

MAINE STATE LEGISLATURE

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August 7, 1947

To Col. Laurence C. Upton, Chief, Maine State Police
Re: Bail Commissioners

I have your memo of August 6th, stating that you are faced with rather a difficult problem in Somerset County in that there is only one bail commissioner there. You state that this bail commissioner lives in Pittsfield and it necessarily follows that there are times when he is not available. You state that where you run into trouble is on Sundays and holidays, as the judges contend that they cannot hold court on these days and therefore are not in a position to admit a person to bail.

According to my records in this office the late William T. Seekins, clerk of courts, was a bail commissioner. I note that his successor in office, Attorney William L. Waldron of Pittsfield, is also a bail commissioner. William R. King of Pittsfield is also listed as a bail commissioner. If he has not deceased or been removed or has removed from the county, he would also be available.

These bail commissioners are appointed by the Superior Court Justices. As Clerk of Courts Waldron resides in Pittsfield, I presume that he will not be available at the county seat in Skowhegan during the periods in which you are running into trouble in securing bail for prisoners who are entitled to bail.

You ask me this question: "If we arrest a subject on a Sunday or a Holiday in Somerset County and the one bail commissioner is not available, is there any legal way that said subject can be admitted to bail?"

My answer is, Yes. The subject can put up cash bail, or you can let him go on his own recognizance that he will appear, if the offense is not of a too serious nature; but it is my advice to have the county attorney request the Judge of the Superior Court at the next term of court in Skowhegan to appoint a bail commissioner who is a resident of Skowhegan. Be careful not to select the judge or the recorder of the Western Somerset Municipal Court, however, as the statute provides that no judge, clerk or recorder of any municipal court or any trial justice who is also a bail commissioner shall act in his capacity as bail commissioner in any case wherein the process is made returnable to his court.

In my experience in actual practice as an attorney, where a subject has offered to provide cash bail, the officer would call the judge who was going to hear the case the following Monday, ask him if that was satisfactory, take the bail, put it in an envelope and hold it until court opened, Monday morning.

Ralph W. Farris
Attorney General

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