

MAINE STATE LEGISLATURE

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October 24, 1940

Frans U. Burkett, Attorney General

William D. Hayes, State Auditor

I have examined your memorandum and statement relative to the matter of Highway funds allocated to towns and the Old Age Assistance Tax payments assessed against such towns, with special reference to the situation which is caused when any town is deorganized.

Taking up your questions in order:

1. There is no provision in Chapter 96 of the Private and Special Laws of 1939 for payment of any highway funds to any part of the unorganized territory when a town or plantation has deorganized. It should not receive any of this highway money and it would be an error to allocate any part of it to a place where deorganization had become effective.

2. In all of the recent deorganizations, the effective date has been March or April. If deorganization has not become effective on the date when the Highway Commission makes its allocation, but is to become effective shortly after, I should think the Highway Commission would be justified in taking the position that the town is not going to be in existence long enough to spend its highway money and leave it out of the division.

3. There is no provision for the payment of any Old Age funds to the State by the unorganized territory and no machinery under which money could be raised for that purpose.

4. If the town deorganizes before it receives any highway funds, this money cannot be paid to the County Commissioners. It should be withheld, and I cannot see any way in which it could be paid to the County.

5. After a town has deorganized, its liability to make Old Age Assistance payments ceases, even though it may have received and spent its allocated highway money.

6. After a town has deorganized and by error pays installments of Old Age money, it would seem that this money should be sent back to the officials charged with the duty of settling the affairs of the deorganized town, that is, the State Tax Assessor, and if he has completed his duties in connection with the settlement of those affairs, there would seem to be no official to whom it could be returned.

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7. When amounts that any one of these deorganized places properly owed the State for Old Age Assistance payments at the time of deorganization, payment should be made the same as any other liability of the area. If any account has been set up on the books as an asset of the State that is afterward found to be uncollectible because of the situations outlined above, it should be charged off.

8. It would seem that the effect of an improper allocation of highway funds in any of the above situations, would be so small as to be not worth troubling about. The Department involved should guard against any such improper allocations by adoption of some system which would inform the Highway Commission in advance of the approaching effective date of any such deorganization, which would make impossible any further improper payments.

9. If any town or city refused or neglected to take its allocation of highway funds, a situation which I assume could not be contemplated in advance of the making of the allotments, such sums should not be carried as a liability of the State beyond the time when it was definitely determined that such town was not going to take its allocation.

10. Watinicus, it is true, has no need of, or chance to spend, any highway money. It would seem to me that if this method of allocating highway funds and collecting Old Age Assistance money is to continue, in fairness to such towns as Watinicus, the statutes should provide that they could have this money for some other purpose.

11. Because, after a town is deorganized, responsibility for the maintenance of its highways is on the County, and because that deorganized area is not responsible for any Old Age Assistance payments, it might be advisable to enact legislation which would permit the transfer of these sums to the account of Old Age Assistance. But that could not be effected without such legislation.

Attorney General

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