

MAINE STATE LEGISLATURE

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July 9, 1940

Mr. Burkett from Mr. Fessenden, re State Auditor's inquiry as to division of duties between himself and the Controller.

Mr. Hayes asks for further elaboration of my memorandum of the 25th.

It seems to me that a careful reading of that part of the Administrative Code pertaining to the duties of the State Controller shows that it is the State Controller's function to handle expenditures of the State government. His duties in this respect are very clearly and specifically defined, whereas any duty, if it exists at all, to supervise the handling of accounts receivable and collections, is so vaguely nebted, with specific details absolutely lacking, that I am convinced that the State Controller has no duties with respect to State income except the keeping of a record of the receipts into the State Treasury as reported to the State Controller daily by the State Treasurer.

If I am correct in the foregoing, then subsection 10 of Section 10 of Article II of the Administrative Code is authority only for the transfer of such duties formerly exercised by the State Auditor to the State Controller. Any other duties performed by law by the State Auditor which do not fall within the category of the specific duties of the State Controller would, therefore, remain with the State Auditor.

The Administrative Code does not mention specifically the State Auditor's duties with respect to State income, and I therefore conclude that, unless some statute gives the State Auditor a specific duty with respect to income and accounts receivable, his function is limited to that of auditing such accounts as they may exist in the various Agencies and Departments of the State government. My memorandum of June 15th does not say that the State Auditor is precluded from auditing such accounts, and I merely intended to say that he had no duty with respect to the collection of such accounts. The auditing of income accounts, of course, would be a very proper part of any audit of any Department or Agency of the State government.

Reference is made to Section 105, Chapter 2 of the Revised Statutes, wherein the Auditor is given the specific duty of examining the books, accounts and vouchers of the Treasurer of State. I do not believe that the Administrative Code is authority for the transfer to the State Controller of all of the duties imposed upon the State Auditor by this section of the Revised Statutes. It is my opinion that the State Auditor should continue to audit the accounts of the State Treasurer annually, and in such audit, of course, he would examine into receipts, accounts receivable, cash, securities, etc.

I do not find in the Administrative Code any provision giving the Department of Finance the custodianship of cash and securities. This custodianship remains with the State Treasurer whose accounts, of course, should be audited by the State Auditor.

When the Code refers to the maintenance by the State Controller of accounts embracing all financial transactions of the State government, it seems to me that this provision should be read in connection with the rest of the section of the statute in which it occurs, so that, primarily, such accounts would embrace expenditures and receipts only, in so far as such receipts are reported to the State Controller.

The duties of the State Auditor are much more generally stated than are those of the State Controller, so that it appears to me that it is the State Auditor's duty to conduct a post-audit of all financial transactions existing in any and all State Departments and Agencies. Such an audit should include within its scope all matters properly the subject of the customary audit. I do not understand, however, that such audit would include a duty to collect accounts receivable.

It should be borne in mind that prior to the inception of the Administrative Code, the State Auditor performed substantially all of the bookkeeping functions of the State government generally and had considerable responsibility with respect to auditing bills and vouchers before payment. Subsection 10 of Section 10 of Article II must be read in its entirety, and when so read it appears that the phrase, "involving the keeping of general accounts", modifies the clause transferring the Auditor's duties to the State Controller, in so far as these relate to financial administration and general accounting control.

In the section of the Code relating to the Auditor, it is stated that the State Auditor shall keep no accounts in the Department of Audit, so that it appears clear to me that the Controller has assumed the bookkeeping and accounting functions, as well as the audit-before-payment function formerly performed by the State Auditor, while the State Auditor becomes, by the Code, a true auditor in every sense of the word.

John S. S. Fessenden

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