

# MAINE STATE LEGISLATURE

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# STATE OF MAINE.

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REPORT

OF THE

# ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1906.

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AUGUSTA  
KENNEBEC JOURNAL PRINT  
1907

Relative to your inquiry as to whether or not under laws of 1905, chapter 92, familiarly known as the "Sturgis Bill," the fees taxed for the commissioners and deputies in the bills of cost under section 6 of said act, shall be paid over by the counties to the State Treasurer whether or not they are collected from the respondents, I respectfully write you as follows:

I have examined the act in question, and have taken time to make inquiry as to the practice of various counties thereunder, with reference to the point in question.

It would seem as if the act provides that these fees shall be taxed and shall be paid directly to the State Treasurer. I do not find in the act any express provision that the paying over of these fees shall be dependent upon their collection by the county. In fact there are certain cases such as proceedings practically in rem where intoxicating liquors are libeled and no claimant appears, where the county would not collect these fees from anybody. I am informed also that it is the practice of the counties quite generally to pay over these fees without reference to their collection from other sources. Under all these circumstances, I should advise that the counties should pay over these fees to the State Treasurer, irrespective of the contingency of their collection from other sources.

#### SAVINGS BANKS. REQUIREMENTS OF CERTAIN BONDS IN ORDER TO MAKE THEM LEGAL INVESTMENT FOR.

In October, 1906, the question was submitted by the State bank examiner as to whether or not R. S., chapter 48, section 23, subdivision fifth, as amended by the laws of 1905, chapter 103, relative to certain requirements as to bonds of certain corporations necessary to make them legal investments for savings banks in this State, applied to both preferred and common stock, and also whether or not the earnings therein specified should be upon the entire capital stock of the company or upon its issued stock.

Opinion was rendered on October 31, 1906, to the bank examiner, as follows:

"I am in receipt of your inquiry as to R. S., chapter 48, section 23, subdivision fifth, amended by laws of 1905, chapter 103.

It is my opinion that the dividend of not less than 5% referred to is to be understood in its ordinary sense, and refers to corporations which as going concerns are paying regular dividends of not less than 5% a year on all the stock issued, whether preferred or common or both.

Considering the same statute just referred to, the bank examiner in October, 1906, submitted to us the further questions as to,—

(1) Whether or not the 5% noted should have been paid for more than one year, and

(2) Whether a single dividend of 5%, coupled with reasonable evidence that the company was then earning and conducting a business which fairly promised that it would continue to earn that amount, be sufficient.

Opinion was rendered November 1, 1906, as follows:

(1) "It does not seem to me necessary that the five per cent noted must have been paid for more than one year. If it has been paid for one year it would seem to me sufficient.

(2) It seems to me that a single dividend of five per cent, coupled with reasonable evidence that the company was then earning and conducting a business which fairly promised that it would continue to earn annually that amount or more would be sufficient."

#### STATE OFFICER WITHIN THE MEANING OF THE PROVISIONS OF CHAPTER 49 OF THE PUBLIC LAWS OF 1905.

In January, 1906, the following inquiry was submitted to us from the governor and council:

"Do you consider Prof. F. C. Robinson, State Assayer, a State official? In other words, does the law require him to present an itemized bill for his services and expenses and make oath to his expenses?"

On January 31, 1906, opinion was rendered as follows:

Before I could answer the question to my satisfaction I deemed it necessary to have a copy of the bill submitted by Prof. Robinson in order that I might ascertain with reference to what duties he had submitted a bill and I accordingly wrote to Mr. Burns for a copy of the bill. He replied under date of January 19th, which reply was received by me on January 20th.