

MAINE STATE LEGISLATURE

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STATE OF MAINE



REPORT

OF THE

ATTORNEY GENERAL



for the calendar years

1941--1942

mine that he is a State official to the extent that his acts are subject to such audit. It is his duty under the law to accept administration in all estates where a person has died intestate "not known to have in the state a widow, widower or any heirs or kindred who can lawfully inherit such an estate". In his official capacity (subject, of course, to the jurisdiction of the Judge of Probate of the County) he gathers in the assets of the estate, pays the debts, makes sure that the State receives its inheritance taxes, if any, and deposits with the Treasurer of the State any residue that shall remain unclaimed. He is, in my opinion, acting as an "agency" of the State Government, and, as such, his acts are subject to post-audit. No new legislation is, in my opinion, necessary.

Attorney General

January 5, 1943

From:

Frank A. Farrington, Deputy Attorney General

To:

William D. Hayes, State Auditor

Subject: Sustenance of Prisoners Previous to Conviction

Reference is to your memorandum of October 26, 1942.

It is the opinion of this department that charges by an officer for keeping the prisoner or for employment of an aid in criminal cases are legitimate charges under Section 4, Chapter 126, R. S. 1930, when it is necessary for the officer to keep the prisoner or to provide for his keep. The propriety of such a charge is not contingent upon subsequent conviction and sentence.

The Fort Kent situation, as outlined in Mr. Ellis' letter and the correspondence attached, is confused. Apparently, the officers use a lock-up provided by an individual. This constitutes employment of an aid and may be included in the bill of costs at the rate prescribed by the statute, and would, of course, eliminate the officer's fee for keeping the prisoner.

The papers enclosed with your memorandum are returned herewith.

Deputy Attorney General

January 5, 1943

To:

Earle R. Hayes, Director of Personnel

From:

Frank I. Cowan, Attorney General

In November I gave you an opinion to the effect that the State of Maine cannot accept the theory that a subordinate Federal official can make rules and regulations having the effect of law over the internal affairs of a State. This was because of the attempt by James Byrnes to force the States to accept the provisions of the Fed-