

# MAINE STATE LEGISLATURE

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October 18, 1946

To Fred W. Hollingdale, Commissioner of the Treasury

Referring to your memorandum of September 18th relating to the provisions of Chapter 106 of the Private and Special Laws of 1945, which directs various banks in Maine to transfer to the General Funds of the State the funds in savings bank accounts of former inmates of the State School for Boys, which have been inactive for 20 years or more; and which also provides that if the former inmate or widow or heirs or next of kin do not make any lawful claim within 20 years of the time of this deposit with the State, these funds shall be forfeited to the State:-

You state that some of the banks involved have raised the question whether or not this legislation conflicts with Chapter 55, Section 59, R. S.; and other banks raised the question of the constitutionality of this chapter; and you ask me to furnish you with an opinion in regard to these contentions.

I can only say that the law, as enacted, does not provide for any agency of the State to demand these funds from the banks; but it is assumed, of course, that the funds will be turned over to the State Treasurer, although the State Treasurer is not named as the agency of the State to make the demand upon the savings banks mentioned in the special Act.

Furthermore, the Act does not provide for the banks giving the former inmates or their heirs any notice by publication or otherwise before turning these moneys over to the State; and if this Act was tested as to its constitutionality, according to the weight of authority, such statutes as these, where notice has not been provided for in the act, are void. In case I should give you an opinion that it would be feasible to turn these funds over to the State, some of the heirs of these former inmates might raise a question and give considerable unnecessary trouble or cause litigation over this small matter. Therefore I am advising you not to insist upon your demand to these various banks to turn these accounts over to the General Fund of the State, as in my opinion this legislation conflicts with Section 59 of Chapter 55, R. S., which provides that the banks shall publish statements of inactive accounts.

Confirming my conversation with you at my office this week, it is my opinion that these accounts are inactive, even though the Superintendent of the State School for Boys has taken these books to the bank for verification and dividends have been brought up to date from time to time, because this activity was not on the part of the depositors and there is no legal authority for anyone outside of the actual depositors to bring in these books and verify them.

I therefore advise you to have an amendment presented to the next legislature, amending Chapter 106 to provide for the banks giving notice by publication and to provide also that, after a certain time, these funds shall be turned over to the State Treasurer and then transferred to the General Fund, etc.

I herewith return the letter from Fred Lawrence, Treasurer of the Maine Savings Bank, and a letter from John F. Dana to Fred Lawrence, dated September 12, 1946.

Ralph W. Farris  
Attorney General

RWF:c  
cc: for Fred F. Lawrence .