

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

COPY

July 11, 1934

Hon. William A. Runnells  
State Controller  
Augusta, Maine

Dear Sir:

Under date of July 5, 1934, you requested an opinion  
on the following question:

"May funds be drawn from the state treasury  
for general purposes of government when to do  
so would lessen the funds earmarked for specific  
purposes, provided such earmarked funds are to  
be replenished when revenue for general purposes  
is available to allow such return?"

My answer is as follows:

It seems to me clear that it would be impossible to  
carry on the government of the State on any reasonable basis unless  
it should be permitted to draw from the State Treasury for general  
purposes of government from time to time funds collected and ear-  
marked for specific purposes. The general income of the State is  
largely payable on certain dates - for example, the taxes of cities  
and towns payable on December 1; the railroad taxes and bank taxes  
come in semi-annually. This is also true of other public utilities.  
It is obvious that a great deal of money must be expended before  
these various taxes are received. In the meantime, funds are  
collected which are finally applicable only to special purposes  
and until those purposes are fulfilled the money lies idle in the  
public treasury. The State is then faced with the problem of

either making temporary use of this money without hampering the activities to which it is applicable, and returning it to its proper position as the regular income of the State comes in, or borrowing. The borrowing capacity of the State for temporary loans is limited to \$800,000, and, leaving out of the account the matter of paying interest on borrowed money at a time when there is plenty of cash in the Treasury to be used free of interest, it is apparent that \$800,000 is insufficient to care for the general needs of the State for any long period.

Unless borrowing is resorted to and unless sufficient funds can be borrowed to take care of the State's needs, it would be necessary to close State institutions, such as the Prison, the School for Boys at South Portland, the School for Girls at Hallowell, the Reformatories at Windham and Skowhegan, the State Hospitals at Bangor and Augusta, to say nothing of other State institutions and the various State Departments, all of which require current funds for maintenance.

Because of these needs, it has always been the custom for the State to make use of funds earmarked for specific purposes and replenish the same when the revenue derived from various forms of taxation is available to allow the return. Unless expenditures of the State are very much in excess of its full income, there is nothing involved in such a procedure excepting the matter of accurate bookkeeping.

Several factors enter into the present situation, one of the most important of which is a very considerable amount of



State money is temporarily tied up in closed banks, dividends from which will become payable from time to time, and the fact that during the present depression the collection of State taxes has been somewhat delayed. This latter condition is gradually taking care of itself.

It being apparent that many expenditures must be made before taxes are received, and it being a fact that there is no present need of all the money in the Treasury for the specific purposes for which it was appropriated, the only sound and sensible business method to be employed is to use the necessary portion of the money on hand to pay current bills in anticipation of later tax receipts. If there were any other practicable method for carrying on the State government, there might be some argument against following this course; but there is no such method and the question of the wisdom of following this course of procedure has never heretofore been raised, although such procedure has gone on regularly for many years.

The definite question asked may, therefore, under the circumstances, be answered affirmatively. No question of technical law is involved. It is simply a question of carrying on the government of the State in a practical and businesslike manner.

Very truly yours,

Clyde R. Chapman  
Attorney General

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STATE OF MAINE

