

# MAINE STATE LEGISLATURE

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July 22, 1952

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To Alexander LaFleur, Attorney General  
Re: Disposition of Fees and Costs due State Police

Prior to 1943 the fines and costs in all cases where the State Police were the arresting officers were divided - one-half to the county and one-half to the Highway Department. At that time the local court paid over to the State the amounts due to the State; and paid over to the County Commissioners the amounts due to the county.

In 1943 the law was changed in regard to the fines and costs. The County Commissioners wished to receive a larger portion of the money, and, after a series of conferences, a compromise bill was agreed upon. The various departments involved agreed to go along with the compromise law which became Chapter 269 of the Public Laws of 1943. The agreement in regard to the State Police was that the County Commissioners were to get the larger share and retain the fines, but that the State Police were to be paid on the basis of service rendered in the same amounts as deputy sheriffs receive, and that these costs were to be credited to the General Highway Fund.

The language used in Section 3 of Chapter 269 of the Public Laws of 1943 was as follows:

"As arresting officers or aides or witnesses in any criminal action, they shall be entitled to the same fees as any sheriff or deputy. Such fees shall be taxed on the bill of costs and shall accrue to the State."

It seems that there has been some dispute about the meaning of "accrue". As it happens, I drew the 1943 Act, as Reviser of Statutes. The official dictionary at the time was Funk & Wagnalls'. ~~The official~~ "Accrue" is there defined: "to come into existence as a right."

If I had been instructed to make the fees payable when collected I would have used the language that I used in the Fish & Game Fee Law, which was amended in the same bill. There the language was "fees not collected shall not be assumed!"

Even if the history of this re-vamping of the Fee Law was not known, it would seem peculiar that the intent to pay over only the fees collected should be made so clear in the Fish & Game case and left confused in the Highway cases. It should be noted that, in Section 110 of Chapter 38, the words "shall accrue to the treasurer of state" appear in the first sentence, yet in the next sentence they negate the payment of fees when not collected. Obviously this would be surplusage if "accrue" meant "paid."

It should also be noted that in Sections 7 and 8 of Chapter 269 the words "forthwith be paid" and "be deposited with" were changed to "accrue." This indicates the use of "accrue" as "coming due." In both of these cases the money is already there.

In Section 5 of Chapter 269, "accrue" is used with the same obvious meaning. Throughout the Act the word "accrue" refers to the legal status of "coming into existence as due to." In four of these sections they clearly denote that the fees accrue only if paid. In the Highway section, however, they state unequivocally that they shall be paid.

It certainly is not the law that a deputy can only be paid his fees in the cases where the accused is not only found guilty but also pays the costs assessed. The legal theory is that the deputy is paid for services rendered, and not for obtaining a conviction and collecting the costs.

I am somewhat surprised at this question being raised, since all county commissioners belong to the State-wide organization, and must have had some knowledge of the 1943 compromise.

Respectfully submitted,

L. Smith Dunnack  
Assistant Attorney General

LSD:w