

# MAINE STATE LEGISLATURE

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February 19, 1929

To Elbert D. Hayford, State Auditor  
Re: Fines and Forfeitures under Motor Vehicle Law, P. L. 1925, Ch.98, §93

Your three inquiries in regard to payment of fines and forfeitures under Section 93 of the motor vehicle law received.

A fine for illegal transportation of intoxicating liquor would not seem to be a fine or forfeiture collected under the motor vehicle law and, therefore, is not an amount which should be paid to the state.

I see no reason to change the ruling of my predecessor that forfeited bail is a "forfeiture" under that section and belongs to the state where a fine in the same case would have.

As the Deputy Attorney General suggested some months ago, it would be well to have such doubt as there is on this point cleared up in the future, and, therefore, I am drafting an amendment, of which I enclose a copy, which I will have put into the hopper, and if it is adopted, the problem will, I hope, be solved for the future.

As far as the past is concerned and particularly with reference to the claim of the state against the County of York for \$1255. of such fines, we may find as a result of the hearing on the enclosed bill and its adoption or rejection, that the problem will work out smoothly. If it does not, I suppose that in due time a proceeding could be brought against the county and recover on report to the Law Court, but I don't suppose it would be advisable to start this at the same time that legislation is being submitted. Will you bear it in mind and call this York County situation to my attention again after the adjournment of the legislature in case it has not worked out smoothly.

I see no reason also to change the previous ruling of this department that a fine paid on a prosecution and complaint made and signed by someone other than the highway officer, for instance the county attorney, belongs to the county. Section 93, to be sure, is ambiguous on the point. Payment is to the state when "the prosecution or arrest" is by the police, and to the county when the "prosecution or arrest" is by another officer. Section 93 is, however, an exception to the general rule that fines and costs go to the county and therefore, according to well known canons of legal construction, should be limited to its express provisions. Accordingly, this department has interpreted it that the state does not get the money unless both the arrest and the prosecution were by state officers; that is, the complaint should be signed by him as well as the arrest made by him, in order that the state may be entitled to the money.

I should say, however, that assistance by county officials in the prosecution of a case in which the complaint and arrest were made by the state officer would not be enough to give the county the proceeds. . . . In the proposed act, you will notice, I have tried to clarify this point also for the future, although as a matter of expediency it may prove better to seek for one and not for both amendments. . .

Clement F. Robinson  
Attorney General