

MAINE STATE LEGISLATURE

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Sept. 14, 1944

William D. Hayes, State Auditor

Audit

Frank I. Cowan, Attorney General

Attorney General

I have your memo of Sept. 13th in regard to the Constitutional Amendment in re Diversion of Highway Funds and note your three questions. I will answer them in order.

1. The Constitutional Amendment becomes effective immediately.
2. The administration departments of the State act under the authority of the legislature. Any procedure which the legislature has set up continues to guide the department heads until such time as the legislature sees fit to give us new directions. The heads of departments do not have cast on them the burden of deciding whether acts of the legislature are constitutional. The appropriations made by the legislature for the present fiscal year must be expended as the legislature has commanded unless the legislature itself sees fit to change its instructions.
3. I believe you will find the answer to your third question in my answer to your second question.

I note that you call attention in your last report, on Page 20, to four items totalling \$42,095.17 which were paid by the Highway Department to other departments for services rendered by those departments. If these expenditures were made for the purpose of administration they are perfectly proper under the provisions of R. S. c. 28, § 41, as amended, and R. S. c. 29, § 117. I am not acquainted with the reason for the payment to the Bureau of Accounts and Control, the Department of Audit and the Bureau of Purchases. The \$2800 paid to the Attorney General's department and carried as a part of Administration expense of the Highway Department, is for legal services in connection with the administration of the Workmen's Compensation Act for which no appropriation was made. I have myself advised the legislature that all expense for legal services of the State should be set up in the budget of the Attorney General's department instead of being charged to other departments, and the last legislature went part way in making the change in procedure. Until the legislature has set up the funds in what we believe to be the proper budgets, it will be necessary to continue calling such items as the \$2800 a part of administrative expense of the Highway Department.

Frank I. Cowan
Attorney General