to the common law definition sometimes laid down by text writers that a

pension by the State is a "gratuitous allowance". By accepting the legislative definition, we can logically place pensions granted under the old system in the class referred to in Revised Statutes, Chapter 2, Section 103 (Contingent Fund) and can properly say that if the Legislature at any session, through inadvertence or otherwise, fails to provide sufficient money to take care of pensions the amounts necessary to take care of them can be drawn from the Contingent Fund.

Attorney General

January 8, 1943

To:
Alfred W. Perkins, Comm'r Insurance

From:
Frank A. Farrington, Deputy Attorney General

The Licensing of Agents and Corporations

Reference is to your memo of January 7th, addressed to the Attorney General. You ask whether you would be permitted under the present statutes to issue licenses to agents and corporations transacting the business of insurance, so worded that the license would be good until the first day of July following the date of issue, and to the first day of July from year to year thereafter after meeting renewal requirements.

It is understood that your control of these licenses is through the companies which the individual agents represent, so that no difficulty would be encountered in calling in licenses which might not be renewed.

In the opinion of this department, there is nothing in the present statutes which would prevent your department from issuing licenses in the manner outlined in your memorandum.

FRANK A. FARRINGTON
Deputy Attorney General

January 13, 1943

To:
F. K. Purinton, Exec. Sec'y Executive Department

From:
Frank A. Farrington, Deputy Attorney General

I have your memo of January 12th asking if the offices of Mayor and Member of the State Tax Equalization Board are compatible, with a specific reference to Mr. Williams who, according to this morning's newspaper, appears to be on the verge of becoming Mayor of Augusta.

Section 30 of Article II, Chapter 216, Public Laws of 1931, provides that the Board of Equalization ". . . . shall consist of the State Tax Assessor as Chairman, serving without additional salary, and two associate members, one of whom shall be of the minority party not otherwise connected with the State government or local government thereof . . . .".

In view of the wording of the statute quoted, it is the opinion of this department that Mr. Williams may not be Mayor of Augusta and also a Member of the Equalization Board, and that his resignation would be in order when he becomes Mayor.

Deputy Attorney General

January 13, 1943

From:
Frank A. Farrington, Deputy Attorney General

To:
Harry V. Gilson, Commissioner of Education

Subject: Amended Census of Freeman Township, Franklin County

In a memorandum dated January 8th, you ask for an opinion as to the validity of an amended census for Freeman Township as of April 1st, 1941, compiled for the purpose of ascertaining a school tax in accordance with the provisions of Chapter 19, Revised Statutes of 1930, as amended.

You enclose as paper #1, the original census and later amendment in accordance with later information to correct errors in the original census; paper #2, copy of school tax as assessed by the State Tax Assessor; paper #3, letter from Mr. Ralph M. Simmons; paper #4, paper from E. E. Carville; affidavits and other papers marked exhibit #5; paper #6, showing result of investigation by Mr. DeCosta, School Agent.

In the opinion of this department, since there appear to be 200 persons resident of Freeman Township, the amended census is valid for the purpose of ascertaining school tax in accordance with the provisions of Chapter 19, Revised Statutes of 1930.

We are returning, herewith, all those papers enclosed with your memorandum.

Deputy Attorney General

January 14, 1943

To:
Alfred W. Perkins, Commissioner Insurance

From:
The Attorney General

Policy Form 1650, Modern Woodmen of America

I have your memorandum of January 13th. The Supreme Court of the United States in the case of Modern Woodmen of America v. Mixer, 267 U. S. 544, 69 Law Ed. 783, used the following language:

"The indivisible unity between the members of a corporation of this kind in respect of the fund from which their rights are to be enforced, and the consequence that their rights must be determined by a single law, is elaborated in Supreme Council R. A. v. Green, 237 U. S. 531, 542, 59 L. E. 1089, 1100, L. R. A. 1916 A, 771, 35 sup. cit. 794. . . . We need not consider what other States may refuse to do, but we deem it established that they cannot attach to membership rights against the company that are refused by the law of the domicile. It does not matter that the member joined in another State."

The petitioner, Modern Woodmen of America, is a fraternal beneficiary society incorporated in Illinois. The by-law referred to "has been held valid and binding upon the members of a corporation by the Supreme Court of Illinois, although they had become members before the change. Steen v. Modern Woodmen, 296 Ill. 104; 17 A. L. R. 406; 129 N. E. 546."

The Courts of Maine would feel themselves bound by the decision above cited of the U. S. Supreme Court, inasmuch as it involves a conflict of laws between States. Therefore, I believe that if an action were brought in the courts of this State on a policy of the Modern Woodmen of America, which policy contained the cited Article 17, the courts of Maine would follow the rule laid down in the Mixer case.

Your second question, to wit, "If this Department can require the elimination of the disappearance clause as being unfair to the beneficiary," is more difficult to answer. Modern Woodmen of America is a fraternal beneficiary association, the provisions concerning which are covered by chapter 61 of our Revised Statutes. Section 9 provides, among other things, that "If he (the Insurance Commissioner) deems it expedient, he will license such associations to do business in this state in accordance with the provisions of this statute." This language is very broad and apparently gives the Insurance Commissioner great power of control over such associations. That control, of course, must be used in a reasonable fashion. If, in your opinion, the disappearance clause as provided in Article 17 of the policy is "unfair to the beneficiary," it is my opinion that you have the right to require that that clause shall not be attached to policies used in the State of Maine.

FRANK I. COWAN
Attorney General

To: January 14, 1943
A. L. Kane, Controller

From:
The Attorney General

I have your memorandum of December 30th asking whether or not the Controller is vested and imposed with direct responsibility and authority with respect to items 1 to 11 inclusive under Section 10, Chapter 216 of the Public Laws of 1931.

The Bureau of Accounts and Control is a part of the Department of Finance. The Controller, as chief of the division, is, under Article I, Section 3 of the Act, under the immediate supervision, direction and control of the head of the Department and shall perform such duties as this officer shall prescribe. However, there are duties definitely assigned to the Controller which cannot be performed by his superior, the State Finance Officer. One of these duties is set out in Article II, Section 8 of the Act, and reads as follows: "The State Controller shall thereupon authorize all expenditures to be made from the appropriations on the basis of such allotments, and not otherwise."

Article II, section 10, provides further specific duties which are to be performed by the Controller and, in general, cannot be exercised by anybody else.

Sight must not be lost of the fact, however, that Article II, covering the Department of Finance contemplates such a close interrelation of the three bureaux with the Commissioner of Finance that in so far as is humanly possible, no possibility of friction can arise. The duties of the Controller, the State Purchasing Agent, and the State Tax Assessor, are entirely distinct; but the Assessor has the duty of determining the source of funds as provided by statute; the Purchasing Agent has the duty of spending a large part of those funds (such as are not governed by salaries and wages and contracts or special services); and the Controller has the duty of checking all expenditures for all purposes and determining whether or not they are properly made from appropriations set up for that purpose. On the shoulders of the Commissioner of Finance falls the burden of general responsibility for the conduct of all three bureaux; and it is probably in part to make sure that there shall be no question as to the location of that responsibility that the language above referred to in Article I, section 3, is used.

I have replied to your query in very general language. This must necessarily be so when the question presented is more or less academic in form. If a specific question were to be asked in regard to a particular duty, a definite answer could be given.

FRANK I. COWAN
Attorney General

January 14, 1943

R. C. Masterman, Esq.,
County Attorney,
Bar Harbor, Maine.

Dear Ralph,

I have your letter of January 13th in regard to County Commissioners' lobbying at the expense of the county.

Your first question is, "Can the Board of County Commissioners deputize one of their members to go to the legislature for the purpose of lobbying for a bill and charge the expense to the county?"

The answer to this question is to be found by consideration of the nature of the duties of county commissioners. 7 R. C. L., page 938, contains the following language: "The Board of Commissioners of the County is a creature of the statute and is vested with and possessed of just such powers, rights, privileges and franchises, corporate, judicial, legislative and ministerial, as the statute confers upon it, and such as are clearly and necessarily implied to enable it to carry out and accomplish the objects and purposes of its creation." Many cases are cited in connection with the above quotation.

On page 939 we find the following language, "The board of commissioners cannot, unless distinctly authorized by legislation, incur debts or make engagements, except on the basis of benefit to the county it represents. Nor can such board incur for the county any obligation beyond its income previously provided by taxation."

The powers and duties of county commissioners are numerous, and a reference to pages 84, 85 and 86 of the index to the Revised Statutes is about as far as I can go in reciting them. The law court of Maine has several times passed on those duties, and some of the cases are set out on page 281 of the first volume of Lawrence's Digest. Nowhere in the statute or in the decisions of the courts, nor in a textbook, do I recall ever having seen any provision, decision, or opinion under the terms of which the county commissioners are authorized to act as legislative agents for their counties. The statutes provide that each county shall have one or more senators and that every municipality in the State shall be represented in the legislature. Nowhere is it expressly provided that the county commissioners shall act as a steering committee for the legislature, nor that they shall attend on sessions of the legislature, either in their own persons or through an employed agent, for the purpose of influencing legislation. As a matter of fact, their duties are so strictly set forth and are so distinctly marked out as administrative and judicial that it is unthinkable that lobbying could be construed as one of their functions.

Your second question is, "Can the Board of County Commissioners employ a lobbyist under any conditions?" The answer to the first question in large measure carries the answer to the second. If we adopt the broad policy that county commissioners have no authority to take official action for the purpose of influencing legislation, then they have no authority to employ an outsider to act in that capacity. Certainly, if the statutes do not authorize the county commissioners themselves to spend the money of the county in activity to influence legislation, they cannot get around it by paying a salary or a fee to some person other than one of themselves to do the same thing. Inasmuch as I am of the opinion that they have no authority to act officially and at the public expense for the purpose of influencing legislation, I am also of the opinion that they have no authority to employ somebody to represent them in doing the same act.

Very truly yours,

FRANK I. COWAN
Attorney General

To: January 18, 1943
Homer E. Robinson, Commissioner Banking

From:
Frank A. Farrington, Deputy Attorney General

Split-rate dividends to depositors in mutual savings banks

Reference is to your memorandum of January 15th on the above subject.

While the banking laws of the State do not state specifically whether savings banks may set up different dividend rates for different types of deposits, the following sections of Chapter 57, R. S. 1930, are of interest.

Section 34 states that, "The trustees may declare such dividends as are directed or required by their by-laws;" section 36 states, ". . . . Savings banks shall . . . in computing dividends on savings deposits, figure interest on the balance that has remained on deposit for the full dividend period with additions for all deposits less the withdrawals remaining in the bank. . . ."

Said section 36 in the last sentence thereof contains this provision: "Savings banks may contract, on terms to be agreed upon, for the deposit at intervals within a period of twelve months of sums of money and for the payment of interest on the same at a rate not more than the rate of their last regular dividends on savings deposits." This is a specific case where the rate of interest may be determined at a rate lower than the regular dividend rate.

It is the opinion of this department that the intent of the statutes is that all deposits should be treated alike as to dividends except for the deposits made on contract as referred to.

The problem of deposits due to a floating population referred to in your memorandum, as contained in a letter from the Bath Savings Institution, could be taken care of, if necessary, by the general right of the trustees to refuse deposits. If the custom long established in regard to payment of dividends on deposits were to be changed, it should be done by legislative enactment.

Enclosed herewith we are returning copy of the by-laws of the Bath Savings Institution which was attached to your memorandum.

Deputy Attorney General

To: January 19, 1943
Francis K. Purinton, Exec. Sec'y Executive

From:
Frank A. Farrington, Deputy Attorney General

Expenses of Boards of Visitors under Section 321, Chapter 1, P. L. 1933

In reply to your question as to whether the law needs to be amended to allow payment of expenses in connection with the above mentioned

board of visitors, it is my opinion that such amendment would be necessary, the legislature having remained silent as to payment of expenses.

I am returning herewith the memorandum from Commissioner Leadbetter to Governor Sewall which was enclosed with your memo.

FRANK A. FARRINGTON
Deputy Attorney General

January 20, 1943

To:
Harold I. Goss, Secretary State

From:
Frank A. Farrington, Deputy Attorney General

Letter of Joseph O. Purdue in re Marriage by Proxy

This will acknowledge receipt of letter of Joseph O. Purdue and telegram of Harlan B. Burke and affidavit of Joseph I. Smith attached thereto, enclosed with copy of your letter to Rev. Mr. Purdue, Bath, Maine.

It is the opinion of this department that the marriage laws of Maine do not permit marriage by proxy in accordance with the proposed plan outlined in the letter of Joseph O. Purdue, Bath, Maine.

We are returning herewith the enclosures found with the copy of your letter to Mr. Purdue.

FRANK A. FARRINGTON
Deputy Attorney General

January 21, 1943

To:
Harold I. Goss, Secretary State

From:
Frank I. Cowan Attorney General

Interest on Deposits under Financial Responsibility Law

I have your memorandum of January 21st.

There is no provision in our law for the payment of interest on any such deposits. The person furnishing proof of responsibility has several different methods, none of which was intended by the legislature to impose a burden upon the State.

FRANK I. COWAN
Attorney General

January 22, 1943

To:
Hon. Sumner Sewall — Executive Department

From:
Frank I. Cowan — Attorney General

Question #8 on Page 11 of the Booklet Entitled "Retirement Plan for Employees of the State of Maine"

Part b of the question reads as follows: "What is the status of an employee age 70 on July 1, 1942 who would complete 20 years of service before July 1, 1945." The answer given is: "He is eligible to retire forthwith as though he had completed 20 years of service on a pension as provided under the old system."

This is the interpretation that a majority of the persons making a study of the law arrived at in the Spring of 1942, before we had any opportunity to observe the law in action and before we had a complete report on all possible eligibles.

In the light of the six months of experience we have had since the law took effect, it seems that the proper interpretation should be as follows: "On the date of his completion of 20 years of service prior to July 1, 1945, he will be eligible to retire forthwith on a pension as provided under the old system."

Attorney General

January 25, 1943

To:
Earle R. Hayes, Secretary — Employees' Retirement System

From:
Frank A. Farrington, Deputy — Attorney General

Retirement Status of Employee-Member

In your memorandum of January 22, 1943 you ask certain questions concerning an employee of Bangor State Hospital who has fourteen years of prior service credit, who joined the new retirement system last July, who has been on sick leave without pay since July 15, 1942, who is more than 65 years of age and from whose pay no deductions have been made because on sick leave at the time of the first payroll deductions.

It is the opinion of this department that:

1. The fact that no salary deduction was taken does not affect the right of this employee to now retire.

2. The member should be retired in accordance with an application filed under the provisions of §227-E(1)(a). This would preclude retirement as of July 15, 1942.

FRANK A. FARRINGTON
Deputy Attorney General

To: February 1, 1943
Governor Sumner Sewall

From:
Attorney General Frank I. Cowan

I have been giving consideration to the proposal of Robert Hawkins & Co., bearing date January 28, 1943, for refinancing Kennebec Bridge bonds.

1. Prior to September 14, 1925, Section 17 of Article IX of the Constitution of Maine provided that

> "The legislature may authorize the issuing of bonds not exceeding ten million dollars in amount at any one time payable within forty-one years at a rate of interest not exceeding five per centum, payable semi-annually, which bonds, or their proceeds, shall be devoted solely to the building of State highways and intra-state, interstate and international bridges; provided, however, that bonds issued and outstanding under the authority of this section shall never, in the aggregate, exceed ten million dollars; the expenditure of said money to be divided equitably among the several counties of the State."

On that date the people, at an election, voted to add the following words:

> "The legislature may authorize, in addition to the bonds hereinbefore mentioned, the issuance of bonds not exceeding three million dollars in amount at any one time, payable within fifty-one years at a rate of interest not exceeding four per centum per annum, payable semi-annually, which bonds or their proceeds shall be devoted *solely* to the building of a highway or combination highway and railroad bridge across the Kennebec River between the City of Bath and the Town of Woolwich."

Under the same date, the people adopted another amendment to said Section 17 of Article IX (Article XLIX of the Constitution) which increased the ten million dollar limit to sixteen million dollars and which added other features so that the first sentence of said Section 17 then read as follows:

> "The legislature may authorize the issuing of bonds not exceeding sixteen million dollars . . . . which said bonds issued during or after the year 1925 shall be serial and when paid at maturity, or otherwise retired, *shall not be reissued;* . . ."

That there was no question in the minds of the people that they were, by Article XLIX referred to above, amending simply the first sentence of said Section 17 is apparent from the language of Article LI, which is a further amendment of Section 17 of Article IX. In this new amendment, the first sentence of Section 17 is the same as in Article XLIX, while the second sentence is the same amendment in regard to the Kennebec River Bridge which appears in Article XLVIII. The language in regard to reissue applies solely to the sixteen million dollar item of highway and bridge bonds and definitely does not apply to the Kennebec Bridge bonds.

Again, in Article LII, an amendment adopted September 9, 1925, the authorization of highway and bridge bonds was increased to thirty-one million dollars

> "in amount at any one time . . . . said bonds, when paid at maturity or otherwise retired shall not be reissued."

Then follows this sentence:

> "All bonds issued under the authority of this section of the constitution shall be in addition to the bonds heretofore authorized, and issued in the amount of three million dollars, the proceeds of which were devoted to the building of a combination highway and railroad bridge across the Kennebec River between the City of Bath and the Town of Woolwich."

Resolves of 1935, Chapter 94, provided for the amendment of Section 17 of Article IX by increasing the highway and bridge bonds to thirty-six million dollars, and provided that

> "Said bonds, when paid at maturity, or otherwise retired, shall not be reissued. All bonds issued under the authority of this section shall be in addition to the bonds heretofore issued in the amount of three million dollars, the proceeds of which were devoted to the building of a combination highway and railroad bridge across the Kennebec River between the City of Bath and the Town of Woolwich, and in addition to the bonds heretofore issued in the amount of nine hundred thousand dollars, the proceeds of which were devoted to the building of a highway bridge across the Penobscot River between the towns of Prospect, Verona and Bucksport. . . . "

In 1939, see Chapter 94 of Resolves, the legislature submitted to the people a proposition for the increase of its bonds to an amount not exceeding, in the aggregate, forty-five million dollars in amount at any one time. This resolve contained the same prohibition against reissue, but expressly excepted from the language of the Act the three million dollar Kennebec Bridge, and the nine hundred thousand dollar Penobscot Bridge bonds, showing that, in the opinion of the legislature, these special bridge bonds were not regarded as included within said prohibition. This last amendment to the Constitution failed to receive the approval of the people at the election in September of 1939, and so did not become a part of our basic law.

Prior to 1847, at which time the sixth amendment to the State Constitution was adopted,

> "There was no constitutional limitation to the power of the legislature to create debts in behalf of the State."

See Opinion of the Justices, 53 Maine 588.

The language of the Opinion of the Justices in 81 Maine 603, 604 and 605 indicates that in the absence of constitutional prohibition, the legislature may authorize reissue of outstanding bonds. That such a power was recognized is shown by the fact that the legislature has authorized such a reissue on various occasions. In fact, it was ap-

parently to prevent too free an exercise of this power that the amendment above referred to was adopted, providing that general and bridge bonds issued during and after the year 1925, when once retired, may not be reissued. The very fact that the people have readopted this provision at several elections shows that beyond question the provisions in regard to the Kennebec River bonds and the Penobscot River bonds are not within the terms of the prohibition.

The proposal that has been made calls for a reissue at the present time of nine hundred twenty-five thousand dollars of Kennebec Bridge bonds, the proceeds from the sale of which are to be used in 1947 to pay off a million dollars' worth of Kennebec bonds maturing at that time. The facts presented show that one-half of the authorized three million dollars in bonds have been already paid off and that if the State issues nine hundred twenty-five thousand dollars' worth of Kennebec Bridge bonds now, the total amount outstanding will then be only $2,425,000. Since such a reissue would not exceed the original amount authorized, it would not be in violation of the constitutional prohibition.

2. The second question presented is a more subtle one. The proposal is that the State shall sell $925,000 in two per cent. bonds at the present price of 103¼, and that it shall invest the cash so received in U. S. Treasury one and one-half per cent. bonds due December 15, 1946; that at maturity of said Treasury Bonds, the cash received from the Federal Government shall be used to redeem on June 1, 1947 the one million dollars' worth of State of Maine bonds dated June 1, 1927. The proposition presupposes that the State will have on hand at that time from the sale price of its two per cent. bonds and from the returns on the U. S. Treasury bonds an amount five hundred dollars in excess of the total necessary to redeem the one million dollar issue of State bonds falling due on June 1, 1947.

The question for consideration is this—has the legislature of the State of Maine the same authority to gamble in U. S. Government securities as a private individual? If the legislature gambles in securities of the U. S. Government, can it gamble in securities of the Republic of Cuba or of any other nation with which this country is not now at war? If it can gamble in the securities of nations, what is to prevent it from gambling in the securities of private corporations?

In the Opinion of the Justice, 53 Maine 588, the Court, in speaking of the sixth amendment to the State Constitution used the following significant language:

> "The general design was to provide a check against rashness or improvidence."

At that time a bill had, according to Governor Chamberlain,

> "been reported in the House of Representatives, looking to the assumption by the State of a portion of municipal debts."

Section 3 of the bill proposed to pay various expenses of the Towns. The constitutional provision restricting the power of the legislature

to create a State debt excepted "to suppress insurrection, to repel invasion, or for purposes of war." The Court held that no matter what may have been the purpose of the municipalities in creating debts, the creation of a State debt to pay those municipal debts was not within the constitutional exceptions. The Court uses the following language on page 593:

> "The bill proposes to create a debt when none now exists. It is not a bill to create a debt to suppress insurrection, to repel invasion, or for the purposes of war. It does not purport to be. It is a bill to create a debt to pay the debt or expenditures of municipal corporations, in the creation of which the State is not a party, in the disbursement of which it was not consulted, and over which it had no control, and for the payment of which it is under no present liability.
>
> "The conclusion to which we have arrived is that the proposed bill to which you have called our attention would, if enacted, be in plain violation of the Constitution of this State."

The Court, in the above quoted instance, declared in substance that the constitutional prohibition must be strictly interpreted, and refused to give its approval to an Act of the legislature which may very well have been conceived with the idea of preserving the credit of the municipalities of the State and thereby prevent any detriment to the credit of the State itself.

In the instant case, the language of the constitutional amendment as adopted in 1925 reads:

> "Which bonds, or their proceeds, shall be devoted solely to the building of a highway or combination highway and railroad bridge across the Kennebec River. . . ."

The legislature was authorized by the people to borrow money and devote it

> "solely to the building of a . . . . bridge."

There is no suggestion in the language of the constitutional amendment that the legislature may use the proceeds of any bonds for speculative purposes, and the investment in U. S. Treasury bonds is necessarily a speculative one. No matter how great our faith in the financial integrity of the Federal Government, we must accept the plain evidence furnished by our knowledge of current events. Whether or not the Federal Government will be in a position to meet at par its bonds falling due in 1946 depends so much on the developments of a war in which the whole world is engaged, and concerning which no one nation can be considered as the controlling factor, that we are compelled to admit there is a possibility of default. That possibility alone is sufficient to place the transaction in a speculative class, so that we can say, with the Court in 53 Maine, that the immediate purpose of the creation of the debt is not to build a bridge but

is to buy securities in the hope that when those securities fall due they can be redeemed at a price that will pay the State a profit.

In my opinion, the Constitutional prohibition against creation of debts will be plainly violated by any such procedure.

Very truly yours,

FRANK I. COWAN
Attorney General

February 3, 1943

To:
David H. Stevens, State Tax Assessor — Taxation

From:
Frank A. Farrington, Deputy — Attorney General

Payment to towns of poll taxes collected from electors in unorganized territory in which towns the electors register and vote

Your memorandum of February 3rd calls attention to the fact that there is no time limit specifically stated in Chapter 209, P. L. 1937, as amended by Chapter 20, P. L. 1941, as to when notice of registration and act of voting must be sent to the State Tax Assessor.

The last sentence of said Chapter 20 requires the State Tax Assessor to pay any balance of poll taxes collected to the Treasurer of State "who shall credit them to the State School Fund for the current year". The inference to be drawn from this sentence is that this is to be an annual procedure and it is, therefore, the opinion of this department that the notice from the town officials should be received within one year in order to require payment of the poll taxes collected by the State Tax Assessor to the town.

FRANK A. FARRINGTON
Deputy Attorney General

February 4, 1943

Arthur Dickson, Chairman
Board of Selectmen
Old Orchard Beach
Maine

Dear Sir:

This will acknowledge receipt of your letter inquiring whether towns may buy mutual fire insurance policies containing the assessment clause.

There appears to be nothing in the laws of the State preventing a town from buying mutual assessment insurance.

Very truly yours,

FRANK A. FARRINGTON
Deputy Attorney General

February 5, 1943

To:
Earle R. Hayes, Secretary — Employees' Retirement System

From:
Frank A. Farrington, Deputy — Attorney General

Retirement under Disability Provisions

This will acknowledge receipt of your memorandum of February 4th, in which you ask whether an employee of the Highway Department who began work in 1917, and is now about to request retirement under the disability provisions of the retirement law, and who was injured in line of duty in 1932, drawing compensation for some 113 weeks, should have this period of 113 weeks included in figuring his prior service credit.

It is the opinion of this department that this employee was an employee during the period of 113 weeks, and that said period should therefore be included in figuring his prior service credit.

FRANK A. FARRINGTON
Deputy Attorney General

February 8, 1943

To:
F. K. Purinton, Executive Sec'y — Executive

From:
Frank A. Farrington, Deputy — Attorney General

Acceptance of Jurisdiction on Behalf of the United States

With reference to your memorandum of February 6, 1943 it is the opinion of this department that it is proper for the Governor to acknowledge receipt of acceptance of jurisdiction by the United States in connection with certain parcels of land covered by the letters of acceptance.

The originals of these various letters should be filed with the Secretary of State.

Returned herewith are the four originals and copies of said acceptances.

FRANK A. FARRINGTON
Deputy Attorney General

February 10, 1943

To:
Earl Hutchinson, Director — Education
Secondary Education

From:
Frank A. Farrington, Deputy — Attorney General

Pennell Institute, Gray, Maine

Reference is to your memorandum on the above subject dated February 4, 1943.

We are unable to find any evidence that Pennell Institute has ever been incorporated, the building having been given to the town of

Gray by Henry Pennell in his Will, which Will was entered in Probate Court in July, 1884 along with a fund to be administered, in accordance with the terms of the Will, by the selectmen of the town, this fund is to be carried upon the books of the town and be known as the "Pennell Fund."

Chapter 43, Private and Special Laws 1887, authorizing the town of Gray to accept the gift "upon the terms and conditions and subject to the obligations and requirements expressed in said Will . . . .", also provided that the town should be entitled to the same State Aid for any money raised for the school as it would be entitled to if the same were expended for a free high school.

In the opinion of this department Pennell Institute, so-called, is a school which the town acquired by gift, along with the trust fund and is not an incorporated academy as is contemplated by Subsection I, Section 105, Chapter 19, Revised Statutes 1930.

FRANK A. FARRINGTON
Deputy Attorney General

February 16, 1943

Frederick A. Moran, Chairman
Division of Parole
Executive Department
Albany, N. Y.

Dear Sir:

Governor Sewall has passed me your letter of February 11th, in regard to Reid Dwyer, Your Sing Sing No. 84173, our Reed Dyer, Maine State Prison No. 7,009. There is nothing in our statutes which provides that a pardon restores the beneficiary to the guiltless condition which he occupied before his commission of the crime. A pardon, so far as our statutes go, extends no farther than the definition that will be found in Webster's Dictionary. Our Legislature has not made any provision for the wiping out of the record of the conviction.

There is a dictum in the case of *Penobscot Bar vs. Kimball*, 64 Maine, Page 150, which uses the following language:

> "But we further find that he has been pardoned by the executive for that offence. The effect of that pardon is not only to release the respondent from the punishment prescribed for that offence and to prevent the penalties and disabilities consequent upon his conviction thereof, but also to blot out the guilt thus incurred, so that in the eye of the law he is as innocent of that offence as if he had never committed it. The pardon as it were makes him a new man in respect to that particular offence, and gives him a new credit and capacity. To exclude him from the office he held when he committed the offence is to enforce a punishment for it notwithstanding the pardon. *Ex parte Garland*, 4 Wallace, 380."

If you will examine the case, you will see that the language quoted above expressed the personal opinion of the Judge on a subject which was not in issue before the Court. How far our Courts would follow that line of reasoning, I am unable to say. But until our Courts have spoken on the subject, I should be of the opinion that pardon extends to the penalty and not to the crime itself nor to the conviction.

Very truly yours,

FRANK I. COWAN
Attorney General

February 16, 1943

To:
David H. Stevens, State Tax Assessor Bureau Taxation

From:
Frank A. Farrington, Deputy Attorney General

Taxable Revenues of Western Union Telegraph Co.

Reference is to your memorandum of February 15th, which, in turn, refers to rulings of the Attorney General dated October 15, 1942 on the same subject.

The letter from Mr. Barnett, Attorney for the Telegraph Company, dated February 8, 1943 has been carefully gone over and this department sees no reason to revise the rulings laid down in the October 15th memorandum except in so far as messenger service revenues not involving use of wire service are concerned. This item may properly be excluded from their return.

All the other items discussed by Mr. Barnett are collections on account of its telegraph business. It is the opinion of this department that the Telegraph Company was correct in the first instance when it included the sum of $2,276.77 in its returns under the item "Returns from Leased Wires". To rule otherwise would, of necessity, make it compulsory to approve any further extension of the system of billing and paying outside the State. This revenue is derived from the telegraph business of the company conducted within the State.

The letter of Robert C. Barnett is being returned for your files.

F. I. C. by

FRANK A. FARRINGTON
Deputy Attorney General

February 17, 1943

To:
A. L. Kane, State Controller — Accounts and Control

From:
Frank A. Farrington, Deputy — Attorney General

P. L. 1933, Chapter 1, §351

Reference is to your memorandum of February 15, 1943.

P. L. 1933, Chapter 1, §351, allowing payment of $10.00 to a convict upon his discharge, applies to a convict being discharged from the State Prison.

No such provision is found in connection with the Reformatory for Women, and it is the opinion of this department that said §351 does not apply to women convicts discharged from the Reformatory for Women.

FRANK A. FARRINGTON
Deputy Attorney General

February 18, 1943

Alexander A. LaFleur, Major J. A. G. D.,
Division Judge Advocate,
Fort Benning, Georgia.

Dear Alec,

I have your letter of February 9th concerning the amendment to the 114th Article of War on "Authority to Administer Oaths".

(1) R. S. Chapter 87, section 23, expressly provides a method by which "deeds and all other written instruments before recording in the registry of deeds, *except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof*," shall be acknowledged. The section is not broad enough to include fully the provisions of article 114. However, I presume that there would be very slight reason for any documents mentioned in that article being filed for record in a registry of deeds.

(2) Authority to administer oaths is very broad under the statutes of the State of Maine. Boards and commissions are very liberally endowed with authority to place witnesses under oath. In view of that great liberality, I see no reason at all to believe that our courts would hesitate to accept a document properly sworn to before any officer authorized by the Congress to administer an oath providing the document were not one for record in the registry of deeds; and even then, if it were such a document as came within the exception referred to in (1) above, it would, in my opinion, be the duty of the Register to accept and record the instrument.

Sincerely yours,

FRANK I. COWAN
Attorney General

February 19, 1943

To:
William D. Hayes, State Auditor Auditor's

From:
Frank I. Cowan, Attorney General Attorney General

Bond of the Secretary of State

I have your memo of February 13th in regard to the bond of the Secretary of State. I note that Mr. Goss raises a question whether he is properly protected as long as it is, as it now is, the case that the subordinates' bonds run to the State.

I admit that the language of the statute providing for a bond for the Secretary of State is unique. However, the legislature must have had in mind the meaning of the word "appropriate" in using it. I find that Webster's Dictionary gives the following definitions for the verb, "appropriate":

"1. Orig., to make peculiarly the possession of someone; as, to *appropriate* to the Lord; now, to take to oneself in exclusion of others; to claim or use as by an exclusive or pre-eminent right; as, let no man *appropriate* a common benefit.

"2. To allot or attribute as specially belonging. *Archaic.*

"3. To make suitable; to suit. *Archaic.*

"4. To set apart for, or assign to, a particular purpose or use, in exclusion of all others."

The fourth definition, it seems to me, is the only one the legislature can have had in mind in using the particular language, "appropriate according to law all moneys . . . which come into his hands." This seems to set on him the duty of properly directing the course of the moneys belonging to the State which come into his hands or those of his subordinates, and no more.

The question of whether or not he will be personally responsible for misdeeds of his subordinates seems to be answered by the reasoning of the Court in the case of *Cumberland County vs. Pennell.* There the Court very definitely holds that the County Treasurer is not an insurer of the public money that comes into his hands.

The effect of the Personnel Law, P. L. 1937, Ch. 221, must not be overlooked in this connection. The employees in the office of the Secretary of State are in the classified service and are sent to the Secretary by the Director of Personnel. Although he can, as a matter of fact, refuse to accept any person assigned to his department, nevertheless in practical effect, he does take those who are sent there by the Director. Under the circumstances, when we take into consideration the meaning of the word "appropriate" and the reasoning of the Court in the Pennell case, it is difficult to see how the Secretary of State could be regarded as personally responsible for errors of malfeasance or misfeasance by his subordinates, unless he were himself guilty of actual or possibly active negligence in the employment or retention or assignment of duties of employees.

FRANK I. COWAN
Attorney General

February 20, 1943

Dear Sir:

This will acknowledge receipt of your letter of the 19th, asking whether you have jurisdiction to sentence girls to the State School for Girls.

In view of the provisions of P. L. 1931, Chapter 241, as amended, and P. L. 1939, Chapter 270, it seems to this office that a trial justice does not have such jurisdiction.

Said Chapter 241 gives exclusive original jurisdiction to municipal courts in juvenile matters as far as "offenses" are concerned, and said Chapter 270 removes trial justices from those to whom complaint can be made in connection with commitment of idle or vicious minors.

The intent of the law seems to be that trial justices shall not handle cases involving juveniles.

Very truly yours,

FRANK A. FARRINGTON
Deputy Attorney General

February 23, 1943

To:
Earle R. Hayes, Director — Personnel

From:
Frank A. Farrington, Deputy — Attorney General

Certification of Payrolls under Section 21, Chapter 221, Public Laws of 1937

Reference is to your memorandum of February 19th on the above subject.

It is the opinion of this department:

1. That the section referred to requires that certification be made of all State payrolls covering both classified and unclassified employees.

2. That the Director of Personnel would comply with said section by certifying a payroll or other form of account covering all unclassified employees and certifying subsequent changes as occasion may require.

3. That a signed statement from the department head as to changes in employees' status would be sufficient authorization for the Director or his agent to make such certifications, as far as the unclassified service is concerned.

FRANK A. FARRINGTON
Deputy Attorney General

February 24, 1943

To:
Henry P. Weaver, Chief State Police

From:
Frank A. Farrington, Deputy Attorney General

Arthur F. Duplisea—Your Memo of February 20, 1943

Your memorandum above referred to has been received, along with copy of Mr. Duplisea's letter, copy of the letter of Mr. Goss, and copy of O. D. T. General Order No. 20.

You ask for the opinion of this department as to whether O. D. T. General Order No. 20 supersedes our State law.

It is the opinion of this department that O. D. T. General Order No. 20 has no bearing on the State law in connection with operating a taxicab, except in so far as it may limit the operation of taxicabs.

Under the circumstances existing at the present time, considering the share-the-ride program which is being carried out particularly among those working in the shipyards, this department agrees with the feeling of the Secretary of State that there is a marked difference between a case where a man is carrying fellow-workers and a case where one operates and holds himself out to the public as operating a vehicle for hire as a business. It is our understanding from conversation with the Public Utilities Commission that they do not concern themselves with anyone carrying nine or less passengers under such circumstances.

From the terms of your memorandum, we are not sure that we have given you the information that you desire, and if we have not please say so and we will try to give you the desired answer.

FRANK A. FARRINGTON
Deputy Attorney General

February 24, 1943

To:
William D. Hayes, Auditor Auditor

From:
Frank A. Farrington, Deputy Attorney General

Joint Contributory Retirement System

Reference is to your memorandum of February 13th, in which you ask certain questions relative to a retired member of the System who subsequently re-enters the employ of the State.

The opinion of this department relative to these questions follows in the order in which you asked the questions.

1. If an employee is restored to service who was retired under 227-E, he is not entitled to receive both compensation for services and retirement pension, and the amount of combined pension and compensation would not affect the answer. The answer to this question, as well as the others you ask depends, in the opinion of this department, on the interpretation of the words "restored to service",

as used in section 227-G, Chapter 328, Public Laws of 1941. In this connection you will note that Section 227-A (7) defines "service" as "service as an employee for which compensation is paid by the state." 227-A (4) defines "employee" as "any regular classified or unclassified officer or employee in a department." Thus, to be restored to service, a former member of the Retirement System must become a regular employee.

2. Section 227-G requires that a beneficiary restored to service contribute at the same rate he paid prior to his retirement.

3. Assuming that the employment is regular, it is the opinion of this department that the method of payment would not be material, since compensation is paid by the State. See section 227-A (7).

4. This question is answered the same as question 3, and the nature of the services rendered is not material to the issue, any more than is the method of payment.

It is the opinion of this department that occasional employment of a retired member of the Retirement System at irregular intervals, when and if such a person is needed for some reason, should not bar him or her from receiving his or her retirement allowance, and that the question of whether or not a person has been "restored to service" is one which might well have to be answered in specific cases as they arise.

FRANK A. FARRINGTON
Deputy Attorney General

March 4, 1943

To:
Hon. Ralph Sterling,
Chairman, Committee on State Lands and Forest Preservation.

Dear Sir:—

At the request of Representatives Rollins and Cleaves of your committee, I am conveying the following information concerning the provisions of the Revised Statutes in regard to assessment of taxes on lands in places not incorporated, and sale of lands in such places for taxes, and the period during which the original owner has the right of redemption.

The Revised Statutes, Chapter 13, Section 40, speaking of such lands and providing for the notices to the owners, contains the following language: "Said lands are held to the state for payment of such state, county and forestry district taxes, with interest thereon at the rate of six per cent to commence upon the taxes for the year for which such assessment is made at the expiration of six months and upon the taxes for the following year at the expiration of eighteen months from the date of such assessment."

The above language is not material to the matter you have under discussion, but I have included it simply because it has the words, "Said lands are held to the state," and so forth.

R. S. Chapter 13, section 41, provides that "Owners of the lands so assessed may redeem them by paying to the treasurer of state the taxes with interest thereon within one year from the time when such interest commences. Each owner may pay for his interest in any tract, whether in common or not. . . . Each part or interest of every such township or tract upon which the state or county taxes so advertised are not paid with interest within the time limited in this section for such redemption shall be wholly forfeited to the state, and vest therein free of any claim by any former owner." Section 41 has to do with activity prior to sale by the treasurer of state.

R. S., Chapter 13, section 42, provides that, "Lands thus forfeited shall annually in November be sold by the treasurer of state at public auction to the highest bidder; but never at a price less than the full amount due thereon for such unpaid state, county, and forestry district taxes, interest and cost of advertising except that in case of a sale to the forest commissioner no interest shall be added." Under this section, the state treasurer must sell the lands for taxes. He may sell to a private individual, but if no private individual appears to buy, the forest commissioner has authority to buy in, in the name of the state, just as a town treasurer buys in lands sold to the town for taxes in February.

Section 42 continues in the following language: "The treasurer shall give to the purchaser a deed of such lands, which shall vest in such purchaser title to the same *in fee* subject to the right of redemption hereinafter provided." The words "in fee" mean "absolutely", and unless there is some actual legal defect in the proceedings in regard to the laying or the attempts to collect the taxes and such defect is of a nature that the courts regard as fatal, the person who buys becomes the absolute owner of the property, subject only to a right of redemption which is set out in R. S., Chapter 13, section 44. It is immaterial whether that purchaser is a private individual or the state. Title becomes absolute just the same.

R. S. Chapter 13, section 44 provides: "Any owner may redeem his interest in such lands, by paying to the treasurer of state his part of the sums due, including the cost of serving the notice upon the owner or his tenant, as provided in section forty-two, *at any time before sale; or after sale, by paying or tendering to the purchaser, within a year*, his proportion of what the purchaser paid therefor at the sale, with interest at the rate of twenty per cent a year from the time of sale, and one dollar for a release." This provision for one year for redemption is the utmost extension that I find in the statute of any redemption rights, where there exists a valid tax.

I have been informed that someone has declared that the assessment of taxes on certain lands concerning which you have a bill before you for consideration was invalid. I know nothing about that, of course; but if there is a question in regard to validity, and the State's interests are involved, I respectfully call to your attention that the State maintains a legal department whose duty it is to assist the

Legislature in connection with such questions, and if the Legislature will pass an order instructing the attorney general to have the title in question investigated and determine whether or not the assessment was properly laid, I shall be very glad to comply at the earliest possible time.

Respectfuly yours,

FRANK I. COWAN
Attorney General

March 5, 1943

To:
Alfred W. Perkins, Commissioner — Insurance

From:
Frank I. Cowan, Attorney General — Attorney General

Filing Fee for Financial Responsibility

I have your memo of February 23 enclosing a letter from Mr. A. W. Spottke and a memo to you from E. W. Sawyer, attorney for the National Bureau of Casualty and Surety Underwriters, said Sawyer memo bearing date 1-26-43.

On the statement of facts contained in your memo of January 7, I cannot agree fully with Judge Sawyer's statement, because there are apparently facts that he himself has not discussed. I do, however, now agree with that portion of his statement which occurs on page 2 of his memo and reads as follows: "Upon the filing of a certificate of financial responsibility the policy becomes, with respect to accidents thereafter occurring, absolute so far as injured persons are concerned. The exclusions are no longer applicable and acts or neglects of the insured afford the carrier no basis for refusing coverage."

The opinions of this office interpreting the financial responsibility law were very largely worked out during that hectic period in 1941 between the time of the adjournment of the legislature and the time the laws became effective, ninety days later. You were not here at that time, but I was handling three murder cases at once just at that time, besides trying to attend to the duties of this office. Many laws require interpretation. We worked out the best rules we could for the financial responsibility law, feeling that two or three years of experience in administration would determine whether or not we had adopted the best procedure.

My feeling is that you have gone off on somewhat of a tangent in your reasoning in connection with the six exceptions in R. S. Ch. 60, sec. 180. The general liability which is provided for in section 177 is dependent on no violation by the insured of the provisions of section 180; and that is, I believe, still the law in the State of Maine. If my assumption above is correct, the financial responsibility law starts in

where the law as laid down in Chapter 60, sections 177 and 180, leaves off, and there is, as Judge Sawyer claims, an immediate added burden on the insurer. Just when that added burden will attach is a question that the courts may eventually have to decide; but I feel safe in saying that the courts will say there is an added burden. If there is an added burden, then the insurance companies are justified in making an additional charge, and any opinions which I have given in the past intimating the contrary, must be modified.

In connection with the question of discrimination, your memorandum of January 7 intimates that there are contracts of insurance that are being made in connection with taxicabs and perhaps with other motor vehicles, where, after the contract is made, if an accident occurs, the company attempts to change the terms of the contract. This is something that Judge Sawyer has not covered in his memorandum, and inasmuch as there is a difference between his memorandum and yours on a statement of fact, I am accepting your statement as the correct one. On the limited information I have at hand, it would seem that to the extent that the companies are attempting to vary the terms of their contracts, with policyholders, they are doing something which the State should not approve.

Further information seems to be necessary in this office in order to arrive at a definite conclusion.

I am returning herewith the brief that was written by Judge Sawyer and the letter from Mr. Spottke.

FRANK I. COWAN
Attorney General

March 17, 1943

Ralph K. Wood, Esq.,
Presque Isle, Maine.

Re: Presque Isle Airport

Dear Ralph,

I have your letter of March 9th. The form of the deed is the same as that which the War Department has used in other circumstances. What my personal opinion may be in regard to the wisdom of the procedure proposed is immaterial. The demand that has been made on me contained the following language:

"The consummation of these transfers of title is contingent upon the sufficiency of the authority of the public officials to convey and donate these particular lands to the United States of America. Adequate information in this respect is not available in this office. Therefore, it is respectfully requested that you advise this office under what authority these lands were acquired by the public officials and their authority, if any, to convey and donate same to the United States of America."

The only answer I can make to the War Department, it seems to me, is that under the provisions of the Public Laws of 1931, Chapter 213, and the Public Laws of 1941, Chapter 173, the City of Presque Isle has full authority to acquire these lands, but there is no statutory authority for a conveyance of the lands. I hoped that you would be able to give me something that would assist me in arriving at a different conclusion, but your letter of March 9th, (with which, by the way, I absolutely agree) doesn't help any. It seems to me that you will have to have an act of the legislature in order to have authority to execute this deed, and the sands of the present legislature are rapidly running out. Whether or not unanimous consent could be obtained today for this authority I do not know. I would think that there would be no reason why the legislature should not consent to the introduction of a bill for this purpose, but it might not.

Because the same problem applies to the Town of Houlton, I am sending a copy of this letter to Bob Williams, whose name appears on a similar deed and to whom I wrote on March 3rd, but from whom I have as yet received no reply.

Sincerely yours,

FRANK I. COWAN
Attorney General

March 17, 1943

To:
David H. Stevens, Chairman Emergency Municipal Finance Board

From:
Frank I. Cowan, Attorney General Attorney General

I have your memo of March 15 in which you ask the following question: "If a town being administered by the Board of Emergency Municipal Finance has failed to accumulate funds for debt retirement equal to the amount of taxes collected on assessments previous to the Board taking over the affairs of the city, is that town eligible for emergency aid?"

At the conference this morning at which Mr. William Hayes, State Auditor, Mr. Page, the Commissioner of Health and Welfare, Mr. Mossman, the Commissioner of Finance, you and I were present, I stated that the question probably would need to be reframed somewhat to express the idea which was worked out in our discussion. I gave also my opinion, which I now affirm, that the provisions of P. L. 1933, Chapter 284, appearing on page 43 of the P. & S. Laws of 1935, reading as follows: "All the provisions of this act shall be liberally construed so as to carry out these intentions. All powers and duties necessary to carry out the purposes herein set forth are hereby conferred on the board," must be given weight in considering the effect of Chapter 256, P. L. 1939. Moreover, said Chapter 256

shows the result of additional thought that had been given to the matter of rehabilitation of insolvent municipalities, and shows that the experience of the five years since the passage of the original Act had shown the desirability of a legislatively enacted procedural formula. It also shows that the legislature saw the apparent necessity of collaboration between the Board of Emergency Municipal Finance and the Welfare Department of the State.

Chapter 256 set up the following procedure:

1. An examination of the question of the inability of a municipality to provide necessary relief for its unemployables by the Commissioner of Health and Welfare and the State Auditor, and a decision arrived at by those two persons.

2. If the Commissioner of Health and Welfare and the State Auditor determine that the municipality is "unable", then a taking over of the management of its affairs by the Board of Emergency Municipal Finance.

3. The use of State money by the Department of Health and Welfare to furnish aid and relief to unemployables located in such municipalities.

As stated by Assistant Attorney General Folsom in his opinion of July 10, 1941, "Expense incurred by the city or town for pauper relief is a current expense and . . . . expenses of that nature have priority for payment over existing indebtedness of the city or town involved."

The language of this opinion rendered by Mr. Folsom was very carefully worked out. This department was desirous of using language that would not tend to handicap the Welfare Department and/or the Emergency Municipal Finance Board in what we had decided was to some extent their joint problem of rehabilitating the municipality. We considered carefully whether or not welfare funds could properly be advanced where the indirect result of the advance would be that the municipality could accumulate funds with which to pay off its back debts. We started off with the axiom that hungry people must be fed from whatever funds are available. We advanced from that point to the opinion that the source of those funds is immaterial, because feeding the hungry is always an emergency problem. Therefore the hungry can be fed either from funds that have been received from any source or certainly from funds received from the Welfare Department.

We then considered whether or not the payment of the legal obligations of an insolvent municipality is a matter of primary importance, and it seemed to us that it is such. It is not, however, itself an emergency matter like the feeding of the hungry; but if the municipality is to be reinstated as a self-supporting, operating unit of State government, its financial stability and integrity must be restored. We therefore concluded that the restoration of this financial integrity should, as far as possible, be carried on at the same time that the unemployables are being cared for, to the end that the com-

munity might as soon as possible become self-supporting and take care of its own unemployable load. Any other procedure, it seemed to us, would result in the State taking on permanently the burden of supporting those unemployables, and that certainly was not the purpose of the legislature in the passage of the Emergency Municipal Finance Act. Certainly, also, from our point of view, the passage of the Act of 1939, above cited, was to make it possible for the Welfare Department with its very broad powers to come in and assist the Board in its problem of rehabilitation.

Following the line of reasoning set forth above, as well as additional reasons which I gave you at the conference this forenoon, it is my opinion that a town can be eligible for emergency aid, even though some of the revenues from taxation are being accumulated for the purpose of compromising the debts of the town and getting it into a position where it can carry on its own financial affairs.

The question has been raised as to whether or not the State Auditor and the Commissioner of Health and Welfare, acting purely and solely in the semi-judicial function conferred upon them by Chapter 256 of the Laws of 1939 need to continually study the question of "inability". It seems to me that the legislature has never laid upon these two officials such an intolerable burden. Having exercised their function of determining "inability", they have done all that is necessary at that particular time. The Board of Emergency Municipal Finance then takes over, and the Commissioner of Health and Welfare, acting in his capacity as Commissioner, in a purely administrative function, can advance emergency funds. The Commissioner, in his said capacity, has the duty of watching the distribution of such funds and determining to what extent he shall advance such funds, and when he shall discontinue such advance. Under the law as it is today, the Commissioner of Health and Welfare and the State Auditor will have no difficulty in keeping mutually posted on the amounts necessary to be advanced and whether or not the necessity still exists because the State Auditor is still a member of the Emergency Municipal Finance Board. Eventually, of course, the State Auditor, acting in his capacity as such, and performing an administrative function, checks the amounts that may have been paid out by the Welfare Department and performs his other necessary functions as State Auditor.

I have answered your question at considerable length and detail while the matter is still fresh in my mind, because it is my understanding that a procedural plan is to be worked out immediately.

If I have overlooked anything in this opinion, or if there is any statement herein contained that is not clear, I wish you would call that fact to my attention immediately so that I can give you an additional statement or a clarifying one.

FRANK I. COWAN
Attorney General

March 18, 1943

To:
Carl T. Russell, Deputy Commissioner Labor

From:
Frank A. Farrington, Deputy Attorney General

Weekly Payment of Wage Law

In your letter of March 17 you ask whether an oil company comes under the provisions of Section 39 of Chapter 54 of the Revised Statutes of 1930.

It is the opinion of this department that such a company does come under the provisions of said Section 39.

FRANK A. FARRINGTON
Deputy Attorney General

March 19, 1943

From:
The Attorney General

To:
The State Tax Assessor

In re School Building at Baring

Under the statutes when a town is disorganized, all school property becomes the property of the State. The use of the word "disorganized" in this statute (R. S. c. 19, §144) is appropriate to fit P. & S. L. 1941 c. 4, which is an emergency act entitled "AN ACT to Provide for the Surrender by the Town of Baring of Its Organization". The school house at Baring, therefore, became the property of the State immediately on the taking effect of the emergency act. The State school department informs me that this building is now being used as a public school although I note in your memorandum that there is a proposition for taking the pupils to Calais to save expense.

I am further informed, but that is an administrative question and I simply cite it because it has been mentioned to me, that due to the economic trend in Baring it is highly questionable whether there is any present recoverable cash value in this building.

The note for $1870.36 held by the Calais Federal Savings and Loan Association is one of the debts of the municipality. While it is true that the State of Maine recognizes the common law rule in regard to mortgages, we must not overlook the fact that the mortgage, no matter where the actual legal title to the real estate may be, is simply security for a debt. The debt is the primary object and the mortgage is the secondary object. In this case the primary object is a

debt of $1870.36 which was owed by the town of Baring at the date the special act above referred to took effect, and the question is shall that debt be paid, or shall certain property of the municipality which by reason of a special statute has been transferred to the State of Maine be delivered over to the creditor as payment on account of a debt. Sight must not be lost of the fact that there is no necessity in law that the creditor accept this particular property as payment of even part of its debt. It is a security that he holds but acceptance of the security by him, either by foreclosure proceedings or by voluntary transfer, does not cancel the debt unless the creditor agrees that it shall or the Court decrees that it shall. If in this particular case there is no present recoverable value for the building it may very well be that the Savings and Loan Association will decline to take the burden of this property in cancellation of the debt. That again is an administrative question and I mention it merely to remind you of the fact.

Sight should not be lost of the meaning of R. S. c. 19, § 144. As far as I know there have been no Court decisions interpreting this statute but this office has in the past rendered an opinion to the effect that the public property of these disorganized, or deorganized, towns or plantations is held by the State solely for the benefit of the people of the community, and if they later reorganize, the property should be turned back to them so that they can carry on their normal functions as an operating unit of the State. It seems reasonable to me to believe that Chapter 19, § 144 should be interpreted in the same manner and that the State, having assumed the burden of handling the affairs of Baring during a time of stress, is under the moral obligation of restoring to the people of the community all public property whether school buildings or otherwise when the community is again able to assume normal functions as such. In other words, the act of the State in taking over the property of the community is a protective act for the benefit of one member of the State and does not contemplate the liquidation of the community.

Following this line of reasoning, it seems to me that the law requires that the State shall dispose of the obligations of the community under the powers given to the several departmental heads by the special statutes enacted for that purpose. In as much as education is recognized as one of the necessary primary functions of any community, the sale of a schoolhouse by the State when the community is in distress should be decided upon only after the most careful consideration of the present and possible future needs of that community. On the question as to whether or not the burden is on the department of education to pay off any of the town debts, in the absence of any express statute so providing, I shall have to give a negative answer. I know of no statute that says the department of education shall pay off any general indebtedness of any community whether that community is solvent or insolvent.

P. L. 1941, c. 137, expressly provides that: "If no road maintenance as above described exists in said town, said unexpended funds

shall be expended on repairs, maintenance or restoration of such town enterprise as may be designated by the state tax assessor in his capacity as hereinbefore or hereinafter described in this act." I particularly refrain from any attempt at this time to define the exact powers and duties of the state tax assessor under this statute, preferring to wait until a specific case has arisen at which time we can apply the knowledge which experience has given us in determining just what those limits should be.

FRANK I. COWAN
Attorney General

March 24, 1943

Harold E. Kimball, Secretary
Port of Portland Authority
Portland, Maine

Dear Sir:

Your letter of March 22nd, has been referred to the writer for reply.

The Port of Portland Authority was created by Chapter 114, P. & S. L. 1929. By Section 1(b) of said act the Port Authority "is constituted a public agency of the State of Maine".

Section 227 A (3) of Chapter 328, P. L. 1941 reads as follows: " 'Department' shall mean any department, commission, institution or agency of the state government."

It is the opinion of this department that the provisions of said chapter 328, P. L. 1941 are applicable to employees of the Port of Portland Authority.

Very truly yours,
FRANK A. FARRINGTON
Deputy Attorney General

March 24, 1943

To:
Earl R. Hayes, Secretary Employees Retirement System

From:
Frank A. Farrington, Deputy Attorney General

Back Contributions under Retirement System

Reference is to your memorandum of March 23, 1943.

Chapter 328, P. L. 1941, makes no provision for acceptance of back contributions from persons who elect to become members of the system after the date of establishment of the system, having previously elected not to become a member.

Section 227A (8) of said chapter 328 defines membership service as "service rendered while a member of the retirement system for which credit is allowable under Section 227-D".

Section 227-D (1) reads as follows: "All service of a member since he last became a member on account of which contributions are made shall be credited as membership service, *and none other.*"

It is the opinion of this department that these provisions preclude allowing any credit for membership service during a period when an employee was not actually a member of the system even though he wishes to make back contributions to cover the period he was not a member.

FRANK A. FARRINGTON
Deputy Attorney General

March 25, 1943

From:
Frank I. Cowan, Attorney General

To:
Governor Sewall

You ask me whether or not the fact that the Governor appoints the Trustees of the University of Maine should be considered in deciding whether we shall regard that institution as a private or a public college.

The charter of the University of Maine is contained in P. & S. Laws of 1865, Chapter 532. The name given at that time was Trustees of the State College of Agriculture and Mechanic Arts. This sets up a "body politic and corporate . . . . having succession as hereinafter provided with power to establish and maintain, subject to the provisions and limitations of this act, such a college as is authorized and provided for by the Act of Congress . . . . donating lands to the several states and territories which may provide colleges", etc.

By Section 3 of the act, the Governor and Council were given the power to examine into the affairs of the college and to direct the Attorney General to take action against the Trustees either individually or collectively if they were guilty of any acts of misfeasance or nonfeasance which might prove injurious to the college.

The original act provided, in Section 4, that when a vacancy should occur in the original Board, it should be filled by the legislature; the second vacancy should be filled by the Trustees; the third by the legislature; the fourth by the Trustees and so on.

Two years later, in 1867, as appears in P. & S. Laws of that year, Chapter 362, the statute was changed to provide that vacancies in the Board of Trustees should be filled by the Governor and Council on nomination by the Board of Trustees. The Governor and Council were given complete authority in the matter by being empowered to reject a nomination of the Board and continue rejecting until a satisfactory nominee was submitted.

P. & S. Laws 1869, Chapter 192 provided that the secretary of the Board of Agriculture should be made a Trustee, ex officio.

P. & S. Laws of 1867, Chapter 147, provided that females may be students at the College. The original Act, in Section 13 thereof, had provided "no charge shall be made for tuition to any student who is an inhabitant of this State". P. & S. Laws of 1879, Chapter 173, changed this by providing that a reasonable charge might be made for tuition, which act was repealed by P. & S. Laws 1891, Chapter 284.

P. & S. Laws 1897, Chapter 247, insisted that graduates of the State College of Agriculture and Mechanic Arts should have the same rights before boards of the State as graduates of other colleges; Chapter 550 of the same year granted to the Trustees $2.00 per day when acting officially, and Chapter 551 of the same year changed the name of the institution to the University of Maine.

P. & S. Laws 1903, Chapter 108, provided that "reasonable tuition" could be charged but that agricultural students might receive their instruction without payment of tuition.

P. & S. Laws 1903, Chapter 393, authorized the Trustees to guarantee loans for the building of society houses on land of the College but declared that "nothing herein contained shall be construed as binding the State of Maine to pay said loans or any of them, or any part thereof, or any interest thereon; and provided further that no appropriation therefor shall hereafter be asked of the State of Maine".

P. & S. Laws 1911, Chapter 194, provides that the Trustees shall serve without pay but may receive actual expenses incurred in connection with their duties.

P. & S. Laws 1913, Chapter 128, provided that students in the Home Economics course might receive their tuition free.

It will be seen from the above that from its beginning the State College of Agriculture and Mechanic Arts, which later was renamed University of Maine, has been the constant care and ward of the State. However, there is nothing in the original act, nor in any subsequent act, which indicates that the legislature has at any time even considered destroying the dignity of the institution as a private college and setting it up as a mere adjunct of the general educational system of the State. The right of the College to act as a "body politic and corporate" has never been in any way changed and the general provisions of the original charter remain in no way modified. The acts of the legislature have been entirely along the lines suggested in Section 18 of the original charter which reads: "The legislature shall have the right to grant any further powers, to alter, limit or restrain any of the powers vested in the Trustees of the College established by this act, or shall be judged necessary to promote the best interests thereof", but have actually been extremely moderate in making alterations or setting limits or restraints on the powers previously granted.

The history of the University of Maine was reviewed somewhat by Judge Cornish in the case of Orono v. Sigma Alpha Epsilon Society, 105 Me., 215. This opinion is dated March 2, 1909, subsequent to the enactment of almost every one of the above mentioned amendments to the charter of the College. The things that the Judge says about the College are very largely dicta and, as such, not binding as precedents of our courts but, nevertheless, are entitled to great weight. In his opinion the Judge uses the following words: "No language could more plainly recognize the distinction between the corporation and the State. The legal status of this institution has been and is the same as that of the other Colleges in Maine chartered by Massachusetts or by Maine, Bowdoin College, Colby College and Bates College".

From the above it is plainly evident that the University of Maine is a private institution having all the rights and privileges of any private corporation within the limits of its charter. That charter is subject to modification just as the charters of every other corporation in the State of Maine set up during the last hundred years are subject to modification. The fact that the Legislature can modify the charter, and at times has done so, does not change the nature of the College as a private institution any more than the right of the State to change the charter of the Todd-Bath Shipbuilding Company changes the nature of that corporation.

FRANK I. COWAN
Attorney General

March 30, 1943

To:
C. M. White — Agriculture

From:
John Marshall, Assistant — Attorney General

Federal-State Grading Work on Butter, Cheese, Eggs and Poultry

1. Can Maine Department of Agriculture surrender all supervision of establishment of fees collection and distribution thereof as contemplated in paragraphs (b) and (c) on page 2 under subject heading "Food Distribution Administration" and paragraph (b) page 3 under subject heading "Mutual Agreements"?

The Maine Department of Agriculture cannot surrender its supervision of the matters expressly set forth in our statutes, and the Commissioner of Agriculture must account for all fees collected and the disbursement of funds in accordance with State law and the regulations of the Department of Agriculture.

The Commissioner of Agriculture does have the right to make such rules and regulations, including payment of such fees as will be rea-

sonable and as nearly as may be to cover the cost for the service rendered. In attempting to undertake a method of cooperation with another agency, the Commissioner would have the right to make new regulations modifying the service of supervision and, consequently, modify the fees for such a modified service.

2. Can Maine Department of Agriculture subscribe to paragraph (a) under "Mutual Agreements" page 3 without qualifying clause to safeguard State Laws?

The Maine Department of Agriculture cannot subscribe to any agreement without a qualifying clause to insure adherence to existing State laws.

3. Has the Maine Department of Agriculture the authority to be party to the collection of fees with the possibility that they may be used for purposes other than that for which they were specifically paid as contemplated in paragraphs beginning on page 4 of the agreement, lettered (d), (f), (g) and (h)?

The answer is, "No".

4. In general, has the Maine Department of Agriculture the authority to participate in an agreement certain sections of which definitely commit the Department to policies and regulations promoted by Federal officials rather than Federal law particularly if such policies conflict with Statute Law of the State of Maine as well as policies and regulations of the State?

Under Chapter 102, P. L. 1931 the Commissioner of Agriculture of this State is authorized to enter into agreements with the United States Department of Agriculture, and with other departments of the New England States in the *collection* and *publication* of agricultural statistics and in developing grades and standards for farm products and providing inspection thereof; such agreements to be subject to approval of the Governor and Council. In our opinion, this would not permit us to answer the question contained in Paragraph 4 of your memo in the affirmative.

Except in so far as the Commissioner of Agriculture of this State could modify existing regulations which he has the authority to make, none of these other things could properly be done which would be contrary to existing State law without either having the State Legislature enact some authorization therefor to be exercised by the Commissioner during the present emergency, or unless the Executive department of the State should invoke its emergency powers already delegated to it by the Legislature.

JOHN MARSHALL
Assistant Attorney General

April 2, 1943

John A. Retter,
Lt.-Col., Corps of Engineers
Executive Assistant
Office of Division Engineer
New England Division
Boston, Massachusetts.

In re 601.1, Presque Isle, Maine Your reference DRE 5

Dear Sir:—

The City of Presque Isle, Maine, and the Town of Houlton, Maine, have ample authority under Public Laws of Maine, 1941, Chapter 173 and Public Laws of Maine, 1931, Chapter 213 to acquire title to the airports which they have conveyed to the United States of America by deeds, copies of which you have sent to this office.

The Legislature of Maine has passed and the Governor has signed a bill, being Legislative Document #824, two copies of which I am enclosing herewith. By Section 1 of said Act, as you will see, cities and towns are authorized to sell airports as in the instant case, while by Section 2, all conveyances of airport lands by cities and towns to the United States for military purposes before this Act takes effect are declared to be valid.

This Act will not take effect until ninety days after the Legislature adjourns. We expect that the Legislature will adjourn on April 8th or 9th, so this Act will take effect about July 7th or 8th.

It was our wish to pass an emergency act which would take effect as soon as signed by the Governor, but under the State Constitution, emergency acts cannot be passed by the legislature if they provide for a sale, lease or rental of land for a period of more than five years. When the Act takes effect, title will immediately vest in the United States by reason of the deed from Presque Isle dated August 12, 1941 and the deed from Houlton dated August 13, 1941.

Very truly yours,

FRANK I. COWAN
Attorney General

April 3, 1943

To:
Harry V. Gilson, Commissioner Education

From:
John G. Marshall, Assistant Attorney General

On April 1, 1943, you inquired if a town is legally liable to pay the board of students, where no school is provided by the school committee in that town. On the facts presented, the answer is in the negative.

In Chapter 19, Section 78, there is a provision for school committees to agree to this, which would necessarily require a voluntary contract by the several parties, and under Section 2 of the same chapter, the statute reads that the school committee "may authorize the superintendent of schools to pay the board of students" under the circumstances set forth therein. The language is such that it is mandatory or compulsory upon the committee only if it sees fit to make the authorization.

It is true that the public school laws require a town to make provision for the maintenance of its schools for not less than 32 weeks annually. But the only penalty is the loss of State school moneys. Under our system of government, a great deal of control of municipal affairs is necessarily left with the individual in that municipality. If a citizen of a town should feel that his local government is not functioning according to law, and if he can prove that, he has a remedy which is not available to outside administrative bodies, unless express provision is made therefor by statute. There is no provision for such action in this case.

JOHN G. MARSHALL
Assistant Attorney General

April 6, 1943

To:
David H. Stevens, Assessor Assessor

From:
John G. Marshall, Assistant Attorney General

Supplemental Tax on York Utilities Co.
History

In 1903, the Atlantic Shore Line Railway was created by Chapter 175 of the Private and Special Laws. Amendments to the charter were made in 1905, P. & S., Chapter 241; in 1907, P. & S., Chapter 303; in 1907, P. & S., Chapter 439.

In 1911, P. & S., Chapter 39, the Act cites that certain individuals had purchased the assets of the Atlantic Shore Line Railway under order of sale by the United States Circuit Court and its decree pursuant thereto. The Act ratifies the sale and recites that the bonds, as described in the Act, shall be a binding obligation of the Atlantic Shore Railway which was the name of the corporation apparently organized under the General Laws for the purchase of the assets of the Atlantic Shore Line Railway. The Act ratifies and makes valid all of these acts by the newly created corporation. The Act further recites the right of the new corporation to enjoy all of the rights, franchises and privileges of the Atlantic Shore Line Railway.

On January 18, 1923, the holders of the refunding mortgage bonds of the Atlantic Shore Railway having foreclosed the mortgage securing the same, the United States District Court of Maine ordered a sale to the several named individual purchasers of all the assets of

the Atlantic Shore Railway and all of the powers, rights and franchises by reason of the original Certificate of Organization or by virtue of Chapter 39 of the Private and Special Laws of 1911. These several purchasers organized a new corporation under the General Laws of the State of Maine to be known as the York Utilities Company, the articles of incorporation of which provided that the corporation was to exercise the powers, rights and franchises held by the Atlantic Shore Railway either by virtue of its original certificate or by virtue of the provisions of Chapter 39 of the Private and Special Laws of the State of Maine of 1911.

On August 5, 1924, the purposes of The York Utilities Company were enlarged by an amendment to its charter by adding the following:

> "And to buy, sell, own and operate motor vehicles commonly known as jitney busses or other vehicles over and along the streets and highways in the Town of Sanford or other towns in which said York Utilities Company's lines are located, and elsewhere, in connection with and auxiliary to its street railway lines, and to engage generally in the transportation of persons, merchandise, baggage and mail by electric railway, motor vehicle or other method of transportation, and also to buy, sell, own, operate or lease amusement parks, casinos or restaurants.

so that the purposes and objects of the corporation as altered and enlarged shall be as follows:

> "To exercise all the powers, rights, privileges and franchises which the Atlantic Shore Railway possessed by virtue of its original certificate of organization and under and by virtue of the provisions of Chapter 39 of the Private and Special Laws of the State of Maine for the year 1911, and to buy, sell, own and operate motor vehicles commonly known as jitney busses, or other vehicles over and along the streets and highways in the Town of Sanford or other towns in which said York Utilities Company's lines are located, and elsewhere, in connection with and auxiliary to its street railway lines, and to engage generally in the transportation of persons, merchandise, baggage and mail by electric railway, motor vehicle or other method of transportation, and also to buy, sell, own, operate or lease amusement parks, casinos or restaurants."

The charter was again amended on March 17, 1925 by adding the following, "to produce by hydraulic or other means and sell hydraulic power to incorporated places, manufacturers, and so forth in the Towns of Sanford, Alfred, Lyman, Kennebunk, Kennebunkport, and elsewhere."

The York Utilities Company is presently in operation and on February 24, 1942 filed a return with the Public Utilities Commission of the State of Maine for the year ending December 31, 1941, which is known as a railway return. In this annual report, or return, the

York Utilities Company showed on page 302 thereof gross revenue from transportation as $78,948.23. In the compilation of this total there are items to show the break-down and sources from which this revenue is received, and under Item 108 in the printed form, which is designated as "switching revenue," the word "Bus" is written in pencil. This department has been verbally informed by the State Tax Assessor's Department that the amount of money received under this heading was not switching revenue but earnings from the operation of the bus lines, amounting to $39,881.87.

A question has arisen as to how the tax shall be computed against the York Utilities Company by reason of its being chartered to operate a railway in the State of Maine and by reason of its having received revenue from the operation of motor busses.

Opinion

Chapter 12, Section 35 of the Revised Statutes of Maine provides for the manner in which street railroad corporations and associations are to be taxed:

> "Sec. 35. Street railroad corporations and associations are subject to the seven preceding sections and to section four of chapter thirteen, except that the annual excise tax shall be ascertained as follows: when the gross average receipts per mile do not exceed one thousand dollars the tax shall be equal to one-fourth of one per cent on the gross transportation receipts; and for each thousand dollars additional gross receipts per mile, or fractional part thereof, the rate shall be increased one-fourth of one per cent, provided that the rate shall in no case exceed four per cent."

In reaching a conclusion to the question one must review the history of legislation on the subject of street railways in the State, together with the decisions of our courts thereon. The original statute in Maine is found in the Public Laws of 1881, Chapter 91, providing for an excise tax on railroads, a tax to be levied against every corporation, person or association operating any railroad in this State. At that time there were no electric street railroads in the State.

By chapter 150 of the Public Laws of 1883, horse railroad corporations and associations were made subject to the provisions of the foregoing, except in the manner of ascertaining the tax.

Further amendments were made in 1887, 1901 and 1909, and appeared in the Revised Statutes of 1916, Section 32 of Chapter 9, being an adaptation of Chapter 150, Public Laws of 1883, relating to horse railroads and now relating to street railroad corporations or associations. The Revised Statutes of 1930, Chapter 12, Section 35, carry the same method of computation and rates of tax for street railways as appeared in the revision of 1916.

Section 35 of Chapter 12 reads, in part, as follows: "Street railroad corporations and associations are subject to the seven preceding sections," which sections, to which reference is made, refer to railroads, and our Supreme Court has decided, in the case of *State vs. The*

Boston & Maine Railroad, 123 Maine 48, that a railroad does not include a street railroad or street railway. The two are separate and distinct, and a different method of computation of the tax applies to railroads than is applicable to street railroads. In arriving at that conclusion, the Court discussed at considerable length the history of the two types of transportation, together with the intent of the legislature when the two separate sections of our statutes were enacted, dealing with these methods of transportation. The Court stated that street railroads or railways were not in existence when the original statute providing for taxation of railroads was enacted. Therefore, the legislature could not have considered, nor intended, to include an operation which did not then exist. The enactment of the tax on street railroad corporations came into being after the existence of horse-drawn vehicles on tracks. By the same parity of reasoning one is impressed by the fact that when the legislature enacted the tax on street railroads, it could not have intended to include motor busses and the revenue derived from such, because the facts would show that motor busses were not operated by street railroad companies at the time of that enactment and were not being operated at the time of the incorporation of the York Utilities Company.

The York Utilities Company must have had in mind the limitations under its charter, because it amended the same on August 5, 1924, to provide for the operation of jitney busses or other vehicles over certain routes designated therein, which indicated that the company did not consider the operation of busses a part of its operation of a street railroad or incidental thereto, but a separate and distinct operation.

"Words and Phrases," volume 36, defines a railway or railroad as being a transportation system operated on rails and confined to the course or courses covered thereby.

Further stating, the New York Courts have ruled a vehicle operated on pneumatic tubes by atmospheric pressure is not a railway within the meaning of the statute.

Astor v. New York Arcade Railway Company, 113 N. Y. 93

We next come to the words, as used in our statute for the purpose of taxing railroads, "gross average receipts," which are not to be found exactly defined in volumes of "Words and Phrases," but the words "gross receipts from traffic" had been defined in Volume 18 of "Words and Phrases," page 771, in the case of *City of Harrisburg vs. Harrisburg Railways Company,* 179 Atlantic 442, 443 and 319 Pa. 140, in which case an ordinance imposing a three per cent gross receipts tax on street railway or traction companies to be levied on "gross receipts from traffic," was held inapplicable to dividends received by street railway companies from wholly owned subsidiaries operating motor busses.

The conclusion necessarily reached by the reasoning of our courts and the history of the legislation on this subject would necessarily

be that the income or revenue from the operation of motor busses would not be properly included in computing the taxes on street railways, under our law.

A further question has been posed as to whether or not the mileage covered by the bus operations should be included or added to the trackage of the railway company in computing the tax.

"Words and Phrases," volume 18, page 771, cites the case of *Greenfield & T. F. Street Railway Co. vs. the Town of Greenfield*, 187 Mass. 352, as a case defining the words "gross receipts for each mile." In that case, the gross receipts of street railway companies shall be based on the annual gross receipts for each mile of track, and the computation is to be made by dividing the annual gross receipts by the entire number of tracks operated. In reaching the decision on the first question in this opinion, one necessarily must exclude anything except a negative answer to the second question. If the legislature did not intend to include bus operations when the statute was enacted, one could not reason that the mileage covered by the bus operation could be used. No attempt here is made to compute the tax on the return of the York Utilities Company, as that computation should be made by the taxing authority of the State; but it should be noted that in the return of the York Utilities Company to the Public Utilities Commission of the State of Maine, the miles of trackage set forth therein on page 400 in column (d) is 2.44 and under column (e) .50. An examination of the physical properties could determine whether or not the .50 miles should be added to the 2.44 miles of trackage for the purpose of final computation.

JOHN G. MARSHALL
Assistant Attorney General

April 8, 1943

To:
David H. Stevens, Assessor — Assessor

From:
John G. Marshall, Assistant — Attorney General

Supplemental Tax on York Utilities Co.

In response to your inquiry of March 31, 1943, as to whether or not the State Tax Assessor has the legal right to make a supplemental assessment against the York Utilities Company, using the method of computation in accordance with an opinion of this department on April 5, for previous years' taxes which were erroneously computed during those years.

The answer is in the negative.

The method for the computation of the tax by the State Assessor on street railroads is set forth in Chapter 12, Section 35 of the Revised Statutes. There is no statutory provision under that chapter for the correction of any errors or supplemental assessments of a tax.

Under Chapter 13, Section 32, there is a provision for a supplementary assessment to cover any *omitted* "polls or estate liable to be assessed." That section also specifies the procedure to be followed. This section was amended by the Public Laws of 1939, Chapter 84, section 1; but these two provisions relate to the general provisions affecting taxation in the State of Maine on personalty, realty, and polls.

One must consider the difference from a tax levied on property based upon a valuation multiplied by a mill rate and a franchise tax or excise tax, as the two are as distinct and different as the objects subjected to the tax. Our courts have ruled that the taxing authority, that is, the legislature, can provide for a franchise tax on corporations, and the method of computation may have no relation at all to the value of the corporate body itself. While in the case of realty or personalty, the levy is necessarily based upon valuations and the rate may vary according to necessity and exigency from year to year, in the latter case the physical properties of corporations, such as buildings, are taxable in the municipality where the same are situated, on the same basis and same method as other realty in the municipality; but in the cases of an excise or franchise tax, the value of the physical properties of the taxpayer are of no consequence and are not considered either in the levy or in the method of computation. Therefore, it would seem that the provisions of Chapter 13 and amendments thereto providing for a supplementary assessment would not be applicable in a case of the assessment of an excise tax on a street railroad under Chapter 12, Section 35 of the Revised Statutes.

There have been no decisions in Maine on this question of supplementary assessments against taxpayers who are obligated to pay excise taxes in the State. But our court has said in the case of *Dresden v. Bridge*, 90 Maine, 489, on page 492, "It is omission, and not erroneous judgment that the statute provides for. The omission may be supplied by a supplemental assessment; the erroneous judgment cannot be corrected in that way." In that case, the supplementary assessment was levied under a provision in the law similar to Section 32 of Chapter 13; but it might well be construed as an indication of what the court might say to the taxing authority of the State who made a similar error in the computation of the tax under Chapter 12.

The inquiry from the tax department also requested an opinion as to what effect the proposed Act of the legislature, L. D. 108, amending R. S. Ch. 12, Sec. 14, would have. This amendment to Sec. 14 is to the part of Chapter 12 dealing with real estate and lands. In view of the statement of the court in *Dresden v. Bridge*, it would seem to be very doubtful if the erroneous computation of the excise tax against the York Utilities Company in past years could be corrected by a supplemental assessment, under the terms of the proposed amendment.

JOHN G. MARSHALL
Assistant Attorney General

April 8, 1943

To:
Farm Lands Loan Commission — Agriculture

From:
Frank I. Cowan, General — Attorney General

Assignment of Mortgages

The purpose of the Farm Lands Loan Act (R. S. 1930, Ch. 58) was to assist in the relief of distressed farmers. The Commission is authorized under the Act to make loans for that purpose, taking as security a first mortgage on the applicant's farm. The payments are arranged on such a basis that in the absence of extraordinary misfortune the farmer can gradually pay off his loan.

There is nothing in the statute, either expressly or by implication, authorizing the State to transfer the farmer's liability from the State to any other financial agency or to any other person. The statute is paternalistic in form and spirit; and to carry out the intent of the legislature in its attempt to aid the farmer financially, it must be strictly construed.

In my opinion the Commission cannot transfer one of its mortgages by assignment, even though in some individual case that might seem to be an act that could not, either directly or indirectly, add to the burden of the original mortgagor.

FRANK I. COWAN
Attorney General

April 15, 1943

To:
A. L. Kane, Controller — Accounts and Control

From:
Frank A. Farrington, Deputy — Attorney General

Transportation Tax

Various discussions have been held with you in this office in the past relative to the payment of the Federal transportation tax by the State to the supplier, when such tax has been paid by such supplier.

While this results in a tax on the State which it would not have to pay if it paid directly for the transportation charges, and while this department feels that it is improper for the State to be forced to pay the tax in this way, under present Federal regulations, it is recognized that for practical reasons a refusal to pay would be likely to cause hardship to the State in obtaining supplies.

It is therefore the opinion of this department that under existing circumstances it is proper to pay transportation tax charges included in suppliers' invoices, where it is impracticable to arrange for direct payment of transportation by the State.

FRANK A. FARRINGTON
Deputy Attorney General

April 22, 1943

To:
William D. Hayes, State Auditor — Auditor

From:
Frank I. Cowan, General — Attorney General

Salary Authorizations and Certifications

I have at hand a copy of your memorandum of March 5th. I am giving you a reply which may be subject to modification on further study of the subject.

R. S. Chapter 125, section 36, was a piece of legislation doubtless designed to go some distance in correcting inequalities in salaries and wages and to eliminate favoritism. These results, if the sponsor of the legislation sought for such results, were not accomplished, and in 1937 the Personnel Law was placed on our statute books. I heard the proposed Personnel Law discussed a great deal during the years prior to its enactment. One of the arguments in favor of the legislation was that personal favoritism and politics were rampant and that there needed to be a system adopted which would provide for uniformity and would protect the State from the employment of incompetents and at the same time protect competent employees in their positions. I believe that the Personnel statute is now doing a great deal of good along that line, although during the first few years we had the law, it certainly did not accomplish any very meritorious purpose.

I have often wondered why Section 7 was written in its present form. It seems to me that there are at least two distinct classes of employees, and perhaps more than two, that are grouped together in that section.

If we tried to use R. S. Chapter 125, section 36 as a boundary for all of the employees set out in Section 7, we should find ourselves in difficulties immediately. For instance, in paragraph 9 we find the following grouping: "Officers and employees of the University of Maine, of the several State Normal Schools, and of the unorganized territory school system." Obviously, the Governor and Council have no authority to fix compensation for officers and employees of the University of Maine.

The compensation of employees in paragraphs 1 and 2, some of those in paragraph 4, all of those in paragraph 5 and some in paragraph 3 is set by the legislature.

It is true that R. S. Chapter 125, section 36 applies only to "assistants, clerks and other employees" and probably the word "employees" is used here in a narrow sense and applies to persons whose tenure in office is dependent on the will of a department head. However, no such distinction is made in P. L. 1937, Chapter 221, section 7.

I am forced to the conclusion that we cannot apply R. S. 125, section 36, to P. L. 1937, Chapter 221, section 7 and have the latter section fully covered or properly bounded. I shall be very glad to discuss this matter further with you and with Mr. Earle Hayes to see if we can't break down Section 7 and decide whether certain of the employees of the State referred to in these thirteen paragraphs cannot be brought within the provisions of R. S. Chapter 125, section 36.

FRANK I. COWAN
Attorney General

April 30, 1943

To:
Harrison C. Greenleaf, Comm'r Institutions

From:
Frank A. Farrington, Deputy Attorney General

Employment of State Prison Inmates

In your pencil memorandum of April 29th, you ask whether under existing State laws inmates of the State Prison may be employed to work in Searsport at unloading fertilizer.

Section 331 of Chapter 1, P. L. 1933 provides in part as follows: ". . . . and the letting to hire of such of the convicts as the department deems expedient . . . . shall be made with the warden, in the manner prescribed by the department."

Considered alone this section seems to permit general "letting to hire" of convicts within its terms.

However, Section 322 of Chapter 1, P. L. 1933 locates the State Prison ". . . . in which convicts, lawfully committed thereto, shall be confined, employed, and governed as provided by law." Under this section it seems clear that employment is to be at the State Prison only.

Section 325 of said Chapter 1 permits employment of prisoners "in the construction or improvement of highways or on other public works" under certain arrangements and under certain rules and regulations, and is an exception to the general rule that employment must be at the prison, as provided in Section 322.

Section 331, above mentioned, must be considered in connection with sections 322 and 325 and on this basis Section 331 is limited by Section 325 to employment of prisoners on "public works" where the employment is to be outside the Prison. The type of employment under discussion cannot be considered as on "public works".

It is, therefore, the opinion of this department that existing laws will not permit inmates of the State Prison to be employed on the work concerning which you inquire.

FRANK A. FARRINGTON
Deputy Attorney General

May 11, 1943

To:
Guy R. Whitten, Deputy Commissioner Insurance

From:
Frank A. Farrington, Deputy Attorney General

The Millers Mutual Fire Insurance Company, Fort Worth, Texas

Reference is to your memorandum of April 22, 1943 on the above subject, in which you ask for an opinion relative to retaining the deposit made by this company after its withdrawal from the State and while there continue to be policies issued by it still in effect.

Articles 4925 and 4926 of the Revised Civil Statutes of Texas, 1925, which provide for a deposit by insurance companies incorporated outside of Texas and contain provisions indicating that these deposits remain available for protection of policy holders, are still in effect as far as we can ascertain by study of the Texas statutes.

Based on this assumption is the opinion of this department that the Insurance Commissioner may properly retain the deposit made by The Millers Mutual in this State under our reciprocal laws until such time as he feels that the policy holders would be properly protected, if it were to be released.

FRANK A. FARRINGTON
Deputy Attorney General

To: May 25, 1943
Col. F. H. Farnum Civilian Defense

From:
Frank I. Cowan Attorney General

This office has received the following query from Lt. G. Colby Wardwell of Dexter, and in view of the fact that it is a question of importance to the whole State, I am giving a reply directly to you, so that you can inform Lt. Wardwell.

Lt. Wardwell writes: "Mr. Norman Plouff, Chairman of Civilian Defense for Dexter has requested that we obtain your ruling as to whether Auxiliary Police properly identified with arm bands have the authority to stop automobiles during an emergency or any other time."

P. L. 1942, Chapter 305, "The Civilian Defense Act," provides for the Maine Civilian Defense Corps. The Auxiliary Police referred to in the letter either are or should be members of this corps. As such, it is their duty, in common with other members of the corps, to "enforce such rules and regulations as the governor may prescribe for the carrying out of their duties." The Governor has issued rules and regulations, some of which have to do with black-outs and other emergencies. If the stopping of automobiles becomes a necessary activity during a black-out or an air-raid test or any other emergency, the Auxiliary Police, when properly identified by the insignia provided for them, have authority to stop them.

FRANK I. COWAN
Attorney General

To: May 25, 1943
William D. Hayes Auditor

From:
Frank I. Cowan Attorney General

Duties of a Municipality as Trustee

I have been looking into this subject somewhat over the week-end and have failed to find anything to indicate that a municipality is bound by any more harsh rules when it acts as trustee than is an individual. Formerly, a trustee was the owner of the property and there was no criminal responsibility if he misapplied the trust funds. They were given to him, and the donor trusted him to make use of them as said donor desired; but the title and the legal rights were all in the trustee. Equity early came to the aid of the beneficiary of a trust, and assumed the duty of requiring that the trustee carry out the wishes of the donor. Eventually, statutes were passed in many jurisdictions putting a penalty on the trustee, if he used the funds for his private benefit. I do not find any authority for saying that any trustee is an insurer of the trust funds. His obligation is to give them such careful attention as a reasonably prudent man would give to his own property. If, without negligence on his part, the trust property is lost, it is not his duty to restore it, unless there is an express provision in the trust or he has expressly obligated himself in some way, to be responsible for the maintenance of the body of the trust.

For your benefit I quote briefly from Bogert, "Trusts and Trustees."

Vol. 3, Section 582. "The trustee has a duty to protect the trust property against injury or destruction. He is obligated to the cestui to do all acts necessary for the preservation of the trust res which would be performed by a reasonably prudent man employing his own like property for ends similar to those of the trust."

Section 612. "Where left to his own discretion and not controlled by the settler, the court, or a statutory list, the trustee is required by equity to exercise the skill and prudence of a reasonably prudent man in making, keeping and converting trust investments."

Section 612. "Exclusion of selfish Interest."

"The principle that the trustee should exclude all selfish interest in his administration of the trust, and maintain undivided loyalty to the cestui, applies to investments as well as other trust transactions. Lending trust funds to himself obviously violates this rule, as does the purchase of securities from himself."

I have found nothing expressly bearing on the duty of a municipality as trustee, but it is my opinion that those duties would be exactly the same as the duties of a single individual. I see no reason why there should be a greater duty, if a group of individuals are made co-trustees than there should be if there is a single trustee, and a municipality is, after all, simply a group of individuals given certain powers of self-government for the purpose of greater convenience in taking care of matters that affect the whole group.

FRANK I. COWAN
Attorney General

May 26, 1943

R. A. Graves, M. D.
County Medical Examiner
Presque Isle, Maine

Dear Sir:

I have your letter of May 24th, asking whether or not county authorities have jurisdiction in the case of deaths at the Air Base. The Army doctors who acted in the case to which you have referred probably conducted themselves in good faith but in ignorance of the law. There is no State law, and I know of no Federal law that would authorize Army doctors to take charge in case of a civilian death no matter where it occurs. The only exception to this would be the case of a crime committed on Federal property where the State has waived jurisdiction thus giving the Federal Government authority to punish.

The very rapid growth of our military and naval effort has made it impossible to provide that all Federal officers and officials shall be properly instructed regarding the law in the jurisdiction in which they find themselves. Sometimes they do things which are actually violations of the State law and which, being acts not properly in connection with their duties for the Federal Government, make them liable to prosecution. However, we recognize that they are innocent of any wrong intent in their violation of the State law and we go as far as we can in refraining from taking steps which might very well prove seriously embarrassing to them. We call their attention to the fact that they have done something which is not within their legal rights and, by friendly suggestion, point out the proper procedure. We find in general that they are very willing to cooperate. In the case to which you refer, I suggest that you call the attention of the Army doctors to the fact that the State has not waived jurisdiction in connection with the Presque Isle Air Base. As a matter of fact, the Air Port will not become the property of the Federal Government until July 9, 1943 when an act of the Legislature ratifying the conveyance of the property by the City of Presque Isle to the United States Government will take effect.

Very truly yours,

FRANK I. COWAN
Attorney General of Maine

May 28, 1943

From:
Frank A. Farrington, Deputy Attorney General

To:
Lucius D. Barrows, Chief Engineer, Highway Dept.

In re Washington Street Bridge over Kenduskeag Stream in Bangor

This will acknowledge receipt of your letter of May 26th, relative to damages resulting from construction of the above named bridge.

Section 7 of Chapter 114, P. & S. L. 1927 "An Act to Incorporate the Bangor Bridge District, provides in the last paragraph thereof as follows:

> "Before the contract for the construction of the bridge is executed, the several parties who are to pay the costs thereof shall each make arrangements for raising the necessary funds and the proportion of the cost shall be thirty per cent for Bangor Bridge District, thirty per cent for the county of Penobscot and forty per cent for the state of Maine."

It is to be noted that this refers only to the construction contract and not to damages.

Section 5 of the Act provides for payment by the Bridge District of damages resulting from the granting of an easement to it by the city of Bangor.

Section 2 of the Act makes the District subject to all obligations under Chapter 319, P. L. 1915 and acts amendatory thereof which are not inconsistent with the terms of said Chapter 114. Section 9, Chapter 319, P. L. 1915, as amended by Section 6, Chapter 193, P. L. 1923 reads in part as follows:

> "The state shall not be liable to any person or corporation for damages arising from the construction or rebuilding or improvement of any bridge built or rebuilt under the terms of this act."

There is nothing in Chapter 114, P. & S. L. 1927 which is inconsistent with this provision.

In view of the foregoing it is the opinion of this department that the state is not responsible for payment of any part of the damage which may have been suffered by the owner of the property affected by the change of grade of the Washington Street extension.

Deputy Attorney General

June 2, 1943

Commander F. C. Hingsburg, U. S. C. G.
Office of the Captain of the Port,
477 Congress Street,
Portland, Maine.

Dear Sir:—

I have your letter of May 27th inquiring whether the taking of a Federal oath for service in the Coast Guard Auxiliary Temporary Service by a judge, member of the Maine State Legislature, or an employee of the State of Maine, where the reservist must devote twelve hours a week of his free time to military duties and during such time will be subject to military discipline and the jurisdiction of the military, jeopardizes the position of such persons or their employment under the State government.

In my opinion there is no conflict between the State and Federal basic law under such circumstances. The time spent in military duties will either (1) not interfere in any way with the duties of the reservist in connection with his State position, or (2) will come within the intention of the legislature in preserving the status of employees of the State entering the military and naval services of the United States.

Very truly yours,

FRANK I. COWAN
Attorney General

June 4, 1943

To:
Harry V. Gilson, Commissioner — Education

From:
Frank I. Cowan — Attorney General

Your deputy, Mr. Roderick, has sent to this office a memorandum from you to him in regard to Mr. ——. Chapter 38 of the Public Laws of 1931 provides as follows:

"Provided, further, that any certificate granted under this or any preceding law may for sufficient cause be revoked and annulled. . . . Any teacher whose certificate has been revoked shall be granted a hearing on request before a committee,—one member to be selected by the department of education, the second by the teacher involved, and the third by the other two members. The hearings before this committee may be public at their discretion and their decision shall be final."

This language is sufficiently broad to give you authority to revoke the certificate of any teacher when in your opinion such revocation is justified. The law in the language I have quoted above provides for an appeal and a decision by a committee of appeal after hearing the evidence.

There is not sufficient evidence presented to me in the documents from your office so I can properly advise you that such evidence does or does not constitute grounds for revocation. There is an administrative problem, and it can become a matter of interest to this department in case only of mal-administration or mis-administration.

I am returning herewith the memo from yourself to Mr. Roderick and the letter from Mr. ——— to which is attached a reference form.

FRANK I. COWAN
Attorney General

June 4, 1943

To:
Harry V. Gilson, Commissioner Education

From:
Frank I. Cowan Attorney General

State's Obigation for the Education of Children on Government Reservations in Defense Areas

Under date of April 23, 1942, I prepared an opinion in regard to voting rights of workers in the Navy Yard at Kittery, Maine, who live in the Federally owned houses at Kittery Village. This opinion contains a discussion of the rights of such persons and will, I believe, assist you in arriving at the proper answer to your query on the matter of education of children.

Your memo of June 2nd asked in regard to the State's responsibility for the schooling of children residing on Federal Reservations "in or adjacent to defense projects; also the responsibility of towns and cities within whose limits Government reservations are located."

As you will see from reading the opinion in regard to the voting rights of such persons, there is, in my opinion, no distinction to be drawn between a person who lives in a house owned by a private individual and one who lives in a house owned by the Federal Government. The mere fact that the Government is a landlord cannot affect the status of the tenant nor the responsibility of the community and the State toward him. The municipality has the same duty to educate the child of the man who lives as a tenant of the Federal Government within the community that it has to educate the child of a man who lives as a tenant of a private individual within the community.

It is true that where there has been a great influx of new families, the municipality is going to be terribly embarrassed. That result necessarily follows, because the tremendous increase in expense for education and sanitation cannot be approached by any increase in taxes, unless the tax rate is increased beyond all reason. To offset the hardship to communities, the Federal Government, recognizing its duty to subdivisions of the States, has provided for payments to the municipalities *in lieu of taxes*, and has, I believe, in general taken a liberal view toward the necessity of the municipality. The amounts that have been advanced, I am informed, have, in general, been sufficient to take care of the tremendous increase in cost of schooling, policing, fire protection, street maintenance, sewage disposal, etc.

I have purposely refrained from any mention of what the State can do under the present laws to assist a municipality which is in distress by reason of delay on the part of the Federal Government in making advances in lieu of taxes. I prefer that that question shall not be brought up at the present time, unless it seems very necessary. We have our laws in regard to the handling of distressed municipalities by the Emergency Municipal Finance Board, but that law contemplates actual continued inability to take care of obligations.

FRANK I. COWAN
Attorney General

June 4, 1943

To:
David H. Stevens — Assessor

From:
Frank I. Cowan — Attorney General

Town Hall, Silver Ridge Plantation

I have your memo of April 8 asking if you have authority to sell an abandoned town hall located in what was formerly the plantation of Silver Ridge. While there is a close question as to the authority which you may have to sell a building that has been dedicated to public use, it seems to me that in the present instance it is best to lay down a practical rule, this not to serve as a precedent in any other case. The building was originally a school and under the statutes it would pass at deorganization under the control of the Commissioner of Education, had it not long since been abandoned as a school by the plantation itself. From the information you have given me, it seems that after its abandonment as a school it was used as a town hall. This department knows nothing about the origin of the title and whether or not the failure to continue using the building as a school caused the real estate to revert to the original grantor or his heirs. It would depend on the form of the deed which the plantation received.

Assuming that Silver Ridge owned the property in fee and that it some years ago changed the use of the property from that of a school house to that of a town hall and that it has now wholly abandoned it as a building for public uses, so that there is danger of this building's falling into decay and being a total loss, in my opinion you have authority to preserve the property rights of the town by selling the building and the land on which it stands. The proceeds of the sale, of course, must be held in trust for the people of the community.

FRANK I. COWAN
Attorney General

June 15, 1943

To:
A. L. Huot, Auditor — Bureau of Taxation

From:
Frank A. Farrington, Deputy — Attorney General

Church Buildings at Edmunds

Title to real estate in deorganized towns is in the State in trust for the deorganized town, and under the general powers given to the State Tax Assessor in managing the affairs of such deorganized towns, he has broad enough power to make use of such property for the benefit of the community.

It is the opinion of this department that the church building in Edmunds, if it is the property of the deorganized town, may properly

be used by the Department of Education for a school, with the consent of the State Tax Assessor. There is no need of a transfer of title by deed. It is noted, in the first paragraph of your memorandum of June 14th that this church building is the property of the deorganized town "as near as can be ascertained at this time." If there is any question as to the title of this church building, that fact should be determined before any action is taken.

FRANK A. FARRINGTON
Deputy Attorney General

June 17, 1943

To:
David H. Stevens, State Tax Assessor Bureau Taxation

From:
Frank I. Cowan, Attorney General

Your Memo of Feb. 16, 1943

I have before me your memo of February 16th asking in regard to title to property in deorganized towns on which tax liens have run 18 months.

1. If the tax lien is a good one (and we shall assume that it is good and leave the matter of its questionable value to some person who might claim it as a defense to our title) the town of Williamsburg had acquired title sometime in the year 1936 or 1937. If the first lien was not good, but a subsequent lien was good the town acquired title under a subsequent lien. The McLaughlin property, so called, being the property of the town after the expiration of the period of redemption would not be subject to tax by the State and the action of the State in advertising the property in November, 1942 was without valid effect and nothing passed under the deed to the Forestry Department.

2. If the lien action by the town of Williamsburg was invalid for the years 1935, 1936 and 1937, then no title accrued to the town by reason of the lien proceedings. In such case it was proper to assess a State tax and tax title would pass to State under deed to the Forestry Department in 1942.

3. When the town was deorganized under the provisions of Chapter 84 of the Private and Special Laws of 1939 which became effective on March 31, 1940, the title to all property of the town passed to the State to hold as trustee for the people of the community. If the McLaughlin farm had become town property by reason of tax lien no tax should have been assessed for 1940 against the property. If it did not become town property, then the State tax was properly assessed because deorganization of a town does not relieve private property of the burden of State taxation.

4. In your memorandum you do not say whether you laid the tax in your capacity as chairman of the Emergency Municipal Finance Board acting for the town, or whether the tax you speak of was the regular State assessment against the town. Perhaps you will want to clarify that point.

FRANK I. COWAN
Attorney General

June 17, 1943

To:
William D. Hayes, State Auditor — Auditor

and
Julian A. Mossman, Commissioner — Finance

From:
Frank I. Cowan — Attorney General

Bonding of State Employees

Careful thought has been given to the Auditor's memo of June 10, 1943, and the Commissioner's memo of June 15, 1943, in regard to this general subject.

1. The liability of heads of departments is very materially reduced by the effect of P. L. 1943, Chapter 320. The amount of bond which you shall determine necessary from the heads of departments can be fixed accordingly. This, for instance, might apply to the State Tax Assessor, concerning whom a question has been raised, and might apply to the Forest Commissioner, inasmuch as under the new law neither will be liable nor will their sureties be liable for the acts of the subordinates of the principals.

2. Sufficient consideration, apparently, has not been given in the past to the duties of the members of the Highway Commission and the propriety of having these gentlemen bonded. It is our opinion that there is a real legal requirement for the bonding of all employees whose positions are such that they can obtain funds or discounts which should accrue to the State. This same argument applies to the chief of the Bureau of Purchase and to any other officials who are handling money or services or making valuable contracts in behalf of the State.

3. There is no liability on the State because of false arrests made by members of the State police, fish and game wardens, or sea and shore fishery wardens. If bonds have been given by these persons in the past to cover any liability on the State accruing out of false arrests, the money was not wisely spent. The bond should have been, and probably was, an individual bond of the policeman or warden protecting him from loss due to any false arrest of which he might be guilty. All constables and sheriffs and deputy sheriffs bond themselves as protection against false arrests and it frequently hap-

pens that a sheriff or a constable demands a particular bond before he will obey some court precept, in order to protect himself if it turns out that he has been guilty of an unlawful attachment or a false arrest.

4. I find no liability whatsoever on the part of the State in connection with the activities of municipal auditors and bank examiners. They are performing governmental functions. Presumably, they are selected with great care and their antecedents checked before they are given employment. There is a possibility that there might be liability on the part of the State, if some notorious character, well known to be dishonest, were employed by either the State Banking Department or the State Auditor and while engaged in this employment purloined funds which were passing through his hands. However, it is extremely doubtful if there would be any liability on the part of the State even under such circumstances as the above case, because of the fact that the man is employed in a governmental function.

5. In view of the fact that the statute places on the State Auditor and the State Commissioner of Finance the burden of determining who shall be bonded, it would be a presumption on my part to attempt to tell you just what you shall do and what you shall not do. In courtesy to Mr. Mossman, however, I will say that we agree with the last sentence in his memo of June 15th and believe that you will be justified in having both the bank examiners and the auditors bonded in reasonable amounts for the moral effect.

FRANK I. COWAN
Attorney General

July 18, 1943

To:
S. F. Dorrance Agriculture

From:
Frank A. Farrington, Deputy Attorney General

1. Dog Licenses. 2. Damage to Domestic Animals.

Reference is to your memo of June 15th.

1. It is the opinion of this department that dogs kept for training in this State must be licensed in Maine. Section 158, Chapter 5, R. S. 1930, as amended by Chapter 278, P. L. 1941, requires the keeper of a dog to license the dog in accordance with the provisions of said section.

2. It is the opinion of this department that rabbits are not included in the term "domestic animals", as contemplated by the statute covering payment of damages done by dogs to domestic animals.

FRANK A. FARRINGTON
Deputy Attorney General

June 18, 1943

To:
Harrison C. Greenleaf, Commissioner — Institutional Service

From:
Frank A. Farrington, Deputy — Attorney General

Parole of Men's Reformatory Inmates Transferred to State Prison

Reference is to your memorandum of June 11th, dealing with the question of parole in connection with inmates of the Men's Reformatory who have been transferred to the State Prison under the provisions of Section 4 of Chapter 140, P. L. 1941.

In the absence of specific statutory provision for parole under these circumstances, it is the opinion of this department that the policy of the Parole Board should be to follow the same procedure after transfer to the State Prison as would be the case, had the man remained in the Reformatory. The Warden of the prison would step into the position of the superintendent of the reformatory as regards the provisions of Section 2 of Chapter 140, P. L. 1941.

In the instant case, it would seem that the convicts in question become eligible for a parole hearing on recommendation of the warden, after one year from the date of transfer to the State prison.

FRANK A. FARRINGTON
Deputy Attorney General

June 18, 1943

To:
W. Earle Bradbury, Chief Warden — Inland Fisheries and Game

From:
Frank A. Farrington, Deputy — Attorney General

Your memo of June 15th

It is the opinion of this department that Section 98 of Chapter 38 gives an Inland Fish and Game warden the right to stop and search a boat without a warrant within the inland waters of the State, when such warden has reason to believe that birds, fish, game, or other wild animals, taken in violation of law, are to be found therein.

FRANK A. FARRINGTON
Deputy Attorney General

June 22, 1943

To:
R. L. Mitchell, Director — Bureau of Health

From:
Frank A. Farrington, Deputy — Attorney General

Letter of John W. Riley, Town Clerk of Brunswick

Under the circumstances outlined in Mr. Riley's letter there would seem to be no reason why the State laws relative to removal or transportation of a dead body should not be complied with, even though the deceased person is a member of the United States Coast Guard.

It is the opinion of this department on the facts stated that the fact that the deceased had been a member of the Coast Guard does not constitute a fact which changes the State requirements.

I am returning herewith Mr. Riley's letter.

FRANK A. FARRINGTON
Deputy Attorney General

June 23, 1943

Victor H. Hinkley, Chairman,
Maine Board of Commissioners of Pharmacy,
Brewer, Maine.

Dear Mr. Hinkley,

A question has arisen relative to the sale of so-called exempt narcotics by persons not qualified as pharmacists or physicians.

Section 19, Chapter 23, R. S. 1930, as amended by Section 9, Chapter 160 of the Public Laws of 1939, reads in part as follows:

"No person except a registered apothecary or a physician of regular standing in his profession, shall furnish, sell, or keep for sale any opium, morphine, laudanum, or preparations containing opium, morphine or derivative of opium."

Under these terms no one other than those specified therein is permitted to make such sales.

Question has been raised as to whether the Uniform Narcotics Act, Chapter 251, P. L. 1941, has modified said Section 19. After extended study of its provisions, it is the opinion of this department that it does not affect said Section 19 and that under the Maine statutes no one other than a registered pharmacist or a physician of regular standing can sell the so-called exempt narcotics.

This opinion replaces any opinion on the subject which may have been rendered heretofore to any person on the same subject.

Very truly yours,

FRANK A. FARRINGTON
Deputy Attorney General

June 24, 1943

To:
Earl Hutchinson, Director Secondary Ed. Education

From:
Frank A. Farrington, Deputy Attorney General

Eligibility of Academic Teachers for Membership in Contributory and Non-Contributory Systems

Reference is to your memorandum of February 15th on the above subject, reply to which has been delayed pending conference, which conference has been held this morning.

Under Section 219, Chapter 19, R. S. 1930, the non-contributory pension Act, requirements for eligibility appear to be that in schools other than public schools, in order for a teacher to be eligible, the school must be supported fully or at least three-fifths by State or town appropriations and must be under public management and control. In this section, "state or town appropriation" should be construed as meaning "state and/or town appropriation." Under this section, "public management and control" means a joint board as required under Section 92 of said Chapter 19. In the opinion of this department, both requirements are essential for teachers to be eligible.

Under Section 229 of said Chapter 19, subsection I, the requirements for membership in the contributory system for a teacher in a school other than a public school are that such school has contract relations with a town under Section 92 and receives at least three-fifths of its support from the State and/or town, thus interpreting "state" as meaning public funds.

Under said Section 92, if the money paid under the contract equals or exceeds the income of the academy for the preceding year, exclusive of sums paid said academy by the contracting town, it is required that there be a joint committee; but if the amount paid under the contract amounts to less than half of the income of the academy for the preceding year, exclusive of the amount paid under the contract, then it is not necessary for a joint committee to be in existence in order for a teacher in such academy to be eligible for membership in the contributory system.

The word "support", as used in Section 229 (I) should be interpreted as the amount expended for running the scholastic part of the school, exclusive of costs of running dormitories, costs of feeding pupils, and similar non-scholastic costs.

FRANK A. FARRINGTON
Deputy Attorney General

June 24, 1943

To:
J. A. Mossman, Commissioner — Finance

From:
Frank I. Cowan — Attorney General

I have your memorandum of June 22nd, asking whether proceeds of the State Highway Bond Issue, issued under the provisions of P. & S. 1941, Chapter 68, may, by reason of inability to use the money for the original purpose, be invested in U. S. Government securities under the provisions of P. L. 1943, Chapter 192.

Although the amendment to R. S. 1930, Chapter 2, Section 75, which appears as P. L. 1943, Chapter 192, uses the word "investment" in connection with the purchase of "bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than one year from the date of investment," it is evident that the legislature had in mind the same type of limited in-

vestment we make when we deposit funds in a savings account or in any other interest-bearing account. For instance, the court of North Dakota in the case of *Kilby vs. Burnham*, 65 N. D. 169, held that placing a minor's money in a bank on a time certificate of deposit constituted an "investment" by the guardian.

On the other hand, a deposit of funds in a bank subject to withdrawal on demand does not constitute an "investment". See *Gross vs. Butler*, 48 Georgia Appeals 750; *Jones vs. O'Brien*, a South Dakota case reported in 235 Northwestern 654.

In line with the *Kilby vs. Burnham* case cited above, see *State vs. Marron*, 18 New Mex. 426; *Andrew vs. Iowa Savings Bank*, 241 Northwestern 412. There are many cases showing this distinction.

It is a recognized fact that for some years the State has had on daily deposit an amount of cash much in excess of the maximum provided in R. S. 1930, Chapter 2, Section 75, and it has been necessary to take advantage of the provision of the statute in regard to excess current funds. The purpose of the amendment of 1943 is two-fold. First, it will permit the State to get some return on moneys otherwise lying idle in non-interest-bearing bank deposits, and, second, it will relieve the treasurer from his position of having to consider several million dollars as current funds.

Although P. & S. 1941, Chapter 68, Section 2, provides that the $700,000 referred to in your memorandum shall be "for the purpose of raising funds to match regular federal aid funds for the construction of state highways and bridges," and although Section 5 of said act states, "The proceeds of such sales shall be held by the treasurer of state and paid by him on warrants drawn by the governor and council and shall be expended for the purposes set forth in section two hereof," the statute did not contemplate that the treasurer should hold the funds in actual cash for the stated purpose. It is naturally assumed that he would place the funds in a bank or banks, and it is further assumed that he would take his duties as steward of said funds seriously and, where possible within the provisions of his legal rights, would obtain for the State whatever interest he could to offset as far as possible the interest which the State itself is paying for the use of the money. The 1943 amendment enlarges his authority by providing an additional location for the placing of the funds under such circumstances that they will be safe and can be recovered at such time as the Highway Commission believes it can use them.

No such "investment" should be made with these particular funds without instructions from the Highway Commission that the money will not be needed immediately for the purpose expressed in the enabling act, and the "investment" should be so made that withdrawal can be accomplished any time the Highway Commission shall need the money.

FRANK I. COWAN
Attorney General

June 26, 1943

Mr. Lucien Lebel,
City Clerk,
Lewiston, Maine.

Dear Sir:—

Your letter of June 24th addressed to the Commissioner of Inland Fisheries and Game, relative to poll tax receipts in connection with granting of fishing licenses, has been referred to this office for reply.

Under the provisions of Section 40 (e) of the Biennial Revision of the Inland Fish and Game Laws, a resident is defined as "a citizen of the United States who has been a bona fide resident of this State and actually domiciled here for a period of 3 months next prior to his application for a license." Such a person is entitled to a resident hunting or fishing license.

Subsection (9) of Section 19 of the Biennial Revision reads as follows: "No person required by law to pay a poll tax in this state shall be granted a resident hunting, fishing or combined hunting and fishing license until he shall present a receipt or a certificate that he has paid his poll tax in the town where he resided for the year preceding that for which the license is applied for, or a receipt or a certificate from the taxing authority of that town that he was legally exempted therefrom, or that the tax has been abated."

This provision was intended to effect payment of poll taxes and requires a receipt for the previous year to be presented. It was, however, not intended to effect payment of poll taxes outside the State, and in the opinion of this department would apply only to persons who were required to pay a poll tax in this State during the previous year. A notation on the license stub on the line provided for the date of payment of the previous year's poll tax, to the effect that the licensee was a resident of some other State would seem to be sufficient. You should, of course, satisfy yourself that the individual in question was under no obligation to pay a poll tax in this State during the year previous to that in which he applies for a resident license and also that he meets the requirements set forth in Section 40 (e) indicated above.

Very truly yours,

FRANK A. FARRINGTON
Deputy Attorney General

1933

1933 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Disposition	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	1970	813	67	106	984	12	287	245	546	708
Murder	11	1	2	3	5	—	—	—	8	2
Manslaughter	17	5	4	5	3	—	2	2	4	4
Rape	14	7	—	3	4	—	—	—	7	3
Robbery	26	7	2	5	12	—	2	—	15	4
Felonious Assault	53	12	2	10	29	—	5	—	34	11
Assault and Battery	84	39	6	8	31	—	7	10	22	34
B. E. and Larceny	334	120	7	15	192	4	79	—	124	101
Forgery	35	9	—	1	25	—	11	1	14	24
Larceny	170	65	9	8	88	1	35	8	52	48
Sex Offenses	113	37	3	8	65	2	22	4	45	49
Non-Support	28	16	1	—	11	—	7	—	4	21
Drunken Driving	152	54	4	3	91	—	15	47	32	57
Liquor Offenses	419	166	11	15	227	3	51	95	93	130
Intoxication	97	29	—	2	66	—	18	25	25	41
Motor Vehicles	96	60	2	3	31	—	4	22	8	36
Juvenile Delinquency	10	4	—	—	6	—	1	2	3	—
Miscellaneous	311	182	14	17	98	2	28	29	56	143

1933 MURDER—INDICTMENTS AND APPEALS

Totals	11	1	2	3	5	—	—	—	8	2
Aroostook	1	—	—	1	—	—	—	—	1	1
Cumberland	1	—	—	—	1	—	—	—	1	1
Hancock	2	—	—	1	1	—	—	—	2	—
Oxford	2	1	1	—	—	—	—	—	—	—
Penobscot	1	—	1	—	—	—	—	—	—	—
Piscataquis	3	—	—	—	3	—	—	—	3	—
York	1	—	—	1	—	—	—	—	1	—

1933 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	17	5	4	5	3	—	2	2	4	4
Androscoggin	3	—	2	1	—	—	—	—	1	1
Aroostook	2	—	1	—	1	—	1	—	—	—
Cumberland	4	—	1	2	1	—	1	2	—	—
Hancock	1	1	—	—	—	—	—	—	—	1
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	3	2	—	1	—	—	—	—	1	1
Somerset	1	—	—	1	—	—	—	—	1	1
York	1	—	—	—	1	—	—	—	1	—

1933 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	14	7	—	3	4	—	—	—	7	3
Androscoggin	1	1	—	—	—	—	—	—	—	—
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	2	—	—	1	1	—	—	—	2	—
Hancock	1	1	—	—	—	—	—	—	—	—
Kennebec	2	—	—	2	—	—	—	—	2	1
Knox	2	2	—	—	—	—	—	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Oxford	—	—	—	—	—	—	—	—	—	1
Penobscot	2	2	—	—	—	—	—	—	—	—
Piscataquis	1	—	—	—	1	—	—	—	1	—
Washington	—	—	—	—	—	—	—	—	—	1

1933 ROBBERY—INDICTMENTS AND APPEALS

Totals	26	7	2	5	12	—	2	—	15	4
Cumberland	12	2	1	1	8	—	—	—	9	4
Kennebec	7	1	1	2	3	—	2	—	3	—
Penobscot	4	2	—	1	1	—	—	—	2	—
Sagadahoc	2	2	—	—	—	—	—	—	—	—
Waldo	1	—	—	1	—	—	—	—	1	—

1933 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	53	12	2	10	29	—	5	—	34	11
Androscoggin	3	1	—	—	2	—	—	—	2	2
Aroostook	6	4	—	—	2	—	—	—	2	—
Cumberland	5	1	1	—	3	—	—	—	3	2
Franklin	—	—	—	—	—	—	—	—	—	1
Hancock	3	—	—	2	1	—	—	—	3	2
Kennebec	3	2	—	—	1	—	1	—	—	—
Lincoln	1	—	—	—	1	—	1	—	—	—
Penobscot	14	2	—	7	5	—	—	—	12	1
Sagadahoc	6	—	1	—	5	—	2	—	3	—
Somerset	3	1	—	—	2	—	—	—	2	1
Waldo	4	1	—	—	3	—	—	—	3	1
York	5	—	—	1	4	—	1	—	4	1

1933 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	84	39	6	8	31	—	7	10	22	34
Androscoggin	9	1	—	1	7	—	—	4	4	13
Aroostook	9	4	—	1	4	—	—	2	3	3
Cumberland	16	9	—	1	6	—	3	—	4	3
Franklin	1	1	—	—	—	—	—	—	—	1
Hancock	4	1	—	1	2	—	—	—	3	2
Kennebec	5	4	—	—	1	—	1	—	—	1
Knox	2	1	—	—	1	—	—	—	1	—
Lincoln	2	—	1	1	—	—	—	1	—	2
Oxford	3	3	—	—	—	—	—	—	—	1
Penobscot	17	8	4	1	4	—	—	1	4	6
Piscataquis	—	—	—	—	—	—	—	—	—	1
Somerset	9	4	1	1	3	—	1	1	2	—
Washington	2	1	—	—	1	—	—	—	1	—
York	5	2	—	1	2	—	2	1	—	1

1933 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	334	120	7	15	192	4	79	—	124	101
Androscoggin	13	6	—	—	7	—	—	—	7	24
Aroostook	48	11	1	1	35	—	25	—	11	8
Cumberland	71	39	—	4	28	—	9	—	23	5
Franklin	12	6	—	1	5	—	—	—	6	—
Hancock	29	3	—	1	25	4	13	—	9	2
Kennebec	21	6	1	—	14	—	7	—	7	7
Knox	7	—	—	—	7	—	4	—	3	1
Lincoln	23	9	—	—	14	—	5	—	9	14
Oxford	12	—	—	1	11	—	—	—	12	5
Penobscot	37	23	2	1	11	—	1	—	11	2
Piscataquis	4	2	—	—	2	—	2	—	—	—
Sagadahoc	9	3	—	—	6	—	1	—	5	10
Somerset	13	4	1	—	8	—	4	—	4	6
Waldo	10	2	1	6	1	—	2	—	5	15
Washington	—	—	—	—	—	—	—	—	—	2
York	25	6	1	—	18	—	6	—	12	—

1933 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	35	9	—	1	25	—	11	1	14	24
Androscoggin	4	—	—	—	4	—	—	1	3	6
Cumberland	3	—	—	—	3	—	3	—	—	2
Franklin	1	—	—	—	1	—	—	—	1	—
Hancock	8	7	—	—	1	—	—	—	1	2
Kennebec	2	—	—	1	1	—	—	—	2	1
Knox	3	—	—	—	3	—	3	—	—	1
Lincoln	—	—	—	—	—	—	—	—	—	3
Oxford	3	—	—	—	3	—	—	—	3	2
Penobscot	5	2	—	—	3	—	—	—	3	—
Somerset	5	—	—	—	5	—	4	—	1	6
Waldo	—	—	—	—	—	—	—	—	—	1
York	1	—	—	—	1	—	1	—	—	—

1933 LARCENY—INDICTMENTS AND APPEALS

Totals	170	65	9	8	88	1	35	8	52	48
Androscoggin	5	—	—	—	5	—	—	1	4	7
Aroostook	45	15	3	—	27	—	13	2	12	5
Cumberland	28	11	1	—	16	—	10	1	5	6
Franklin	5	2	—	—	3	—	1	—	2	2
Hancock	15	8	—	—	7	—	2	—	5	—
Kennebec	7	4	—	1	2	—	—	1	2	2
Knox	2	—	—	—	2	—	2	—	—	1
Lincoln	1	—	—	—	1	—	—	—	1	3
Oxford	3	2	—	—	1	—	—	—	1	5
Penobscot	32	16	5	1	10	—	—	1	10	7
Piscataquis	1	—	—	1	—	—	—	—	1	—
Somerset	8	1	—	—	7	—	4	1	2	2
Waldo	2	1	—	1	—	1	—	—	—	1
Washington	4	—	—	—	4	—	2	1	1	1
York	12	5	—	4	3	—	1	—	6	6

1933 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	113	37	3	8	65	2	22	4	45	49
Androscoggin	9	—	—	1	8	—	—	—	9	19
Aroostook	9	3	1	—	5	—	1	1	3	2
Cumberland	28	11	—	1	16	—	10	—	7	8
Franklin	3	—	—	—	3	—	1	—	2	—
Kennebec	20	10	1	1	8	—	2	—	7	6
Knox	1	—	—	1	—	—	—	—	1	—
Lincoln	3	1	—	—	2	—	—	—	2	—
Oxford	1	—	—	—	1	—	—	—	1	3
Penobscot	11	9	—	—	2	—	—	—	2	3
Piscataquis	2	—	—	1	1	—	1	—	1	—
Sagadahoc	4	1	—	—	3	—	3	—	—	—
Somerset	8	1	1	—	6	1	1	—	4	3
Waldo	7	1	—	2	4	—	1	2	3	5
Washington	2	—	—	—	2	1	—	—	1	—
York	5	—	—	1	4	—	2	1	2	—

1933 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	28	16	1	—	11	—	7	—	4	21
Androscoggin	3	3	—	—	—	—	—	—	—	8
Aroostook	2	1	—	—	1	—	—	—	1	—
Cumberland	6	2	—	—	4	—	4	—	—	2
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	3	3	—	—	—	—	—	—	—	2
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	1	—	—	—	1	—	1	—	—	2
Penobscot	5	2	1	—	2	—	—	—	2	4
Somerset	2	1	—	—	1	—	1	—	—	1
Waldo	1	—	—	—	1	—	—	—	1	2
York	1	—	—	—	1	—	1	—	—	—

1933 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	152	54	4	3	91	—	15	47	32	57
Androscoggin	18	7	—	1	10	—	1	7	3	11
Aroostook	15	6	—	—	9	—	1	6	2	2
Cumberland	24	10	2	—	12	—	5	1	6	11
Franklin	7	2	—	—	5	—	2	1	2	—
Hancock	6	—	—	—	6	—	—	4	2	2
Kennebec	21	4	1	—	16	—	2	10	4	6
Knox	5	2	—	—	3	—	2	—	1	—
Lincoln	3	1	—	—	2	—	1	—	1	9
Oxford	4	2	—	—	2	—	—	1	1	1
Penobscot	31	15	1	1	14	—	—	13	2	10
Sagadahoc	3	1	—	—	2	—	—	—	2	2
Somerset	7	1	—	1	5	—	1	3	2	—
Waldo	1	—	—	—	1	—	—	—	1	1
Washington	2	—	—	—	2	—	—	1	1	1
York	5	3	—	—	2	—	—	—	2	1

1933 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	419	166	11	15	227	3	51	95	93	130
Androscoggin	14	4	—	—	10	—	2	5	3	18
Aroostook	65	25	1	2	37	—	5	17	17	6
Cumberland	68	31	2	1	34	—	23	6	6	31
Franklin	6	5	—	—	1	—	—	1	—	3
Hancock	14	4	1	—	9	—	8	—	1	5
Kennebec	38	15	1	1	21	—	4	10	8	12
Knox	6	3	—	—	3	—	2	—	1	—
Lincoln	6	1	1	—	4	—	2	—	2	7
Oxford	47	18	1	1	27	—	—	14	14	8
Penobscot	68	32	1	3	32	—	—	18	17	19
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	5	3	—	1	1	—	—	1	1	2
Somerset	14	6	3	1	4	1	3	—	1	5
Waldo	3	—	—	—	3	2	—	—	1	8
Washington	6	—	—	1	5	—	1	1	4	3
York	58	18	—	4	36	—	1	22	17	3

1933 INTOXICATION—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	97	29	—	2	66	—	18	25	25	41
Androscoggin	9	1	—	—	8	—	1	3	4	8
Aroostook	7	4	—	1	2	—	2	1	—	—
Cumberland	35	17	—	—	18	—	12	2	4	3
Kennebec	4	—	—	—	4	—	2	2	—	—
Lincoln	—	—	—	—	—	—	—	—	—	10
Oxford	2	1	—	—	1	—	—	1	—	—
Penobscot	24	3	—	—	21	—	—	15	6	17
Sagadahoc	2	1	—	—	1	—	—	—	1	—
Waldo	2	1	—	—	1	—	—	1	—	—
Washington	10	—	—	—	10	—	—	—	10	3
York	2	1	—	1	—	—	1	—	—	—

1933 MOTOR VEHICLES—INDICTMENTS AND APPEALS

Totals	96	60	2	3	31	—	4	22	8	36
Androscoggin	5	3	—	—	2	—	—	1	1	3
Aroostook	6	3	—	2	1	—	—	2	1	—
Cumberland	19	15	—	—	4	—	—	2	2	6
Franklin	2	1	—	—	1	—	—	1	—	—
Hancock	3	1	1	—	1	—	—	—	1	1
Kennebec	15	11	—	—	4	—	2	2	—	2
Knox	1	—	1	—	—	—	—	—	—	—
Lincoln	—	—	—	—	—	—	—	—	—	6
Oxford	5	5	—	—	—	—	—	—	—	—
Penobscot	25	15	—	—	10	—	—	8	2	15
Piscataquis	—	—	—	—	—	—	—	—	—	—
Somerset	4	1	—	—	3	—	—	3	—	1
Washington	1	—	—	—	1	—	—	—	1	—
York	10	5	—	1	4	—	2	3	—	2

1933 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	10	4	—	—	6	—	1	2	3	—
Cumberland	4	4	—	—	—	—	—	—	—	—
Sagadahoc	6	—	—	—	6	—	1	2	3	—

1933 MISCELLANEOUS—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	311	182	14	17	98	2	28	29	56	143
Androscoggin	28	16	2	1	9	—	1	4	5	32
Aroostook	34	20	1	—	13	—	3	2	8	11
Cumberland	61	37	1	7	16	—	5	4	14	20
Franklin	3	2	—	—	1	—	1	—	—	1
Hancock	9	1	1	1	6	—	4	—	3	6
Kennebec	35	14	4	3	14	—	5	4	8	21
Knox	9	3	—	1	5	—	—	2	4	3
Lincoln	6	6	—	—	—	—	—	—	—	10
Oxford	7	5	1	—	1	—	—	—	1	16
Penobscot	52	37	2	2	11	—	—	8	5	13
Piscataquis	4	—	—	—	4	2	—	—	2	2
Somerset	11	3	2	2	4	—	—	1	5	3
Waldo	1	1	—	—	—	—	—	—	—	4
Washington	12	1	—	—	11	—	8	2	1	1
York	39	36	—	—	3	—	1	2	—	—

FINANCIAL STATISTICS, YEAR ENDING NOV. 1, 1933

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$7,414.89	$13,276.71	$1,392.68	$13,937.16	$5,475.10	$3,350.76
Aroostook	5,167.00	3,236.92	1,252.36	4,071.06	*	2,216.85
Cumberland	31,249.91	35,144.10	2,432.30	3,486.32	5,785.09	3,821.06
Franklin	2,167.81	6,567.68	460.44	1,104.92	425.11	172.78
Hancock	3,349.87	5,007.75	1,396.76	4,840.68	1,253.30	1,253.30
Kennebec	4,619.29	6,958.52	674.98	4,673.51	3,721.40	3,397.74
Knox	339.72	3,257.81	459.04	500.00	655.00	530.00
Lincoln	1,376.75	1,643.42	412.32	645.00	706.92	706.92
Oxford	7,827.00	4,892.99	883.78	5,084.36	2,635.30	1,384.39
Penobscot	22,277.50	10,719.78	2,757.48	12,596.24	8,030.91	4,616.93
Piscataquis	1,209.76	———	511.94	60.00	19.00	19.00
Sagadahoc	1,173.48	2,353.78	344.90	1,631.04	*	315.35
Somerset	4,306.70	3,777.14	1,125.28	5,879.76	2,775.29	*
Waldo	530.68	2,181.30	527.96	1,859.49	1,529.30	229.30
Washington	2,951.05	2,739.53	789.76	763.02	585.02	387.16
York	*	*	1,287.00	*	7,089.87	491.70
Totals	$95,961.41	101,757.43	16,708.98	61,132.56	40,686.61	22,893.24

*Figures Missing.

BAIL 1933

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	24	$17,500.00	5	$7,500.00	–	———	–	———	5	$7,500.00	———	———
Aroostook	–	———	–	———	–	———	–	———	–	———	———	———
Cumberland	1	800.00	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	–	———	–	———	1	———	–	———	1	———	———	———
Kennebec	4	2,500.00	4	2,500.00	1	500.00	4	2,500.00	1	500.00	———	———
Knox	1	500.00	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	3	———	3	———	–	———	3	———	———	———
Oxford	–	———	–	———	–	———	–	———	–	———	1,000.00	———
Penobscot	5	1,000.00	5	1,500.00	–	———	–	———	3	900.00	———	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	1	500.00	1	500.00	–	———	–	———	1	500.00	———	———
Waldo	–	———	–	———	–	———	–	———	1	500.00	———	———
Washington	–	———	–	———	–	———	–	———	–	———	———	———
York	8	3,400.00	12	7,000.00	–	———	9	5,646.68	6	3,073.67	———	520.51
Totals	44	$26,200.00	30	$19,000.00	5	$500.00	13	$8,146.68	21	$12,973.67	$1,000.00	$520.51

LAW COURT CASES 1933

County	Name of Case	Outcome
Androscoggin	Amy Isabel Stuart	Judgment for State
	Ernest Strout	Judgment for Defendant
	Joseph O. Belanger	Judgment for State
	Ernest Roy	Judgment for State
Aroostook	Leo James Cyr	Pending
	Louis Martin	Dismissed
	William Tactikos	Dismissed
Cumberland	Roscoe Moody	Judgment for State
	Gladys French	Judgment for State
	Ralph Frisco	Judgment for State
	Rocco Navarro	Judgment for Defendant
Franklin	None	———
Hancock	Linwood H. Moseley	Pending
Kennebec	Clarence Loveitt	Judgment for State
	Eugene Morang	Pending.
	C. Guy Hume	Judgment for State
Knox	None	———
Lincoln	Frank Maliar	Judgment for State
	Roy B. Rowe	Judgment for State
Oxford	John Faddoul	Judgment for Respondent
Penobscot	J. Oliver Tilley	Judgment for State
	Harry Poole	Judgment for State
	Pasquale Lupre	Judgment for State
	Philip Henry	Continued.
	Donald F. Snow	Continued
Piscataquis	None	———
Sagadahoc	None	———
Somerset	Mrs. Fred Merrill	Judgment for Respondent
	Guy Parker	Judgment for Respondent
	Henry Dorathy	Pending.
Waldo	None	———
Washington	None	———
York	None	———

1934

1934 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	1544	773	58	82	631	10	164	204	335	463
Murder	14	4	1	1	8	1	1	—	7	1
Manslaughter	17	6	4	2	5	—	—	1	6	1
Rape	10	1	2	1	6	—	2	—	5	2
Robbery	21	8	2	6	5	—	—	—	11	2
Felonious Assault	29	10	1	8	10	—	4	1	13	5
Assault and Battery	127	80	2	4	41	4	6	18	17	22
B. E. and Larceny	189	74	7	12	96	—	42	1	65	24
Forgery	42	21	1	1	19	2	8	—	10	8
Larceny	161	80	4	13	64	1	21	2	53	20
Sex Offenses	106	54	4	7	41	—	11	5	32	23
Non-Support	20	17	—	—	3	—	1	—	2	8
Drunken Driving	130	51	5	10	64	1	12	41	20	54
Liquor Offenses	193	112	10	5	66	—	10	45	16	99
Intoxication	112	39	—	—	73	—	20	23	30	60
Motor Vehicles	107	63	1	2	41	—	6	33	4	32
Juvenile Delinquency	1	1	—	—	—	—	—	—	—	—
Miscellaneous	265	152	14	10	89	1	20	34	44	102

1934 MURDER—INDICTMENTS AND APPEALS

Totals	14	4	1	1	8	1	1	—	7	1
Aroostook	4	—	—	—	4	—	—	—	4	—
Cumberland	2	—	1	—	1	—	—	—	1	1
Hancock	1	—	—	1	—	1	—	—	—	—
Sagadahoc	6	4	—	—	2	—	1	—	1	—
Waldo	1	—	—	—	1	—	—	—	1	—
Washington*	—	—	—	—	—	—	—	—	—	—

*Report Missing

1934 MANSLAUGHTER—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	17	6	4	2	5	—	—	1	6	1
Androscoggin	1	1	—	—	—	—	—	—	—	—
Aroostook	1	—	—	—	1	—	—	—	1	—
Cumberland	2	—	1	—	1	—	—	—	1	1
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	3	1	—	1	1	—	—	—	2	—
Knox	1	—	1	—	—	—	—	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Oxford	3	1	1	1	—	—	—	—	1	—
Sagadahoc	1	—	1	—	—	—	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	2	1	—	—	1	—	—	1	—	—

1934 RAPE—INDICTMENTS AND APPEALS

Totals	10	1	2	1	6	—	2	—	5	2
Androscoggin	3	1	—	—	2	—	—	—	2	1
Cumberland	1	—	1	—	—	—	—	—	—	—
Hancock	1	—	—	—	1	—	—	—	1	—
Penobscot	2	—	—	1	1	—	—	—	2	1
Piscataquis	2	—	—	—	2	—	2	—	—	—
Sagadahoc	1	—	1	—	—	—	—	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—

1934 ROBBERY—INDICTMENTS AND APPEALS

Totals	21	8	2	6	5	—	—	—	11	2
Cumberland	8	4	1	3	—	—	—	—	3	1
Hancock	1	—	—	1	—	—	—	—	1	—
Knox	3	—	—	1	2	—	—	—	3	—
Penobscot	9	4	1	1	3	—	—	—	4	1
Washington*	—	—	—	—	—	—	—	—	—	—

*Report Missing

1934 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	29	10	1	8	10	—	4	1	13	5
Androscoggin	3	—	—	—	3	—	2	—	1	—
Aroostook	5	2	—	1	2	—	—	—	3	—
Cumberland	3	1	—	—	2	—	2	—	—	3
Franklin	2	—	—	1	1	—	—	—	2	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	4	—	—	2	2	—	—	1	3	—
Lincoln	2	2	—	—	—	—	—	—	—	—
Penobscot	5	1	—	4	—	—	—	—	4	—
Piscataquis	2	1	1	—	—	—	—	—	—	—
Somerset	—	—	—	—	—	—	—	—	—	2
Washington*	—	—	—	—	—	—	—	—	—	—
York	1	1	—	—	—	—	—	—	—	—

1934 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Totals	127	80	2	4	41	4	6	18	17	22
Androscoggin	14	7	—	—	7	—	1	5	1	1
Aroostook	16	7	—	1	8	—	—	7	2	—
Cumberland	21	15	—	—	6	—	4	—	2	7
Franklin	2	1	—	—	1	—	—	1	—	2
Hancock	6	3	—	1	2	—	—	2	1	2
Kennebec	5	3	—	—	2	—	—	—	2	—
Knox	9	5	—	—	4	—	—	—	4	—
Lincoln	5	5	—	—	—	—	—	—	—	—
Oxford	6	5	—	—	1	—	—	—	1	1
Penobscot	15	13	—	—	2	—	—	1	1	6
Piscataquis	2	2	—	—	—	—	—	—	—	—
Sagadahoc	2	1	—	—	1	—	—	—	1	—
Somerset	8	3	1	1	3	3	1	—	—	2
Waldo	4	—	1	1	2	1	—	—	2	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	12	10	—	—	2	—	—	2	—	1

*Report Missing

1934 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	189	74	7	12	96	—	42	1	65	24
Androscoggin	37	28	—	1	8	—	3	—	6	1
Aroostook	13	4	1	—	8	—	—	—	8	2
Cumberland	22	5	—	2	15	—	10	—	7	2
Franklin	11	3	—	—	8	—	8	—	—	1
Hancock	5	—	1	—	4	—	3	—	1	2
Kennebec	9	2	3	4	—	—	—	—	4	—
Knox	—	—	—	—	—	—	—	—	—	2
Lincoln	7	3	—	—	4	—	—	—	4	5
Oxford	4	—	—	—	4	—	1	—	3	1
Penobscot	34	12	2	1	19	—	5	—	15	4
Piscataquis	3	1	—	—	2	—	1	—	1	—
Sagadahoc	3	—	—	—	3	—	2	—	1	—
Somerset	24	7	—	4	13	—	4	—	13	1
Waldo	13	6	—	—	7	—	5	—	2	3
Washington*	—	—	—	—	—	—	—	—	—	—
York	4	3	—	—	1	—	—	1	—	—

1934 FORGERY—INDICTMENTS AND APPEALS

Totals	42	21	1	1	19	2	8	—	10	8
Androscoggin	3	2	—	—	1	—	1	—	—	3
Aroostook	6	4	—	—	2	2	—	—	—	2
Cumberland	9	4	—	—	5	—	3	—	2	1
Franklin	1	—	—	—	1	—	—	—	1	1
Hancock	1	1	—	—	—	—	—	—	—	—
Knox	2	1	—	—	1	—	—	—	1	1
Lincoln	3	2	—	—	1	—	—	—	1	—
Oxford	2	—	—	—	2	—	2	—	—	—
Penobscot	10	4	1	1	4	—	1	—	4	—
Piscataquis	—	—	—	—	—	—	—	—	—	—
Sagadahoc	—	—	—	—	—	—	—	—	—	—
Somerset	4	2	—	—	2	—	1	—	1	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	1	1	—	—	—	—	—	—	—	—

*Report Missing

1934 LARCENY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	161	80	4	13	64	1	21	2	53	20
Androscoggin	20	5	—	4	11	—	4	1	10	5
Aroostook	17	8	—	2	7	—	1	—	8	—
Cumberland	28	11	2	3	12	—	3	—	12	8
Franklin	5	1	—	—	4	—	3	—	1	1
Hancock	5	3	—	—	2	—	2	—	—	—
Kennebec	9	5	—	2	2	—	—	—	4	—
Knox	4	—	1	2	1	1	—	—	2	1
Lincoln	3	2	—	—	1	—	—	—	1	—
Oxford	13	8	—	—	5	—	3	—	2	—
Penobscot	27	18	1	—	8	—	1	—	7	1
Piscataquis	5	4	—	—	1	—	—	1	—	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset	7	3	—	—	4	—	3	—	1	—
Waldo	1	—	—	—	1	—	1	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	16	12	—	—	4	—	—	—	4	—

1934 SEX OFFENSES—INDICTMENTS AND APPEALS

Totals	106	54	4	7	41	—	11	5	32	23
Androscoggin	50	30	—	1	19	—	5	5	10	—
Aroostook	5	4	—	—	1	—	—	—	1	—
Cumberland	10	7	—	—	3	—	—	—	3	7
Franklin	4	1	1	—	2	—	2	—	—	7
Hancock	2	—	—	—	2	—	1	—	1	—
Lincoln	2	1	—	—	1	—	—	—	1	1
Oxford	11	3	1	2	5	—	—	—	7	4
Sagadahoc	3	—	—	—	3	—	2	—	1	—
Somerset	13	4	1	4	4	—	1	—	7	2
Waldo	3	1	1	—	1	—	—	—	1	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	3	3	—	—	—	—	—	—	—	2

*Report Missing..

1934 NON-SUPPORT—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	20	17	—	—	3	—	1	—	2	8
Androscoggin	8	6	—	—	2	—	1	—	1	1
Cumberland	1	1	—	—	—	—	—	—	—	3
Knox	1	1	—	—	—	—	—	—	—	2
Lincoln	1	1	—	—	—	—	—	—	—	—
Penobscot	3	3	—	—	—	—	—	—	—	2
Piscataquis	3	2	—	—	1	—	—	—	1	—
Sagadahoc	2	2	—	—	—	—	—	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	1	1	—	—	—	—	—	—	—	—

1934 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Totals	130	51	5	10	64	1	12	41	20	54
Androscoggin	13	3	2	1	7	—	3	4	1	4
Aroostook	14	3	—	—	11	—	—	9	2	—
Cumberland	23	10	—	4	9	—	6	2	5	22
Franklin	1	1	—	—	—	—	—	—	—	2
Hancock	3	2	—	1	—	—	—	—	1	—
Kennebec	12	3	—	3	6	—	—	3	6	—
Knox	2	2	—	—	—	—	—	—	—	—
Lincoln	6	4	—	1	1	—	—	2	—	3
Oxford	6	2	—	—	4	—	2	1	1	—
Penobscot	33	15	2	—	16	—	—	14		21
Somerset	5	1	1	—	3	—	—	2	1	1
Waldo	2	—	—	—	2	1	—	—	1	1
Washington*	—	—	—	—	—	—	—	—	—	—
York	10	5	—	—	5	—	1	4	—	—

*Report Missing

1934 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	193	112	10	5	66	—	10	45	16	99
Androscoggin	18	7	1	—	10	—	2	7	1	11
Aroostook	30	22	1	1	6	—	—	3	4	—
Cumberland	48	33	1	1	13	—	3	8	3	35
Franklin	1	1	—	—	—	—	—	—	—	3
Hancock	15	8	1	1	5	—	2	2	2	22
Kennebec	13	2	1	2	8	—	—	4	6	—
Lincoln	17	13	3	—	1	—	—	1	—	3
Oxford	4	1	—	—	3	—	3	—	—	—
Penobscot	26	10	2	—	14	—	—	14	—	23
Piscataquis	5	3	—	—	2	—	—	2	—	—
Somerset	4	3	—	—	1	—	—	1	—	2
Washington*	—	—	—	—	—	—	—	—	—	—
York	12	9	—	—	3	—	—	3	—	—

1934 INTOXICATION—INDICTMENTS AND APPEALS

Totals	112	39	—	—	73	—	20	23	30	60
Androscoggin	9	4	—	—	5	—	2	—	3	2
Aroostook	2	1	—	—	1	—	—	—	1	4
Cumberland	55	14	—	—	41	—	14	5	22	15
Franklin	1	1	—	—	—	—	—	—	—	1
Hancock	2	1	—	—	1	—	—	—	1	1
Kennebec	3	—	—	—	3	—	—	3	—	—
Knox	2	2	—	—	—	—	—	—	—	—
Penobscot	31	11	—	—	20	—	4	15	1	37
Somerset	2	1	—	—	1	—	—	—	1	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	5	4	—	—	1	—	—	—	1	—

*Report Missing..

1934 MOTOR VEHICLE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	107	63	1	2	41	—	6	33	4	32
Androscoggin	6	—	1	—	5	—	—	5	—	5
Aroostook	8	5	—	—	3	—	—	3	—	1
Cumberland	18	16	—	—	2	—	—	2	—	6
Franklin	—	—	—	—	—	—	—	—	—	4
Hancock	6	4	—	1	1	—	—	—	2	1
Kennebec	10	3	—	1	6	—	—	7	—	—
Lincoln	3	3	—	—	—	—	—	—	—	—
Oxford	9	7	—	—	2	—	2	—	—	—
Penobscot	38	21	—	—	17	—	1	15	1	13
Piscataquis	1	—	—	—	1	—	—	1	—	—
Somerset	1	1	—	—	—	—	—	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—
York	7	3	—	—	4	—	3	—	1	2

1934 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	1	1	—	—	—	—	—	—	—	—
Cumberland	1	1	—	—	—	—	—	—	—	—
Washington*	—	—	—	—	—	—	—	—	—	—

1934 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Totals	265	152	14	10	89	1	20	34	44	102
Androscoggin	23	16	—	—	7	—	2	2	3	3
Aroostook	30	17	1	2	10	—	—	4	8	1
Cumberland	55	42	2	1	10	—	5	1	5	43
Franklin	5	2	—	—	3	—	2	—	1	2
Hancock	8	5	1	2	—	—	—	—	2	4
Kennebec	23	8	—	2	13	—	—	11	4	—
Knox	7	2	4	—	1	—	—	—	1	4
Lincoln	20	10	2	—	8	—	2	2	4	1
Oxford	15	9	—	—	6	—	2	—	4	1
Penobscot	42	26	1	2	13	—	1	10	4	34
Piscataquis	5	1	—	—	4	—	1	3	—	3
Somerset	17	5	2	1	9	1	2	1	6	3
Washington*	—	—	—	—	—	—	—	—	—	—
York	15	9	1	—	5	—	3	—	2	3

*Report Missing

FINANCIAL STATISTICS, YEAR ENDING NOV. 1, 1934

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$3,372.58	$20,200.34	$1,358.64	$8,312.00	$2,939.70	$3,609.29
Aroostook	4,010.88	2,696.20	790.40	1,073.56	5,500.01	3,007.34
Cumberland	24,848.62	40,600.97	1,089.60	1,827.72	2,068.86	1,792.50
Franklin	933.76	5,631.13	357.32	300.00	262.10	37.10
Hancock	1,568.40	4,839.54	946.64	2,918.10	1,036.25	436.25
Kennebec	4,607.25	7,110.23	588.68	3,328.40	3,682.98	3,301.96
Knox	877.55	2,658.93	461.72	440.00	297.08	150.00
Lincoln	803.14	1,326.39	176.40	157.00	554.04	234.04
Oxford	2,386.82	3,681.56	681.50	4,038.89	454.58	299.89
Penobscot	12,620.32	9,653.87	1,490.98	6,469.09	7,032.04	3,010.02
Piscataquis	878.03	3,074.04	395.30	200.00	307.88	307.88
Sagadahoc	1,375.10	1,788.12	267.44	1,253.04	410.20	410.20
Somerset	3,015.51	4,086.70	687.96	3,078.16	572.09	684.88
Waldo	1,227.09	1,555.55	530.96	1,042.32	*	*
Washington	*	*	*	*	*	*
York	*	*	*	*	*	*
Totals	$62,525.05	$108,903.57	$9,823.54	$34,438.28	$25,117.81	$17,281.35

*Report Missing.

BAIL 1934

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	12	$7,500.00	–	———	–	———	–	———	–	———	———	———
Aroostook	1	100.00	4	$1,900 00	–	———	1	$1,000.00	–	———	———	$35.69
Cumberland	3	200.00	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	1	500.00	1	500.00	–	———	1	500.00	–	———	500.00	———
Kennebec	2	500.00	1	500.00	–	———	1	500.00	1	500.00	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	3	———	–	———	–	———	–	———	–	———	———	———
Oxford	2	———	2	———	–	———	1	———	1	———	———	———
Penobscot	55	11,800.00	3	150.00	–	———	–	———	3	150.00	———	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	2	1,000.00	2	1,000.00	–	———	2	1,000.00	1	500.00	———	———
Waldo	1	1,036.33	1	1,036.33	–	———	1	1,036.33	–	———	———	———
Washington	–	*	–	*	–	*	–	*	–	*	*	*
York	–	*	–	*	–	*	–	*	–	*	*	*
Totals	82	22,636.33	14	5,086.33	0		7	$4,036.33	6	$1,150.00	$500.00	$35.69

*Report Missing.

LAW COURT CASES 1934

County	Name of Case	Outcome
Androscoggin	None	———
Aroostook	Roy Brewer	Pending
	Leo James Cyr	Dismissed
Cumberland	Old Tavern Farm, Inc.	Pending.
	Theodore Jones	Pending
Franklin	None	———
Hancock	None	———
Kennebec	Eugene Morang	Judgment for State
Knox	None	———
Lincoln	Frank Maliar	Judgment for State
	Roy B. Rowe	Judgment for State
Oxford	Charles Shane	Pending
Penobscot	Philip Henry	Judgment for State
	Donald F. Snow	Judgment for State
	Donald F. Snow	Judgment for State
	Donald F. Snow	Pending
	Charles Mulhern and Ernestine Leteure	Pending
	Frank Smith	Pending
Piscataquis	None	———
Sagadahoc	None	———
Somerset	Henry Dorathy	Judgment for State
Waldo	None	———
Washington	(Not Reported)	
York	None	———

1935

1935 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	1711	555	79	91	986	207	121	290	459	359
Murder	8	—	2	6	—	—	—	—	6	—
Manslaughter	14	—	7	3	4	—	1	—	6	8
Rape	18	3	4	4	7	1	—	1	9	4
Robbery	24	7	1	2	14	1	—	—	15	6
Felonious Assault	28	8	4	5	11	—	—	—	16	2
Assault and Battery	130	44	6	8	72	21	8	19	32	23
B. E. and Larceny	209	46	3	10	150	39	29	2	90	41
Forgery	52	3	2	—	47	11	8	2	26	9
Larceny	193	59	5	2	127	27	23	6	73	55
Sex Offenses	125	35	10	7	73	28	10	5	37	30
Non-Support	22	15	—	—	7	3	—	—	4	10
Drunken Driving	260	56	15	24	165	11	9	106	63	57
Liquor Offenses	173	87	7	3	76	19	13	31	16	21
Intoxication	139	43	—	2	94	12	5	43	36	24
Motor Vehicles	137	72	6	10	49	7	4	42	6	31
Juvenile Delinquency	6	5	—	—	1	—	1	—	—	—
Miscellaneous	173	72	7	5	89	27	10	33	24	38

1935 MURDER—INDICTMENTS AND APPEALS

Totals	8	—	2	6	—	—	—	—	6	—
Androscoggin	1	—	—	1	—	—	—	—	1	—
Cumberland	2	—	1	1	—	—	—	—	1	—
Hancock	1	—	—	1	—	—	—	—	1	—
Somerset	1	—	—	1	—	—	—	—	1	—
Waldo	1	—	—	1	—	—	—	—	1	—
York	2	—	1	1	—	—	—	—	1	—

1935 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	14	—	7	3	4	—	1	—	6	8
Androscoggin	—	—	—	—	—	—	—	—	—	2
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	4	—	2	2	—	—	—	—	2	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	2	—	2	—	—	—	—	—	—	—
Penobscot	—	—	—	—	—	—	—	—	—	5
Piscataquis	1	—	—	—	1	—	1	—	—	—
Sagadahoc	1	—	1	—	—	—	—	—	—	—
Waldo	2	—	2	—	—	—	—	—	—	—
York	2	—	—	1	1	—	—	—	2	—

1935 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	18	3	4	4	7	1	—	1	9	4
Androscoggin	2	—	—	—	2	—	—	1	1	—
Aroostook	2	—	1	1	—	—	—	—	1	—
Cumberland	5	3	—	1	1	1	—	—	1	—
Kennebec	1	—	—	1	—	—	—	—	1	1
Oxford	2	—	—	1	1	—	—	—	2	—
Penobscot	4	—	3	—	1	—	—	—	1	1
Piscataquis	1	—	—	—	1	—	—	—	1	1
Waldo	—	—	—	—	—	—	—	—	—	1
York	1	—	—	—	1	—	—	—	1	—

1935 ROBBERY—INDICTMENTS AND APPEALS

Totals	24	7	1	2	14	1	—	—	15	6
Androscoggin	2	—	—	—	2	—	—	—	2	1
Cumberland	8	5	—	—	3	—	—	—	3	—
Kennebec	1	—	—	1	—	—	—	—	1	—
Penobscot	11	1	1	1	8	1	—	—	8	4
Washington	1	1	—	—	—	—	—	—	—	1
York	1	—	—	—	1	—	—	—	1	—

1935 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	28	8	4	5	11	—	—	—	16	2
Aroostook	4	—	—	1	3	—	—	—	4	—
Cumberland	9	3	1	1	4	—	—	—	5	—
Franklin	2	—	2	—	—	—	—	—	—	1
Hancock	1	1	—	—	—	—	—	—	—	—
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	1	—	—	1	—	—	—	—	1	—
Oxford	2	—	—	—	2	—	—	—	2	—
Penobscot	4	—	1	2	1	—	—	—	3	1
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	2	1	—	—	1	—	—	—	1	—

1935 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	130	44	6	8	72	21	8	19	32	23
Androscoggin	19	2	—	1	16	7	2	6	2	5
Aroostook	16	4	—	1	11	6	—	2	4	—
Cumberland	31	18	3	1	9	3	2	—	5	4
Franklin	2	2	—	—	—	—	—	—	—	—
Hancock	2	—	—	1	1	1	1	—	—	1
Kennebec	2	—	1	1	—	—	—	—	1	—
Knox	—	—	—	—	—	—	—	—	—	1
Lincoln	3	2	—	—	1	—	—	1	—	—
Oxford	3	2	—	—	1	1	—	—	—	—
Penobscot	15	5	—	2	8	—	—	3	7	2
Piscataquis	3	2	—	—	1	—	—	—	1	—
Somerset	6	1	—	—	5	—	3	2	—	7
Waldo	2	—	—	—	2	—	—	—	2	—
Washington	15	4	2	1	8	2	—	4	3	1
York	11	2	—	—	9	1	—	1	7	2

1935 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	209	46	3	10	150	39	29	2	90	41
Androscoggin	22	1	—	1	20	11	—	2	8	3
Aroostook	13	2	—	1	10	1	5	—	5	—
Cumberland	33	10	1	1	21	2	6	—	14	3
Franklin	4	—	—	—	4	—	2	—	2	3
Hancock	24	10	—	4	10	1	1	—	12	—
Kennebec	12	1	—	—	11	1	5	—	5	3
Knox	11	5	—	—	6	3	2	—	1	—
Lincoln	5	4	—	—	1	—	—	—	1	3
Oxford	9	—	—	—	9	2	3	—	4	20
Penobscot	18	2	2	3	11	—	—	—	14	—
Sagadahoc	9	3	—	—	6	2	1	—	3	1
Somerset	6	—	—	—	6	—	2	—	4	1
Waldo	5	3	—	—	2	—	—	—	2	1
Washington	10	4	—	—	6	—	—	—	6	3
York	28	1	—	—	27	16	2	—	9	—

1935 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	52	3	2	—	47	11	8	2	26	9
Androscoggin	3	—	—	—	3	1	—	1	1	1
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	10	1	—	—	9	1	4	—	4	1
Franklin	6	1	—	—	5	1	3	—	1	—
Hancock	3	—	—	—	3	—	—	—	3	—
Kennebec	5	—	—	—	5	1	—	—	4	2
Knox	3	—	2	—	1	—	—	—	1	—
Oxford	2	—	—	—	2	2	—	—	—	—
Penobscot	9	1	—	—	8	3	—	1	4	4
Somerset	5	—	—	—	5	1	1	—	3	—
Waldo	—	—	—	—	—	—	—	—	—	1
Washington	2	—	—	—	2	1	—	—	1	—
York	2	—	—	—	2	—	—	—	2	—

1935 LARCENY—INDICTMENTS AND APPEALS

Totals	193	59	5	2	127	27	23	6	73	55
Androscoggin	15	—	—	—	15	7	—	—	8	8
Aroostook	9	2	1	—	6	—	—	1	5	1
Cumberland	48	31	—	—	17	4	6	—	7	6
Franklin	12	4	—	—	8	2	2	—	4	7
Hancock	8	1	—	—	7	3	—	—	4	3
Kennebec	16	2	1	1	12	—	4	1	8	5
Knox	6	1	1	—	4	—	—	—	4	3
Oxford	6	—	—	—	6	1	1	—	4	—
Penobscot	30	8	2	1	19	6	—	—	14	16
Piscataquis	2	2	—	—	—	—	—	—	—	1
Sagadahoc	1	—	—	—	1	—	—	1	—	—
Somerset	15	1	—	—	14	—	7	—	7	—
Waldo	6	2	—	—	4	—	—	—	4	4
Washington	6	3	—	—	3	—	—	—	3	1
York	13	2	—	—	11	4	3	3	1	—

1935 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	125	35	10	7	73	28	10	5	37	30
Androscoggin	35	4	—	—	31	17	4	3	7	7
Aroostook	7	1	—	—	6	2	—	1	3	—
Cumberland	28	19	1	1	7	2	3	—	3	8
Franklin	6	4	—	—	2	—	—	—	2	3
Hancock	3	1	—	—	2	—	—	—	2	3
Kennebec	10	1	—	—	9	4	3	—	2	1
Oxford	2	—	—	—	2	1	—	—	1	—
Penobscot	17	1	2	5	9	1	—	—	13	4
Piscataquis	2	—	2	—	—	—	—	—	—	2
Sagadahoc	2	1	—	—	1	—	—	1	—	—
Somerset	6	—	5	1	—	—	—	—	1	—
Washington	2	—	—	—	2	—	—	—	2	2
York	5	3	—	—	2	1	—	—	1	—

1935 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	22	15	—	—	7	3	—	—	4	10
Androscoggin	2	—	—	—	2	1	—	—	1	4
Aroostook	1	1	—	—	—	—	—	—	—	—
Cumberland	8	7	—	—	1	1	—	—	—	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	—	—	—	—	—	—	—	—	—	1
Penobscot	4	3	—	—	1	1	—	—	—	3
Sagadahoc	3	1	—	—	2	—	—	—	2	1
Somerset	1	—	—	—	1	—	—	—	1	1
Waldo	1	1	—	—	—	—	—	—	—	—

1935 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	260	56	15	24	165	11	9	106	63	57
Androscoggin	28	4	2	3	19	1	—	13	8	8
Aroostook	13	1	—	12	—	—	—	7	5	—
Cumberland	64	34	5	2	23	—	5	6	14	12
Franklin	4	—	1	—	3	—	—	3	—	1
Hancock	5	—	—	—	5	1	—	1	3	1
Kennebec	38	4	3	2	29	2	2	8	19	3
Knox	10	2	—	1	7	—	2	4	2	3
Lincoln	2	1	—	—	1	—	—	—	1	1
Oxford	12	3	—	—	9	—	—	9	—	—
Penobscot	42	3	1	2	36	2	—	33	3	21
Piscataquis	2	—	—	—	2	—	—	2	—	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Somerset	11	1	1	2	7	2	—	6	1	1
Waldo	8	1	1	—	6	1	—	3	2	2
Washington	2	—	—	—	2	—	—	2	—	2
York	18	2	1	—	15	2	—	9	4	2

1935 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	173	87	7	3	76	19	13	31	16	21
Androscoggin	14	—	2	—	12	5	1	5	1	3
Aroostook	14	9	1	—	4	—	—	4	—	—
Cumberland	52	43	—	—	9	1	4	3	1	2
Franklin	3	3	—	—	—	—	—	—	—	—
Hancock	11	6	1	—	4	4	—	—	—	1
Kennebec	8	5	—	1	2	1	1	—	1	4
Knox	8	5	—	1	2	—	2	—	1	—
Lincoln	1	—	—	—	1	—	—	1	—	4
Oxford	8	2	—	—	6	2	—	3	1	—
Penobscot	21	7	3	—	11	1	—	10	—	6
Sagadahoc	3	—	—	—	3	—	3	—	—	—
Somerset	4	1	—	—	3	—	2	—	1	—
Waldo	1	—	—	1	—	—	—	—	1	—
Washington	8	4	—	—	4	—	—	—	4	—
York	17	2	—	—	15	5	—	5	5	1

1935 INTOXICATION—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	139	43	—	2	94	12	5	43	36	24
Androscoggin	17	3	—	1	13	7	—	6	1	3
Aroostook	2	—	—	—	2	—	—	—	2	1
Cumberland	35	25	—	1	9	—	2	3	5	7
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	4	2	—	—	2	—	—	2	—	—
Kennebec	6	—	—	—	6	—	1	1	4	—
Knox	3	1	—	—	2	—	2	—	—	—
Penobscot	41	4	—	—	37	1	—	26	10	11
Somerset	2	1	—	—	1	—	—	—	1	—
Waldo	4	2	—	—	2	—	—	—	2	—
Washington	16	5	—	—	11	3	—	1	7	1
York	8	—	—	—	8	1	—	3	4	1

1935 MOTOR VEHICLE—INDICTMENTS AND APPEALS

Totals	137	72	6	10	49	7	4	42	6	31
Androscoggin	19	4	3	3	9	2	—	8	2	6
Aroostook	9	4	1	—	4	—	—	3	1	—
Cumberland	33	27	—	6	—	3	3	—	—	7
Franklin	7	7	—	—	—	—	—	—	—	—
Hancock	2	1	—	—	1	—	—	—	1	2
Kennebec	3	3	—	—	—	—	—	—	—	6
Knox	2	2	—	—	—	—	—	—	—	—
Oxford	9	5	—	—	4	2	—	2	—	—
Penobscot	30	9	—	—	21	—	—	20	1	5
Piscataquis	2	—	2	—	—	—	—	—	—	—
Waldo	7	4	—	—	3	—	—	3	—	1
Washington	2	1	—	—	1	—	—	1	—	—
York	12	5	—	1	6	—	1	5	1	4

1935 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	6	5	—	—	1	—	1	—	—	—
Cumberland	5	5	—	—	—	—	—	—	—	—
Hancock	1	—	—	—	1	—	1	—	—	—

1935 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	173	72	7	5	89	27	10	33	24	38
Androscoggin	15	1	1	—	13	9	2	—	2	6
Aroostook	30	8	—	—	22	4	5	10	3	1
Cumberland	48	36	1	—	11	3	1	4	3	13
Franklin	1	—	—	—	1	—	—	—	1	2
Hancock	7	2	1	1	3	3	—	1	—	4
Kennebec	1	1	—	—	—	—	—	—	—	—
Knox	8	2	2	—	4	—	—	—	4	—
Oxford	8	3	—	—	5	—	—	3	2	—
Penobscot	13	6	1	1	5	1	—	4	1	8
Sagadahoc	3	2	—	—	1	—	—	—	1	—
Somerset	8	4	—	1	3	3	—	—	1	—
Waldo	4	3	—	1	—	—	—	1	—	—
Washington	4	1	—	—	3	—	—	—	3	—
York	23	3	1	1	18	4	2	10	3	4

FINANCIAL STATISTICS, YEAR ENDING NOV. 1, 1935

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$10,980.98	$25,511.53	$1,536.24	$7,877.34	*	*
Aroostook	4,925.33	3,653.43	832.80	1,093.68	$3,878.50	$2,647.91
Cumberland	*	*	*	*	*	*
Franklin	765.18	2,993.51	601.38	200.00	730.55	455.00
Hancock	1,847.69	4,362.50	904.52	3,258.18	207.92	207.92
Kennebec	4,472.29	8,964.11	465.50	3,989.07	1,651.35	1,651.35
Knox	351.38	3,392.03	370.80	280.00	795.35	795.35
Lincoln	761.02	893.30	497.24	459.10	557.01	557.01
Oxford	2,669.28	3,862.44	773.50	404.00	1,551.88	1,551.88
Penobscot	13,354.07	12,664.60	1,902.62	7,400.69	6,459.55	4,487.89
Piscataquis	633.35	3,103.60	244.58	558.88	793.92	793.92
Sagadahoc	628.14	2,348.53	275.44	892.12	*	739.83
Somerset	3,097.93	4,848.10	832.68	2,656.00	915.80	800.70
Waldo	961.35	2,000.98	513.72	1,499.34	1,153.54	1,053.54
Washington	3,086.71	3,780.56	896.96	288.00	2,614.74	2,016.22
York	*	*	*	*	*	*
Totals	$48,534.70	$82,379.22	$10,647.98	$30,856.40	$21,310.11	$17,758.52

*Report Missing.

BAIL 1935

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	–	*	–	*	–	*	–	*	–	*	*	*
Aroostook	2	$700.00	–	———	–	———	–	———	–	———	———	———
Cumberland	—	*	–	*	–	*	–	*	–	*	*	*
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	2	1,500.00	2	$1,500.00	–	———	–	———	2	$500.00	———	———
Kennebec	7	3,500.00	2	1,000.00	–	———	2	———	–	———	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	–	———	–	———	–	———	–	———	–	———	———	———
Penobscot	78	22,100.00	–	———	–	———	–	———	–	———	———	———
Piscataquis	1	50.00	–	———	–	———	–	———	–	———	$50.00	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	1	300.00	1	300.00	1	300.00	1	500.00	1	300.00	———	$16.00
Waldo	–	———	–	———	–	———	–	———	–	———	———	———
Washington	10	1,025.00	5	550.00	4	———	1	200.00	4	350.00	———	200.00
York	–	*	–	*	–	*	–	*	–	*	*	*
Totals	101	$29,175.00	10	$3,350.00	5	$300.00	4	$1,700.00	7	$1,150.00	$50.00	$216.00

*Report Missing.

LAW COURT CASES 1935

County	Name of Case	Outcome
Androscoggin	Joseph Gobeil	Judgment for State
Aroostook	Roy Brewer	Judgment for State
Cumberland*		
Franklin	None	———
Hancock	James Brown	Pending
Kennebec*		
Knox	None	———
Lincoln	None	———
Oxford	Tony Sutkus	Judgment for State
Penobscot	Frank Smith	Judgment for State
	Donald F. Snow	Exceptions Overruled
	Charles Mulhern and Ernestine Leteure	Exceptions Sustained
Piscataquis	None	———
Sagadahoc	Frank F. Colburn	Continued
Somerset	None	———
Waldo	None	———
Washington	None	———
York*		

*Missing

1936

1936 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	1951	634	56	72	1189	160	177	365	556	340
Murder	7	—	1	5	1	—	—	—	6	1
Manslaughter	21	3	4	3	11	1	1	3	9	3
Rape	28	4	2	5	17	1	—	—	21	1
Robbery	32	6	2	3	21	—	5	—	19	3
Felonious Assault	36	11	1	1	23	3	2	2	17	2
Assault and Battery	103	41	3	5	54	10	5	16	28	19
B. E. and Larceny	231	23	5	7	196	33	63	2	105	28
Forgery	59	12	2	—	45	7	4	3	31	20
Larceny	255	93	4	10	148	15	33	9	101	52
Sex Offenses	110	39	5	11	55	10	11	1	44	22
Non-Support	27	18	—	1	8	5	2	—	2	12
Liquor Offenses	301	78	16	12	195	19	10	123	55	56
Drunken Driving	90	36	2	1	51	9	10	18	12	6
Drunkenness	187	57	—	—	130	16	11	45	58	18
Motor Vehicle	162	79	1	4	78	8	3	60	11	29
Juvenile Delinquency	10	—	—	—	10	2	4	—	4	—
Miscellaneous	292	134	8	4	146	21	13	83	33	68

1936 MURDER—INDICTMENTS AND APPEALS

Totals	7	—	1	5	1	—	—	—	6	1
Cumberland	1	—	1	—	—	—	—	—	—	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Lincoln	1	—	—	1	—	—	—	—	1	—
Oxford	1	—	—	1	—	—	—	—	1	—
Penobscot	1	—	—	1	—	—	—	—	1	—
Somerset	—	—	—	—	—	—	—	—	—	1
Waldo	2	—	—	2	—	—	—	—	2	—

1936 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	21	3	4	3	11	1	1	3	9	3
Androscoggin	4	1	—	—	3	—	—	—	3	—
Aroostook	5	1	—	1	3	1	—	1	2	—
Hancock	1	—	—	—	1	—	—	—	1	1
Kennebec	—	—	—	—	—	—	—	—	—	1
Knox	1	—	—	—	1	—	—	—	1	—
Lincoln	2	—	1	—	1	—	—	—	1	—
Oxford	1	—	1	—	—	—	—	—	—	—
Penobscot	4	—	1	1	2	—	—	2	1	1
York	3	1	1	1	—	—	1	—	—	—

1936 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	28	4	2	5	17	1	—	—	21	1
Androscoggin	4	1	—	—	3	—	—	—	3	—
Aroostook	4	—	—	2	2	—	—	—	4	—
Cumberland	3	1	—	—	2	1	—	—	1	—
Kennebec	2	1	1	—	—	—	—	—	—	—
Lincoln	1	—	—	—	1	—	—	—	1	—
Oxford	1	—	1	—	—	—	—	—	—	—
Penobscot	5	—	—	1	4	—	—	—	5	1
Piscataquis	1	1	—	—	—	—	—	—	—	—
Somerset	4	—	—	—	4	—	—	—	4	—
Waldo	2	—	—	2	—	—	—	—	2	—
York	1	—	—	—	1	—	—	—	1	—

1936 ROBBERY—INDICTMENTS AND APPEALS

Totals	32	6	2	3	21	—	5	—	19	3
Androscoggin	2	—	—	—	2	—	—	—	2	—
Aroostook	1	—	—	—	1	—	—	—	1	—
Cumberland	10	2	1	—	7	—	1	—	6	—
Kennebec	2	—	—	—	2	—	—	—	2	—
Knox	2	—	—	—	2	—	—	—	2	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	11	2	1	3	5	—	3	—	5	3
Somerset	1	—	—	—	1	—	—	—	1	—
Washington	2	2	—	—	—	—	—	—	—	—

1936 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	36	11	1	1	23	3	2	2	17	2
Aroostook	4	3	—	—	1	—	—	—	1	—
Cumberland	4	2	1	—	1	—	—	—	1	—
Franklin	2	—	—	—	2	—	1	—	1	—
Hancock	1	—	—	—	1	—	—	1	—	—
Kennebec	4	—	—	—	4	—	—	—	4	—
Knox	—	—	—	—	—	—	—	—	—	2
Oxford	2	—	—	—	2	2	—	—	—	—
Penobscot	12	5	—	—	7	—	1	1	5	—
Somerset	1	—	—	—	1	—	—	—	1	—
Washington	2	—	—	—	2	—	—	—	2	—
York	4	1	—	1	2	1	—	—	2	—

1936 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	103	41	3	5	54	10	5	16	28	19
Androscoggin	13	3	—	—	10	2	3	2	3	1
Aroostook	10	1	—	1	8	2	—	1	6	—
Cumberland	15	13	—	—	2	—	—	—	2	5
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	3	1	—	—	2	1	1	—	—	—
Lincoln	—	—	—	—	—	—	—	—	—	2
Oxford	7	3	—	—	4	1	—	—	3	—
Penobscot	33	12	2	1	18	2	—	8	9	4
Piscataquis	2	—	1	—	1	—	1	—	—	—
Sagadahoc	—	—	—	—	—	—	—	—	—	1
Somerset	6	1	—	3	2	1	—	1	3	2
Waldo	3	3	—	—	—	—	—	—	—	—
Washington	2	1	—	—	1	—	—	1	—	3
York	8	3	—	—	5	1	—	2	2	—

1936 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	231	23	5	7	196	33	63	2	105	28
Androscoggin	25	5	—	—	20	8	3	1	8	2
Aroostook	16	1	2	—	13	2	—	1	10	2
Cumberland	34	8	—	1	25	4	10	—	12	4
Franklin	6	1	—	—	5	—	2	—	3	2
Hancock	8	—	—	—	8	—	4	—	4	—
Kennebec	33	3	—	—	30	4	10	—	16	3
Knox	2	—	—	—	2	—	—	—	2	2
Lincoln	2	—	—	—	2	—	—	—	2	—
Oxford	9	—	—	—	9	1	1	—	7	—
Penobscot	35	2	1	1	31	3	19	—	10	5
Piscataquis	1	—	—	—	1	—	—	—	1	—
Sagadahoc	13	—	1	1	11	2	1	—	9	2
Somerset	11	—	—	2	9	2	2	—	7	6
Waldo	2	1	—	—	1	—	—	—	1	—
Washington	8	—	1	2	5	4	—	—	3	—
York	26	2	—	—	24	3	11	—	10	—

1936 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	59	12	2	—	45	7	4	3	31	20
Androscoggin	6	1	—	—	5	1	2	2	—	1
Aroostook	13	3	1	—	9	—	—	—	9	—
Cumberland	8	1	—	—	7	2	—	—	5	1
Franklin	3	1	—	—	2	1	—	—	1	—
Kennebec	5	3	—	—	2	—	1	—	1	—
Knox	—	—	—	—	—	—	—	—	—	4
Lincoln	1	—	—	—	1	—	—	—	1	3
Oxford	4	1	—	—	3	1	—	—	2	3
Penobscot	9	2	—	—	7	—	—	1	6	6
Piscataquis	4	—	—	—	4	2	—	—	2	2
Somerset	3	—	—	—	3	—	1	—	2	—
Waldo	1	—	1	—	—	—	—	—	—	—
York	2	—	—	—	2	—	—	—	2	—

1936 LARCENY—INDICTMENTS AND APPEALS

Totals	255	93	4	10	148	15	33	9	101	52
Androscoggin	15	8	—	—	7	3	3	—	1	1
Aroostook	26	9	—	—	17	2	—	—	15	3
Cumberland	39	20	—	—	19	1	5	—	13	5
Franklin	17	7	—	—	10	1	—	—	9	1
Hancock	3	1	—	—	2	—	—	—	2	1
Kennebec	35	16	—	—	19	2	5	1	11	3
Knox	5	4	—	—	1	—	—	—	1	5
Lincoln	3	1	—	—	2	—	2	—	—	1
Oxford	20	7	2	—	11	—	1	—	10	3
Penobscot	48	8	1	7	32	—	15	2	22	12
Piscataquis	7	4	—	1	2	2	—	—	1	—
Sagadahoc	5	1	1	—	3	1	—	1	1	5
Somerset	7	3	—	—	4	—	—	—	4	7
Waldo	7	2	—	—	5	—	—	4	1	—
Washington	9	2	—	2	5	2	—	—	5	5
York	9	—	—	—	9	1	2	1	5	—

1936 NON-SUPPORT—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	27	18	—	1	8	5	2	—	2	12
Androscoggin	3	2	—	—	1	1	—	—	—	—
Aroostook	2	2	—	—	—	—	—	—	—	—
Cumberland	8	5	—	—	3	—	2	—	1	—
Kennebec	2	1	—	—	1	1	—	—	—	—
Knox	1	1	—	—	—	—	—	—	—	1
Oxford	2	—	—	—	2	2	—	—	—	—
Penobscot	6	6	—	—	—	—	—	—	—	8
Piscataquis	—	—	—	—	—	—	—	—	—	1
Sagadahoc	1	—	—	1	—	1	—	—	—	1
Somerset	2	1	—	—	1	—	—	—	1	1

1936 SEX OFFENSES—INDICTMENTS AND APPEALS

Totals	110	39	5	11	55	10	11	1	44	23
Androscoggin	18	3	—	2	13	4	5	—	6	4
Aroostook	3	—	—	2	1	—	—	—	3	—
Cumberland	28	22	—	2	4	—	—	—	6	10
Franklin	5	4	—	—	1	—	1	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	3
Kennebec	6	—	1	—	5	1	2	—	2	2
Knox	2	—	—	—	2	—	—	—	2	—
Lincoln	2	—	—	—	2	—	—	—	2	—
Oxford	6	3	—	—	3	2	—	—	1	—
Penobscot	15	2	1	2	10	1	3	—	8	4
Piscataquis	5	2	—	2	1	1	—	—	2	—
Somerset	9	—	1	1	7	1	—	1	6	—
Waldo	3	—	—	—	3	—	—	—	3	—
Washington	6	2	2	—	2	—	—	—	2	—
York	2	1	—	—	1	—	—	—	1	—

1936 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	90	36	2	1	51	12	9	18	12	6
Androscoggin	3	1	—	—	2	1	—	—	—	1
Aroostook	30	10	—	—	20	5	5	10	—	1
Cumberland	12	10	—	—	2	1	1	—	—	—
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	10	3	—	—	7	3	1	1	2	—
Knox	3	2	—	—	1	—	—	—	1	—
Lincoln	3	2	—	—	1	—	—	—	1	2
Oxford	2	—	—	—	2	—	—	—	2	—
Penobscot	8	1	—	—	7	—	—	5	2	1
Somerset	3	—	—	1	2	—	—	—	3	1
Washington	7	4	2	—	1	—	—	—	1	—
York	6	—	—	—	6	2	2	2	—	—

1936 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Totals	301	78	16	12	195	19	10	123	55	56
Androscoggin	23	7	2	—	14	—	1	8	5	12
Aroostook	26	5	2	—	19	1	3	12	3	—
Cumberland	66	32	1	1	32	6	3	13	11	11
Franklin	7	2	1	—	4	—	—	2	2	—
Hancock	9	2	1	—	6	—	—	1	5	—
Kennebec	33	9	2	2	20	5	2	12	3	5
Knox	12	—	1	—	11	1	—	6	4	4
Lincoln	3	1	—	—	2	—	—	1	1	4
Oxford	9	2	—	—	7	—	—	4	3	2
Penobscot	52	6	3	5	38	—	—	38	5	13
Piscataquis	2	—	—	1	1	—	—	1	1	2
Sagadahoc	3	2	—	—	1	—	1	—	—	1
Somerset	19	2	2	—	15	5	—	7	3	2
Waldo	8	—	—	2	6	—	—	3	5	—
Washington	12	3	—	1	8	—	—	6	3	—
York	17	5	1	—	11	1	—	9	1	—

1936 DRUNKENNESS—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	187	57	—	—	130	16	11	45	58	19
Androscoggin	12	2	—	—	10	2	1	2	5	2
Aroostook	10	2	—	—	8	—	1	—	7	—
Cumberland	55	43	—	—	12	2	1	2	7	6
Franklin	4	1	—	—	3	—	1	1	1	—
Hancock	4	—	—	—	4	—	—	1	3	2
Kennebec	8	—	—	—	8	1	—	3	4	—
Knox	2	1	—	—	1	—	1	—	—	—
Lincoln	1	—	—	—	1	—	1	—	—	—
Penobscot	40	4	—	—	36	1	2	17	16	2
Piscataquis	1	—	—	—	1	1	—	—	—	—
Sagadahoc	3	—	—	—	3	—	—	—	3	—
Somerset	15	1	—	—	14	7	2	1	4	1
Waldo	1	—	—	—	1	1	—	—	—	—
Washington	19	2	—	—	17	—	—	14	3	6
York	12	1	—	—	11	1	1	4	5	—

1936 MOTOR VEHICLE—INDICTMENTS AND APPEALS

Totals	162	79	1	4	78	8	3	60	11	29
Androscoggin	12	4	—	2	6	4	1	2	1	2
Aroostook	13	4	—	—	9	—	—	7	2	1
Cumberland	35	35	—	—	—	—	—	—	—	10
Hancock	4	4	—	—	—	—	—	—	—	2
Kennebec	22	7	—	—	15	3	—	11	1	2
Knox	1	—	—	—	1	—	—	1	—	—
Lincoln	1	1	—	—	—	—	—	—	—	1
Oxford	3	2	—	—	1	—	—	—	1	—
Penobscot	42	10	1	1	30	—	1	26	4	7
Piscataquis	3	3	—	—	—	—	—	—	—	1
Sagadahoc	2	—	—	—	2	—	—	2	—	—
Somerset	6	1	—	—	5	1	—	4	—	—
Waldo	1	—	—	—	1	—	—	1	—	—
Washington	2	1	—	—	1	—	—	—	1	1
York	15	7	—	1	7	—	1	6	1	2

1936 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	10	—	—	—	10	2	4	—	4	—
Androscoggin	1	—	—	—	1	—	—	—	1	—
Aroostook	2	—	—	—	2	—	—	—	2	—
Sagadahoc	2	—	—	—	2	2	—	—	—	—
Somerset	5	—	—	—	5	—	4	—	1	—

1936 MISCELLANEOUS—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	292	134	8	4	146	21	13	83	33	67
Androscoggin	8	4	—	—	4	2	—	1	1	2
Aroostook	48	17	2	—	29	2	1	20	6	2
Cumberland	44	36	—	—	8	2	—	2	4	20
Franklin	18	4	—	—	14	3	—	8	3	1
Hancock	7	3	2	—	2	—	—	2	—	6
Kennebec	25	18	—	—	7	2	1	3	1	2
Knox	2	1	—	—	1	1	—	—	—	3
Lincoln	2	—	—	—	2	1	—	1	—	—
Oxford	18	5	1	—	12	—	—	11	1	5
Penobscot	53	30	1	1	21	3	4	14	1	20
Piscataquis	8	2	—	1	5	—	—	4	2	2
Somerset	24	3	—	—	21	1	4	3	13	2
Waldo	2	—	1	—	1	1	—	—	—	—
Washington	21	4	1	2	14	2	—	13	1	1
York	12	7	—	—	5	1	3	1	—	1

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1936

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$4,440.65	$21,110.71	$1,018.52	$4,465.64	$2,168.20	$2,168.20
Aroostook	4,792.05	3,187.79	915.12	1,177.10	5,820.20	2,929.12
Cumberland	23,114.91	45,384.05	1,229.68	1,741.80	1,896.57	1,883.16
Franklin	1,008.05	4,285.00	443.22	200.00	1,097.93	1,097.93
Hancock	734.18	3,697.44	534.08	1,650.96	267.44	267.44
Kennebec	7,636.81	11,017.47	1,435.40	3,406.24	2,441.15	2,364.53
Knox	426.96	3,729.60	279.88	180.00	1,420.72	1,220.72
Lincoln	3,762.55	1,145.36	393.12	928.01	520.75	520.75
Oxford	2,477.64	3,991.71	886.50	844.90	763.12	365.10
Penobscot	14,687.13	10,041.63	1,443.80	7,067.26	9,005.91	6,209.61
Piscataquis	1,293.97	3,363.32	278.58	415.92	429.21	404.21
Sagadahoc	494.84	2,508.75	266.60	987.24	*	81.33
Somerset	3,629.83	5,084.39	959.80	2,366.68	2,201.28	1,749.33
Waldo	945.95	2,209.86	466.60	1,100.44	698.38	698.38
Washington	3,921.04	6,616.41	671.09	288.00	826.85	309.87
York*						
Totals	$73,365.56	$127,373.49	$11,221.99	$26,820.19	$29,557.71	$22,269.68

*Missing.

BAIL 1936

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	11	$3,300.00	1	$200.00	1	$200.00	–	———	1	$200.00	———	———
Aroostook	1	200.00	–	———	–	———	–	———	–	———	———	———
Cumberland	2	1,500.00	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	3	900.00	3	900.00	2	1,500.00	–	———	5	2,400.00	———	———
Kennebec	9	———	–	———	–	———	–		–	———	———	
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	1	500.00	–	———	–	———	–	———	–	———	———	———
Penobscot	65	16,725.00	16	6,700.00	–	———	4	$2,600.00	8	3,200.00	———	———
Piscataquis	2	1,500.00	–	———	–	———	–	———	–	———	———	———
Sagadahoc	1	600.00	–	———	–	———	–	———	–	———	———	———
Somerset	1	300.00	1	300.00	–	———	1	300.00	–	———	———	———
Waldo	1	500.00	1	500.00	–	———	–	———	1	500.00	———	———
Washington	–	———	–	———	–	———	–	———	–	———	———	———
York	–	———	–	———	–	———	–	———	–	———	———	———
Totals	97	$26,025.00	22	$8,600.00	3	$1,700.00	5	$2,900.00	15	$6,300.00	———	———

LAW COURT CASES 1936

County	Name of Case	Outcome
Androscoggin	Ernest C. True	Pending
Aroostook	Sandy King	Pending
	Ralph Livingston	Pending
Cumberland	None	———
Franklin	None	———
Hancock	None	———
Kennebec*		
Knox	None	———
Lincoln	Reuben S. Brewer	Continued
Oxford	Edward Cartright†	
	Oakes Thompson†	
Penobscot	Pope D. McKinnon	Judgment for State
	Allen Smith	Pending
	Harold Baron	Pending
Piscataquis	Fred Robbins and Gertrude Arlene Dexter	Pending
Sagadahoc	Frank F. Colburn	Judgment for State
Somerset	None	———
Waldo	None	———
Washington*		
York*		

†Not Reported

*Missing

1937

1937 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	2168	829	53	43	1243	26	277	406	577	361
Murder	6	2	1	—	3	—	—	—	3	1
Manslaughter	22	1	2	4	15	—	2	4	13	—
Rape	36	5	5	2	24	—	2	1	23	1
Robbery	17	2	2	1	12	—	1	—	12	1
Felonious Assault	24	3	—	1	20	1	2	3	15	1
Assault and Battery	123	69	3	6	45	5	6	13	27	22
B. E. and Larceny	293	115	—	5	173	2	62	1	113	36
Forgery	66	28	—	—	38	1	7	2	28	10
Larceny	241	69	1	1	170	4	67	7	93	37
Sex Offenses	153	53	2	7	91	3	33	6	56	34
Non-Support	25	20	—	—	5	—	2	2	1	10
Liquor Offenses	65	31	—	—	34	—	3	26	5	6
Drunken Driving	341	87	13	8	233	3	8	162	68	38
Drunkenness	147	46	—	—	101	3	27	22	49	18
Motor Vehicle	174	90	6	—	78	1	2	66	9	68
Juvenile Delinquency	66	13	1	—	52	1	36	2	13	11
Miscellaneous	369	195	17	8	149	2	17	89	49	67

1937 MURDER—INDICTMENTS AND APPEALS

Totals	6	2	1	—	3	—	—	—	3	1
Aroostook	1	—	—	—	1	—	—	—	1	—
Hancock	1	—	—	—	1	—	—	—	1	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Oxford	2	1	1	—	—	—	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	—
Washington	1	—	—	—	1	—	—	—	1	—

1937 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	22	1	2	4	15	—	2	4	13	—
Aroostook	2	—	—	1	1	—	—	1	1	—
Cumberland	4	—	1	1	2	—	—	—	3	—
Hancock	2	—	1	—	1	—	—	—	1	—
Kennebec	2	—	—	—	2	—	1	1	—	—
Oxford	4	1	—	1	2	—	1	—	2	—
Penobscot	5	—	—	—	5	—	—	1	4	—
Piscataquis	1	—	—	—	1	—	—	—	1	—
Washington	1	—	—	—	1	—	—	—	1	—
York	1	—	—	1	—	—	—	1	—	—

1937 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	36	5	5	2	24	—	2	1	23	1
Androscoggin	1	—	—	—	1	—	—	—	1	—
Aroostook	7	2	1	1	3	—	—	—	4	—
Cumberland	6	—	—	—	6	—	—	—	6	—
Hancock	2	—	—	1	1	—	1	—	1	—
Kennebec	5	—	—	—	5	—	—	—	5	—
Lincoln	1	—	—	—	1	—	—	—	1	—
Penobscot	4	2	—	—	2	—	—	—	2	—
Sagadahoc	3	—	3	—	—	—	—	—	—	—
Somerset	1	1	—	—	—	—	—	—	—	—
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	2	—	1	—	1	—	—	1	—	—
York	3	—	—	—	3	—	1	—	2	1

1937 ROBBERY—INDICTMENTS AND APPEALS

Totals	17	2	2	1	12	—	1	—	12	1
Androscoggin	2	—	—	—	2	—	—	—	2	—
Aroostook	1	1	—	—	—	—	—	—	—	—
Cumberland	5	—	—	—	5	—	—	—	5	—
Hancock	1	—	—	—	1	—	—	—	1	—
Knox	1	—	—	—	1	—	1	—	—	1
Penobscot	5	1	1	1	2	—	—	—	3	—
York	2	—	1	—	1	—	—	—	1	—

1937 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	24	3	—	1	20	1	2	3	15	1
Androscoggin	2	1	—	—	1	—	—	—	1	—
Aroostook	3	—	—	1	2	—	—	—	3	—
Cumberland	5	—	—	—	5	—	—	—	5	—
Franklin	1	—	—	—	1	—	—	—	1	—
Hancock	3	—	—	—	3	1	—	—	2	—
Knox	3	1	—	—	2	—	—	1	1	—
Oxford	3	1	—	—	2	—	2	—	—	1
Piscataquis	1	—	—	—	1	—	—	—	1	—
Somerset	1	—	—	—	1	—	—	1	—	—
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	1	—	—	—	1	—	—	1	—	—

1937 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	123	69	3	6	45	5	6	13	27	22
Androscoggin	1	1	—	—	—	—	—	—	—	8
Aroostook	13	9	—	—	4	—	—	2	2	—
Cumberland	30	21	—	—	9	—	2	1	6	8
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	5	3	—	—	2	—	—	1	1	—
Knox	4	4	—	—	—	—	—	—	—	2
Lincoln	4	—	—	—	4	—	—	—	4	2
Oxford	2	2	—	—	—	—	—	—	—	—
Penobscot	18	7	—	—	11	—	—	3	8	—
Piscataquis	5	3	—	1	1	—	1	1	—	—
Sagadahoc	7	2	1	1	3	1	1	1	1	—
Somerset	12	4	2	3	3	—	2	—	4	1
Waldo	4	2	—	1	1	—	—	1	1	—
Washington	4	3	—	—	1	—	—	1	—	1
York	12	6	—	—	6	4	—	2	—	—

1937 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	293	115	—	5	173	2	62	1	113	36
Androscoggin	24	12	—	—	12	1	—	—	11	6
Aroostook	15	3	—	—	12	—	7	—	5	—
Cumberland	53	13	—	—	40	—	21	—	19	11
Franklin	10	5	—	—	5	—	—	1	4	2
Hancock	5	2	—	—	3	—	2	—	1	8
Kennebec	22	4	—	—	18	—	9	—	9	—
Knox	7	2	—	—	5	—	4	—	1	6
Lincoln	27	19	—	—	8	—	—	—	8	3
Oxford	8	1	—	—	7	—	4	—	3	—
Penobscot	62	29	—	—	33	—	—	—	33	—
Piscataquis	5	4	—	—	1	—	—	—	1	—
Sagadahoc	2	—	—	—	2	—	—	—	2	—
Somerset	21	4	—	4	13	—	8	—	9	—
Waldo	2	2	—	—	—	—	—	—	—	—
Washington	21	10	—	1	10	—	7	—	4	—
York	9	5	—	—	4	1	—	—	3	—

1937 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	66	28	—	—	38	1	7	2	28	10
Androscoggin	3	3	—	—	—	—	—	—	—	2
Aroostook	12	4	—	—	8	1	1	—	6	—
Cumberland	1	1	—	—	—	—	—	—	—	—
Hancock	4	1	—	—	3	—	—	—	3	—
Kennebec	8	3	—	—	5	—	2	—	3	—
Knox	3	3	—	—	—	—	—	—	—	1
Penobscot	22	10	—	—	12	—	1	2	9	7
Piscataquis	2	1	—	—	1	—	—	—	1	—
Sagadahoc	3	—	—	—	3	—	—	—	3	—
Somerset	5	2	—	—	3	—	3	—	—	—
Waldo	2	—	—	—	2	—	—	—	2	—
York	1	—	—	—	1	—	—	—	1	—

1937 LARCENY—INDICTMENTS AND APPEALS

Totals	241	69	1	1	170	4	67	7	93	37
Androscoggin	8	3	—	—	5	—	—	1	4	2
Aroostook	12	—	—	—	12	—	4	1	7	—
Cumberland	42	23	—	—	19	—	10	1	8	8
Franklin	1	—	—	—	1	—	—	—	1	—
Hancock	7	3	—	—	4	—	3	—	1	1
Kennebec	12	4	—	—	8	—	1	—	7	—
Knox	15	1	—	—	5	—	4	—	1	9
Lincoln	1	1	—	—	—	—	—	—	—	1
Oxford	12	4	—	—	8	—	6	—	2	—
Penobscot	37	11	—	—	31	—	6	4	21	11
Sagadahoc	7	2	—	—	5	—	3	—	2	—
Somerset	29	5	—	1	31	1	8	—	23	—
Waldo	7	3	—	—	4	—	—	—	4	—
Washington	13	6	1	—	6	—	—	—	6	2
York	34	3	—	—	31	3	22	—	6	3

1937 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	153	53	2	7	91	3	33	6	56	34
Androscoggin	21	11	—	—	10	—	—	—	10	4
Aroostook	7	4	—	1	2	—	1	—	2	—
Cumberland	25	14	—	—	11	—	7	1	3	7
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	4	3	—	—	1	—	—	—	1	1
Kennebec	12	6	1	—	5	—	2	—	3	2
Knox	8	—	—	—	8	—	1	3	4	1
Lincoln	1	1	—	—	—	—	—	—	—	1
Oxford	2	1	—	—	1	—	—	—	1	2
Penobscot	41	9	1	2	29	—	14	1	16	8
Piscataquis	7	2	—	2	3	1	—	—	4	4
Sagadahoc	3	—	—	—	3	—	2	1	—	—
Somerset	7	—	—	—	7	2	1	—	4	—
Washington	3	—	—	—	3	—	—	—	3	—
York	11	1	—	2	8	—	5	—	5	4

1937 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	25	20	—	—	5	—	2	2	1	10
Androscoggin	—	—	—	—	—	—	—	—	—	4
Aroostook	4	3	—	—	1	—	1	—	—	—
Cumberland	7	6	—	—	1	—	—	—	1	—
Kennebec	—	—	—	—	—	—	—	—	—	1
Knox	—	—	—	—	—	—	—	—	—	2
Lincoln	1	1	—	—	—	—	—	—	—	1
Penobscot	9	7	—	—	2	—	—	2	—	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	3	3	—	—	—	—	—	—	—	1
Washington	—	—	—	—	—	—	—	—	—	1

1937 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	65	31	—	—	34	—	3	26	5	6
Androscoggin	2	2	—	—	—	—	—	—	—	2
Aroostook	29	12	—	—	17	—	1	16	—	—
Cumberland	5	1	—	—	4	—	1	3	—	2
Franklin	1	1	—	—	—	—	—	—	—	—
Kennebec	2	1	—	—	1	—	—	—	1	—
Knox	4	2	—	—	2	—	—	—	2	—
Lincoln	6	6	—	—	—	—	—	—	—	—
Penobscot	8	5	—	—	3	—	—	3	—	1
Washington	8	1	—	—	7	—	1	4	2	1

1937 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	341	87	13	8	233	3	8	162	68	38
Androscoggin	35	14	2	—	19	—	—	13	6	10
Aroostook	28	7	—	2	19	—	—	14	7	—
Cumberland	83	28	4	4	47	—	5	41	5	7
Franklin	4	—	1	—	3	—	1	2	—	—
Hancock	3	—	—	—	3	—	—	2	1	—
Kennebec	29	6	—	—	22	—	—	8	14	1
Knox	12	2	—	—	10	—	—	6	4	1
Lincoln	11	6	—	—	5	—	—	4	1	2
Oxford	12	6	—	—	6	—	—	4	2	3
Penobscot	50	5	2	—	43	—	—	33	10	8
Piscataquis	5	—	—	—	5	—	—	4	1	3
Sagadahoc	5	2	1	—	2	—	—	—	2	1
Somerset	12	—	—	1	11	—	—	5	7	1
Waldo	3	2	1	—	—	—	—	—	—	—
Washington	5	—	1	—	4	—	—	2	2	1
York	44	8	1	1	34	3	2	24	6	—

1937 DRUNKENNESS—INDICTMENTS AND APPEALS

Totals	147	46	—	—	101	3	27	22	49	18
Androscoggin	6	4	—	—	2	—	—	—	2	5
Aroostook	9	1	—	—	8	—	—	4	4	—
Cumberland	52	21	—	—	31	—	22	2	7	3
Hancock	5	1	—	—	4	1	—	1	2	—
Kennebec	5	1	—	—	4	—	1	—	3	—
Knox	2	1	—	—	1	—	—	1	—	—
Oxford	2	—	—	—	2	—	—	2	—	—
Penobscot	36	4	—	—	32	—	1	8	23	2
Somerset	14	4	—	—	10	2	1	3	4	3
Waldo	1	1	—	—	—	—	—	—	—	—
Washington	9	6	—	—	3	—	—	1	2	5
York	6	2	—	—	4	—	2	—	2	—

1937 MOTOR VEHICLE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	174	90	6	—	78	1	2	66	9	68
Androscoggin	14	9	1	—	4	—	—	4	—	36
Aroostook	14	7	—	—	7	—	—	7	—	—
Cumberland	61	41	—	—	20	—	2	18	—	5
Hancock	3	2	—	—	1	—	—	—	1	1
Kennebec	13	7	1	—	5	1	—	2	2	1
Knox	2	1	—	—	1	—	—	—	1	1
Lincoln	6	2	1	—	3	—	—	3	—	3
Oxford	5	4	—	—	1	—	—	1	—	—
Penobscot	31	4	—	—	27	—	—	24	3	16
Piscataquis	3	2	—	—	1	—	—	1	—	—
Sagadahoc	—	—	—	—	—	—	—	—	—	1
Somerset	7	3	—	—	4	—	—	4	—	2
Waldo	6	4	—	—	2	—	—	—	2	—
Washington	5	2	2	—	1	—	—	1	—	2
York	4	2	1	—	1	—	—	1	—	—

1937 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	66	13	1	—	52	1	36	2	13	11
Cumberland	5	2	—	—	3	—	3	—	—	7
Penobscot	21	3	—	—	18	—	15	—	3	1
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	38	8	1	—	29	1	17	2	9	3
Waldo	1	—	—	—	1	—	—	—	1	—

1927 MISCELLANEOUS—INDICTMENTS AND APPEALS

Totals	369	195	17	8	149	2	17	89	49	67
Androscoggin	14	11	—	—	3	—	—	2	1	17
Aroostook	69	33	5	7	24	—	2	21	8	—
Cumberland	94	63	3	1	27	—	2	12	14	5
Franklin	5	1	1	—	3	—	—	2	1	7
Hancock	18	9	1	—	8	—	2	5	1	—
Kennebec	10	5	—	—	5	1	2	2	—	4
Knox	14	10	—	—	4	—	1	—	3	6
Lincoln	5	—	2	—	3	—	—	2	1	2
Oxford	19	11	—	—	8	—	2	2	4	2
Penobscot	71	27	2	—	42	—	2	29	11	14
Piscataquis	7	5	—	—	2	—	—	1	1	2
Sagadahoc	5	1	—	—	4	—	—	4	—	—
Waldo	8	5	2	—	1	—	—	—	1	—
Washington	11	8	1	—	2	—	—	1	1	7
York	19	6	—	—	13	1	4	6	2	1

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1937

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$8,604.32	$25,464.85	$1,764.96	$5,202.00	$2,250.90	$2,033.90
Aroostook	5,569.53	*	877.36	1,460.00	5,826.88	4,751.83
Cumberland	23,771.27	47,995.47	1,129.20	2,072.80	7,736.32	4,455.61
Franklin	788.10	5,357.99	280.64	400.00	341.18	936.36
Hancock	1,400.41	4,115.69	832.86	2,215.02	416.73	416.73
Kennebec	4,278.43	11,434.48	679.74	2,507.68	2,564.16	1,852.04
Knox	655.57	4,694.85	364.08	156.00	1,729.98	1,729.98
Lincoln	1,309.35	2,339.06	453.36	1,001.29	733.93	733.93
Oxford	2,557.56	3,005.07	734.50	975.88	329.13	179.98
Penobscot	13,164.65	13,669.04	1,094.84	5,627.68	8,172.01	7,258.82
Piscataquis	1,069.86	2,960.09	214.42	48.00	796.61	628.21
Sagadahoc	810.18	3,923.76	267.00	775.32	*	*
Somerset	3,753.95	5,200.33	852.56	1,989.20	1,617.31	1,504.74
Waldo	392.29	2,358.66	436.20	969.32	54.80	54.80
Washington	2,519.09	5,181.59	813.74	911.64	2,334.52	7,282.99
York	4,530.94	10,645.09	1,104.80	1,597.60	5,384.51	4,901.80
Totals	$75,175.50	$148,346.02	$11,900.26	$27,909.43	$40,288.97	$38,721.72

*Not Reported.

1937 BAIL

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	–	$9,000.50	2	$750.00	–	———	–	———	–	———	———	———
Aroostook	3	1,000.00	–	*	–	*	–	*	–	*	*	*
Cumberland	5	3,000.00	–	*	–	*	–	*	–	*	$500.00	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	–	———	–	———	–	———	3	$1,800.00	–	———	212.39	$212.39
Kennebec	1	500.00	1	500.00	–	———	1	500.00	–	———	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	–	———	–	———	–	———	–	———	–	———	———	———
Penobscot	51	8,200.00	6	2,800.00	1	$1,500.00	16	4,633.31	3	$2,500.00	———	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	*	–	*	–	*	–	*	–	*	*	*
Somerset	2	———	–	———	–	———	–	———	–	———	———	———
Waldo	–	500.00	–	500.00	–	———	–	———	–	———	———	———
Washington	1	75.00	–	———	–	———	–	———	–	———	———	———
York	3	9,350.00	7	9,100.00	–	———	–	———	–	———	———	———
Totals	66	$31,625.50	16	$13,650.00	1	$1,500.00	20	$6,933.31	3	$2,500.00	$712.39	$212.39

*Not Reported.

LAW COURT CASES 1937

County	Name of Case	Outcome
Androscoggin	Ernest C. True	Judgment for State
	Lucien Boutin et al	Pending
	Linwood Chase	Pending
	Clement Trepanier	udgment for State
	Joseph Laleman	Judgment for State
Aroostook	Ralph Livingston	Pending
	Philip Parento	Pending
	J. Banford Sprague	Pending
Cumberland	John Finkleman	Appeal Dismissed
Franklin	None	———
Hancock	None	———
Kennebec	Edward J. Bechard	Report discharged
	Alton Vashon	*
	Clement Cote	*
	Milton Gagnon	*
	Charles A. Quigley	*
Knox	None	———
Lincoln	Reuben Brewer	Judgment for State
Oxford	Oakes Thompson	Judgment for Defendant
	Edward Cartwright	Report discharged
Penobscot	Allen Smith	Appeal dismissed
	Harold Baron	Nol Prossed
	Ferne Beckwith	Pending
	Louis Nissenbaum	Pending
Piscataquis	Fred Robbins and Gertrude Arlene Dexter	Judgment for State
Sagadahoc	None	———
Somerset	John Lawrence	Pending
	Fraser Shannon	Pending
Waldo	None	———
Washington	None	———
York	*	

*Not reported.

1938

1938 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	2065	777	59	65	1174	37	229	438	535	292
Murder	10	—	1	4	5	1	—	—	8	1
Manslaughter	18	3	6	2	7	—	1	4	4	6
Rape	25	6	1	4	14	—	2	—	16	4
Robbery	28	4	—	4	20	—	1	—	23	2
Felonious Assault	11	2	1	—	8	2	1	2	3	1
Assault and Battery	90	40	2	5	43	3	5	15	25	20
B. E. and Larceny	328	90	5	13	220	8	69	57	99	34
Forgery	92	37	2	1	52	2	12	1	38	7
Larceny	218	86	4	5	123	3	32	10	83	20
Sex Offenses	182	65	8	7	102	3	26	4	76	12
Non-Support	26	16	—	—	10	1	6	1	2	10
Liquor Offenses	52	29	1	3	19	1	3	17	1	8
Drunken Driving	249	60	13	5	171	2	10	117	47	50
Drunkenness	153	56	—	—	97	1	18	45	33	11
Motor Vehicle	154	72	3	1	78	1	3	69	6	42
Juvenile Delinquency	5	—	—	—	5	—	5	—	—	—
Miscellaneous	434	211	12	11	200	9	35	96	71	64

1938 MURDER—INDICTMENTS AND APPEALS

Totals	10	—	1	4	5	1	—	—	8	1
Androscoggin	1	—	—	—	1	—	—	—	1	1
Aroostook	2	—	1	1	—	—	—	—	1	—
Cumberland	2	—	—	—	2	—	—	—	2	—
Hancock	1	—	—	1	—	1	—	—	—	—
Knox	1	—	—	—	1	—	—	—	1	—
Oxford	2	—	—	1	1	—	—	—	2	—
Waldo	1	—	—	1	—	—	—	—	1	—

1938 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	18	3	6	2	7	—	1	4	4	6
Androscoggin	—	—	—	—	—	—	—	—	—	4
Aroostook	5	1	3	—	1	—	—	1	—	—
Cumberland	3	1	2	—	—	—	—	—	—	—
Lincoln	1	—	—	—	1	—	—	—	1	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	3	—	1	2	—	—	—	1	1	—
Piscataquis	1	—	—	—	1	—	—	1	—	—
Somerset	—	—	—	—	—	—	—	—	—	1
Waldo	1	—	—	—	1	—	—	1	—	—
Washington	2	1	—	—	1	—	—	—	1	—
York	1	—	—	—	1	—	—	—	1	1

1938 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	25	6	1	4	14	—	2	—	16	4
Androscoggin	1	1	—	—	—	—	—	—	—	—
Aroostook	1	—	—	—	1	—	—	—	1	—
Cumberland	10	2	1	3	4	—	—	—	7	1
Hancock	—	—	—	—	—	—	—	—	—	3
Kennebec	5	—	—	—	5	—	1	—	4	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Penobscot	1	1	—	—	—	—	—	—	—	—
Piscataquis	2	—	—	1	1	—	1	—	1	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Washington	1	1	—	—	—	—	—	—	2	—
York	2	—	—	—	2	—	—	—	—	—

1938 ROBBERY—INDICTMENTS AND APPEALS

Totals	28	4	—	4	20	—	1	—	23	2
Cumberland	7	—	—	—	7	—	—	—	7	1
Kennebec	4	—	—	—	4	—	—	—	4	—
Oxford	4	—	—	—	4	—	—	—	4	—
Penobscot	7	1	—	1	5	—	1	—	5	1
Washington	2	—	—	2	—	—	—	—	2	—
York	4	3	—	1	—	—	—	—	1	—

1938 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	11	2	1	—	8	2	1	2	3	1
Aroostook	1	1	—	—	—	—	—	—	—	—
Franklin	1	—	—	—	1	—		1	—	—
Kennebec	2	—	—	—	2	1	—	—	1	—
Knox	1	—	—	—	1	—	1	—	—	—
Oxford	3	—	—	—	3	1	—	1	1	—
Penobscot	2	1	1	—	—	—	—	—	—	1
Somerset	1	—	—	—	1	—	—	—	1	—

1938 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	90	40	2	5	43	3	5	15	25	20
Androscoggin	7	6	—	—	1	—	—	1	—	2
Aroostook	10	3	—	—	7	—	—	3	4	3
Cumberland	24	18	1	—	5	—	—	1	4	—
Franklin	3	1	—	—	2	—	—	1	1	—
Hancock	1	—	—	—	1	—	—	—	1	3
Kennebec	4	1	—	—	3	—	1	1	1	—
Knox	1	—	—	—	1	—	—	—	1	1
Oxford	7	1	—	—	6	3	1	—	2	—
Penobscot	10	5	—	—	5	—	1	1	3	7
Piscataquis	4	—	—	2	2	—	—	4	—	1
Sagadahoc	2	1	—	1	—	—	—	—	1	—
Somerset	6	—	—	2	4	—	2	2	2	1
Waldo	1	—	—	—	1	—	—	—	1	1
Washington	7	3	1	—	3	—	—	1	2	1
York	3	1	—	—	2	—	—	—	2	—

1938 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	328	90	5	13	220	8	69	57	99	34
Androscoggin	15	7	1	—	7	—	—	—	7	5
Aroostook	10	1	—	3	6	—	2	—	7	—
Cumberland	52	21	—	—	31	—	19	—	12	11
Franklin	4	—	—	—	4	—	—	—	4	—
Hancock	5	2	—	—	3	—	1	—	2	—
Kennebec	24	6	—	2	16	—	7	—	11	2
Knox	7	3	—	—	4	—	2	—	2	2
Lincoln	5	—	1	—	4	—	1	—	3	3
Oxford	8	—	—	—	8	4	2	—	2	—
Penobscot	50	21	—	4	25	—	14	—	15	7
Piscataquis	7	—	—	—	7	—	5	—	2	—
Sagadahoc	13	6	—	1	6	—	4	—	3	—
Somerset	27	5	—	1	21	—	10	—	12	—
Waldo	5	—	—	—	5	—	1	—	4	—
Washington	20	6	1	2	11	—	—	—	13	1
York	76	12	2	—	62	4	1	57	—	3

1938 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence etc. (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	92	37	2	1	52	2	12	1	38	7
Androscoggin	7	2	—	—	5	—	—	—	5	3
Aroostook	6	2	—	—	4	—	—	—	4	—
Cumberland	11	6	—	—	5	—	1	—	4	—
Franklin	3	—	—	—	3	—	—	—	3	—
Kennebec	6	2	—	—	4	—	3	—	1	—
Knox	6	4	—	—	2	—	—	—	2	—
Lincoln	5	—	1	—	4	—	4	—	—	—
Oxford	4	—	1	—	3	1	1	—	1	1
Penobscot	19	10	—	1	8	—	1	—	8	2
Piscataquis	3	3	—	—	—	—	—	—	—	—
Sagadahoc	4	2	—	—	2	1	—	—	1	—
Somerset	6	1	—	—	5	—	2	1	2	—
Washington	2	1	—	—	1	—	—	—	1	1
York	10	4	—	—	6	—	—	—	6	—

1938 LARCENY—INDICTMENTS AND APPEALS

Totals	218	86	4	5	123	3	32	10	83	20
Androscoggin	18	12	—	—	6	—	—	—	6	4
Aroostook	17	7	—	—	10	—	—	1	9	—
Cumberland	27	13	1	—	13	—	3	—	10	3
Franklin	4	1	1	—	2	1	—	—	1	—
Hancock	2	—	—	—	2	—	—	—	2	—
Kennebec	15	3	—	—	12	—	2	—	10	—
Knox	3	1	—	—	2	—	—	—	2	—
Lincoln	14	9	—	—	5	—	—	—	5	—
Oxford	9	—	—	—	9	2	2	—	5	1
Penobscot	49	16	1	1	31	—	16	5	11	10
Piscataquis	4	2	—	—	2	—	—	—	2	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	19	6	—	2	11	—	7	—	6	—
Waldo	4	—	—	—	4	—	—	—	4	—
Washington	17	7	1	2	7	—	—	2	7	—
York	15	9	—	—	6	—	1	2	3	2

1938 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	182	65	8	7	102	3	26	4	76	12
Androscoggin	10	3	—	1	6	1	—	—	6	1
Aroostook	5	3	—	—	2	—	—	—	2	—
Cumberland	36	18	1	—	17	—	3	—	14	2
Franklin	2	1	—	—	1	—	—	—	1	—
Kennebec	10	1	1	—	8	—	3	—	5	3
Knox	4	3	—	—	1	—	—	—	1	—
Lincoln	6	1	—	—	5	—	1	1	3	1
Oxford	3	1	—	—	2	1	—	—	1	—
Penobscot	59	20	3	1	35	—	14	1	21	4
Piscataquis	7	5	—	—	2	—	—	—	2	—
Sagadahoc	4	2	1	1	—	—	—	1	—	—
Somerset	13	1	1	3	8	1	4	—	6	—
Waldo	3	—	1	—	2	—	—	—	2	1
Washington	5	1	—	—	4	—	1	—	3	—
York	15	5	—	1	9	—	—	1	9	—

1938 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	26	16	—	—	10	1	6	1	2	10
Androscoggin	2	2	—	—	—	—	—	—	—	5
Aroostook	1	1	—	—	—	—	—	—	—	—
Cumberland	7	4	—	—	3	—	3	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	1	—	—	—	1	—	1	—	—	1
Knox	2	2	—	—	—	—	—	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Penobscot	1	—	—	—	1	—	1	—	—	1
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	4	1	—	—	3	1	—	—	2	—
Somerset	2	2	—	—	—	—	—	—	—	1
Waldo	1	—	—	—	1	—	1	—	—	—
Washington	3	2	—	—	1	—	—	1	—	1

1938 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	52	29	1	3	19	1	3	17	1	8
Aroostook	23	13	1	2	7	—	1	8	—	—
Cumberland	8	5	—	—	3	—	—	3	—	—
Knox	7	3	—	—	4	—	2	2	—	—
Oxford	2	—	—	—	2	1	—	1	—	—
Penobscot	4	3	—	—	1	—	—	1	—	7
Piscataquis	3	3	—	—	—	—	—	—	—	1
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Washington	2	1	—	1	—	—	—	—	1	—
York	2	—	—	—	2	—	—	2	—	—

1938 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Totals	238	60	13	5	170	2	10	117	47	50
Androscoggin	18	6	1	2	9	1	—	7	3	8
Aroostook	39	8	3	—	28	—	—	19	9	—
Cumberland	42	14	—	—	28	—	1	22	5	8
Franklin	2	2	—	—	—	—	—	—	—	1
Hancock	2	—	1	—	1	—	—	1	—	—
Kennebec	22	7	—	1	14	—	4	6	5	3
Knox	6	4	2	—	—	—	—	3	2	2
Lincoln	3	1	1	—	1	—	—	1	—	—
Oxford	4	—	1	—	3	1	—	1	1	2
Penobscot	45	5	2	1	37	—	4	28	6	20
Piscataquis	2	—	—	—	2	—	—	2	—	3
Sagadahoc	6	2	1	1	2	—	—	3	—	—
Somerset	12	5	—	—	7	—	1	6	6	—
Waldo	4	—	—	—	4	—	—	2	2	—
Washington	2	1	—	—	1	—	—	1	—	2
York	29	5	1	—	23	—	—	15	8	1

1938 DRUNKENNESS—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	153	56	—	—	97	1	18	45	33	11
Androscoggin	6	4	—	—	2	—	—	1	1	3
Aroostook	14	1	—	—	13	—	—	7	6	—
Cumberland	40	19	—	—	21	—	7	6	8	—
Hancock	4	1	—	—	3	—	—	—	3	—
Knox	4	2	—	—	2	—	—	—	2	—
Oxford	2	—	—	—	2	1	—	1	—	—
Penobscot	46	9	—	—	37	—	6	21	10	2
Sagadahoc	13	10	—	—	3	—	—	3	—	—
Somerset	10	7	—	—	3	—	1	2	—	2
Waldo	3	—	—	—	3	—	3	—	—	—
Washington	7	3	—	—	4	—	—	2	2	4
York	4	—	—	—	4	—	1	2	1	—

1938 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	5	—	—	—	5	—	5	—	—	—
Cumberland	4	—	—	—	4	—	4	—	—	—
York	1	—	—	—	1	—	1	—	—	—

1938 MISCELLANEOUS OFFENSES—INDICTMENTS APPEALS

Totals	434	211	12	11	200	9	35	96	71	64
Androscoggin	38	25	—	1	12	—	—	7	6	9
Aroostook	48	23	4	1	20	—	—	15	6	—
Cumberland	56	33	—	2	21	—	5	8	10	1
Franklin	11	7	—	—	4	—	—	3	1	—
Hancock	1	—	—	—	1	—	1	—	—	1
Kennebec	11	6	—	—	5	—	1	1	3	5
Knox	20	16	—	—	4	—	1	—	3	1
Lincoln	15	7	—	—	8	1	1	—	6	1
Oxford	18	1	1	3	13	8	1	4	3	4
Penobscot	103	49	4	4	46	—	6	32	12	29
Piscataquis	4	3	—	—	1	—	—	1	—	—
Somerset	42	14	1	—	27	—	17	6	4	4
Waldo	4	1	—	—	3	—	1	2	—	—
Washington	24	11	—	—	13	—	1	7	5	4
York	39	15	2	—	22	—	—	10	12	5

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1938

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$7,782.32	$19,246.23	$1,954.92	$5,437.24	$3,939.85	$2,709.78
Aroostook	4,299.15	4,544.71	942.80	1,200.00	6,910.28	5,274.47
Cumberland	24,897.26	46,084.43	1,371.98	2,027.48	4,397.55	3,209.34
Franklin	346.50	4,775.28	256.48	513.88	364.29	*
Hancock	1,534.46	5,360.05	834.82	2,421.02	577.43	411.03
Kennebec	4,469.92	10,468.83	753.74	2,319.36	1,506.62	1,173.41
Knox	521.46	3,930.40	281.40	120.00	1,299.62	345.84
Lincoln	1,086.17	2,775.61	355.92	245.69	632.82	632.82
Oxford	10,857.90	4,093.68	1,122.02	3,788.92	*	1,160.00
Penobscot	17,216.13	12,532.84	1,162.00	3,856.16	8,502.41	6,702.76
Piscataquis	1,227.16	2,456.92	277.48	96.00	1,578.87	1,243.70
Sagadahoc	1,145.38	2,615.75	263.88	1,142.00	16.19	16.19
Somerset	2,047.62	4,616.87	816.68	2,538.00	1,332.72	1,095.29
Waldo	1,272.32	3,616.52	306.08	1,655.65	819.16	819.16
Washington	10,374.67	5,965.54	1,070.52	2,614.64	1,682.71	1,467.34
York	5,729.70	10,526.74	1,298.60	1,392.53	4,304.99	3,364.47
Totals	$94,808.12	$143,610.39	$13,069.32	$31,368.57	$37,865.51	$29,625.60

*Not Reported.

BAIL 1938

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	29	$11,700.00	–	———	–	———	–	———	–	———	———	———
Aroostook	1	500.00	–	———	–	———	–	———	–	———	———	———
Cumberland	–	———	–	———	–	———	–	———	–	———	———	———
Franklin	*	———	–	———	–	———	–	———	–	———	———	———
Hancock	1	100.00	1	$100.00	–	———	–	———	–	———	———	———
Kennebec	5	*	1	*	–	———	–	———	–	———	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	*	———	1	*	–	———	–	———	–	———	———	———
Penobscot	33	8,300.00	–	———	–	———	1	$500.00	–	———	———	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc*	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	1	10,000.00	1	1,000.00	–	———	–	———	–	———	$25.00	———
Waldo	1	500.00	–	———	–	———	–	———	–	———	*	*
Washington	–	———	–	———	–	———	–	———	–	———	———	———
York	8	6,250.00	4	2,100.00	4	$2,100.00	7	743.77	4	2,100.00	500.00	———
Totals	79	$37,350.00	8	$3,200.00	4	$2,100.00	8	$1,243.77	4	$2,100.00	525.00	———

*Not Reported.

LAW COURT CASES 1938

County	Name of Case	Outcome
Androscoggin	Lucien Boutin et al.	Judgment for State
Aroostook	*	———
Cumberland	James Darling	Judgment for the State
	Charles W. Rich	Appeal Withdrawn
	William Mayo	Appeal Withdrawn
	Raymond Peterson	Pending
Franklin	*	———
Hancock	Howard Merry	Pending
Kennebec	Edward J. Bechard	Dismissed
	Alton Vashon	Judgment for the State
	Clement Cote	Judgment for the State
	Milton Gagnon	Judgment for the State
	Charles A. Quigley	Judgment for the State
Knox	None	———
Lincoln	None	———
Oxford	James V. Caliendo	Pending
Penobscot	Ferne Beckwith	
	William Carey	
Piscataquis	None	———
Sagadahoc	None	———
Somerset	Fraser Shannon	Judgment for Defendant
	Fraser Shannon	*
	John Lawrence	Judgment for State
Waldo	None	———
Washington	*	
York	Amedee Cyr	Judgment for the State

*Missing or Not Reported

1939

1939 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	2116	748	63	100	1205	110	235	371	589	277
Murder	2	1	—	—	1	—	—	—	1	—
Manslaughter	26	14	3	1	8	1	2	4	2	2
Rape	27	7	2	5	13	—	3	1	14	—
Robbery	42	13	—	12	17	1	5	—	23	2
Felonious Assault	22	4	—	2	16	—	3	1	14	1
Assault and Battery	91	40	3	5	43	3	8	16	21	16
B. E. and Larceny	297	77	1	13	206	30	71	2	116	17
Forgery	91	33	3	3	52	4	17	—	34	15
Larceny	264	93	9	12	150	25	30	8	99	39
Sex Offenses	165	38	3	22	102	15	21	8	80	33
Non-Support	23	15	—	—	8	—	5	1	2	12
Liquor Offenses	37	19	—	1	17	1	2	8	7	1
Drunken Driving	236	63	14	6	153	3	6	106	44	34
Drunkenness	128	29	1	1	97	5	8	37	48	8
Motor Vehicle	159	87	3	2	67	7	2	57	3	16
Juvenile Delinquency	11	—	—	1	10	—	7	—	4	2
Miscellaneous	495	215	21	14	245	15	45	122	77	79

1939 MURDER—INDICTMENTS AND APPEALS

Totals	2	1	—	—	1	—	—	—	1	—
Androscoggin	1	1	—	—	—	—	—	—	—	—
Hancock	1	—	—	—	—	—	—	—	—	—
Kennebec	—	—	—	—	1	—	—	—	1	—

1939 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	26	14	3	1	8	1	2	4	2	2
Androscoggin	13	13	—	—	—	—	—	—	—	—
Knox	2	—	2	—	—	—	—	—	—	—
Penobscot	4	—	—	1	3	—	1	3	—	—
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	2	—	—	—	2	—	—	—	2	1
Waldo	1	—	—	—	1	1	—	—	—	—
Washington	1	—	—	—	1	—	—	1	—	—
York	2	1	1	—	—	—	—	—	—	—

1939 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	27	7	2	5	13	—	3	1	14	—
Androscoggin	2	1	—	—	1	—	—	—	1	—
Aroostook	3	1	—	2	—	—	1	—	1	—
Cumberland	6	2	1	—	3	—	1	—	2	—
Franklin	1	—	—	—	1	—	—	1	—	—
Oxford	1	—	—	—	1	—	—	—	1	—
Penobscot	7	2	—	3	2	—	—	—	5	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Waldo	1	1	—	—	—	—	—	—	—	—
Washington	2	—	—	—	2	—	1	—	1	—
York	3	—	1	—	2	—	—	—	2	—

1939 ROBBERY—INDICTMENTS AND APPEALS

Totals	42	13	—	12	17	1	5	—	23	2
Androscoggin	4	3	—	—	1	—	—	—	1	—
Cumberland	11	1	—	2	8	1	—	—	9	—
Kennebec	1	—	—	—	1	—	1	—	—	—
Oxford	2	—	—	2	—	—	—	—	2	—
Penobscot	8	1	—	5	2	—	3	—	4	2
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	1	—	—	1	—	—	—	—	1	—
Washington	1	—	—	—	1	—	—	—	1	—
York	13	8	—	2	3	—	—	—	5	—

1939 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	22	4	—	2	16	—	3	1	14	1
Aroostook	3	1	—	—	2	—	—	—	2	—
Cumberland	8	3	—	—	5	—	—	—	5	—
Franklin	1	—	—	—	1	—	—	—	1	—
Kennebec	1	—	—	—	1	—	—	—	1	1
Knox	3	—	—	—	3	—	—	1	2	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	2	—	—	1	1	—	—	—	2	—
Somerset	3	—	—	1	2	—	2	—	1	—

1939 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	91	40	3	5	43	3	8	16	21	16
Androscoggin	10	4	—	1	5	—	—	2	4	1
Aroostook	16	7	1	—	8	—	—	5	3	—
Cumberland	16	3	1	1	11	3	3	2	4	—
Franklin	1	—	—	—	1	—	—	—	1	2
Kennebec	3	—	—	—	3	—	1	2	—	2
Knox	2	2	—	—	—	—	—	—	—	2
Lincoln	2	1	1	—	—	—	—	—	—	—
Oxford	2	1	—	—	1	—	—	1	—	—
Penobscot	18	12	—	2	4	—	—	2	4	2
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	1	—	—	—	1	—	1	—	—	2
Somerset	5	4	—	—	1	—	1	—	—	1
Waldo	3	—	—	—	3	—	—	—	3	—
Washington	6	4	—	—	2	—	1	1	—	4
York	5	1	—	1	3	—	1	1	2	—

1939 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	297	77	1	13	206	30	71	2	116	17
Androscoggin	24	9	—	—	15	7	—	—	8	3
Aroostook	14	—	—	2	12	—	—	—	14	—
Cumberland	67	9	—	—	58	21	15	—	22	—
Franklin	2	—	—	—	2	—	—	—	2	—
Hancock	4	1	—	—	3	—	1	—	2	—
Kennebec	20	8	—	—	12	—	8	—	4	1
Knox	13	8	—	—	5	—	—	—	5	2
Lincoln	8	1	—	1	6	—	4	—	3	4
Oxford	10	1	—	1	8	—	4	—	5	—
Penobscot	65	28	—	7	30	2	13	1	21	5
Somerset	19	3	1	—	15	—	9	—	6	2
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	11	3	—	—	8	—	3	1	4	—
York	39	6	—	2	31	—	14	—	19	—

1939 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	91	33	3	3	52	4	17	—	34	15
Androscoggin	10	6	—	1	3	—	—	—	4	6
Aroostook	8	1	—	—	7	—	2	—	5	1
Cumberland	19	3	—	—	16	4	4	—	8	—
Franklin	1	—	—	—	1	—	1	—	—	—
Hancock	1	—	—	—	1	—	1	—	—	—
Kennebec	3	1	—	—	2	—	—	—	2	—
Oxford	3	—	—	—	3	—	—	—	3	1
Penobscot	6	1	2	—	3	—	1	—	2	4
Sagadahoc	1	—	—	1	—	—	—	—	1	—
Somerset	20	12	—	—	8	—	5	—	3	—
Washington	4	2	—	—	2	—	2	—	—	1
York	15	7	1	1	6	—	1	—	6	2

1939 LARCENY—INDICTMENTS AND APPEALS

Totals	264	93	9	12	150	25	30	8	99	39
Androscoggin	22	7	1	—	14	4	—	—	10	10
Aroostook	24	6	—	—	18	1	6	1	10	2
Cumberland	70	26	2	—	42	14	6	—	22	—
Franklin	5	2	—	—	3	—	—	—	3	—
Hancock	4	—	1	—	3	—	3	—	—	--
Kennebec	5	1	1	1	2	—	—	—	3	3
Knox	16	7	—	5	4	—	—	2	7	1
Lincoln	5	2	1	—	2	—	1	—	1	1
Oxford	18	7	—	—	11	—	3	—	8	3
Penobscot	32	20	—	—	12	2	4	1	5	11
Piscataquis	4	3	—	—	1	—	—	—	1	—
Sagadahoc	5	2	1	—	2	—	2	—	—	—
Somerset	22	6	2	5	9	—	2	2	10	1
Waldo	7	1	—	—	6	3	—	—	3	2
Washington	6	—	—	1	5	—	1	—	5	2
York	19	3	—	—	16	1	2	2	11	3

1939 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	165	38	3	22	102	15	21	8	80	33
Androscoggin	20	5	1	—	14	2	2	1	9	28
Aroostook	13	2	—	1	10	3	—	—	8	—
Cumberland	28	5	1	6	16	7	3	—	12	—
Franklin	4	2	—	—	2	—	—	—	2	—
Hancock	2	1	—	1	—	—	—	—	1	—
Kennebec	10	1	—	9	—	—	2	—	7	1
Knox	1	—	—	—	1	—	1	—	—	—
Lincoln	9	1	—	—	8	1	2	1	4	—
Oxford	4	2	—	—	2	—	—	1	1	—
Penobscot	35	11	1	1	22	2	6	3	12	3
Piscataquis	2	—	—	—	2	—	1	—	1	—
Sagadahoc	2	1	—	—	1	—	—	—	1	—
Somerset	7	3	—	3	1	—	—	—	4	1
Washington	14	3	—	—	11	—	3	—	8	—
York	14	1	—	1	12	—	1	2	10	—

1939 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	23	15	—	—	8	—	5	1	2	12
Androscoggin	5	5	—	—	—	—	—	—	—	2
Aroostook	5	4	—	—	1	—	1	—	—	1
Cumberland	1	—	—	—	1	—	1	—	—	—
Kennebec	1	—	—	—	1	—	—	1	—	1
Knox	1	1	—	—	—	—	—	—	—	2
Lincoln	1	1	—	—	—	—	—	—	—	—
Penobscot	2	2	—	—	—	—	—	—	—	—
Piscataquis	1	1	—	—	—	—	—	—	—	1
Sagadahoc	—	—	—	—	—	—	—	—	—	1
Somerset	1	—	—	—	1	—	—	—	1	2
Washington	4	1	—	—	3	—	2	—	1	2
York	1	—	—	—	1	—	1	—	—	—

1939 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	37	19	—	1	17	1	2	8	7	1
Androscoggin	1	1	—	—	—	—	—	—	—	—
Aroostook	14	6	—	—	8	—	—	5	3	—
Cumberland	6	3	—	—	3	1	—	1	1	—
Knox	1	—	—	—	1	—	1	—	—	—
Lincoln	1	1	—	—	—	—	—	—	—	—
Penobscot	3	1	—	—	2	—	1	1	—	—
Piscataquis	1	1	—	—	—	—	—	—	—	—
Washington	10	6	—	1	3	—	—	1	3	—
York	—	—	—	—	—	—	—	—	—	1

1939 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	236	63	14	6	153	3	6	106	44	34
Androscoggin	31	12	3	—	16	1	2	9	4	7
Aroostook	40	6	3	1	30	—	—	13	18	2
Cumberland	42	7	1	2	32	—	1	29	4	—
Franklin	6	3	—	—	3	—	—	3	—	—
Hancock	1	—	—	—	1	—	—	1	—	—
Kennebec	21	3	2	2	14	2	2	10	2	3
Knox	14	7	2	1	4	—	—	3	2	2
Lincoln	6	4	—	—	2	—	—	1	1	2
Oxford	3	1	1	—	1	—	—	—	1	—
Penobscot	34	11	1	—	22	—	1	17	4	9
Piscataquis	5	1	—	—	4	—	—	2	2	1
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	10	3	—	—	7	—	—	5	2	4
Waldo	7	1	1	—	5	—	—	3	2	—
Washington	5	1	—	—	4	—	—	3	1	2
York	10	2	—	—	8	—	—	7	1	2

1939 DRUNKENNESS—INDICTMENTS AND APPEALS

Totals	128	29	1	1	97	5	8	37	48	8
Androscoggin	3	1	—	—	2	1	—	—	1	—
Aroostook	18	1	—	—	17	—	—	6	11	—
Cumberland	18	4	—	—	14	3	3	2	6	—
Franklin	6	1	—	—	5	—	—	4	1	—
Hancock	1	—	—	—	1	—	—	1	—	—
Kennebec	5	—	—	—	5	1	1	—	3	—
Knox	3	1	—	1	1	—	—	1	1	—
Oxford	2	—	—	—	2	—	—	2	—	—
Penobscot	40	6	—	—	34	—	1	16	17	2
Sagadahoc	4	3	—	—	1	—	—	—	1	2
Somerset	7	2	—	—	5	—	—	1	4	2
Waldo	6	5	—	—	1	—	—	—	1	1
Washington	13	5	1	—	7	—	2	3	2	1
York	2	—	—	—	2	—	1	1	—	—

1939 MOTOR VEHICLE OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	159	87	3	2	67	7	2	57	3	16
Androscoggin	12	8	—	—	4	2	—	2	—	—
Aroostook	11	5	—	—	6	—	—	3	—	—
Cumberland	44	22	—	—	22	3	—	19	—	—
Franklin	3	2	—	—	1	—	—	1	—	—
Hancock	4	3	1	—	—	—	—	—	—	—
Kennebec	9	1	—	1	7	—	—	8	—	2
Knox	1	1	—	—	—	—	—	—	—	—
Lincoln	6	4	1	—	1	—	—	1	—	—
Oxford	1	—	—	—	1	—	—	1	—	—
Penobscot	39	22	—	—	17	—	1	16	—	9
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	2	1	—	—	1	—	1	—	—	1
Somerset	7	3	1	1	2	—	—	3	—	3
Waldo	2	—	—	—	2	2	—	—	—	—
Washington	11	8	—	—	3	—	—	3	—	1
York	6	6	—	—	—	—	—	—	—	—

1939 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	11	—	—	1	10	—	7	—	4	2
Androscoggin	1	—	—	—	1	—	—	—	1	1
Cumberland	4	—	—	—	4	—	4	—	—	—
Penobscot	3	—	—	1	2	—	1	—	2	1
Washington	1	—	—	—	1	—	—	—	1	—
York	2	—	—	—	2	—	2	—	—	—

1939 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	495	215	21	14	245	15	45	122	77	79
Androscoggin	84	48	8	—	28	7	2	5	14	13
Aroostook	67	34	3	—	30	—	—	15	15	8
Cumberland	50	16	1	2	31	4	3	20	6	—
Franklin	17	6	—	—	11	—	1	8	2	1
Hancock	5	2	—	—	3	—	2	—	1	—
Kennebec	9	1	—	1	7	—	2	3	3	3
Knox	9	5	2	—	2		1	1	—	2
Lincoln	4	2	—	—	2	1	1	—	—	—
Oxford	20	10	—	2	8	—	1	3	6	—
Penobscot	116	40	—	3	73	—	20	44	12	36
Piscataquis	1	—	—	—	1	—	—	—	1	1
Sagadahoc	6	3	—	—	3	—	3	—	—	2
Somerset	49	22	4	2	21	—	7	8	8	8
Waldo	4	—	1	—	3	3	—	—	—	1
Washington	27	16	1	1	9	—	1	7	2	3
York	27	10	1	3	13	—	1	8	7	1

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1939

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$8,905.98	$19,021.37	$1,598.76	$4,814.20	$3,023.84	$2,024.14
Aroostook	8,314.46	3,500.00	1,048.44	880.00	4,025.94	3,321.26
Cumberland	26,425.73	41,743.70	1,526.92	1,697.32	5,559.61	5,117.67
Franklin	588.93	4,868.21	349.48	548.64	659.43	654.05
Hancock	1,082.36	4,952.43	573.12	1,331.88	717.46	717.46
Kennebec	3,732.15	9,292.55	692.84	2,579.78	1,934.90	2,041.49
Knox	720.71	3,896.48	299.52	318.00	443.48	443.48
Lincoln	1,227.94	1,763.13	387.20	278.64	1,369.58	1,369.58
Oxford	2,536.25	4,356.94	864.76	624.00	272.59	272.59
Penobscot	13,354.50	10,662.32	977.76	3,389.88	5,948.00	6,198.44
Piscataquis	735.64	2,388.20	268.46	649.36	217.50	110.05
Sagadahoc	1,376.69	3,379.39	272.76	1,094.40	624.53	624.53
Somerset	3,377.11	4,838.21	1,035.08	2,514.52	1,150.77	1,028.30
Waldo	655.26	5,289.57	382.98	597.92	1,047.55	1,047.55
Washington	7,425.27	7,031.24	898.00	1,392.16	2,598.25	1,688.11
York	2,727.93	11,731.21	1,151.80	4,380.20	1,632.13	1,413.75
Totals	$83,186.91	$138,714.95	$12,327.88	$27,090.90	$31,225.56	$28,072.45

BAIL 1939

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	–	$11,300.00	–	———	–	———	–	———	–	———	———	———
Aroostook	11	2,550.00	8	$1,350.00	–	———	1	$50.00	7	$1,300.00	———	$150.00
Cumberland	–	———	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	–	———	–	———	–	———	–	———	–	———	———	———
Kennebec	1	500.00	1	500.00	–	———	–	———	1	500.00	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	1	2,000.00	–	———	–	———	–	———	1	2,000.00	———	———
Oxford	2	1,000.00	2	1,000.00	–	———	–	———	1	500.00	———	———
Penobscot	57	17,525.00	5	———	–	———	9	———	5	1,900.00	$400.00	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	–	———	–	———	–	———	–	———	–	———	———	———
Waldo	2	1,000.00	2	1,000.00	–	———	–	———	2	1,000.00	———	———
Washington	1	1,000.00	–	———	–	———	–	———	–	———	———	———
York	4	2,025.00	3	2,000.00	–	———	1	15.86	–	———	25.00	———
Totals	79	$38,900.00	21	$5,850.00	–	———	11	65.86	17	$7,200.00	$425.00	$150.00

LAW COURT CASES 1939

County	Name of Case	Outcome
Androscoggin	*	
Aroostook	Jackins	Nol Prossed
Cumberland	Raymond P. Peterson	Judgment for Defendant
	Daniel Cousins	Judgment for State
	Corin Kneeland	Pending
Franklin	None	———
Hancock	Howard Merry	Judgment for State
Kennebec	None	———
Knox	None	———
Lincoln	Colin R. Dunn	Pending
	Roy Packard	Judgment for State.
Oxford	James V. Caliendo	Appeal Sustained
Penobscot	Harold Baron	Judgment for State
	Robert St. Peter	Pending
	Lindsay Wilcox	Pending
Piscataquis	Raymond F. Cushing	Judgment for Respondent
Sagadahoc	None	———
Somerset	Fraser Shannon	Judgment for Respondent
	Lewis Ela	Judgment for Respondent
Waldo	None	———
Washington	None	———
York	Frank E. Bradbury	Pending
	William Kouzounas	Pending
	George F. Beety	Pending
	William Guptill	Pending

*Missing.

1940

1940 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	1689	529	46	40	1074	118	226	299	471	218
Murder	2	—	—	1	1	1	—	—	1	2
Manslaughter	14	2	1	1	10	—	1	2	8	—
Rape	28	3	—	3	22	1	1	2	21	7
Robbery	18	1	—	1	16	3	1	—	13	2
Felonious Assault	17	2	5	6	4	1	—	1	8	3
Assault and Battery	105	51	1	1	52	1	10	23	19	13
B. E. and Larceny	251	55	3	4	189	22	51	—	120	20
Forgery	77	24	—	—	53	6	18	—	29	12
Larceny	180	46	4	1	129	18	34	6	72	14
Sex	139	32	4	4	99	11	29	4	59	19
Non-Support	15	8	—	—	7	3	1	2	1	8
Liquor	21	12	2	—	7	—	5	1	1	3
Drunken Driving	178	42	11	11	114	11	13	67	34	26
Drunkenness	100	22	1	—	77	2	13	40	22	6
Motor Vehicle	179	81	5	—	93	12	6	65	10	22
Juvenile Delinquency	15	4	1	—	10	1	6	—	3	1
Miscellaneous	350	144	8	7	191	25	37	86	50	60

1940 MURDER—INDICTMENTS AND APPEALS

Totals	2	—	—	1	1	1	—	—	1	2
Cumberland	—	—	—	—	—	—	—	—	—	1
Piscataquis	1	—	—	1	—	—	—	—	1	—
Somerset	—	—	—	—	—	—	—	—	—	1
York	1	—	—	—	1	1	—	—	—	—

1940 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	14	2	1	1	10	—	1	2	8	—
Androscoggin	3	1	1	—	1	—	—	—	1	—
Aroostook	2	1	—	—	1	—	—	—	1	—
Somerset	3	—	—	1	2	—	—	—	3	—
Washington	3	—	—	—	3	—	—	2	1	—
York	3	—	—	—	3	—	1	—	2	—

1940 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	28	3	—	3	22	1	1	2	21	7
Aroostook	3	—	—	—	3	—	—	—	3	—
Cumberland	4	1	—	—	3	1	—	—	2	1
Hancock	1	1	—	—	—	—	—	—	—	—
Kennebec	3	—	—	—	3	—	1	—	2	—
Knox	3	1	—	—	2	—	—	—	2	—
Oxford	1	—	—	—	1	—	—	1	—	4
Penobscot	5	—	—	—	5	—	—	—	5	—
Somerset	1	—	—	—	1	—	—	—	1	—
Waldo	2	—	—	—	2	—	—	1	1	1
Washington	1	—	—	—	1	—	—	—	1	1
York	4	—	—	3	1	—	—	—	4	—

1940 ROBBERY—INDICTMENTS AND APPEALS

Totals	18	1	—	1	16	3	1	—	13	2
Androscoggin	2	—	—	—	2	—	—	—	2	—
Cumberland	4	—	—	—	4	2	—	—	2	—
Penobscot	8	1	—	1	6	1	1	—	5	2
Somerset	4	—	—	—	4	—	—	—	4	—

1940 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	17	2	5	6	4	1	—	1	8	3
Androscoggin	1	—	—	1	—	—	—	1	—	—
Cumberland	3	1	—	2	—	1	—	—	1	2
Franklin	1	—	—	—	1	—	—	—	1	—
Kennebec	1	1	—	—	—	—	—	—	—	—
Penobscot	3	—	—	2	1	—	—	—	3	—
Somerset	1	—	1	—	—	—	—	—	—	—
Waldo	1	—	—	—	1	—	—	—	1	—
York	6	—	4	1	1	—	—	—	2	1

1940 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	105	51	1	1	52	1	10	23	19	13
Androscoggin	10	6	—	—	4	—	—	4	—	—
Aroostook	5	1	—	—	4	—	—	3	1	—
Cumberland	25	19	—	—	6	—	1	1	4	5
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	6	2	—	—	4	1	—	—	3	—
Knox	6	6	—	—	—	—	—	—	—	—
Lincoln	3	1	—	—	2	—	2	—	—	—
Oxford	9	1	—	—	8	—	3	3	2	6
Penobscot	18	8	—	—	10	—	2	4	4	2
Piscataquis	2	1	—	1	—	—	—	—	1	—
Somerset	5	3	1	—	1	—	—	1	—	—
Waldo	2	1	—	—	1	—	—	1	—	—
Washington	10	2	—	—	8	—	2	3	3	—
York	3	—	—	—	3	—	—	3	—	—

1940 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	251	55	3	4	189	22	51	—	120	20
Androscoggin	12	5	—	—	7	—	—	—	7	—
Aroostook	21	1	—	1	19	—	2	—	18	—
Cumberland	62	8	1	—	53	15	16	—	22	2
Franklin	4	3	—	—	1	—	—	—	1	—
Hancock	14	6	—	—	8	1	3	—	4	2
Kennebec	19	3	—	—	16	1	4	—	11	2
Knox	5	2	—	2	1	—	—	—	3	—
Lincoln	6	—	—	—	6	4	2	—	—	—
Oxford	6	—	—	—	6	—	2	—	4	1
Penobscot	31	12	—	1	18	1	7	—	11	5
Piscataquis	3	1	—	—	2	—	1	—	1	1
Somerset	10	3	—	—	7	—	—	—	7	1
Waldo	7	1	—	—	6	—	—	—	6	2
Washington	15	5	2	—	8	—	2	—	6	6
York	36	5	—	—	31	—	12	—	19	—

1940 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	77	24	—	—	53	6	18	—	29	12
Androscoggin	8	6	—	—	2	—	—	—	2	—
Aroostook	13	2	—	—	11	—	4	—	7	—
Cumberland	10	3	—	—	7	4	2	—	1	2
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	4	2	—	—	2	—	—	—	2	—
Kennebec	9	2	—	—	7	1	3	—	3	1
Knox	—	—	—	—	—	—	—	—	—	1
Lincoln	1	—	—	—	1	1	—	—	—	—
Oxford	3	—	—	—	3	—	—	—	3	1
Penobscot	11	3	—	—	8	—	3	—	5	2
Piscataquis	—	—	—	—	—	—	—	—	—	5
Somerset	11	5	—	—	6	—	3	—	3	—
Washington	1	—	—	—	1	—	1	—	—	—
York	5	—	—	—	5	—	2	—	3	—

1940 LARCENY—INDICTMENTS AND APPEALS

Totals	180	46	4	1	129	18	34	6	72	14
Androscoggin	9	8	—	—	1	—	—	—	1	—
Aroostook	10	2	—	—	8	—	3	—	5	—
Cumberland	46	11	—	—	35	15	6	—	14	6
Franklin	6	—	—	—	6	—	2	—	4	—
Hancock	2	—	—	—	2	1	—	—	1	1
Kennebec	15	3	—	—	12	1	1	—	10	1
Knox	3	—	—	—	3	—	1	—	2	1
Lincoln	3	1	—	—	2	1	1	—	—	—
Oxford	5	1	—	—	4	—	1	—	3	2
Penobscot	27	2	—	—	25	—	10	3	12	3
Somerset	18	7	2	—	9	—	4	3	2	—
Waldo	10	2	1	—	7	—	1	—	6	—
Washington	12	4	1	1	6	—	1	—	6	—
York	14	5	—	—	9	—	3	—	6	—

1940 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	139	32	4	4	99	11	29	4	59	19
Androscoggin	17	12	1	—	4	—	—	—	4	—
Aroostook	12	3	—	—	9	—	3	—	6	—
Cumberland	30	7	—	2	21	10	5	—	8	—
Franklin	3	—	—	1	2	—	2	—	1	—
Hancock	2	—	—	—	2	—	—	—	2	—
Kennebec	17	—	—	—	17	1	5	2	9	—
Oxford	7	1	—	—	6	—	—	—	6	—
Penobscot	31	4	1	—	26	—	7	2	17	—
Piscataquis	1	—	—	—	1	—	1	—	—	—
Somerset	3	2	—	—	1	—	—	—	1	—
Waldo	6	2	—	—	4	—	1	—	3	—
Washington	1	—	1	—	—	—	—	—	—	—
York	9	1	1	1	6	—	5	—	2	—

1940 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	15	8	—	—	7	3	1	2	1	8
Androscoggin	2	2	—	—	—	—	—	—	—	—
Aroostook	1	—	—	—	1	—	1	—	—	2
Cumberland	4	1	—	—	3	3	—	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Knox	4	3	—	—	1	—	—	1	—	—
Penobscot	1	1	—	—	—	—	—	—	—	1
Somerset	1	—	—	—	1	—	—	—	1	1
Washington	2	1	—	—	1	—	—	1	—	3

1940 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	21	12	2	—	7	—	5	1	1	3
Androscoggin	2	2	—	—	—	—	—	—	—	—
Aroostook	10	3	1	—	6	—	4	1	1	1
Kennebec	4	3	—	—	1	—	1	—	—	—
Penobscot	2	2	—	—	—	—	—	—	—	1
Washington	2	1	1	—	—	—	—	—	—	1
York	1	1	—	—	—	—	—	—	—	—

1940 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	178	42	11	11	114	11	13	67	34	26
Androscoggin	19	9	—	—	10	—	—	5	5	—
Aroostook	27	7	2	5	13	—	2	12	4	—
Cumberland	40	12	1	3	24	3	3	14	7	9
Franklin	11	—	—	—	11	5	3	3	—	—
Hancock	2	1	—	—	1	—	—	—	1	5
Kennebec	2	—	—	—	2	1	—	—	1	—
Knox	4	—	1	—	3	—	—	3	—	3
Lincoln	6	2	—	1	3	2	—	1	1	—
Oxford	6	1	1	—	4	—	—	3	1	1
Penobscot	32	5	3	—	24	—	5	17	2	5
Piscataquis	2	—	1	1	—	—	—	1	—	1
Somerset	10	2	—	1	7	—	—	4	4	—
Waldo	6	1	1	—	4	—	—	1	3	—
Washington	4	—	1	—	3	—	—	1	2	2
York	7	2	—	—	5	—	—	2	3	—

1940 DRUNKENNESS—INDICTMENTS AND APPEALS

Totals	100	22	1	—	77	2	13	40	22	6
Androscoggin	3	1	—	—	2	—	—	—	2	—
Aroostook	11	1	—	—	10	—	1	4	5	1
Cumberland	24	8	—	—	16	1	7	5	3	1
Hancock	2	1	—	—	1	—	—	—	1	—
Kennebec	4	1	—	—	3	1	—	2	—	—
Knox	3	—	—	—	3	—	2	1	—	1
Lincoln	1	—	—	—	1	—	1	—	—	—
Oxford	1	1	—	—	—	—	—	—	—	—
Penobscot	32	4	—	—	28	—	—	22	6	2
Somerset	6	2	—	—	4	—	1	1	2	—
Waldo	3	—	—	—	3	—	1	1	1	—
Washington	4	3	—	—	1	—	—	—	1	1
York	6	—	1	—	5	—	—	4	1	—

1940 MOTOR VEHICLE OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	179	81	5	—	93	12	6	65	10	22
Androscoggin	16	9	3	—	4	—	—	4	—	—
Aroostook	12	7	—	—	5	—	—	5	—	—
Cumberland	78	37	1	—	40	10	1	28	1	5
Franklin	6	6	—	—	—	—	—	—	—	1
Hancock	—	—	—	—	—	—	—	—	—	2
Kennebec	10	3	1	—	6	2	1	1	2	1
Knox	2	—	—	—	2	—	1	1	—	—
Oxford	4	1	—	—	3	—	—	2	1	1
Penobscot	35	12	—	—	23	—	2	19	2	8
Piscataquis	2	2	—	—	—	—	—	—	—	—
Somerset	7	1	—	—	6	—	1	3	2	3
Washington	4	1	—	—	3	—	—	1	2	1
York	3	2	—	—	1	—	—	1	—	—

1940 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	15	4	1	—	10	1	6	—	3	1
Cumberland	8	2	1	—	5	1	4	—	—	—
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	2	1	—	—	1	—	—	—	1	1
Piscataquis	2	1	—	—	1	—	—	—	1	—
Waldo	1	—	—	—	1	—	—	—	1	—
York	1	—	—	—	1	—	1	—	—	—

1940 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Totals	350	144	8	7	191	25	37	86	50	60
Androscoggin	31	16	—	—	15	—	—	11	4	—
Aroostook	44	11	2	4	27	—	14	5	12	3
Cumberland	89	38	2	2	47	20	3	12	14	11
Franklin	19	10	—	1	8	—	4	5	—	1
Hancock	10	7	—	—	3	2	—	—	1	—
Kennebec	4	—	—	—	4	1	1	2	—	3
Knox	12	10	—	—	2	—	—	1	1	7
Lincoln	3	1	—	—	2	—	1	1	—	—
Oxford	13	6	—	—	7	—	3	2	2	—
Penobscot	65	20	3	—	42	1	5	30	6	30
Piscataquis	1	1	—	—	—	—	—	—	—	2
Somerset	23	13	—	—	10	—	2	6	2	—
Waldo	3	1	—	—	2	—	—	—	2	—
Washington	19	5	1	—	13	—	—	8	5	—
York	14	5	—	—	9	1	4	3	1	3

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1940

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$10,872.66	$15,922.27	$1,471.64	$4,653.14	$1,008.90	$1,008.90
Aroostook*						
Cumberland	26,570.93	39,446.36	966.72	2,052.16	3,555.67	2,930.28
Franklin	346.41	4,655.82	408.00	887.08	613.83	613.83
Hancock	1,572.30	4,255.70	681.28	1,040.96	833.18	833.18
Kennebec	3,362.01	9,605.75	1,222.92	2,205.14	2,571.81	2,092.21
Knox	401.73	3,867.91	320.04	504.00	520.12	331.38
Lincoln	1,044.97	1,116.95	434.56	144.00	626.42	626.42
Oxford	1,804.22	4,168.83	741.04	504.00	794.65	794.65
Penobscot	10,572.62	9,458.77	881.12	4,309.92	4,752.57	4,021.69
Piscataquis	788.67	1,941.85	210.68	665.52	187.45	187.45
Sagadahoc*						
Somerset	2,439.13	3,896.89	1,308.40	2,326.56	1,324.13	1,324.13
Waldo	466.70	5,062.04	367.56	719.48	399.73	399.73
Washington	10,472.03	4,125.81	977.80	1,757.24	1,691.79	1,625.55
York	4,388.17	11,046.80	1,055.20	4,254.20	1,894.67	1,675.33
Totals	$75,102.55	$118,571.75	$11,046.96	$26,023.40	$20,774.92	$18,464.73

*Missing.

BAIL 1940

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	–	———	–	———	–	———	–	———	–	———	———	———
Aroostook	*	———										
Cumberland	–	———	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	4	$ 550.00	4	$ 550.00	4	$550.00	–	———	–	———	———	———
Kennebec	2	1,000.00	–	———	–	———	–	———	–	———	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	–	———	–	———	–	———	–	———	–	———	———	———
Penobscot	26	4,450.00	9	13,500.00	–	———	–	———	7	$9,400.00	———	———
Piscataquis	1	1,000.00	–	———	–	———	–	———	–	———	———	———
Sagadahoc*												
Somerset	–	———	–	———	–	———	–	———	–	———	$1,000.00	$1,000.00
Waldo	–	———	–	———	–	———	–	$6,500.00	–	———	———	———
Washington	2	400.00	–	———	–	———	–	———	2	400.00	———	———
York	1	200.00	2	500.00	–	———	1	2,000.00	1	200.00	———	———
Totals	36	$7,600.00	15	$14,550.00	4	$550.00	1	$8,500.00	10	$10,000.00	$1,000.00	$1,000.00

*Missing

LAW COURT CASES 1940

County	Name of Case	Outcome
Androscoggin	None	———
Aroostook	*	———
Cumberland	Daniel Cousins	Judgment for State
	Corin E. Kneeland	Report Discharged
	Bernard Madorsky	Judgment for State
	George Hamel	Judgment for State
Franklin	Mildred A. Jones and Dana E. Howland	Judgment for State
Hancock	None	———
Kennebec	None	———
Knox	Archie Ruvedo	Judgment for State
Lincoln	None	———
Oxford	None	———
Penobscot	Robert St. Peter	Judgment for State
	Lindsay Wilcox	Judgment for State
Piscataquis	None	———
Sagadahoc	*	———
Somerset	Lewis L. Ela	Judgment for Defendant
	Ralph C. Hilton	Judgment for State
Waldo	None	———
Washington	None	———
York	George F. Beety	Judgment for State
	William Kouzounas	Pending.
	James Dale Irons	Pending
	Andrew McAllister	Judgment for State

*Missing.

1941 and 1942

1941 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	1731	532	54	37	1108	136	287	346	376	274
Murders	4	—	1	1	2	—	—	—	3	1
Manslaughter	13	2	—	1	10	—	2	2	7	1
Rape	26	6	8	2	10	—	2	2	8	2
Robbery	24	1	—	—	23	2	2	1	18	3
Felonious Assault	14	3	—	1	10	1	3	—	7	1
Assault and Battery	104	38	2	4	60	8	10	21	25	11
B. E. and Larceny	216	43	1	1	171	21	68	—	83	27
Forgery	63	20	—	—	43	14	10	—	19	13
Larceny	190	60	7	3	120	20	51	8	44	31
Sex	140	38	5	2	95	7	34	10	46	16
Non-support	16	9	—	—	7	—	3	2	2	8
Liquor	31	12	4	1	14	2	3	5	5	5
Drunken Driving	224	54	9	10	151	8	8	116	29	52
Drunkenness	118	28	—	2	88	9	23	34	24	14
Motor Vehicle	172	68	5	2	97	10	13	71	5	22
Juv. Delinquency	4	1	—	—	3	1	—	—	2	—
Miscellaneous	372	149	12	7	204	33	55	74	49	67

1941 MURDER—INDICTMENTS AND APPEALS

Totals	4	—	1	1	2	—	—	—	3	1
Androscoggin	1	—	—	—	1	—	—	—	1	—
Cumberland	—	—	—	—	—	—	—	—	—	1
Franklin	1	—	1	—	—	—	—	—	—	—
Kennebec	1	—	—	1	—	—	—	—	1	—
Knox	1	—	—	—	1	—	—	—	1	—

1941 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	13	2	—	1	10	—	2	2	7	1
Androscoggin	1	—	—	1	—	—	—	—	1	—
Aroostook	2	—	—	—	2	—	—	—	2	—
Cumberland	1	—	—	—	1	—	—	—	1	1
Franklin	1	—	—	—	1	—	1	—	—	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Piscataquis	2	—	—	—	2	—	1	1	—	—
Sagadahoc	2	—	—	—	2	—	—	—	2	—
Washington	2	1	—	—	1	—	—	1	—	—
York	1	1	—	—	—	—	—	—	—	—

1941 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	26	6	8	2	10	—	2	2	8	2
Aroostook	3	1	—	—	2	—	1	—	1	—
Cumberland	4	2	—	—	2	—	1	—	1	—
Kennebec	2	—	1	—	1	—	—	—	1	—
Knox	3	—	2	—	1	—	—	—	1	—
Oxford	5	2	—	—	3	—	—	2	1	—
Penobscot	3	—	3	—	—	—	—	—	—	—
Piscataquis	1	1	—	—	—	—	—	—	—	—
Waldo	2	—	—	1	1	—	—	—	2	—
Washington	1	—	1	—	—	—	—	—	—	—
York	2	—	1	1	—	—	—	—	1	—

1941 ROBBERY—INDICTMENTS AND APPEALS

Totals	24	1	—	—	23	2	2	1	18	3
Aroostook	3	—	—	—	3	—	2	—	3	—
Cumberland	6	—	—	—	6	—	—	—	4	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Oxford	3	—	—	—	3	1	—	—	2	—
Penobscot	4	1	—	—	3	—	—	—	3	3
Piscataquis	2	—	—	—	2	1	—	—	1	—
York	5	—	—	—	5	—	—	1	4	—

1941 FELONIOUS ASSAULT—INDICTMENTS AND APPEALS

Totals	14	3	—	1	10	1	3	—	7	1
Aroostook	1	—	—	—	1	—	—	—	1	—
Cumberland	5	1	—	—	4	1	1	—	2	—
Penobscot	1	—	—	—	1	—	—	—	1	1
Piscataquis	1	1	—	—	—	—	—	—	—	—
Somerset	1	—	—	1	—	—	—	—	1	—
Waldo	2	—	—	—	2	—	1	—	1	—
Washington	2	—	—	—	2	—	1	—	1	—
York	1	1	—	—	—	—	—	—	—	—

1941 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	104	38	2	4	60	8	10	21	25	11
Androscoggin	4	—	—	—	4	—	2	1	1	2
Aroostook	12	4	2	1	5	—	2	1	3	—
Cumberland	25	15	—	—	10	2	2	3	3	4
Franklin	2	1	—	—	1	—	—	1	—	—
Kennebec	7	3	—	1	3	—	1	2	1	—
Knox	3	—	—	—	3	—	—	1	2	—
Lincoln	2	—	—	1	1	—	—	2	—	—
Oxford	13	1	—	—	12	6	—	1	5	—
Penobscot	18	8	—	—	10	—	—	5	5	1
Piscataquis	1	—	—	—	1	—	—	—	1	4
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	3	—	—	1	2	—	1	—	2	—
Waldo	1	—	—	—	1	—	1	—	—	—
Washington	5	2	—	—	3	—	1	3	—	—
York	7	3	—	—	4	—	—	1	2	—

1941 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	216	43	1	1	171	21	68	—	83	27
Androscoggin	14	6	—	—	8	—	7	—	1	9
Aroostook	13	—	—	—	13	—	11	—	2	—
Cumberland	64	7	—	—	57	17	18	—	22	3
Franklin	6	4	—	—	2	—	1	—	1	—
Kennebec	9	5	—	1	3	—	—	—	4	—
Knox	7	—	—	—	7	—	2	—	5	—
Lincoln	4	—	—	—	4	2	1	—	1	1
Oxford	11	1	—	—	10	2	6	—	2	8
Penobscot	33	15	—	—	18	—	10	—	7	3
Piscataquis	1	1	—	—	—	—	—	—	—	—
Sagadahoc	7	—	—	—	7	—	—	—	7	—
Somerset	11	1	1	—	9	—	3	—	6	—
Waldo	6	—	—	—	6	—	1	—	5	3
Washington	20	1	—	—	19	—	2	—	17	—
York	10	2	—	—	8	—	5	—	3	—

1941 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	63	20	—	—	43	14	10	—	19	13
Androscoggin	12	8	—	—	4	—	1	—	3	3
Aroostook	1	—	—	—	1	—	1	—	—	—
Cumberland	11	—	—	—	11	5	1	—	5	4
Franklin	1	1	—	—	—	—	—	—	—	1
Kennebec	6	—	—	—	6	—	4	—	2	—
Knox	1	1	—	—	—	—	—	—	—	—
Oxford	15	1	—	—	14	9	—	—	5	5
Penobscot	2	1	—	—	1	—	1	—	—	—
Piscataquis	5	5	—	—	—	—	—	—	—	—
Sagadahoc	2	1	—	—	1	—	1	—	—	—
Somerset	5	1	—	—	4	—	—	—	4	—
Washington	1	—	—	—	1	—	1	—	—	—
York	1	1	—	—	—	—	—	—	—	—

1941 LARCENY—INDICTMENTS AND APPEALS

Totals	190	60	7	3	120	20	51	8	44	31
Androscoggin	29	13	—	1	15	1	9	—	6	8
Aroostook	22	5	—	—	17	—	14	1	2	—
Cumberland	50	17	—	—	33	13	8	1	11	3
Franklin	4	1	—	—	3	—	2	1	—	—
Hancock	5	2	—	—	3	—	1	—	2	4
Kennebec	13	5	1	—	7	—	5	—	2	—
Knox	2	1	—	—	1	—	1	—	—	2
Lincoln	1	—	—	—	1	—	1	—	—	4
Oxford	15	4	—	1	10	3	3	1	4	4
Penobscot	17	6	3	1	7	—	2	1	5	6
Piscataquis	2	—	1	—	1	—	—	1	—	—
Sagadahoc	9	3	—	—	6	2	1	—	3	—
Somerset	7	1	1	—	5	—	3	—	2	—
Waldo	1	—	—	—	1	1	—	—	—	—
Washington	9	1	—	—	8	—	1	1	6	—
York	4	1	1	—	2	—	—	1	1	—

1941 SEX OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	140	38	5	2	95	7	34	10	46	16
Androscoggin	18	7	—	—	11	—	8	—	3	6
Aroostook	6	3	1	—	2	—	—	—	2	—
Cumberland	22	8	—	—	14	1	5	7	1	—
Franklin	4	2	—	—	2	1	—	—	1	—
Hancock	1	—	—	—	1	—	—	—	1	2
Kennebec	15	4	—	—	11	—	8	—	3	—
Knox	2	1	—	—	1	—	—	—	1	—
Lincoln	4	—	—	—	4	2	—	—	2	—
Oxford	14	—	2	—	12	2	5	—	5	1
Penobscot	27	9	2	1	15	—	4	2	10	2
Piscataquis	2	1	—	—	1	—	—	—	1	2
Sagadahoc	1	—	—	—	1	—	1	—	—	—
Somerset	6	1	—	—	5	—	—	—	5	—
Waldo	4	—	—	—	4	1	—	—	3	2
Washington	8	1	—	—	7	—	2	1	4	—
York	6	1	—	—	4	—	1	—	4	1

1941 NON-SUPPORT—INDICTMENTS AND APPEALS

Totals	16	9	—	—	7	—	3	2	2	8
Androscoggin	4	3	—	—	1	—	1	—	—	1
Aroostook	4	3	—	—	1	—	1	—	—	—
Cumberland	2	—	—	—	2	—	1	—	1	1
Franklin	—	—	—	—	—	—	—	—	—	1
Kennebec	1	1	—	—	—	—	—	—	—	—
Knox	—	—	—	—	—	—	—	—	—	1
Penobscot	—	—	—	—	—	—	—	—	—	2
Somerset	1	—	—	—	1	—	—	—	1	—
Washington	3	2	—	—	1	—	—	1	—	2
York	1	—	—	—	1	—	—	1	—	—

1941 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	31	12	4	1	14	2	2	5	5	5
Androscoggin	1	—	—	—	1	—	—	1	—	—
Aroostook	7	1	1	1	4	—	2	1	2	2
Cumberland	6	2	1	—	3	2	—	1	—	—
Hancock	1	—	—	—	1	—	—	—	1	2
Knox	1	—	—	—	1	—	—	1	—	—
Oxford	—	—	—	—	—	—	—	—	—	1
Penobscot	4	2	—	—	2	—	—	1	—	—
Piscataquis	3	2	—	—	1	—	—	—	1	—
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Waldo	—	1	—	—	—	—	—	—	—	—
Washington	6	3	2	—	1	—	—	—	1	—
York	1	—	—	—	—	—	—	—	—	—

1941 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Totals	224	54	9	10	151	8	8	116	29	52
Androscoggin	34	14	—	3	17	—	3	12	5	11
Aroostook	41	5	2	3	31	—	2	29	3	3
Cumberland	46	18	2	—	26	6	2	17	1	9
Franklin	7	1	—	—	6	1	—	5	—	—
Hancock	—	—	—	—	—	—	—	—	—	3
Kennebec	22	2	1	3	16	—	—	13	6	—
Knox	5	3	—	—	2	—	—	2	—	6
Oxford	6	—	—	—	6	1	—	4	1	2
Penobscot	26	1	3	—	22	—	1	16	5	12
Piscataquis	6	3	—	—	3	—	—	2	1	1
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Somerset	6	1	—	—	5	—	—	3	2	2
Waldo	1	—	—	1	—	—	—	1	—	2
Washington	8	2	1	—	5	—	—	2	3	—
York	15	3	—	—	12	—	—	10	2	1

1941 DRUNKENNESS—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Pro-ba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	118	28	—	2	88	9	23	34	24	14
Androscoggin	7	2	—	1	4	—	—	2	3	3
Aroostook	15	3	—	—	12	—	3	7	2	2
Cumberland	44	10	—	—	34	8	12	5	9	—
Franklin	3	2	—	—	1	1	—	—	—	2
Hancock	1	—	—	—	1	—	—	1	—	1
Kennebec	5	1	—	—	4	—	2	2	—	—
Knox	6	3	—	—	3	—	1	—	2	—
Lincoln	1	—	—	—	1	—	—	1	—	—
Oxford	2	1	—	—	1	—	—	—	1	—
Penobscot	21	1	—	1	19	—	2	13	5	1
Sagadahoc	4	2	—	—	2	—	2	—	—	3
Somerset	1	1	—	—	—	—	—	—	—	—
Waldo	3	—	—	—	3	—	1	1	1	2
Washington	3	2	—	—	1	—	—	—	1	—
York	2	—	—	—	2	—	—	2	—	—

1941 MOTOR VEHICLE OFFENSES—INDICTMENTS AND APPEALS

Totals	172	68	5	2	97	10	13	71	5	22
Androscoggin	17	14	—	—	3	—	—	2	1	—
Aroostook	15	7	—	—	8	—	—	8	—	3
Cumberland	48	17	—	—	31	10	5	15	1	2
Franklin	4	3	—	—	1	—	—	1	—	1
Hancock	4	3	—	—	1	—	—	1	—	2
Kennebec	9	4	—	1	4	—	—	4	1	—
Knox	4	—	—	—	4	—	—	4	—	1
Lincoln	1	—	1	—	—	—	—	—	—	—
Oxford	5	2	—	—	3	—	—	3	—	—
Penobscot	37	8	1	1	27	—	1	26	1	10
Piscataquis	2	1	—	—	1	—	—	1	—	—
Sagadahoc	2	2	—	—	—	—	—	—	—	—
Somerset	16	2	3	—	11	—	7	3	1	3
Washington	3	2	—	—	1	—	—	1	—	—
York	5	3	—	—	2	—	—	2	—	—

1941 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	3	1	—	—	1	1	—	—	2	—
Cumberland	2	1	—	—	—	1	—	—	1	—
Washington	1	—	—	—	1	—	—	—	1	—

1941 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	372	149	12	7	204	33	55	74	49	67
Androscoggin	43	35	—	1	7	—	6	1	1	—
Aroostook	41	11	—	3	27	—	10	13	7	—
Cumberland	71	27	—	—	44	18	9	5	12	—
Franklin	15	5	1	—	9	2	1	6	—	—
Kennebec	22	4	3	—	15	—	5	5	5	—
Knox	15	11	—	—	4	—	1	3	—	—
Lincoln	14	5	—	—	9	7	1	1	—	—
Oxford	16	6	—	—	10	4	—	4	2	—
Penobscot	65	23	4	2	36	—	12	16	10	—
Piscataquis	5	3	—	—	2	—	—	1	1	—
Sagadahoc	6	3	—	—	3	1	—	1	1	—
Somerset	22	10	2	1	9	1	1	8	—	—
Waldo	9	—	—	—	9	—	7	—	2	—
Washington	24	5	2	—	17	—	2	7	8	—
York	4	1	—	—	3	—	—	3	—	—

BAIL 1941

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	20	$1,400.00	–	———	–	———	–	———	–	———	———	———
Aroostook	–	———	–	———	–	———	–	———	–	———	———	———
Cumberland	2	1,000.00	–	———	–	———	–	———	–	———	———	———
Franklin	–	———	–	———	–	———	–	———	–	———	———	———
Hancock	2	600.00	–	———	–	———	4	———	–	———	500.00	———
Kennebec	4	———	4	———	–	———	–	———	–	———	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	4	2,700.00	2	1,500.00	–	———	1	$1,000.00	1	500.00	200.00	1,000.00
Penobscot	7	1,550.00	4	750.00	1	200.00	1	200.00	8	7,200.00	———	4.50
Piscataquis	4	6,500.00	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	–	———	–	———	–	———	–	———	–	———	———	———
Waldo	–	———	–	———	–	———	–	———	–	———	———	———
Washington	–	———	–	———	–	———	–	———	–	———	———	———
York	6	2,700.00	2	700.00	–	———	1	500.00	–	———	———	———
Totals		$16,450.00		$2,950.00		$200.00		$1,700.00		$7,700.00	$700.00	$1,004.50

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1941

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$6,986.54	$13,185.97	$1,587.12	$3,733.60	$4,675.00	$4,591.12
Aroostook	3,811.12	10,519.50	1,033.04	1,402.04	5,159.74	3,372.08
Cumberland	22,913.52	39,203.99	966.36	1,380.52	4,031.15	3,717.06
Franklin	1,060.55	4,895.84	444.72	851.84	662.61	4,543.73
Hancock	767.28	3,923.76	502.64	1,063.88*	362.15	362.15
Kennebec	3,877.31	9,123.33	949.44	2,793.88	4,022.47	4,013.47
Knox	749.84	2,922.35	444.00	208.00	632.26	632.26
Lincoln	1,025.54	539.34	626.48	192.00	242.50	242.50
Oxford	1,690.81	———	957.94	1,264.00	1,228.25	1,028.25
Penobscot	7,457.59	10,999.48	14,015.58	4,244.68	4,761.71	4,209.09
Piscataquis	691.07	2,368.58	340.44	96.00	980.36	552.91
Sagadahoc	3,136.90	3,274.15	626.68	2,718.14	———	310.00
Somerset	1,804.95	3,604.02	862.20	1,922.76	670.10	670.10
Waldo	405.51	5,991.29	432.04	958.68	191.48	139.53
Washington	8,722.39	5,735.88	1,270.66	1,097.12	———	1,276.39
York	4,070.98	10,130.84	967.80	3,955.00	2,322.68	23,647.04
Totals	$69,171.90	$126,418.32	$26,027.14	$27,882.14	$29,942.46	$53,307.68

*Includes Civil.

LAW COURT CASES 1941

County	Name of case	Outcome
Androscoggin	Arthur Dumais	Judgment for State
	Gedeon Vallee	Judgment for State
Aroostook	Raymond I. Cushing	Judgment for State
Cumberland	Bernard Madorsky	Judgment for State
	George Hamel	Judgment for State
	Arthur I. Cox	Pending
Franklin	None	———
Hancock		
Kennebec	None	———
Knox		
Lincoln	None	———
Oxford	None	———
Penobscot	Ralph A. Peacock	Pending
Piscataquis	None	———
Sagadahoc	None	———
Somerset	None	———
Waldo		
Washington	None	———
York	Edwin Babb	Judgment for State
	William Berube	Judgment for State

1942 ALL COUNTIES—TOTAL INDICTMENTS AND APPEALS

Dispositions	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	1458	518	50	42	848	76	184	320	310	190
Murders	2	—	—	1	1	—	—	—	2	—
Manslaughter	9	—	3	1	5	—	1	3	2	2
Rape	28	8	1	1	18	1	2	—	16	6
Robbery	17	—	—	3	14	—	1	—	16	2
Felonious Assault	17	1	5	1	10	1	4	—	6	—
Assault and Battery	100	51	2	3	44	3	9	21	14	11
B. E. and Larceny	135	28	3	4	100	12	40	—	52	27
Forgery	52	18	4	1	29	3	15	—	12	3
Larceny	163	49	2	4	108	19	34	8	51	21
Sex Offenses	119	47	4	10	58	10	13	8	37	6
Non-Support	29	19	—	—	10	3	2	—	5	6
Liquor	76	38	5	—	33	2	11	10	10	4
Drunken Driving	225	58	12	9	146	1	4	120	30	30
Drunkenness	120	35	—	1	84	5	8	47	25	—
Motor Vehicle	126	56	1	1	68	1	9	55	4	19
Juvenile Delinquency	—	—	—	—	—	—	—	—	—	—
Miscellaneous	—	—	—	—	—	—	—	—	—	—

1942 MURDER—INDICTMENTS AND APPEALS

Totals	2	—	—	1	1	—	—	—	2	—
Cumberland	1	—	—	1	—	—	—	—	1	—
Oxford	1	—	—	—	1	—	—	—	1	—

1942 MANSLAUGHTER—INDICTMENTS AND APPEALS

Totals	9	—	3	1	5	—	1	3	2	2
Androscoggin	1	—	—	—	1	—	—	1	—	—
Aroostook	1	—	1	—	—	—	—	—	—	—
Cumberland	1	—	1	—	—	—	—	—	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	3	—	1	—	2	—	—	1	1	—
Knox	1	—	—	—	1	—	1	—	—	—
Oxford	1	—	—	—	1	—	—	1	—	1
York	1	—	—	1	—	—	—	—	1	—

1942 RAPE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	28	8	1	1	18	1	2	—	16	6
Androscoggin	1	—	—	—	1	—	1	—	—	—
Aroostook	4	1	—	1	2	—	—	—	3	—
Cumberland	4	2	1	—	1	—	—	—	1	2
Franklin	1	—	—	—	1	—	—	—	1	—
Hancock	1	—	—	—	1	—	1	—	—	1
Kennebec	3	—	—	—	3	—	—	—	3	—
Knox	6	3	—	—	3	—	—	—	3	—
Lincoln	—	—	—	—	—	—	—	—	—	1
Oxford	—	—	—	—	—	—	—	—	—	2
Penobscot	5	—	—	—	5	1	—	—	4	—
Piscataquis	1	1	—	—	—	—	—	—	—	—
Washington	1	—	—	—	1	—	—	—	1	—
York	1	1	—	—	—	—	—	—	—	—

1942 ROBBERY—INDICTMENTS AND APPEALS

Totals	17	—	—	3	14	—	1	—	16	2
Androscoggin	1	—	—	—	1	—	—	—	1	—
Cumberland	6	—	—	3	3	—	1	—	5	—
Kennebec	1	—	—	—	1	—	—	—	1	—
Penobscot	4	—	—	—	4	—	—	—	4	2
Piscataquis	1	—	—	—	1	—	—	—	1	—
Sagadahoc	1	—	—	—	1	—	—	—	1	—
Washington	3	—	—	—	3	—	—	—	3	—

1942 FELONIOUS ASSAULTS—INDICTMENTS AND APPEALS

Totals	17	1	5	1	10	1	4	—	6	—
Aroostook	4	—	2	1	1	—	2	—	—	—
Cumberland	1	—	—	—	1	—	1	—	—	—
Hancock	1	—	—	—	1	—	—	—	1	—
Kennebec	4	1	—	—	3	—	1	—	2	—
Knox	3	—	3	—	—	—	—	—	—	—
Penobscot	2	—	—	—	2	1	—	—	1	—
Waldo	1	—	—	—	1	—	—	—	1	—
York	1	—	—	—	1	—	—	—	1	—

1942 ASSAULT AND BATTERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	100	51	2	3	44	3	9	21	14	11
Androscoggin	6	5	—	—	1	—	—	1	—	3
Aroostook	6	3	—	—	3	—	—	2	1	1
Cumberland	32	21	—	2	9	3	1	2	5	4
Franklin	2	2	—	—	—	—	—	—	—	—
Hancock	2	2	—	—	—	—	—	—	—	—
Kennebec	6	—	—	1	5	—	1	4	1	1
Knox	4	2	—	—	2	—	—	2	—	—
Lincoln	2	2	—	—	—	—	—	—	—	—
Oxford	2	1	—	—	1	—	—	—	1	—
Penobscot	22	7	1	—	14	—	2	7	5	1
Piscataquis	5	1	—	—	4	—	4	—	—	—
Sagadahoc	2	1	1	—	—	—	—	—	—	—
Somerset	2	—	—	—	2	—	1	1	—	—
Washington	3	1	—	—	2	—	—	1	1	—
York	4	3	—	—	1	—	—	1	—	1

1942 BREAKING, ENTERING AND LARCENY—INDICTMENTS AND APPEALS

Totals	135	28	3	4	100	12	40	—	52	27
Androscoggin	7	—	—	1	6	—	2	—	5	1
Aroostook	14	—	2	1	11	—	6	—	6	—
Cumberland	35	5	—	1	29	11	8	—	11	1
Hancock	6	1	—	—	5	—	5	—	—	7
Kennebec	12	5	—	1	6	—	5	—	2	3
Knox	9	1	1	—	7	—	1	—	6	—
Lincoln	1	—	—	—	1	—	—	—	1	10
Oxford	16	7	—	—	9	—	7	—	2	2
Penobscot	13	4	—	—	9	—	2	—	7	3
Somerset	6	—	—	—	6	—	4	—	2	—
Waldo	3	1	—	—	2	—	—	—	2	—
Washington	11	4	—	—	7	1	—	—	6	—
York	2	—	—	—	2	—	—	—	2	—

1942 FORGERY—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	52	18	4	1	29	3	15	—	12	3
Androscoggin	3	1	—	—	2	—	2	—	—	2
Aroostook	2	—	—	—	2	—	1	—	1	—
Cumberland	13	4	—	1	8	3	3	—	3	1
Kennebec	1	—	—	—	1	—	—	—	1	—
Knox	9	5	3	—	1	—	1	—	—	—
Oxford	4	4	—	—	—	—	—	—	—	—
Penobscot	12	4	1	—	7	—	3	—	4	—
Somerset	8	—	—	—	8	—	5	—	3	—

1942 LARCENY—INDICTMENTS AND APPEALS

Totals	163	49	2	4	108	19	34	8	51	21
Androscoggin	10	—	—	—	10	—	4	3	3	2
Aroostook	11	1	—	—	10	—	7	—	3	1
Cumberland	38	8	—	1	29	11	6	—	13	1
Franklin	8	2	—	—	6	4	1	—	1	—
Hancock	4	—	—	—	4	3	1	—	—	1
Kennebec	20	8	—	2	10	—	3	2	7	2
Knox	4	2	—	—	2	—	—	—	2	—
Lincoln	6	6	—	—	—	—	—	—	—	—
Oxford	13	8	—	1	4	—	2	—	3	2
Penobscot	23	10	2	—	11	—	4	2	5	7
Piscataquis	3	1	—	—	2	—	—	—	2	1
Sagadahoc	3	—	—	—	3	—	—	—	3	—
Somerset	9	—	—	—	9	1	6	—	2	1
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	3	1	—	—	2	—	—	1	1	—
York	7	2	—	—	5	—	—	—	5	3

1942 SEX OFFENSES—INDICTMENTS AND APPEALS

Totals	119	47	4	10	58	10	13	8	37	6
Androscoggin	11	5	—	2	4	—	1	4	1	—
Aroostook	8	1	—	2	5	—	3	—	4	—
Cumberland	23	15	—	—	8	4	2	—	2	—
Franklin	7	2	2	—	3	2	—	—	1	—
Hancock	1	1	—	—	—	—	—	—	—	1
Kennebec	9	1	1	1	6	—	1	—	6	—
Lincoln	—	—	—	—	—	—	—	—	—	2
Oxford	9	2	—	3	4	—	1	—	6	—
Penobscot	32	18	—	—	14	—	3	3	8	2
Piscataquis	2	2	—	—	—	—	—	—	—	1
Somerset	8	—	—	—	8	—	1	1	6	—
Washington	7	—	1	—	6	3	1	—	2	—
York	2	—	—	2	—	1	—	—	1	—

1942 NON-SUPPORT—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	29	19	—	—	10	3	2	—	5	6
Androscoggin	4	1	—	—	3	1	—	—	2	—
Aroostook	—	—	—	—	—	—	—	—	—	1
Cumberland	9	7	—	—	2	1	1	—	—	—
Franklin	1	1	—	—	—	—	—	—	—	—
Hancock	5	5	—	—	—	—	—	—	—	—
Knox	—	—	—	—	—	—	—	—	—	1
Oxford	1	—	—	—	1	—	1	—	—	—
Penobscot	5	3	—	—	2	—	—	—	2	4
Somerset	1	—	—	—	1	1	—	—	—	—
Washington	3	2	—	—	1	—	—	—	1	—

1942 LIQUOR OFFENSES—INDICTMENTS AND APPEALS

Totals	76	38	5	—	33	2	11	10	10	4
Androscoggin	1	—	—	—	1	—	1	—	—	—
Aroostook	22	9	1	—	12	—	3	—	9	2
Cumberland	19	10	—	—	9	2	5	2	—	—
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	—	—	—	—	—	—	—	—	—	1
Kennebec	4	2	1	—	1	—	—	1	—	—
Knox	1	1	—	—	—	—	—	—	—	1
Oxford	11	8	—	—	3	—	2	1	—	—
Penobscot	6	3	1	—	2	—	—	2	—	—
Piscataquis	1	—	1	—	—	—	—	—	—	—
Washington	4	2	1	—	1	—	—	—	1	—
York	6	3	—	—	3	—	—	3	—	—

1942 DRUNKEN DRIVING—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Acquitted	Convicted		Continued for Sentence (d)	Probation (e)	Fine (f)	Imprisonment (g)	Pending at end of year (h)
				Pleaded not guilty	Pleaded guilty (c)					
Totals	225	58	12	9	146	1	4	120	30	30
Androscoggin	23	11	—	2	10	1	1	10	—	—
Aroostook	34	1	1	4	28	—	1	23	8	2
Cumberland	53	20	—	1	32	—	1	28	4	5
Franklin	5	2	1	—	2	—	—	1	1	—
Hancock	1	1	—	—	—	—	—	—	—	2
Kennebec	17	2	2	1	12	—	1	8	4	5
Knox	11	4	—	—	7	—	—	5	2	2
Lincoln	1	—	1	—	—	—	—	—	—	—
Oxford	6	2	2	—	2	—	—	2	—	1
Penobscot	38	5	3	—	30	—	—	24	6	5
Piscataquis	4	—	1	—	3	—	—	3	—	—
Sagadahoc	2	1	—	—	1	—	—	1	—	—
Somerset	11	3	—	—	8	—	—	5	3	—
Waldo	7	1	—	—	6	—	—	4	2	—
Washington	3	1	1	—	1	—	—	1	—	1
York	9	4	—	1	4	—	—	5	—	2

1942 DRUNKENNESS—INDICTMENTS AND APPEALS

Totals	120	35	—	1	84	5	8	47	25	5
Androscoggin	5	1	—	1	3	—	—	2	2	1
Aroostook	11	4	—	—	7	—	—	5	2	—
Cumberland	28	11	—	—	17	2	2	7	6	—
Franklin	6	—	—	—	6	—	2	2	2	—
Hancock	1	—	—	—	1	—	—	—	1	2
Kennebec	3	—	—	—	3	—	1	1	1	1
Knox	7	2	—	—	5	—	—	4	1	—
Penobscot	38	8	—	—	30	—	2	22	6	1
Sagadahoc	10	4	—	—	6	3	—	—	3	—
Somerset	7	3	—	—	4	—	1	2	1	—
Waldo	2	1	—	—	1	—	—	1	—	—
Washington	1	1	—	—	—	—	—	—	—	—
York	1	—	—	—	1	—	—	1	—	—

1942 MOTOR VEHICLE—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	126	56	1	1	68	1	9	55	4	19
Androscoggin	8	6	—	—	2	—	—	2	—	—
Aroostook	6	—	—	—	6	—	—	6	—	7
Cumberland	46	25	—	1	20	1	1	19	—	1
Franklin	1	—	—	—	1	—	—	1	—	—
Hancock	3	1	—	—	2	—	—	2	—	1
Kennebec	6	2	—	—	4	—	—	2	2	—
Knox	7	3	—	—	4	—	—	4	—	—
Oxford	5	3	1	—	1	—	1	—	—	1
Penobscot	25	7	—	—	18	—	—	17	1	3
Piscataquis	2	1	—	—	1	—	—	1	—	—
Sagadahoc	2	2	—	—	—	—	—	—	—	—
Somerset	8	1	—	—	7	—	7	—	—	4
Waldo	1	—	—	—	1	—	—	—	1	—
Washington	3	2	—	—	1	—	—	1	—	—
York	3	3	—	—	—	—	—	—	—	2

1942 JUVENILE DELINQUENCY—INDICTMENTS AND APPEALS

Totals	12	4	—	—	8	—	7	—	1	1
Cumberland	3	—	—	—	3	—	3	—	—	—
Lincoln	2	—	—	—	—	—	—	—	—	—
Oxford	—	—	—	—	2	—	2	—	—	—
Penobscot	3	1	—	—	2	—	2	—	—	1
Sagadahoc	1	1	—	—	—	—	—	—	—	—
Waldo	2	2	—	—	—	—	—	—	—	—
Washington	1	—	—	—	1	—	—	—	—	—

1942 MISCELLANEOUS OFFENSES—INDICTMENTS AND APPEALS

Counties	Total (a)	Nol-prossed etc. (b)	Ac-quit-ted	Convicted		Con-tinued for Sen-tence (d)	Proba-tion (e)	Fine (f)	Im-prison-ment (g)	Pend-ing at end of year (h)
				Plead-ed not guilty	Plead-ed guilty (c)					
Totals	228	106	8	2	112	15	24	48	27	48
Androscoggin	20	7	—	—	13	—	5	6	2	3
Aroostook	34	17	3	—	14	—	2	11	1	2
Cumberland	48	19	—	—	29	13	5	4	7	3
Franklin	13	10	—	—	3	—	—	3	—	7
Hancock	3	3	—	—	—	—	—	—	—	1
Kennebec	10	3	—	1	6	—	3	2	2	2
Knox	5	2	—	—	3	—	1	2	—	—
Lincoln	4	1	2	—	1	1	—	—	—	3
Oxford	17	8	—	—	9	1	1	1	6	2
Penobscot	34	12	2	—	20	—	3	10	7	16
Piscataquis	8	6	1	1	—	—	—	1	—	2
Sagadahoc	4	4	—	—	—	—	—	—	—	—
Somerset	8	2	—	—	6	—	4	2	—	2
Waldo	7	2	—	—	5	—	—	5	—	1
Washington	6	6	—	—	—	—	—	—	—	4
York	7	4	—	—	3	—	—	1	2	—

BAIL 1942

COUNTIES	Bail Called, Cases and Amounts		Scire Facias Begun		Scire Facias Continued for Judgment		Scire Facias Cases Closed		Scire Facias Pending at End of Year		Cash Bail Collected	Bail Collected by Co. Atty.
Androscoggin	10	$6,250.00	–	———	–	———	–	———	–	———	———	———
Aroostook	9	2,400.00	–	———	–	———	–	———	–	———	———	———
Cumberland	–	———	–	———	–	———	–	———	–	———	———	———
Franklin	1	50.00	46	———	7	3,300.00	33	———	8	———	———	———
Hancock	–	———	–	———	–	———	–	———	–	———	———	———
Kennebec	5	2,500.00	1	500.00	–	———	–	———	1	500.00	———	———
Knox	–	———	–	———	–	———	–	———	–	———	———	———
Lincoln	–	———	–	———	–	———	–	———	–	———	———	———
Oxford	1	500.00	1	500.00	–	———	1	15.91	–	———	———	———
Penobscot	1	500.00	7	2,400.00	1	500.00	10	546.10	–	1,500.00	———	———
Piscataquis	–	———	–	———	–	———	–	———	–	———	———	———
Sagadahoc	–	———	–	———	–	———	–	———	–	———	———	———
Somerset	–	———	–	———	–	———	–	———	–	———	———	———
Waldo	–	———	–	———	–	———	–	———	–	———	———	———
Washington	–	———	–	———	–	———	–	———	–	———	———	———
York	1	500.00	–	———	–	———	1	500.00	–	———	———	———
Totals		$12,700.00		$3,400.00		$3,800.00		$1,062.01		$2,000.00	———	———

LAW COURT CASES 1942

County	Name of Case	Outcome
Androscoggin	Harold B. Keene	Pending
Aroostook	None	———
Cumberland	None	———
Franklin	None	———
Hancock	None	———
Kennebec	Carl Roberts	Pending
	William C. Howard	Pending
Knox	None	———
Lincoln		
Oxford	Linwood Lewis Laba	Verdict set aside
Penobscot	Ralph A. Peacock	Nol prossed
Piscataquis	———	———
Sagadahoc	None	———
Somerset	None	———
Waldo	None	———
Washington	None	———
York	William Berube	Judgment for State

FINANCIAL STATISTICS, YEAR ENDING NOVEMBER 1, 1942

COUNTIES	Cost of Prosecution Superior and S. J. Courts	Paid for Prisoners in Jail	Paid Grand Jurors	Paid Traverse Jurors Criminal Cases	Fines, etc., Imposed Superior Court	Fines, etc., Collected Superior Court
Androscoggin	$5,904.17	$15,163.52	$1,332.28	$4,543.84	$4,940.44	$4,528.51
Aroostook	3,606.94	10,961.19	719.76	1,428.60	6,109.52	3,537.29
Cumberland	17,115.15	45,806.13	682.96	1,431.68	4,912.17	4,264.38
Franklin	805.58	4,161.53	310.04	949.52	3,874.65	3,669.65
Hancock	701.67	1,632.00	482.68	593.74	127.70	127.70
Kennebec	4,450.58	10,993.69	750.16	2,649.28	3,041.32	3,041.32
Knox	451.74	4,042.10	318.80	64.00	1,782.82	1,669.64
Lincoln	1,234.31	90.00	479.61	288.00	———	———
Oxford	3,928.23	4,343.14	862.48	648.00	1,353.49	1,353.49
Penobscot	7,139.51	11,073.69	966.83	3,783.18	4,578.69	3,360.49
Piscataquis	359.72	2,293.03	273.74	275.70	567.96	567.96
Sagadahoc	285.73	2,446.40	280.64	201.72	———	601.12
Somerset	1,321.91	4,160.08	692.00	1,979.04	1,128.71	1,128.71
Waldo	———	4,232.90	400.88	1,195.72	330.22	330.22
Washington	1,802.03	2,333.24	672.36	1,094.12	1,042.88	814.41
York	3,427.01	10,315.33	1,142.40	1,437.50	1,984.71	1,937.51
Totals	$52,534.28	$134,047.97	$10,367.62	$22,563.64	$35,775.28	$30,932.40

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