

MAINE STATE LEGISLATURE

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June 12, 1940

Hon. William D. Hayes
State Auditor
State House
Augusta, Maine

Dear Mr. Hayes:

In your letter of June 3, you ask an opinion as to the propriety of carrying the whole, or any part, of the item of \$700,431.86 shown on Page 56 of the Report of Ernst & Ernst as surplus of the Liquor Commission as of June 30, 1939, to sinking fund reserve. This item is made up of two sums, - one in the amount of \$364,372.18 which was earned prior to June 30, 1935; and another sum earned subsequent to June 30, 1935, of \$336,059.68.

You will appreciate that I have had no training or experience in accounting and that because of that condition I am unable to discuss this question from an accounting standpoint and I appreciate that there can be other and perhaps more sensible interpretations of the situation than the one that I have arrived at. However, it seems plain to me that Chapter 24, Public Laws of 1935, in providing that any profits of the Liquor Commission made prior to the close of books June 30, 1935, shall be used in establishing a working capital for the purpose of carrying on the activities of the Liquor Commission, and those profits, amounting as above stated to \$364,372.18, were excepted from the other provisions of the Act which provided that when the annual net profits of the Commission were determined they should become general revenue of the State, By that Act the prior profits became segregated and earmarked for a definite purpose and in my opinion cannot become a part of the sinking fund reserve until the Legislature has by another Act so provided.

As to the profits made subsequent to June 30, 1935, which under the provisions of said Chapter 24 became general

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revenue of the State and which apparently are not represented by cash but for the most part are invested in inventory and other assets, if you are going to continue the policy which I understand has been in effect of carrying into the sinking fund reserve bookkeeping items which do not represent actual cash available for the purposes for which the sinking fund was created, I am of the opinion that, under the provisions of Sections 101 and 102 of Chapter 2 of the Revised Statutes, this amount which apparently represents that part of the net profits of the Liquor Commission which has not been earmarked for working capital, can properly be transferred to the Contingent Fund. Or, if the Contingent Fund has already been provided for, to the Sinking Fund reserve. As to the propriety of that method of handling State accounts, I have not had enough accounting experience to judge.

The amount of profits earned subsequent to June 30, 1935, is assets of the State temporarily invested as of June 30, 1939, in liquor purchased for sale, and if the Sinking Fund Reserve account is the only account in which similar items can be placed, I find nothing in the statutes that would prohibit this inclusion.

I certainly enjoyed the discussion that was held in my office with yourself and Mr. Fessenden, and any time when you have any new ideas on these matters I shall be very pleased to discuss them further with you with the hope in mind that I may be of some help in aiding you and the controller in the proper setting up of your books as of June 30, 1940.

Very truly yours,

Franz U. Burkett
Attorney General

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