

MAINE STATE LEGISLATURE

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December 26, 1940

Mr. Burkett, Attorney General

Mr. Hays, State Auditor

In re Payment of Fines, Costs, etc., of
Courts to State.

Under the provisions of Section 118 of Chapter 29, which were in effect until the Legislature of 1933 changed the law, all fines and forfeitures collected under the provisions of Chapter 29, which relates to motor vehicles, were turned over to the State Highway Commission when the prosecution or arrest was made by a State Police officer. If not made by such officer but by county or town officials, these fines and forfeitures went to the county treasury.

There was a dispute over this in the ⁸³3rd Legislature, of which I was a member, and the law was amended as found in Section 5, Chapter 92 of the Public Laws of 1933, which, as you will note, provides that the county now retains one-half of the fines, forfeitures and costs taxed by the court in any case prosecuted under the provisions of Chapter 29, and it would seem from that Section that that part of this money that belongs to the State should be paid directly to the Treasurer of State by the court collecting it.

In cases where a State official is a complainant or witness in other than a motor vehicle case, this is taken care of by Section 126 of Chapter 29, as amended by Chapter 252 of the Public Laws of 1931 and again by Section 5 of Chapter 92 of the Public Laws of 1933. Under the provisions of the original Section 126, a member of the State Police who was a complainant or witness, had his costs taxed as other witnesses and the money was turned over to him for transmittal to the Chief of the Department, who was to pay it to the Treasurer of State. The '31 amendment changed this and provided that all fines, penalties or costs so taxed (you will note that this Section is not limited to prosecutions under Chapter 29) are to be paid directly to the Treasurer of State. Then comes the '33 amendment which strikes out the provision about paying such fines or penalties to the State and leaves them the property of the county. Therefore, it would seem to be the law now that in motor vehicle cases the State is entitled to one-half the fines and costs, where a State Policeman is complainant or witness, which should be paid directly to the State Treasurer by the court, and to no part of the fines and costs in other cases. I believe that that part of these fines and costs that should come to the State should be paid directly by the courts to the State Treasurer and that they should not go through the hands of the County Treasurers.

Mr. Hays, State Auditor
December 26, 1940
Page 2.

I shall be very pleased to discuss this with you at any time if you want additional information or if you think any provisions of the law should be clarified.

In this memorandum I have not attempted to cover the special provisions applying to the Fish and Game violations or of the Public Utilities law or the potato branding act, which, I gather from your memorandum, you have clearly in mind.

I note, however, in going over some of these provisions, that Section 102 of Chapter 2 of the Public Laws of 1933 provides that fines and penalties payable for violations of Sea and Shore Fisheries law, are directed to be paid to the Commissioner and by him turned over to the Treasurer of State, which seems to be different from the law applying to Inland Fisheries and Game as amended by Chapter 105 of the Public Laws of 1939, where collections in this Department are paid to the Treasurer of State. It would seem to me that it would be better to have these Sections reconciled and that all such payments should be made directly to the Treasurer of State, rather than going through the hands of another Department.

Attorney General

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