

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1941--1942

4. In your memorandum you do not say whether you laid the tax in your capacity as chairman of the Emergency Municipal Finance Board acting for the town, or whether the tax you speak of was the regular State assessment against the town. Perhaps you will want to clarify that point.

FRANK I. COWAN
Attorney General

June 17, 1943

To:	
William D. Hayes, State Auditor	Auditor
and	
Julian A. Mossman, Commissioner	Finance
From:	
Frank I. Cowan	Attorney General

Bonding of State Employees

Careful thought has been given to the Auditor's memo of June 10, 1943, and the Commissioner's memo of June 15, 1943, in regard to this general subject.

1. The liability of heads of departments is very materially reduced by the effect of P. L. 1943, Chapter 320. The amount of bond which you shall determine necessary from the heads of departments can be fixed accordingly. This, for instance, might apply to the State Tax Assessor, concerning whom a question has been raised, and might apply to the Forest Commissioner, inasmuch as under the new law neither will be liable nor will their sureties be liable for the acts of the subordinates of the principals.

2. Sufficient consideration, apparently, has not been given in the past to the duties of the members of the Highway Commission and the propriety of having these gentlemen bonded. It is our opinion that there is a real legal requirement for the bonding of all employees whose positions are such that they can obtain funds or discounts which should accrue to the State. This same argument applies to the chief of the Bureau of Purchase and to any other officials who are handling money or services or making valuable contracts in behalf of the State.

3. There is no liability on the State because of false arrests made by members of the State police, fish and game wardens, or sea and shore fishery wardens. If bonds have been given by these persons in the past to cover any liability on the State accruing out of false arrests, the money was not wisely spent. The bond should have been, and probably was, an individual bond of the policeman or warden protecting him from loss due to any false arrest of which he might be guilty. All constables and sheriffs and deputy sheriffs bond themselves as protection against false arrests and it frequently hap-

pens that a sheriff or a constable demands a particular bond before he will obey some court precept, in order to protect himself if it turns out that he has been guilty of an unlawful attachment or a false arrest.

4. I find no liability whatsoever on the part of the State in connection with the activities of municipal auditors and bank examiners. They are performing governmental functions. Presumably, they are selected with great care and their antecedents checked before they are given employment. There is a possibility that there might be liability on the part of the State, if some notorious character, well known to be dishonest, were employed by either the State Banking Department or the State Auditor and while engaged in this employment purloined funds which were passing through his hands. However, it is extremely doubtful if there would be any liability on the part of the State even under such circumstances as the above case, because of the fact that the man is employed in a governmental function.

5. In view of the fact that the statute places on the State Auditor and the State Commissioner of Finance the burden of determining who shall be bonded, it would be a presumption on my part to attempt to tell you just what you shall do and what you shall not do. In courtesy to Mr. Mossman, however, I will say that we agree with the last sentence in his memo of June 15th and believe that you will be justified in having both the bank examiners and the auditors bonded in reasonable amounts for the moral effect.

FRANK I. COWAN

Attorney General

July 18, 1943

To:

S. F. Dorrance

Agriculture

From:

Frank A. Farrington, Deputy

Attorney General

1. Dog Licenses. 2. Damage to Domestic Animals.

Reference is to your memo of June 15th.

1. It is the opinion of this department that dogs kept for training in this State must be licensed in Maine. Section 158, Chapter 5, R. S. 1930, as amended by Chapter 278, P. L. 1941, requires the keeper of a dog to license the dog in accordance with the provisions of said section.

2. It is the opinion of this department that rabbits are not included in the term "domestic animals", as contemplated by the statute covering payment of damages done by dogs to domestic animals.

FRANK A. FARRINGTON

Deputy Attorney General