

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

WATERVILLE
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1915

FORESTRY DISTRICT.—EXPENSES FROM
UNAPPROPRIATED FUNDS.

9th October 1914.

Hon. T. F. Callahan, State Auditor, Augusta, Maine.

DEAR SIR: Your letter of the 2nd inst., was duly received.

Under the act of 1909, Chapter 193, it unquestionably was the intent of the legislature, no appropriation being made for the purpose, to limit the expense of protecting the forests from fire to the funds received from the forestry district tax. It is also clear under that act that all such funds were to be disbursed by the State Treasurer, after being approved by the forest commissioner and the auditor.

Under the act of 1913 to which you refer, a change was made in the method of payment and likewise in the policy of the state as expressed in Section 11 of the act of 1909. Under Section 6 as amended by Chapter 85 of the laws of 1913, instead of the moneys being disbursed by the treasurer, the state treasurer pays such sum as the commissioner may deem necessary for the purpose direct to that officer, and he disburses, his accounts afterwards being audited by the state auditor.

By amendment to said Section 6, it was also provided in Chapter 85 of the laws of 1913, that wherever the tax assessed upon the forestry district was not available or proved insufficient in any year for carrying out the purposes, that the Governor and Council may issue their warrant to the State Treasurer to advance to the forest commissioner for the purposes of this act, such sum or sums of money as they may deem necessary, the same to be paid from any moneys then in the treasury and not otherwise appropriated.

In my opinion this last provision modifies the provisions of Section 11 of Chapter 193 of the act of 1909, although it is not an amendment to that section. Chapter 85 of the laws of 1913 is the last word of the legislature and it expressly provides that if the tax assessed on the forestry district is not sufficient, the Governor and Council may, from moneys not otherwise appropriated, direct to be paid to the forest commissioner such sums as he may deem necessary for the purposes of carrying out the purposes expressed in the forestry district act.

Of course, the wisdom of such legislation is not for me to comment upon; neither can I determine whether any moneys are in the treasury unappropriated at this time. I can see how that may be a difficult thing to do at this time of year. However, I presume you will agree with me that that is a problem for the Auditor and State Treasurer to work out. If there are no moneys that are otherwise unappropriated, an order such as passed by the Governor and Council would, of course, have no effect. If there are unappropriated funds, in my opinion such an order would be valid.

Very sincerely,

SCOTT WILSON,

Attorney General.

STREET RAILWAY LOCATION.—RATIFICATION OF
ACTS OF MUNICIPAL OFFICERS.

13th October 1914.

Hon. Frank Keiser, Railroad Commissioner, Augusta, Maine.

DEAR SIR: Yours of the 9th inst. was duly received with enclosed petitions and findings of the Board of Municipal Officers of the City of Rockland.

The situation as I understand it is this, that the Rockland, South Thomaston and St. George Railway was organized under foreclosure proceedings to take over the Rockland, South Thomaston and Owl's Head Railway and has been operating its railroad up to the limits of the City of Rockland and desiring to enter the City of Rockland petitioned the Municipal Officers for approval of location, preliminary to petitioning the Railroad Commissioners under Section 7 of Chapter 53. Upon their petition the Municipal Officers of the City of Rockland granted them a location, but a part or all of it was within the limits of the street where another railroad was located which was contrary to the provisions of Section 21 of Chapter 53. However, the legislature of 1913, Chapter 205, rectified and made valid the acts of the Municipal Officers taken on the 26th day of December, 1911, which as I understand it refers to this