

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1941--1942

December 30, 1942

From:

Frank I. Cowan, Attorney General

To:

A. L. Kane, State Controller

I have purposely withheld reply to your memo of November 20 in regard to the legality of making payroll deductions covering War Bond sales, insurance premiums and the victory taxes, for the reason that there is a very serious question of policy of the States involved. Deductions for War Bond sales and insurance premiums can be made by the State if the employee authorizes the State to make them. However, there should be an Order of the Governor and Council authorizing you to perform this service because the matter of expense to the State in performing the extra work must be given consideration.

The victory tax is a different matter. The tax is imposed by the Federal Government under such circumstances as apparently constitutes a direct tax against the States. It would be our duty, if we were not at war and if the victory tax were not an apparently highly commendable method of obtaining funds for pursuing the war, to object to the wording of this Act of the Congress and to contend that the Congress has not the right, under the Federal Constitution, to impose this burden on a State. However, since we are at war and since the burden of collecting the tax from State employees and paying it over to the Federal Government is not a relatively heavy one, we are fully justified, for the time being, in proceeding as though we fully admitted the validity of the Act of Congress.

In my opinion, you may make the deductions in accordance with the Federal law, although I believe you should do it under authority of an Order of the Governor and Council, to be passed at the first meeting of the new Council, in which Order the Executive may see fit to include a recital of the contention of the State that by going along with the program of the Federal government, the State of Maine is not in any way waiving any rights it may have to raise objection to the procedure if, at a later date, it sees fit to do so.

Attorney General

December 31, 1942

From:

Frank I. Cowan, Attorney General

To:

William D. Hayes, State Auditor

I have your memo of December 30th, asking whether or not a public administrator is a State official whose acts are subject to audit under the Public Laws of 1931, Chapter 216, Article VI, Section 3.

The duties of a public administrator, as set out in the Revised Statutes, Chapter 76, Sections 30 to 34, inclusive, distinctly deter-