

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

March 1, 1971
Insurance

Harold E. Trahey, 1st Deputy
Unclaimed Funds of Life Insurers

SYLLABUS:

Three-fourths of any unclaimed funds of life insurers received by the Insurance Commissioner must be paid into the State Treasury forthwith. There is no authority to retain more than one-fourth in the special trust fund in order to achieve a \$1,000 minimum plus anticipated publication costs.

FACTS:

On January 1, 1970, the Unclaimed Funds Act of Life Insurers, Chapter 61 of Title 24-A, became effective. Section 4554 thereof requires every life insurer to make a written report to the Insurance Commissioner on or before May 1 of each year as to all unclaimed funds held and owing by it on December 31 of the preceding year. Section 4555 requires the Commissioner to publish notices on or before September 1 concerning these reported unclaimed funds. Section 4556 provides that such unclaimed funds shall be paid to the Commissioner on or before the following December 20. Section 4557 requires the State to assume custody of such funds for the benefit of those entitled to receive same. Section 4559 makes the following provisions for administration of the unclaimed funds turned over to the Commissioner:

“Upon receipt of any unclaimed funds from life insurers by the Commissioner, he shall pay forthwith three-fourths of the amount thereof into the State Treasury for credit to the General Fund of the State for the use of the State. The remaining one-fourth shall be administered by him as a special trust fund for the purposes of this chapter, and deposited in the manner provided by law for the deposit of such funds. At the end of each calendar year, any unclaimed funds which shall have been a part of such special trust fund for a period of 7 years or more shall be paid into the General Fund of the State for the use of the State, but the special trust fund shall never be so reduced to less than \$1,000.”

It appears from the reported facts that during the calendar year 1970, \$2,534.98 in unclaimed funds were received from life insurers; that three-fourths of this amount, \$1,901.23, was immediately turned over to the State Treasury for credit to the General Fund of the State; that the remaining one-fourth, \$633.75, was retained by the Commissioner in a special trust fund; and that the cost of publication of the notices required by Section 4555 in connection with such funds amounted to \$716.52. Section 4555, subsection 5, provides that:

“The expenses of publication shall be charged against the special trust fund provided for in section 4559.”

QUESTION:

Whether or not all unclaimed funds from life insurers could be deposited in the special trust fund account until the minimum of \$1,000.00 is reached plus a requisite amount of \$725.00 to meet the publications costs.

ANSWER:

No.

REASONS:

The first sentence of section 4559 states that three-fourths of any unclaimed funds received by the Commissioner must be paid *forthwith* into the State Treasury. This appears to be a clear, unqualified, peremptory mandate. The second sentence of section 4559 directs the Commissioner to administer the remaining one-fourth as a special trust fund; nothing therein limits the preceding requirement to deliver three-fourths to the State Treasury. The third sentence of section 4559 provides for payment into the State Treasury of those unclaimed funds that have remained in the special trust fund for seven years; however, here we find a qualification upon the requirement to turn funds into the State Treasury, providing that "the special trust fund shall never be so reduced to less than \$1,000." Nevertheless, this provision has no relationship to the initial requirement to pay into the State Treasury three-fourths of the unclaimed funds forthwith. While section 4555, subsection 5, does provide that "expenses of publication shall be charged against the special trust fund," such a provision does not purport to limit the requirement in section 4559 to pay three-fourths into the Treasury forthwith, but merely authorizes payment of outstanding publication costs from the special trust fund. Section 4557 declares that the State shall assume custody of those funds for the benefit of persons entitled to receive the same, and section 4558 recognizes that the special trust fund may, on occasion, be insufficient for payments to such persons, in which event the Commissioner is authorized to make such payments out of the General Fund of the State. Accordingly, it is clear that there is no implied authority to pay into the State Treasury forthwith less than three-fourths of unclaimed funds received by the Commissioner.

CHARLES R. LAROUCHE
Assistant Attorney General

March 12, 1971
Maine State Prison

Allan L. Robbins, Warden

Authority of State Probation and Parole Board to Terminate Life Sentence, Permitting Execution of Sentence for Escape.

SYLLABUS:

In accordance with authority vested in the State Probation and Parole Board by Title 34, § 710 the life sentence being served by an inmate at the Maine State Prison may be terminated by the State Probation and Parole Board, such termination power being in addition to parole authority vested in the Board by Subchapter V. of Chapter 121 of Title 34 and such inmate, following termination of the life sentence, shall begin execution of the sentence for escape. In such case the 10 year parole supervision provision of Title 34, § 1678 would be inoperative, since the inmate at the time of parole would not be serving a life sentence.

FACTS:

An inmate at the Maine State Prison currently in execution of a life sentence imposed upon him December 4, 1959, escaped from the Minimum Security Unit of the Maine