

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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February 12, 1945

A. M. G. Soule, Chief of the Division of Inspection,
Department of Agriculture

I have your letter of February 8th requesting an opinion concerning the provisions of Section 88, Chapter 34, R. S. 1944, and Section 91 of the same chapter.

On the statement of facts relating to violation of same, it is my opinion that Mr. ***** of Ipswich, Massachusetts, would come within the provisions of Section 91 of Chapter 34, and if he was found guilty in the municipal court, it would constitute a conviction for violation of this statute.

In regard to the question raised, whether it would be possible to issue a certificate to some other party to legalize the shipment of clams in interstate commerce, I will say that it would, and Mr. ***** would be permitted to ship clams as agent of the licensee or certificate holder.

RALPH W. FARRIS
Attorney General

February 12, 1945

To Lucius D. Barrows, Chief Engineer, State Highway Department

I have your memo of February 9th, asking for an interpretation of Chapter 269, P. L. 1943, which as now Section 5 of Chapter 137 of the Revised Statutes of 1944 and which relates to the collection and disposal of fines and costs in criminal cases. This section reads in part:

“The county treasurer, upon approval of the county commissioners, shall pay to the state, town, city, or persons any portion of the fines, costs, and forfeitures that may be due.”

It is my opinion that it was the intention of the legislature that the county should reimburse the State Highway Commission for the services of State Police officers for making arrests on highway violations. It seems to me that the statute is quite clear on this matter, except the words “upon approval of the county commissioners.” I understand that some county commissioners have not approved the payment of some of the fees due the State Highway Commission for services of the State Police officers for making arrests for highway violations. Of course, if the county commissioners do not approve the payment of these costs, the county treasurer cannot pay them over to the State.

It is my understanding that some of the county commissioners are approving of the payment to the State Highway Commission of these fees of State Police officers, whether or not they are collected by the court; and some county commissioners have not been approving these bills, where they have not been collected as costs by the courts. There is no provision in the statute that compels the county commissioners to approve

these bills. However, I feel that it is their duty to approve all bills for costs under this statute, whether or not these costs have been collected, because the services have been rendered by the officers and the State Highway Commission should be paid, the same as a constable or city police officer.

An amendment to Section 123, Chapter 29, R. S. 1930, by Chapter 269, P. L. 1943, provided that arresting officers or aids or witnesses in any criminal case "shall be entitled to the same fees as any sheriff or deputy. Such fees shall be taxed on a bill of costs and shall accrue to the treasurer of state."

RALPH W. FARRIS
Attorney General

February 12, 1945

To Joseph H. McGillicuddy, Treasurer of State, and
David H. Stevens, State Assessor

Your memo of February 12th at hand, relating to §§78-83 inclusive of Chapter 14 of the Revised Statutes of 1944, and asking the following question:

"Whenever the state fails to collect state, county, and forestry district taxes, should the county taxes, plus interest, be paid to the county, and is it permissible to charge off state, county and forestry district taxes whenever title to lands assessed for these taxes has come to the State of Maine?"

"It is understood that if county taxes are charged off, a record of such taxes will be maintained in a memorandum ledger and whenever lands on which such taxes are assessed are sold, then the county will receive payment for the taxes plus interest or a proportionate amount of taxes plus interest, provided the land is sold for less than the total amount of taxes, interest and cost."

The last paragraph of Section 79 of said chapter provides as follows:

"Proceeds of any tax sales under the provisions of this section shall be credited by the treasurer of state to the several accounts of state, county, and forestry district taxes, interest, and cost of advertising."

It is my opinion that the county taxes should be credited to the county, and the county should be paid when the lands involved in the tax deeds are sold. However, as the State has acquired title to the lands included in these tax deeds, and the State and forestry district taxes are taken care of, it is permissible to charge off these back taxes, provided the county is taken care of, as provided in the second part of your question.

RALPH W. FARRIS
Attorney General