

MAINE STATE LEGISLATURE

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November 29, 1939

Hon. Roger G. Leonard
Hampden, Maine

Dear Mr. Leonard:

In answer to the first question asked in your letter to me of November 21st, I find that subpoenas to witnesses ordering them to appear and testify in criminal cases may be served by certain designated peace officers such as constables, sheriffs and their deputies, and State Police officers. Lacking the authority given him by appointment or election to some such office, a private citizen would not be authorized to serve such summonses.

In reply to your second and third questions which I shall try to answer together, our statutes provide that it is the duty of the county attorney to prosecute criminal cases in his county which, of course, implies that he must do everything possible to investigate the facts of every case and get the cases ready for trial. In most instances of criminal prosecutions in the State, this work can be done, and is done by local police officials, sheriffs and their deputies and, more recently, by the State Police. Occasionally, however, there are cases which come to the attention of the county attorney which require assistance outside of that which can be given by the regularly constituted peace officers of the county. Just recently in one of our counties a man was found dead under suspicious circumstances which required extended investigation. The dead man and all of the people who might know anything about the case were Greeks; most of them speaking little, if any, English and it was necessary in this case to employ a skilled detective who spoke that language.

Occasionally also, assistance is needed in pathological work, handwriting analyses, or some other special line; and it is my opinion when such occasion arises the county attorney is justified in incurring reasonable expense for such services.

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In some of the counties, to my knowledge, the county commissioners give the county attorney more or less of a free hand in this work and approve without question the bills which the county attorney has contracted. In other counties there has been more or less friction between the county attorney and the county commissioners over disputes arising out of the ~~employment~~ of outside assistance, and I have always advised the county attorneys that before incurring any expense outside of the usual routine that they should have an understanding with the county commissioners and keep them constantly informed of the amount of expense that may from time to time be incurred.

There is no doubt in my mind as to the right of the county commissioners to pay expense incurred by the county attorney for all services reasonably employed by him in the performance of his statutory duty. In fact, it would not be proper for the county commissioners to refuse to pay for such assistance as the county attorney might need in order to do his work properly.

I trust this answers your questions. If not, and I can be of any further assistance will you write me again and outline what particular point should be more thoroughly covered.

With kindest personal regards,

Very truly yours,

Franz U. Burkett
Attorney General

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