

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

in other words to bring to his discharge that prudence, caution, and attention which careful men usually exercise in the management of their own affairs.

NEAL A. DONAHUE
Assistant Attorney General

February 7, 1951

To Fred M. Berry, State Auditor
Re: Uncollected Costs of Court

In your memorandum of February 5, 1951, you ask, "What disposition should be given to the cost of court charge which usually is assessed at \$2.00 when these costs are not collected from the respondent?" and you further state that since the matter does not seem to be covered by Chapter 290 of the Public Laws of 1947, you would appreciate receiving our opinion as to whether or not the county treasurer should reimburse the cities for the court costs if they have not been collected from the respondent.

It appears to this office that the questions which you ask can be answered only in the light of the provisions of Section 5 of Chapter 137, R. S. 1944. By the provisions of this section it is required that all fees, costs and forfeitures shall be paid into the treasury of the county where the offence is prosecuted and that (third sentence) "the county treasurer on approval of the county commissioners shall pay to the state, town, city, or persons any portion of the fees, costs and forfeitures that may be due."

We construe this sentence to mean that the amounts payable must be those that are found to be due from the fees, costs and forfeitures that were paid in pursuant to the first sentence of the section and pursuant to the bill of costs which accompanied the remittance when the funds were transmitted to the county treasurer.

JOHN S. S. FESSENDEN
Deputy Attorney General

February 8, 1951

To Frank S. Carpenter, Treasurer of State
Re: Income from money arising from the sale of timber and grass on public reserved lots.

You have inquired as to whether it is within the lawful authority of the legislature to amend the interest rates set forth in Section 38 of Chapter 32, R. S. 1944, so that instead of providing for rates of 4% and 6%, respectively, on the two funds therein created, there could be paid by the Treasurer of State the actual interest earned.

Without having searched for the history of this section to its original inception, we have looked back to the Revision of 1916, at which time the section appears to be Section 20 of Chapter 8, R. S. 1916, under which section the money arising from the sale of timber and grass or from trespasses on reserved lands constitutes a fund for school purposes, of which the income only should be expended and applied as was provided by law.